

Effective 5/4/2022

76-5-403.1 Sodomy on a child -- Penalties.

- (1) Terms defined in Section 76-1-101.5 apply to this section.
- (2)
 - (a) An actor commits sodomy on a child if:
 - (i) the actor engages in any sexual act upon or with another individual;
 - (ii) the individual is younger than 14 years old; and
 - (iii) the sexual act involves the genitals or anus of the actor or the individual and the mouth or anus of either the actor or individual.
 - (b) Any touching, even if accomplished through clothing, is sufficient to constitute the relevant element of a violation of Subsection (2)(a).
- (3) A violation of Subsection (2)(a) is a first degree felony punishable by a term of imprisonment of:
 - (a) except as provided in Subsections (3)(b) and (5), not less than 25 years and which may be for life; or
 - (b) life without parole, if the trier of fact finds that:
 - (i) during the course of the commission of the sodomy on a child the defendant caused serious bodily injury to the victim; or
 - (ii) at the time of the commission of the sodomy on a child, the defendant was previously convicted of a grievous sexual offense.
- (4) Subsection (3)(b) does not apply if the defendant was younger than 18 years old at the time of the offense.
- (5)
 - (a) When imposing a sentence under Subsections (3)(a) and (5)(b), a court may impose a term of imprisonment under Subsection (5)(b) if:
 - (i) it is a first time offense for the defendant under this section;
 - (ii) the defendant was younger than 21 years old at the time of the offense; and
 - (iii) the court finds that a lesser term than the term described in Subsection (3)(a) is in the interests of justice under the facts and circumstances of the case, including the age of the victim, and states the reasons for this finding on the record.
 - (b) If the conditions of Subsection (5)(a) are met, the court may impose a term of imprisonment of not less than:
 - (i) 15 years and which may be for life;
 - (ii) 10 years and which may be for life; or
 - (iii) six years and which may be for life.
- (6) Imprisonment under this section is mandatory in accordance with Section 76-3-406.

Amended by Chapter 181, 2022 General Session