

Superseded 5/14/2019

76-5-403 Sodomy -- Forcible sodomy.

- (1) A person commits sodomy when the actor engages in any sexual act with a person who is 14 years of age or older involving the genitals of one person and mouth or anus of another person, regardless of the sex of either participant.
- (2) A person commits forcible sodomy when the actor commits sodomy upon another without the other's consent.
- (3) Sodomy is a class B misdemeanor.
- (4) Forcible sodomy is a first degree felony, punishable by a term of imprisonment of:
 - (a) except as provided in Subsection (4)(b) or (c), not less than five years and which may be for life;
 - (b) except as provided in Subsection (4)(c) or (5), 15 years and which may be for life, if the trier of fact finds that:
 - (i) during the course of the commission of the forcible sodomy the defendant caused serious bodily injury to another; or
 - (ii) at the time of the commission of the rape, the defendant was younger than 18 years of age and was previously convicted of a grievous sexual offense; or
 - (c) life without parole, if the trier of fact finds that at the time of the commission of the forcible sodomy the defendant was previously convicted of a grievous sexual offense.
- (5) If, when imposing a sentence under Subsection (4)(b), a court finds that a lesser term than the term described in Subsection (4)(b) is in the interests of justice and states the reasons for this finding on the record, the court may impose a term of imprisonment of not less than:
 - (a) 10 years and which may be for life; or
 - (b) six years and which may be for life.
- (6) The provisions of Subsection (5) do not apply when a person is sentenced under Subsection (4)(a) or (c).
- (7) Imprisonment under Subsection (4)(b), (4)(c), or (5) is mandatory in accordance with Section 76-3-406.