

**Effective 5/1/2024**

**Superseded 5/7/2025**

**76-5-404.1 Sexual abuse of a child -- Penalties -- Limitations.**

- (1)
- (a) As used in this section:
    - (i) "Adult" means an individual 18 years old or older.
    - (ii) "Child" means an individual younger than 14 years old.
    - (iii) "Indecent liberties" means the same as that term is defined in Section 76-5-401.1.
    - (iv) "Position of special trust" means:
      - (A) an adoptive parent;
      - (B) an athletic manager who is an adult;
      - (C) an aunt;
      - (D) a babysitter;
      - (E) a coach;
      - (F) a cohabitant of a parent if the cohabitant is an adult;
      - (G) a counselor;
      - (H) a doctor or physician;
      - (I) an employer;
      - (J) a foster parent;
      - (K) a grandparent;
      - (L) a legal guardian;
      - (M) a natural parent;
      - (N) a recreational leader who is an adult;
      - (O) a religious leader;
      - (P) a sibling or a stepsibling who is an adult;
      - (Q) a scout leader who is an adult;
      - (R) a stepparent;
      - (S) a teacher or any other individual employed by or volunteering at a public or private elementary school or secondary school, and who is 18 years old or older;
      - (T) an instructor, professor, or teaching assistant at a public or private institution of higher education;
      - (U) an uncle;
      - (V) a youth leader who is an adult; or
      - (W) any individual in a position of authority, other than those individuals listed in Subsections (1)(a)(iv)(A) through (V), which enables the individual to exercise undue influence over the child.
  - (b) Terms defined in Section 76-1-101.5 apply to this section.
- (2)
- (a) Under circumstances not amounting to an offense listed in Subsection (4), an actor commits sexual abuse of a child if the actor:
    - (i)
      - (A) touches, whether over or under the clothing, the buttocks or pubic area of a child;
      - (B) touches, whether over or under the clothing, the breast of a female child;
      - (C) touches the anus or genitals of a child over the clothing; or
      - (D) otherwise takes indecent liberties with a child whether over or under the clothing; and
    - (ii) the actor's conduct is with intent to:
      - (A) cause substantial emotional or bodily pain to any individual; or
      - (B) arouse or gratify the sexual desire of any individual.

- (b) Any touching, however slight, is sufficient to constitute the relevant element of a violation of Subsection (2)(a).
- (3) A violation of Subsection (2) is a second degree felony.
- (4) The offenses referred to in Subsection (2)(a) are:
  - (a) rape of a child, in violation of Section 76-5-402.1;
  - (b) object rape of a child, in violation of Section 76-5-402.3;
  - (c) sodomy on a child, in violation of Section 76-5-403.1; or
  - (d) an attempt to commit an offense listed in Subsections (4)(a) through (4)(c).