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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) "Female breast" means the same as that term is defined in Section 76-5-401.1.
 - (iv) "Indecent liberties" means the same as that term is defined in Section 76-5-401.1.
 - (v) "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)(v)(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 female breast of a 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).