

Effective 5/7/2025

76-5d-202 Engaging in prostitution.

(1) Terms defined in Sections 76-1-101.5, 76-5d-101, and 76-5d-201 apply to this section.

(2) An actor commits the offense of engaging in prostitution if the actor:

- (a) is 18 years old or older; and
- (b) engages in sexual activity with another individual in exchange for receiving a fee, or the functional equivalent of a fee.

- (3)
- (a) Except as provided in Subsection (3)(b), a violation of Subsection (2) is a class B misdemeanor.
 - (b) A violation of Subsection (2) is a class A misdemeanor if the actor has previously been convicted of:
 - (i) a violation of Subsection (2);
 - (ii) a local ordinance adopted in accordance with Section 76-5d-102 addressing the same or similar type of violation to the violation described in Subsection (2); or
 - (iii) a criminal violation in another jurisdiction, including a state, federal, or military court, that is substantially equivalent to the violation described in Subsection (2).
- (4) A prosecutor may not prosecute an actor for a violation of Subsection (2) if the actor engages in a violation of Subsection (2) at or near the time the actor witnesses or is a victim of any of the following offenses, or an attempt to commit any of the following offenses, and the actor reports the offense or attempt to law enforcement in good faith:
- (a) assault as described in Section 76-5-102;
 - (b) aggravated assault as described in Section 76-5-103;
 - (c) mayhem as described in Section 76-5-105;
 - (d) aggravated murder, murder, manslaughter, negligent homicide, child abuse homicide, or homicide by assault as described in Chapter 5, Part 2, Criminal Homicide;
 - (e) kidnapping, child kidnapping, aggravated kidnapping, human trafficking or aggravated human trafficking, human smuggling or aggravated human smuggling, or human trafficking of a child as described in Chapter 5, Part 3, Kidnapping, Trafficking, and Smuggling;
 - (f) rape as described in Section 76-5-402;
 - (g) rape of a child as described in Section 76-5-402.1;
 - (h) object rape as described in Section 76-5-402.2;
 - (i) object rape of a child as described in Section 76-5-402.3;
 - (j) forcible sodomy as described in Section 76-5-403;
 - (k) sodomy on a child as described in Section 76-5-403.1;
 - (l) forcible sexual abuse as described in Section 76-5-404;
 - (m) sexual abuse of a child as described in Section 76-5-404.1, or aggravated sexual abuse of a child, Section 76-5-404.3;
 - (n) aggravated sexual assault as described in Section 76-5-405;
 - (o) sexual exploitation of a minor as described in Section 76-5b-201;
 - (p) aggravated sexual exploitation of a minor as described in Section 76-5b-201.1;
 - (q) sexual exploitation of a vulnerable adult as described in Section 76-5b-202;
 - (r) burglary of a dwelling as described in Subsection 76-6-202(3)(b);
 - (s) aggravated burglary as described in Section 76-6-203;
 - (t) robbery as described in Section 76-6-301;
 - (u) aggravated robbery as described in Section 76-6-302; or
 - (v) theft by extortion as described in Section 76-6-406 under the circumstances described in Subsection 76-6-406(1)(a)(i) or (ii).

- (5) A violation under this section that is a class A misdemeanor may be prosecuted by an attorney of a city or a town as well as by prosecutors authorized in the code to prosecute a violation under this section.

Renumbered and Amended by Chapter 173, 2025 General Session

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