

Effective 5/7/2025

Chapter 5d Prostitution

Part 1 General Provisions

76-5d-101 Definitions.

As used in this chapter:

- (1) "Adult" is an individual who is 18 years old or older.
- (2) "Child" is an individual younger than 18 years old.
- (3) "Female breast" means the undeveloped, partially developed, or developed breast of a female individual.
- (4) "HIV infection" means an indication of a Human Immunodeficiency Virus (HIV) infection determined by current medical standards and detected by any of the following:
 - (a) presence of antibodies to HIV, verified by a positive confirmatory test, such as Western blot with an interpretation based on criteria currently recommended by the Association of State and Territorial Public Health Laboratory Directors or another confirmatory test approved by the Utah State Health Laboratory;
 - (b) presence of HIV antigen;
 - (c) isolation of HIV; or
 - (d) demonstration of HIV proviral DNA.
- (5) "HIV positive individual" means an individual who has an HIV infection.
- (6) "Local law enforcement agency" means an agency responsible for investigating violations of offenses in Part 2, General Offenses, the filing of charges that may lead to convictions, and the conducting of, or obtaining the results of, tests for HIV infection.
- (7) "Positive" means an indication of HIV infection.
- (8) "Prostituted individual" means an individual engaged in prostitution or sexual solicitation.
- (9) "Prostitution" means engaging in sexual activity with another individual in exchange for a fee or the functional equivalent of a fee.
- (10) "Public place" means a place to which the public or any substantial group of the public has access.
- (11) "Sexual activity" means, regardless of the gender of either participant:
 - (a) an act of masturbation, sexual intercourse, or any sexual act involving the genitals of one individual and the mouth or anus of another individual; or
 - (b) the touching of the genitals, female breast, or anus of one individual with any other body part of another individual with the intent to sexually arouse or gratify either individual.
- (12) "Sexual solicitation" means the conduct described in Section 76-5d-209, sexual solicitation by an actor offering to engage in sexual activity for compensation.
- (13) "Test" means a test for HIV infection in accordance with standards recommended by the Department of Health and Human Services.

Renumbered and Amended by Chapter 173, 2025 General Session
Renumbered and Amended by Chapter 174, 2025 General Session

76-5d-102 Local ordinance consistent with code provisions.

An ordinance adopted by a local authority governing the matters covered by this chapter is required to be consistent with the provisions of this chapter.

Renumbered and Amended by Chapter 173, 2025 General Session

Renumbered and Amended by Chapter 174, 2025 General Session

76-5d-103 Mandatory testing -- Retention of medical file -- Civil liability.

- (1) An individual who has entered a plea of guilty, a plea of no contest, a plea of guilty with a mental condition, or been found guilty of a violation of Section 76-5d-202, 76-5d-203, 76-5d-204, 76-5d-205, 76-5d-209, 76-5d-210, or 76-5d-211 is required to submit before sentencing to a mandatory test to determine if the individual is an HIV positive individual.
- (2)
 - (a) If the mandatory test described in Subsection (1) has not been conducted before sentencing, and the convicted individual is already confined in a county jail or state prison, the individual is required to be tested while in confinement.
 - (b) For an individual described in Subsection (1) who is confined in a county jail, the local law enforcement agency shall cause the individual's blood specimen to be taken and tested.
 - (c) For an individual described in Subsection (1) who is confined in a state prison, the Department of Corrections shall cause the individual's blood specimen to be taken and tested.
- (3)
 - (a) The local law enforcement agency shall collect and retain in the individual's medical file the following data:
 - (i) the HIV infection test results;
 - (ii) a copy of the written notice as provided in Section 76-5d-104;
 - (iii) photographic identification; and
 - (iv) fingerprint identification.
 - (b) The local law enforcement agency shall classify the medical file described in Subsection (3)(a) as a private record pursuant to Subsection 63G-2-302(1)(b) or a controlled record pursuant to Section 63G-2-304.
- (4)
 - (a) An individual required to be tested under this section is responsible for the costs of testing, unless the individual is indigent.
 - (b) If an individual is indigent, the costs for the testing will be paid by the local law enforcement agency or the Department of Corrections from the General Fund.
- (5)
 - (a) The laboratory performing testing shall report test results to only designated officials in the Department of Corrections, the Department of Health and Human Services, and the local law enforcement agency submitting the blood specimen.
 - (b) Each department or agency shall designate the officials described in Subsection (5)(a) by written policy.
 - (c) Designated officials may release information identifying an individual under Section 76-5d-202, 76-5d-203, 76-5d-204, 76-5d-205, 76-5d-209, 76-5d-210, or 76-5d-211 who has tested HIV positive as provided under Subsection 63G-2-202(1) and for purposes of prosecution pursuant to Section 76-5d-212.
- (6)
 - (a) An employee of the local law enforcement agency, the Department of Corrections, or the Department of Health and Human Services who discloses the HIV test results under this

section is not civilly liable except when disclosure constitutes fraud or willful misconduct under Section 63G-7-202.

- (b) An employee of the local law enforcement agency, the Department of Corrections, or the Department of Health and Human Services who discloses the HIV test results under this section is not civilly or criminally liable, except when disclosure constitutes a knowing violation of Section 63G-2-801.
- (7) When a medical file is released as provided in Section 63G-2-803, the local law enforcement agency, the Department of Corrections, or the Department of Health and Human Services, or an officer or employee of the local law enforcement agency, the Department of Corrections, or the Department of Health and Human Services, is not liable for damages for release of the medical file.

Renumbered and Amended by Chapter 173, 2025 General Session

Renumbered and Amended by Chapter 174, 2025 General Session

76-5d-104 Notice to a convicted individual of HIV positive test results.

- (1) An individual convicted under Section 76-5d-202, 76-5d-203, 76-5d-204, 76-5d-205, 76-5d-209, 76-5d-210, or 76-5d-211 who has tested positive for the HIV infection shall be notified of the test results in person by:
 - (a) the local law enforcement agency;
 - (b) the Department of Corrections, for an individual confined in a state prison;
 - (c) the Department of Health and Human Services; or
 - (d) an authorized representative of an agency listed in Subsections (1)(a) through (c).
- (2) The notice described in Subsection (1) shall contain the signature of the HIV positive individual, indicating the individual's receipt of the notice, the name and signature of the individual providing the notice, and:
 - (a) the date of the test;
 - (b) the positive test results;
 - (c) the name of the HIV positive individual; and
 - (d) the following language:

"An individual who has been convicted of engaging in prostitution under Section 76-5d-202, patronizing a prostituted individual who is an adult under Section 76-5d-203, patronizing a prostituted individual who is a child under Section 76-5d-204, entering or remaining in a place of prostitution under Section 76-5d-205, sexual solicitation by an actor offering to engage in sexual activity for compensation under Section 76-5d-209, sexual solicitation by an actor offering compensation to an adult in exchange for sexual activity under Section 76-5d-210, or sexual solicitation by an actor offering compensation to a child in exchange for sexual activity under Section 76-5d-211, after being tested and diagnosed as an HIV positive individual and either had actual knowledge that the individual is an HIV positive individual or the individual has previously been convicted of any of the criminal offenses listed above is guilty of a third degree felony under Section 76-5d-212."
- (3) Failure to provide the notice described in Subsection (1), or to provide the notice in the manner or form prescribed under this section, does not:
 - (a) create any civil liability; or
 - (b) create a defense to a prosecution under this chapter.

Renumbered and Amended by Chapter 173, 2025 General Session

Renumbered and Amended by Chapter 174, 2025 General Session

76-5d-105 Examination of testing procedures and results in legal proceedings.

- (1) Employees of a laboratory who conduct laboratory analysis of blood samples for presence of antibody to HIV provided pursuant to a request by a law enforcement agency or the Department of Corrections under Section 76-5d-103, may be examined in a legal proceeding of any kind or character as to:
 - (a) the nature of the testing;
 - (b) the validity of the testing;
 - (c) the results of the test;
 - (d) the HIV positivity or negativity of the individual tested;
 - (e) the evidentiary chain of custody; and
 - (f) other factors relevant to the prosecution, subject to the court's ruling.
- (2) This section applies only to the criminal investigation and prosecution under Section 76-5d-212, engaging in prostitution or sexual solicitation as an HIV positive offender.

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Renumbered and Amended by Chapter 174, 2025 General Session

76-5d-106 Safe harbor for children as victims in commercial sex or sexual solicitation.

- (1) As used in this section:
 - (a) "Child engaged in commercial sex or sexual solicitation" means a child who:
 - (i) engages, offers, or agrees to engage in any sexual activity with another individual in exchange for receiving a fee, or the functional equivalent of a fee;
 - (ii) takes steps in arranging a meeting through any form of advertising, agreeing to meet, and meeting at an arranged place for the purpose of sexual activity in exchange for receiving a fee or the functional equivalent of a fee;
 - (iii) loiters in or within view of any public place for the purpose of being hired to engage in sexual activity; or
 - (iv) engages in sexual solicitation.
 - (b) "Division" means the Division of Child and Family Services created in Section 80-2-201.
 - (c) "Juvenile receiving center" means the same as that term is defined in Section 80-1-102.
- (2) Upon encountering a child engaged in commercial sex or sexual solicitation, a law enforcement officer shall:
 - (a) conduct an investigation regarding possible human trafficking of the child pursuant to Sections 76-5-308, 76-5-308.1, and 76-5-308.5;
 - (b) refer the child to the division;
 - (c) bring the child to a juvenile receiving center, if available; and
 - (d) contact the child's parent or guardian, if practicable.
- (3) When law enforcement refers a child to the division under Subsection (2)(b), the division shall provide services to the child under Title 80, Chapter 2, Child Welfare Services, and Title 80, Chapter 2a, Removal and Protective Custody of a Child.

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Renumbered and Amended by Chapter 174, 2025 General Session

Part 2

General Offenses

76-5d-201 Definitions.

As used in this part, "place of prostitution" means a place or business where prostitution or promotion of prostitution is arranged, regularly carried on, or attempted by one or more individuals under the control, management, or supervision of another individual.

Enacted by Chapter 173, 2025 General Session

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

Renumbered and Amended by Chapter 174, 2025 General Session

76-5d-203 Patronizing a prostituted individual who is an adult.

- (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 patronizing a prostituted individual who is an adult if:
- (a) the actor pays, offers to pay, or agrees to pay an adult prostituted individual, or an adult individual the actor believes to be a prostituted individual, a fee, or the functional equivalent of a fee; and
 - (b) the payment, offer of payment, or agreement for payment described in Subsection (2)(a) is for the purpose of engaging in an act of sexual activity.
- (3)
- (a) Except as provided in Subsection (3)(b), a violation of Subsection (2) is a class A misdemeanor.
 - (b) A violation of Subsection (2) is a third degree felony if the actor has previously been convicted two or more times 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) Upon a conviction for a violation of this section, the court shall order:
- (a) the maximum fine amount and may not waive or suspend the fine; and
 - (b) the actor to pay for and complete a court-approved educational program about the negative effects on an individual involved with prostitution or human trafficking.

Renumbered and Amended by Chapter 173, 2025 General Session

Renumbered and Amended by Chapter 174, 2025 General Session

76-5d-204 Patronizing a prostituted individual who is a child.

- (1) Terms defined in Sections 76-1-101.5, 76-5d-101, and 76-5d-201 apply to this section.
- (2) An actor commits patronizing a prostituted individual who is a child if:
- (a) the actor is 12 years old or older;
 - (b) the actor pays, offers to pay, or agrees to pay a prostituted individual, or an individual the actor believes to be a prostituted individual, a fee, or the functional equivalent of a fee;

- (c) the payment, offer of payment, or agreement for payment described in Subsection (2)(b) is for the purpose of engaging in an act of sexual activity; and
 - (d) the prostituted individual, or the individual the actor believes to be a prostituted individual, described in Subsection (2)(b) is:
 - (i) a child; or
 - (ii) believed by the actor to be a child.
- (3)
- (a) Except as provided in Subsection (3)(b), a violation of Subsection (2) is a second degree felony with a mandatory fine of not less than \$20,000.
 - (b) If the actor is under 18 years old at the time of the offense, a violation of Subsection (2) is:
 - (i) a third degree felony if:
 - (A) the actor is 17 years old and the prostituted individual is 13 years old or younger; or
 - (B) the actor is 16 years old and the prostituted individual is 12 years old or younger;
 - (ii) a class A misdemeanor if:
 - (A) the actor is 17 years old and the prostituted individual is 14 years old;
 - (B) the actor is 16 years old and the prostituted individual is 13 years old;
 - (C) the actor is 15 years old and the prostituted individual is 12 years old or younger; or
 - (D) the actor is 14 years old and the prostituted individual is 11 years old or younger;
 - (iii) a class B misdemeanor if:
 - (A) the actor is 17 years old and the prostituted individual is 15 years old;
 - (B) the actor is 16 years old and the prostituted individual is 14 years old;
 - (C) the actor is 15 years old and the prostituted individual is 13 years old;
 - (D) the actor is 14 years old and the prostituted individual is 12 years old;
 - (E) the actor is 13 years old and the prostituted individual is 11 years old or younger; or
 - (F) the actor is 12 years old and the prostituted individual is 10 years old or younger; or
 - (iv) a class C misdemeanor if:
 - (A) the actor is 17 years old and the prostituted individual is 16 or 17 years old;
 - (B) the actor is 16 years old and the prostituted individual is 15 years old or older;
 - (C) the actor is 15 years old and the prostituted individual is 14 years old or older;
 - (D) the actor is 14 years old and the prostituted individual is 13 years old or older;
 - (E) the actor is 13 years old and the prostituted individual is 12 years old or older; or
 - (F) the actor is 12 years old and the prostituted individual is 11 years old or older.
 - (4) In accordance with Section 76-2-304.5, it is not a defense to a prosecution under this section that the actor mistakenly believed the individual described in Subsection (2) to be 18 years old or older at the time of the offense or was unaware of the individual's true age.
 - (5) If the violation of Subsection (2) amounts to an offense that is subject to a greater penalty under another provision of law, this section does not prohibit prosecution and sentencing for the more serious offense.
 - (6) Upon a conviction for a violation of this section, the court shall order:
 - (a) the maximum fine amount and may not waive or suspend the fine; and
 - (b) the actor to pay for and complete a court-approved educational program about the negative effects on an individual involved with prostitution or human trafficking.

Enacted by Chapter 173, 2025 General Session

76-5d-205 Entering or remaining in a place of 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 entering or remaining in a place of prostitution if the actor enters or remains in a place of prostitution for the purpose of engaging in sexual activity.
- (3)
 - (a) Except as provided in Subsection (3)(b), a violation of Subsection (2) is a class A misdemeanor.
 - (b) A violation of Subsection (2) is a third degree felony if the actor has previously been convicted two or more times of:
 - (i) a violation of Subsection (2); or
 - (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).
- (4) Upon a conviction for a violation of this section, the court shall order:
 - (a) the maximum fine amount and may not waive or suspend the fine; and
 - (b) the actor to pay for and complete a court-approved educational program about the negative effects on an individual involved with prostitution or human trafficking.

Enacted by Chapter 173, 2025 General Session

76-5d-206 Aiding 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 aiding prostitution if the actor:
 - (a)
 - (i) solicits an individual to patronize a prostituted individual, or to patronize an individual the actor believes to be a prostituted individual;
 - (ii) procures or attempts to procure a prostituted individual, or an individual the actor believes to be a prostituted individual, for a patron;
 - (iii) leases, operates, or otherwise permits a place controlled by the actor, alone or in association with another individual, to be used for prostitution or the promotion of prostitution; or
 - (iv) provides a service or commits an act that enables another individual to commit a violation of this Subsection (2) or facilitates another individual's ability to commit a violation of this Subsection (2); or
 - (b) solicits, receives, or agrees to receive a benefit for committing any of the acts prohibited by Subsection (2)(a).
- (3)
 - (a) Except as provided in Subsection (3)(b), a violation of Subsection (2) is a class A misdemeanor.
 - (b) A violation of Subsection (2) is a third degree felony 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) Upon a conviction for a violation of this section, the court shall order a fine of not less than \$10,000 and may not waive or suspend the fine.
- (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.

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Renumbered and Amended by Chapter 174, 2025 General Session

76-5d-207 Exploitation of 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 exploitation of prostitution if the actor:
 - (a) procures an individual for a place of prostitution;
 - (b) encourages, induces, or otherwise purposely causes another individual to become or remain a prostituted individual;
 - (c) transports an individual into or within this state with the purpose to promote the individual's engagement in prostitution;
 - (d) procures or pays for an individual's transportation with the purpose of promoting the individual's engagement in prostitution;
 - (e) not being a child or legal dependent of a prostituted individual, shares the proceeds of prostitution with a prostituted individual, or an individual the actor believes to be a prostituted individual, pursuant to the actor's and prostituted individual's understanding that the actor is to share in the proceeds of the prostitution; or
 - (f) owns, controls, manages, supervises, or otherwise keeps, alone or in association with another individual, a place of prostitution or a business where prostitution occurs or is arranged, encouraged, supported, or promoted.
- (3) A violation of Subsection (2) is a third degree felony.
- (4) Upon a conviction for a violation of this section, the court shall order the maximum fine amount and may not waive or suspend the fine.

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Renumbered and Amended by Chapter 174, 2025 General Session

76-5d-208 Aggravated exploitation of 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 aggravated exploitation of prostitution if:
 - (a) in committing an act of exploitation of prostitution as described in Section 76-5d-207, the actor uses any force, threat, or fear against any individual;
 - (b) the individual whom the actor procured, transported, or persuaded or with whom the actor shares the proceeds of prostitution, is a child or is the spouse of the actor; or
 - (c) in the course of committing an act of exploitation of prostitution as described in Section 76-5d-207, the actor commits human trafficking or human smuggling in violation of Section 76-5-308, 76-5-308.1, 76-5-308.3, or 76-5-308.5.
- (3)
 - (a) Except as provided in Subsection (3)(b), a violation of Subsection (2) is a second degree felony.
 - (b) A violation of Subsection (2) is a first degree felony if the violation involves a child.
- (4) Upon a conviction for a violation of this section, the court shall order the maximum fine amount and may not waive or suspend the fine.

Renumbered and Amended by Chapter 173, 2025 General Session
Renumbered and Amended by Chapter 174, 2025 General Session

76-5d-209 Sexual solicitation by an actor offering to engage in sexual activity for compensation.

- (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 sexual solicitation by an actor offering to engage in sexual activity for compensation if the actor:
 - (a) is 18 years old or older; and
 - (b)
 - (i) offers or agrees to commit any sexual activity with another individual in exchange for receiving a fee, or the functional equivalent of a fee;
 - (ii)
 - (A) takes steps to arrange a meeting with another individual through any form of advertising or agreement to meet;
 - (B) meets the individual at an arranged place; and
 - (C) arranged and met the individual for the purpose of being hired to engage in sexual activity in exchange for receiving a fee, or the functional equivalent of a fee;
 - (iii) loiters in, or within view of, a public place for the purpose of being hired to engage in sexual activity in exchange for receiving a fee, or the functional equivalent of a fee; or
 - (iv) with intent to be hired to engage in sexual activity in exchange for receiving a fee, or the functional equivalent of a fee, engages in, or offers or agrees to engage in, any of the following acts:
 - (A) exposure or touching of an individual's genitals, buttocks, anus, pubic area, or female breast below the top of the areola;
 - (B) masturbation; or
 - (C) any act of lewdness.
- (3) A violation of Subsection (2) or under a local ordinance adopted in compliance with Section 76-5d-102 is:
 - (a) a class B misdemeanor on a first or second violation; or
 - (b) a class A misdemeanor on a third or subsequent violation.
- (4) An intent to be hired to engage in sexual activity for a fee may be inferred from an actor engaging in, offering or agreeing to engage in, or requesting or directing another to engage in any of the acts described in Subsection (2)(b)(iv) under the totality of the existing circumstances.
- (5)
 - (a) Upon encountering a child engaged in commercial sex or sexual solicitation, a law enforcement officer shall follow the procedure described in Subsection 76-5d-106(2).
 - (b) A child engaged in commercial sex or sexual solicitation shall be referred to the Division of Child and Family Services for services and may not be subjected to delinquency proceedings.
- (6) 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 offenses, or an attempt to commit any of the offenses, described in Subsection 76-5d-202(4), and the actor reports the offense or attempt to law enforcement in good faith.
- (7) As part of a sentence imposed under Subsection (3), the court may lower, waive, or suspend a fine if the actor completes a court-approved program that provides information or services intended to help an individual no longer engage in prostitution.

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Renumbered and Amended by Chapter 174, 2025 General Session

76-5d-210 Sexual solicitation by an actor offering compensation to an adult in exchange for sexual activity.

- (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 sexual solicitation by an actor offering compensation in exchange for sexual activity if the actor:
 - (a) pays, offers to pay, or agrees to pay a fee or the functional equivalent of a fee to an adult to hire the adult to commit any sexual activity; or
 - (b) with intent to pay an adult to be hired to commit any sexual activity for a fee or the functional equivalent of a fee, requests or directs the adult to engage in any of the following acts:
 - (i) exposure or touching of an adult's genitals, buttocks, anus, pubic area, or female breast below the top of the areola;
 - (ii) masturbation; or
 - (iii) any act of lewdness.
- (3) A violation of Subsection (2) or under a local ordinance adopted in compliance with Section 76-5d-102 is:
 - (a) a class A misdemeanor on a first or second violation; or
 - (b) a third degree felony on a third or subsequent violation.
- (4) As part of a sentence imposed under Subsection (3), the court shall order the actor to pay for and complete a court-approved educational program about the negative effects on an individual involved with prostitution or human trafficking.
- (5) The actor's intent to hire an adult to engage in sexual activity for a fee may be inferred from an actor engaging in, offering or agreeing to engage in, or requesting or directing another to engage in any of the acts described in Subsection (2)(b) under the totality of the existing circumstances.
- (6) 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 offenses, or an attempt to commit any of the offenses, described in Subsection 76-5d-202(4), and the actor reports the offense or attempt to law enforcement in good faith.

Enacted by Chapter 173, 2025 General Session

76-5d-211 Sexual solicitation by an actor offering compensation to a child in exchange for sexual activity.

- (1) Terms defined in Sections 76-1-101.5, 76-5d-101, and 76-5d-201 apply to this section.
- (2) Under circumstances not amounting to an offense described in Subsection (4), an actor commits the offense of sexual solicitation by an actor offering compensation to a child in exchange for sexual activity if the actor:
 - (a) is 12 years old or older; and
 - (b)
 - (i) pays, offers to pay, or agrees to pay a fee, or the functional equivalent of a fee, to a child to hire the child to commit any sexual activity; or
 - (ii) with intent to pay a child to be hired to commit any sexual activity for a fee, or the functional equivalent of a fee, requests or directs the child to engage in any of the following acts:
 - (A) exposure or touching of the child's genitals, the buttocks, the anus, the pubic area, or the female breast below the top of the areola;
 - (B) masturbation; or
 - (C) any act of lewdness.
- (3)

- (a) Except as provided in Subsection (3)(b), a violation of Subsection (2) is a second degree felony.
- (b) If the actor is under 18 years old at the time of the offense, a violation of Subsection (2) is:
 - (i) a third degree felony if:
 - (A) the actor is 17 years old and the child is 13 years old or younger; or
 - (B) the actor is 16 years old and the child is 12 years old or younger;
 - (ii) a class A misdemeanor if:
 - (A) the actor is 17 years old and the child is 14 years old;
 - (B) the actor is 16 years old and the child is 13 years old;
 - (C) the actor is 15 years old and the child is 12 years old or younger; or
 - (D) the actor is 14 years old and the child is 11 years old or younger;
 - (iii) a class B misdemeanor if:
 - (A) the actor is 17 years old and the child is 15 years old;
 - (B) the actor is 16 years old and the child is 14 years old;
 - (C) the actor is 15 years old and the child is 13 years old;
 - (D) the actor is 14 years old and the child is 12 years old;
 - (E) the actor is 13 years old and the child is 11 years old or younger; or
 - (F) the actor is 12 years old and the child is 10 years old or younger; or
 - (iv) a class C misdemeanor if:
 - (A) the actor is 17 years old and the child is 16 or 17 years old;
 - (B) the actor is 16 years old and the child is 15 years old or older;
 - (C) the actor is 15 years old and the child is 14 years old or older;
 - (D) the actor is 14 years old and the child is 13 years old or older;
 - (E) the actor is 13 years old and the child is 12 years old or older; or
 - (F) the actor is 12 years old and the child is 11 years old or older.
- (4) The offenses referred to in Subsection (2) are:
 - (a) human trafficking for labor as described in Section 76-5-308;
 - (b) human trafficking for sexual exploitation as described in Section 76-5-308.1;
 - (c) human smuggling as described in Section 76-5-308.3;
 - (d) human trafficking of a child as described in Section 76-5-308.5;
 - (e) aggravated human trafficking as described in Section 76-5-310; and
 - (f) aggravated human smuggling as described in Section 76-5-310.1.
- (5) The actor's intent to hire a child to engage in sexual activity for a fee may be inferred from an actor engaging in, offering or agreeing to engage in, or requesting or directing another to engage in any of the acts described in Subsection (2)(b) under the totality of the existing circumstances.
- (6) 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 offenses, or an attempt to commit any of the offenses, described in Subsection 76-5d-202(4), and the actor reports the offense or attempt to law enforcement in good faith.
- (7)
 - (a) Upon encountering a child engaged in commercial sex or sexual solicitation, a law enforcement officer shall follow the procedure described in Subsection 76-5d-106(2).
 - (b) A child engaged in commercial sex or sexual solicitation shall be referred to the Division of Child and Family Services for services and may not be subjected to delinquency proceedings.

Enacted by Chapter 174, 2025 General Session

76-5d-212 Engaging in prostitution or sexual solicitation as an HIV positive offender.

- (1) Terms defined in Sections 76-1-101.5, 76-5d-101, and 76-5d-201 apply to this section.
- (2) An actor commits engaging in prostitution or sexual solicitation as an HIV positive offender if the actor:
 - (a) is an HIV positive individual;
 - (b) is convicted of:
 - (i) engaging in prostitution under Section 76-5d-202;
 - (ii) patronizing a prostituted individual who is an adult under Section 76-5d-203;
 - (iii) patronizing a prostituted individual who is a child under Section 76-5d-204;
 - (iv) entering or remaining in a place of prostitution under Section 76-5d-205;
 - (v) sexual solicitation by an actor offering to engage in sexual activity for compensation under Section 76-5d-209;
 - (vi) sexual solicitation by an actor offering compensation to an adult in exchange for sexual activity under Section 76-5d-210; or
 - (vii) sexual solicitation by an actor offering compensation to a child in exchange for sexual activity under Section 76-5d-211; and
 - (c)
 - (i) has actual knowledge that the actor is an HIV positive individual; or
 - (ii) has previously been convicted of a violation of Section 76-5d-202, 76-5d-203, 76-5d-204, 76-5d-205, 76-5d-209, 76-5d-210, or 76-5d-211.
- (3) A violation of Subsection (2) is a third degree felony.
- (4) Upon conviction under this section, and as a condition of probation, the actor shall receive treatment and counseling for HIV infection and drug abuse as provided in Title 26B, Chapter 5, Health Care - Substance Use and Mental Health.

Renumbered and Amended by Chapter 173, 2025 General Session

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