

Effective 5/4/2022

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76-5-404 Forcible sexual abuse -- Penalties -- Limitations.

- (1)
 - (a) As used in this section, "indecent liberties" means the same as that term is defined in Section 76-5-401.1.
 - (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 forcible sexual abuse if:
 - (i) without the consent of the individual, the actor:
 - (A) touches the anus, buttocks, pubic area, or any part of the genitals of another individual;
 - (B) touches the breast of another individual who is female; or
 - (C) otherwise takes indecent liberties with another individual;
 - (ii) the actor intends to:
 - (A) cause substantial emotional or bodily pain to any individual; or
 - (B) arouse or gratify the sexual desire of any individual; and
 - (iii) the individual described in Subsection (2)(a)(i)(A), (B), or (C) is 14 years old or older.
 - (b) Any touching, even if accomplished through clothing, is sufficient to constitute the relevant element of a violation of Subsection (2)(a).
- (3)
 - (a) A violation of Subsection (2) is a felony of the second degree, punishable by a term of imprisonment of not less than one year nor more than 15 years.
 - (b)
 - (i) Notwithstanding Subsection (3)(a) and except as provided in Subsection (3)(b)(ii), a violation of Subsection (2) is a felony of the first degree, punishable by a term of imprisonment for 15 years and which may be for life, if the trier of fact finds that during the course of the commission of the forcible sexual abuse the defendant caused serious bodily injury to the victim.
 - (ii) If, when imposing a sentence under Subsection (3)(b)(i), a court finds that a lesser term than the term described in Subsection (3)(b)(i) 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.
- (4) The offenses referred to in Subsection (2)(a) are:
 - (a) rape, in violation of Section 76-5-402;
 - (b) object rape, in violation of Section 76-5-402.2;
 - (c) forcible sodomy, in violation of Section 76-5-403; or
 - (d) an attempt to commit an offense listed in Subsections (4)(a) through (4)(c).
- (5) Imprisonment under Subsection (3)(b) or (4) is mandatory in accordance with Section 76-3-406.