

Effective 7/1/2024

Renumbered 5/7/2025

76-9-702 Lewdness.

- (1) A person is guilty of lewdness if the person under circumstances not amounting to rape, object rape, forcible sodomy, forcible sexual abuse, aggravated sexual assault, sexual abuse of a minor, unlawful sexual conduct with a 16- or 17-year-old, custodial sexual relations under Section 76-5-412, custodial sexual misconduct under Section 76-5-412.2, custodial sexual relations with youth receiving state services under Section 76-5-413, custodial sexual misconduct with youth receiving state services under Section 76-5-413.2, or an attempt to commit any of these offenses, performs any of the following acts in a public place or under circumstances which the person should know will likely cause affront or alarm to, on, or in the presence of another individual who is 14 years old or older:
 - (a) an act of sexual intercourse or sodomy;
 - (b) exposes his or her genitals, the female breast below the top of the areola, the buttocks, the anus, or the pubic area;
 - (c) masturbates; or
 - (d) any other act of lewdness.
- (2)
 - (a) A person convicted the first or second time of a violation of Subsection (1) is guilty of a class B misdemeanor, except under Subsection (2)(b).
 - (b) A person convicted of a violation of Subsection (1) is guilty of a third degree felony if at the time of the violation:
 - (i) the person is a sex offender as defined in Section 77-27-21.7;
 - (ii) the person has been previously convicted two or more times of violating Subsection (1);
 - (iii) the person has previously been convicted of a violation of Subsection (1) and has also previously been convicted of a violation of Section 76-9-702.5;
 - (iv) the person commits the offense of lewdness while also committing the offense of:
 - (A) criminal trespass in a sex-designated changing room under Subsection 76-6-206(2)(d);
 - (B) lewdness involving a child under Section 76-9-702.5;
 - (C) voyeurism under Section 76-9-702.7; or
 - (D) loitering in a privacy space under Section 76-9-702.8; or
 - (v) the person commits the offense of lewdness in a sex-designated privacy space, as defined in Section 76-9-702.8, that is not designated for individuals of the actor's sex.
 - (c)
 - (i) For purposes of this Subsection (2) and Subsection 77-41-102(19), a plea of guilty or nolo contendere to a charge under this section that is held in abeyance under Title 77, Chapter 2a, Pleas in Abeyance, is the equivalent of a conviction.
 - (ii) This Subsection (2)(c) also applies if the charge under this Subsection (2) has been subsequently reduced or dismissed in accordance with the plea in abeyance agreement.
- (3)
 - (a) As used in this Subsection (3):
 - (i) "Common area of a privacy space" means any area of a privacy space other than:
 - (A) a toilet stall with a closed door;
 - (B) immediately in front of a urinal during use; or
 - (C) a shower stall with a closed door or other closed covering.
 - (ii) "Privacy space" means the same as that term is defined in Section 76-9-702.8.

- (b) The common area of a privacy space constitutes a public place or circumstance described in Subsection (1) where an act or an attempted act described in Subsection (1) constitutes lewdness.
- (c) Within the common area of a dressing room, fitting room, locker room, changing facility, or any other space designated for multiple individuals to dress or undress within the same space, exposing, displaying, or otherwise uncovering genitalia that does not correspond with the sex designation of the changing room constitutes an act or an attempted act described in Subsection (1) that constitutes lewdness.
- (4) A woman's breast feeding, including breast feeding in any location where the woman otherwise may rightfully be, does not under any circumstance constitute a lewd act, irrespective of whether or not the breast is covered during or incidental to feeding.