

28           **76-10-1302. Prostitution.**

29           (1) An individual is guilty of prostitution when the individual:

30           (a) engages in any sexual activity with another individual for a fee, or the functional  
31 equivalent of a fee ~~H→~~ **[, including barter or trade of goods]** ~~←H~~ ;

32           (b) is an inmate of a house of prostitution; or

33           (c) loiters in or within view of any public place for the purpose of being hired to  
34 engage in sexual activity.35           (2) (a) Except as provided in Subsection (2)(b) or Section [76-10-1309](#), prostitution is a  
36 class B misdemeanor.37           (b) Except as provided in Section [76-10-1309](#), an individual who is convicted a second  
38 time, and on all subsequent convictions, of a subsequent offense of prostitution under this  
39 section or under a local ordinance adopted in compliance with Section [76-10-1307](#), is guilty of  
40 a class A misdemeanor.

41           (3) (a) As used in this Subsection (3):

42           (i) "Child" is as defined in Section [76-10-1301](#).43           (ii) "Child engaged in prostitution" means a child who engages in conduct described in  
44 Subsection (1).45           (iii) "Child engaged in sexual solicitation" means a child who offers or agrees to  
46 commit or engage in any sexual activity with another person for a fee under Subsection  
47 [76-10-1313](#)(1)(a) or (c).48           (iv) "Division" means the Division of Child and Family Services created in Section  
49 [62A-4a-103](#).50           (v) "Receiving center" is as defined in Section [62A-7-101](#).51           (b) Upon encountering a child engaged in prostitution or sexual solicitation, a law  
52 enforcement officer shall:

53           (i) conduct an investigation;

54           (ii) refer the child to the division;

55           (iii) if an arrest is made, bring the child to a receiving center, if available; and

56           (iv) contact the child's parent or guardian, if practicable.

57           (c) If a law enforcement officer refers a child to the division under Subsection

58 (3)(b)(ii), the division shall:

59 (i) check the division's records to verify whether law enforcement referred the child to  
60 the division under Subsection (3)(b)(ii) on a prior occasion; and

61 (ii) provide the information described in Subsection (3)(c)(i) to the law enforcement  
62 officer.

63 (d) If law enforcement has not referred the child to the division under Subsection  
64 (3)(b)(ii) on at least one prior occasion, the division shall provide services to the child under  
65 Title 62A, Chapter 4a, Child and Family Services.

66 (e) If law enforcement has referred the child to the division under Subsection (3)(b)(ii)  
67 on at least one prior occasion the child may be subject to delinquency proceedings under Title  
68 62A, Chapter 7, Juvenile Justice Services, and Section [78A-6-601](#) through Section [78A-6-704](#).

69 Section 2. Section **76-10-1303** is amended to read:

70 **76-10-1303. Patronizing a prostitute.**

71 (1) A person is guilty of patronizing a prostitute when the person:

72 (a) pays or offers or agrees to pay another person a fee, or the functional equivalent of a  
73 fee, ~~§→ [including barter or trade of goods.] ←§~~ for the purpose of engaging in an act of sexual  
73a activity;

74 or

75 (b) enters or remains in a house of prostitution for the purpose of engaging in sexual  
76 activity.

77 (2) Patronizing a prostitute is a class B misdemeanor, except as provided in Subsection  
78 (3) or (4) and Section [76-10-1309](#).

79 (3) A violation of this section that is preceded by a conviction under this section or a  
80 conviction under local ordinance adopted under Section [76-10-1307](#) is a class A misdemeanor.

81 (4) If the patronizing of a prostitute under Subsection (1)(a) involves a child as the  
82 other person, a violation of Subsection (1)(a) is a third degree felony.

83 Section 3. Section **76-10-1313** is amended to read:

84 **76-10-1313. Sexual solicitation -- Penalty.**

85 (1) A person is guilty of sexual solicitation when the person:

86 (a) offers or agrees to commit any sexual activity with another person for a fee, or the  
87 functional equivalent of a fee ~~§→ [including barter or trade of goods] ←§~~ ;

88 (b) pays or offers or agrees to pay a fee to another person to commit any sexual  
89 activity; or