

30 (a) engages in any sexual activity with another individual for a fee, or the functional
31 equivalent of a fee;

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, for the purpose of engaging in an act of sexual activity; or

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

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

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

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

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

83 **76-10-1313. Sexual solicitation -- Penalty.**

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

85 (a) offers or agrees to commit any sexual activity with another person for a fee, or the

86 functional equivalent of a fee;

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

89 (c) with intent to engage in sexual activity for a fee or to pay another person to commit
90 any sexual activity for a fee engages in, offers or agrees to engage in, or requests or directs
91 another to engage in any of the following acts:

92 (i) exposure of a person's genitals, the buttocks, the anus, the pubic area, or the female
93 breast below the top of the areola;

94 (ii) masturbation;

95 (iii) touching of a person's genitals, the buttocks, the anus, the pubic area, or the female
96 breast; or

97 (iv) any act of lewdness.

98 (2) An intent to engage in sexual activity for a fee may be inferred from a person's
99 engaging in, offering or agreeing to engage in, or requesting or directing another to engage in
100 any of the acts described in Subsection (1)(c) under the totality of the existing circumstances.

101 (3) (a) Sexual solicitation is a class B misdemeanor, except under Subsection (3)(b).

102 (b) Any person who is convicted a second or subsequent time under this section or
103 under a local ordinance adopted in compliance with Section 76-10-1307, is guilty of a class A
104 misdemeanor, except as provided in Section 76-10-1309.

105 (4) If a person commits an act of sexual solicitation and the person solicited is a child,
106 the offense is a third degree felony if the solicitation does not amount to human trafficking or
107 human smuggling, a violation of Section 76-5-308, or aggravated human trafficking or
108 aggravated human smuggling, a violation of Section 76-5-310.