

***Superseded 5/10/2016***

**76-2-304.5 Mistake as to victim's age not a defense.**

- (1) It is not a defense to the crime of child kidnapping, a violation of Section 76-5-301.1; rape of a child, a violation of Section 76-5-402.1; object rape of a child, a violation of Section 76-5-402.3; sodomy on a child, a violation of Section 76-5-403.1; sexual abuse of a child, a violation of Section 76-5-404.1; aggravated sexual abuse of a child, a violation of Subsection 76-5-404.1(4); or an attempt to commit any of these offenses, that the actor mistakenly believed the victim to be 14 years of age or older at the time of the alleged offense or was unaware of the victim's true age.
- (2) It is not a defense to the crime of unlawful sexual activity with a minor, a violation of Section 76-5-401; sexual abuse of a minor, a violation of Section 76-5-401.1; or an attempt to commit either of these offenses, that the actor mistakenly believed the victim to be 16 years of age or older at the time of the alleged offense or was unaware of the victim's true age.
- (3) It is not a defense to the crime of aggravated human trafficking or aggravated human smuggling, a violation of Section 76-5-310, that the actor mistakenly believed the victim to be 18 years of age or older at the time of the alleged offense or was unaware of the victim's true age.
- (4) It is not a defense to the crime of unlawful sexual activity with a minor, a violation of Subsection 76-5-401.2(2)(a)(ii), that the actor mistakenly believed the victim to be 18 years of age or older at the time of the alleged offense or was unaware of the victim's true age.
- (5) It is not a defense to any of the following crimes that the actor mistakenly believed the victim to be 18 years of age or older at the time of the alleged offense or was unaware of the victim's true age:
  - (a) patronizing a prostitute, a violation of Section 76-10-1303;
  - (b) aggravated exploitation of a prostitute, a violation of Section 76-10-1306; or
  - (c) sexual solicitation, a violation of Section 76-10-1313.