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SEX OFFENDER LIFETIME REPORTING

AMENDMENTS

2001 GENERAL SESSION

STATE OF UTAH

Sponsor: DeMar Bud Bowman

This act modifies the Code of Criminal Procedure by requiring lifetime registration and notification of change of habitation by those sex offenders who have committed certain sexual offenses as specified in the act.

This act affects sections of Utah Code Annotated 1953 as follows:

AMENDS:

77-27-21.5, as last amended by Chapter 201, Laws of Utah 2000

Be it enacted by the Legislature of the state of Utah:

Section 1. Section **77-27-21.5** is amended to read:

77-27-21.5. Sex offender registration -- Information system -- Law enforcement and courts to report -- Registration -- Penalty -- Effect of expungement -- Internet registry.

(1) As used in this section:

(a) "Department" means the Department of Corrections.

(b) "Notification" means a person's acquisition of information from the department about a sex offender, including his place of habitation, physical description, and methodology of the offense, and other information as provided in Subsections (10) and (11).

(c) "Register" means to comply with the rules of the department made under this section.

(d) "Sex offender":

(i) means any person convicted by this state or who enters a plea in abeyance for violating Section 76-5-301.1, 76-5a-3, 76-7-102, 76-9-702.5, [76-5a-3,] or 76-10-1306, [or 76-5-301.1] or of committing or attempting, soliciting, or conspiring to commit a felony, under Title 76, Chapter 5, Part 4, Sexual Offenses, and any person convicted by any other state or the United States government of an offense which if committed or attempted in this state would be punishable as one

28 or more of these offenses[~~"Sex offender"~~]; and

29 (ii) also means all persons committed to a state mental hospital by reason of their mental
30 incapacity and their commission or alleged commission of one or more offenses listed in this
31 Subsection (1)(d).

32 (2) The department, to assist in investigating sex-related crimes and in apprehending
33 offenders, shall:

34 (a) develop and operate a system to collect, analyze, maintain, and disseminate information
35 on sex offenders and sex offenses; and

36 (b) make information collected and developed under this section available to the public.

37 (3) Any law enforcement agency shall, in the manner prescribed by the department, inform
38 the department of:

39 (a) the receipt of a report or complaint of an offense listed in Subsection (1)(d), within
40 three working days; and

41 (b) the arrest of a person suspected of any of the offenses listed in Subsection (1)(d),
42 within five working days.

43 (4) Upon convicting a person of any of the offenses listed in Subsection (1)(d), or any
44 lesser included offense, the convicting court shall within three working days forward a copy of the
45 judgment and sentence to the department.

46 (5) A sex offender in the custody of the department shall be registered by agents of the
47 department upon:

48 (a) being placed on probation;

49 (b) commitment to a secure correctional facility operated by or under contract to the
50 department;

51 (c) release from confinement to parole status, termination or expiration of sentence, or
52 escape;

53 (d) entrance to and release from any community-based residential program operated by or
54 under contract to the department; or

55 (e) termination of probation or parole.

56 (6) A sex offender not in the custody of the department who is confined in a correctional
57 facility not operated by or under contract to the department shall, upon release from confinement,
58 be registered with the department by the sheriff of the county in which the offender is confined.

59 (7) A sex offender confined in a state mental hospital shall be registered with the
60 department by the hospital. A sex offender committed to a state mental hospital shall be registered
61 with the department by the hospital upon admission and upon discharge.

62 (8) ~~(A)~~ (a) Except as provided in Subsection (8)(b), a sex offender shall, for ten years after
63 termination of sentence, register annually and again within ten days of every change of his place
64 of habitation.

65 (b) (i) A sex offender convicted of any of the offenses listed in Subsection (8)(b)(ii) shall,
66 for the offender's lifetime, register annually and again within ten days of every change of the
67 offender's place of habitation. This registration requirement is not subject to exemptions and may
68 not be terminated or altered during the offender's lifetime.

69 (ii) Offenses referred to in Subsection (8)(b)(i) are:

70 (A) any offense listed in Subsection (1)(d) if the offender has previously been convicted
71 of an offense listed in Subsection (1)(d);

72 (B) Section 76-5-402.1, rape of a child;

73 (C) Section 76-5-402.3, object rape of a child;

74 (D) Section 76-5-403, forcible sodomy;

75 (E) Section 76-5-403.1, sodomy on a child; and

76 (F) Section 76-5-405, aggravated sexual assault.

77 (9) An agency that registers a sex offender on parole shall inform him of his duty to
78 comply with the continuing registration requirements of this section, including:

79 (a) notification to an out-of-state agency of moving across state lines;

80 (b) notification to the state agencies in the states where the registrant presently resides and
81 plans to reside when moving across state lines; and

82 (c) verification of address at least every 60 days pursuant to a parole agreement for lifetime
83 parolees.

84 (10) A sex offender shall provide the department with the following information:

85 (a) all names or aliases the sex offender is or has been known by;

86 (b) the sex offender's name and address;

87 (c) a physical description, including the sex offender's age, height, weight, eye and hair
88 color;

89 (d) the type of vehicle or vehicles the sex offender drives; and

90 (e) a current photograph of the sex offender.

91 (11) The department shall provide the following additional information:

92 (a) the crimes the sex offender was charged with and convicted of;

93 (b) a description of the sex offender's primary and secondary targets; and

94 (c) a description of the sex offender's method of offense.

95 (12) (a) A sex offender who knowingly fails to register under this section is guilty of a
96 class A misdemeanor and shall be sentenced to serve a term of incarceration for not fewer than 90
97 days and also at least one year of probation.

98 (b) Neither the court nor the Board of Pardons and Parole may release a person who
99 violates this section from serving a term of at least 90 days and of completing probation of at least
100 one year. This Subsection (12)(b) supersedes any other provision of the law contrary to this
101 section.

102 (13) Notwithstanding Title 63, Chapter 2, Government Records Access and Management
103 Act, information in Subsections (10) and (11) collected and released under this section is public
104 information.

105 (14) (a) If a sex offender is to be temporarily sent outside a secure facility in which he is
106 confined on any assignment, including, without limitation, firefighting or disaster control, the
107 official who has custody of the offender shall, within a reasonable time prior to removal from the
108 secure facility, notify the local law enforcement agencies where the assignment is to be filled.

109 (b) This Subsection (14) does not apply to any person temporarily released under guard
110 from the institution in which he is confined.

111 (15) Notwithstanding Sections 77-18-9 through 77-18-14 regarding expungement, a person
112 convicted of any offense listed in Subsection (1)(d) is not relieved from the responsibility to
113 register as required under this section.

114 (16) Notwithstanding Section 42-1-1, a sex offender may not change his name while under
115 the jurisdiction of the department and until the registration requirements of this statute have
116 expired, or if registration is under Subsection (8)(b), the offender may not change his name at any
117 time.

118 (17) The department may make rules necessary to implement this section, including:

119 (a) the method for dissemination of the information; and

120 (b) instructions to the public regarding the use of the information.

121 (18) Any information regarding the identity or location of a victim shall be redacted by the
122 department from information provided under Subsections (10) and (11).

123 (19) Nothing in this section shall be construed to create or impose any duty on any person
124 to request or obtain information regarding any sex offender from the department.

125 (20) If the department chooses to post registry information on the Internet, the website
126 shall contain a disclaimer informing the public of the following:

127 (a) the information contained on the site is obtained from sex offenders and the department
128 does not guarantee its accuracy;

129 (b) members of the public are not allowed to publicize the information or use it to harass
130 or threaten sex offenders or members of their families; and

131 (c) harassment, stalking, or threats against sex offenders or their families are prohibited
132 and doing so may violate Utah criminal laws.

133 (21) The department shall construct the website so that users, before accessing registry
134 information, must indicate that they have read the disclaimer, understand it, and agree to comply
135 with its terms.

136 (22) The department, its personnel, and any individual or entity acting at the request or
137 upon the direction of the department are immune from civil liability for damages for good faith
138 compliance with this section and will be presumed to have acted in good faith by reporting
139 information.

140 (23) The department shall redact information that, if disclosed, could reasonably identify
141 a victim.

142 (24) The website may also include information about sex offenders ordered to accept
143 notification of their registry information as part of a condition of probation or parole.

Legislative Review Note
as of 11-9-00 9:36 AM

A limited legal review of this legislation raises no obvious constitutional or statutory concerns.

Office of Legislative Research and General Counsel

Committee Note

The Law Enforcement and Criminal Justice Interim Committee recommended this bill.