

1 **SEX OFFENDER REGISTRATION FEE**

2 2006 GENERAL SESSION

3 STATE OF UTAH

4 **Chief Sponsor: Lorie D. Fowlke**

5 Senate Sponsor: David L. Thomas

7 **LONG TITLE**

8 **General Description:**

9 This bill modifies the Code of Criminal Procedure regarding requiring registered sex
10 offenders to pay an annual fee.

11 **Highlighted Provisions:**

12 This bill:

13 ▶ requires that any sex offender required to register with the Department of
14 Corrections, and who is not currently under the jurisdiction of the Department of
15 Corrections, shall pay an annual fee of \$75; and

16 ▶ directs that the department use the fees as a dedicated credit for the costs of
17 maintaining the sex offender registry and apprehending sex offenders who do not
18 comply with the registration laws.

19 **Monies Appropriated in this Bill:**

20 None

21 **Other Special Clauses:**

22 None

23 **Utah Code Sections Affected:**

24 AMENDS:

25 **77-27-21.5**, as last amended by Chapter 48, Laws of Utah 2002

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



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

29 **77-27-21.5. Sex offender registration -- Information system -- Law enforcement**
30 **and courts to report -- Registration -- Penalty -- Effect of expungement.**

31 (1) As used in this section:

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

33 (b) "Employed" or "carries on a vocation" includes employment that is full time or part
34 time for a period of time exceeding 14 days or for an aggregate period of time exceeding 30
35 days during any calendar year, whether financially compensated, volunteered, or for the
36 purpose of government or educational benefit.

37 (c) "Notification" means a person's acquisition of information from the department
38 about a sex offender, including his place of habitation, physical description, and other
39 information as provided in Subsections (11) and (12).

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

42 (e) "Sex offender" means any person:

43 (i) convicted by this state of:

44 (A) a felony or class A misdemeanor violation of Section 76-4-401, enticing a minor
45 over the Internet;

46 (B) Section 76-5-301.1, kidnapping of a child;

47 (C) a felony violation of Section 76-5-401, unlawful sexual activity with a minor;

48 (D) Section 76-5-401.1, sexual abuse of a minor;

49 (E) Section 76-5-401.2, unlawful sexual conduct with a 16 or 17 year old;

50 (F) Section 76-5-402, rape;

51 (G) Section 76-5-402.1, rape of a child;

52 (H) Section 76-5-402.2, object rape;

53 (I) Section 76-5-402.3, object rape of a child;

54 (J) a felony violation of Section 76-5-403, forcible sodomy;

55 (K) Section 76-5-403.1, sodomy on a child;

56 (L) Section 76-5-404, forcible sexual abuse;

57 (M) Section 76-5-404.1, sexual abuse of a child or aggravated sexual abuse of a child;

58 (N) Section 76-5-405, aggravated sexual assault;

- 59 (O) Section 76-5a-3, sexual exploitation of a minor;
- 60 (P) Section 76-7-102, incest;
- 61 (Q) Section 76-9-702.5, lewdness involving a child;
- 62 (R) Section 76-10-1306, aggravated exploitation of prostitution; or
- 63 (S) attempting, soliciting, or conspiring to commit any felony offense listed in
- 64 Subsection (1)(e)(i);
- 65 (ii) convicted by any other state or the United States government of an offense which if
- 66 committed in this state would be punishable as one or more of the offenses listed in Subsection
- 67 (1) (e)(i) and who is:
- 68 (A) a Utah resident; or
- 69 (B) not a Utah resident, but who is in the state for a period exceeding 14 consecutive
- 70 days, or for an aggregate period exceeding 30 days, during any calendar year; or
- 71 (iii) who is found not guilty by reason of insanity of one or more offenses listed in
- 72 Subsection (1)(e)(i).
- 73 (2) The department, to assist in investigating sex-related crimes and in apprehending
- 74 offenders, shall:
- 75 (a) develop and operate a system to collect, analyze, maintain, and disseminate
- 76 information on sex offenders and sex offenses; and
- 77 (b) make information collected and developed under this section available to the
- 78 public.
- 79 (3) Any law enforcement agency shall, in the manner prescribed by the department,
- 80 inform the department of:
- 81 (a) the receipt of a report or complaint of an offense listed in Subsection (1)(e), within
- 82 three working days; and
- 83 (b) the arrest of a person suspected of any of the offenses listed in Subsection (1)(e),
- 84 within five working days.
- 85 (4) Upon convicting a person of any of the offenses listed in Subsection (1)(e), the
- 86 convicting court shall within three working days forward a copy of the judgment and sentence
- 87 to the department.
- 88 (5) A sex offender in the custody of the department shall be registered by agents of the
- 89 department upon:

- 90 (a) being placed on probation;
- 91 (b) commitment to a secure correctional facility operated by or under contract to the
- 92 department;
- 93 (c) release from confinement to parole status, termination or expiration of sentence, or
- 94 escape;
- 95 (d) entrance to and release from any community-based residential program operated by
- 96 or under contract to the department; or
- 97 (e) termination of probation or parole.
- 98 (6) A sex offender not in the custody of the department and who is confined in a
- 99 correctional facility not operated by or under contract to the department shall be registered with
- 100 the department by the sheriff of the county in which the offender is confined upon:
 - 101 (a) commitment to the correctional facility; and
 - 102 (b) release from confinement.
- 103 (7) A sex offender committed to a state mental hospital shall be registered with the
- 104 department by the hospital upon admission and upon discharge.
- 105 (8) A sex offender convicted by any other state or by the United States government is
- 106 required to register under Subsection (1)(e)(ii) and shall register with the department within ten
- 107 days after entering the state.
- 108 (9) (a) Except as provided in Subsections (9)(b) and (c), a sex offender shall, for the
- 109 duration of the sentence and for ten years after termination of sentence, register annually and
- 110 again within ten days of every change of his place of habitation.
 - 111 (b) (i) A sex offender convicted of any of the offenses listed in Subsection (9)(b)(ii)
 - 112 shall, for the offender's lifetime, register annually and again within ten days of every change of
 - 113 the offender's place of habitation. This registration requirement is not subject to exemptions
 - 114 and may not be terminated or altered during the offender's lifetime.
 - 115 (ii) Offenses referred to in Subsection (9)(b)(i) are:
 - 116 (A) any offense listed in Subsection (1)(e) if the offender has previously been
 - 117 convicted of an offense listed in Subsection (1)(e);
 - 118 (B) Section 76-5-402.1, rape of a child;
 - 119 (C) Section 76-5-402.3, object rape of a child;
 - 120 (D) Section 76-5-403, forcible sodomy;

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

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

123 (c) Notwithstanding Subsections (9)(a) and (b), a sex offender who is confined in a
124 secure facility or in a state mental hospital is not required to register annually.

125 (10) An agency in the state that registers a sex offender on probation, a sex offender
126 who has been released from confinement to parole status or termination, or a sex offender
127 whose sentence has expired shall inform the offender of the duty to comply with the continuing
128 registration requirements of this section during the period of registration required in Subsection
129 (9), including:

130 (a) notification to the state agencies in the states where the registrant presently resides
131 and plans to reside when moving across state lines;

132 (b) verification of address at least every 60 days pursuant to a parole agreement for
133 lifetime parolees; and

134 (c) notification to the out-of-state agency where the offender is living, whether or not
135 the offender is a resident of that state.

136 (11) A sex offender shall provide the department with the following information:

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

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

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

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

142 (e) a current photograph of the sex offender; and

143 (f) each institution of higher education in Utah at which the sex offender is employed,
144 carries on a vocation, or is a student, and any change of enrollment or employment status of the
145 sex offender at any institution of higher education.

146 (12) The department shall:

147 (a) provide the following additional information when available:

148 (i) the crimes the sex offender was convicted of; and

149 (ii) a description of the sex offender's primary and secondary targets; and

150 (b) ensure that the registration information collected regarding a sex offender's
151 enrollment or employment at an institution of higher education is:

152 (i) promptly made available to any law enforcement agency that has jurisdiction where
153 the institution is located; and

154 (ii) entered into the appropriate state records or data system.

155 (13) (a) A sex offender who knowingly fails to register under this section is guilty of a
156 class A misdemeanor and shall be sentenced to serve a term of incarceration for not fewer than
157 90 days and also at least one year of probation.

158 (b) Neither the court nor the Board of Pardons and Parole may release a person who
159 violates this section from serving a term of at least 90 days and of completing probation of at
160 least one year. This Subsection (13)(b) supersedes any other provision of the law contrary to
161 this section.

162 (14) Notwithstanding Title 63, Chapter 2, Government Records Access and
163 Management Act, information in Subsections (11) and (12) collected and released under this
164 section is public information.

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

170 (b) This Subsection (15) does not apply to any person temporarily released under guard
171 from the institution in which he is confined.

172 (16) Notwithstanding Sections 77-18-9 through 77-18-14 regarding expungement, a
173 person convicted of any offense listed in Subsection (1)(e) is not relieved from the
174 responsibility to register as required under this section.

175 (17) Notwithstanding Section 42-1-1, a sex offender:

176 (a) may not change his name:

177 (i) while under the jurisdiction of the department; and

178 (ii) until the registration requirements of this statute have expired; or

179 (b) may not change his name at any time, if registration is under Subsection (9)(b).

180 (18) The department may make rules necessary to implement this section, including:

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

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

183 (19) Any information regarding the identity or location of a victim shall be redacted by
184 the department from information provided under Subsections (11) and (12).

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

187 (21) If the department chooses to post registry information on the Internet, the website
188 shall contain a disclaimer informing the public of the following:

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

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

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

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

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

202 (24) The department shall redact information that, if disclosed, could reasonably
203 identify a victim.

204 (25) (a) Each sex offender required to register under Subsection (9), who is not
205 currently under the jurisdiction of the Department of Corrections, shall pay to the department
206 an annual fee of \$75 for each year the sex offender is subject to the registration requirements.

207 (b) The department shall deposit fees under this Subsection (25) in the General Fund as
208 a dedicated credit, to be used by the department for maintaining the sex offender registry under
209 this section and monitoring sex offender registration compliance, including the costs of:

210 (i) data entry;

211 (ii) processing registration packets;

212 (iii) updating registry information;

213 (iv) ensuring sex offender compliance with registration requirements under this

214 section; and
215 (v) apprehending offenders who are in violation of the sex offender registration
216 requirements under this section.

Legislative Review Note
as of 2-7-06 10:50 AM

Based on a limited legal review, this legislation has not been determined to have a high probability of being held unconstitutional.

Office of Legislative Research and General Counsel

State Impact

Passage of this bill would increase dedicated credit revenue by approximately \$112,500 per year. Funds collected would be used for programmatic costs as outlined in the bill.

	<u>FY 2007</u> <u>Approp.</u>	<u>FY 2008</u> <u>Approp.</u>	<u>FY 2007</u> <u>Revenue</u>	<u>FY 2008</u> <u>Revenue</u>
Dedicated Credits	\$112,500	\$112,500	\$112,500	\$112,500
TOTAL	\$112,500	\$112,500	\$112,500	\$112,500

Individual and Business Impact

Sex offenders not currently under the jurisdiction of the Department of Corrections would be required to pay an annual registration fee of \$75.

Office of the Legislative Fiscal Analyst