

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

31 **77-27-21.5. Sex offender registration -- Information system -- Law enforcement**
32 **and courts to report -- Registration -- Penalty -- Effect of expungement.**

33 (1) As used in this section:

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

35 (b) "Division" means the Division of Juvenile Justice Services.

36 (c) "Employed" or "carries on a vocation" includes employment that is full time or part
37 time, whether financially compensated, volunteered, or for the purpose of government or
38 educational benefit.

39 (d) "Notification" means a person's acquisition of information from the department
40 about a sex offender, including his place of habitation, physical description, and other
41 information as provided in Subsections (12) and (13).

42 (e) "Online identifier" means any electronic mail, chat, instant messenger, social
43 networking, or similar name used for Internet communication. It does not include date of birth,
44 Social Security number, or PIN number.

45 [~~(e)~~] (f) "Register" means to comply with the rules of the department made under this
46 section.

47 [~~(f)~~] (g) "Sex offender" means any person:

48 (i) convicted by this state of:

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

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

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

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

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

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

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

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

- 58 (I) Section 76-5-402.3, object rape of a child;
- 59 (J) a felony violation of Section 76-5-403, forcible sodomy;
- 60 (K) Section 76-5-403.1, sodomy on a child;
- 61 (L) Section 76-5-404, forcible sexual abuse;
- 62 (M) Section 76-5-404.1, sexual abuse of a child or aggravated sexual abuse of a child;
- 63 (N) Section 76-5-405, aggravated sexual assault;
- 64 (O) Section 76-5a-3, sexual exploitation of a minor;
- 65 (P) Section 76-7-102, incest;
- 66 (Q) Section 76-9-702.5, lewdness involving a child;
- 67 (R) Section 76-10-1306, aggravated exploitation of prostitution; or
- 68 (S) attempting, soliciting, or conspiring to commit any felony offense listed in
- 69 Subsection (1)(~~f~~)(g)(i);
- 70 (ii) who has been convicted of any crime, or an attempt, solicitation, or conspiracy to
- 71 commit a crime in another state or by the United States government that is substantially
- 72 equivalent to the offenses listed in Subsection (1)(~~f~~)(g)(i) and who is:
- 73 (A) a Utah resident; or
- 74 (B) not a Utah resident, but who is in the state for ten days, regardless of whether or
- 75 not the offender intends to permanently reside in this state;
- 76 (iii) who is required to register as a sex offender in any other state or United States
- 77 territory, is not a Utah resident, but who is in the state for ten days, regardless of whether or not
- 78 the offender intends to permanently reside in this state;
- 79 (iv) who is a nonresident regularly employed, working, or a student in this state and
- 80 was convicted of one or more offenses listed in Subsection (1)(~~f~~)(g)(i), or any substantially
- 81 equivalent offense in another state or by the United States government, and as a result of the
- 82 conviction, is required to register in the person's state of residence;
- 83 (v) who is found not guilty by reason of insanity in this state, any other state, or by the
- 84 United States government of one or more offenses listed in Subsection (1)(~~f~~)(g)(i); or
- 85 (vi) who is adjudicated delinquent based on one or more offenses listed in Subsection

86 (1)(~~f~~)(g)(i) and who has been committed to the division for secure confinement and remains in
87 the division's custody 30 days prior to the person's 21st birthday.

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

90 (a) develop and operate a system to collect, analyze, maintain, and disseminate
91 information on sex offenders and sex offenses; ~~and~~

92 (b) make information collected and developed under this section available to the
93 public~~[-]; and~~

94 (c) require that a sex offender provide to the department any password required for use
95 with an online identifier. Passwords provided to the department may not be disclosed to the
96 public.

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

99 (a) the receipt of a report or complaint of an offense listed in Subsection (1)(~~f~~)(g),
100 within three working days; and

101 (b) the arrest of a person suspected of any of the offenses listed in Subsection
102 (1)(~~f~~)(g), within five working days.

103 (4) Upon convicting a person of any of the offenses listed in Subsection (1)(~~f~~)(g), the
104 convicting court shall within three working days forward a copy of the judgment and sentence
105 to the department.

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

108 (a) being placed on probation;

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

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

113 (d) entrance to and release from any community-based residential program operated by

114 or under contract to the department; or

115 (e) termination of probation or parole.

116 (6) A sex offender not in the custody of the department and who is confined in a
117 correctional facility not operated by or under contract to the department shall be registered with
118 the department by the sheriff of the county in which the offender is confined upon:

119 (a) commitment to the correctional facility; and

120 (b) release from confinement.

121 (7) A sex offender in the custody of the division shall be registered with the department
122 by the division prior to release from custody.

123 (8) A sex offender committed to a state mental hospital shall be registered with the
124 department by the hospital upon admission and upon discharge.

125 (9) A sex offender convicted by any other state or by the United States government is
126 required to register under Subsection (1)~~(f)~~(g)(ii) and shall register with the department within
127 ten days of entering the state, regardless of the length of stay.

128 (10) (a) Except as provided in Subsections (10)(b), (c), and (d), a sex offender shall, for
129 the duration of the sentence and for ten years after termination of sentence or custody of the
130 division, register annually during the month of the offender's birth and again within five days of
131 every change of his place of habitation, vehicle information, or educational information required
132 to be submitted under Subsection (12).

133 (b) Except as provided Subsections (10)(c) and (d), a sex offender who is convicted of
134 an offense listed in Subsection (1)~~(f)~~(g)(i) by another state shall register for the time period
135 required by the state where the offender was convicted if the state's registration period for the
136 offense that the offender was convicted of is in excess of the ten years from completion of the
137 sentence registration period that is required under Subsection (10)(a).

138 (c) (i) A sex offender convicted as an adult of any of the offenses listed in Subsection
139 (10)(c)(ii) shall, for the offender's lifetime, register annually during the month of the offender's
140 birth and again within five days of every change of the offender's place of habitation, vehicle
141 information, or educational information required to be submitted under Subsection (12). This

142 registration requirement is not subject to exemptions and may not be terminated or altered
143 during the offender's lifetime.

144 (ii) Offenses referred to in Subsection (10)(c)(i) are:

145 (A) any offense listed in Subsection (1)(~~f~~)(g) if, at the time of the conviction, the
146 offender has previously been convicted of an offense listed in Subsection (1)(~~f~~)(g) or has
147 previously been required to register as a sex offender for an offense committed as a juvenile;

148 (B) Section 76-4-401, enticing a minor over the Internet, if the offense is a class A or
149 felony violation;

150 (C) Section 76-5-301.1, child kidnapping;

151 (D) Section 76-5-402, rape;

152 (E) Section 76-5-402.1, rape of a child;

153 (F) Section 76-5-402.2, object rape;

154 (G) Section 76-5-402.3, object rape of a child;

155 (H) Section 76-5-403, forcible sodomy;

156 (I) Section 76-5-403.1, sodomy on a child;

157 (J) Section 76-5-404.1, sexual abuse of a child;

158 (K) Subsection 76-5-404.1(4), aggravated sexual abuse of a child;

159 (L) Section 76-5-405, aggravated sexual assault;

160 (M) Section 76-5a-3, sexual exploitation of a minor; or

161 (N) Section 76-7-102, incest.

162 (d) Notwithstanding Subsections (10)(a), (b), and (c), a sex offender who is confined in
163 a secure facility or in a state mental hospital is not required to register annually.

164 (e) A sex offender [~~that is~~] required to register annually under this Subsection (10) shall
165 surrender the sex offender's license certificate or identification card as required under
166 Subsection 53-3-216(3) or 53-3-807(4) and may apply for a license certificate or identification
167 card as provided under Section 53-3-205 or 53-3-804.

168 (11) An agency in the state that registers a sex offender on probation, a sex offender
169 who has been released from confinement to parole status or termination, or a sex offender

170 whose sentence has expired shall inform the offender of the duty to comply with:

171 (a) the continuing registration requirements of this section during the period of
172 registration required in Subsection (10), including:

173 (i) notification to the state agencies in the states where the registrant presently resides
174 and plans to reside when moving across state lines;

175 (ii) verification of address at least every 60 days pursuant to a parole agreement for
176 lifetime parolees; and

177 (iii) notification to the out-of-state agency where the offender is living, whether or not
178 the offender is a resident of that state; and

179 (b) the driver license certificate or identification card surrender requirement under
180 Subsection 53-3-216(3) or 53-3-807(4) and application provisions under Section 53-3-205 or
181 53-3-804.

182 (12) A sex offender shall provide the department with the following information:

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

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

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

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

188 (e) a current photograph of the sex offender; [~~and~~]

189 (f) each educational institution in Utah at which the sex offender is employed, carries on
190 a vocation, or is a student, and any change of enrollment or employment status of the sex
191 offender at any educational institution[~~;~~]; and

192 (g) the name and Internet address of all websites on which the sex offender is registered
193 using an online identifier, including all online identifiers and passwords used to access those
194 websites.

195 (13) The department shall:

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

197 (i) the crimes the sex offender was convicted of or adjudicated delinquent for; and

198 (ii) a description of the sex offender's primary and secondary targets; and
199 (b) ensure that the registration information collected regarding a sex offender's
200 enrollment or employment at an educational institution is:
201 (i) (A) promptly made available to any law enforcement agency that has jurisdiction
202 where the institution is located if the educational institution is an institution of higher education;
203 or
204 (B) promptly made available to the district superintendent of the school district where
205 the offender is enrolled if the educational institution is an institution of primary education; and
206 (ii) entered into the appropriate state records or data system.
207 (14) (a) A sex offender who knowingly fails to register or provides false or incomplete
208 information under this section is guilty of:
209 (i) a third degree felony and shall be sentenced to serve a term of incarceration for not
210 less than 90 days and also at least one year of probation if:
211 (A) the sex offender is required to register for a felony conviction of an offense listed in
212 Subsection (1)~~(f)~~(g)(i); or
213 (B) the sex offender is required to register for the offender's lifetime under Subsection
214 (10)(c); or
215 (ii) a class A misdemeanor and shall be sentenced to serve a term of incarceration for
216 not fewer than 90 days and also at least one year of probation if the sex offender is required to
217 register for a misdemeanor conviction of an offense listed in Subsection (1)~~(f)~~(g)(i).
218 (b) Neither the court nor the Board of Pardons and Parole may release a person who
219 violates this section from serving the term required under Subsection (14)(a). This Subsection
220 (14)(b) supersedes any other provision of the law contrary to this section.
221 (15) Notwithstanding Title 63, Chapter 2, Government Records Access and
222 Management Act, information in Subsections (12) and (13) collected and released under this
223 section is public information.
224 (16) (a) If a sex offender is to be temporarily sent outside a secure facility in which he is
225 confined on any assignment, including, without limitation, firefighting or disaster control, the

226 official who has custody of the offender shall, within a reasonable time prior to removal from
227 the secure facility, notify the local law enforcement agencies where the assignment is to be
228 filled.

229 (b) This Subsection (16) does not apply to any person temporarily released under guard
230 from the institution in which he is confined.

231 (17) Notwithstanding Sections 77-18-9 through 77-18-14 regarding expungement, a
232 person convicted of any offense listed in Subsection (1)[~~(f)~~](g) is not relieved from the
233 responsibility to register as required under this section.

234 (18) Notwithstanding Section 42-1-1, a sex offender:

235 (a) may not change his name:

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

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

238 (b) may not change his name at any time, if registration is under Subsection (10)(c).

239 (19) The department may make rules necessary to implement this section, including:

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

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

242 (20) Any information regarding the identity or location of a victim shall be redacted by
243 the department from information provided under Subsections (12) and (13).

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

246 (22) The department shall post registry information on the Internet, and the website
247 shall contain a disclaimer informing the public of the following:

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

250 (b) members of the public are not allowed to use the information to harass or threaten
251 sex offenders or members of their families; and

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

254 (23) The website shall be indexed by both the surname of the offender and by postal
255 codes.

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

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

263 (26) The department shall redact information that, if disclosed, could reasonably
264 identify a victim.

265 (27) (a) Each sex offender required to register under Subsection (10), who is not
266 currently under the jurisdiction of the Department of Corrections, shall pay to the department an
267 annual fee of \$75 each year the sex offender is subject to the registration requirements.

268 (b) The department shall deposit fees under this Subsection (27) in the General Fund as
269 a dedicated credit, to be used by the department for maintaining the sex offender registry under
270 this section and monitoring sex offender registration compliance, including the costs of:

- 271 (i) data entry;
- 272 (ii) processing registration packets;
- 273 (iii) updating registry information;
- 274 (iv) ensuring sex offender compliance with registration requirements under this section;

275 and

276 (v) apprehending offenders who are in violation of the sex offender registration
277 requirements under this section.

278 (28) Notwithstanding Subsections (2)(c) and (12)(g), a sex offender is not required to
279 provide the department with:

280 (a) the offender's online identifier and password used exclusively for the offender's
281 employment on equipment provided by an employer and used to access the employer's private

282 network; or

283 (b) online identifiers for the offender's financial accounts, including any bank,

284 retirement, or investment accounts.

285 Section 2. **Effective date.**

286 This bill takes effect on July 1, 2008.