

HB0213S01 compared with HB0213

~~{deleted text}~~ shows text that was in HB0213 but was deleted in HB0213S01.

inserted text shows text that was not in HB0213 but was inserted into HB0213S01.

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Representative LaVar Christensen proposes the following substitute bill:

CRIMINAL PENALTIES FOR SEXUAL CONTACT WITH A STUDENT

2014 GENERAL SESSION

STATE OF UTAH

Chief Sponsor: LaVar Christensen

Senate Sponsor: _____

LONG TITLE

General Description:

This bill modifies the ~~{Utah Code of Criminal Procedure and the Utah}~~ Criminal Code regarding ~~{sexual offenses}~~ the concept of a position of special trust regarding persons working at schools.

Highlighted Provisions:

This bill:

- ▶ modifies the offense of aggravated sexual abuse of a child by providing a definition of the term "position of special trust" and clarifying that the definition includes adult employees and volunteers at public and private schools;
- ▶ provides that ~~{when any employee of or volunteer at a public or private elementary~~

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~~or secondary school commits or attempts to commit against an enrolled student of the school any sexual offense that is not currently a first degree felony or a second degree felony, the offense is a second degree felony;~~

→ ~~imposes the same second degree felony penalty if the~~ specified sexual conduct against victims between 14 and 18 years of age are third degree felonies if committed by a school employee or volunteer; and

▶ states in the Criminal Code that a sexual offense against a ~~student occurs within five years after the offender was most recently employed by or had volunteered at a school; and~~

→ ~~includes these convicted persons on the sex offender registry;~~ minor is a ground for the revocation of a teacher's license.

Money Appropriated in this Bill:

None

Other Special Clauses:

None

Utah Code Sections Affected:

AMENDS:

~~{77-27-10}~~ 76-5-309, as last amended by Laws of Utah ~~{2008}~~ 2013, ~~{Chapters 294 and 382}~~ Chapter 196

~~{77-41-102}~~ 76-5-401.1, as enacted by Laws of Utah ~~{2012}~~ 1998, Chapter ~~{145 and}~~ 82 76-5-401.2, as last amended by ~~{Coordination Clause}~~ Laws of Utah 2013, Chapter 34

76-5-404.1, as last amended by Laws of Utah ~~{2012}~~ 2013, Chapters 81 and 196

76-5-406, as last amended by Laws of Utah 2013, Chapter ~~{247}~~ 196

ENACTS:

~~{76-5-404.5}~~ 76-5-415, Utah Code Annotated 1953

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

Section 1. Section 76-5-309 is amended to read:

76-5-309. Human trafficking and human smuggling -- Penalties.

(1) Human trafficking for forced labor and human trafficking for forced sexual exploitation are each a second degree felony, except under Section 76-5-310.

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(2) Human smuggling, under Section 76-5-308 of one or more persons is a third degree felony, except under Section 76-5-310.

(3) Human trafficking for forced labor or for forced sexual exploitation and human smuggling are each a separate offense from any other crime committed in relationship to the commission of either of these offenses.

(4) Under circumstances not amounting to aggravated sexual abuse of a child, a violation of Subsection 76-5-404.1(4)(h) ~~[(+)]~~, a person who benefits, receives, or exchanges anything of value from knowing participation in:

(a) human trafficking for forced labor or for forced sexual exploitation in violation of Section 76-5-308 is guilty of a second degree felony; and

(b) human smuggling is guilty of a third degree felony.

(5) A person commits a separate offense of human trafficking or human smuggling for each person who is smuggled or trafficked under Section 76-5-308 or 76-5-310.

Section 2. Section 76-5-401.1 is amended to read:

76-5-401.1. Sexual abuse of a minor.

(1) For purposes of this section "minor" is a person who is 14 years of age or older, but younger than 16 years of age, at the time the sexual activity described in this section occurred.

(2) A person commits sexual abuse of a minor if the person is seven years or more older than the minor and, under circumstances not amounting to rape, in violation of Section 76-5-402, object rape, in violation of Section 76-5-402.2, forcible sodomy, in violation of Section 76-5-403, aggravated sexual assault, in violation of Section 76-5-405, unlawful sexual activity with a minor, in violation of Section 76-5-401, or an attempt to commit any of those offenses, the person touches the anus, buttocks, or any part of the genitals of the minor, or touches the breast of a female minor, or otherwise takes indecent liberties with the minor, or causes a minor to take indecent liberties with the actor or another person, with the intent to cause substantial emotional or bodily pain to any person or with the intent to arouse or gratify the sexual desire of any person regardless of the sex of ~~+~~any participant.

(3) (a) A violation of this section is a class A misdemeanor ~~[-]~~, except under Subsection (3)(b).

(b) A violation of this section is a third degree felony if the actor at the time of the commission of the offense:

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(i) is 18 years of age or older;

(ii) held a position of special trust as a teacher or a volunteer at a school, as that position is defined in Subsection 76-5-404.1(1)(c)(xix); and

(iii) committed the offense against an individual who at the time of the offense was enrolled as a student at the school where the actor was employed or was acting as a volunteer.

Section 3. Section 76-5-401.2 is amended to read:

76-5-401.2. Unlawful sexual conduct with a 16- or 17-year-old.

(1) As used in this section, "minor" means a person who is 16 years of age or older, but younger than 18 years of age, at the time the sexual conduct described in Subsection (2) occurred.

(2) (a) A person commits unlawful sexual conduct with a minor if, under circumstances not amounting to an offense listed under Subsection (3), a person who is:

(i) seven or more years older but less than 10 years older than the minor at the time of the sexual conduct engages in any conduct listed in Subsection (2)(b), and the person knew or reasonably should have known the age of the minor; or

(ii) 10 or more years older than the minor at the time of the sexual conduct and engages in any conduct listed in Subsection (2)(b).

(b) As used in Subsection (2)(a), "sexual conduct" refers to when the person:

(i) has sexual intercourse with the minor;

(ii) engages in any sexual act with the minor involving the genitals of one person and the mouth or anus of another person, regardless of the sex of either participant;

(iii) causes the penetration, however slight, of the genital or anal opening of the minor by any foreign object, substance, instrument, or device, including a part of the human body, with the intent to cause substantial emotional or bodily pain to any person or with the intent to arouse or gratify the sexual desire of any person, regardless of the sex of any participant; or

(iv) touches the anus, buttocks, or any part of the genitals of the minor, or touches the breast of a female minor, or otherwise takes indecent liberties with the minor, or causes a minor to take indecent liberties with the actor or another person, with the intent to cause substantial emotional or bodily pain to any person or with the intent to arouse or gratify the sexual desire of any person regardless of the sex of any participant.

(3) The offenses referred to in Subsection (2) are:

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- (a) (i) rape, in violation of Section 76-5-402;
- (ii) object rape, in violation of Section 76-5-402.2;
- (iii) forcible sodomy, in violation of Section 76-5-403;
- (iv) forcible sexual abuse, in violation of Section 76-5-404; or
- (v) aggravated sexual assault, in violation of Section 76-5-405; or
- (b) an attempt to commit any offense under Subsection (3)(a).
- (4) A violation of Subsection (2)(b)(i), (ii), or (iii) is a third degree felony.
- (5) (a) A violation of Subsection (2)(b)(iv) is a class A misdemeanor ~~(-)~~ [-], except

under Subsection (5)(b).

(b) A violation of Subsection (2)(b)(iv) is a third degree felony if the actor at the time of the commission of the offense:

(i) is 18 years of age or older;

(ii) held a position of special trust as a teacher or a volunteer at a school, as that position is defined in Subsection 76-5-404.1(1)(c)(xix); and

(iii) committed the offense against an individual who at the time of the offense was enrolled as a student at the school where the actor was employed or was acting as a volunteer.

Section 4. Section 76-5-404.1 is amended to read:

76-5-404.1. Sexual abuse of a child -- Aggravated sexual abuse of a child.

(1) As used in this section ~~[-, "child" means a person under the age of 14.];~~

(a) "Adult" means an individual 18 years of age or older.

(b) "Child" means an individual under the age of 14.

(c) "Position of special trust" means:

(i) an adoptive parent;

(ii) an athletic manager who is an adult;

(iii) an aunt;

(iv) a babysitter;

(v) a coach;

(vi) a cohabitant of a parent if the cohabitant is an adult;

(vii) a counselor;

(viii) a doctor or physician;

(ix) an employer;

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(x) a foster parent;

(xi) a grandparent;

(xii) a legal guardian;

(xiii) a natural parent;

(xiv) a recreational leader who is an adult;

(xv) a religious leader;

(xvi) a sibling or a step-sibling who is an adult;

(xvii) a scout leader who is an adult;

(xviii) a stepparent;

(xix) a teacher or any other person employed by or volunteering at a public or private elementary school or secondary school, and who is 18 years of age or older;

(xx) an uncle;

(xxi) a youth leader who is an adult; or

(xxii) any person in a position of authority, other than those persons listed in Subsections (1)(c)(i) through (xxi), which enables the person to exercise undue influence over the child.

(2) A person commits sexual abuse of a child if, under circumstances not amounting to rape of a child, object rape of a child, sodomy on a child, or an attempt to commit any of these offenses, the actor touches the anus, buttocks, or genitalia of any child, the breast of a female child, or otherwise takes indecent liberties with a child, or causes a child to take indecent liberties with the actor or another with intent to cause substantial emotional or bodily pain to any person or with the intent to arouse or gratify the sexual desire of any person regardless of the sex of any participant.

(3) Sexual abuse of a child is ~~punishable as~~ a second degree felony.

(4) A person commits aggravated sexual abuse of a child when in conjunction with the offense described in Subsection (2) any of the following circumstances have been charged and admitted or found true in the action for the offense:

(a) the offense was committed by the use of a dangerous weapon as defined in Section 76-1-601, or by force, duress, violence, intimidation, coercion, menace, or threat of harm, or was committed during the course of a kidnapping;

(b) the accused caused bodily injury or severe psychological injury to the victim during

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or as a result of the offense;

(c) the accused was a stranger to the victim or made friends with the victim for the purpose of committing the offense;

(d) the accused used, showed, or displayed pornography or caused the victim to be photographed in a lewd condition during the course of the offense;

(e) the accused, prior to sentencing for this offense, was previously convicted of any felony, or of a misdemeanor involving a sexual offense;

(f) the accused committed the same or similar sexual act upon two or more victims at the same time or during the same course of conduct;

(g) the accused committed, in Utah or elsewhere, more than five separate acts, which if committed in Utah would constitute an offense described in this chapter, and were committed at the same time, or during the same course of conduct, or before or after the instant offense;

(h) the offense was committed by a person who occupied a position of special trust in relation to the victim; ~~["position of special trust" means that position occupied by a person in a position of authority, who, by reason of that position is able to exercise undue influence over the victim, and includes, but is not limited to, a youth leader or recreational leader who is an adult, adult athletic manager, adult coach, teacher, counselor, religious leader, doctor, employer, foster parent, babysitter, adult scout leader, natural parent, stepparent, adoptive parent, legal guardian, grandparent, aunt, uncle, or adult cohabitant of a parent;]~~

(i) the accused encouraged, aided, allowed, or benefitted from acts of prostitution or sexual acts by the victim with any other person, or sexual performance by the victim before any other person, human trafficking, or human smuggling; or

(j) the accused caused the penetration, however slight, of the genital or anal opening of the child by any part or parts of the human body other than the genitals or mouth.

(5) Aggravated sexual abuse of a child is a first degree felony punishable by a term of imprisonment of:

(a) except as provided in Subsection (5)(b), (5)(c), or (6), not less than 15 years and which may be for life;

(b) except as provided in Subsection (5)(c) or (6), life without parole, if the trier of fact finds that during the course of the commission of the aggravated sexual abuse of a child the defendant caused serious bodily injury to another; or

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(c) life without parole, if the trier of fact finds that at the time of the commission of the aggravated sexual abuse of a child, the defendant was previously convicted of a grievous sexual offense.

(6) If, when imposing a sentence under Subsection (5)(a) or (b), a court finds that a lesser term than the term described in Subsection (5)(a) or (b) is in the interests of justice and states the reasons for this finding on the record, the court may impose a term of imprisonment of not less than:

(a) for purposes of Subsection (5)(b), 15 years and which may be for life; or

(b) for purposes of Subsection (5)(a) or (b):

(i) 10 years and which may be for life; or

(ii) six years and which may be for life.

(7) The provisions of Subsection (6) do not apply when a person is sentenced under Subsection (5)(c).

(8) Subsections (5)(b) and (5)(c) do not apply if the defendant was younger than 18 years of age at the time of the offense.

(9) Imprisonment under this section is mandatory in accordance with Section 76-3-406.

Section ~~{1}~~5. Section ~~{76-5-404.5}~~76-5-406 is ~~{enacted}~~amended to read:

~~{~~ **76-5-404.5. Sexual offenses committed by a current or former school employee against a student.**

~~_____~~ (1) An employee of or a volunteer at a public or private primary or secondary school who commits or attempts to commit any sexual offense under Section 76-5-401, 76-5-401.1, or 76-5-401.2 against any person who is enrolled as a student in a public or private primary or secondary school is guilty of a second degree felony.

~~_____~~ (2) A person who was employed by or was a volunteer at a public or private primary or secondary school who, and within five years of the person's most recent date of employment by or volunteering at a public or private primary or secondary school, commits or attempts to commit any sexual offense under Section 76-5-401, 76-5-401.1, or 76-5-401.2 against any person who is at the time of the offense or attempted offense enrolled as a student in a public or private primary or secondary school is guilty of a second degree felony.

~~‡~~ **76-5-406. Sexual offenses against the victim without consent of victim --
Circumstances.**

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An act of sexual intercourse, rape, attempted rape, rape of a child, attempted rape of a child, object rape, attempted object rape, object rape of a child, attempted object rape of a child, sodomy, attempted sodomy, forcible sodomy, attempted forcible sodomy, sodomy on a child, attempted sodomy on a child, forcible sexual abuse, attempted forcible sexual abuse, sexual abuse of a child, attempted sexual abuse of a child, aggravated sexual abuse of a child, attempted aggravated sexual abuse of a child, or simple sexual abuse is without consent of the victim under any of the following circumstances:

- (1) the victim expresses lack of consent through words or conduct;
- (2) the actor overcomes the victim through the actual application of physical force or violence;
- (3) the actor is able to overcome the victim through concealment or by the element of surprise;
- (4) (a) (i) the actor coerces the victim to submit by threatening to retaliate in the immediate future against the victim or any other person, and the victim perceives at the time that the actor has the ability to execute this threat; or
(ii) the actor coerces the victim to submit by threatening to retaliate in the future against the victim or any other person, and the victim believes at the time that the actor has the ability to execute this threat;
- (b) as used in this Subsection (4), "to retaliate" includes threats of physical force, kidnapping, or extortion;
- (5) the victim has not consented and the actor knows the victim is unconscious, unaware that the act is occurring, or physically unable to resist;
- (6) the actor knows that as a result of mental disease or defect, the victim is at the time of the act incapable either of appraising the nature of the act or of resisting it;
- (7) the actor knows that the victim submits or participates because the victim erroneously believes that the actor is the victim's spouse;
- (8) the actor intentionally impaired the power of the victim to appraise or control his or her conduct by administering any substance without the victim's knowledge;
- (9) the victim is younger than 14 years of age;
- (10) the victim is younger than 18 years of age and at the time of the offense the actor was the victim's parent, stepparent, adoptive parent, or legal guardian or occupied a position of

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special trust in relation to the victim as defined in ~~[Subsection]~~ Section 76-5-404.1 ~~[(4)(h)]~~:

(11) the victim is 14 years of age or older, but younger than 18 years of age, and the actor is more than three years older than the victim and entices or coerces the victim to submit or participate, under circumstances not amounting to the force or threat required under Subsection (2) or (4); or

(12) the actor is a health professional or religious counselor, as those terms are defined in this Subsection (12), the act is committed under the guise of providing professional diagnosis, counseling, or treatment, and at the time of the act the victim reasonably believed that the act was for medically or professionally appropriate diagnosis, counseling, or treatment to the extent that resistance by the victim could not reasonably be expected to have been manifested; for purposes of this Subsection (12):

(a) "health professional" means an individual who is licensed or who holds himself or herself out to be licensed, or who otherwise provides professional physical or mental health services, diagnosis, treatment, or counseling including, but not limited to, a physician, osteopathic physician, nurse, dentist, physical therapist, chiropractor, mental health therapist, social service worker, clinical social worker, certified social worker, marriage and family therapist, professional counselor, psychiatrist, psychologist, psychiatric mental health nurse specialist, or substance abuse counselor; and

(b) "religious counselor" means a minister, priest, rabbi, bishop, or other recognized member of the clergy.

Section ~~{2}~~6. Section ~~{77-27-10}~~ is amended to read:

~~77-27-10. Conditions of parole -- Inmate agreement to warrant -- Rulemaking -- Intensive early release parole program.~~

~~(1) (a) When the Board of Pardons and Parole releases an offender on parole, it shall issue to the parolee a certificate setting forth the conditions of parole which the offender shall accept and agree to as evidenced by the offender's signature affixed to the agreement.~~

~~(b) The parole agreement shall require that the inmate agree in writing that the board may issue a warrant and conduct a parole revocation hearing if:~~

~~(i) the board determines after the grant of parole that the inmate willfully provided to the board false or inaccurate information that the board finds was significant in the board's determination to grant parole; or~~

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- ~~—— (ii) (A) the inmate has engaged in criminal conduct prior to the granting of parole; and~~
- ~~—— (B) the board did not have information regarding the conduct at the time parole was granted.~~
- ~~—— (c) A copy of the agreement shall be delivered to the Department of Corrections and a copy shall be given to the parolee. The original shall remain with the board's file.~~
- ~~—— (2) (a) If an offender convicted of violating or attempting to violate Section 76-5-301.1, Subsection 76-5-302(1), Section 76-5-402, 76-5-402.1, 76-5-402.2, 76-5-402.3, 76-5-403, 76-5-403.1, 76-5-404, 76-5-404.1, 76-5-404.5, or 76-5-405, is released on parole, the board shall order outpatient mental health counseling and treatment as a condition of parole.~~
- ~~—— (b) The board shall develop standards and conditions of parole under this Subsection (2) in accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act.~~
- ~~—— (c) This Subsection (2) does not apply to intensive early release parole.~~
- ~~—— (3) (a) In addition to the conditions set out in Subsection (1), the board may place offenders in an intensive early release parole program. The board shall determine the conditions of parole which are reasonably necessary to protect the community as well as to protect the interests of the offender and to assist the offender to lead a law-abiding life.~~
- ~~—— (b) The offender is eligible for this program only if the offender:~~
 - ~~—— (i) has not been convicted of a sexual offense; or~~
 - ~~—— (ii) has not been sentenced pursuant to Section 76-3-406.~~
- ~~—— (c) The department shall:~~
 - ~~—— (i) make rules in accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, for operation of the program;~~
 - ~~—— (ii) adopt and implement internal management policies for operation of the program;~~
 - ~~—— (iii) determine whether or not to refer an offender into this program within 120 days from the date the offender is committed to prison by the sentencing court; and~~
 - ~~—— (iv) make the final recommendation to the board regarding the placement of an offender into the program.~~
- ~~—— (d) The department may not consider credit for time served in a county jail awaiting trial or sentencing when calculating the 120-day period.~~
- ~~—— (e) The prosecuting attorney or sentencing court may refer an offender for consideration by the department for participation in the program.~~

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~~— (f) The board shall determine whether or not to place an offender into this program within 30 days of receiving the department's recommendation.~~

~~— (4) This program shall be implemented by the department within the existing budget.~~

~~— (5) During the time the offender is on parole, the department shall collect from the offender the monthly supervision fee authorized by Section 64-13-21.~~

~~— Section 3. Section 77-41-102 is amended to read:~~

~~— 77-41-102. Definitions:~~

~~— As used in this chapter:~~

~~— (1) "Bureau" means the bureau of Criminal Identification of the Department of Public Safety established in section 53-10-201.~~

~~— (2) "Business day" means a day on which state offices are open for regular business.~~

~~— (3) "Certificate of eligibility" means a document issued by the Bureau of Criminal Identification showing that the offender has met the requirements of Section 77-41-112.~~

~~— (4) "Department" means the Department of Corrections.~~

~~— (5) "Division" means the Division of Juvenile Justice Services.~~

~~— (6) "Employed" or "carries on a vocation" includes employment that is full time or part time, whether financially compensated, volunteered, or for the purpose of government or educational benefit.~~

~~— (7) "Indian Country" means:~~

~~— (a) all land within the limits of any Indian reservation under the jurisdiction of the United States government, regardless of the issuance of any patent, and includes rights-of-way running through the reservation;~~

~~— (b) all dependent Indian communities within the borders of the United States whether within the original or subsequently acquired territory, and whether or not within the limits of a state; and~~

~~— (c) all Indian allotments, including the Indian allotments to which the Indian titles have not been extinguished, including rights-of-way running through the allotments.~~

~~— (8) "Jurisdiction" means any state, Indian Country, United States Territory, or any property under the jurisdiction of the United States military, Canada, the United Kingdom, Australia, or New Zealand.~~

~~— (9) "Kidnap offender" means any person other than a natural parent of the victim who:~~

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- ~~—— (a) has been convicted in this state of a violation of:~~
 - ~~—— (i) Subsection 76-5-301(1)(c) or (d), kidnapping;~~
 - ~~—— (ii) Section 76-5-301.1, child kidnapping;~~
 - ~~—— (iii) Section 76-5-302, aggravated kidnapping;~~
 - ~~—— (iv) Section 76-5-310, aggravated human trafficking, on or after May 10, 2011; or~~
 - ~~—— (v) attempting, soliciting, or conspiring to commit any felony offense listed in Subsections (9)(a)(i) through (iv);~~
- ~~—— (b) has been convicted of any crime, or an attempt, solicitation, or conspiracy to commit a crime in another jurisdiction, including any state, federal, or military court that is substantially equivalent to the offenses listed in Subsection (9)(a) and who is:~~
 - ~~—— (i) a Utah resident; or~~
 - ~~—— (ii) not a Utah resident, but who, in any 12 month period, is in this state for a total of 10 or more days, regardless of whether or not the offender intends to permanently reside in this state;~~
 - ~~—— (c) (i) is required to register as an offender in any other jurisdiction, or who is required to register as an offender by any state, federal, or military court; and~~
 - ~~—— (ii) in any 12 month period, is in this state for a total of 10 or more days, regardless of whether or not the offender intends to permanently reside in this state;~~
 - ~~—— (d) is a nonresident regularly employed or working in this state, or who is a student in this state, and was convicted of one or more offenses listed in Subsection (9), or any substantially equivalent offense in another jurisdiction, or as a result of the conviction, is required to register in the person's state of residence;~~
 - ~~—— (e) is found not guilty by reason of insanity in this state or in any other jurisdiction of one or more offenses listed in Subsection (9); or~~
 - ~~—— (f) is adjudicated delinquent based on one or more offenses listed in Subsection (9)(a) and who has been committed to the division for secure confinement for that offense and remains in the division's custody 30 days prior to the person's 21st birthday.~~
- ~~—— (10) "Natural parent" means a minor's biological or adoptive parent, and includes the minor's noncustodial parent.~~
- ~~—— (11) "Offender" means a kidnap offender as defined in Subsection (9) or a sex offender as defined in Subsection (16).~~

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- ~~———— (12) "Online identifier" or "Internet identifier":~~
- ~~———— (a) means any electronic mail, chat, instant messenger, social networking, or similar name used for Internet communication; and~~
- ~~———— (b) does not include date of birth, Social Security number, PIN number, or Internet passwords:~~
- ~~———— (13) "Primary residence" means the location where the offender regularly resides, even if the offender intends to move to another location or return to another location at any future date:~~
- ~~———— (14) "Register" means to comply with the requirements of this chapter and administrative rules of the department made under this chapter:~~
- ~~———— (15) "Secondary residence" means any real property that the offender owns or has a financial interest in, or any location where, in any 12-month period, the offender stays overnight a total of 10 or more nights when not staying at the offender's primary residence:~~
- ~~———— (16) "Sex offender" means any person:~~
- ~~———— (a) convicted in this state of:~~
- ~~———— (i) a felony or class A misdemeanor violation of Section 76-4-401, enticing a minor;~~
- ~~———— (ii) Section 76-5b-202, sexual exploitation of a vulnerable adult, on or after May 10, 2011;~~
- ~~———— (iii) a felony violation of Section 76-5-401, unlawful sexual activity with a minor;~~
- ~~———— (iv) Section 76-5-401.1, sexual abuse of a minor;~~
- ~~———— (v) Section 76-5-401.2, unlawful sexual conduct with a 16 or 17 year old;~~
- ~~———— (vi) Section 76-5-402, rape;~~
- ~~———— (vii) Section 76-5-402.1, rape of a child;~~
- ~~———— (viii) Section 76-5-402.2, object rape;~~
- ~~———— (ix) Section 76-5-402.3, object rape of a child;~~
- ~~———— (x) a felony violation of Section 76-5-403, forcible sodomy;~~
- ~~———— (xi) Section 76-5-403.1, sodomy on a child;~~
- ~~———— (xii) Section 76-5-404, forcible sexual abuse;~~
- ~~———— (xiii) Section 76-5-404.1, sexual abuse of a child or aggravated sexual abuse of a child;~~
- ~~———— (xiv) Section 76-5-404.5, sexual offense against a student;~~
- ~~———— [(xiv)] (xv) Section 76-5-405, aggravated sexual assault;~~

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- ~~—— [(xv)] (xvi) Section 76-5-412, custodial sexual relations, when the person in custody is younger than 18 years of age, if the offense is committed on or after May 10, 2011;~~
- ~~—— [(xvi)] (xvii) Section 76-5b-201, sexual exploitation of a minor;~~
- ~~—— [(xvii)] (xviii) Section 76-7-102, incest;~~
- ~~—— [(xviii)] (xix) Section 76-9-702, lewdness, if the person has been convicted of the offense four or more times;~~
- ~~—— [(xix)] (xx) Section 76-9-702.1, sexual battery, if the person has been convicted of the offense four or more times;~~
- ~~—— [(xx)] (xxi) any combination of convictions of Section 76-9-702, lewdness, and of Section 76-9-702.1, sexual battery, that total four or more convictions;~~
- ~~—— [(xxi)] (xxii) Section 76-9-702.5, lewdness involving a child;~~
- ~~—— [(xxii)] (xxiii) a felony or class A misdemeanor violation of Section 76-9-702.7, voyeurism;~~
- ~~—— [(xxiii)] (xxiv) Section 76-10-1306, aggravated exploitation of prostitution; or~~
- ~~—— [(xxiv)] (xxv) attempting, soliciting, or conspiring to commit any felony offense listed in Subsection (16)(a);~~
- ~~—— (b) who has been convicted of any crime, or an attempt, solicitation, or conspiracy to commit a crime in another jurisdiction, including any state, federal, or military court that is substantially equivalent to the offenses listed in Subsection (16)(a) and who is:~~
 - ~~—— (i) a Utah resident; or~~
 - ~~—— (ii) not a Utah resident, but who, in any 12 month period, is in this state for a total of 10 or more days, regardless of whether the offender intends to permanently reside in this state;~~
 - ~~—— (c) (i) who is required to register as an offender in any other jurisdiction, or who is required to register as an offender by any state, federal, or military court; and~~
 - ~~—— (ii) who, in any 12 month period, is in the state for a total of 10 or more days, regardless of whether or not the offender intends to permanently reside in this state;~~
 - ~~—— (d) who is a nonresident regularly employed or working in this state or who is a student in this state and was convicted of one or more offenses listed in Subsection (16)(a), or any substantially equivalent offense in any jurisdiction, or as a result of the conviction, is required to register in the person's jurisdiction of residence;~~
 - ~~—— (e) who is found not guilty by reason of insanity in this state, or in any other~~

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~~jurisdiction of one or more offenses listed in Subsection (16)(a); or~~

~~—— (f) who is adjudicated delinquent based on one or more offenses listed in Subsection (16)(a) and who has been committed to the division for secure confinement for that offense and remains in the division's custody 30 days prior to the person's 21st birthday.~~

~~—— (17) "Traffic offense" does not include a violation of Title 41, Chapter 6a, Part 5, Driving Under the Influence and Reckless Driving.~~

~~—— (18) "Vehicle" means any motor vehicle, aircraft, or watercraft subject to registration in any jurisdiction.~~

Legislative Review Note

~~—— as of 1-27-14 4:01 PM~~

~~—— Office of Legislative Research and General Counsel; 76-5-415 is enacted to read:~~

~~76-5-415. Educator's license subject to action for violation of this part.~~

~~Commission of any offense under this Title 76, Chapter 5, Part 4, Sexual Offenses, by an educator as defined in Section 53A-6-103, is grounds under Section 53A-6-501 for disciplinary action against the educator, including revocation of the educator's license.~~