

## HB0380S01 compared with HB0380

~~{deleted text}~~ shows text that was in HB0380 but was deleted in HB0380S01.

Inserted text shows text that was not in HB0380 but was inserted into HB0380S01.

**DISCLAIMER:** This document is provided to assist you in your comparison of the two bills. Sometimes this automated comparison will NOT be completely accurate. Therefore, you need to read the actual bills. This automatically generated document could contain inaccuracies caused by: limitations of the compare program; bad input data; or other causes.

Representative Craig Hall proposes the following substitute bill:

### SEX OFFENDER REGISTRY AMENDMENTS

2017 GENERAL SESSION

STATE OF UTAH

**Chief Sponsor: Craig Hall**

Senate Sponsor: \_\_\_\_\_

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#### LONG TITLE

##### General Description:

This bill allows the Department of Corrections to receive notification of actions that affect a person's registry requirements.

##### Highlighted Provisions:

This bill:

- ▶ specifies that a court may accept a guilty ~~{pleas withdrawn not}~~ plea only if it is in conformity with the statute ~~{are void and unenforceable}~~;
- ▶ requires a court that modifies a conviction for a sex or kidnap offense to notify the department; and
- ▶ allows the department to intervene in matters that affect a person's registration requirement.

##### Money Appropriated in this Bill:

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None

### Other Special Clauses:

None

### Utah Code Sections Affected:

AMENDS:

~~{ 77-13-6, as last amended by Laws of Utah 2008, Chapter 3~~

+ 77-41-103, as last amended by Laws of Utah 2015, Chapter 210

78B-9-102, as last amended by Laws of Utah 2008, Chapter 288 and renumbered and amended by Laws of Utah 2008, Chapter 3

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

Section 1. Section ~~{77-13-6}~~77-41-103 is amended to read:

~~{ 77-13-6. **Withdrawal of plea.**~~

~~—— (1) A plea of not guilty may be withdrawn at any time [prior to] before conviction.~~

~~—— (2) (a) A plea of guilty or no contest may be withdrawn only upon leave of the court and a showing that it was not knowingly and voluntarily made.~~

~~—— (b) A request to withdraw a plea of guilty or no contest, except for a plea held in abeyance, shall be made by motion before sentence is announced. Sentence may not be announced unless the motion is denied. For a plea held in abeyance, a motion to withdraw the plea shall be made within 30 days of pleading guilty or no contest.~~

~~—— (c) Any challenge to a guilty plea not made within the time period specified in Subsection (2)(b) shall be pursued under Title 78B, Chapter 9, Postconviction Remedies Act, and Rule 65C, Utah Rules of Civil Procedure.~~

~~—— (3) Any order not in conformity with this section or Title 78B, Chapter 9, Postconviction Remedies Act, that purports to withdraw, modify, vacate, or otherwise set aside a plea, is void and unenforceable.~~

~~—— Section 2. Section 77-41-103 is amended to read:~~

+ **77-41-103. Department duties.**

(1) The department, to assist in investigating kidnapping and sex-related crimes, and in apprehending offenders, shall:

(a) develop and operate a system to collect, analyze, maintain, and disseminate

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information on offenders and sex and kidnap offenses;

(b) make information listed in Subsection 77-41-110(4) available to the public; and

(c) share information provided by an offender under this chapter that may not be made available to the public under Subsection 77-41-110(4), but only:

(i) for the purposes under this chapter; or

(ii) in accordance with Section 63G-2-206.

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

(a) the receipt of a report or complaint of an offense listed in Subsection 77-41-102(9) or (17), within three business days; and

(b) the arrest of a person suspected of any of the offenses listed in Subsection 77-41-102(9) or (17), within five business days.

(3) Upon convicting a person of any of the offenses listed in Subsection 77-41-102(9) or (17), the convicting court shall within three business days forward a signed copy of the judgment and sentence to the Sex and Kidnap Offender Registry office within the Department of Corrections.

(4) Upon modifying, withdrawing, setting aside, vacating, or otherwise altering a conviction for any offense listed in Subsection 77-41-102(9) or (17), the court shall, within three business days, forward a signed copy of the order to the Sex and Kidnap Offender Registry office within the Department of Corrections.

(5) The department may intervene in any matter, including a criminal action, where the matter purports to affect a person's lawfully entered registration requirement.

~~[(4)]~~ (6) The department shall:

(a) provide the following additional information when available:

(i) the crimes the offender has been convicted of or adjudicated delinquent for;

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

(iii) any other relevant identifying information as determined by the department;

(b) maintain the Sex Offender and Kidnap Offender Notification and Registration website; and

(c) ensure that the registration information collected regarding an offender's enrollment or employment at an educational institution is:

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(i) (A) promptly made available to any law enforcement agency that has jurisdiction where the institution is located if the educational institution is an institution of higher education; or

(B) promptly made available to the district superintendent of the school district where the offender is enrolled if the educational institution is an institution of primary education; and

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

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### Legislative Review Note

~~Office of Legislative Research and General Counsel~~ Section 2. Section 78B-9-102 is amended to read:

#### 78B-9-102. Replacement of prior remedies.

(1) (a) This chapter establishes the sole remedy for any person who challenges a conviction or sentence for a criminal offense and who has exhausted all other legal remedies, including a direct appeal except as provided in Subsection (2). This chapter replaces all prior remedies for review, including extraordinary or common law writs. Proceedings under this chapter are civil and are governed by the rules of civil procedure. Procedural provisions for filing and commencement of a petition are found in Rule 65C, Utah Rules of Civil Procedure.

(b) A court may not enter an order to withdraw, modify, vacate or otherwise set aside a plea unless it is in conformity with this chapter or Section 77-13-6.

(2) This chapter does not apply to:

(a) habeas corpus petitions that do not challenge a conviction or sentence for a criminal offense;

(b) motions to correct a sentence pursuant to Rule 22(e), Utah Rules of Criminal Procedure; or

(c) actions taken by the Board of Pardons and Parole.