

Sex, Kidnap, and Child Abuse Offender Registry Amendments

2025 GENERAL SESSION

STATE OF UTAH

Chief Sponsor: Keith Grover

House Sponsor: Matthew H. Gwynn

LONG TITLE

General Description:

This bill amends provisions related to the Sex, Kidnap, and Child Abuse Offender Registry.

Highlighted Provisions:

This bill:

- recodifies the statutes applicable to the Sex, Kidnap, and Child Abuse Offender Registry;
- contains a coordination clause to coordinate technical changes between this bill and H.B.

21, Criminal Code Recodification and Cross References; and

- makes technical and conforming changes.

Money Appropriated in this Bill:

None

Other Special Clauses:

This bill provides coordination clauses.

Utah Code Sections Affected:

AMENDS:

13-51-107, as last amended by Laws of Utah 2024, Chapter 234

13-67-101, as last amended by Laws of Utah 2024, Chapter 234

26B-2-120, as last amended by Laws of Utah 2024, Chapter 234

41-3-205.5, as last amended by Laws of Utah 2012, Chapter 145

41-3-209, as last amended by Laws of Utah 2024, Chapter 251

42-1-1, as last amended by Laws of Utah 2024, Chapter 296

53-3-205, as last amended by Laws of Utah 2024, Chapters 116, 234

53-3-216, as last amended by Laws of Utah 2024, Chapter 234

53-3-804, as last amended by Laws of Utah 2024, Chapters 116, 234

53-3-806.5, as last amended by Laws of Utah 2024, Chapter 234

53-3-807, as last amended by Laws of Utah 2024, Chapter 234

29 **53-10-214**, as enacted by Laws of Utah 2019, Chapter 406
30 **53-10-403**, as last amended by Laws of Utah 2024, Chapters 96, 153, 187, and 256
31 **53-10-404**, as last amended by Laws of Utah 2024, Chapter 234
32 **57-8-3**, as last amended by Laws of Utah 2024, Chapter 519
33 **57-8-8.1**, as last amended by Laws of Utah 2024, Chapters 115, 519
34 **57-8a-102**, as last amended by Laws of Utah 2024, Chapter 519
35 **57-8a-218**, as last amended by Laws of Utah 2024, Chapters 115, 519
36 **63G-2-302**, as last amended by Laws of Utah 2024, Chapter 234
37 **63G-7-301**, as last amended by Laws of Utah 2024, Chapter 234
38 **76-1-201**, as last amended by Laws of Utah 2024, Chapter 234
39 **76-1-202**, as last amended by Laws of Utah 2024, Chapter 234
40 **76-3-402**, as last amended by Laws of Utah 2024, Chapter 234
41 **76-5-401**, as last amended by Laws of Utah 2024, Chapter 234
42 **76-5-401.1**, as last amended by Laws of Utah 2024, Chapter 234
43 **76-5-401.3**, as last amended by Laws of Utah 2024, Chapter 234
44 **76-9-702**, as last amended by Laws of Utah 2024, Chapter 234
45 **76-9-702.1**, as last amended by Laws of Utah 2024, Chapter 234
46 **76-9-702.5**, as last amended by Laws of Utah 2024, Chapter 205
47 **77-2-2.3**, as last amended by Laws of Utah 2024, Chapter 234
48 **77-11c-101**, as last amended by Laws of Utah 2024, Chapter 234
49 **77-27-5.2**, as last amended by Laws of Utah 2024, Chapters 116, 234
50 **77-38-605**, as last amended by Laws of Utah 2024, Chapter 234
51 **77-40a-303**, as last amended by Laws of Utah 2024, Chapter 180
52 **77-40a-403**, as last amended by Laws of Utah 2024, Chapter 180
53 **78A-2-301**, as last amended by Laws of Utah 2024, Chapter 366
54 **78B-8-302**, as last amended by Laws of Utah 2024, Chapter 234
55 **80-3-406**, as last amended by Laws of Utah 2023, Chapter 320
56 **80-5-201**, as last amended by Laws of Utah 2024, Chapters 116, 234
57 **80-8-101**, as enacted by Laws of Utah 2024, Chapter 371
58 **80-8-201**, as enacted by Laws of Utah 2024, Chapter 371
59 **81-9-202**, as renumbered and amended by Laws of Utah 2024, Chapter 366
60 **81-9-208**, as renumbered and amended by Laws of Utah 2024, Chapter 366

61 ENACTS:

62 **53-29-101**, Utah Code Annotated 1953

63 **53-29-102**, Utah Code Annotated 1953
64 **53-29-201**, Utah Code Annotated 1953
65 **53-29-202**, Utah Code Annotated 1953
66 **53-29-203**, Utah Code Annotated 1953
67 **53-29-204**, Utah Code Annotated 1953
68 **53-29-205**, Utah Code Annotated 1953
69 **53-29-206**, Utah Code Annotated 1953
70 **53-29-207**, Utah Code Annotated 1953
71 **53-29-301**, Utah Code Annotated 1953
72 **53-29-302**, Utah Code Annotated 1953
73 **53-29-303**, Utah Code Annotated 1953
74 **53-29-304**, Utah Code Annotated 1953
75 **53-29-305**, Utah Code Annotated 1953
76 **53-29-401**, Utah Code Annotated 1953
77 **53-29-402**, Utah Code Annotated 1953
78 **53-29-403**, Utah Code Annotated 1953
79 **53-29-404**, Utah Code Annotated 1953
80 **53-29-405**, Utah Code Annotated 1953

81 RENUMBERS AND AMENDS:

82 **53-29-306**, (Renumbered from 77-27-21.7, as last amended by Laws of Utah 2024,
83 Chapters 116, 234)
84 **53-29-307**, (Renumbered from 77-27-21.8, as last amended by Laws of Utah 2024,
85 Chapter 234)

86 REPEALS:

87 **77-41-102**, as last amended by Laws of Utah 2024, Chapter 234
88 **77-41-103**, as last amended by Laws of Utah 2024, Chapters 116, 234
89 **77-41-104**, as last amended by Laws of Utah 2023, Chapter 128
90 **77-41-105**, as last amended by Laws of Utah 2024, Chapter 234
91 **77-41-106**, as last amended by Laws of Utah 2024, Chapter 234
92 **77-41-107**, as last amended by Laws of Utah 2024, Chapter 234
93 **77-41-108**, as enacted by Laws of Utah 2012, Chapter 145
94 **77-41-109**, as last amended by Laws of Utah 2024, Chapter 234
95 **77-41-110**, as last amended by Laws of Utah 2024, Chapter 234
96 **77-41-111**, as last amended by Laws of Utah 2023, Chapter 128

97 **77-41-112**, as last amended by Laws of Utah 2024, Chapters 116, 234

98 **77-41-113**, as last amended by Laws of Utah 2024, Chapter 234

99 **77-41-114**, as last amended by Laws of Utah 2024, Chapter 234

100 **Utah Code Sections affected by Coordination Clause:**

101 **53-29-204**, Utah Code Annotated 1953

102 **76-9-702**, as last amended by Laws of Utah 2024, Chapter 234

103

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

105 Section 1. Section **13-51-107** is amended to read:

106 **13-51-107 . Driver requirements.**

107 (1) Before a transportation network company allows an individual to use the transportation
 108 network company's software application as a transportation network driver, the
 109 transportation network company shall:

110 (a) require the individual to submit to the transportation network company:

111 (i) the individual's name, address, and age;

112 (ii) a copy of the individual's driver license, including the driver license number; and

113 (iii) proof that the vehicle that the individual will use to provide transportation
 114 network services is registered with the Division of Motor Vehicles;

115 (b) require the individual to consent to a criminal background check of the individual by
 116 the transportation network company or the transportation network company's
 117 designee; and

118 (c) obtain and review a report that lists the individual's driving history.

119 (2) A transportation company may not allow an individual to provide transportation
 120 network services as a transportation network driver if the individual:

121 (a) has committed more than three moving violations in the three years before the day on
 122 which the individual applies to become a transportation network driver;

123 (b) has been convicted, in the seven years before the day on which the individual applies
 124 to become a transportation network driver, of:

125 (i) driving under the influence of alcohol or drugs;

126 (ii) fraud;

127 (iii) a sexual offense;

128 (iv) a felony involving a motor vehicle;

129 (v) a crime involving property damage;

130 (vi) a crime involving theft;

- 131 (vii) a crime of violence; or
- 132 (viii) an act of terror;
- 133 (c) is required to register as a sex offender, kidnap offender, or child abuse offender in
- 134 accordance with [~~Title 77, Chapter 41, Sex, Kidnap, and Child Abuse Offender~~
- 135 ~~Registry~~] Title 53, Chapter 29, Sex, Kidnap, and Child Abuse Offender Registry;
- 136 (d) does not have a valid Utah driver license; or
- 137 (e) is not at least 18 years old.
- 138 (3)(a) A transportation network company shall prohibit a transportation network driver
- 139 from accepting a request for a prearranged ride if the motor vehicle that the
- 140 transportation network driver uses to provide transportation network services fails to
- 141 comply with:
 - 142 (i) equipment standards described in Section 41-6a-1601; and
 - 143 (ii) emission requirements adopted by a county under Section 41-6a-1642.
- 144 (b)(i) If upon visual inspection, a defect relating to the equipment standards described
- 145 in Section 41-6a-1601 can be reasonably identified, an airport operator may
- 146 perform a safety inspection of a transportation network driver's vehicle operating
- 147 within the airport to ensure compliance with equipment standards described in
- 148 Section 41-6a-1601.
- 149 (ii) An airport operator shall conduct all inspections under this Subsection (3) in such
- 150 a manner to minimize impact to the transportation network driver's and
- 151 transportation network company vehicle's availability to provide prearranged rides.
- 152 (4) A transportation network driver, while providing transportation network services, shall
- 153 carry proof, in physical or electronic form, that the transportation network driver is
- 154 covered by insurance that satisfies the requirements of Section 13-51-108.
- 155 Section 2. Section **13-67-101** is amended to read:
- 156 **13-67-101 . Definitions.**
- 157 As used in this chapter:
- 158 (1) "Banned member" means a member whose account or profile is the subject of a fraud
- 159 ban.
- 160 (2) "Criminal background screening" means a name search for an individual's criminal
- 161 conviction and is conducted by searching:
 - 162 (a) available and regularly updated government public record databases that in the
 - 163 aggregate provide national coverage for criminal conviction records; or
 - 164 (b) a regularly updated database with national coverage of criminal conviction records

- 165 and sexual offender registries maintained by a private vendor.
- 166 (3)(a) "Criminal conviction" means a conviction for a crime in this state, another state,
167 or under federal law.
- 168 (b) "Criminal conviction" includes an offense that would require registration under [~~Title~~
169 ~~77, Chapter 41, Sex, Kidnap, and Child Abuse Offender Registry~~] Title 53, Chapter
170 29, Sex, Kidnap, and Child Abuse Offender Registry, or under a similar law in a
171 different jurisdiction.
- 172 (4) "Division" means the Division of Consumer Protection in the Department of Commerce.
- 173 (5) "Fraud ban" means the expulsion of a member from an online dating service because, in
174 the judgment of the online dating service provider, there is a significant risk the member
175 will attempt to obtain money from another member through fraudulent means.
- 176 (6) "Member" means an individual who submits to an online dating service provider the
177 information required by the online dating service provider to access the online dating
178 service provider's online dating service.
- 179 (7) "Online dating service" means a product or service that is:
- 180 (a) conducted through a website or a mobile application; and
- 181 (b) primarily marketed and intended to offer a member access to dating or romantic
182 relationships with another member by arranging or facilitating the social introduction
183 of members.
- 184 (8) "Online dating service provider" means a person [~~predominately~~] predominantly
185 engaged in the business of offering an online dating service.
- 186 (9) "Utah member" means a member who provides a Utah billing address or zip code when
187 registering with an online dating service provider.

188 Section 3. Section **26B-2-120** is amended to read:

189 **26B-2-120 . Background check -- Direct access to children or vulnerable adults.**

- 190 (1) As used in this section:
- 191 (a)(i) "Applicant" means an individual who is associated with a certification,
192 contract, or licensee with the department under this part and has direct access,
193 including:
- 194 (A) an adoptive parent or prospective adoptive parent, including an applicant for
195 an adoption in accordance with Section 78B-6-128;
- 196 (B) a foster parent or prospective foster parent;
- 197 (C) an individual who provides respite care to a foster parent or an adoptive parent
198 on more than one occasion;

- 199 (D) an individual who transports a child for a youth transportation company;
200 (E) an individual who provides certified peer support, as defined in Section
201 26B-5-610;
202 (F) an individual who provides peer supports, has a disability or a family member
203 with a disability, or is in recovery from a mental illness or a substance use
204 disorder;
205 (G) an individual who has lived experience with the services provided by the
206 department, and uses that lived experience to provide support, guidance, or
207 services to promote resiliency and recovery;
208 (H) an individual who is identified as a mental health professional, licensed under
209 Title 58, Chapter 60, Mental Health Professional Practice Act, and engaged in
210 the practice of mental health therapy, as defined in Section 58-60-102;
211 (I) an individual, other than the child or vulnerable adult receiving the service,
212 who is 12 years old or older and resides in a home, that is licensed or certified
213 by the division;
214 (J) an individual who is 12 years old or older and is associated with a certification,
215 contract, or licensee with the department under this part and has or will likely
216 have direct access;
217 (K) a foster home licensee that submits an application for an annual background
218 screening as required by Subsection 26B-2-105(4)(d)(iii); or
219 (L) a short-term relief care provider.
- 220 (ii) "Applicant" does not include:
- 221 (A) an individual who is in the custody of the Division of Child and Family
222 Services or the Division of Juvenile Justice and Youth Services;
223 (B) an individual who applies for employment with, or is employed by, the
224 Department of Health and Human Services;
225 (C) a parent of a person receiving services from the Division of Services for
226 People with Disabilities, if the parent provides direct care to and resides with
227 the person, including if the parent provides direct care to and resides with the
228 person pursuant to a court order; or
229 (D) an individual or a department contractor who provides services in an adults
230 only substance use disorder program, as defined by rule adopted by the
231 Department of Health and Human Services in accordance with Title 63G,
232 Chapter 3, Utah Administrative Rulemaking Act, and who is not a program

- 233 director or a member, as defined by Section 26B-2-105, of the program.
- 234 (b) "Application" means a background check application to the office.
- 235 (c) "Bureau" means the Bureau of Criminal Identification within the Department of
236 Public Safety, created in Section 53-10-201.
- 237 (d) "Criminal finding" means a record of:
- 238 (i) an arrest for a criminal offense;
- 239 (ii) a warrant for a criminal arrest;
- 240 (iii) charges for a criminal offense; or
- 241 (iv) a criminal conviction.
- 242 (e) "Direct access" means that an individual has, or likely will have:
- 243 (i) contact with or access to a child or vulnerable adult by which the individual will
244 have the opportunity for personal communication or touch with the child or
245 vulnerable adult; or
- 246 (ii) an opportunity to view medical, financial, or other confidential personal
247 identifying information of the child, the child's parent or legal guardian, or the
248 vulnerable adult.
- 249 (f)(i) "Direct access qualified" means that the applicant has an eligible determination
250 by the office within the license and renewal time period; and
- 251 (ii) no more than 180 days have passed since the date on which the applicant's
252 association with a certification, contract, or licensee with the department expires.
- 253 (g) "Incidental care" means occasional care, not in excess of five hours per week and
254 never overnight, for a foster child.
- 255 (h) "Licensee" means an individual or a human services program licensed by the
256 division.
- 257 (i) "Non-criminal finding" means a record maintained in:
- 258 (i) the Division of Child and Family Services' Management Information System
259 described in Section 80-2-1001;
- 260 (ii) the Division of Child and Family Services' Licensing Information System
261 described in Section 80-2-1002;
- 262 (iii) the Division of Aging and Adult Services' vulnerable adult abuse, neglect, or
263 exploitation database described in Section 26B-6-210;
- 264 (iv) juvenile court arrest, adjudication, and disposition records;
- 265 (v) the Sex, Kidnap, and Child Abuse Offender Registry described in [~~Title 77,~~
266 ~~Chapter 41, Sex, Kidnap, and Child Abuse Offender Registry~~] Title 53, Chapter

267 29, Sex, Kidnap, and Child Abuse Offender Registry, or a national sex offender
268 registry; or

269 (vi) a state child abuse or neglect registry.

270 (j) "Office" means the Office of Background Processing within the department.

271 (k) "Personal identifying information" means:

272 (i) current name, former names, nicknames, and aliases;

273 (ii) date of birth;

274 (iii) physical address and email address;

275 (iv) telephone number;

276 (v) driver license or other government-issued identification;

277 (vi) social security number;

278 (vii) only for applicants who are 18 years old or older, fingerprints, in a form
279 specified by the office; and

280 (viii) other information specified by the office by rule made in accordance with Title
281 63G, Chapter 3, Utah Administrative Rulemaking Act.

282 (2) Except as provided in Subsection (12), an applicant or a representative shall submit the
283 following to the office:

284 (a) personal identifying information;

285 (b) a fee established by the office under Section 63J-1-504;

286 (c) a disclosure form, specified by the office, for consent for:

287 (i) an initial background check upon association with a certification, contract, or
288 licensee with the department;

289 (ii) ongoing monitoring of fingerprints and registries until no longer associated with a
290 certification, contract, or licensee with the department for 180 days;

291 (iii) a background check when the office determines that reasonable cause exists; and

292 (iv) retention of personal identifying information, including fingerprints, for
293 monitoring and notification as described in Subsections (3)(c) and (4);

294 (d) if an applicant resided outside of the United States and its territories during the five
295 years immediately preceding the day on which the information described in
296 Subsections (2)(a) through (c) is submitted to the office, documentation establishing
297 whether the applicant was convicted of a crime during the time that the applicant
298 resided outside of the United States or its territories; and

299 (e) an application showing an applicant's association with a certification, contract, or a
300 licensee with the department, for the purpose of the office tracking the direct access

301 qualified status of the applicant, which expires 180 days after the date on which the
302 applicant is no longer associated with a certification, contract, or a licensee with the
303 department.

304 (3) The office:

305 (a) shall perform the following duties as part of a background check of an applicant
306 before the office grants or denies direct access qualified status to an applicant:

307 (i) check state and regional criminal background databases for the applicant's
308 criminal history by:

309 (A) submitting personal identifying information to the bureau for a search; or

310 (B) using the applicant's personal identifying information to search state and
311 regional criminal background databases as authorized under Section 53-10-108;

312 (ii) submit the applicant's personal identifying information and fingerprints to the
313 bureau for a criminal history search of applicable national criminal background
314 databases;

315 (iii) search the Division of Child and Family Services' Licensing Information System
316 described in Section 80-2-1002;

317 (iv) search the Sex, Kidnap, and Child Abuse Offender Registry described in [~~Title~~
318 ~~77, Chapter 41, Sex, Kidnap, and Child Abuse Offender Registry~~] Title 53,
319 Chapter 29, Sex, Kidnap, and Child Abuse Offender Registry, or a national sex
320 offender registry for an applicant 18 years old or older;

321 (v) if the applicant is associated with a licensee for a prospective foster or adoptive
322 parent, search the Division of Child and Family Services' Management
323 Information System described in Section 80-2-1001;

324 (vi) search the Division of Aging and Adult Services' vulnerable adult abuse, neglect,
325 or exploitation database described in Section 26B-6-210;

326 (vii) search the juvenile court records for substantiated findings of severe child abuse
327 or neglect described in Section 80-3-404; and

328 (viii) search the juvenile court arrest, adjudication, and disposition records, as
329 provided under Section 78A-6-209;

330 (b) may conduct all or portions of a background check in connection with determining
331 whether an applicant is direct access qualified, as provided by rule, made by the
332 office in accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act:

333 (i) for an annual renewal; or

334 (ii) when the office determines that reasonable cause exists;

- 335 (c) may submit an applicant's personal identifying information, including fingerprints, to
336 the bureau for checking, retaining, and monitoring of state and national criminal
337 background databases and for notifying the office of new criminal activity associated
338 with the applicant;
- 339 (d) shall track the status of an applicant under this section to ensure that the applicant is
340 not required to duplicate the submission of the applicant's fingerprints if the applicant
341 is associated with more than one certification, contract, or licensee with the
342 department;
- 343 (e) shall notify the bureau when a direct access qualified individual has not been
344 associated with a certification, contract, or licensee with the department for a period
345 of 180 days;
- 346 (f) shall adopt measures to strictly limit access to personal identifying information solely
347 to the individuals responsible for processing and entering the applications for
348 background checks and to protect the security of the personal identifying information
349 the office reviews under this Subsection (3);
- 350 (g) as necessary to comply with the federal requirement to check a state's child abuse
351 and neglect registry regarding any applicant working in a congregate care program,
352 shall:
- 353 (i) search the Division of Child and Family Services' Licensing Information System
354 described in Section 80-2-1002; and
- 355 (ii) require the child abuse and neglect registry be checked in each state where an
356 applicant resided at any time during the five years immediately preceding the day
357 on which the application is submitted to the office; and
- 358 (h) shall make rules, in accordance with Title 63G, Chapter 3, Utah Administrative
359 Rulemaking Act, to implement the provisions of this Subsection (3) relating to
360 background checks.
- 361 (4)(a) With the personal identifying information the office submits to the bureau under
362 Subsection (3), the bureau shall check against state and regional criminal background
363 databases for the applicant's criminal history.
- 364 (b) With the personal identifying information and fingerprints the office submits to the
365 bureau under Subsection (3), the bureau shall check against national criminal
366 background databases for the applicant's criminal history.
- 367 (c) Upon direction from the office, and with the personal identifying information and
368 fingerprints the office submits to the bureau under Subsection (3)(c), the bureau shall:

- 369 (i) maintain a separate file of the fingerprints for search by future submissions to the
370 local and regional criminal records databases, including latent prints; and
- 371 (ii) monitor state and regional criminal background databases and identify criminal
372 activity associated with the applicant.
- 373 (d) The bureau is authorized to submit the fingerprints to the Federal Bureau of
374 Investigation Next Generation Identification System, to be retained in the Federal
375 Bureau of Investigation Next Generation Identification System for the purpose of:
- 376 (i) being searched by future submissions to the national criminal records databases,
377 including the Federal Bureau of Investigation Next Generation Identification
378 System and latent prints; and
- 379 (ii) monitoring national criminal background databases and identifying criminal
380 activity associated with the applicant.
- 381 (e) The ~~[Bureau]~~ bureau shall notify and release to the office all information of criminal
382 activity associated with the applicant.
- 383 (f) Upon notice that an individual who has direct access qualified status will no longer
384 be associated with a certification, contract, or licensee with the department, the
385 bureau shall:
- 386 (i) discard and destroy any retained fingerprints; and
- 387 (ii) notify the Federal Bureau of Investigation when the license has expired or an
388 individual's direct access to a child or a vulnerable adult has ceased, so that the
389 Federal Bureau of Investigation will discard and destroy the retained fingerprints
390 from the Federal Bureau of Investigation Next Generation Identification System.
- 391 (5)(a) Except as provided in Subsection (5)(b), the office shall deny direct access
392 qualified status to an applicant who, within three years from the date on which the
393 office conducts the background check, was convicted of:
- 394 (i) a felony or misdemeanor involving conduct that constitutes any of the following:
- 395 (A) an offense identified as domestic violence, lewdness, voyeurism, battery,
396 cruelty to animals, or bestiality;
- 397 (B) a violation of any pornography law, including sexual exploitation of a minor
398 or aggravated sexual exploitation of a minor;
- 399 (C) sexual solicitation or prostitution;
- 400 (D) a violent offense committed in the presence of a child, as described in Section
401 76-3-203.10;
- 402 (E) an offense included in Title 76, Chapter 4, Part 4, Enticement of a Minor;

- 403 (F) an offense included in Title 76, Chapter 5, Offenses Against the Individual;
404 (G) an offense included in Title 76, Chapter 5b, Sexual Exploitation Act;
405 (H) an offense included in Title 76, Chapter 7, Offenses Against the Family;
406 (I) an offense included in Title 76, Chapter 9, Part 4, Offenses Against Privacy;
407 (J) an offense included in Title 76, Chapter 10, Part 4, Weapons of Mass
408 Destruction;
- 409 (K) an offense included in Title 78B, Chapter 7, Protective Orders and Stalking
410 Injunctions;
- 411 (L) aggravated arson, as described in Section 76-6-103;
412 (M) aggravated burglary, as described in Section 76-6-203;
413 (N) aggravated exploitation of prostitution, as described in Section 76-10-1306;
414 (O) aggravated robbery, as described in Section 76-6-302;
415 (P) endangering persons in a human services program, as described in Section
416 26B-2-113;
- 417 (Q) failure to report, as described in Section 80-2-609;
418 (R) identity fraud crime, as described in Section 76-6-1102;
419 (S) leaving a child unattended in a motor vehicle, as described in Section
420 76-10-2202;
- 421 (T) riot, as described in Section 76-9-101;
422 (U) sexual battery, as described in Section 76-9-702.1; or
423 (V) threatening with or using a dangerous weapon in a fight or quarrel, as
424 described in Section 76-10-506; or
- 425 (ii) a felony or misdemeanor offense committed outside of the state that, if committed
426 in the state, would constitute a violation of an offense described in Subsection
427 (5)(a)(i).
- 428 (b)(i) Subsection (5)(a) does not apply to an applicant who is seeking a position as a
429 peer support provider or a mental health professional, if the applicant provides
430 services in a program that serves only adults with a primary mental health
431 diagnosis, with or without a co-occurring substance use disorder.
- 432 (ii) The office shall conduct a comprehensive review of an applicant described in
433 Subsection (5)(b)(i) in accordance with Subsection (7).
- 434 (c) The office shall deny direct access qualified status to an applicant if the office finds
435 that a court order prohibits the applicant from having direct access to a child or
436 vulnerable adult.

- 437 (6) The office shall conduct a comprehensive review of an applicant's background check if
438 the applicant:
- 439 (a) has a felony or class A misdemeanor conviction that is more than three years from
440 the date on which the office conducts the background check, for an offense described
441 in Subsection (5)(a);
- 442 (b) has a felony charge or conviction that is no more than 10 years from the date on
443 which the office conducts the background check for an offense not described in
444 Subsection (5)(a);
- 445 (c) has a felony charge or conviction that is more than 10 years from the date on which
446 the office conducts the background check, for an offense not described in Subsection
447 (5)(a), with criminal or non-criminal findings after the date of the felony charge or
448 conviction;
- 449 (d) has a class B misdemeanor or class C misdemeanor conviction that is more than
450 three years and no more than 10 years from the date on which the office conducts the
451 background check for an offense described in Subsection (5)(a);
- 452 (e) has a class B misdemeanor or class C misdemeanor conviction that is more than 10
453 years from the date on which the office conducts the background check, for an
454 offense described in Subsection (5)(a), with criminal or non-criminal findings after
455 the date of conviction;
- 456 (f) has a misdemeanor charge or conviction that is no more than three years from the
457 date on which the office conducts the background check for an offense not described
458 in Subsection (5)(a);
- 459 (g) has a misdemeanor charge or conviction that is more than three years from the date
460 on which the office conducts the background check, for an offense not described in
461 Subsection (5)(a), with criminal or non-criminal findings after the date of charge or
462 conviction;
- 463 (h) is currently subject to a plea in abeyance or diversion agreement for an offense
464 described in Subsection (5)(a);
- 465 (i) appears on the Sex, Kidnap, and Child Abuse Offender Registry described in [~~Title~~
466 ~~77, Chapter 41, Sex, Kidnap, and Child Abuse Offender Registry~~] Title 53, Chapter
467 29, Sex, Kidnap, and Child Abuse Offender Registry, or a national sex offender
468 registry;
- 469 (j) has a record of an adjudication in juvenile court for an act that, if committed by an
470 adult, would be a felony or misdemeanor, if the applicant is:

- 471 (i) under 28 years old; or
- 472 (ii) 28 years old or older and has been convicted of, has pleaded no contest to, or is
- 473 currently subject to a plea in abeyance or diversion agreement for a felony or a
- 474 misdemeanor offense described in Subsection (5)(a);
- 475 (k) has a pending charge for an offense described in Subsection (5)(a);
- 476 (l) has a listing that occurred no more than 15 years from the date on which the office
- 477 conducts the background check in the Division of Child and Family Services'
- 478 Licensing Information System described in Section 80-2-1002;
- 479 (m) has a listing that occurred more than 15 years from the date on which the office
- 480 conducts the background check in the Division of Child and Family Services'
- 481 Licensing Information System described in Section 80-2-1002, with criminal or
- 482 non-criminal findings after the date of the listing;
- 483 (n) has a listing that occurred no more than 15 years from the date on which the office
- 484 conducts the background check in the Division of Aging and Adult Services'
- 485 vulnerable adult abuse, neglect, or exploitation database described in Section
- 486 26B-6-210;
- 487 (o) has a listing that occurred more than 15 years from the date on which the office
- 488 conducts the background check in the Division of Aging and Adult Services'
- 489 vulnerable adult abuse, neglect, or exploitation database described in Section
- 490 26B-6-210, with criminal or non-criminal findings after the date of the listing;
- 491 (p) has a substantiated finding that occurred no more than 15 years from the date on
- 492 which the office conducts the background check of severe child abuse or neglect
- 493 under Section 80-3-404 or 80-3-504[-]; or
- 494 (q) has a substantiated finding that occurred more than 15 years from the date on which
- 495 the office conducts the background check of severe child abuse or neglect under
- 496 Section 80-3-404 or 80-3-504, with criminal or non-criminal findings after the date of
- 497 the listing.
- 498 (7)(a) The comprehensive review shall include an examination of:
- 499 (i) the date of the offense or incident;
- 500 (ii) the nature and seriousness of the offense or incident;
- 501 (iii) the circumstances under which the offense or incident occurred;
- 502 (iv) the age of the perpetrator when the offense or incident occurred;
- 503 (v) whether the offense or incident was an isolated or repeated incident;
- 504 (vi) whether the offense or incident directly relates to abuse of a child or vulnerable

- 505 adult, including:
- 506 (A) actual or threatened, nonaccidental physical, mental, or financial harm;
- 507 (B) sexual abuse;
- 508 (C) sexual exploitation; or
- 509 (D) negligent treatment;
- 510 (vii) any evidence provided by the applicant of rehabilitation, counseling, psychiatric
- 511 treatment received, or additional academic or vocational schooling completed;
- 512 (viii) the applicant's risk of harm to clientele in the program or in the capacity for
- 513 which the applicant is applying; and
- 514 (ix) if the background check of an applicant is being conducted for the purpose of
- 515 giving direct access qualified status to an applicant seeking a position in a
- 516 congregate care program or to become a prospective foster or adoptive parent, any
- 517 listing in the Division of Child and Family Services' Management Information
- 518 System described in Section 80-2-1001.
- 519 (b) At the conclusion of the comprehensive review, the office shall deny direct access
- 520 qualified status to an applicant if the office finds the approval would likely create a
- 521 risk of harm to a child or vulnerable adult.
- 522 (8) The office shall grant direct access qualified status to an applicant who is not denied
- 523 under this section.
- 524 (9)(a) The office may conditionally grant direct access qualified status to an applicant,
- 525 for a maximum of 60 days after the day on which the office sends written notice,
- 526 without requiring that the applicant be directly supervised, if the office:
- 527 (i) is awaiting the results of the criminal history search of national criminal
- 528 background databases; and
- 529 (ii) would otherwise grant direct access qualified status to the applicant under this
- 530 section.
- 531 (b) The office may conditionally grant direct access qualified status to an applicant, for a
- 532 maximum of one year after the day on which the office sends written notice, without
- 533 requiring that the applicant be directly supervised if the office:
- 534 (i) is awaiting the results of an out-of-state registry for providers other than foster and
- 535 adoptive parents; and
- 536 (ii) would otherwise grant direct access qualified status to the applicant under this
- 537 section.
- 538 (c) Upon receiving the results of the criminal history search of a national criminal

- 539 background database, the office shall grant or deny direct access qualified status to
540 the applicant in accordance with this section.
- 541 (10)(a) Each time an applicant is associated with a licensee, the department shall review
542 the current status of the applicant's background check to ensure the applicant is still
543 eligible for direct access qualified status in accordance with this section.
- 544 (b) A licensee may not permit an individual to have direct access to a child or a
545 vulnerable adult without being directly supervised unless:
- 546 (i) the individual is the parent or guardian of the child, or the guardian of the
547 vulnerable adult;
- 548 (ii) the individual is approved by the parent or guardian of the child, or the guardian
549 of the vulnerable adult, to have direct access to the child or the vulnerable adult;
- 550 (iii) the individual is only permitted to have direct access to a vulnerable adult who
551 voluntarily invites the individual to visit; or
- 552 (iv) the individual only provides incidental care for a foster child on behalf of a foster
553 parent who has used reasonable and prudent judgment to select the individual to
554 provide the incidental care for the foster child.
- 555 (c) Notwithstanding any other provision of this section, an applicant who is denied direct
556 access qualified status shall not have direct access to a child or vulnerable adult
557 unless the office grants direct access qualified status to the applicant through a
558 subsequent application in accordance with this section.
- 559 (11) If the office denies direct access qualified status to an applicant, the applicant may
560 request a hearing in the department's Office of Administrative Hearings to challenge the
561 office's decision.
- 562 (12)(a) This Subsection (12) applies to an applicant associated with a certification,
563 contract, or licensee serving adults only.
- 564 (b) A program director or a member, as defined in Section 26B-2-105, of the licensee
565 shall comply with this section.
- 566 (c) The office shall conduct a comprehensive review for an applicant if:
- 567 (i) the applicant is seeking a position:
- 568 (A) as a peer support provider;
- 569 (B) as a mental health professional; or
- 570 (C) in a program that serves only adults with a primary mental health diagnosis,
571 with or without a co-occurring substance use disorder; and
- 572 (ii) within three years from the date on which the office conducts the background

573 check, the applicant has a felony or misdemeanor charge or conviction or a
574 non-criminal finding.

575 (13)(a) This Subsection (13) applies to an applicant seeking a position in a congregate
576 care program, an applicant seeking to provide a prospective foster home, an applicant
577 seeking to provide a prospective adoptive home, and each adult living in the home of
578 the prospective foster or prospective adoptive home.

579 (b) As federally required, the office shall:

580 (i) check the child abuse and neglect registry in each state where each applicant
581 resided in the five years immediately preceding the day on which the applicant
582 applied to be a foster or adoptive parent, to determine whether the prospective
583 foster or adoptive parent is listed in the registry as having a substantiated or
584 supported finding of child abuse or neglect; and

585 (ii) except for applicants seeking a position in a congregate care program, check the
586 child abuse and neglect registry in each state where each adult living in the home
587 of the prospective foster or adoptive home resided in the five years immediately
588 preceding the day on which the applicant applied to be a foster or adoptive parent,
589 to determine whether the adult is listed in the registry as having a substantiated or
590 supported finding of child abuse or neglect.

591 (c) The requirements described in Subsection (13)(b) do not apply to the extent that:

592 (i) federal law or rule permits otherwise; or

593 (ii) the requirements would prohibit the Division of Child and Family Services or a
594 court from placing a child with:

595 (A) a noncustodial parent under Section 80-2a-301, 80-3-302, or 80-3-303; or

596 (B) a relative, other than a noncustodial parent, under Section 80-2a-301, 80-3-302,
597 or 80-3-303, pending completion of the background check described in
598 Subsections (5), (6), and (7).

599 (d) Notwithstanding Subsections (5) through (10), the office shall deny direct access
600 qualified status if the applicant has been convicted of:

601 (i) a felony involving conduct that constitutes any of the following:

602 (A) child abuse, as described in Sections 76-5-109, 76-5-109.2, and 76-5-109.3;

603 (B) commission of domestic violence in the presence of a child, as described in
604 Section 76-5-114;

605 (C) abuse or neglect of a child with a disability, as described in Section 76-5-110;

606 (D) intentional aggravated abuse of a vulnerable adult, as described in Section

- 607 76-5-111;
- 608 (E) endangerment of a child or vulnerable adult, as described in Section
- 609 76-5-112.5;
- 610 (F) aggravated murder, as described in Section 76-5-202;
- 611 (G) murder, as described in Section 76-5-203;
- 612 (H) manslaughter, as described in Section 76-5-205;
- 613 (I) child abuse homicide, as described in Section 76-5-208;
- 614 (J) homicide by assault, as described in Section 76-5-209;
- 615 (K) kidnapping, as described in Section 76-5-301;
- 616 (L) child kidnapping, as described in Section 76-5-301.1;
- 617 (M) aggravated kidnapping, as described in Section 76-5-302;
- 618 (N) human trafficking of a child, as described in Section 76-5-308.5;
- 619 (O) an offense described in Title 76, Chapter 5, Part 4, Sexual Offenses;
- 620 (P) sexual exploitation of a minor, as described in Title 76, Chapter 5b, Sexual
- 621 Exploitation Act;
- 622 (Q) aggravated exploitation of a minor, as described in Section 76-5b-201.1;
- 623 (R) aggravated arson, as described in Section 76-6-103;
- 624 (S) aggravated burglary, as described in Section 76-6-203;
- 625 (T) aggravated robbery, as described in Section 76-6-302;
- 626 (U) lewdness involving a child, as described in Section 76-9-702.5;
- 627 (V) incest, as described in Section 76-7-102; or
- 628 (W) domestic violence, as described in Section 77-36-1; or
- 629 (ii) an offense committed outside the state that, if committed in the state, would
- 630 constitute a violation of an offense described in Subsection (13)(d)(i).
- 631 (e) Notwithstanding Subsections (5) through (10), the office shall deny direct access
- 632 qualified status to an applicant if, within the five years from the date on which the
- 633 office conducts the background check, the applicant was convicted of a felony
- 634 involving conduct that constitutes a violation of any of the following:
- 635 (i) aggravated assault, as described in Section 76-5-103;
- 636 (ii) aggravated assault by a prisoner, as described in Section 76-5-103.5;
- 637 (iii) mayhem, as described in Section 76-5-105;
- 638 (iv) an offense described in Title 58, Chapter 37, Utah Controlled Substances Act;
- 639 (v) an offense described in Title 58, Chapter 37a, Utah Drug Paraphernalia Act;
- 640 (vi) an offense described in Title 58, Chapter 37b, Imitation Controlled Substances

- 641 Act;
- 642 (vii) an offense described in Title 58, Chapter 37c, Utah Controlled Substance
- 643 Precursor Act; or
- 644 (viii) an offense described in Title 58, Chapter 37d, Clandestine Drug Lab Act.
- 645 (f) In addition to the circumstances described in Subsection (6), the office shall conduct
- 646 a comprehensive review of an applicant's background check under this section if the
- 647 applicant:
- 648 (i) has an offense described in Subsection (5)(a);
- 649 (ii) has an infraction conviction entered on a date that is no more than three years
- 650 before the date on which the office conducts the background check;
- 651 (iii) has a listing in the Division of Child and Family Services' Licensing Information
- 652 System described in Section 80-2-1002;
- 653 (iv) has a listing in the Division of Aging and Adult Services' vulnerable adult,
- 654 neglect, or exploitation database described in Section 26B-2-210;
- 655 (v) has a substantiated finding of severe child abuse or neglect under Section
- 656 80-3-404 or 80-3-504; or
- 657 (vi) has a listing on the registry check described in Subsection (13)(b) as having a
- 658 substantiated or supported finding of a severe type of child abuse or neglect, as
- 659 defined in Section 80-1-102.
- 660 (14) In accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, the
- 661 office may make rules, consistent with this part, to:
- 662 (a) establish procedures for, and information to be examined in, the comprehensive
- 663 review described in Subsections (6), (7), and (13); and
- 664 (b) determine whether to consider an offense or incident that occurred while an
- 665 individual was in the custody of the Division of Child and Family Services or the
- 666 Division of Juvenile Justice and Youth Services for purposes of granting or denying
- 667 direct access qualified status to an applicant.
- 668 Section 4. Section **41-3-205.5** is amended to read:
- 669 **41-3-205.5 . Licenses -- Criminal background check required on salesperson's**
- 670 **licenses -- Payment of cost.**
- 671 (1)(a) Every applicant for a salesperson's license shall submit fingerprints with a
- 672 completed application to the division.
- 673 (b) [A person] An individual required to renew a salesperson license on or before June
- 674 30, 2010, shall submit fingerprints to the division on or before November 30, 2010.

- 675 (2) The division shall submit fingerprints for each applicant described in Subsection (1) to
676 the Bureau of Criminal Identification established in Section 53-10-201.
- 677 (3) The Bureau of Criminal Identification shall:
- 678 (a) check the information submitted by the division for an applicant under Subsection (2)
679 against the applicable state and regional criminal records databases; and
- 680 (b) release to the division all information obtained under Subsection (3)(a) relating to the
681 applicant.
- 682 (4)(a) The Bureau of Criminal Identification shall maintain a separate file of fingerprints
683 submitted under Subsection (2) and notify the division when a new entry is made in
684 the applicable state and regional database against ~~[a person]~~ an individual whose
685 fingerprints are held in the file regarding any matter involving an arrest under state
686 law involving:
- 687 (i) motor vehicles;
- 688 (ii) controlled substances;
- 689 (iii) fraud; or
- 690 ~~[(iv) a registerable sex offense under Section 77-41-106.]~~
- 691 (iv) an offense that would result in the individual being a sex offender under
692 Subsection 53-29-202(2)(b) and required to register for the individual's lifetime
693 under Subsection 53-29-203(1)(b).
- 694 (b) Upon request by the division, the Bureau of Criminal Identification shall inform the
695 division whether a person whose arrest was reported to the division under Subsection
696 (4)(a) was subsequently convicted of the charge for which the person was arrested.
- 697 (5) In addition to any fees imposed under this chapter, the division shall:
- 698 (a) impose on individuals submitting fingerprints in accordance with this section the fees
699 that the Bureau of Criminal Identification is authorized to collect for the services the
700 Bureau of Criminal Identification provides under Subsections (3) and (4); and
- 701 (b) remit the fees collected under Subsection (5)(a) to the Bureau of Criminal
702 Identification.
- 703 (6) The division shall use information received from the Bureau of Criminal Identification
704 under this section to determine whether a license should be denied, suspended, or
705 revoked under Section 41-3-209.
- 706 Section 5. Section **41-3-209** is amended to read:
- 707 **41-3-209 . Administrator's findings -- Suspension and revocation of license.**
- 708 (1) If the administrator finds that an applicant is not qualified to receive a license, a license

- 709 may not be granted.
- 710 (2)(a) If the administrator finds that there is reasonable cause to deny, suspend, or
711 revoke a license issued under this chapter, the administrator shall deny, suspend, or
712 revoke the license.
- 713 (b) Reasonable cause for denial, suspension, or revocation of a license includes, in
714 relation to the applicant or license holder or any of the applicant or license holder's
715 partners, officers, or directors:
- 716 (i) lack of a principal place of business or authorized service center as required by
717 this chapter;
- 718 (ii) lack of a sales tax license required under Title 59, Chapter 12, Sales and Use Tax
719 Act;
- 720 (iii) lack of a bond in effect as required by this chapter;
- 721 (iv) current revocation or suspension of a dealer, dismantler, auction, or salesperson
722 license issued in another state;
- 723 (v) nonpayment of required fees;
- 724 (vi) making a false statement on any application for a license under this chapter or for
725 a special license plate;
- 726 (vii) a violation of any state or federal law involving motor vehicles;
- 727 (viii) a violation of any state or federal law involving controlled substances;
- 728 (ix) charges filed with any county attorney, district attorney, or U.S. attorney in any
729 court of competent jurisdiction for a violation of any state or federal law involving
730 motor vehicles;
- 731 (x) a violation of any state or federal law involving fraud;
- 732 (xi) a violation of any state or federal law involving ~~[a registerable sex offense under~~
733 Section 77-41-106] an offense that would result in the individual being a sex
734 offender under Subsection 53-29-202(2)(b) and required to register for the
735 individual's lifetime under Subsection 53-29-203(1)(b);
- 736 (xii) having had a license issued under this chapter revoked within five years from
737 the date of application; or
- 738 (xiii) failure to comply with any applicable qualification or requirement imposed
739 under this chapter.
- 740 (c) Any action taken by the administrator under Subsection (2)(b)(ix) shall remain in
741 effect until a final resolution is reached by the court involved or the charges are
742 dropped.

743 (3) If the administrator finds that an applicant is not qualified to receive a license under this
744 section, the administrator shall provide the applicant written notice of the reason for the
745 denial.

746 (4) If the administrator finds that the license holder has been convicted by a court of
747 competent jurisdiction of violating any of the provisions of this chapter or any rules
748 made by the administrator, or finds other reasonable cause, the administrator may, by
749 complying with the emergency procedures of Title 63G, Chapter 4, Administrative
750 Procedures Act:

751 (a) suspend the license on terms and for a period of time the administrator finds
752 reasonable; or

753 (b) revoke the license.

754 (5)(a) After suspending or revoking a license, the administrator may take reasonable
755 action to:

756 (i) notify the public that the licensee is no longer in business; and

757 (ii) prevent the former licensee from violating the law by conducting business
758 without a license.

759 (b) Action under Subsection (5)(a) may include signs, banners, barriers, locks, bulletins,
760 and notices.

761 (c) Any business being conducted incidental to the business for which the former
762 licensee was licensed may continue to operate subject to the preventive action taken
763 under this subsection.

764 Section 6. Section **42-1-1** is amended to read:

765 **42-1-1 . By petition to district court -- Contents.**

766 (1) Any natural person, desiring to change the natural person's name, may file a petition in
767 the district court of the county where the natural person resides, setting forth:

768 (a) the cause for which the change of name is sought;

769 (b) the name proposed; and

770 (c) that the natural person has been a bona fide resident of the county for the year
771 immediately prior to the filing of the petition.

772 (2)(a) A natural person petitioning for a name change under this section shall indicate on
773 the petition whether the individual is [~~registered with the state's Sex and Kidnap
774 Offender Registry~~] required to register under Title 53, Chapter 29, Sex, Kidnap, and
775 Child Abuse Offender Registry.

776 (b) The court may request additional information from a natural person who is [

777 ~~registered with the state's Sex and Kidnap Offender Registry]~~ required to register
 778 under Title 53, Chapter 29, Sex, Kidnap, and Child Abuse Offender Registry, to
 779 make the determination described in Subsection ~~[77-41-105(8)]~~ 53-29-303(3).

780 (3) The provisions of Title 76, Chapter 8, Part 5, Falsification in Official Matters, apply to
 781 this section when applicable.

782 Section 7. Section **53-3-205** is amended to read:

783 **53-3-205 . Application for license or endorsement -- Fee required -- Tests --**
 784 **Expiration dates of licenses and endorsements -- Information required -- Previous**
 785 **licenses surrendered -- Driving record transferred from other states -- Reinstatement --**
 786 **Fee required -- License agreement.**

787 (1) An application for an original license, provisional license, or endorsement shall be:

788 (a) made upon a form furnished by the division; and

789 (b) accompanied by a nonrefundable fee set under Section 53-3-105.

790 (2) An application and fee for an original provisional class D license or an original class D
 791 license entitle the applicant to:

792 (a) not more than three attempts to pass both the knowledge and the skills tests for a
 793 class D license within six months after the date of the application;

794 (b) a learner permit if needed pending completion of the application and testing process;
 795 and

796 (c) an original class D license and license certificate after all tests are passed and
 797 requirements are completed.

798 (3) An application and fee for a motorcycle or taxicab endorsement entitle the applicant to:

799 (a) not more than three attempts to pass both the knowledge and skills tests within six
 800 months after the date of the application;

801 (b) a motorcycle learner permit after the motorcycle knowledge test is passed; and

802 (c) a motorcycle or taxicab endorsement when all tests are passed.

803 (4) An application for a commercial class A, B, or C license entitles the applicant to:

804 (a) not more than two attempts to pass a knowledge test when accompanied by the fee
 805 provided in Subsection 53-3-105(18);

806 (b) not more than two attempts to pass a skills test when accompanied by a fee in
 807 Subsection 53-3-105(19) within six months after the date of application;

808 (c) both a commercial driver instruction permit and a temporary license permit for the
 809 license class held before the applicant submits the application if needed after the
 810 knowledge test is passed; and

- 811 (d) an original commercial class A, B, or C license and license certificate when all
812 applicable tests are passed.
- 813 (5) An application and fee for a CDL endorsement entitle the applicant to:
- 814 (a) not more than two attempts to pass a knowledge test and not more than two attempts
815 to pass a skills test within six months after the date of the application; and
816 (b) a CDL endorsement when all tests are passed.
- 817 (6)(a) If a CDL applicant does not pass a knowledge test, skills test, or an endorsement
818 test within the number of attempts provided in Subsection (4) or (5), each test may be
819 taken two additional times within the six months for the fee provided in Section
820 53-3-105.
- 821 (b)(i) An out-of-state resident who holds a valid CDIP issued by a state or
822 jurisdiction that is compliant with 49 C.F.R. Part 383 may take a skills test
823 administered by the division if the out-of-state resident pays the fee provided in
824 Subsection 53-3-105(19).
- 825 (ii) The division shall:
- 826 (A) electronically transmit skills test results for an out-of-state resident to the
827 licensing agency in the state or jurisdiction in which the out-of-state resident
828 has obtained a valid CDIP; and
- 829 (B) provide the out-of-state resident with documentary evidence upon successful
830 completion of the skills test.
- 831 (7)(a)(i) Except as provided under Subsections (7)(a)(ii), (f), and (g), an original class
832 D license expires on the birth date of the applicant in the eighth year after the year
833 the license certificate was issued.
- 834 (ii) An original provisional class D license expires on the birth date of the applicant
835 in the fifth year following the year the license certificate was issued.
- 836 (iii) Except as provided in Subsection (7)(f), a limited term class D license expires on
837 the birth date of the applicant in the fifth year the license certificate was issued.
- 838 (b) Except as provided under Subsections (7)(f) and (g), a renewal or an extension to a
839 license expires on the birth date of the licensee in the eighth year after the expiration
840 date of the license certificate renewed or extended.
- 841 (c) Except as provided under Subsections (7)(f) and (g), a duplicate license expires on
842 the same date as the last license certificate issued.
- 843 (d) An endorsement to a license expires on the same date as the license certificate
844 regardless of the date the endorsement was granted.

- 845 (e)(i) A regular license certificate and an endorsement to the regular license
846 certificate held by an individual described in Subsection (7)(e)(ii), that expires
847 during the time period the individual is stationed outside of the state, is valid until
848 90 days after the individual's orders are terminated, the individual is discharged, or
849 the individual's assignment is changed or terminated, unless:
- 850 (A) the license is suspended, disqualified, denied, or has been cancelled or
851 revoked by the division; or
 - 852 (B) the licensee updates the information or photograph on the license certificate.
- 853 (ii) The provisions in Subsection (7)(e)(i) apply to an individual:
- 854 (A) ordered to active duty and stationed outside of Utah in any of the armed forces
855 of the United States;
 - 856 (B) who is an immediate family member or dependent of an individual described
857 in Subsection (7)(e)(ii)(A) and is residing outside of Utah;
 - 858 (C) who is a civilian employee of the United States State Department or United
859 States Department of Defense and is stationed outside of the United States; or
 - 860 (D) who is an immediate family member or dependent of an individual described
861 in Subsection (7)(e)(ii)(C) and is residing outside of the United States.
- 862 (f)(i) Except as provided in Subsection (7)(f)(ii), a limited-term license certificate or
863 a renewal to a limited-term license certificate expires:
- 864 (A) on the expiration date of the period of time of the individual's authorized stay
865 in the United States or on the date provided under this Subsection (7),
866 whichever is sooner; or
 - 867 (B) on the date of issuance in the first year following the year that the limited-term
868 license certificate was issued if there is no definite end to the individual's
869 period of authorized stay.
- 870 (ii) A limited-term license certificate or a renewal to a limited-term license certificate
871 issued to an approved asylee or a refugee expires on the birth date of the applicant
872 in the fifth year following the year that the limited-term license certificate was
873 issued.
- 874 (g) A driving privilege card issued or renewed under Section 53-3-207 expires on the
875 birth date of the applicant in the first year following the year that the driving privilege
876 card was issued or renewed.
- 877 (8)(a) In addition to the information required by Title 63G, Chapter 4, Administrative
878 Procedures Act, for requests for agency action, an applicant shall:

- 879 (i) provide:
- 880 (A) the applicant's full legal name;
- 881 (B) the applicant's birth date;
- 882 (C) the applicant's sex;
- 883 (D)(I) documentary evidence of the applicant's valid social security number;
- 884 (II) written proof that the applicant is ineligible to receive a social security
- 885 number;
- 886 (III) the applicant's temporary identification number (ITIN) issued by the
- 887 Internal Revenue Service for an individual who:
- 888 (Aa) does not qualify for a social security number; and
- 889 (Bb) is applying for a driving privilege card; or
- 890 (IV) other documentary evidence approved by the division;
- 891 (E) the applicant's Utah residence address as documented by a form or forms
- 892 acceptable under rules made by the division under Section 53-3-104, unless the
- 893 application is for a temporary CDL issued under Subsection 53-3-407(2)(b);
- 894 and
- 895 (F) fingerprints, or a fingerprint confirmation form described in Subsection
- 896 53-3-205.5(1)(a)(ii), and a photograph in accordance with Section 53-3-205.5
- 897 if the applicant is applying for a driving privilege card;
- 898 (ii) provide evidence of the applicant's lawful presence in the United States by
- 899 providing documentary evidence:
- 900 (A) that the applicant is:
- 901 (I) a United States citizen;
- 902 (II) a United States national; or
- 903 (III) a legal permanent resident alien; or
- 904 (B) of the applicant's:
- 905 (I) unexpired immigrant or nonimmigrant visa status for admission into the
- 906 United States;
- 907 (II) pending or approved application for asylum in the United States;
- 908 (III) admission into the United States as a refugee;
- 909 (IV) pending or approved application for temporary protected status in the
- 910 United States;
- 911 (V) approved deferred action status;
- 912 (VI) pending application for adjustment of status to legal permanent resident or

- 913 conditional resident; or
- 914 (VII) conditional permanent resident alien status;
- 915 (iii) provide a description of the applicant;
- 916 (iv) state whether the applicant has previously been licensed to drive a motor vehicle
- 917 and, if so, when and by what state or country;
- 918 (v) state whether the applicant has ever had a license suspended, cancelled, revoked,
- 919 disqualified, or denied in the last 10 years, or whether the applicant has ever had a
- 920 license application refused, and if so, the date of and reason for the suspension,
- 921 cancellation, revocation, disqualification, denial, or refusal;
- 922 (vi) state whether the applicant intends to make an anatomical gift under Title 26B,
- 923 Chapter 8, Part 3, Revised Uniform Anatomical Gift Act, in compliance with
- 924 Subsection (15);
- 925 (vii) state whether the applicant is required to register as a sex offender, kidnap
- 926 offender, or child abuse offender, in accordance with [~~Title 77, Chapter 41, Sex,~~
- 927 ~~Kidnap, and Child Abuse Offender Registry~~] Title 53, Chapter 29, Sex, Kidnap,
- 928 and Child Abuse Offender Registry;
- 929 (viii) state whether the applicant is a veteran of the United States military, provide
- 930 verification that the applicant was granted an honorable or general discharge from
- 931 the United States Armed Forces, and state whether the applicant does or does not
- 932 authorize sharing the information with the Department of Veterans and Military
- 933 Affairs;
- 934 (ix) provide all other information the division requires; and
- 935 (x) sign the application which signature may include an electronic signature as
- 936 defined in Section 46-4-102.
- 937 (b) Unless the applicant provides acceptable verification of homelessness as described in
- 938 rules made by the division, an applicant shall have a Utah residence address, unless
- 939 the application is for a temporary CDL issued under Subsection 53-3-407(2)(b).
- 940 (c) An applicant shall provide evidence of lawful presence in the United States in
- 941 accordance with Subsection (8)(a)(ii), unless the application is for a driving privilege
- 942 card.
- 943 (d) The division shall maintain on the division's computerized records an applicant's:
- 944 (i)(A) social security number;
- 945 (B) temporary identification number (ITIN); or
- 946 (C) other number assigned by the division if Subsection (8)(a)(i)(D)(IV) applies;

- 947 and
- 948 (ii) indication whether the applicant is required to register as a sex offender, kidnap
949 offender, or child abuse offender in accordance with [~~Title 77, Chapter 41, Sex,~~
950 ~~Kidnap, and Child Abuse Offender Registry~~] Title 53, Chapter 29, Sex, Kidnap,
951 and Child Abuse Offender Registry.
- 952 (9) The division shall require proof of an applicant's name, birth date, and birthplace by at
953 least one of the following means:
- 954 (a) current license certificate;
- 955 (b) birth certificate;
- 956 (c) Selective Service registration; or
- 957 (d) other proof, including church records, family Bible notations, school records, or
958 other evidence considered acceptable by the division.
- 959 (10)(a) Except as provided in Subsection (10)(c), if an applicant receives a license in a
960 higher class than what the applicant originally was issued:
- 961 (i) the license application is treated as an original application; and
- 962 (ii) license and endorsement fees is assessed under Section 53-3-105.
- 963 (b) An applicant that receives a downgraded license in a lower license class during an
964 existing license cycle that has not expired:
- 965 (i) may be issued a duplicate license with a lower license classification for the
966 remainder of the existing license cycle; and
- 967 (ii) shall be assessed a duplicate license fee under Subsection 53-3-105(25) if a
968 duplicate license is issued under Subsection (10)(b)(i).
- 969 (c) An applicant who has received a downgraded license in a lower license class under
970 Subsection (10)(b):
- 971 (i) may, when eligible, receive a duplicate license in the highest class previously
972 issued during a license cycle that has not expired for the remainder of the existing
973 license cycle; and
- 974 (ii) shall be assessed a duplicate license fee under Subsection 53-3-105(25) if a
975 duplicate license is issued under Subsection (10)(c)(i).
- 976 (11)(a) When an application is received from an applicant previously licensed in another
977 state to drive a motor vehicle, the division shall request a copy of the driver's record
978 from the other state.
- 979 (b) When received, the driver's record becomes part of the driver's record in this state
980 with the same effect as though entered originally on the driver's record in this state.

- 981 (12) An application for reinstatement of a license after the suspension, cancellation,
982 disqualification, denial, or revocation of a previous license is accompanied by the
983 additional fee or fees specified in Section 53-3-105.
- 984 (13) An individual who has an appointment with the division for testing and fails to keep
985 the appointment or to cancel at least 48 hours in advance of the appointment shall pay
986 the fee under Section 53-3-105.
- 987 (14) An applicant who applies for an original license or renewal of a license agrees that the
988 individual's license is subject to a suspension or revocation authorized under this title or
989 Title 41, Motor Vehicles.
- 990 (15)(a) A licensee shall authenticate the indication of intent under Subsection (8)(a)(vi)
991 in accordance with division rule.
- 992 (b)(i) Notwithstanding Title 63G, Chapter 2, Government Records Access and
993 Management Act, the division may, upon request, release to an organ procurement
994 organization, as defined in Section 26B-8-301, the names and addresses of all
995 applicants who, under Subsection (8)(a)(vi), indicate that they intend to make an
996 anatomical gift.
- 997 (ii) An organ procurement organization may use released information only to:
998 (A) obtain additional information for an anatomical gift registry; and
999 (B) inform licensees of anatomical gift options, procedures, and benefits.
- 1000 (16) Notwithstanding Title 63G, Chapter 2, Government Records Access and Management
1001 Act, the division may release to the Department of Veterans and Military Affairs the
1002 names and addresses of all applicants who indicate their status as a veteran under
1003 Subsection (8)(a)(viii).
- 1004 (17) Notwithstanding Title 63G, Chapter 2, Government Records Access and Management
1005 Act, the division shall, upon request, release to the Sex, Kidnap, and Child Abuse
1006 Offender Registry office in the Department of Public Safety, the names and addresses of
1007 all applicants who, under Subsection (8)(a)(vii), indicate they are required to register as
1008 a sex offender, kidnap offender, or child abuse offender in accordance with [~~Title 77,~~
1009 ~~Chapter 41, Sex, Kidnap, and Child Abuse Offender Registry~~] Title 53, Chapter 29, Sex,
1010 Kidnap, and Child Abuse Offender Registry.
- 1011 (18) The division and its employees are not liable, as a result of false or inaccurate
1012 information provided under Subsection (8)(a)(vi) or (viii), for direct or indirect:
1013 (a) loss;
1014 (b) detriment; or

- 1015 (c) injury.
- 1016 (19) An applicant who knowingly fails to provide the information required under
1017 Subsection (8)(a)(vii) is guilty of a class A misdemeanor.
- 1018 (20) A person may not hold both an unexpired Utah license certificate and an unexpired
1019 identification card.
- 1020 (21)(a) An applicant who applies for an original motorcycle endorsement to a regular
1021 license certificate is exempt from the requirement to pass the knowledge and skills
1022 test to be eligible for the motorcycle endorsement if the applicant:
- 1023 (i) is a resident of the state of Utah;
- 1024 (ii)(A) is ordered to active duty and stationed outside of Utah in any of the armed
1025 forces of the United States; or
- 1026 (B) is an immediate family member or dependent of an individual described in
1027 Subsection (21)(a)(ii)(A) and is residing outside of Utah;
- 1028 (iii) has a digitized driver license photo on file with the division;
- 1029 (iv) provides proof to the division of the successful completion of a certified
1030 Motorcycle Safety Foundation rider training course; and
- 1031 (v) provides the necessary information and documentary evidence required under
1032 Subsection (8).
- 1033 (b) In accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, the
1034 division shall make rules:
- 1035 (i) establishing the procedures for an individual to obtain a motorcycle endorsement
1036 under this Subsection (21); and
- 1037 (ii) identifying the applicable restrictions for a motorcycle endorsement issued under
1038 this Subsection (21).
- 1039 Section 8. Section **53-3-216** is amended to read:
- 1040 **53-3-216 . Change of address -- Duty of licensee to notify division within 10 days**
1041 **-- Change of name -- Proof necessary -- Method of giving notice by division.**
- 1042 (1)(a) Except as provided in Subsection (1)(b), if an individual, after applying for or
1043 receiving a license, moves from the address named in the application or in the license
1044 certificate issued to the individual, the individual shall, within 10 days after the day
1045 on which the individual moves, notify the division in a manner specified by the
1046 division of the individual's new address and the number of any license certificate held
1047 by the individual.
- 1048 (b) If an individual who is required to register as a sex offender, kidnap offender, or

1049 child abuse offender under [~~Title 77, Chapter 41, Sex, Kidnap, and Child Abuse~~
1050 ~~Offender Registry~~] Title 53, Chapter 29, Sex, Kidnap, and Child Abuse Offender
1051 Registry, after applying for or receiving a license, moves from the address named in
1052 the application or in the license certificate issued to the individual, the individual
1053 shall, within 30 days after the day on which the individual moves, apply for an
1054 updated license in-person at a division office.

1055 (2) If an applicant requests to change the surname on the applicant's license, the division
1056 shall issue a substitute license with the new name upon receiving an application and fee
1057 for a duplicate license and any of the following proofs of the applicant's full legal name:
1058 (a) an original or certified copy of the applicant's marriage certificate;
1059 (b) a certified copy of a court order under Title 42, Chapter 1, Change of Name, showing
1060 the name change;
1061 (c) an original or certified copy of a birth certificate issued by a government agency;
1062 (d) a certified copy of a divorce decree or annulment granted the applicant that specifies
1063 the name change requested; or
1064 (e) a certified copy of a divorce decree that does not specify the name change requested
1065 together with:
1066 (i) an original or certified copy of the applicant's birth certificate;
1067 (ii) the applicant's marriage license;
1068 (iii) a driver license record showing use of a maiden name; or
1069 (iv) other documentation the division finds acceptable.

1070 (3)(a) If the division is authorized or required to give a notice under this chapter or other
1071 law regulating the operation of vehicles, the notice shall, unless otherwise prescribed,
1072 be given by:
1073 (i) personal delivery to the individual to be notified; or
1074 (ii) deposit in the United States mail with postage prepaid, addressed to the individual
1075 at the individual's address as shown by the records of the division.
1076 (b) The giving of notice by mail is complete upon the expiration of four days after the
1077 deposit of the notice.
1078 (c) Proof of the giving of notice in either manner may be made by the certificate of an
1079 officer or employee of the division or affidavit of an individual 18 years [~~of age~~] old
1080 or older, naming the individual to whom the notice was given and specifying the
1081 time, place, and manner of giving the notice.

1082 (4) The division may use state mailing or United States Postal Service information to:

- 1083 (a) verify an address on an application or on records of the division; and
1084 (b) correct mailing addresses in the division's records.

1085 (5) A violation of the provisions of Subsection (1) is an infraction.

1086 Section 9. Section **53-3-804** is amended to read:

1087 **53-3-804 . Application for identification card -- Required information -- Release**
1088 **of anatomical gift information -- Cancellation of identification card.**

1089 (1) To apply for a regular identification card or limited-term identification card, an
1090 applicant shall:

- 1091 (a) be a Utah resident;
1092 (b) have a Utah residence address; and
1093 (c) appear in person at any license examining station.

1094 (2) An applicant shall provide the following information to the division:

- 1095 (a) true and full legal name and Utah residence address;
1096 (b) date of birth as set forth in a certified copy of the applicant's birth certificate, or other
1097 satisfactory evidence of birth, which shall be attached to the application;
1098 (c)(i) social security number; or
1099 (ii) written proof that the applicant is ineligible to receive a social security number;
1100 (d) place of birth;
1101 (e) height and weight;
1102 (f) color of eyes and hair;
1103 (g) signature;
1104 (h) photograph;
1105 (i) evidence of the applicant's lawful presence in the United States by providing
1106 documentary evidence:
1107 (i) that the applicant is:
1108 (A) a United States citizen;
1109 (B) a United States national; or
1110 (C) a legal permanent resident alien; or
1111 (ii) of the applicant's:
1112 (A) unexpired immigrant or nonimmigrant visa status for admission into the
1113 United States;
1114 (B) pending or approved application for asylum in the United States;
1115 (C) admission into the United States as a refugee;
1116 (D) pending or approved application for temporary protected status in the United

- 1117 States;
- 1118 (E) approved deferred action status;
- 1119 (F) pending application for adjustment of status to legal permanent resident or
1120 conditional resident; or
- 1121 (G) conditional permanent resident alien status;
- 1122 (j) an indication whether the applicant intends to make an anatomical gift under Title
1123 26B, Chapter 8, Part 3, Revised Uniform Anatomical Gift Act;
- 1124 (k) an indication whether the applicant is required to register as a sex offender, kidnap
1125 offender, or child abuse offender in accordance with [~~Title 77, Chapter 41, Sex,
1126 Kidnap, and Child Abuse Offender Registry~~] Title 53, Chapter 29, Sex, Kidnap, and
1127 Child Abuse Offender Registry; and
- 1128 (l) an indication whether the applicant is a veteran of the United States Armed Forces,
1129 verification that the applicant has received an honorable or general discharge from
1130 the United States Armed Forces, and an indication whether the applicant does or does
1131 not authorize sharing the information with the state Department of Veterans and
1132 Military Affairs.
- 1133 (3)(a) The requirements of Section 53-3-234 apply to this section for each individual,
1134 age 16 and older, applying for an identification card.
- 1135 (b) Refusal to consent to the release of information under Section 53-3-234 shall result
1136 in the denial of the identification card.
- 1137 (4) An individual person who knowingly fails to provide the information required under
1138 Subsection (2)(k) is guilty of a class A misdemeanor.
- 1139 (5)(a) A person may not hold both an unexpired Utah license certificate and an
1140 unexpired identification card.
- 1141 (b) A person who holds a regular or limited term Utah driver license and chooses to
1142 relinquish the person's driving privilege may apply for an identification card under
1143 this chapter, provided:
- 1144 (i) the driver:
- 1145 (A) no longer qualifies for a driver license for failure to meet the requirement in
1146 Section 53-3-304; or
- 1147 (B) makes a personal decision to permanently discontinue driving;
- 1148 (ii) the driver:
- 1149 (A) submits an application to the division on a form approved by the division in
1150 person, through electronic means, or by mail;

- 1151 (B) affirms their intention to permanently discontinue driving; and
1152 (C) surrenders to the division the driver license certificate; and
1153 (iii) the division possesses a digital photograph of the driver obtained within the
1154 preceding 10 years.
- 1155 (c)(i) The division shall waive the fee under Section 53-3-105 for an identification
1156 card for an original identification card application under this Subsection (5).
1157 (ii) The fee waiver described in Subsection (5)(c)(i) does not apply to a person whose
1158 driving privilege is suspended or revoked.
- 1159 (6) Notwithstanding Title 63G, Chapter 2, Government Records Access and Management
1160 Act, the division shall, upon request, release to the Sex, Kidnap, and Child Abuse
1161 Offender Registry office in the Department of Public Safety, the names and addresses of
1162 all applicants who, under Subsection (2)(k), indicate they are required to register as a sex
1163 offender, kidnap offender, or child abuse offender in accordance with [~~Title 77, Chapter~~
1164 ~~41, Sex, Kidnap, and Child Abuse Offender Registry~~] Title 53, Chapter 29, Sex, Kidnap,
1165 and Child Abuse Offender Registry.

1166 Section 10. Section **53-3-806.5** is amended to read:

1167 **53-3-806.5 . Identification card required if offender does not have driver license.**

- 1168 (1)(a) An individual who does not hold a current driver license in compliance with
1169 Section 53-3-205 and is required to register as a sex offender, kidnap offender, or
1170 child abuse offender in accordance with [~~Title 77, Chapter 41, Sex, Kidnap, and~~
1171 ~~Child Abuse Offender Registry~~] Title 53, Chapter 29, Sex, Kidnap, and Child Abuse
1172 Offender Registry, shall obtain an identification card.
- 1173 (b) The individual shall maintain a current identification card during the time the
1174 individual is required to register as a sex offender, kidnap offender, or child abuse
1175 offender and the individual does not hold a valid driver license.
- 1176 (2) Failure to maintain a current identification card as required under Subsection (1) is a
1177 class A misdemeanor for each month of violation of Subsection (1).

1178 Section 11. Section **53-3-807** is amended to read:

1179 **53-3-807 . Expiration -- Address and name change -- Extension.**

- 1180 (1)(a) A regular identification card expires on the birth date of the applicant in the fifth
1181 year after the issuance of the regular identification card.
- 1182 (b) A limited-term identification card expires on:
1183 (i) the expiration date of the period of time of the individual's authorized stay in the
1184 United States or on the birth date of the applicant in the fifth year after the

1185 issuance of the limited-term identification card, whichever is sooner; or
1186 (ii) on the date of issuance in the first year after the year that the limited-term
1187 identification card was issued if there is no definite end to the individual's period
1188 of authorized stay.

1189 (2)(a) Except as provided in Subsection (2)(b), if an individual has applied for and
1190 received an identification card and subsequently moves from the address shown on
1191 the application or on the card, the individual shall, within 10 days after the day on
1192 which the individual moves, notify the division in a manner specified by the division
1193 of the individual's new address.

1194 (b) If an individual who is required to register as a sex offender, kidnap offender, or
1195 child abuse offender under [~~Title 77, Chapter 41, Sex, Kidnap, and Child Abuse~~
1196 ~~Offender Registry~~] Title 53, Chapter 29, Sex, Kidnap, and Child Abuse Offender
1197 Registry, has applied for and received an identification card and subsequently moves
1198 from the address shown on the application or on the card, the individual shall, within
1199 30 days after the day on which the individual moves, apply for an updated
1200 identification card in-person at a division office.

1201 (3) If an individual has applied for and received an identification card and subsequently
1202 changes the individual's name under Title 42, Chapter 1, Change of Name, the
1203 individual:

1204 (a) shall surrender the card to the division; and

1205 (b) may apply for a new card in the individual's new name by:

1206 (i) furnishing proper documentation to the division as provided in Section 53-3-804;
1207 and

1208 (ii) paying the fee required under Section 53-3-105.

1209 (4) A person 21 years old or older with a disability, as defined under the Americans with
1210 Disabilities Act of 1990, Pub. L. 101-336, may extend the expiration date on an
1211 identification card for five years if the person with a disability or an agent of the person
1212 with a disability:

1213 (a) requests that the division send the application form to obtain the extension or
1214 requests an application form in person at the division's offices;

1215 (b) completes the application;

1216 (c) certifies that the extension is for a person 21 years old or older with a disability; and

1217 (d) returns the application to the division together with the identification card fee
1218 required under Section 53-3-105.

- 1219 (5)(a) The division may extend a valid regular identification card issued after January 1,
1220 2010, for five years at any time within six months before the day on which the
1221 identification card expires.
- 1222 (b) The application for an extension of a regular identification card is accompanied by a
1223 fee under Section 53-3-105.
- 1224 (c) The division shall allow extensions:
- 1225 (i) by mail, electronic means, or other means as determined by the division at the
1226 appropriate extension fee rate under Section 53-3-105; and
- 1227 (ii) only if the applicant qualifies under this section.
- 1228 (6)(a) A regular identification card may only be extended once under Subsections (4)
1229 and (5).
- 1230 (b) After an extension an application for an identification card must be applied for in
1231 person at the division's offices.
- 1232 Section 12. Section **53-10-214** is amended to read:
- 1233 **53-10-214 . Reporting requirements.**
- 1234 The bureau shall submit a record received pursuant to Section 53-10-208.1 for all
1235 nonextraditable warrants issued for violent felonies as defined in Section 76-3-203.5 and all
1236 nonextraditable warrants issued for knowingly failing to register under Title 53, Chapter 29,
1237 Sex, Kidnap, and Child Abuse Offender Registry, for a sexual offense pursuant to Section [
1238 ~~77-41-107~~] 53-29-305 to the National Crime Information Center within 48 hours of receipt,
1239 excluding Saturdays, Sundays, and legal holidays.
- 1240 Section 13. Section **53-10-403** is amended to read:
- 1241 **53-10-403 . DNA specimen analysis -- Application to offenders, including minors.**
- 1242 (1) Sections 53-10-403.6, 53-10-404, 53-10-404.5, 53-10-405, and 53-10-406 apply to:
- 1243 (a) a person who has pled guilty to or has been convicted of any of the offenses under
1244 Subsection (2)(a) or (b) on or after July 1, 2002;
- 1245 (b) a person who has pled guilty to or has been convicted by any other state or by the
1246 United States government of an offense which if committed in this state would be
1247 punishable as one or more of the offenses listed in Subsection (2)(a) or (b) on or after
1248 July 1, 2003;
- 1249 (c) a person who has been booked on or after January 1, 2011, through December 31,
1250 2014, for any offense under Subsection (2)(c);
- 1251 (d) a person who has been booked:
- 1252 (i) by a law enforcement agency that is obtaining a DNA specimen on or after May

- 1253 13, 2014, through December 31, 2014, under Subsection 53-10-404(4)(b) for any
1254 felony offense; or
- 1255 (ii) on or after January 1, 2015, for any felony offense; or
- 1256 (e) a minor:
- 1257 (i)(A) who is adjudicated by the juvenile court for an offense described in
1258 Subsection (2) that is within the jurisdiction of the juvenile court on or after
1259 July 1, 2002; or
- 1260 (B) who is adjudicated by the juvenile court for an offense described in
1261 Subsection (2) and is in the legal custody of the Division of Juvenile Justice
1262 Services for the offense on or after July 1, 2002; and
- 1263 (ii) who is 14 years old or older at the time of the commission of the offense
1264 described in Subsection (2).
- 1265 (2) Offenses referred to in Subsection (1) are:
- 1266 (a) any felony or class A misdemeanor under the Utah Code;
- 1267 (b) any offense under Subsection (2)(a):
- 1268 (i) for which the court enters a judgment for conviction to a lower degree of offense
1269 under Section 76-3-402; or
- 1270 (ii) regarding which the court allows the defendant to enter a plea in abeyance as
1271 defined in Section 77-2a-1; or
- 1272 (c)(i) any violent felony as defined in Section 53-10-403.5;
- 1273 (ii) sale or use of body parts, Section 26B-8-315;
- 1274 (iii) failure to stop at an accident that resulted in death, Section 41-6a-401.5;
- 1275 (iv) operating a motor vehicle with any amount of a controlled substance in an
1276 individual's body and causing serious bodily injury or death, as codified before
1277 May 4, 2022, Laws of Utah 2021, Chapter 236, Section 1, Subsection 58-37-8
1278 (2)(g);
- 1279 (v) a felony violation of enticing a minor, Section 76-4-401;
- 1280 (vi) negligently operating a vehicle resulting in injury, Subsection 76-5-102.1(2)(b);
- 1281 (vii) a felony violation of propelling a substance or object at a correctional officer, a
1282 peace officer, or an employee or a volunteer, including health care providers,
1283 Section 76-5-102.6;
- 1284 (viii) automobile homicide, Subsection 76-5-207(2)(b);
- 1285 (ix) aggravated human trafficking, Section 76-5-310, and aggravated human
1286 smuggling, Section 76-5-310.1;

- 1287 (x) a felony violation of unlawful sexual activity with a minor, Section 76-5-401;
1288 (xi) a felony violation of sexual abuse of a minor, Section 76-5-401.1;
1289 (xii) unlawful sexual contact with a 16 or 17-year old, Section 76-5-401.2;
1290 (xiii) sale of a child, Section 76-7-203;
1291 (xiv) aggravated escape, Section 76-8-309.3;
1292 (xv) a felony violation of threatened or attempted assault on an elected official,
1293 Section 76-8-313;
1294 (xvi) threat with intent to impede, intimidate, interfere, or retaliate against a judge or
1295 a member of the Board of Pardons and Parole or acting against a family member
1296 of a judge or a member of the Board of Pardons and Parole, Section 76-8-316;
1297 (xvii) assault with intent to impede, intimidate, interfere, or retaliate against a judge
1298 or a member of the Board of Pardons and Parole or acting against a family
1299 member of a judge or a member of the Board of Pardons and Parole, Section
1300 76-8-316.2;
1301 (xviii) aggravated assault with intent to impede, intimidate, interfere, or retaliate
1302 against a judge or a member of the Board of Pardons and Parole or acting against
1303 a family member of a judge or a member of the Board of Pardons and Parole,
1304 Section 76-8-316.4;
1305 (xix) attempted murder with intent to impede, intimidate, interfere, or retaliate
1306 against a judge or a member of the Board of Pardons and Parole or acting against
1307 a family member of a judge or a member of the Board of Pardons and Parole,
1308 Section 76-8-316.6;
1309 (xx) advocating criminal syndicalism or sabotage, Section 76-8-902;
1310 (xxi) assembling for advocating criminal syndicalism or sabotage, Section 76-8-903;
1311 (xxii) a felony violation of sexual battery, Section 76-9-702.1;
1312 (xxiii) a felony violation of lewdness involving a child, Section 76-9-702.5;
1313 (xxiv) a felony violation of abuse or desecration of a dead human body, Section
1314 76-9-704;
1315 (xxv) manufacture, possession, sale, or use of a weapon of mass destruction, Section
1316 76-10-402;
1317 (xxvi) manufacture, possession, sale, or use of a hoax weapon of mass destruction,
1318 Section 76-10-403;
1319 (xxvii) possession of a concealed firearm in the commission of a violent felony,
1320 Subsection 76-10-504(4);

- 1321 (xxviii) assault with the intent to commit bus hijacking with a dangerous weapon,
 1322 Subsection 76-10-1504(3);
 1323 (xxix) commercial obstruction, Subsection 76-10-2402(2);
 1324 (xxx) a felony violation of failure to register as a sex or kidnap offender, Section [
 1325 ~~77-41-107~~] 53-29-305;
 1326 (xxxi) repeat violation of a protective order, Subsection 77-36-1.1(4); or
 1327 (xxxii) violation of condition for release after arrest under Section 78B-7-802.

1328 Section 14. Section **53-10-404** is amended to read:

1329 **53-10-404 . DNA specimen analysis -- Requirement to obtain the specimen.**

- 1330 (1) As used in this section, "person" means a person or minor described in Section
 1331 53-10-403.
- 1332 (2)(a) A person under Section 53-10-403 or any person required to register as a sex
 1333 offender, kidnap offender, or child abuse offender under [~~Title 77, Chapter 41, Sex,
 1334 Kidnap, and Child Abuse Offender Registry~~] Title 53, Chapter 29, Sex, Kidnap, and
 1335 Child Abuse Offender Registry, shall provide a DNA specimen and shall reimburse
 1336 the agency responsible for obtaining the DNA specimen \$150 for the cost of
 1337 obtaining the DNA specimen unless:
- 1338 (i) the person was booked under Section 53-10-403 and is not required to reimburse
 - 1339 the agency under Section 53-10-404.5; or
 - 1340 (ii) the agency determines the person lacks the ability to pay.
- 1341 (b)(i)(A) The responsible agencies shall establish guidelines and procedures for
 1342 determining if the person is able to pay the fee.
- 1343 (B) An agency's implementation of Subsection (2)(b)(i) meets an agency's
 - 1344 obligation to determine an inmate's ability to pay.
 - 1345 (ii) An agency's guidelines and procedures may provide for the assessment of \$150
 - 1346 on the inmate's county trust fund account and may allow a negative balance in the
 - 1347 account until the \$150 is paid in full.
- 1348 (3)(a)(i) All fees collected under Subsection (2) shall be deposited into the DNA
 1349 Specimen Restricted Account created in Section 53-10-407, except that the
 1350 agency collecting the fee may retain not more than \$25 per individual specimen
 1351 for the costs of obtaining the saliva DNA specimen.
- 1352 (ii) The agency collecting the \$150 fee may not retain from each separate fee more
 - 1353 than \$25, and no amount of the \$150 fee may be credited to any other fee or
 - 1354 agency obligation.

- 1355 (b) The responsible agency shall determine the method of collecting the DNA specimen.
1356 Unless the responsible agency determines there are substantial reasons for using a
1357 different method of collection or the person refuses to cooperate with the collection,
1358 the preferred method of collection shall be obtaining a saliva specimen.
- 1359 (c) The responsible agency may use reasonable force, as established by its guidelines
1360 and procedures, to collect the DNA sample if the person refuses to cooperate with the
1361 collection.
- 1362 (d) If the judgment places the person on probation, the person shall submit to the
1363 obtaining of a DNA specimen as a condition of the probation.
- 1364 (e)(i) Under this section a person is required to provide one DNA specimen and pay
1365 the collection fee as required under this section.
- 1366 (ii) The person shall provide an additional DNA specimen only if the DNA specimen
1367 previously provided is not adequate for analysis.
- 1368 (iii) The collection fee is not imposed for a second or subsequent DNA specimen
1369 collected under this section.
- 1370 (f) Any agency that is authorized to obtain a DNA specimen under this part may collect
1371 any outstanding amount of a fee due under this section from any person who owes
1372 any portion of the fee and deposit the amount in the DNA Specimen Restricted
1373 Account created in Section 53-10-407.
- 1374 (4)(a) The responsible agency shall cause a DNA specimen to be obtained as soon as
1375 possible and transferred to the Department of Public Safety:
- 1376 (i) after a conviction or an adjudication by the juvenile court;
1377 (ii) on and after January 1, 2011, through December 31, 2014, after the booking of a
1378 person for any offense under Subsection 53-10-403(1)(c); and
1379 (iii) on and after January 1, 2015, after the booking of a person for any felony
1380 offense, as provided under Subsection 53-10-403(1)(d)(ii).
- 1381 (b) On and after May 13, 2014, through December 31, 2014, the responsible agency may
1382 cause a DNA specimen to be obtained and transferred to the Department of Public
1383 Safety after the booking of a person for any felony offense, as provided under
1384 Subsection 53-10-403(1)(d)(i).
- 1385 (c) If notified by the Department of Public Safety that a DNA specimen is not adequate
1386 for analysis, the agency shall, as soon as possible:
- 1387 (i) obtain and transmit an additional DNA specimen; or
1388 (ii) request that another agency that has direct access to the person and that is

- 1389 authorized to collect DNA specimens under this section collect the necessary
1390 second DNA specimen and transmit it to the Department of Public Safety.
- 1391 (d) Each agency that is responsible for collecting DNA specimens under this section
1392 shall establish:
- 1393 (i) a tracking procedure to record the handling and transfer of each DNA specimen it
1394 obtains; and
- 1395 (ii) a procedure to account for the management of all fees it collects under this
1396 section.
- 1397 (5)(a) The Department of Corrections is the responsible agency whenever the person is
1398 committed to the custody of or is under the supervision of the Department of
1399 Corrections.
- 1400 (b) If a minor described in Subsection 53-10-403(3) is not committed to the legal
1401 custody of the Division of Juvenile Justice and Youth Services upon an adjudication,
1402 the juvenile court is the responsible agency regarding the collection of a DNA
1403 specimen from the minor.
- 1404 (c) If a minor described in Subsection 53-10-403(3) is committed to the legal custody of
1405 the Division of Juvenile Justice and Youth Services upon an adjudication, the
1406 Division of Juvenile Justice and Youth Services is the responsible agency regarding
1407 the collection of a DNA specimen from the minor.
- 1408 (d) The sheriff operating a county jail is the responsible agency regarding the collection
1409 of DNA specimens from persons who:
- 1410 (i) have pled guilty to or have been convicted of an offense listed under Subsection
1411 53-10-403(2) but who have not been committed to the custody of or are not under
1412 the supervision of the Department of Corrections;
- 1413 (ii) are incarcerated in the county jail:
- 1414 (A) as a condition of probation for a felony offense; or
1415 (B) for a misdemeanor offense for which collection of a DNA specimen is
1416 required;
- 1417 (iii) on and after January 1, 2011, through May 12, 2014, are booked at the county
1418 jail for any offense under Subsection 53-10-403(1)(c); and
- 1419 (iv) are booked at the county jail:
- 1420 (A) by a law enforcement agency that is obtaining a DNA specimen for any felony
1421 offense on or after May 13, 2014, through December 31, 2014, under
1422 Subsection 53-10-404(4)(b); or

- 1423 (B) on or after January 1, 2015, for any felony offense.
- 1424 (e) Each agency required to collect a DNA specimen under this section shall:
- 1425 (i) designate employees to obtain the saliva DNA specimens required under this
- 1426 section; and
- 1427 (ii) ensure that employees designated to collect the DNA specimens receive
- 1428 appropriate training and that the specimens are obtained in accordance with
- 1429 generally accepted protocol.
- 1430 (6)(a) As used in this Subsection (6), "department" means the Department of Corrections.
- 1431 (b) Priority of obtaining DNA specimens by the department is:
- 1432 (i) first, to obtain DNA specimens of persons who as of July 1, 2002, are in the
- 1433 custody of or under the supervision of the department before these persons are
- 1434 released from incarceration, parole, or probation, if their release date is prior to
- 1435 that of persons under Subsection (6)(b)(ii), but in no case later than July 1, 2004;
- 1436 and
- 1437 (ii) second, the department shall obtain DNA specimens from persons who are
- 1438 committed to the custody of the department or who are placed under the
- 1439 supervision of the department after July 1, 2002, within 120 days after the
- 1440 commitment, if possible, but not later than prior to release from incarceration if
- 1441 the person is imprisoned, or prior to the termination of probation if the person is
- 1442 placed on probation.
- 1443 (c) The priority for obtaining DNA specimens from persons under Subsection (6)(b)(ii)
- 1444 is:
- 1445 (i) first, persons on probation;
- 1446 (ii) second, persons on parole; and
- 1447 (iii) third, incarcerated persons.
- 1448 (d) Implementation of the schedule of priority under Subsection (6)(c) is subject to the
- 1449 priority of Subsection (6)(b)(i), to ensure that the Department of Corrections obtains
- 1450 DNA specimens from persons in the custody of or under the supervision of the
- 1451 Department of Corrections as of July 1, 2002, prior to their release.
- 1452 (7)(a) As used in this Subsection (7):
- 1453 (i) "Court" means the juvenile court.
- 1454 (ii) "Division" means the Division of Juvenile Justice and Youth Services.
- 1455 (b) Priority of obtaining DNA specimens by the court from minors under Section
- 1456 53-10-403 whose cases are under the jurisdiction of the court but who are not in the

- 1457 legal custody of the division shall be:
- 1458 (i) first, to obtain specimens from minors whose cases, as of July 1, 2002, are under
 1459 the court's jurisdiction, before the court's jurisdiction over the minors' cases
 1460 terminates; and
- 1461 (ii) second, to obtain specimens from minors whose cases are under the jurisdiction
 1462 of the court after July 1, 2002, within 120 days of the minor's case being found to
 1463 be within the court's jurisdiction, if possible, but no later than before the court's
 1464 jurisdiction over the minor's case terminates.
- 1465 (c) Priority of obtaining DNA specimens by the division from minors under Section
 1466 53-10-403 who are committed to the legal custody of the division shall be:
- 1467 (i) first, to obtain specimens from minors who as of July 1, 2002, are within the
 1468 division's legal custody and who have not previously provided a DNA specimen
 1469 under this section, before termination of the division's legal custody of these
 1470 minors; and
- 1471 (ii) second, to obtain specimens from minors who are placed in the legal custody of
 1472 the division after July 1, 2002, within 120 days of the minor's being placed in the
 1473 custody of the division, if possible, but no later than before the termination of the
 1474 court's jurisdiction over the minor's case.
- 1475 (8)(a) The Department of Corrections, the juvenile court, the Division of Juvenile Justice
 1476 and Youth Services, and all law enforcement agencies in the state shall by policy
 1477 establish procedures for obtaining saliva DNA specimens, and shall provide training
 1478 for employees designated to collect saliva DNA specimens.
- 1479 (b)(i) The department may designate correctional officers, including those employed
 1480 by the adult probation and parole section of the department, to obtain the saliva
 1481 DNA specimens required under this section.
- 1482 (ii) The department shall ensure that the designated employees receive appropriate
 1483 training and that the specimens are obtained in accordance with accepted protocol.
- 1484 (c) Blood DNA specimens shall be obtained in accordance with Section 53-10-405.

1485 Section 15. Section **53-29-101** is enacted to read:

1486 **CHAPTER 29. SEX, KIDNAP, AND CHILD ABUSE OFFENDER REGISTRY**

1487 **Part 1. General Provisions**

1488 **53-29-101 . Definitions.**

1489 As used in this chapter:

- 1490 (1) "Bureau" means the Bureau of Criminal Identification of the Department of Public
1491 Safety established in Section 53-10-201.
- 1492 (2) "Certificate of eligibility" means the certificate issued by the bureau described in
1493 Section 53-29-207.
- 1494 (3) "Child abuse offender" means an individual who meets the requirements under
1495 Subsection 53-29-202(2)(a).
- 1496 (4)(a) "Convicted" means a plea or conviction of:
- 1497 (i) guilty;
- 1498 (ii) guilty with a mental illness; or
- 1499 (iii) no contest.
- 1500 (b) "Convicted" includes, except as provided in Subsection 53-29-202(4), the period a
1501 plea is held in abeyance pursuant to a plea in abeyance agreement as defined in
1502 Section 77-2a-1.
- 1503 (c) "Convicted" does not include:
- 1504 (i) a withdrawn or dismissed plea in abeyance;
- 1505 (ii) a diversion agreement; or
- 1506 (iii) an adjudication of a minor for an offense under Section 80-6-701.
- 1507 (5) "Division" means the Division of Juvenile Justice and Youth Services.
- 1508 (6) "Employed" means employment that is full time or part time, whether financially
1509 compensated, volunteered, or for the purpose of government or educational benefit.
- 1510 (7) "Kidnap offender" means an individual who meets the requirements under Subsection
1511 53-29-202(2)(c).
- 1512 (8) "Offender" means an individual who qualifies as a sex offender, a kidnap offender, or a
1513 child abuse offender as described in Section 53-29-202.
- 1514 (9)(a) "Online identifier" means any electronic mail, chat, instant messenger, social
1515 networking, or similar name used for Internet communication.
- 1516 (b) "Online identifier" does not include date of birth, social security number, PIN
1517 number, or Internet passwords.
- 1518 (10) "Primary residence" means the location where an offender regularly resides, even if the
1519 offender intends to move to another location or return to another location at a future date.
- 1520 (11) "Registrable offense" means an offense described in Subsection 53-29-202(1).
- 1521 (12) "Registration website" means the Sex, Kidnap, and Child Abuse Offender Notification
1522 and Registration website described in Section 53-29-404.
- 1523 (13) "Registry" means the Sex, Kidnap, and Child Abuse Offender Registry maintained by

- 1524 the department and created in Section 53-29-102 to monitor and track offenders.
 1525 (14) "Registry office" means the office within the department that manages the Sex,
 1526 Kidnap, and Child Abuse Offender Registry.
 1527 (15) "Sex offender" means an individual who meets the requirements under Subsection
 1528 53-29-202(2)(b).
 1529 (16) "Vehicle" means a motor vehicle, an aircraft, or a watercraft subject to registration in
 1530 any jurisdiction.

1531 Section 16. Section **53-29-102** is enacted to read:

1532 **53-29-102 . Sex, Kidnap, and Child Abuse Offender Registry -- Creation --**
 1533 **Purpose.**

- 1534 (1) The department, to assist law enforcement in investigating kidnapping and sex-related
 1535 crimes and in apprehending offenders, shall:
 1536 (a) develop and operate a system known as the Sex, Kidnap, and Child Abuse Offender
 1537 Registry to collect, analyze, maintain, and disseminate information on offenders and
 1538 registrable offenses; and
 1539 (b) make information listed in Subsection 53-29-404(3) available to the public.
 1540 (2) This chapter does not create or impose any duty on any individual to request or obtain
 1541 information regarding any offender from the department.

1542 Section 17. Section **53-29-201** is enacted to read:

1543 **Part 2. Registrable Offenses, Timelines for Registration, and Petitions for Removal**

1544 **53-29-201 . Definitions.**

1545 As used in this part:

- 1546 (1) "Court" means a state, federal, or military court.
 1547 (2) "External jurisdiction" means:
 1548 (a) a state of the United States not including Utah;
 1549 (b) the United States federal government;
 1550 (c) Indian country;
 1551 (d) a United States territory;
 1552 (e) the United States military; or
 1553 (f) Canada, Australia, New Zealand, or the United Kingdom.
 1554 (3) "Indian country" means:
 1555 (a) all land within the limits of an Indian reservation under the jurisdiction of the United
 1556 States government, regardless of the issuance of any patent, and includes
 1557 rights-of-way running through the reservation;

- 1558 (b) all dependent Indian communities within the borders of the United States whether
1559 within the original or subsequently acquired territory, and whether or not within the
1560 limits of a state; and
- 1561 (c) all Indian allotments, including the Indian allotments to which the Indian titles have
1562 not been extinguished, including rights-of-way running through the allotments.
- 1563 (4) "Natural parent" means a minor's biological or adoptive parent, including the minor's
1564 noncustodial parent.
- 1565 (5) "Traffic offense" does not include a violation of Title 41, Chapter 6a, Part 5, Driving
1566 Under the Influence and Reckless Driving.

1567 Section 18. Section **53-29-202** is enacted to read:

1568 **53-29-202 . Registrable offenses -- Status as a sex offender, kidnap offender, and**
1569 **child abuse offender established.**

- 1570 (1) An individual is an offender described in Subsection (2) and subject to the requirements,
1571 restrictions, and penalties described in this chapter if the individual:
- 1572 (a) has been convicted in this state of:
- 1573 (i) aggravated child abuse under Subsection 76-5-109.2(3)(a) or (b);
- 1574 (ii) a felony or class A misdemeanor violation of enticing a minor under Section
1575 76-4-401;
- 1576 (iii) sexual exploitation of a vulnerable adult under Section 76-5b-202;
- 1577 (iv) human trafficking for sexual exploitation under Section 76-5-308.1;
- 1578 (v) human trafficking of a child for sexual exploitation under Subsection
1579 76-5-308.5(4)(b);
- 1580 (vi) aggravated human trafficking for sexual exploitation under Section 76-5-310;
- 1581 (vii) human trafficking of a vulnerable adult for sexual exploitation under Section
1582 76-5-311;
- 1583 (viii) unlawful sexual activity with a minor under Section 76-5-401, except as
1584 provided in Subsection 76-5-401(3)(b) or (c);
- 1585 (ix) sexual abuse of a minor under Section 76-5-401.1, on the individual's first
1586 offense unless the individual was younger than 21 years old at the time of the
1587 offense then on the individual's second offense;
- 1588 (x) unlawful sexual conduct with a 16 or 17 year old under Section 76-5-401.2;
- 1589 (xi) rape under Section 76-5-402;
- 1590 (xii) rape of a child under Section 76-5-402.1;
- 1591 (xiii) object rape under Section 76-5-402.2;

- 1592 (xiv) object rape of a child under Section 76-5-402.3;
1593 (xv) a felony violation of forcible sodomy under Section 76-5-403;
1594 (xvi) sodomy on a child under Section 76-5-403.1;
1595 (xvii) forcible sexual abuse under Section 76-5-404;
1596 (xviii) sexual abuse of a child under Section 76-5-404.1;
1597 (xix) aggravated sexual abuse of a child under Section 76-5-404.3;
1598 (xx) aggravated sexual assault under Section 76-5-405;
1599 (xxi) custodial sexual relations under Section 76-5-412, if the victim in custody is
1600 younger than 18 years old and the offense is committed on or after May 10, 2011;
1601 (xxii) sexual exploitation of a minor under Section 76-5b-201;
1602 (xxiii) aggravated sexual exploitation of a minor under Section 76-5b-201.1;
1603 (xxiv) sexual extortion or aggravated sexual extortion under Section 76-5b-204;
1604 (xxv) incest under Section 76-7-102;
1605 (xxvi) lewdness under Section 76-9-702, if the individual has been convicted of the
1606 offense four or more times;
1607 (xxvii) sexual battery under Section 76-9-702.1, if the individual has been convicted
1608 of the offense four or more times;
1609 (xxviii) any combination of convictions of lewdness under Section 76-9-702, and of
1610 sexual battery under Section 76-9-702.1, that total four or more convictions;
1611 (xxix) lewdness involving a child under Section 76-9-702.5;
1612 (xxx) a felony or class A misdemeanor violation of voyeurism under Section
1613 76-9-702.7;
1614 (xxxi) aggravated exploitation of prostitution under Section 76-10-1306;
1615 (xxxii) kidnapping under Subsection 76-5-301(2)(c) or (d), if the offender was not the
1616 natural parent of the child victim;
1617 (xxxiii) child kidnapping under Section 76-5-301.1, if the offender was not the
1618 natural parent of the child victim;
1619 (xxxiv) aggravated kidnapping under Section 76-5-302, if the offender was not the
1620 natural parent of the child victim;
1621 (xxxv) human trafficking for labor under Section 76-5-308, if the offender was not
1622 the natural parent of the child victim;
1623 (xxxvi) human smuggling under Section 76-5-308.3, if the offender was not the
1624 natural parent of the child victim;
1625 (xxxvii) human trafficking of a child for labor under Subsection 76-5-308.5(4)(a), if

1626 the offender was not the natural parent of the child victim;
1627 (xxxviii) aggravated human trafficking for labor under Section 76-5-310, if the
1628 offender was not the natural parent of the child victim;
1629 (xxxix) aggravated human smuggling under Section 76-5-310.1, if the offender was
1630 not the natural parent of the child victim;
1631 (xl) human trafficking of a vulnerable adult for labor under Section 76-5-311, if the
1632 offender was not the natural parent of the child victim; or
1633 (xli) attempting, soliciting, or conspiring to commit a felony violation of an offense
1634 listed in Subsections (1)(a)(i) through (xl);
1635 (b)(i) has been convicted of a criminal offense, or an attempt, solicitation, or
1636 conspiracy to commit a criminal offense in an external jurisdiction that is
1637 substantially equivalent to the offense listed in Subsection (1)(a); and
1638 (ii)(A) is a Utah resident; or
1639 (B) is not a Utah resident and is in this state for a total of 10 days in a 12-month
1640 period, regardless of whether the individual intends to permanently reside in
1641 this state;
1642 (c)(i)(A) is required to register on a registry in an external jurisdiction for
1643 individuals who have committed an offense listed in Subsection (1)(a) or a
1644 substantially equivalent offense;
1645 (B) is ordered by a court to register on a registry for individuals who have
1646 committed an offense listed in Subsection (1)(a) or a substantially equivalent
1647 offense; or
1648 (C) would be required to register on a registry in an external jurisdiction for
1649 individuals who have committed an offense listed in Subsection (1)(a), or a
1650 substantially equivalent offense, if residing in the external jurisdiction of the
1651 conviction regardless of the date of the conviction or a previous registration
1652 requirement; and
1653 (ii) is in this state for a total of 10 days in a 12-month period, regardless of whether
1654 the individual intends to permanently reside in this state;
1655 (d)(i)(A) is a nonresident regularly employed or working in this state; or
1656 (B) who is a student in this state; and
1657 (ii)(A) is convicted of an offense listed in Subsection (1)(a) or a substantially
1658 equivalent offense in an external jurisdiction; or
1659 (B) is required to register on a sex, kidnap, and child abuse registry, or an

1660 equivalent registry, in the individual's state of residence based on a conviction
 1661 for an offense that is not substantially equivalent to an offense listed in
 1662 Subsection (1)(a);

1663 (e) is found not guilty by reason of insanity in this state or in an external jurisdiction of
 1664 an offense listed in Subsection (1)(a) or a substantially equivalent offense; or

1665 (f)(i) is adjudicated under Section 80-6-701 for one or more offenses listed in
 1666 Subsection (1)(a); and

1667 (ii) has been committed to the division for secure care, as defined in Section 80-1-102,
 1668 for that offense if:

1669 (A) the individual remains in the division's custody until 30 days before the
 1670 individual's 21st birthday;

1671 (B) the juvenile court extended the juvenile court's jurisdiction over the individual
 1672 under Section 80-6-605 and the individual remains in the division's custody
 1673 until 30 days before the individual's 25th birthday; or

1674 (C) the individual is moved from the division's custody to the custody of the
 1675 department before expiration of the division's jurisdiction over the individual.

1676 (2) Subject to Subsection (3), an individual is:

1677 (a) a child abuse offender if the individual:

1678 (i) has committed, attempted, solicited, or conspired to commit an offense described
 1679 in Subsection (1)(a)(i); or

1680 (ii) meets a requirement described in Subsections (1)(b) through (e) for an offense
 1681 described in Subsection (1)(a)(i) or a substantially equivalent offense;

1682 (b) a sex offender if the individual:

1683 (i) has committed, attempted, solicited, or conspired to commit an offense described
 1684 in Subsections (1)(a)(ii) through (xxxii); or

1685 (ii) meets a requirement described in Subsections (1)(b) through (e) for an offense
 1686 described in Subsections (1)(a)(ii) through (xxxii) or a substantially equivalent
 1687 offense; or

1688 (c) a kidnap offender if the individual:

1689 (i) has committed, attempted, solicited, or conspired to commit an offense described
 1690 in Subsections (1)(a)(xxxii) through (xl); or

1691 (ii) meets a requirement described in Subsections (1)(b) through (e) for an offense
 1692 described in Subsections (1)(a)(xxxii) through (xl) or a substantially equivalent
 1693 offense.

1694 (3) An individual who has committed a registrable offense described in Subsection
1695 (1)(d)(ii)(B) in an external jurisdiction that is not substantially equivalent to an offense
1696 described in Subsection (1)(a) and is required to register on a sex, kidnap, and child
1697 abuse registry, or an equivalent registry, in the individual's state of residence is a child
1698 abuse offender, sex offender, or kidnap offender based on the individual's status on the
1699 registry in the individual's state of residence.

1700 (4) Notwithstanding Subsection 53-29-101(4)(a), a plea of guilty or nolo contendere to a
1701 charge of sexual battery or lewdness that is held in abeyance under Title 77, Chapter 2a,
1702 Pleas in Abeyance, is the equivalent of a conviction even if the charge is subsequently
1703 reduced or dismissed in accordance with the plea in abeyance agreement.

1704 Section 19. Section **53-29-203** is enacted to read:

1705 **53-29-203 . Registration lengths -- 10 years -- Lifetime.**

1706 (1) Except as provided in Subsection (2), (3), or (4), an individual who commits a
1707 registrable offense is required to register on the registry for:

1708 (a) 10 years after the day on which the offender's sentence for the offense has been
1709 terminated if the registrable offense is for:

1710 (i) a felony or class A misdemeanor violation of enticing a minor under Section
1711 76-4-401, if the offender enticed the minor to engage in sexual activity that is one
1712 of the offenses described in Subsections (1)(a)(ii) through (xxiii);

1713 (ii) aggravated child abuse under Subsection 76-5-109.2(3)(a) or (b);

1714 (iii) kidnapping under Subsection 76-5-301(2)(c) or (d), if the offender was not the
1715 natural parent of the child victim;

1716 (iv) human trafficking for labor under Section 76-5-308, if the offender was not the
1717 natural parent of the child victim;

1718 (v) human smuggling under Section 76-5-308.3, if the offender was not the natural
1719 parent of the child victim;

1720 (vi) human trafficking of a child for labor under Subsection 76-5-308.5(4)(a), if the
1721 offender was not the natural parent of the child victim;

1722 (vii) aggravated human trafficking for labor under Section 76-5-310, if the offender
1723 was not the natural parent of the child victim;

1724 (viii) aggravated human smuggling under Section 76-5-310.1;

1725 (ix) human trafficking of a vulnerable adult for labor under Section 76-5-311;

1726 (x) a felony violation of unlawful sexual activity with a minor under Section 76-5-401;

1727 (xi) sexual abuse of a minor under Section 76-5-401.1;

- 1728 (xii) unlawful sexual conduct with a 16 or 17 year old under Section 76-5-401.2;
1729 (xiii) forcible sexual abuse under Section 76-5-404;
1730 (xiv) custodial sexual relations under Section 76-5-412;
1731 (xv) sexual exploitation of a vulnerable adult under Section 76-5b-202;
1732 (xvi) sexual extortion under Subsection 76-5b-204(2)(a);
1733 (xvii) incest under Section 76-7-102;
1734 (xviii) four or more convictions of lewdness under Section 76-9-702;
1735 (xix) four or more convictions of sexual battery under Section 76-9-702.1;
1736 (xx) any combination of convictions of lewdness under Section 76-9-702, and of
1737 sexual battery under Section 76-9-702.1, that total four or more convictions;
1738 (xxi) lewdness involving a child under Section 76-9-702.5;
1739 (xxii) a felony or class A misdemeanor violation of voyeurism under Section
1740 76-9-702.7;
1741 (xxiii) aggravated exploitation of prostitution under Section 76-10-1306, committed
1742 on or before May 9, 2011;
1743 (xxiv) attempting, soliciting, or conspiring to commit an offense listed in Subsections
1744 (1)(a)(i) through (xxiii) if the attempt, solicitation, or conspiracy is a registrable
1745 offense; or
1746 (xxv) attempting, soliciting, or conspiring to commit:
1747 (A) aggravated kidnapping under Section 76-5-302, if the offender was not the
1748 natural parent of the child victim;
1749 (B) human trafficking for sexual exploitation under Section 76-5-308.1, if the
1750 offender was not the natural parent of the child victim;
1751 (C) human trafficking of a child for sexual exploitation under Subsection
1752 76-5-308.5(4)(b), if the offender was not the natural parent of the child victim;
1753 (D) aggravated human trafficking for sexual exploitation under Section 76-5-310,
1754 if the offender was not the natural parent of the child victim;
1755 (E) human trafficking of a vulnerable adult for sexual exploitation under Section
1756 76-5-311, if the offender was not the natural parent of the child victim;
1757 (F) forcible sodomy under Section 76-5-403;
1758 (G) sexual abuse of a child under Section 76-5-404.1;
1759 (H) sexual exploitation of a minor under Section 76-5b-201;
1760 (I) aggravated sexual exploitation of a minor under Section 76-5b-201.1;
1761 (J) aggravated sexual extortion under Subsection 76-5b-204(2)(b); or

- 1762 (K) aggravated exploitation of prostitution under Section 76-10-1306, on or after
1763 May 10, 2011; or
- 1764 (b) the offender's lifetime if the registrable offense is:
- 1765 (i) a conviction for an offense described in Subsection (1)(a), if the offender has, at
1766 the time of conviction for the offense:
- 1767 (A) previously been convicted of an offense described in Subsection (1)(a), or a
1768 substantially equivalent offense in an external jurisdiction; or
- 1769 (B) previously been required to register as an offender for an offense described in
1770 Subsection (1)(a) committed as a juvenile;
- 1771 (ii) a following offense, including attempting, soliciting, or conspiring to commit a
1772 felony violation of:
- 1773 (A) child kidnapping under Section 76-5-301.1, if the offender was not the natural
1774 parent of the child victim;
- 1775 (B) rape under Section 76-5-402;
- 1776 (C) rape of a child under Section 76-5-402.1;
- 1777 (D) object rape under Section 76-5-402.2;
- 1778 (E) object rape of a child under Section 76-5-402.3;
- 1779 (F) sodomy on a child under Section 76-5-403.1;
- 1780 (G) aggravated sexual abuse of a child under Section 76-5-404.3; or
- 1781 (H) aggravated sexual assault under Section 76-5-405;
- 1782 (iii) aggravated kidnapping under Section 76-5-302, if the offender was not the
1783 natural parent of the child victim;
- 1784 (iv) human trafficking for sexual exploitation under Section 76-5-308.1, if the
1785 offender was not the natural parent of the child victim;
- 1786 (v) human trafficking of a child for sexual exploitation under Subsection
1787 76-5-308.5(4)(b), if the offender was not the natural parent of the child victim;
- 1788 (vi) aggravated human trafficking for sexual exploitation under Section 76-5-310, if
1789 the offender was not the natural parent of the child victim;
- 1790 (vii) human trafficking of a vulnerable adult for sexual exploitation under Section
1791 76-5-311, if the offender was not the natural parent of the child victim;
- 1792 (viii) forcible sodomy under Section 76-5-403;
- 1793 (ix) sexual abuse of a child under Section 76-5-404.1;
- 1794 (x) sexual exploitation of a minor under Section 76-5b-201;
- 1795 (xi) aggravated sexual exploitation of a minor under Section 76-5b-201.1;

1796 (xii) aggravated sexual extortion under Subsection 76-5b-204(2)(b);
 1797 (xiii) aggravated exploitation of prostitution under Section 76-10-1306, on or after
 1798 May 10, 2011; or
 1799 (xiv) a felony violation of enticing a minor under Section 76-4-401, if the offender
 1800 enticed the minor to engage in sexual activity that is one of the offenses described
 1801 in Subsections (1)(b)(ii) through (xiii).

1802 (2) An individual who qualifies as an offender based on a conviction in an external
 1803 jurisdiction for a registrable offense, or a substantially equivalent offense, and is on an
 1804 external jurisdiction's sex, kidnap, and child abuse registry, or an equivalent registry, is
 1805 required to register on the registry for the time period required by the external
 1806 jurisdiction.

1807 (3) If the sentencing court at any time after an offender is convicted of an offense requiring
 1808 lifetime registration described in Subsection (1)(b) determines that the offender was
 1809 under 21 years old at the time the offense was committed and the offense did not involve
 1810 force or coercion, the requirement that the offender register for the offender's lifetime
 1811 does not apply and the offender shall register for 10 years after the day on which the
 1812 offender's sentence for the offense has been terminated.

1813 (4) Except for an individual who is adjudicated for a registrable offense and is an offender
 1814 who meets the requirements under Subsection 53-29-202(1)(f), an individual who is
 1815 under 18 years old and commits a registrable offense after May 3, 2023, is not subject to
 1816 registration requirements under this chapter unless the offender:
 1817 (a) is charged by criminal information in juvenile court under Section 80-6-503;
 1818 (b) is bound over to district court in accordance with Section 80-6-504; and
 1819 (c) is convicted of a registrable offense.

1820 (5) An offender subject to the 10-year or lifetime registration requirements under
 1821 Subsection (1) may petition the court for an order of removal from the registry in
 1822 accordance with Section 53-29-204, 53-29-205, or 53-29-206.

1823 *The following section is affected by a coordination clause at the end of this bill.*

1824 Section 20. Section **53-29-204** is enacted to read:

1825 **53-29-204 . Five-year petition for removal from registry -- Eligibility.**

1826 (1) An offender who is required to register on the registry for a registrable offense
 1827 described in Subsection (2) that is subject to a 10-year registration period, as described
 1828 in Section 53-29-203, is eligible to petition the court under Section 53-29-207 for an
 1829 order of removal from the registry after five years after the day on which the offender's

- 1830 sentence for the offense has been terminated if:
- 1831 (a) the offense is the only offense for which the offender was required to register;
- 1832 (b) the offender has not been convicted of another offense, excluding a traffic offense,
- 1833 after the day on which the offender was convicted of the offense for which the
- 1834 offender is required to register, as evidenced by a certificate of eligibility issued by
- 1835 the bureau;
- 1836 (c) the offender successfully completed all treatment ordered by the court or the Board
- 1837 of Pardons and Parole relating to the offense; and
- 1838 (d) the offender has paid all restitution ordered by the court or the Board of Pardons and
- 1839 Parole relating to the offense.
- 1840 (2) The offenses that qualify for a five-year petition for an order of removal from the
- 1841 registry referenced in Subsection (1) are:
- 1842 (a) a class A misdemeanor violation of enticing a minor under Section 76-4-401;
- 1843 (b) kidnapping under Subsection 76-5-301(2)(c) or (d);
- 1844 (c) a felony violation of unlawful sexual activity with a minor under Section 76-5-401,
- 1845 if, at the time of the offense, the offender is not more than 10 years older than the
- 1846 victim;
- 1847 (d) sexual abuse of a minor under Section 76-5-401.1, if, at the time of the offense, the
- 1848 offender is not more than 10 years older than the victim;
- 1849 (e) unlawful sexual conduct with a 16 or 17 year old under Section 76-5-401.2, if at the
- 1850 time of the offense, the offender is not more than 15 years older than the victim;
- 1851 (f) a class A misdemeanor violation of voyeurism under Section 76-9-702.7;
- 1852 (g) attempting, soliciting, or conspiring to commit an offense listed in Subsections (2)(a)
- 1853 through (f) if the attempt, solicitation, or conspiracy is a registrable offense; and
- 1854 (h) an offense committed in an external jurisdiction that is not substantially equivalent to
- 1855 a registrable offense described in Subsection 53-29-202(1)(a).
- 1856 Section 21. Section **53-29-205** is enacted to read:
- 1857 **53-29-205 . Ten-year petition for removal from registry -- Eligibility.**
- 1858 (1) An offender who is required to register on the registry for a registrable offense
- 1859 described in Subsection (3) subject to a 10-year registration period as described in
- 1860 Section 53-29-203 is eligible to petition the court under Section 53-29-207 for an order
- 1861 of removal from the registry at a 10-year after entrance into the community period
- 1862 described in Subsection (2) if:
- 1863 (a) the offender has not been convicted of another offense that is a class A misdemeanor,

- 1864 felony, or capital felony within the most recent 10-year period after the date
1865 described in Subsection (2), as evidenced by a certificate of eligibility issued by the
1866 bureau;
- 1867 (b) the offender successfully completed all treatment ordered by the court or the Board
1868 of Pardons and Parole relating to the offense; and
- 1869 (c) the offender has paid all restitution ordered by the court or the Board of Pardons and
1870 Parole relating to the offense.
- 1871 (2) An offender who qualifies under Subsection (1) may petition the court under Section
1872 53-29-207 for an order of removal from the registry if 10 years have passed after the
1873 later of the following events in which the offender entered into the community:
- 1874 (a) the day on which the offender was placed on probation;
1875 (b) the day on which the offender was released from incarceration to parole;
1876 (c) the day on which the offender's sentence was terminated without parole;
1877 (d) the day on which the offender entered a community-based residential program; or
1878 (e) for a minor, as defined in Section 80-1-102, the day on which the division's custody
1879 of the offender was terminated.
- 1880 (3) The offenses that qualify for a 10-year petition for an order of removal from the registry
1881 referenced in Subsection (1) are:
- 1882 (a) a felony violation of enticing a minor under Section 76-4-401, if the offender enticed
1883 the minor to engage in sexual activity that is one of the offenses described in
1884 Subsections (3)(b) through (v);
- 1885 (b) aggravated child abuse under Subsection 76-5-109.2(3)(a) or (b);
1886 (c) human trafficking for labor under Section 76-5-308;
1887 (d) human smuggling under Section 76-5-308.3;
1888 (e) human trafficking of a child for labor under Subsection 76-5-308.5(4)(a);
1889 (f) aggravated human trafficking for labor under Section 76-5-310;
1890 (g) aggravated human smuggling under Section 76-5-310.1;
1891 (h) human trafficking of a vulnerable adult for labor under Section 76-5-311;
1892 (i) a felony violation of unlawful sexual activity with a minor under Section 76-5-401, if,
1893 at the time of the offense, the offender is more than 10 years older than the victim;
1894 (j) sexual abuse of a minor under Section 76-5-401.1, if, at the time of the offense, the
1895 offender is more than 10 years older than the victim;
1896 (k) unlawful sexual conduct with a 16 or 17 year old under Section 76-5-401.2, if, at the
1897 time of the offense, the offender is more than 15 years older than the victim;

- 1898 (l) forcible sexual abuse under Section 76-5-404;
- 1899 (m) custodial sexual relations under Section 76-5-412, if the victim in custody is
1900 younger than 18 years old and the offense is committed on or after May 10, 2011;
- 1901 (n) sexual exploitation of a vulnerable adult under Section 76-5b-202;
- 1902 (o) sexual extortion under Subsection 76-5b-204(2)(a);
- 1903 (p) incest under Section 76-7-102;
- 1904 (q) four or more convictions of lewdness under Section 76-9-702;
- 1905 (r) four or more convictions of sexual battery under Section 76-9-702.1;
- 1906 (s) any combination of convictions of lewdness under Section 76-9-702, and of sexual
1907 battery under Section 76-9-702.1, that total four or more convictions;
- 1908 (t) lewdness involving a child under Section 76-9-702.5;
- 1909 (u) a felony violation of voyeurism under Section 76-9-702.7;
- 1910 (v) aggravated exploitation of prostitution under Section 76-10-1306, committed on or
1911 before May 9, 2011;
- 1912 (w) attempting, soliciting, or conspiring to commit an offense listed in Subsections (3)(a)
1913 through (v) if the attempt, solicitation, or conspiracy is a registrable offense;
- 1914 (x) attempting, soliciting, or conspiring to commit:
- 1915 (i) human trafficking for sexual exploitation under Section 76-5-308.1;
- 1916 (ii) human trafficking of a child for sexual exploitation under Subsection
1917 76-5-308.5(4)(b);
- 1918 (iii) aggravated human trafficking for sexual exploitation under Section 76-5-310;
- 1919 (iv) human trafficking of a vulnerable adult for sexual exploitation under Section
1920 76-5-311;
- 1921 (v) aggravated kidnapping under Section 76-5-302, except if the offender is a natural
1922 parent of the victim;
- 1923 (vi) forcible sodomy under Section 76-5-403;
- 1924 (vii) sexual abuse of a child under Section 76-5-404.1;
- 1925 (viii) sexual exploitation of a minor under Section 76-5b-201;
- 1926 (ix) aggravated sexual exploitation of a minor under Section 76-5b-201.1;
- 1927 (x) aggravated sexual extortion under Subsection 76-5b-204(2)(b); or
- 1928 (xi) aggravated exploitation of prostitution under Section 76-10-1306, on or after
1929 May 10, 2011; or
- 1930 (y) an offense described in Subsection 53-29-203(1)(b) that would otherwise be subject
1931 to a 20-year petition for removal as described in Section 53-29-206, if:

- 1932 (i) the sentencing court determines that the offender was under 21 years old at the
 1933 time the offense was committed; and
 1934 (ii) the offense did not involve force or coercion as described in Subsection
 1935 53-29-203(3).
- 1936 (4) An individual who is as an offender under Section 53-29-202 based on a conviction in
 1937 an external jurisdiction for a registrable offense, or a substantially equivalent offense,
 1938 and is required to register on the external jurisdiction's sex, kidnap, or child abuse
 1939 offender registry, or an equivalent registry, may petition for removal from the registry in
 1940 accordance with the requirements of this section if the individual:
- 1941 (a) does not have a lifetime registration requirement on the external jurisdiction's sex,
 1942 kidnap, or child abuse offender registry, or an equivalent registry;
 1943 (b) meets the requirements described in Subsections (1)(a) through (c);
 1944 (c) has resided in this state for at least 183 days in a year for two consecutive years; and
 1945 (d) intends to primarily reside in this state.

1946 Section 22. Section **53-29-206** is enacted to read:

1947 **53-29-206 . Twenty-year petition for removal from registry -- Eligibility.**

- 1948 (1) An offender who is required to register on the registry for a registrable offense subject
 1949 to a lifetime registration period described in Subsection 53-29-203(1)(b) is eligible to
 1950 petition the court under Section 53-29-207 for an order of removal from the registry at a
 1951 20-year entrance into the community period described in Subsection (2) if:
- 1952 (a) the offender has not been convicted of another offense that is a class A misdemeanor,
 1953 felony, or capital felony within the most recent 20-year period after the date
 1954 described in Subsection (2), as evidenced by a certificate of eligibility issued by the
 1955 bureau;
- 1956 (b) the offender successfully completed all treatment ordered by the court or the Board
 1957 of Pardons and Parole relating to the offense;
- 1958 (c) the offender has paid all restitution ordered by the court or the Board of Pardons and
 1959 Parole relating to the offense; and
- 1960 (d) the offender submits to an evidence-based risk assessment that:
- 1961 (i) meets the standards for the current risk assessment, score, and risk level required
 1962 by the Board of Pardons and Parole for parole termination requests;
- 1963 (ii) is completed within the six months before the date on which the petition is filed;
 1964 and
- 1965 (iii) describes the evidence-based risk assessment of the current level of risk to the

- 1966 safety of the public posed by the offender.
- 1967 (2) An offender who qualifies under Subsection (1) may petition the court under Section
- 1968 53-29-207 for an order of removal from the registry if 20 years have passed after the
- 1969 later of the following events in which the offender has entered into the community:
- 1970 (a) the day on which the offender was placed on probation;
- 1971 (b) the day on which the offender was released from incarceration to parole;
- 1972 (c) the day on which the offender's sentence was terminated without parole;
- 1973 (d) the day on which the offender entered a community-based residential program; or
- 1974 (e) for a minor, as defined in Section 80-1-102, the day on which the division's custody
- 1975 of the offender was terminated.
- 1976 (3) An individual who is as an offender under Section 53-29-202 based on a conviction in
- 1977 an external jurisdiction for a registrable offense or a substantially equivalent offense,
- 1978 and is required to register on the external jurisdiction's sex, kidnap, or child abuse
- 1979 offender registry, or an equivalent registry, may petition for removal from the registry in
- 1980 accordance with the requirements of this section if the individual:
- 1981 (a) is required to register on the external jurisdiction's sex, kidnap, or child abuse
- 1982 offender registry, or an equivalent registry, for the individual's lifetime;
- 1983 (b) meets the requirements described in Subsections (1)(a) through (d);
- 1984 (c) has resided in this state for at least 183 days in a year for two consecutive years; and
- 1985 (d) intends to primarily reside in this state.

1986 Section 23. Section **53-29-207** is enacted to read:

1987 **53-29-207 . Process to petition for removal from registry -- Offender, bureau,**

1988 **court, and prosecutor responsibilities.**

- 1989 (1) Before an offender who is eligible to petition for an order of removal from the registry
- 1990 as described in Section 53-29-204, 53-29-205, or 53-29-206 may file a petition with the
- 1991 court for an order of removal from the registry, the offender shall apply to the bureau for
- 1992 a certificate of eligibility for removal from the registry that states that the offender has
- 1993 met certain qualifications for removal.
- 1994 (2) After the bureau receives an offender's application for a certificate of eligibility for
- 1995 removal from the registry, the bureau shall:
- 1996 (a) perform a check of records of governmental agencies, including national criminal
- 1997 databases, to determine whether an offender meets the requirements described in:
- 1998 (i) Subsection 53-29-204(1), if the offender is seeking a five-year petition for
- 1999 removal;

- 2000 (ii) Subsections 53-29-205(1) and (2), if the offender is seeking a 10-year petition for
2001 removal; or
- 2002 (iii) Subsections 53-29-206(1) and (2), if the offender is seeking a 20-year petition
2003 for removal; and
- 2004 (b) if the bureau determines that the offender meets the requirements described in
2005 Subsection (2)(a), issue a certificate of eligibility for removal from the registry to the
2006 offender, which is valid for 90 days after the day on which the bureau issues the
2007 certificate.
- 2008 (3)(a) After an offender has received the certificate of eligibility for removal from the
2009 registry described in Subsection (2), the offender may petition the court for an order
2010 of removal from the registry, and shall include in the petition:
- 2011 (i) the original information or indictment regarding the registrable offense that the
2012 offender committed;
- 2013 (ii) the court docket; and
- 2014 (iii) the certificate of eligibility for removal from the registry.
- 2015 (b) An offender who files a petition with the court as described in Subsection (3)(a) shall
2016 provide a copy of the petition to the prosecutor.
- 2017 (4) A prosecutor, upon receipt of the petition described in Subsection (3), shall:
- 2018 (a) provide notice of the petition by first-class mail to the victim at the most recent
2019 address of record on file or, if the victim is still a minor under 18 years old, to the
2020 parent or guardian of the victim, that includes:
- 2021 (i) a copy of the petition;
- 2022 (ii) an explanation that the victim has a right to object to the removal of the offender
2023 from the registry or make other recommendations to the court; and
- 2024 (iii) instructions for how the victim can file an objection or recommendation with the
2025 court; and
- 2026 (b) provide the following, if available, to the court within 30 days after the day on which
2027 the prosecutor receives the petition:
- 2028 (i) the presentencing report created for the offender based on the registrable offense
2029 committed by the offender;
- 2030 (ii) any evaluation done as part of sentencing for the registrable offense; and
- 2031 (iii) other information the prosecutor determines the court should consider.
- 2032 (5) A victim, or the victim's parent or guardian if the victim is a minor under 18 years old,
2033 may respond to a petition described in Subsection (3) by filing a recommendation or

2034 objection with the court within 45 days after the day on which the petition is mailed to
2035 the victim.

2036 (6)(a) A court receiving a petition under this section shall:

2037 (i) review the petition and all documents submitted with the petition; and

2038 (ii) hold a hearing if requested by the prosecutor or the victim.

2039 (b)(i) Except as provided in Subsection (6)(b)(ii) or (iii), the court may grant the
2040 petition for removal and order the removal of the offender from the registry if the
2041 court determines that the offender has met the requirements for issuance of a
2042 certificate of eligibility for removal issued under Subsection (2) and removal is
2043 not contrary to the interests of the public.

2044 (ii) When considering a petition filed by an offender subject to a lifetime registration
2045 requirement and eligible for a 20-year petition for removal from the registry as
2046 described in Section 53-29-206, the court shall determine whether the offender has
2047 demonstrated, by clear and convincing evidence, that the offender is rehabilitated
2048 and does not pose a threat to the safety of the public.

2049 (iii) In making the determination described in Subsection (6)(b)(ii), the court may
2050 consider:

2051 (A) the nature and degree of violence involved in the registrable offense;

2052 (B) the age and number of victims of the registrable offense;

2053 (C) the age of the offender at the time the registrable offense was committed;

2054 (D) the offender's performance while on supervision for the registrable offense;

2055 (E) the offender's stability in employment and housing;

2056 (F) the offender's community and personal support system;

2057 (G) other criminal and relevant noncriminal behavior of the offender both before
2058 and after the offender committed the registrable offense;

2059 (H) if applicable, the level of risk posed by the offender as evidenced by the
2060 evidence-based risk assessment described in Subsection 53-29-206(1)(d); and

2061 (I) any other relevant factors.

2062 (c) In determining whether removal from the registry is contrary to the interests of the
2063 public, the court may not consider removal unless the offender has substantially
2064 complied with all registration requirements under this chapter at all times.

2065 (d) If the court grants the petition, the court shall forward a copy of the order directing
2066 removal of the offender from the registry to the department and the office of the
2067 prosecutor.

- 2068 (e)(i) Except as provided in Subsection (6)(e)(ii), if the court denies the petition, the
 2069 offender may not submit another petition for three years after the day on which the
 2070 court denied the petition.
- 2071 (ii) If the offender is an offender subject to a lifetime registration requirement and
 2072 eligible for a 20-year petition for removal from the registry as described in Section
 2073 53-29-206 and files a petition for removal that is denied by the court, the offender
 2074 may not submit another petition for eight years after the day on which the court
 2075 denied the petition.
- 2076 (f) The court shall notify the victim and the registry office of the court's decision under
 2077 this Subsection (6) within three days after the day on which the court issues the
 2078 court's decision.
- 2079 (7)(a) An offender who intentionally or knowingly provides false or misleading
 2080 information to the bureau when applying for a certificate of eligibility under this
 2081 section is guilty of a class B misdemeanor and subject to prosecution under Section
 2082 76-8-504.6.
- 2083 (b) The bureau may, even if the offender is not prosecuted for providing the false or
 2084 misleading information, deny a certificate of eligibility to an offender who provides
 2085 false or misleading information on an application.
- 2086 (8)(a)(i) The bureau shall charge application and issuance fees for a certificate of
 2087 eligibility for removal from the registry under this section in accordance with the
 2088 process in Section 63J-1-504.
- 2089 (ii) The application fee shall be paid at the time the offender submits an application to
 2090 the bureau for a certificate of eligibility for removal from the registry.
- 2091 (iii) If the bureau determines that the issuance of a certificate of eligibility for
 2092 removal from the registry is appropriate, the offender will be charged an
 2093 additional fee for the issuance of the certificate.
- 2094 (b) Funds generated under this Subsection (8) shall be deposited into the General Fund
 2095 as a dedicated credit by the department to cover the costs incurred in determining
 2096 eligibility.

2097 Section 24. Section **53-29-301** is enacted to read:

2098 **Part 3. Offender, Court, and Law Enforcement Responsibilities**

2099 **53-29-301 . Definitions.**

2100 As used in this part:

- 2101 (1) "Business day" means a day on which state offices are open for regular business.

- 2102 (2) "Correctional facility" means:
2103 (a) a county jail;
2104 (b) a secure correctional facility as defined by Section 64-13-1; or
2105 (c) a secure care facility as defined in Section 80-1-102.
2106 (3) "Secondary residence" means real property that an offender owns or has a financial
2107 interest in, or a location where the offender stays overnight a total of 10 or more nights
2108 in a 12-month period when not staying at the offender's primary residence.

2109 Section 25. Section **53-29-302** is enacted to read:

2110 **53-29-302 . Law enforcement and agency responsibilities related to the registry.**

- 2111 (1) A law enforcement agency shall, in the manner prescribed by the department, inform
2112 the department of:
2113 (a) the receipt of a report or complaint of a registrable offense, within three business
2114 days after the day on which the law enforcement agency received the report or
2115 complaint; and
2116 (b) the arrest of an individual suspected of a registrable offense, within five business
2117 days after the day on which the law enforcement agency arrested the individual.
2118 (2) The Department of Corrections shall register an offender in the custody of the
2119 Department of Corrections with the department upon:
2120 (a) placement on probation;
2121 (b) commitment to a secure correctional facility operated by or under contract with the
2122 Department of Corrections;
2123 (c) release from confinement to parole status, termination or expiration of sentence, or
2124 escape;
2125 (d) entrance to and release from any community-based residential program operated by
2126 or under contract with the Department of Corrections; or
2127 (e) termination of probation or parole.
2128 (3) The sheriff of the county in which an offender is confined shall register an offender with
2129 the department, as required under this chapter, if the offender is not in the custody of the
2130 Department of Corrections and is confined in a correctional facility not operated by or
2131 under contract with the Department of Corrections upon:
2132 (a) commitment to the correctional facility; and
2133 (b) release from confinement.
2134 (4)(a) Except as provided in Subsection (4)(b), if an offender is sent on an assignment
2135 outside a secure facility, including being assigned for firefighting or disaster control,

- 2136 the official who has physical custody of the offender shall, within a reasonable time
2137 after the day of the offender's removal from the secure facility, notify the local law
2138 enforcement agencies where the offender is assigned.
- 2139 (b) Subsection (4)(a) does not apply to an offender temporarily released from a secure
2140 facility setting who is under the supervision of a correctional facility official.
- 2141 (5) The division shall register an offender in the custody of the division with the
2142 department, as required under this chapter, before the offender's release from custody of
2143 the division.
- 2144 (6) A state mental hospital shall register an offender committed to the state mental hospital
2145 with the department, as required under this chapter, upon the offender's admission and
2146 upon the offender's discharge.
- 2147 (7)(a) A municipal or county law enforcement agency shall register an offender who
2148 resides within the agency's jurisdiction and is not under the supervision of the
2149 Division of Adult Probation and Parole within the Department of Corrections.
- 2150 (b) A municipal or county law enforcement agency may conduct offender registration
2151 under this chapter, if the agency ensures that the agency's staff responsible for
2152 registration:
- 2153 (i) have received initial training by the department and have been certified by the
2154 department as qualified and authorized to conduct registrations and enter offender
2155 registration information into the registry database; and
- 2156 (ii) annually certifies with the department.
- 2157 (8) An agency in the state that registers with the department an offender on probation, an
2158 offender who has been released from confinement to parole status or termination, or an
2159 offender whose sentence has expired, shall inform the offender of the duty to comply
2160 with the continuing registration requirements of this chapter during the period of
2161 registration required in Section 53-29-203, including:
- 2162 (a) notification to the state agencies in the states where the registrant presently resides
2163 and plans to reside when moving across state lines;
- 2164 (b) verification of address at least every 60 days pursuant to a parole agreement for
2165 lifetime parolees; and
- 2166 (c) notification to the out-of-state agency where the offender is living, regardless of
2167 whether the offender is a resident of that state.
- 2168 Section 26. Section **53-29-303** is enacted to read:
- 2169 **53-29-303 . Court responsibilities related to the registry.**

- 2170 (1) The court shall, after an offender is convicted of a registrable offense, within three
2171 business days after the day on which the conviction is entered, forward a signed copy of
2172 the judgment and sentence to the registry office.
- 2173 (2) Upon modifying, withdrawing, setting aside, vacating, or otherwise altering a
2174 conviction for a registrable offense, the court shall, within three business days, forward a
2175 signed copy of the order to the registry office.
- 2176 (3)(a) An offender may change the offender's name in accordance with Title 42, Chapter
2177 1, Change of Name, if the name change is not contrary to the interests of the public.
- 2178 (b) Notwithstanding Section 42-1-2, an offender shall provide notice to the department
2179 at least 30 days before the day on which the hearing for the name change is held.
- 2180 (c) The court shall provide a copy of the order granting the offender's name change to
2181 the department within 10 days after the day on which the court issues the order.
- 2182 (d) If the court orders an offender's name to be changed, the department shall publish on
2183 the registration website the offender's former name and the offender's changed name
2184 as an alias.
- 2185 (4) Notwithstanding Title 63G, Chapter 2, Government Records Access and Management
2186 Act, information under Subsection (2) that is collected and released under Subsection
2187 53-29-404(3)(a) is public information, unless otherwise restricted under this chapter.
- 2188 (5) The department shall redact information regarding the identity or location of a victim
2189 from information provided under Subsection (2).

2190 Section 27. Section **53-29-304** is enacted to read:

2191 **53-29-304 . Offender responsibilities related to the registry.**

- 2192 (1) An offender shall:
- 2193 (a) if the offender is on probation or parole under the supervision of the Department of
2194 Corrections, register in person with the Division of Adult Probation and Parole; or
- 2195 (b) if the offender is not on probation or parole under the supervision of the Department
2196 of Corrections, register in person with the police department or sheriff's office that
2197 has jurisdiction over the area where the offender resides.
- 2198 (2) An offender registering under Subsection (1) shall register for the duration of the
2199 offender's applicable registration period described in Section 53-29-203:
- 2200 (a) each year during the month of the offender's date of birth;
- 2201 (b) during the month that is the sixth month after the offender's birth month; and
- 2202 (c) within three business days after the day on which there is a change of the offender's
2203 primary residence, any secondary residences, place of employment, vehicle

- 2204 information, or educational information described in Subsection (4).
- 2205 (3) An offender who enters this state from another jurisdiction is required to register with
- 2206 the department within 10 days after the day on which the offender enters the state,
- 2207 regardless of the offender's length of stay.
- 2208 (4)(a) When registering under Subsection (1), an offender shall provide the following
- 2209 information:
- 2210 (i) all names and aliases by which the offender is or has been known;
- 2211 (ii) the addresses of the offender's primary and secondary residences;
- 2212 (iii) a physical description, including the offender's date of birth, height, weight, eye
- 2213 color, and hair color;
- 2214 (iv) the make, model, color, year, plate number, and vehicle identification number of
- 2215 a vehicle or vehicles the offender owns or drives more than 12 times per year;
- 2216 (v) a current photograph of the offender;
- 2217 (vi) a set of fingerprints, if a set has not already been provided;
- 2218 (vii) a DNA specimen, taken in accordance with Section 53-10-404, if a set has not
- 2219 already been provided;
- 2220 (viii) telephone numbers and any other designations used by the offender for routing
- 2221 or self-identification in telephonic communications from fixed locations or
- 2222 cellular telephones;
- 2223 (ix) online identifiers and the addresses the offender uses for routing or
- 2224 self-identification in Internet communications or postings;
- 2225 (x) the name and Internet address of all websites on which the offender is registered
- 2226 using an online identifier, including all online identifiers used to access those
- 2227 websites;
- 2228 (xi) a copy of the offender's passport, if a passport has been issued to the offender;
- 2229 (xii) if the offender is an alien, all documents establishing the offender's immigration
- 2230 status;
- 2231 (xiii) all professional licenses that authorize the offender to engage in an occupation
- 2232 or carry out a trade or business, including any identifiers, such as numbers;
- 2233 (xiv) each educational institution in Utah at which the offender is employed or is a
- 2234 student, and a change of enrollment or employment status of the offender at an
- 2235 educational institution;
- 2236 (xv) the name, the telephone number, and the address of a place where the offender is
- 2237 employed or will be employed;

- 2238 (xvi) the name, the telephone number, and the address of a place where the offender
2239 works as a volunteer or will work as a volunteer; and
- 2240 (xvii) the offender's social security number.
- 2241 (b) The department shall redact information regarding the identity or location of a victim
2242 from information provided under Subsection (4)(a).
- 2243 (5) Notwithstanding Subsections (4)(a)(ix) and (x) and 53-29-404(7), an offender is not
2244 required to provide the department with:
- 2245 (a) the offender's online identifier and password used exclusively for the offender's
2246 employment on equipment provided by an employer and used to access the
2247 employer's private network; or
- 2248 (b) online identifiers for the offender's financial accounts, including a bank, retirement,
2249 or investment account.
- 2250 (6) Notwithstanding Title 77, Chapter 40a, Expungement of Criminal Records, an offender
2251 convicted of a registrable offense is required to register in accordance with this section
2252 unless the offender is removed from the registry under Section 53-29-207.
- 2253 (7) Except as provided in Subsection 53-29-404(7), in the case of an offender adjudicated in
2254 another jurisdiction as a juvenile and required to register under this chapter, the offender
2255 shall register in the time period and in the frequency consistent with the requirements of
2256 Subsection (3).
- 2257 (8)(a) An offender required to register on the registry shall, in the month of the
2258 offender's birth:
- 2259 (i) pay to the department an annual fee of \$100 each year the offender is subject to
2260 the registration requirements of this chapter; and
- 2261 (ii) pay to the registering agency, if the registering agency is an agency other than the
2262 department, an annual fee of not more than \$25, which may be assessed by that
2263 agency for providing registration.
- 2264 (b) Notwithstanding Subsection (8)(a), an offender who is confined in a secure facility
2265 or in a state mental hospital is not required to pay the annual fee.
- 2266 (c) The department shall deposit fees collected in accordance with this chapter into the
2267 General Fund as a dedicated credit, to be used by the department for maintaining the
2268 offender registry under this chapter and monitoring offender registration compliance,
2269 including the costs of:
- 2270 (i) data entry;
- 2271 (ii) processing registration packets;

- 2272 (iii) updating registry information; and
 2273 (iv) reporting an offender not in compliance with registration requirements to a law
 2274 enforcement agency.

2275 Section 28. Section **53-29-305** is enacted to read:

2276 **53-29-305 . Failing to register or providing false or incomplete information --**

2277 **Penalties.**

- 2278 (1) An offender who knowingly fails to register under this chapter or provides false or
 2279 incomplete information is guilty of:
 2280 (a) a third degree felony and shall be sentenced to serve a term of incarceration of not
 2281 less than 30 days and also at least one year of probation if:
 2282 (i) the offender is required to register for a registrable offense that is a felony or
 2283 adjudicated delinquent for a registrable offense committed before May 3, 2023,
 2284 that would be a felony if the juvenile were an adult; or
 2285 (ii) the offender is required to register for the offender's lifetime as described in
 2286 Subsection 53-29-203(1)(b); or
 2287 (b) a class A misdemeanor and shall be sentenced to serve a term of incarceration of not
 2288 less than 30 days and also at least one year of probation if the offender is required to
 2289 register for a misdemeanor conviction that is a registrable offense or is adjudicated
 2290 delinquent for a registrable offense committed before May 3, 2023, that would be a
 2291 misdemeanor if the juvenile were an adult.
 2292 (2)(a) The court or Board of Pardons and Parole may not release an individual who
 2293 violates this chapter from serving the term required under Subsection (1).
 2294 (b) This Subsection (2) supersedes any other provision of the law contrary to this chapter.
 2295 (3) The offender shall register for an additional year for every year in which the offender
 2296 does not comply with the registration requirements of this chapter.

2297 Section 29. Section **53-29-306**, which is renumbered from Section 77-27-21.7 is renumbered
 2298 and amended to read:

2299 **[77-27-21.7] 53-29-306 . Sex offender restrictions.**

- 2300 (1) As used in this section:
 2301 (a) "Condominium project" means the same as that term is defined in Section 57-8-3.
 2302 (b) "Minor" means an individual who is younger than 18 years old[;] .
 2303 (c)(i) "Protected area" means the premises occupied by:
 2304 (A) a licensed day care or preschool facility;
 2305 (B) a public swimming pool or a swimming pool maintained, operated, or owned

- 2306 by a homeowners' association, condominium project, or apartment complex;
2307 (C) a public or private primary or secondary school that is not on the grounds of a
2308 correctional facility;
- 2309 (D) a community park that is open to the public or a park maintained, operated, or
2310 owned by a homeowners' association, condominium project, or apartment
2311 complex;
- 2312 (E) a public playground or a playground maintained, operated, or owned by a
2313 homeowners' association, condominium project, or apartment complex,
2314 including those areas designed to provide minors with space, recreational
2315 equipment, or other amenities intended to allow minors to engage in physical
2316 activity; and
- 2317 (F) except as provided in Subsection (1)(c)(ii), an area that is 1,000 feet or less
2318 from the residence of a victim of the sex offender if the sex offender is subject
2319 to a victim requested restriction.
- 2320 (ii) "Protected area" does not include:
- 2321 (A) the area described in Subsection (1)(c)(i)(F) if the victim is a member of the
2322 immediate family of the sex offender and the terms of the sex offender's
2323 agreement of probation or parole allow the sex offender to reside in the same
2324 residence as the victim;
- 2325 (B) a park, playground, or swimming pool located on the property of a residential
2326 home;
- 2327 (C) a park or swimming pool that prohibits minors at all times from using the park
2328 or swimming pool; or
- 2329 (D) a park or swimming pool maintained, operated, or owned by a homeowners'
2330 association, condominium project, or apartment complex established for
2331 residents 55 years old or older if no minors are present at the park or swimming
2332 pool at the time the sex offender is present at the park or swimming pool.
- 2333 [~~(d) "Sex offender" means an adult or juvenile who is required to register in accordance
2334 with Title 77, Chapter 41, Sex, Kidnap, and Child Abuse Offender Registry, due to a
2335 conviction for an offense that is committed against a person younger than 18 years
2336 old.]~~
- 2337 (2) For purposes of Subsection (1)(c)(i)(F), a sex offender who has committed a registrable
2338 offense against an individual younger than 18 years old is subject to a victim requested
2339 restriction if:

- 2340 (a) the sex offender is on probation or parole for an offense that requires the offender to
 2341 register in accordance with [~~Title 77, Chapter 41, Sex, Kidnap, and Child Abuse~~
 2342 ~~Offender Registry~~] this chapter;
- 2343 (b) the victim or the victim's parent or guardian advises the [~~Department of Public Safety~~]
 2344 department that the victim elects to restrict the sex offender from the area and
 2345 authorizes the [~~Department of Public Safety~~] department to advise the sex offender of
 2346 the area where the victim resides; and
- 2347 (c) the [~~Department of Public Safety~~] department notifies the sex offender in writing that
 2348 the sex offender is prohibited from being in the area described in Subsection
 2349 (1)(c)(i)(F) and provides a description of the location of the protected area to the sex
 2350 offender.
- 2351 (3) A sex offender who has committed a registrable offense against an individual younger
 2352 than 18 years old may not:
- 2353 (a) be in a protected area except:
- 2354 (i) when the sex offender must be in a protected area to perform the sex offender's
 2355 parental responsibilities;
- 2356 (ii)(A) when the protected area is a public or private primary or secondary school;
 2357 and
- 2358 (B) the school is open and being used for a public activity other than a
 2359 school-related function that involves a minor; or
- 2360 (iii)(A) if the protected area is a licensed day care or preschool facility located
 2361 within a building that is open to the public for purposes other than the
 2362 operation of the day care or preschool facility; and
- 2363 (B) the sex offender does not enter a part of the building that is occupied by the
 2364 day care or preschool facility; or
- 2365 (b) serve as an athletic coach, manager, or trainer for a sports team of which a minor
 2366 who is younger than 18 years old is a member.
- 2367 (4) A sex offender who violates this section is guilty of:
- 2368 (a) a class A misdemeanor; or
- 2369 (b) if previously convicted of violating this section within the last ten years, a third
 2370 degree felony.

2371 Section 30. Section **53-29-307**, which is renumbered from Section 77-27-21.8 is renumbered
 2372 and amended to read:

2373 **[~~77-27-21.8~~] 53-29-307 . Sex offender in presence of a child -- Definitions --**

- 2374 **Penalties.**
- 2375 (1) As used in this section:
- 2376 (a) "Accompany" means:
- 2377 (i) to be in the presence of an individual; and
- 2378 (ii) to move or travel with that individual from one location to another, whether
- 2379 outdoors, indoors, or in or on any type of vehicle.
- 2380 (b) "Child" means an individual younger than 14 years [~~of age~~] old.
- 2381 (2) A sex offender subject to registration in accordance with [~~Title 77, Chapter 41, Sex,~~
- 2382 ~~Kidnap, and Child Abuse Offender Registry~~] this chapter, for [~~an~~] a registrable offense
- 2383 committed or attempted to be committed against a child younger than 14 years [~~of age~~]
- 2384 old is guilty of a class A misdemeanor if the sex offender requests, invites, or solicits a
- 2385 child to accompany the sex offender, under circumstances that do not constitute an
- 2386 attempt to violate Section 76-5-301.1, child kidnapping, unless:
- 2387 (a)(i) the sex offender, prior to accompanying the child:
- 2388 (A) verbally advises the child's parent or legal guardian that the sex offender is on
- 2389 the state sex offender registry and is required by state law to obtain written
- 2390 permission in order for the sex offender to accompany the child; and
- 2391 (B) requests that the child's parent or legal guardian provide written authorization
- 2392 for the sex offender to accompany the child, including the specific dates and
- 2393 locations;
- 2394 (ii) the child's parent or legal guardian has provided to the sex offender written
- 2395 authorization, including the specific dates and locations, for the sex offender to
- 2396 accompany the child; and
- 2397 (iii) the sex offender has possession of the written authorization and is accompanying
- 2398 the child only at the dates and locations specified in the authorization;
- 2399 (b) the child's parent or guardian has verbally authorized the sex offender to accompany
- 2400 the child either in the child's residence or on property appurtenant to the child's
- 2401 residence, but in no other locations; or
- 2402 (c) the child is the natural child of the sex offender, and the offender is not prohibited by
- 2403 any court order, or probation or parole provision, from contact with the child.
- 2404 (3)(a) A sex offender convicted of a violation of Subsection (2) is subject to registration
- 2405 in accordance with [~~Title 77, Chapter 41, Sex, Kidnap, and Child Abuse Offender~~
- 2406 ~~Registry~~] this chapter, for an additional five years subsequent to the required
- 2407 registration [~~under Section 77-41-105~~] described in Section 53-29-203.

- 2408 (b) The period of additional registration imposed under Subsection (3)(a) is also in
 2409 addition to any period of registration imposed under Subsection [~~77-41-107(3)~~
 2410 53-29-305(3)] for failure to comply with registration requirements.
- 2411 (4) It is not a defense to a prosecution under this section that the defendant mistakenly
 2412 believed the individual to be 14 years [~~of age~~] old or older at the time of the offense or
 2413 was unaware of the individual's true age.
- 2414 (5) This section does not apply if a sex offender is acting to rescue a child who is in an
 2415 emergency and life-threatening situation.

2416 Section 31. Section **53-29-401** is enacted to read:

2417 **Part 4. Department Functions Related to the Registry**

2418 **53-29-401 . Definitions.**

2419 Reserved.

2420 Section 32. Section **53-29-402** is enacted to read:

2421 **53-29-402 . Department responsibilities related to the registry.**

2422 (1) The department shall:

2423 (a) maintain the registration website;

2424 (b) ensure that the registration information collected regarding an offender's enrollment
 2425 or employment at an educational institution is:

2426 (i)(A) promptly made available to any law enforcement agency that has

2427 jurisdiction where the institution is located if the educational institution is an
 2428 institution of higher education; or

2429 (B) promptly made available to the district superintendent of the school district

2430 where the offender is employed if the educational institution is an institution of
 2431 primary education; and

2432 (ii) entered into the appropriate state records or data system; and

2433 (c) make available to an offender the name of the local law enforcement agency or state
 2434 agency that the offender should contact to register, the location for registering, and
 2435 the requirements of registration.

2436 (2)(a) When the department receives offender registration information regarding a
 2437 change of an offender's primary residence, the department shall, within five days
 2438 after the day on which the department receives the information, electronically notify
 2439 the law enforcement agencies that have jurisdiction over the area where:

2440 (i) the residence that the offender is leaving is located; and

2441 (ii) the residence to which the offender is moving is located.

- 2442 (b) The department shall provide notification under Subsection (2)(a) if the offender's
2443 change of address is:
- 2444 (i) between law enforcement agency jurisdictions; or
2445 (ii) within one law enforcement agency jurisdiction.
- 2446 (3) The department may make administrative rules necessary to implement this chapter,
2447 including:
- 2448 (a) the method for dissemination of the information; and
2449 (b) instructions to the public regarding the use of the information.
- 2450 Section 33. Section **53-29-403** is enacted to read:
2451 **53-29-403 . Intervention in legal action by the department.**
- 2452 (1) Subject to Subsection (2), the department may intervene in any matter, including a
2453 criminal action, where the matter purports to affect an individual's registration
2454 requirements under this chapter.
- 2455 (2) The department may only file a motion to intervene under Subsection (1) within 60 days
2456 after the day on which:
- 2457 (a) the sentencing court enters a judgment or sentence against an individual for a
2458 registrable offense, if the details of the written plea agreement, judgment, or sentence
2459 indicate that the individual's registration requirements under this chapter could be
2460 affected; or
- 2461 (b) a court modifies, withdraws, sets aside, vacates, or otherwise alters an individual's
2462 conviction for a registrable offense, affecting the individual's registration requirement
2463 under this chapter if the written plea agreement, judgment, or sentence entered at the
2464 time the individual was sentenced did not indicate that the individual's registration
2465 requirement could be affected.
- 2466 Section 34. Section **53-29-404** is enacted to read:
2467 **53-29-404 . Sex, Kidnap, and Child Abuse Offender Notification and**
2468 **Registration website.**
- 2469 (1) The department shall maintain a Sex, Kidnap, and Child Abuse Offender Notification
2470 and Registration website on the Internet available to the public.
- 2471 (2) The registration website shall be indexed by both the surname of the offender and by
2472 postal codes.
- 2473 (3)(a) Except as provided in Subsection (3)(b), the registration website shall include the
2474 following information:
- 2475 (i) all names and aliases by which the offender is or has been known, but not

- 2476 including any online identifiers;
- 2477 (ii) the addresses of the offender's primary, secondary, and temporary residences;
- 2478 (iii) a physical description, including the offender's date of birth, height, weight, eye
- 2479 color, and hair color;
- 2480 (iv) the make, model, color, year, and plate number of any vehicle or vehicles the
- 2481 offender owns or regularly drives;
- 2482 (v) a current photograph of the offender;
- 2483 (vi) a list of all professional licenses that authorize the offender to engage in an
- 2484 occupation or carry out a trade or business;
- 2485 (vii) each educational institution in Utah at which the offender is employed or is a
- 2486 student;
- 2487 (viii) a list of places where the offender works as a volunteer;
- 2488 (ix) any registrable offenses for which the offender has been convicted or
- 2489 adjudicated; and
- 2490 (x) other relevant identifying information of the offender as determined by the
- 2491 department.
- 2492 (b) The department shall redact any information the department receives under
- 2493 Subsection (3)(a) that, if disclosed, could reasonably identify a victim.
- 2494 (4)(a) The department shall enable the public to search the registration website to
- 2495 determine if the following search criteria are linked to an offender:
- 2496 (i) telephone numbers or other designations for an offender provided under
- 2497 Subsection 53-29-304(4)(a)(vii);
- 2498 (ii) online identifiers or other addresses for an offender provided under Subsection
- 2499 53-29-304(4)(a)(ix); and
- 2500 (iii) names and Internet addresses of websites on which an offender is registered
- 2501 using an online identifier, including the online identifier used to access the
- 2502 website.
- 2503 (b) The department shall ensure that a search performed using the criteria in Subsection
- 2504 (4)(a):
- 2505 (i) provides the individual requesting the search with only information regarding
- 2506 whether the criteria are linked to an offender; and
- 2507 (ii) does not return the name or any other identifying information about an offender.
- 2508 (c) The department is not required to:
- 2509 (i) report the results of the search under Subsection (4)(a) to a law enforcement

- 2510 agency; or
- 2511 (ii) based on the results of a search under Subsection (4)(a), open an investigation.
- 2512 (5)(a) Subject to Subsection (5)(b), the department shall place a disclaimer on the
- 2513 registration website informing the public that:
- 2514 (i) the information contained on the site is obtained from offenders and the
- 2515 department does not guarantee the information's accuracy or completeness;
- 2516 (ii) members of the public are not allowed to use the information to harass or threaten
- 2517 an offender or a member of an offender's family; and
- 2518 (iii) harassment, stalking, or threats against an offender or an offender's family are
- 2519 prohibited and may violate Utah criminal laws.
- 2520 (b) Before a user may access the registry website, the department shall require the user
- 2521 to indicate that the user has read the disclaimer, understands the disclaimer, and
- 2522 agrees to comply with the disclaimer's terms.
- 2523 (6)(a) If an offender was under 18 years old at the time of committing a registrable
- 2524 offense described in Subsection 53-29-202(1)(a), (c), or (f), and as a result is required
- 2525 to register on the registry, the department shall maintain, but not publish, the
- 2526 offender's information on the registration website.
- 2527 (b)(i) If, based on the information provided to the department by the sentencing court,
- 2528 prosecuting entity, offender, or offender's counsel, the department cannot
- 2529 determine whether the offender is eligible for an exemption to publication on the
- 2530 registration website as described in Subsection (6)(a), the department shall
- 2531 continue to publish the offender's information on the registration website.
- 2532 (ii) Information may be provided to the department at any time in order to clarify the
- 2533 offender's age at the time the offender committed the registrable offense.
- 2534 (iii) This section does not prohibit the department from seeking or receiving
- 2535 information from individuals or entities other than those identified in Subsection
- 2536 (6)(b)(i).
- 2537 (c) This Subsection (6):
- 2538 (i) applies to an offender with a registration requirement on or after May 3, 2023,
- 2539 regardless of when the offender was first required to register; and
- 2540 (ii) does not apply to an offender who is required to register for the offender's lifetime
- 2541 due to the offender being convicted of two or more registrable offenses or being
- 2542 convicted of one registrable offense and, at the time of the conviction for the
- 2543 registrable offense, being previously required to register as an offender for an

2544 offense committed as a juvenile as described in Subsection 53-29-203(1)(b).

2545 (7) In the case of an offender adjudicated in an external jurisdiction as a juvenile and
2546 required to register under this chapter the department shall maintain, but not publish, the
2547 offender's information on the registration website if the external jurisdiction where the
2548 juvenile offender was adjudicated does not publish the juvenile offender's information
2549 on a public website.

2550 (8) Any information in the department's possession not listed in Subsection (3)(a) that is not
2551 available to the public shall be shared:

2552 (a) for a purpose under this chapter; or

2553 (b) in accordance with Section 63G-2-206.

2554 Section 35. Section **53-29-405** is enacted to read:

2555 **53-29-405 . Removal for offenses or convictions for which registration is no**
2556 **longer required.**

2557 (1) The department shall automatically remove an individual who is currently on the
2558 registry if:

2559 (a) the only offense or offenses for which the individual is on the registry are listed in
2560 Subsection (2); or

2561 (b) the department receives a formal notification or order from the court or the Board of
2562 Pardons and Parole that the conviction for the registrable offense for which the
2563 individual is on the registry has been reversed, vacated, or pardoned.

2564 (2) The offenses described in Subsection (1)(a) are:

2565 (a) a class B or class C misdemeanor for enticing a minor under Section 76-4-401;

2566 (b) kidnapping under Subsection 76-5-301(2)(a) or (b);

2567 (c) child kidnapping under Section 76-5-301.1, if the offender was the natural parent of
2568 the child victim;

2569 (d) unlawful detention under Section 76-5-304;

2570 (e) a third degree felony for unlawful sexual intercourse before 1986, or a class B
2571 misdemeanor for unlawful sexual intercourse, under Section 76-5-401; or

2572 (f) sodomy, but not forcible sodomy, under Section 76-5-403.

2573 (3) The department shall notify an individual who has been removed from the registry in
2574 accordance with Subsection (1) and inform the individual in the notice that the
2575 individual is no longer required to register as an offender.

2576 (4) An individual who is currently on the registry may submit a request to the department to
2577 be removed from the registry if the individual believes that the individual qualifies for

- 2578 removal under Subsection (1).
- 2579 (5) The department, upon receipt of a request for removal from the registry in accordance
2580 with this section, shall:
- 2581 (a) check the registry for the individual's current status;
2582 (b) determine whether the individual qualifies for removal based upon this section; and
2583 (c) notify the individual in writing of the department's determination and whether the
2584 individual:
- 2585 (i) qualifies for removal from the registry; or
2586 (ii) does not qualify for removal.
- 2587 (6) If the department determines that the individual qualifies for removal from the registry,
2588 the department shall remove the offender from the registry.
- 2589 (7)(a) If the department determines that the individual does not qualify for removal from
2590 the registry, the department shall provide an explanation in writing for the
2591 department's determination.
- 2592 (b) The department's determination under Subsection (7)(a) is final and not subject to
2593 administrative review.
- 2594 (8) The department or an employee of the department is not civilly liable for a
2595 determination made in good faith in accordance with this section.
- 2596 (9)(a) The department shall provide a response to a request for removal within 30 days
2597 after the day on which the department receives the request.
- 2598 (b) If the response under Subsection (9)(a) cannot be provided within 30 days after the
2599 day on which the department receives the request, the department shall notify the
2600 individual that the response may be delayed up to 30 additional days.
- 2601 Section 36. Section **57-8-3** is amended to read:
- 2602 **57-8-3 . Definitions.**
- 2603 As used in this chapter:
- 2604 (1) "Assessment" means any charge imposed by the association, including:
- 2605 (a) common expenses on or against a unit owner pursuant to the provisions of the
2606 declaration, bylaws, or this chapter; and
- 2607 (b) an amount that an association of unit owners assesses to a unit owner under
2608 Subsection 57-8-43(9)(g).
- 2609 (2) "Association of unit owners" or "association" means all of the unit owners:
- 2610 (a) acting as a group in accordance with the declaration and bylaws; or
2611 (b) organized as a legal entity in accordance with the declaration.

- 2612 (3) "Building" means a building, containing units, and comprising a part of the property.
- 2613 (4) "Commercial condominium project" means a condominium project that has no
2614 residential units within the project.
- 2615 (5) "Common areas and facilities" unless otherwise provided in the declaration or lawful
2616 amendments to the declaration means:
- 2617 (a) the land included within the condominium project, whether leasehold or in fee
2618 simple;
- 2619 (b) the foundations, columns, girders, beams, supports, main walls, roofs, halls,
2620 corridors, lobbies, stairs, stairways, fire escapes, entrances, and exits of the building;
- 2621 (c) the basements, yards, gardens, parking areas, and storage spaces;
- 2622 (d) the premises for lodging of janitors or persons in charge of the property;
- 2623 (e) installations of central services such as power, light, gas, hot and cold water, heating,
2624 refrigeration, air conditioning, and incinerating;
- 2625 (f) the elevators, tanks, pumps, motors, fans, compressors, ducts, and in general all
2626 apparatus and installations existing for common use;
- 2627 (g) such community and commercial facilities as may be provided for in the declaration;
2628 and
- 2629 (h) all other parts of the property necessary or convenient to its existence, maintenance,
2630 and safety, or normally in common use.
- 2631 (6) "Common expenses" means:
- 2632 (a) all sums lawfully assessed against the unit owners;
- 2633 (b) expenses of administration, maintenance, repair, or replacement of the common areas
2634 and facilities;
- 2635 (c) expenses agreed upon as common expenses by the association of unit owners; and
- 2636 (d) expenses declared common expenses by this chapter, or by the declaration or the
2637 bylaws.
- 2638 (7) "Common profits," unless otherwise provided in the declaration or lawful amendments
2639 to the declaration, means the balance of all income, rents, profits, and revenues from the
2640 common areas and facilities remaining after the deduction of the common expenses.
- 2641 (8) "Condominium" means the ownership of a single unit in a multiunit project together
2642 with an undivided interest in common in the common areas and facilities of the property.
- 2643 (9) "Condominium plat" means a plat or plats of survey of land and units prepared in
2644 accordance with Section 57-8-13.
- 2645 (10) "Condominium project" means a real estate condominium project; a plan or project

2646 whereby two or more units, whether contained in existing or proposed apartments,
2647 commercial or industrial buildings or structures, or otherwise, are separately offered or
2648 proposed to be offered for sale. Condominium project also means the property when the
2649 context so requires.

2650 (11) "Condominium unit" means a unit together with the undivided interest in the common
2651 areas and facilities appertaining to that unit. Any reference in this chapter to a
2652 condominium unit includes both a physical unit together with its appurtenant undivided
2653 interest in the common areas and facilities and a time period unit together with its
2654 appurtenant undivided interest, unless the reference is specifically limited to a time
2655 period unit.

2656 (12) "Contractible condominium" means a condominium project from which one or more
2657 portions of the land within the project may be withdrawn in accordance with provisions
2658 of the declaration and of this chapter. If the withdrawal can occur only by the expiration
2659 or termination of one or more leases, then the condominium project is not a contractible
2660 condominium within the meaning of this chapter.

2661 (13) "Convertible land" means a building site which is a portion of the common areas and
2662 facilities, described by metes and bounds, within which additional units or limited
2663 common areas and facilities may be created in accordance with this chapter.

2664 (14) "Convertible space" means a portion of the structure within the condominium project,
2665 which portion may be converted into one or more units or common areas and facilities,
2666 including limited common areas and facilities in accordance with this chapter.

2667 (15) "Declarant" means all persons who execute the declaration or on whose behalf the
2668 declaration is executed. From the time of the recordation of any amendment to the
2669 declaration expanding an expandable condominium, all persons who execute that
2670 amendment or on whose behalf that amendment is executed shall also come within this
2671 definition. Any successors of the persons referred to in this subsection who come to
2672 stand in the same relation to the condominium project as their predecessors also come
2673 within this definition.

2674 (16) "Declaration" means the instrument by which the property is submitted to the
2675 provisions of this act, as it from time to time may be lawfully amended.

2676 (17) "Electrical corporation" means the same as that term is defined in Section 54-2-1.

2677 (18) "Expandable condominium" means a condominium project to which additional land or
2678 an interest in it may be added in accordance with the declaration and this chapter.

2679 (19) "Gas corporation" means the same as that term is defined in Section 54-2-1.

- 2680 (20) "Governing documents":
- 2681 (a) means a written instrument by which an association of unit owners may:
- 2682 (i) exercise powers; or
- 2683 (ii) manage, maintain, or otherwise affect the property under the jurisdiction of the
- 2684 association of unit owners; and
- 2685 (b) includes:
- 2686 (i) articles of incorporation;
- 2687 (ii) bylaws;
- 2688 (iii) a plat;
- 2689 (iv) a declaration of covenants, conditions, and restrictions; and
- 2690 (v) rules of the association of unit owners.
- 2691 (21) "Independent third party" means a person that:
- 2692 (a) is not related to the unit owner;
- 2693 (b) shares no pecuniary interests with the unit owner; and
- 2694 (c) purchases the unit in good faith and without the intent to defraud a current or future
- 2695 lienholder.
- 2696 (22) "Judicial foreclosure" means a foreclosure of a unit:
- 2697 (a) for the nonpayment of an assessment;
- 2698 (b) in the manner provided by law for the foreclosure of a mortgage on real property; and
- 2699 (c) as provided in this chapter.
- 2700 (23) "Leasehold condominium" means a condominium project in all or any portion of
- 2701 which each unit owner owns an estate for years in his unit, or in the land upon which
- 2702 that unit is situated, or both, with all those leasehold interests to expire naturally at the
- 2703 same time. A condominium project including leased land, or an interest in the land,
- 2704 upon which no units are situated or to be situated is not a leasehold condominium within
- 2705 the meaning of this chapter.
- 2706 (24) "Limited common areas and facilities" means those common areas and facilities
- 2707 designated in the declaration as reserved for use of a certain unit or units to the exclusion
- 2708 of the other units.
- 2709 (25) "Majority" or "majority of the unit owners," unless otherwise provided in the
- 2710 declaration or lawful amendments to the declaration, means the owners of more than
- 2711 50% in the aggregate in interest of the undivided ownership of the common areas and
- 2712 facilities.
- 2713 (26) "Management committee" means the committee as provided in the declaration charged

- 2714 with and having the responsibility and authority to make and to enforce all of the
2715 reasonable rules covering the operation and maintenance of the property.
- 2716 (27) "Management committee meeting" means a gathering of a management committee,
2717 whether in person or by means of electronic communication, at which the management
2718 committee can take binding action.
- 2719 (28)(a) "Means of electronic communication" means an electronic system that allows
2720 individuals to communicate orally in real time.
- 2721 (b) "Means of electronic communication" includes:
- 2722 (i) web conferencing;
- 2723 (ii) video conferencing; and
- 2724 (iii) telephone conferencing.
- 2725 (29) "Mixed-use condominium project" means a condominium project that has both
2726 residential and commercial units in the condominium project.
- 2727 (30) "Nonjudicial foreclosure" means the sale of a unit:
- 2728 (a) for the nonpayment of an assessment;
- 2729 (b) in the same manner as the sale of trust property under Sections 57-1-19 through
2730 57-1-34; and
- 2731 (c) as provided in this chapter.
- 2732 (31) "Par value" means a number of dollars or points assigned to each unit by the
2733 declaration. Substantially identical units shall be assigned the same par value, but units
2734 located at substantially different heights above the ground, or having substantially
2735 different views, or having substantially different amenities or other characteristics that
2736 might result in differences in market value, may be considered substantially identical
2737 within the meaning of this subsection. If par value is stated in terms of dollars, that
2738 statement may not be considered to reflect or control the sales price or fair market value
2739 of any unit, and no opinion, appraisal, or fair market transaction at a different figure may
2740 affect the par value of any unit, or any undivided interest in the common areas and
2741 facilities, voting rights in the unit owners' association, liability for common expenses, or
2742 right to common profits, assigned on the basis thereof.
- 2743 (32) "Period of administrative control" means the period of control described in Subsection
2744 57-8-16.5(1).
- 2745 (33) "Person" means an individual, corporation, partnership, association, trustee, or other
2746 legal entity.
- 2747 (34) "Political sign" means any sign or document that advocates:

- 2748 (a) the election or defeat of a candidate for public office; or
2749 (b) the approval or defeat of a ballot proposition.
- 2750 (35) "Property" means the land, whether leasehold or in fee simple, the building, if any, all
2751 improvements and structures thereon, all easements, rights, and appurtenances belonging
2752 thereto, and all articles of personal property intended for use in connection therewith.
- 2753 (36) "Protected area" means the same as that term is defined in Section [~~77-27-21.7~~]
2754 53-29-306.
- 2755 (37) "Record," "recording," "recorded," and "recorder" have the meaning stated in Chapter
2756 3, Recording of Documents.
- 2757 (38) "Rentals" or "rental unit" means:
- 2758 (a) a unit that:
- 2759 (i) is not owned by an entity or trust; and
2760 (ii) is occupied by an individual while the unit owner is not occupying the unit as the
2761 unit owner's primary residence; or
- 2762 (b) an occupied unit owned by an entity or trust, regardless of who occupies the unit.
- 2763 (39) "Size" means the number of cubic feet, or the number of square feet of ground or floor
2764 space, within each unit as computed by reference to the record of survey map and
2765 rounded off to a whole number. Certain spaces within the units including attic,
2766 basement, or garage space may be omitted from the calculation or be partially
2767 discounted by the use of a ratio, if the same basis of calculation is employed for all units
2768 in the condominium project and if that basis is described in the declaration.
- 2769 (40) "Time period unit" means an annually recurring part or parts of a year specified in the
2770 declaration as a period for which a unit is separately owned and includes a timeshare
2771 estate as defined in Section 57-19-2.
- 2772 (41) "Unconstructed unit" means a unit that:
- 2773 (a) is intended, as depicted in the condominium plat, to be fully or partially contained in
2774 a building; and
2775 (b) is not constructed.
- 2776 (42)(a) "Unit" means a separate part of the property intended for any type of
2777 independent use, which is created by the recording of a declaration and a
2778 condominium plat that describes the unit boundaries.
- 2779 (b) "Unit" includes one or more rooms or spaces located in one or more floors or a
2780 portion of a floor in a building.
- 2781 (c) "Unit" includes a convertible space, in accordance with Subsection 57-8-13.4(3).

- 2782 (43) "Unit number" means the number, letter, or combination of numbers and letters
2783 designating the unit in the declaration and in the record of survey map.
- 2784 (44) "Unit owner" means the person or persons owning a unit in fee simple and an
2785 undivided interest in the fee simple estate of the common areas and facilities in the
2786 percentage specified and established in the declaration or, in the case of a leasehold
2787 condominium project, the person or persons whose leasehold interest or interests in the
2788 condominium unit extend for the entire balance of the unexpired term or terms.
- 2789 (45) "Water wise landscaping" means:
- 2790 (a) installation of plant materials, suited to the microclimate and soil conditions, that can:
2791 (i) remain healthy with minimal irrigation once established; or
2792 (ii) be maintained without the use of overhead spray irrigation;
- 2793 (b) use of water for outdoor irrigation through proper and efficient irrigation design and
2794 water application; or
- 2795 (c) use of other landscape design features that:
2796 (i) minimize the landscape's need for supplemental water from irrigation;
2797 (ii) reduce the landscape area dedicated to lawn or turf; or
2798 (iii) encourage vegetative coverage.
- 2799 (46) "Water wise plant material" means a plant material suited to water wise landscaping.
2800 Section 37. Section **57-8-8.1** is amended to read:
- 2801 **57-8-8.1 . Equal treatment by rules required -- Limits on rules.**
- 2802 (1)(a) Except as provided in Subsection (1)(b), a rule shall treat similarly situated unit
2803 owners similarly.
- 2804 (b) Notwithstanding Subsection (1)(a), a rule may:
2805 (i) vary according to the level and type of service that the association of unit owners
2806 provides to unit owners;
2807 (ii) differ between residential and nonresidential uses; or
2808 (iii) for a unit that a unit owner leases for a term of less than 30 days, impose a
2809 reasonable limit on the number of individuals that may use the common areas and
2810 facilities as the rental unit tenant's guest or as the unit owner's guest.
- 2811 (2)(a) If a unit owner owns a rental unit and is in compliance with the association of unit
2812 owners' governing documents and any rule that the association of unit owners adopts
2813 under Subsection (5), a rule may not treat the unit owner differently because the unit
2814 owner owns a rental unit.
- 2815 (b) Notwithstanding Subsection (2)(a), a rule may:

- 2816 (i) limit or prohibit a rental unit owner from using the common areas and facilities for
2817 purposes other than attending an association meeting or managing the rental unit;
- 2818 (ii) if the rental unit owner retains the right to use the association of unit owners'
2819 common areas and facilities, even occasionally:
- 2820 (A) charge a rental unit owner a fee to use the common areas and facilities; and
2821 (B) for a unit that a unit owner leases for a term of less than 30 days, impose a
2822 reasonable limit on the number of individuals that may use the common areas
2823 and facilities as the rental unit tenant's guest or as the unit owner's guest; or
- 2824 (iii) include a provision in the association of unit owners' governing documents that:
- 2825 (A) requires each tenant of a rental unit to abide by the terms of the governing
2826 documents; and
- 2827 (B) holds the tenant and the rental unit owner jointly and severally liable for a
2828 violation of a provision of the governing documents.
- 2829 (3)(a) A rule may not interfere with the freedom of a unit owner to determine the
2830 composition of the unit owner's household.
- 2831 (b) Notwithstanding Subsection (3)(a), an association of unit owners may:
- 2832 (i) require that all occupants of a dwelling be members of a single housekeeping unit;
2833 or
- 2834 (ii) limit the total number of occupants permitted in each residential dwelling on the
2835 basis of the residential dwelling's:
- 2836 (A) size and facilities; and
2837 (B) fair use of the common areas and facilities.
- 2838 (4) Unless contrary to a declaration, a rule may require a minimum lease term.
- 2839 (5) Unless otherwise provided in the declaration, an association of unit owners may by rule:
- 2840 (a) regulate the use, maintenance, repair, replacement, and modification of common
2841 areas and facilities;
- 2842 (b) impose and receive any payment, fee, or charge for:
- 2843 (i) the use, rental, or operation of the common areas, except limited common areas
2844 and facilities; and
- 2845 (ii) a service provided to a unit owner;
- 2846 (c) impose a charge for a late payment of an assessment; or
- 2847 (d) provide for the indemnification of the association of unit owners' officers and
2848 management committee consistent with Title 16, Chapter 6a, Utah Revised Nonprofit
2849 Corporation Act.

- 2850 (6)(a) Except as provided in Subsection (6)(b), a rule may not prohibit a unit owner from
2851 installing a personal security camera immediately adjacent to the entryway, window,
2852 or other outside entry point of the owner's condominium unit.
- 2853 (b) A rule may prohibit a unit owner from installing a personal security camera in a
2854 common area not physically connected to the owner's unit.
- 2855 (7)(a) A rule may not abridge the right of a unit owner to display a religious or holiday
2856 sign, symbol, or decoration inside the owner's condominium unit.
- 2857 (b) An association may adopt a reasonable time, place, and manner restriction with
2858 respect to a display that is visible from the exterior of a unit.
- 2859 (8)(a) A rule may not:
- 2860 (i) prohibit a unit owner from displaying in a window of the owner's condominium
2861 unit:
- 2862 (A) a for-sale sign; or
2863 (B) a political sign;
- 2864 (ii) regulate the content of a political sign; or
2865 (iii) establish design criteria for a political sign.
- 2866 (b) Notwithstanding Subsection (8)(a), a rule may reasonably regulate the size and time,
2867 place, and manner of posting a for-sale sign or a political sign.
- 2868 (9) For any area for which one or more unit owners are responsible for landscape
2869 maintenance, the association of unit owners:
- 2870 (a) shall adopt rules supporting water wise landscaping, including:
- 2871 (i) low water use requirements on lawns during drought conditions;
2872 (ii) design criterion for water wise landscaping; and
2873 (iii) limiting permissible plant material to specific water wise plant material;
- 2874 (b) may not prohibit low water use on lawns during drought conditions; and
2875 (c) may not prohibit or restrict the conversion of a grass park strip to water-efficient
2876 landscaping.
- 2877 (10) A rule may restrict a sex offender from accessing a protected area that is maintained,
2878 operated, or owned by the association, subject to the exceptions described in Subsection [
2879 ~~77-27-21.7(3)~~ 53-29-306(3).
- 2880 (11)(a) Except as provided in this Subsection (11), a rule may not prohibit a unit owner
2881 from making modifications, consistent with industry standards, for radon mitigation.
- 2882 (b) Subsection (11)(a) does not apply if the modifications would violate:
- 2883 (i) a local land use ordinance;

- 2884 (ii) a building code;
- 2885 (iii) a health code; or
- 2886 (iv) a fire code.
- 2887 (c) A rule governing the placement or external appearance of modifications may apply to
- 2888 modifications for radon mitigation unless the rule would:
- 2889 (i) unreasonably interfere with the modifications' functionality; or
- 2890 (ii) add more than 40% of the modifications' original cost to the cost of installing the
- 2891 modifications.
- 2892 (d) A rule may require that a unit owner making modifications related to radon
- 2893 mitigation:
- 2894 (i) demonstrate or provide proof of radon contamination; and
- 2895 (ii) provide proof that the modifications and any related construction will be
- 2896 performed by a licensed person.
- 2897 (12) A rule shall be reasonable.
- 2898 (13) A declaration, or an amendment to a declaration, may vary any of the requirements of
- 2899 Subsections (1) through (5), except Subsection (1)(b)(ii).
- 2900 (14) This section applies to an association of unit owners regardless of when the association
- 2901 of unit owners is created.
- 2902 Section 38. Section **57-8a-102** is amended to read:
- 2903 **57-8a-102 . Definitions.**
- 2904 As used in this chapter:
- 2905 (1)(a) "Assessment" means a charge imposed or levied:
- 2906 (i) by the association;
- 2907 (ii) on or against a lot or a lot owner; and
- 2908 (iii) pursuant to a governing document recorded with the county recorder.
- 2909 (b) "Assessment" includes:
- 2910 (i) a common expense; and
- 2911 (ii) an amount assessed against a lot owner under Subsection 57-8a-405(7).
- 2912 (2)(a) Except as provided in Subsection (2)(b), "association" means a corporation or
- 2913 other legal entity, any member of which:
- 2914 (i) is an owner of a residential lot located within the jurisdiction of the association, as
- 2915 described in the governing documents; and
- 2916 (ii) by virtue of membership or ownership of a residential lot is obligated to pay:
- 2917 (A) real property taxes;

- 2918 (B) insurance premiums;
- 2919 (C) maintenance costs; or
- 2920 (D) for improvement of real property not owned by the member.
- 2921 (b) "Association" or "homeowner association" does not include an association created
- 2922 under Chapter 8, Condominium Ownership Act.
- 2923 (3) "Board meeting" means a gathering of a board, whether in person or by means of
- 2924 electronic communication, at which the board can take binding action.
- 2925 (4) "Board of directors" or "board" means the entity, regardless of name, with primary
- 2926 authority to manage the affairs of the association.
- 2927 (5) "Common areas" means property that the association:
- 2928 (a) owns;
- 2929 (b) maintains;
- 2930 (c) repairs; or
- 2931 (d) administers.
- 2932 (6) "Common expense" means costs incurred by the association to exercise any of the
- 2933 powers provided for in the association's governing documents.
- 2934 (7) "Declarant":
- 2935 (a) means the person who executes a declaration and submits it for recording in the
- 2936 office of the recorder of the county in which the property described in the declaration
- 2937 is located; and
- 2938 (b) includes the person's successor and assign.
- 2939 (8) "Director" means a member of the board of directors.
- 2940 (9) "Electrical corporation" means the same as that term is defined in Section 54-2-1.
- 2941 (10) "Gas corporation" means the same as that term is defined in Section 54-2-1.
- 2942 (11)(a) "Governing documents" means a written instrument by which the association
- 2943 may:
- 2944 (i) exercise powers; or
- 2945 (ii) manage, maintain, or otherwise affect the property under the jurisdiction of the
- 2946 association.
- 2947 (b) "Governing documents" includes:
- 2948 (i) articles of incorporation;
- 2949 (ii) bylaws;
- 2950 (iii) a plat;
- 2951 (iv) a declaration of covenants, conditions, and restrictions; and

- 2952 (v) rules of the association.
- 2953 (12) "Independent third party" means a person that:
- 2954 (a) is not related to the owner of the residential lot;
- 2955 (b) shares no pecuniary interests with the owner of the residential lot; and
- 2956 (c) purchases the residential lot in good faith and without the intent to defraud a current
- 2957 or future lienholder.
- 2958 (13) "Judicial foreclosure" means a foreclosure of a lot:
- 2959 (a) for the nonpayment of an assessment;
- 2960 (b) in the manner provided by law for the foreclosure of a mortgage on real property; and
- 2961 (c) as provided in Part 3, Collection of Assessments.
- 2962 (14) "Lease" or "leasing" means regular, exclusive occupancy of a lot:
- 2963 (a) by a person or persons other than the owner; and
- 2964 (b) for which the owner receives a consideration or benefit, including a fee, service,
- 2965 gratuity, or emolument.
- 2966 (15) "Limited common areas" means common areas described in the declaration and
- 2967 allocated for the exclusive use of one or more lot owners.
- 2968 (16) "Lot" means:
- 2969 (a) a lot, parcel, plot, or other division of land:
- 2970 (i) designated for separate ownership or occupancy; and
- 2971 (ii)(A) shown on a recorded subdivision plat; or
- 2972 (B) the boundaries of which are described in a recorded governing document; or
- 2973 (b)(i) a unit in a condominium association if the condominium association is a part of
- 2974 a development; or
- 2975 (ii) a unit in a real estate cooperative if the real estate cooperative is part of a
- 2976 development.
- 2977 (17)(a) "Means of electronic communication" means an electronic system that allows
- 2978 individuals to communicate orally in real time.
- 2979 (b) "Means of electronic communication" includes:
- 2980 (i) web conferencing;
- 2981 (ii) video conferencing; and
- 2982 (iii) telephone conferencing.
- 2983 (18) "Mixed-use project" means a project under this chapter that has both residential and
- 2984 commercial lots in the project.
- 2985 (19) "Nonjudicial foreclosure" means the sale of a lot:

- 2986 (a) for the nonpayment of an assessment;
- 2987 (b) in the same manner as the sale of trust property under Sections 57-1-19 through
- 2988 57-1-34; and
- 2989 (c) as provided in Part 3, Collection of Assessments.
- 2990 (20) "Period of administrative control" means the period during which the person who filed
- 2991 the association's governing documents or the person's successor in interest retains
- 2992 authority to:
- 2993 (a) appoint or remove members of the association's board of directors; or
- 2994 (b) exercise power or authority assigned to the association under the association's
- 2995 governing documents.
- 2996 (21) "Political sign" means any sign or document that advocates:
- 2997 (a) the election or defeat of a candidate for public office; or
- 2998 (b) the approval or defeat of a ballot proposition.
- 2999 (22) "Protected area" means the same as that term is defined in Section 77-27-21.7.
- 3000 (23) "Rentals" or "rental lot" means:
- 3001 (a) a lot that:
- 3002 (i) is not owned by an entity or trust; and
- 3003 (ii) is occupied by an individual while the lot owner is not occupying the lot as the lot
- 3004 owner's primary residence;
- 3005 (b) an occupied lot owned by an entity or trust, regardless of who occupies the lot; or
- 3006 (c) an internal accessory dwelling unit as defined in Section 10-9a-530 or 17-27a-526.
- 3007 (24) "Residential lot" means a lot, the use of which is limited by law, covenant, or
- 3008 otherwise to primarily residential or recreational purposes.
- 3009 (25)(a) "Rule" means a policy, guideline, restriction, procedure, or regulation of an
- 3010 association that:
- 3011 (i) is not set forth in a contract, easement, article of incorporation, bylaw, or
- 3012 declaration; and
- 3013 (ii) governs:
- 3014 (A) the conduct of persons; or
- 3015 (B) the use, quality, type, design, or appearance of real property or personal
- 3016 property.
- 3017 (b) "Rule" does not include the internal business operating procedures of a board.
- 3018 (26) "Sex offender" means ~~[the same as that term is defined in Section 77-27-21.7]~~ an
- 3019 individual who is a sex offender as described in Subsection 53-29-202(2)(b) if the

3020 offense that the individual committed that resulted in the individual being a sex offender
3021 was committed against an individual younger than 18 years old.

3022 (27) "Solar energy system" means:

3023 (a) a system that is used to produce electric energy from sunlight; and

3024 (b) the components of the system described in Subsection (27)(a).

3025 Section 39. Section **57-8a-218** is amended to read:

3026 **57-8a-218 . Equal treatment by rules required -- Limits on association rules and**
3027 **design criteria.**

3028 (1)(a) Except as provided in Subsection (1)(b), a rule shall treat similarly situated lot
3029 owners similarly.

3030 (b) Notwithstanding Subsection (1)(a), a rule may:

3031 (i) vary according to the level and type of service that the association provides to lot
3032 owners;

3033 (ii) differ between residential and nonresidential uses; and

3034 (iii) for a lot that an owner leases for a term of less than 30 days, impose a reasonable
3035 limit on the number of individuals who may use the common areas and facilities
3036 as guests of the lot tenant or lot owner.

3037 (2)(a) If a lot owner owns a rental lot and is in compliance with the association's
3038 governing documents and any rule that the association adopts under Subsection (4), a
3039 rule may not treat the lot owner differently because the lot owner owns a rental lot.

3040 (b) Notwithstanding Subsection (2)(a), a rule may:

3041 (i) limit or prohibit a rental lot owner from using the common areas for purposes
3042 other than attending an association meeting or managing the rental lot;

3043 (ii) if the rental lot owner retains the right to use the association's common areas,
3044 even occasionally:

3045 (A) charge a rental lot owner a fee to use the common areas; or

3046 (B) for a lot that an owner leases for a term of less than 30 days, impose a
3047 reasonable limit on the number of individuals who may use the common areas
3048 and facilities as guests of the lot tenant or lot owner; or

3049 (iii) include a provision in the association's governing documents that:

3050 (A) requires each tenant of a rental lot to abide by the terms of the governing
3051 documents; and

3052 (B) holds the tenant and the rental lot owner jointly and severally liable for a
3053 violation of a provision of the governing documents.

- 3054 (3)(a) A rule criterion may not abridge the rights of a lot owner to display a religious or
3055 holiday sign, symbol, or decoration:
- 3056 (i) inside a dwelling on a lot; or
3057 (ii) outside a dwelling on:
- 3058 (A) a lot;
3059 (B) the exterior of the dwelling, unless the association has an ownership interest
3060 in, or a maintenance, repair, or replacement obligation for, the exterior; or
3061 (C) the front yard of the dwelling, unless the association has an ownership interest
3062 in, or a maintenance, repair, or replacement obligation for, the yard.
- 3063 (b) Notwithstanding Subsection (3)(a), the association may adopt a reasonable time,
3064 place, and manner restriction with respect to a display that is:
- 3065 (i) outside a dwelling on:
- 3066 (A) a lot;
3067 (B) the exterior of the dwelling; or
3068 (C) the front yard of the dwelling; and
3069 (ii) visible from outside the lot.
- 3070 (4)(a) A rule may not prohibit a lot owner from displaying a political sign:
- 3071 (i) inside a dwelling on a lot; or
3072 (ii) outside a dwelling on:
- 3073 (A) a lot;
3074 (B) the exterior of the dwelling, regardless of whether the association has an
3075 ownership interest in the exterior; or
3076 (C) the front yard of the dwelling, regardless of whether the association has an
3077 ownership interest in the yard.
- 3078 (b) A rule may not regulate the content of a political sign.
- 3079 (c) Notwithstanding Subsection (4)(a), a rule may reasonably regulate the time, place,
3080 and manner of posting a political sign.
- 3081 (d) An association design provision may not establish design criteria for a political sign.
- 3082 (5)(a) A rule may not prohibit a lot owner from displaying a for-sale sign:
- 3083 (i) inside a dwelling on a lot; or
3084 (ii) outside a dwelling on:
- 3085 (A) a lot;
3086 (B) the exterior of the dwelling, regardless of whether the association has an
3087 ownership interest in the exterior; or

- 3088 (C) the front yard of the dwelling, regardless of whether the association has an
3089 ownership interest in the yard.
- 3090 (b) Notwithstanding Subsection (5)(a), a rule may reasonably regulate the time, place,
3091 and manner of posting a for-sale sign.
- 3092 (6)(a) A rule may not interfere with the freedom of a lot owner to determine the
3093 composition of the lot owner's household.
- 3094 (b) Notwithstanding Subsection (6)(a), an association may:
- 3095 (i) require that all occupants of a dwelling be members of a single housekeeping unit;
3096 or
- 3097 (ii) limit the total number of occupants permitted in each residential dwelling on the
3098 basis of the residential dwelling's:
- 3099 (A) size and facilities; and
3100 (B) fair use of the common areas.
- 3101 (7)(a) A rule may not interfere with a reasonable activity of a lot owner within the
3102 confines of a dwelling or lot, including backyard landscaping or amenities, to the
3103 extent that the activity is in compliance with local laws and ordinances, including
3104 nuisance laws and ordinances.
- 3105 (b) Notwithstanding Subsection (7)(a), a rule may prohibit an activity within the
3106 confines of a dwelling or lot, including backyard landscaping or amenities, if the
3107 activity:
- 3108 (i) is not normally associated with a project restricted to residential use; or
3109 (ii)(A) creates monetary costs for the association or other lot owners;
3110 (B) creates a danger to the health or safety of occupants of other lots;
3111 (C) generates excessive noise or traffic;
3112 (D) creates unsightly conditions visible from outside the dwelling;
3113 (E) creates an unreasonable source of annoyance to persons outside the lot; or
3114 (F) if there are attached dwellings, creates the potential for smoke to enter another
3115 lot owner's dwelling, the common areas, or limited common areas.
- 3116 (c) If permitted by law, an association may adopt rules described in Subsection (7)(b)
3117 that affect the use of or behavior inside the dwelling.
- 3118 (8)(a) A rule may not, to the detriment of a lot owner and over the lot owner's written
3119 objection to the board, alter the allocation of financial burdens among the various lots.
- 3120 (b) Notwithstanding Subsection [~~(7)(b)~~] (8)(a), an association may:
- 3121 (i) change the common areas available to a lot owner;

- 3122 (ii) adopt generally applicable rules for the use of common areas; or
3123 (iii) deny use privileges to a lot owner who:
3124 (A) is delinquent in paying assessments;
3125 (B) abuses the common areas; or
3126 (C) violates the governing documents.
- 3127 (c) This Subsection (8) does not permit a rule that:
3128 (i) alters the method of levying assessments; or
3129 (ii) increases the amount of assessments as provided in the declaration.
- 3130 (9)(a) Subject to Subsection (9)(b), a rule may not:
3131 (i) prohibit the transfer of a lot; or
3132 (ii) require the consent of the association or board to transfer a lot.
- 3133 (b) Unless contrary to a declaration, a rule may require a minimum lease term.
- 3134 (10)(a) A rule may not require a lot owner to dispose of personal property that was in or
3135 on a lot before the adoption of the rule or design criteria if the personal property was
3136 in compliance with all rules and other governing documents previously in force.
- 3137 (b) The exemption in Subsection (10)(a):
3138 (i) applies during the period of the lot owner's ownership of the lot; and
3139 (ii) does not apply to a subsequent lot owner who takes title to the lot after adoption
3140 of the rule described in Subsection (10)(a).
- 3141 (11) A rule or action by the association or action by the board may not unreasonably
3142 impede a declarant's ability to satisfy existing development financing for community
3143 improvements and right to develop:
3144 (a) the project; or
3145 (b) other properties in the vicinity of the project.
- 3146 (12) A rule or association or board action may not interfere with:
3147 (a) the use or operation of an amenity that the association does not own or control; or
3148 (b) the exercise of a right associated with an easement.
- 3149 (13) A rule may not divest a lot owner of the right to proceed in accordance with a
3150 completed application for design review, or to proceed in accordance with another
3151 approval process, under the terms of the governing documents in existence at the time
3152 the completed application was submitted by the owner for review.
- 3153 (14) Unless otherwise provided in the declaration, an association may by rule:
3154 (a) regulate the use, maintenance, repair, replacement, and modification of common
3155 areas;

- 3156 (b) impose and receive any payment, fee, or charge for:
- 3157 (i) the use, rental, or operation of the common areas, except limited common areas;
- 3158 and
- 3159 (ii) a service provided to a lot owner;
- 3160 (c) impose a charge for a late payment of an assessment; or
- 3161 (d) provide for the indemnification of the association's officers and board consistent with
- 3162 Title 16, Chapter 6a, Utah Revised Nonprofit Corporation Act.
- 3163 (15) A rule may not prohibit a lot owner from installing a personal security camera
- 3164 immediately adjacent to the entryway, window, or other outside entry point of the
- 3165 owner's dwelling unit.
- 3166 (16)(a) For any area for which one or more lot owners are responsible for landscape
- 3167 maintenance of any landscaping within the lot owner's lot or the common areas, the
- 3168 association shall adopt rules supporting water wise landscaping as defined in Section
- 3169 57-8a-231 including:
- 3170 (i) low water use requirements on lawns during drought conditions;
- 3171 (ii) design criterion for water wise landscaping; and
- 3172 (iii) limiting permissible plant material to specific water wise plant material.
- 3173 (b) A rule may not:
- 3174 (i) prohibit or restrict the conversion of a grass park strip to water wise landscaping
- 3175 as defined in Section 57-8a-231; or
- 3176 (ii) prohibit low water use on lawns during drought conditions.
- 3177 (17)(a) Except as provided in Subsection (17)(b), a rule may not prohibit the owner of a
- 3178 residential lot from constructing an internal accessory dwelling unit, as defined in
- 3179 Section 10-9a-530 or 17-27a-526, within the owner's residential lot.
- 3180 (b) Subsection (17)(a) does not apply if the construction would violate:
- 3181 (i) a local land use ordinance;
- 3182 (ii) a building code;
- 3183 (iii) a health code; or
- 3184 (iv) a fire code.
- 3185 (18)(a) Except as provided in Subsection (18)(b), a rule may not prohibit the owner of a
- 3186 residential lot from making modifications, consistent with industry standards, for
- 3187 radon mitigation.
- 3188 (b) Subsection (18)(a) does not apply if the modifications would violate:
- 3189 (i) a local land use ordinance;

- 3190 (ii) a building code;
- 3191 (iii) a health code; or
- 3192 (iv) a fire code.
- 3193 (c) A rule governing the placement or external appearance of modifications for radon
- 3194 mitigation does not apply to a lot owner's modifications if the rule would:
- 3195 (i) unreasonably interfere with the modifications' functionality; or
- 3196 (ii) add more than 40% of the modifications' original cost to the cost of installing the
- 3197 modifications.
- 3198 (d) A rule may require that a lot owner making modifications related to radon mitigation:
- 3199 (i) demonstrate or provide proof of radon contamination; and
- 3200 (ii) provide proof that the modifications and any related construction will be
- 3201 performed by a licensed person.
- 3202 (19) A rule may restrict a sex offender from accessing a protected area that is maintained,
- 3203 operated, or owned by the association, subject to the exceptions described in Subsection [
- 3204 ~~77-27-21.7(3)~~ 53-29-306(3)].
- 3205 (20) A rule shall be reasonable.
- 3206 (21) A declaration, or an amendment to a declaration, may vary any of the requirements of
- 3207 Subsections (1), (2), (6), and (8) through (14), except Subsection (1)(b)(ii).
- 3208 (22) A rule may not be inconsistent with a provision of the association's declaration,
- 3209 bylaws, or articles of incorporation.
- 3210 (23) This section applies to an association regardless of when the association is created.
- 3211 Section 40. Section **63G-2-302** is amended to read:
- 3212 **63G-2-302 . Private records.**
- 3213 (1) The following records are private:
- 3214 (a) records concerning an individual's eligibility for unemployment insurance benefits,
- 3215 social services, welfare benefits, or the determination of benefit levels;
- 3216 (b) records containing data on individuals describing medical history, diagnosis,
- 3217 condition, treatment, evaluation, or similar medical data;
- 3218 (c) records of publicly funded libraries that when examined alone or with other records
- 3219 identify a patron;
- 3220 (d) records received by or generated by or for:
- 3221 (i) the Independent Legislative Ethics Commission, except for:
- 3222 (A) the commission's summary data report that is required under legislative rule;
- 3223 and

- 3224 (B) any other document that is classified as public under legislative rule; or
3225 (ii) a Senate or House Ethics Committee in relation to the review of ethics
3226 complaints, unless the record is classified as public under legislative rule;
- 3227 (e) records received by, or generated by or for, the Independent Executive Branch Ethics
3228 Commission, except as otherwise expressly provided in Title 63A, Chapter 14,
3229 Review of Executive Branch Ethics Complaints;
- 3230 (f) records received or generated for a Senate confirmation committee concerning
3231 character, professional competence, or physical or mental health of an individual:
3232 (i) if, prior to the meeting, the chair of the committee determines release of the
3233 records:
3234 (A) reasonably could be expected to interfere with the investigation undertaken by
3235 the committee; or
3236 (B) would create a danger of depriving a person of a right to a fair proceeding or
3237 impartial hearing; and
3238 (ii) after the meeting, if the meeting was closed to the public;
- 3239 (g) employment records concerning a current or former employee of, or applicant for
3240 employment with, a governmental entity that would disclose that individual's home
3241 address, home telephone number, social security number, insurance coverage, marital
3242 status, or payroll deductions;
- 3243 (h) records or parts of records under Section 63G-2-303 that a current or former
3244 employee identifies as private according to the requirements of that section;
- 3245 (i) that part of a record indicating a person's social security number or federal employer
3246 identification number if provided under Section 31A-23a-104, 31A-25-202,
3247 31A-26-202, 58-1-301, 58-55-302, 61-1-4, or 61-2f-203;
- 3248 (j) that part of a voter registration record identifying a voter's:
3249 (i) driver license or identification card number;
3250 (ii) social security number, or last four digits of the social security number;
3251 (iii) email address;
3252 (iv) date of birth; or
3253 (v) phone number;
- 3254 (k) a voter registration record that is classified as a private record by the lieutenant
3255 governor or a county clerk under Subsection 20A-2-101.1(5)(a), 20A-2-104(4)(h), or
3256 20A-2-204(4)(b);
- 3257 (l) a voter registration record that is withheld under Subsection 20A-2-104(7);

- 3258 (m) a withholding request form described in Subsections 20A-2-104(7) and (8) and any
3259 verification submitted in support of the form;
- 3260 (n) a record that:
- 3261 (i) contains information about an individual;
- 3262 (ii) is voluntarily provided by the individual; and
- 3263 (iii) goes into an electronic database that:
- 3264 (A) is designated by and administered under the authority of the Chief Information
3265 Officer; and
- 3266 (B) acts as a repository of information about the individual that can be
3267 electronically retrieved and used to facilitate the individual's online interaction
3268 with a state agency;
- 3269 (o) information provided to the Commissioner of Insurance under:
- 3270 (i) Subsection 31A-23a-115(3)(a);
- 3271 (ii) Subsection 31A-23a-302(4); or
- 3272 (iii) Subsection 31A-26-210(4);
- 3273 (p) information obtained through a criminal background check under Title 11, Chapter
3274 40, Criminal Background Checks by Political Subdivisions Operating Water Systems;
- 3275 (q) information provided by an offender that is:
- 3276 (i) required by the registration requirements of [~~Title 77, Chapter 41, Sex, Kidnap,
3277 and Child Abuse Offender Registry~~] Title 53, Chapter 29, Sex, Kidnap, and Child
3278 Abuse Offender Registry; and
- 3279 (ii) not required to be made available to the public under Subsection [~~77-41-110(4)]
3280 53-29-404(3)(a)];~~
- 3281 (r) a statement and any supporting documentation filed with the attorney general in
3282 accordance with Section 34-45-107, if the federal law or action supporting the filing
3283 involves homeland security;
- 3284 (s) electronic toll collection customer account information received or collected under
3285 Section 72-6-118 and customer information described in Section 17B-2a-815
3286 received or collected by a public transit district, including contact and payment
3287 information and customer travel data;
- 3288 (t) an email address provided by a military or overseas voter under Section 20A-16-501;
- 3289 (u) a completed military-overseas ballot that is electronically transmitted under Title
3290 20A, Chapter 16, Uniform Military and Overseas Voters Act;
- 3291 (v) records received by or generated by or for the Political Subdivisions Ethics Review

- 3292 Commission established in Section 63A-15-201, except for:
- 3293 (i) the commission's summary data report that is required in Section 63A-15-202; and
- 3294 (ii) any other document that is classified as public in accordance with Title 63A,
- 3295 Chapter 15, Political Subdivisions Ethics Review Commission;
- 3296 (w) a record described in Section 53G-9-604 that verifies that a parent was notified of an
- 3297 incident or threat;
- 3298 (x) a criminal background check or credit history report conducted in accordance with
- 3299 Section 63A-3-201;
- 3300 (y) a record described in Subsection 53-5a-104(7);
- 3301 (z) on a record maintained by a county for the purpose of administering property taxes,
- 3302 an individual's:
- 3303 (i) email address;
- 3304 (ii) phone number; or
- 3305 (iii) personal financial information related to a person's payment method;
- 3306 (aa) a record submitted by a taxpayer to establish the taxpayer's eligibility for an
- 3307 exemption, deferral, abatement, or relief under:
- 3308 (i) Title 59, Chapter 2, Part 11, Exemptions;
- 3309 (ii) Title 59, Chapter 2, Part 12, Property Tax Relief;
- 3310 (iii) Title 59, Chapter 2, Part 18, Tax Deferral and Tax Abatement; or
- 3311 (iv) Title 59, Chapter 2, Part 19, Armed Forces Exemptions;
- 3312 (bb) a record provided by the State Tax Commission in response to a request under
- 3313 Subsection 59-1-403(4)(y)(iii);
- 3314 (cc) a record of the Child Welfare Legislative Oversight Panel regarding an individual
- 3315 child welfare case, as described in Subsection 36-33-103(3); and
- 3316 (dd) a record relating to drug or alcohol testing of a state employee under Section
- 3317 63A-17-1004;
- 3318 (ee) a record relating to a request by a state elected official or state employee who has
- 3319 been threatened to the Division of Technology Services to remove personal
- 3320 identifying information from the open web under Section 63A-16-109; and
- 3321 (ff) a record including confidential information as that term is defined in Section
- 3322 67-27-105.
- 3323 (2) The following records are private if properly classified by a governmental entity:
- 3324 (a) records concerning a current or former employee of, or applicant for employment
- 3325 with a governmental entity, including performance evaluations and personal status

- 3326 information such as race, religion, or disabilities, but not including records that are
3327 public under Subsection 63G-2-301(2)(b) or 63G-2-301(3)(o) or private under
3328 Subsection (1)(b);
- 3329 (b) records describing an individual's finances, except that the following are public:
3330 (i) records described in Subsection 63G-2-301(2);
3331 (ii) information provided to the governmental entity for the purpose of complying
3332 with a financial assurance requirement; or
3333 (iii) records that must be disclosed in accordance with another statute;
- 3334 (c) records of independent state agencies if the disclosure of those records would
3335 conflict with the fiduciary obligations of the agency;
- 3336 (d) other records containing data on individuals the disclosure of which constitutes a
3337 clearly unwarranted invasion of personal privacy;
- 3338 (e) records provided by the United States or by a government entity outside the state that
3339 are given with the requirement that the records be managed as private records, if the
3340 providing entity states in writing that the record would not be subject to public
3341 disclosure if retained by it;
- 3342 (f) any portion of a record in the custody of the Division of Aging and Adult Services,
3343 created in Section 26B-6-102, that may disclose, or lead to the discovery of, the
3344 identity of a person who made a report of alleged abuse, neglect, or exploitation of a
3345 vulnerable adult; and
- 3346 (g) audio and video recordings created by a body-worn camera, as defined in Section
3347 77-7a-103, that record sound or images inside a home or residence except for
3348 recordings that:
- 3349 (i) depict the commission of an alleged crime;
3350 (ii) record any encounter between a law enforcement officer and a person that results
3351 in death or bodily injury, or includes an instance when an officer fires a weapon;
3352 (iii) record any encounter that is the subject of a complaint or a legal proceeding
3353 against a law enforcement officer or law enforcement agency;
3354 (iv) contain an officer involved critical incident as defined in Subsection 76-2-408
3355 (1)(f); or
3356 (v) have been requested for reclassification as a public record by a subject or
3357 authorized agent of a subject featured in the recording.
- 3358 (3)(a) As used in this Subsection (3), "medical records" means medical reports, records,
3359 statements, history, diagnosis, condition, treatment, and evaluation.

- 3360 (b) Medical records in the possession of the University of Utah Hospital, its clinics,
 3361 doctors, or affiliated entities are not private records or controlled records under
 3362 Section 63G-2-304 when the records are sought:
- 3363 (i) in connection with any legal or administrative proceeding in which the patient's
 3364 physical, mental, or emotional condition is an element of any claim or defense; or
 3365 (ii) after a patient's death, in any legal or administrative proceeding in which any
 3366 party relies upon the condition as an element of the claim or defense.
- 3367 (c) Medical records are subject to production in a legal or administrative proceeding
 3368 according to state or federal statutes or rules of procedure and evidence as if the
 3369 medical records were in the possession of a nongovernmental medical care provider.
 3370 Section 41. Section **63G-7-301** is amended to read:
- 3371 **63G-7-301 . Waivers of immunity.**
- 3372 (1)(a) Immunity from suit of each governmental entity is waived as to any contractual
 3373 obligation.
- 3374 (b) Actions arising out of contractual rights or obligations are not subject to the
 3375 requirements of Section 63G-7-401, 63G-7-402, 63G-7-403, or 63G-7-601.
- 3376 (c) The Division of Water Resources is not liable for failure to deliver water from a
 3377 reservoir or associated facility authorized by Title 73, Chapter 26, Bear River
 3378 Development Act, if the failure to deliver the contractual amount of water is due to
 3379 drought, other natural condition, or safety condition that causes a deficiency in the
 3380 amount of available water.
- 3381 (2) Immunity from suit of each governmental entity is waived:
- 3382 (a) as to any action brought to recover, obtain possession of, or quiet title to real or
 3383 personal property;
- 3384 (b) as to any action brought to foreclose mortgages or other liens on real or personal
 3385 property, to determine any adverse claim on real or personal property, or to obtain an
 3386 adjudication about any mortgage or other lien that the governmental entity may have
 3387 or claim on real or personal property;
- 3388 (c) as to any action based on the negligent destruction, damage, or loss of goods,
 3389 merchandise, or other property while it is in the possession of any governmental
 3390 entity or employee, if the property was seized for the purpose of forfeiture under any
 3391 provision of state law;
- 3392 (d) subject to Section 63G-7-302, as to any action brought under the authority of Utah
 3393 Constitution, Article I, Section 22, for the recovery of compensation from the governmental

- 3394 entity when the governmental entity has taken or damaged private property for public uses
3395 without just compensation;
- 3396 (e) as to any claim for attorney fees or costs under Section 63G-2-209, 63G-2-405, or
3397 63G-2-802;
- 3398 (f) for actual damages under Title 67, Chapter 21, Utah Protection of Public Employees
3399 Act;
- 3400 (g) as to any action brought to obtain relief from a land use regulation that imposes a
3401 substantial burden on the free exercise of religion under Title 63L, Chapter 5, Utah
3402 Religious Land Use Act;
- 3403 (h) except as provided in Subsection 63G-7-201(3), as to any injury caused by:
- 3404 (i) a defective, unsafe, or dangerous condition of any highway, road, street, alley,
3405 crosswalk, sidewalk, culvert, tunnel, bridge, viaduct, or other structure located on
3406 them; or
- 3407 (ii) any defective or dangerous condition of a public building, structure, dam,
3408 reservoir, or other public improvement;
- 3409 (i) subject to Subsections 63G-7-101(4) and 63G-7-201(4), as to any injury proximately
3410 caused by a negligent act or omission of an employee committed within the scope of
3411 employment;
- 3412 (j) notwithstanding Subsection 63G-7-101(4), as to a claim for an injury resulting from a
3413 sexual battery, as provided in Section 76-9-702.1, committed:
- 3414 (i) against a student of a public elementary or secondary school, including a charter
3415 school; and
- 3416 (ii) by an employee of a public elementary or secondary school or charter school who:
- 3417 (A) at the time of the sexual battery, held a position of special trust, as defined in
3418 Section 76-5-404.1, with respect to the student;
- 3419 (B) is criminally charged in connection with the sexual battery; and
- 3420 (C) the public elementary or secondary school or charter school knew or in the
3421 exercise of reasonable care should have known, at the time of the employee's
3422 hiring, to be a sex offender, a kidnap offender, or a child abuse offender as [
3423 defined] described in Section [~~77-41-102~~] 53-29-202, required to register under [
3424 Title ~~77~~, Chapter 41, Sex, Kidnap, and Child Abuse Offender Registry] Title
3425 53, Chapter 29, Sex, Kidnap, and Child Abuse Offender Registry, whose status
3426 as a sex offender, kidnap offender, or child abuse offender would have been
3427 revealed in a background check under Section 53G-11-402;

- 3428 (k) as to any action brought under Section 78B-6-2303; and
- 3429 (l) as to any action brought to obtain relief under Title 53B, Chapter 27, Part 6, Student
- 3430 Legal Representation.
- 3431 (3)(a) As used in this Subsection (3):
- 3432 (i) "Code of conduct" means a code of conduct that:
- 3433 (A) is not less stringent than a model code of conduct, created by the State Board
- 3434 of Education, establishing a professional standard of care for preventing the
- 3435 conduct described in Subsection (3)(a)(i)(D);
- 3436 (B) is adopted by the applicable local education governing body;
- 3437 (C) regulates behavior of a school employee toward a student; and
- 3438 (D) includes a prohibition against any sexual conduct between an employee and a
- 3439 student and against the employee and student sharing any sexually explicit or
- 3440 lewd communication, image, or photograph.
- 3441 (ii) "Local education agency" means:
- 3442 (A) a school district;
- 3443 (B) a charter school; or
- 3444 (C) the Utah Schools for the Deaf and the Blind.
- 3445 (iii) "Local education governing board" means:
- 3446 (A) for a school district, the local school board;
- 3447 (B) for a charter school, the charter school governing board; or
- 3448 (C) for the Utah Schools for the Deaf and the Blind, the state board.
- 3449 (iv) "Public school" means a public elementary or secondary school.
- 3450 (v) "Sexual abuse" means the offense described in Subsection 76-5-404.1(2).
- 3451 (vi) "Sexual battery" means the offense described in Section 76-9-702.1, considering
- 3452 the term "child" in that section to include an individual under age 18.
- 3453 (b) Notwithstanding Subsection 63G-7-101(4), immunity from suit is waived as to a
- 3454 claim against a local education agency for an injury resulting from a sexual battery or
- 3455 sexual abuse committed against a student of a public school by a paid employee of
- 3456 the public school who is criminally charged in connection with the sexual battery or
- 3457 sexual abuse, unless:
- 3458 (i) at the time of the sexual battery or sexual abuse, the public school was subject to a
- 3459 code of conduct; and
- 3460 (ii) before the sexual battery or sexual abuse occurred, the public school had:
- 3461 (A) provided training on the code of conduct to the employee; and

3462 (B) required the employee to sign a statement acknowledging that the employee
3463 has read and understands the code of conduct.

3464 (4)(a) As used in this Subsection (4):

3465 (i) "Higher education institution" means an institution included within the state
3466 system of higher education under Section 53B-1-102.

3467 (ii) "Policy governing behavior" means a policy adopted by a higher education
3468 institution or the Utah Board of Higher Education that:

3469 (A) establishes a professional standard of care for preventing the conduct
3470 described in Subsections (4)(a)(ii)(C) and (D);

3471 (B) regulates behavior of a special trust employee toward a subordinate student;

3472 (C) includes a prohibition against any sexual conduct between a special trust
3473 employee and a subordinate student; and

3474 (D) includes a prohibition against a special trust employee and subordinate student
3475 sharing any sexually explicit or lewd communication, image, or photograph.

3476 (iii) "Sexual battery" means the offense described in Section 76-9-702.1.

3477 (iv) "Special trust employee" means an employee of a higher education institution
3478 who is in a position of special trust, as defined in Section 76-5-404.1, with a
3479 higher education student.

3480 (v) "Subordinate student" means a student:

3481 (A) of a higher education institution; and

3482 (B) whose educational opportunities could be adversely impacted by a special
3483 trust employee.

3484 (b) Notwithstanding Subsection 63G-7-101(4), immunity from suit is waived as to a
3485 claim for an injury resulting from a sexual battery committed against a subordinate
3486 student by a special trust employee, unless:

3487 (i) the institution proves that the special trust employee's behavior that otherwise
3488 would constitute a sexual battery was:

3489 (A) with a subordinate student who was at least 18 years old at the time of the
3490 behavior; and

3491 (B) with the student's consent; or

3492 (ii)(A) at the time of the sexual battery, the higher education institution was
3493 subject to a policy governing behavior; and

3494 (B) before the sexual battery occurred, the higher education institution had taken
3495 steps to implement and enforce the policy governing behavior.

3496 Section 42. Section **76-1-201** is amended to read:

3497 **76-1-201 . Jurisdiction of offenses.**

3498 (1) A person is subject to prosecution in this state for an offense which the person commits,
3499 while either within or outside the state, by the person's own conduct or that of another
3500 for which the person is legally accountable, if:

3501 (a) the offense is committed either wholly or partly within the state;

3502 (b) the conduct outside the state constitutes an attempt to commit an offense within the
3503 state;

3504 (c) the conduct outside the state constitutes a conspiracy to commit an offense within the
3505 state and an act in furtherance of the conspiracy occurs in the state; or

3506 (d) the conduct within the state constitutes an attempt, solicitation, or conspiracy to
3507 commit in another jurisdiction an offense under the laws of both this state and the
3508 other jurisdiction.

3509 (2) An offense is committed partly within this state if either the conduct which is any
3510 element of the offense, or the result which is an element, occurs within this state.

3511 (3) In homicide offenses, the "result" is either the physical contact which causes death or
3512 the death itself.

3513 (a) If the body of a homicide victim is found within the state, the death shall be
3514 presumed to have occurred within the state.

3515 (b) If jurisdiction is based on this presumption, this state retains jurisdiction unless the
3516 defendant proves by clear and convincing evidence that:

3517 (i) the result of the homicide did not occur in this state; and

3518 (ii) the defendant did not engage in any conduct in this state which is any element of
3519 the offense.

3520 (4)~~(a)~~ An offense which is based on an omission to perform a duty imposed by the law
3521 of this state is committed within the state regardless of the location of the offender at
3522 the time of the omission.

3523 ~~[(b) For the purpose of establishing venue for a violation of Subsection 77-41-105(3)
3524 concerning sex offender, kidnap offender, or child abuse registration, the offense is
3525 considered to be committed:]~~

3526 ~~[(i) at the most recent registered primary residence of the offender, if the actual
3527 location of the offender at the time of the violation is not known; or]~~

3528 ~~[(ii) at the location of the offender at the time the offender is apprehended.]~~

3529 (5)(a) If no jurisdictional issue is raised, the pleadings are sufficient to establish

- 3530 jurisdiction.
- 3531 (b) The defendant may challenge jurisdiction by filing a motion before trial stating
3532 which facts exist that deprive the state of jurisdiction.
- 3533 (c) The burden is upon the state to initially establish jurisdiction over the offense by a
3534 preponderance of the evidence by showing under the provisions of Subsections (1)
3535 through (4) that the offense was committed either wholly or partly within the borders
3536 of the state.
- 3537 (d) If after the prosecution has met its burden of proof under Subsection (5)(c) the
3538 defendant claims that the state is deprived of jurisdiction or may not exercise
3539 jurisdiction, the burden is upon the defendant to prove by a preponderance of the
3540 evidence:
- 3541 (i) any facts claimed; and
3542 (ii) why those facts deprive the state of jurisdiction.
- 3543 (6) Facts that deprive the state of jurisdiction or prohibit the state from exercising
3544 jurisdiction include the fact that the:
- 3545 (a) defendant is serving in a position that is entitled to diplomatic immunity from
3546 prosecution and that the defendant's country has not waived that diplomatic immunity;
- 3547 (b) defendant is a member of the armed forces of another country and that the crime that
3548 he is alleged to have committed is one that due to an international agreement, such as
3549 a status of forces agreement between his country and the United States, cedes the
3550 exercise of jurisdiction over him for that offense to his country;
- 3551 (c) defendant is an enrolled member of an Indian tribe, as defined in Section 9-9-101,
3552 and that the Indian tribe has a legal status with the United States or the state that vests
3553 jurisdiction in either tribal or federal courts for certain offenses committed within the
3554 exterior boundaries of a tribal reservation, and that the facts establish that the crime is
3555 one that vests jurisdiction in tribal or federal court; or
- 3556 (d) offense occurred on land that is exclusively within federal jurisdiction.
- 3557 (7)(a) The Legislature finds that identity fraud under Chapter 6, Part 11, Identity Fraud
3558 Act, involves the use of personal identifying information which is uniquely personal
3559 to the consumer or business victim of that identity fraud and which information is
3560 considered to be in lawful possession of the consumer or business victim wherever
3561 the consumer or business victim currently resides or is found.
- 3562 (b) For purposes of Subsection (1)(a), an offense which is based on a violation of
3563 Chapter 6, Part 11, Identity Fraud Act, is committed partly within this state,

3564 regardless of the location of the offender at the time of the offense, if the victim of
3565 the identity fraud resides or is found in this state.

3566 (8) The judge shall determine jurisdiction.

3567 Section 43. Section **76-1-202** is amended to read:

3568 **76-1-202 . Venue of actions.**

3569 (1) Criminal actions shall be tried in the county, district, or precinct where the offense is
3570 alleged to have been committed. In determining the proper place of trial, the following
3571 provisions shall apply:

3572 (a) If the commission of an offense commenced outside the state is consummated within
3573 this state, the offender shall be tried in the county where the offense is consummated.

3574 (b) When conduct constituting elements of an offense or results that constitute elements,
3575 whether the conduct or result constituting elements is in itself unlawful, shall occur in
3576 two or more counties, trial of the offense may be held in any of the counties
3577 concerned.

3578 (c) If a person committing an offense upon the person of another is located in one county
3579 and his victim is located in another county at the time of the commission of the
3580 offense, trial may be held in either county.

3581 (d) If a cause of death is inflicted in one county and death ensues in another county, the
3582 offender may be tried in either county.

3583 (e) A person who commits an inchoate offense may be tried in any county in which any
3584 act that is an element of the offense, including the agreement in conspiracy, is
3585 committed.

3586 (f) Where a person in one county solicits, aids, abets, agrees, or attempts to aid another
3587 in the planning or commission of an offense in another county, he may be tried for
3588 the offense in either county.

3589 (g) When an offense is committed within this state and it cannot be readily determined
3590 in which county or district the offense occurred, the following provisions shall be
3591 applicable:

3592 (i) When an offense is committed upon any railroad car, vehicle, watercraft, or
3593 aircraft passing within this state, the offender may be tried in any county through
3594 which such railroad car, vehicle, watercraft, or aircraft has passed.

3595 (ii) When an offense is committed on any body of water bordering on or within this
3596 state, the offender may be tried in any county adjacent to such body of water. The
3597 words "body of water" shall include but not be limited to any stream, river, lake,

- 3598 or reservoir, whether natural or man-made.
- 3599 (iii) A person who commits theft may be tried in any county in which he exerts
3600 control over the property affected.
- 3601 (iv) If an offense is committed on or near the boundary of two or more counties, trial
3602 of the offense may be held in any of such counties.
- 3603 (v) For any other offense, trial may be held in the county in which the defendant
3604 resides, or, if he has no fixed residence, in the county in which he is apprehended
3605 or to which he is extradited.
- 3606 (h) A person who commits an offense based on Chapter 6, Part 11, Identity Fraud Act,
3607 may be tried in the county:
- 3608 (i) where the victim's personal identifying information was obtained;
- 3609 (ii) where the defendant used or attempted to use the personally identifying
3610 information;
- 3611 (iii) where the victim of the identity fraud resides or is found; or
- 3612 (iv) if multiple offenses of identity fraud occur in multiple jurisdictions, in any
3613 county where the victim's identity was used or obtained, or where the victim
3614 resides or is found.
- 3615 (i) For the purpose of establishing venue for a violation of [~~Subsection 77-41-105(3)~~]
3616 Section 53-29-304 concerning sex offender, kidnap offender, or child abuse offender
3617 registration, the offense is considered to be committed:
- 3618 (i) at the most recent registered primary residence of the offender, if the actual
3619 location of the offender at the time of the violation is not known; or
- 3620 (ii) at the location of the offender at the time the offender is apprehended.
- 3621 (2) All objections of improper place of trial are waived by a defendant unless made before
3622 trial.
- 3623 Section 44. Section **76-3-402** is amended to read:
- 3624 **76-3-402 . Conviction of lower degree of offense -- Procedure and limitations.**
- 3625 (1) As used in this section:
- 3626 (a) "Lower degree of offense" includes an offense for which:
- 3627 (i) a statutory enhancement is charged in the information or indictment that would
3628 increase either the maximum or the minimum sentence; and
- 3629 (ii) the court removes the statutory enhancement in accordance with this section.
- 3630 (b) "Minor regulatory offense" means the same as that term is defined in Section
3631 77-40a-101.

- 3632 (c)(i) "Rehabilitation program" means a program designed to reduce criminogenic
3633 and recidivism risks.
- 3634 (ii) "Rehabilitation program" includes:
- 3635 (A) a domestic violence treatment program, as that term is defined in Section
3636 26B-2-101;
- 3637 (B) a residential, vocational, and life skills program, as that term is defined in
3638 Section 13-53-102;
- 3639 (C) a substance abuse treatment program, as that term is defined in Section
3640 26B-2-101;
- 3641 (D) a substance use disorder treatment program, as that term is defined in Section
3642 26B-2-101;
- 3643 (E) a youth program, as that term is defined in Section 26B-2-101;
- 3644 (F) a program that meets the standards established by the Department of
3645 Corrections under Section 64-13-25;
- 3646 (G) a drug court, a veterans court, or a mental health court certified by the Judicial
3647 Council; or
- 3648 (H) a program that is substantially similar to a program described in Subsections
3649 (1)(c)(ii)(A) through (G).
- 3650 (d) "Serious offense" means a felony or misdemeanor offense that is not a minor
3651 regulatory offense or a traffic offense.
- 3652 (e) "Traffic offense" means the same as that term is defined in Section 77-40a-101.
- 3653 (f)(i) Except as provided in Subsection (1)(f)(ii), "violent felony" means the same as
3654 that term is defined in Section 76-3-203.5.
- 3655 (ii) "Violent felony" does not include an offense, or any attempt, solicitation, or
3656 conspiracy to commit an offense, for:
- 3657 (A) the possession, use, or removal of explosive, chemical, or incendiary devices
3658 under Subsection 76-10-306(3), (5), or (6); or
- 3659 (B) the purchase or possession of a dangerous weapon or handgun by a restricted
3660 person under Section 76-10-503.
- 3661 (2) The court may enter a judgment of conviction for a lower degree of offense than
3662 established by statute and impose a sentence at the time of sentencing for the lower
3663 degree of offense if the court:
- 3664 (a) takes into account:
- 3665 (i) the nature and circumstances of the offense of which the defendant was found

- 3666 guilty; and
- 3667 (ii) the history and character of the defendant;
- 3668 (b) gives any victim present at the sentencing and the prosecuting attorney an
- 3669 opportunity to be heard; and
- 3670 (c) concludes that the degree of offense established by statute would be unduly harsh to
- 3671 record as a conviction on the record for the defendant.
- 3672 (3) Upon a motion from the prosecuting attorney or the defendant, the court may enter a
- 3673 judgment of conviction for a lower degree of offense than established by statute:
- 3674 (a) after the defendant is successfully discharged from probation or parole for the
- 3675 conviction; and
- 3676 (b) if the court finds that entering a judgment of conviction for a lower degree of offense
- 3677 is in the interest of justice in accordance with Subsection (7).
- 3678 (4) Upon a motion from the prosecuting attorney or the defendant, the court may enter a
- 3679 judgment of conviction for a lower degree of offense than established by statute if:
- 3680 (a) the defendant's probation or parole for the conviction did not result in a successful
- 3681 discharge but the defendant is successfully discharged from probation or parole for a
- 3682 subsequent conviction of an offense;
- 3683 (b)(i) at least five years have passed after the day on which the defendant is sentenced
- 3684 for the subsequent conviction; or
- 3685 (ii) at least three years have passed after the day on which the defendant is sentenced
- 3686 for the subsequent conviction and the prosecuting attorney consents to the
- 3687 reduction;
- 3688 (c) the defendant is not convicted of a serious offense during the time period described
- 3689 in Subsection (4)(b);
- 3690 (d) there are no criminal proceedings pending against the defendant;
- 3691 (e) the defendant is not on probation, on parole, or currently incarcerated for any other
- 3692 offense;
- 3693 (f) if the offense for which the reduction is sought is a violent felony, the prosecuting
- 3694 attorney consents to the reduction; and
- 3695 (g) the court finds that entering a judgment of conviction for a lower degree of offense is
- 3696 in the interest of justice in accordance with Subsection (7).
- 3697 (5) Upon a motion from the prosecuting attorney or the defendant, the court may enter a
- 3698 judgment of conviction for a lower degree of offense than established by statute if:
- 3699 (a) the defendant's probation or parole for the conviction did not result in a successful

- 3700 discharge but the defendant is successfully discharged from a rehabilitation program;
- 3701 (b) at least three years have passed after the day on which the defendant is successfully
- 3702 discharged from the rehabilitation program;
- 3703 (c) the defendant is not convicted of a serious offense during the time period described
- 3704 in Subsection (5)(b);
- 3705 (d) there are no criminal proceedings pending against the defendant;
- 3706 (e) the defendant is not on probation, on parole, or currently incarcerated for any other
- 3707 offense;
- 3708 (f) if the offense for which the reduction is sought is a violent felony, the prosecuting
- 3709 attorney consents to the reduction; and
- 3710 (g) the court finds that entering a judgment of conviction for a lower degree of offense is
- 3711 in the interest of justice in accordance with Subsection (7).
- 3712 (6) Upon a motion from the prosecuting attorney or the defendant, the court may enter a
- 3713 judgment of conviction for a lower degree of offense than established by statute if:
- 3714 (a) at least five years have passed after the day on which the defendant's probation or
- 3715 parole for the conviction did not result in a successful discharge;
- 3716 (b) the defendant is not convicted of a serious offense during the time period described
- 3717 in Subsection (6)(a);
- 3718 (c) there are no criminal proceedings pending against the defendant;
- 3719 (d) the defendant is not on probation, on parole, or currently incarcerated for any other
- 3720 offense;
- 3721 (e) if the offense for which the reduction is sought is a violent felony, the prosecuting
- 3722 attorney consents to the reduction; and
- 3723 (f) the court finds that entering a judgment of conviction for a lower degree of offense is
- 3724 in the interest of justice in accordance with Subsection (7).
- 3725 (7) In determining whether entering a judgment of a conviction for a lower degree of
- 3726 offense is in the interest of justice under Subsection (3), (4), (5), or (6):
- 3727 (a) the court shall consider:
- 3728 (i) the nature, circumstances, and severity of the offense for which a reduction is
- 3729 sought;
- 3730 (ii) the physical, emotional, or other harm that the defendant caused any victim of the
- 3731 offense for which the reduction is sought; and
- 3732 (iii) any input from a victim of the offense; and
- 3733 (b) the court may consider:

- 3734 (i) any special characteristics or circumstances of the defendant, including the
3735 defendant's criminogenic risks and needs;
- 3736 (ii) the defendant's criminal history;
- 3737 (iii) the defendant's employment and community service history;
- 3738 (iv) whether the defendant participated in a rehabilitative program and successfully
3739 completed the program;
- 3740 (v) any effect that a reduction would have on the defendant's ability to obtain or
3741 reapply for a professional license from the Department of Commerce;
- 3742 (vi) whether the level of the offense has been reduced by law after the defendant's
3743 conviction;
- 3744 (vii) any potential impact that the reduction would have on public safety; or
- 3745 (viii) any other circumstances that are reasonably related to the defendant or the
3746 offense for which the reduction is sought.
- 3747 (8)(a) A court may only enter a judgment of conviction for a lower degree of offense
3748 under Subsection (3), (4), (5), or (6) after:
- 3749 (i) notice is provided to the other party;
- 3750 (ii) reasonable efforts have been made by the prosecuting attorney to provide notice
3751 to any victims; and
- 3752 (iii) a hearing is held if a hearing is requested by either party.
- 3753 (b) A prosecuting attorney is entitled to a hearing on a motion seeking to reduce a
3754 judgment of conviction for a lower degree of offense under Subsection (3), (4), (5),
3755 or (6).
- 3756 (c) In a motion under Subsection (3), (4), (5), or (6) and at a requested hearing on the
3757 motion, the moving party has the burden to provide evidence sufficient to
3758 demonstrate that the requirements under Subsection (3), (4), (5), or (6) are met.
- 3759 (d) If a defendant files a motion under this section, the prosecuting attorney shall
3760 respond to the motion within 35 days after the day on which the motion is filed with
3761 the court.
- 3762 (9) A court has jurisdiction to consider and enter a judgment of conviction for a lower
3763 degree of offense under Subsection (3), (4), (5), or (6) regardless of whether the
3764 defendant is committed to jail as a condition of probation or is sentenced to prison.
- 3765 (10)(a) An offense may be reduced only one degree under this section, unless the
3766 prosecuting attorney specifically agrees in writing or on the court record that the
3767 offense may be reduced two degrees.

- 3768 (b) An offense may not be reduced under this section by more than two degrees.
- 3769 (11) This section does not preclude an individual from obtaining or being granted an
 3770 expungement of the individual's record in accordance with [~~Title 44, Chapter 40A,~~
 3771 ~~Expungement of Criminal Records~~] Title 77, Chapter 40a, Expungement of Criminal
 3772 Records.
- 3773 (12) The court may not enter a judgment for a conviction for a lower degree of offense
 3774 under this section if:
- 3775 (a) the reduction is specifically precluded by law; or
- 3776 (b) any unpaid balance remains on court-ordered restitution for the offense for which the
 3777 reduction is sought.
- 3778 (13) When the court enters a judgment for a lower degree of offense under this section, the
 3779 actual title of the offense for which the reduction is made may not be altered.
- 3780 (14)(a) An individual may not obtain a reduction under this section of a conviction that
 3781 requires the individual to register as a sex offender, kidnap offender, or child abuse
 3782 offender under Section 53-29-202 until the registration requirements under [~~Title 77,~~
 3783 ~~Chapter 41, Sex, Kidnap, and Child Abuse Offender Registry~~] Title 53, Chapter 29,
 3784 Sex, Kidnap, and Child Abuse Offender Registry, have expired.
- 3785 (b) An individual required to register as a sex offender, kidnap offender, or child abuse
 3786 offender under Section 53-29-202 and required to register for the individual's lifetime [
 3787 ~~under Subsection 77-41-105(3)(e)~~] as described in Subsection 53-29-203(1)(b), may
 3788 not be granted a reduction of the conviction for the offense or offenses that require
 3789 the individual to register as a sex offender, kidnap offender, or child abuse offender.
- 3790 Section 45. Section **76-5-401** is amended to read:
- 3791 **76-5-401 . Unlawful sexual activity with a minor -- Penalties -- Evidence of age**
 3792 **raised by defendant -- Limitations.**
- 3793 (1)(a) As used in this section, "minor" means an individual who is 14 years old or older,
 3794 but younger than 16 years old, at the time the sexual activity described in Subsection
 3795 (2) occurred.
- 3796 (b) Terms defined in Section 76-1-101.5 apply to this section.
- 3797 (2)(a) Under circumstances not amounting to an offense listed in Subsection (4), an actor
 3798 18 years old or older commits unlawful sexual activity with a minor if the actor:
- 3799 (i) has sexual intercourse with the minor;
- 3800 (ii) engages in any sexual act with the minor involving the genitals of an individual
 3801 and the mouth or anus of another individual; or

3802 (iii) causes the penetration, however slight, of the genital or anal opening of the
3803 minor by a foreign object, substance, instrument, or device, including a part of the
3804 human body, with the intent to cause substantial emotional or bodily pain to any
3805 individual or with the intent to arouse or gratify the sexual desire of any individual.

3806 (b) Any touching, however slight, is sufficient to constitute the relevant element of a
3807 violation of Subsection (2)(a)(ii).

3808 (3)(a) A violation of Subsection (2) is a third degree felony.

3809 (b)[(†)] Notwithstanding Subsection (3)(a) or (c), a violation of Subsection (2) is a
3810 class B misdemeanor if the defendant establishes by a preponderance of the
3811 evidence the mitigating factor that:

3812 [(A)] (i) the defendant is less than four years older than the minor at the time the
3813 sexual activity occurred; or

3814 [(B)] (ii) the defendant is 18 years old and enrolled in high school at the time the
3815 sexual activity occurred.

3816 [(ii) An offense under Subsection (3)(b)(i) is not subject to registration under
3817 Subsection 77-41-102(19)(a)(vii).]

3818 (c)[(†)] Notwithstanding Subsection (3)(a), if the defendant establishes by a
3819 preponderance of the evidence the mitigating factor that the defendant was
3820 younger than 21 years old at the time the sexual activity occurred, the offense is a
3821 class A misdemeanor.

3822 [(ii) An offense under Subsection (3)(c)(i) is not subject to registration under
3823 Subsection 77-41-102(19)(a)(vii).]

3824 (4) The offenses referred to in Subsection (2)(a) are:

3825 (a) rape, in violation of Section 76-5-402;

3826 (b) object rape, in violation of Section 76-5-402.2;

3827 (c) forcible sodomy, in violation of Section 76-5-403;

3828 (d) aggravated sexual assault, in violation of Section 76-5-405; or

3829 (e) an attempt to commit an offense listed in Subsections (4)(a) through (4)(d).

3830 Section 46. Section **76-5-401.1** is amended to read:

3831 **76-5-401.1 . Sexual abuse of a minor.**

3832 (1)(a) As used in this section:

3833 (i) "Indecent liberties" means:

3834 (A) the actor touching another individual's genitals, anus, buttocks, pubic area, or
3835 female breast;

- 3836 (B) causing any part of an individual's body to touch the actor's or another's
 3837 genitals, pubic area, anus, buttocks, or female breast;
- 3838 (C) simulating or pretending to engage in sexual intercourse with another
 3839 individual, including genital-genital, oral-genital, anal-genital, or oral-anal
 3840 intercourse; or
- 3841 (D) causing an individual to simulate or pretend to engage in sexual intercourse
 3842 with the actor or another, including genital-genital, oral-genital, anal-genital, or
 3843 oral-anal intercourse.
- 3844 (ii) "Minor" means an individual who is 14 years old or older, but younger than 16
 3845 years old, at the time the sexual activity described in Subsection (2) occurred.
- 3846 (b) Terms defined in Section 76-1-101.5 apply to this section.
- 3847 (2)(a) Under circumstances not amounting to an offense listed in Subsection (4), an actor
 3848 commits sexual abuse of a minor if the actor:
- 3849 (i) is four years or more older than the minor; and
- 3850 (ii) with the intent to cause substantial emotional or bodily pain to any individual, or
 3851 with the intent to arouse or gratify the sexual desire of any individual:
- 3852 (A) touches the anus, buttocks, pubic area, or any part of the genitals of the minor;
- 3853 (B) touches the breast of a female minor; or
- 3854 (C) otherwise takes indecent liberties with the minor.
- 3855 (b) Any touching, even if accomplished through clothing, is sufficient to constitute the
 3856 relevant element of a violation of Subsection (2)(a).
- 3857 (3) A violation of Subsection (2)(a) is~~[:]~~
 3858 ~~[(a)]~~ a class A misdemeanor~~[:and]~~ .
 3859 ~~[(b) not subject to registration under Subsection 77-41-102(19)(a)(viii) on a first offense~~
 3860 ~~if the offender was younger than 21 years old at the time of the offense.]~~
- 3861 (4) The offenses referred to in Subsection (2)(a) are:
- 3862 (a) unlawful sexual activity with a minor, in violation of Section 76-5-401;
- 3863 (b) rape, in violation of Section 76-5-402;
- 3864 (c) object rape, in violation of Section 76-5-402.2;
- 3865 (d) forcible sodomy, in violation of Section 76-5-403;
- 3866 (e) aggravated sexual assault, in violation of Section 76-5-405; or
- 3867 (f) an attempt to commit an offense listed in Subsections (4)(a) through (e).
- 3868 Section 47. Section **76-5-401.3** is amended to read:
- 3869 **76-5-401.3 . Unlawful adolescent sexual activity -- Penalties -- Limitations.**

- 3870 (1)(a) As used in this section, "adolescent" means an individual who is 12 years old or
3871 older but younger than 18 years old.
- 3872 (b) Terms defined in Section 76-1-101.5 apply to this section.
- 3873 (2) Under circumstances not amounting to an offense listed in Subsection (5), an actor
3874 commits unlawful sexual activity if:
- 3875 (a)(i) the actor is 12 years old or older but younger than 18 years old;
3876 (ii) the actor engages in sexual activity with an adolescent;
3877 (iii) the actor is not the biological sibling of the adolescent; and
3878 (iv) both the actor and the adolescent mutually agree to the sexual activity; or
- 3879 (b)(i) the actor engages in sexual activity with an adolescent who is 13 years old;
3880 (ii) the actor is 18 years old and enrolled in high school at the time that the sexual
3881 activity occurred;
3882 (iii) the actor is not the biological sibling of the adolescent; and
3883 (iv) both the actor and the adolescent mutually agree to the sexual activity.
- 3884 (3)(a) A violation of Subsection (2)(a) is a:
- 3885 (i) third degree felony if an actor who is 17 years old engages in unlawful adolescent
3886 sexual activity with an adolescent who is 13 years old;
3887 (ii) third degree felony if an actor who is 16 years old engages in unlawful adolescent
3888 sexual activity with an adolescent who is 12 years old;
3889 (iii) class A misdemeanor if an actor who is 16 years old engages in unlawful
3890 adolescent sexual activity with an adolescent who is 13 years old;
3891 (iv) class A misdemeanor if an actor who is 14 or 15 years old engages in unlawful
3892 adolescent sexual activity with an adolescent who is 12 years old;
3893 (v) class B misdemeanor if an actor who is 17 years old engages in unlawful
3894 adolescent sexual activity with an adolescent who is 14 years old;
3895 (vi) class B misdemeanor if an actor who is 15 years old engages in unlawful
3896 adolescent sexual activity with an adolescent who is 13 years old;
3897 (vii) class C misdemeanor if an actor who is 12 or 13 years old engages in unlawful
3898 adolescent sexual activity with an adolescent who is 12 or 13 years old; and
3899 (viii) class C misdemeanor if an actor who is 14 years old engages in unlawful
3900 adolescent sexual activity with an adolescent who is 13 years old.
- 3901 (b) A violation of Subsection (2)(b) is a third degree felony.
- 3902 (4) The actor and the adolescent do not mutually agree to the sexual activity under
3903 Subsection (2) if:

- 3904 (a) the adolescent expresses lack of agreement to the sexual activity through words or
 3905 conduct;
- 3906 (b) the actor overcomes the adolescent's will through:
 3907 (i) threats to the adolescent or any other individual;
 3908 (ii) force;
 3909 (iii) coercion; or
 3910 (iv) enticement;
- 3911 (c) the actor is able to overcome the adolescent through concealment or by the element
 3912 of surprise;
- 3913 (d) the actor knows, or reasonably should know, that the adolescent has a mental disease
 3914 or defect, which renders the adolescent unable to:
 3915 (i) appraise the nature of the act;
 3916 (ii) resist the act;
 3917 (iii) understand the possible consequences to the adolescent's health or safety; or
 3918 (iv) appraise the nature of the relationship between the actor and the adolescent;
- 3919 (e) the actor knows that the adolescent participates in the sexual activity because the
 3920 adolescent erroneously believes that the actor is someone else; or
- 3921 (f) the actor intentionally impaired the power of the adolescent to appraise or control the
 3922 adolescent's conduct by administering any substance without the adolescent's
 3923 knowledge.
- 3924 (5) The offenses referred to in Subsection (2) are:
 3925 (a) rape under Section 76-5-402;
 3926 (b) object rape under Section 76-5-402.2;
 3927 (c) forcible sodomy under Section 76-5-403;
 3928 (d) aggravated sexual assault under Section 76-5-405;
 3929 (e) incest under Section 76-7-102; or
 3930 (f) an attempt to commit an offense listed in Subsections (5)(a) through (e).
- 3931 (6) An offense under this section is not eligible for a nonjudicial adjustment under Section
 3932 80-6-303.5 or a referral to a youth court under Section 80-6-902.
- 3933 (7) Except for an offense that is transferred to a district court by the juvenile court in
 3934 accordance with Section 80-6-504, the district court may enter any sentence or
 3935 combination of sentences that would have been available in juvenile court but for the
 3936 delayed reporting or delayed filing of the information in the district court.
- 3937 [~~(8) An offense under this section is not subject to registration under Subsection 77-41-102~~]

3938 (19).]

3939 *The following section is affected by a coordination clause at the end of this bill.*

3940 Section 48. Section **76-9-702** is amended to read:

3941 **76-9-702 . Lewdness.**

3942 (1) A person is guilty of lewdness if the person under circumstances not amounting to rape,
3943 object rape, forcible sodomy, forcible sexual abuse, aggravated sexual assault, sexual
3944 abuse of a minor, unlawful sexual conduct with a 16- or 17-year-old, custodial sexual
3945 relations under Section 76-5-412, custodial sexual misconduct under Section 76-5-412.2,
3946 custodial sexual relations with youth receiving state services under Section 76-5-413,
3947 custodial sexual misconduct with youth receiving state services under Section 76-5-413.2,
3948 or an attempt to commit any of these offenses, performs any of the following acts in a
3949 public place or under circumstances which the person should know will likely cause
3950 affront or alarm to, on, or in the presence of another individual who is 14 years old or
3951 older:

3952 (a) an act of sexual intercourse or sodomy;

3953 (b) exposes his or her genitals, the female breast below the top of the areola, the
3954 buttocks, the anus, or the pubic area;

3955 (c) masturbates; or

3956 (d) any other act of lewdness.

3957 (2)(a) A person convicted the first or second time of a violation of Subsection (1) is
3958 guilty of a class B misdemeanor, except under Subsection (2)(b).

3959 (b) A person convicted of a violation of Subsection (1) is guilty of a third degree felony
3960 if at the time of the violation:

3961 (i) the person is a sex offender as defined in Section ~~[77-27-21.7]~~ 57-8a-102;

3962 (ii) the person has been previously convicted two or more times of violating
3963 Subsection (1);

3964 (iii) the person has previously been convicted of a violation of Subsection (1) and has
3965 also previously been convicted of a violation of Section 76-9-702.5;

3966 (iv) the person commits the offense of lewdness while also committing the offense of:

3967 (A) criminal trespass in a sex-designated changing room under Subsection
3968 76-6-206(2)(d);

3969 (B) lewdness involving a child under Section 76-9-702.5;

3970 (C) voyeurism under Section 76-9-702.7; or

3971 (D) loitering in a privacy space under Section 76-9-702.8; or

3972 (v) the person commits the offense of lewdness in a sex-designated privacy space, as
 3973 defined in Section 76-9-702.8, that is not designated for individuals of the actor's
 3974 sex.

3975 (c)(i) ~~[For]~~ As described in Subsection 53-29-202(4), for purposes of this Subsection
 3976 ~~(2)[and Subsection 77-41-102(19)]~~, a plea of guilty or nolo contendere to a
 3977 charge under this section that is held in abeyance under Title 77, Chapter 2a, Pleas
 3978 in Abeyance, is the equivalent of a conviction.

3979 (ii) This Subsection (2)(c) also applies if the charge under this Subsection (2) has
 3980 been subsequently reduced or dismissed in accordance with the plea in abeyance
 3981 agreement.

3982 (3)(a) As used in this Subsection (3):

3983 (i) "Common area of a privacy space" means any area of a privacy space other than:

3984 (A) a toilet stall with a closed door;

3985 (B) immediately in front of a urinal during use; or

3986 (C) a shower stall with a closed door or other closed covering.

3987 (ii) "Privacy space" means the same as that term is defined in Section 76-9-702.8.

3988 (b) The common area of a privacy space constitutes a public place or circumstance
 3989 described in Subsection (1) where an act or an attempted act described in Subsection
 3990 (1) constitutes lewdness.

3991 (c) Within the common area of a dressing room, fitting room, locker room, changing
 3992 facility, or any other space designated for multiple individuals to dress or undress
 3993 within the same space, exposing, displaying, or otherwise uncovering genitalia that
 3994 does not correspond with the sex designation of the changing room constitutes an act
 3995 or an attempted act described in Subsection (1) that constitutes lewdness.

3996 (4) A woman's breast feeding, including breast feeding in any location where the woman
 3997 otherwise may rightfully be, does not under any circumstance constitute a lewd act,
 3998 irrespective of whether or not the breast is covered during or incidental to feeding.

3999 Section 49. Section **76-9-702.1** is amended to read:

4000 **76-9-702.1 . Sexual battery.**

4001 (1) An actor is guilty of sexual battery if the actor, under circumstances not amounting to an
 4002 offense under Subsection (2), intentionally touches, whether or not through clothing, the
 4003 anus, buttocks, or any part of the genitals of another individual, or the breast of a female
 4004 individual, and the actor's conduct is under circumstances the actor knows or should
 4005 know will likely cause affront or alarm to the individual touched.

- 4006 (2) Offenses referred to in Subsection (1) are:
- 4007 (a) rape under Section 76-5-402;
- 4008 (b) rape of a child under Section 76-5-402.1;
- 4009 (c) object rape under Section 76-5-402.2;
- 4010 (d) object rape of a child under Section 76-5-402.3;
- 4011 (e) forcible sodomy under Subsection 76-5-403(2);
- 4012 (f) sodomy on a child under Section 76-5-403.1;
- 4013 (g) forcible sexual abuse under Section 76-5-404;
- 4014 (h) sexual abuse of a child under Section 76-5-404.1;
- 4015 (i) aggravated sexual abuse of a child under Section 76-5-404.3;
- 4016 (j) aggravated sexual assault under Section 76-5-405; and
- 4017 (k) an attempt to commit an offense under this Subsection (2).
- 4018 (3) Sexual battery is a class A misdemeanor.
- 4019 ~~[(4)(a) For purposes of Subsection 77-41-102(19) only, a plea of guilty or nolo~~
- 4020 ~~contendere to a charge under this section that is held in abeyance under Title 77,~~
- 4021 ~~Chapter 2a, Pleas in Abeyance, is the equivalent of a conviction.]~~
- 4022 ~~[(b) This Subsection (4) also applies if the charge under this section has been~~
- 4023 ~~subsequently reduced or dismissed in accordance with the plea in abeyance~~
- 4024 ~~agreement.]~~
- 4025 Section 50. Section **76-9-702.5** is amended to read:
- 4026 **76-9-702.5 . Lewdness involving a child.**
- 4027 (1) As used in this section:
- 4028 (a) "In the presence of" includes within visual contact through an electronic device.
- 4029 (b) "Common area of a privacy space" means the same as that term is defined in Section
- 4030 76-9-702.
- 4031 (c) "Privacy space" means the same as that term is defined in Section 76-9-702.8.
- 4032 (2) An actor commits lewdness involving a child if:
- 4033 (a) the actor, under circumstances not amounting to rape of a child, object rape of a
- 4034 child, sodomy upon a child, sexual abuse of a child, aggravated sexual abuse of a
- 4035 child, or an attempt to commit any of those offenses, intentionally or ~~[knowingly does]~~
- 4036 knowingly does any of the following in the presence of a child who is under 14 years
- 4037 old:
- 4038 (i) performs an act of sexual intercourse or sodomy;
- 4039 (ii) exposes the actor's genitals, female breast below the top of the areola, buttocks,

- 4040 anus, or pubic area:
- 4041 (A) in a public place; or
- 4042 (B) in a private place under circumstances the actor should know will likely cause
- 4043 affront or alarm or with the intent to arouse or gratify the sexual desire of the
- 4044 actor or the child; or
- 4045 (iii) masturbates;
- 4046 (b) the actor is 18 years old or older and, under circumstances not amounting to rape of a
- 4047 child, object rape of a child, sodomy upon a child, sexual abuse of a child, aggravated
- 4048 sexual abuse of a child, or an attempt to commit any of those offenses, intentionally
- 4049 or knowingly does any of the following in the presence of a child who is under 14
- 4050 years old with the intent to cause affront or alarm to the child or with the intent to
- 4051 arouse or gratify the sexual desire of the actor or the child:
- 4052 (i) simulates masturbation;
- 4053 (ii) performs an act of simulated intercourse or sodomy;
- 4054 (iii) displays the actor's male genitals or prosthetic male genitals in a discernibly
- 4055 turgid state, even if completely and opaquely covered;
- 4056 (iv) engages in erotic touching of the actor's nude breast, regardless of the actor's sex
- 4057 or how the breast was developed or created; or
- 4058 (v) involves a child in an act that would lead a reasonable person to conclude that the
- 4059 child is engaging in an act of:
- 4060 (A) simulated intercourse or sodomy; or
- 4061 (B) simulated masturbation;
- 4062 (c) the actor, under circumstances not amounting to sexual exploitation of a child under
- 4063 Section 76-5b-201 or aggravated sexual exploitation of a child under Section
- 4064 76-5b-201.1, intentionally or knowingly causes a child under 14 years old to expose
- 4065 the child's genitals, anus, or breast, if female, to the actor, with the intent to arouse or
- 4066 gratify the sexual desire of the actor or the child; or
- 4067 (d) the actor performs any other act of lewdness.
- 4068 (3)(a) Except as provided in Subsection (3)(b), a violation of Subsection (2) is a class A
- 4069 misdemeanor.
- 4070 (b) A violation of Subsection (2) is a third degree felony if at the time of the violation,
- 4071 the actor:
- 4072 (i) is a sex offender [~~as defined in Section 77-27-21.7~~] as described in Subsection
- 4073 53-29-202(2)(b) and the offense that the actor committed that resulted in the actor

4074 being a sex offender was committed against an individual younger than 18 years
4075 old;
4076 (ii) previously has been convicted of a violation of this section;
4077 (iii) commits the violation of Subsection (2) while also committing the offense of:
4078 (A) criminal trespass in a sex-designated changing room under Subsection
4079 76-6-206(2)(d);
4080 (B) lewdness under Section 76-9-702;
4081 (C) voyeurism under Section 76-9-702.7; or
4082 (D) loitering in a privacy space under Section 76-9-702.8; or
4083 (iv) commits the violation of Subsection (2) in a sex-designated privacy space, as
4084 defined in Section 76-9-702.8, that is not designated for individuals of the actor's
4085 sex.

4086 (4)(a) The common area of a privacy space constitutes a public place or circumstance
4087 described in Subsection (2) where an act or an attempted act described in Subsection
4088 (2) constitutes lewdness involving a child.
4089 (b) Within the common area of a government entity's dressing room, fitting room, locker
4090 room, changing facility, or any other space designated for multiple individuals to
4091 dress or undress within the same space, exposing, displaying, or otherwise
4092 uncovering genitalia that does not correspond with the sex designation of the
4093 changing room constitutes an act or an attempted act described in Subsection (2) that
4094 constitutes lewdness involving a child.

4095 Section 51. Section **77-2-2.3** is amended to read:

4096 **77-2-2.3 . Reducing the level of an offense.**

4097 (1) Notwithstanding any other provision of law, a prosecuting attorney may:
4098 (a) present and file an information charging an individual for an offense under
4099 Subsections 76-3-103(1)(b) through (d), Subsection 76-3-103(2), or Section 76-3-104
4100 with a classification of the offense at one degree lower than the classification that is
4101 provided in statute if the prosecuting attorney believes that the sentence would be
4102 disproportionate to the offense because there are special circumstances relating to the
4103 offense; or
4104 (b) subject to the approval of the court, amend an information, as part of a plea
4105 agreement, to charge an individual for an offense under Subsections 76-3-103(1)(b)
4106 through (d), Subsection 76-3-103(2), or Section 76-3-104 with a classification of the
4107 offense at one degree lower than the classification that is provided in statute.

- 4108 (2) A court may:
- 4109 (a) enter a judgment of conviction for an offense filed under Subsection (1) at one
- 4110 degree lower than classified in statute; and
- 4111 (b) impose a sentence for the offense filed under Subsection (1) at one degree lower than
- 4112 classified in statute.
- 4113 (3) A conviction of an offense at one degree lower than classified in statute under
- 4114 Subsection (2) does not affect the requirements for registration of the offense under [
- 4115 ~~Title 77, Chapter 41, Sex, Kidnap, and Child Abuse Offender Registry~~] Title 53, Chapter
- 4116 29, Sex, Kidnap, and Child Abuse Offender Registry, if the elements of the offense for
- 4117 which the defendant is convicted are the same as the elements of [an] a registrable
- 4118 offense described in Section [~~77-41-102~~] 53-29-202.
- 4119 (4) This section does not preclude an individual from obtaining and being granted an
- 4120 expungement for the individual's record in accordance with Title 77, Chapter 40a,
- 4121 Expungement of Criminal Records.
- 4122 Section 52. Section **77-11c-101** is amended to read:
- 4123 **77-11c-101 . Definitions.**
- 4124 As used in this chapter:
- 4125 (1) "Acquitted" means the same as that term is defined in Section 77-11b-101.
- 4126 (2) "Adjudicated" means that:
- 4127 (a)(i) a judgment of conviction by plea or verdict of an offense has been entered by a
- 4128 court; and
- 4129 (ii) a sentence has been imposed by the court; or
- 4130 (b) a judgment has been entered for an adjudication of an offense by a juvenile court
- 4131 under Section 80-6-701.
- 4132 (3) "Adjudication" means:
- 4133 (a) a judgment of conviction by plea or verdict of an offense; or
- 4134 (b) an adjudication for an offense by a juvenile court under Section 80-6-701.
- 4135 (4) "Agency" means the same as that term is defined in Section 77-11a-101.
- 4136 (5) "Appellate court" means the Utah Court of Appeals, the Utah Supreme Court, or the
- 4137 United States Supreme Court.
- 4138 (6)(a) "Biological evidence" means an item that contains blood, semen, hair, saliva,
- 4139 epithelial cells, latent fingerprint evidence that may contain biological material
- 4140 suitable for DNA testing, or other identifiable human biological material that:
- 4141 (i) is collected as part of an investigation or prosecution of a violent felony offense;

- 4142 and
- 4143 (ii) may reasonably be used to incriminate or exculpate a person for the violent
- 4144 felony offense.
- 4145 (b) "Biological evidence" includes:
- 4146 (i) material that is catalogued separately, including:
- 4147 (A) on a slide or swab; or
- 4148 (B) inside a test tube, if the evidentiary sample that previously was inside the test
- 4149 tube has been consumed by testing;
- 4150 (ii) material that is present on other evidence, including clothing, a ligature, bedding,
- 4151 a drinking cup, a cigarette, or a weapon, from which a DNA profile may be
- 4152 obtained;
- 4153 (iii) the contents of a sexual assault kit; and
- 4154 (iv) for a violent felony offense, material described in this Subsection (6) that is in
- 4155 the custody of an evidence collecting or retaining entity on May 4, 2022.
- 4156 (7) "Claimant" means the same as that term is defined in Section 77-11a-101.
- 4157 (8) "Computer" means the same as that term is defined in Section 77-11a-101.
- 4158 (9) "Continuous chain of custody" means:
- 4159 (a) for a law enforcement agency or a court, that legal standards regarding a continuous
- 4160 chain of custody are maintained; and
- 4161 (b) for an entity that is not a law enforcement agency or a court, that the entity maintains
- 4162 a record in accordance with legal standards required of the entity.
- 4163 (10) "Contraband" means the same as that term is defined in Section 77-11a-101.
- 4164 (11) "Controlled substance" means the same as that term is defined in Section 58-37-2.
- 4165 (12) "Court" means a municipal, county, or state court.
- 4166 (13) "DNA" means deoxyribonucleic acid.
- 4167 (14) "DNA profile" means a unique identifier of an individual derived from DNA.
- 4168 (15) "Drug paraphernalia" means the same as that term is defined in Section 58-37a-3.
- 4169 (16) "Evidence" means property, contraband, or an item or substance that:
- 4170 (a) is seized or collected as part of an investigation or prosecution of an offense; and
- 4171 (b) may reasonably be used to incriminate or exculpate an individual for an offense.
- 4172 (17)(a) "Evidence collecting or retaining entity" means an entity within the state that
- 4173 collects, stores, or retrieves biological evidence.
- 4174 (b) "Evidence collecting or retaining entity" includes:
- 4175 (i) a medical or forensic entity;

- 4176 (ii) a law enforcement agency;
- 4177 (iii) a court; and
- 4178 (iv) an official, employee, or agent of an entity or agency described in this Subsection
- 4179 (17).
- 4180 (v) "Evidence collecting or retaining entity" does not include a collecting facility
- 4181 defined in Section 53-10-902.
- 4182 (18) "Exhibit" means property, contraband, or an item or substance that is admitted into
- 4183 evidence for a court proceeding.
- 4184 (19) "In custody" means an individual who:
- 4185 (a) is incarcerated, civilly committed, on parole, or on probation; or
- 4186 (b) is required to register under [~~Title 77, Chapter 41, Sex, Kidnap, and Child Abuse~~
- 4187 ~~Offender Registry~~] Title 53, Chapter 29, Sex, Kidnap, and Child Abuse Offender
- 4188 Registry.
- 4189 (20) "Law enforcement agency" means the same as that term is defined in Section
- 4190 77-11a-101.
- 4191 (21) "Medical or forensic entity" means a private or public hospital, medical facility, or
- 4192 other entity that secures biological evidence or conducts forensic examinations related to
- 4193 criminal investigations.
- 4194 (22) "Physical evidence" includes evidence that:
- 4195 (a) is related to:
- 4196 (i) an investigation;
- 4197 (ii) an arrest; or
- 4198 (iii) a prosecution that resulted in a judgment of conviction; and
- 4199 (b) is in the actual or constructive possession of a law enforcement agency or a court or
- 4200 an agent of a law enforcement agency or a court.
- 4201 (23) "Property" means the same as that term is defined in Section 77-11a-101.
- 4202 (24) "Prosecuting attorney" means the same as that term is defined in Section 77-11a-101.
- 4203 (25) "Sexual assault kit" means the same as that term is defined in Section 53-10-902.
- 4204 (26) "Victim" means the same as that term is defined in Section 53-10-902.
- 4205 (27) "Violent felony offense" means the same as the term "violent felony" is defined in
- 4206 Section 76-3-203.5.
- 4207 (28) "Wildlife" means the same as that term is defined in Section 23A-1-101.
- 4208 Section 53. Section **77-27-5.2** is amended to read:
- 4209 **77-27-5.2 . Board authority to order removal from Sex, Kidnap, and Child Abuse**

4210 **Offender Registry.**

4211 (1) If the board grants a pardon for a conviction described in Section 53-29-202 that is the
4212 basis for an individual's registration on the Sex, Kidnap, and Child Abuse Offender
4213 Registry, the board shall issue an order directing the Department of Public Safety to
4214 remove the individual's name and personal information relating to the pardoned
4215 conviction from the Sex, Kidnap, and Child Abuse Offender Registry.

4216 (2) An order described in Subsection (1), issued by the board, satisfies the notification
4217 requirement described in Subsection [~~77-41-113(1)(b)~~] 53-29-405(1)(b).

4218 Section 54. Section **77-38-605** is amended to read:

4219 **77-38-605 . Administration -- Application.**

4220 (1) The commission shall provide an application form to an applicant who seeks to
4221 participate in the program under this part.

4222 (2) The commission may not charge an applicant or program participant for an application
4223 or participation fee to apply for, or participate in, the program.

4224 (3) The application shall include:

4225 (a) the applicant's name;

4226 (b) a mailing address, a phone number, and an email address where the applicant may be
4227 contacted by the commission;

4228 (c) an indication regarding whether the assailant is employed by a state or local
4229 government entity, and if applicable, the name of the state or local government entity;

4230 (d) a statement that the applicant understands and consents to:

4231 (i) remain enrolled in the program for four years, unless the applicant's participation
4232 in the program is cancelled under Section 77-38-617;

4233 (ii) while the applicant is enrolled in the program, notify the commission when the
4234 applicant changes the applicant's actual address or legal name;

4235 (iii) develop a safety plan with a program assistant;

4236 (iv) authorize the commission to notify a state or local government entity that the
4237 applicant is a program participant;

4238 (v) submit written notice to the commission if the applicant chooses to cancel the
4239 applicant's participation in the program;

4240 (vi) register to vote in person at the office of the clerk in the county where the
4241 applicant's actual address is located; and

4242 (vii) certify that the commission is the applicant's designated agent for service of
4243 process for personal service;

- 4244 (e) evidence that the applicant, or a minor or an incapacitated individual residing with
4245 the applicant, is a victim, including:
- 4246 (i) a law enforcement, court, or other state, local, or federal government agency
4247 record; or
- 4248 (ii) a document from:
- 4249 (A) a domestic violence program, facility, or shelter;
- 4250 (B) a sexual assault program; or
- 4251 (C) a religious, medical, or other professional from whom the applicant, or the
4252 minor or the incapacitated individual residing with the applicant, sought
4253 assistance in dealing with alleged abuse, domestic violence, stalking, or a
4254 sexual offense;
- 4255 (f) a statement from the applicant that a disclosure of the applicant's actual address
4256 would endanger the applicant, or a minor or an incapacitated individual residing with
4257 the applicant;
- 4258 (g) a statement by the applicant that the applicant:
- 4259 (i) resides at a residential address that is not known by the assailant;
- 4260 (ii) has relocated to a different residential address in the past 90 days that is not
4261 known by the assailant; or
- 4262 (iii) will relocate to a different residential address in the state within 90 days that is
4263 not known by the assailant;
- 4264 (h) the actual address that:
- 4265 (i) the applicant requests that the commission not disclose; and
- 4266 (ii) is at risk of discovery by the assailant or potential assailant;
- 4267 (i) a statement by the applicant disclosing:
- 4268 (i) the existence of a court order or action involving the applicant, or a minor or an
4269 incapacitated individual residing with the applicant, related to a divorce
4270 proceeding, a child support order or judgment, or the allocation of custody or
4271 parent-time; and
- 4272 (ii) the court that issued the order or has jurisdiction over the action;
- 4273 (j) the name of any other individual who resides with the applicant who needs to be a
4274 program participant to ensure the safety of the applicant, or a minor or an
4275 incapacitated individual residing with the applicant;
- 4276 (k) a statement by the applicant that:
- 4277 (i) the applicant, or a minor or an incapacitated individual residing at the same

- 4278 address as the applicant, will benefit from participation in the program;
- 4279 (ii) if the applicant intends to vote, the applicant will register to vote at the office of
- 4280 the clerk in the county in which the applicant actually resides; and
- 4281 (iii) the applicant does not have a current obligation to register as a sex offender,
- 4282 kidnap offender, or child abuse offender under [~~Title 77, Chapter 41, Sex, Kidnap,~~
- 4283 ~~and Child Abuse Offender Registry~~] Title 53, Chapter 29, Sex, Kidnap, and Child
- 4284 Abuse Offender Registry;
- 4285 (l) a statement by the applicant, under penalty of perjury, that the information contained
- 4286 in the application is true;
- 4287 (m) a statement that:
- 4288 (i) if the applicant intends to use the assigned address for any correspondence with
- 4289 the State Tax Commission, the applicant must provide the State Tax Commission
- 4290 with the applicant's social security number, federal employee identification
- 4291 number, and any other identification number related to a tax, fee, charge, or
- 4292 license administered by the State Tax Commission; and
- 4293 (ii) if the applicant intends to use the assigned address for correspondence to a state
- 4294 or local government entity for the purpose of titling or registering a motor vehicle
- 4295 or a watercraft that is owned or leased by the applicant, the applicant shall provide
- 4296 to the state or local government entity for each motor vehicle or watercraft:
- 4297 (A) the motor vehicle or hull identification number;
- 4298 (B) the license plate or registration number for the motor vehicle or the watercraft;
- 4299 and
- 4300 (C) the physical address where each motor vehicle or watercraft is stored; and
- 4301 (n) a statement that any assistance or counseling provided by a program assistant as part
- 4302 of the program does not constitute legal advice or legal services to the applicant.

4303 Section 55. Section **77-40a-303** is amended to read:

4304 **77-40a-303 . Requirements for a certificate of eligibility to expunge records of a**

4305 **conviction.**

- 4306 (1) Except as otherwise provided by this section, a petitioner is eligible to receive a
- 4307 certificate of eligibility from the bureau to expunge the records of a conviction if:
- 4308 (a) the petitioner has paid in full all fines and interest ordered by the court related to the
- 4309 conviction for which expungement is sought;
- 4310 (b) the petitioner has paid in full all restitution ordered by the court under Section
- 4311 77-38b-205; and

- 4312 (c) the following time periods have passed after the day on which the petitioner was
4313 convicted or released from incarceration, parole, or probation, whichever occurred
4314 last, for the conviction that the petitioner seeks to expunge:
- 4315 (i) 10 years for the conviction of a misdemeanor under Subsection 41-6a-501(2);
 - 4316 (ii) 10 years for the conviction of a felony for operating a motor vehicle with any amount of a
4317 controlled substance in an individual's body and causing serious bodily injury or death, as
4318 codified before May 4, 2022, Laws of Utah 2021,
4319 Chapter 236, Section 1, Subsection 58-37-8(2)(g);
 - 4320 (iii) seven years for the conviction of a felony;
 - 4321 (iv) five years for the conviction of a drug possession offense that is a felony;
 - 4322 (v) five years for the conviction of a class A misdemeanor;
 - 4323 (vi) four years for the conviction of a class B misdemeanor; or
 - 4324 (vii) three years for the conviction of a class C misdemeanor or infraction.
- 4325 (2) A petitioner is not eligible to receive a certificate of eligibility from the bureau to
4326 expunge the records of a conviction under Subsection (1) if:
- 4327 (a) except as provided in Subsection (3), the conviction for which expungement is
4328 sought is:
 - 4329 (i) a capital felony;
 - 4330 (ii) a first degree felony;
 - 4331 (iii) a felony conviction of a violent felony as defined in Subsection 76-3-203.5
4332 (1)(c)(i);
 - 4333 (iv) a felony conviction described in Subsection 41-6a-501(2);
 - 4334 (v) an offense, or a combination of offenses, that would [~~require the individual to~~
4335 ~~register as a sex offender, as defined in Section 77-41-102~~] result in the individual
4336 being a sex offender under Subsection 53-29-202(2)(b); or
 - 4337 (vi) [~~a registerable child abuse offense as defined in Subsection 77-41-102(1);~~] an
4338 offense, or a combination of offenses, that would result in the individual being a
4339 child abuse offender under Subsection 53-29-202(2)(a);
 - 4340 (b) there is a criminal proceeding for a misdemeanor or felony offense pending against
4341 the petitioner, unless the criminal proceeding is for a traffic offense;
 - 4342 (c) there is a plea in abeyance for a misdemeanor or felony offense pending against the
4343 petitioner, unless the plea in abeyance is for a traffic offense;
 - 4344 (d) the petitioner is currently incarcerated, on parole, or on probation, unless the
4345 petitioner is on probation or parole for an infraction, a traffic offense, or a minor

- 4346 regulatory offense;
- 4347 (e) the petitioner intentionally or knowingly provides false or misleading information on
4348 the application for a certificate of eligibility;
- 4349 (f) there is a criminal protective order or a criminal stalking injunction in effect for the
4350 case; or
- 4351 (g) the bureau determines that the petitioner's criminal history makes the petitioner
4352 ineligible for a certificate of eligibility under Subsection (4) or (5).
- 4353 (3) Subsection (2)(a) does not apply to a conviction for a qualifying sexual offense, as
4354 defined in Section 76-3-209, if, at the time of the offense, a petitioner who committed
4355 the offense was at least 14 years old but under 18 years old, unless the petitioner was
4356 convicted by a district court as an adult in accordance with [~~Title 80, Chapter 6, Part 5,~~
4357 ~~Transfer to District Court~~] Title 80, Chapter 6, Part 5, Minor Tried as an Adult.
- 4358 (4) Subject to Subsections (6), (7), and (8), a petitioner is not eligible to receive a certificate
4359 of eligibility if, at the time the petitioner seeks the certificate of eligibility, the bureau
4360 determines that the petitioner's criminal history, including previously expunged
4361 convictions, contains any of the following:
- 4362 (a) two or more felony convictions other than for drug possession offenses, each of
4363 which is contained in a separate criminal episode;
- 4364 (b) any combination of three or more convictions other than for drug possession offenses
4365 that include two class A misdemeanor convictions, each of which is contained in a
4366 separate criminal episode;
- 4367 (c) any combination of four or more convictions other than for drug possession offenses
4368 that include three class B misdemeanor convictions, each of which is contained in a
4369 separate criminal episode; or
- 4370 (d) five or more convictions other than for drug possession offenses of any degree
4371 whether misdemeanor or felony, each of which is contained in a separate criminal
4372 episode.
- 4373 (5) Subject to Subsections (7) and (8), a petitioner is not eligible to receive a certificate of
4374 eligibility if, at the time the petitioner seeks the certificate of eligibility, the bureau
4375 determines that the petitioner's criminal history, including previously expunged
4376 convictions, contains any of the following:
- 4377 (a) three or more felony convictions for drug possession offenses, each of which is
4378 contained in a separate criminal episode; or
- 4379 (b) any combination of five or more convictions for drug possession offenses, each of

- 4380 which is contained in a separate criminal episode.
- 4381 (6) If the petitioner's criminal history contains convictions for both a drug possession
 4382 offense and a non-drug possession offense arising from the same criminal episode, the
 4383 bureau shall count that criminal episode as a conviction under Subsection (4) if any
 4384 non-drug possession offense in that episode:
- 4385 (a) is a felony or class A misdemeanor; or
 4386 (b) has the same or a longer waiting period under Subsection (1)(c) than any drug
 4387 possession offense in that episode.
- 4388 (7) Except as provided in Subsection (8), if at least 10 years have passed after the day on
 4389 which the petitioner was convicted or released from incarceration, parole, or probation,
 4390 whichever occurred last, for all convictions:
- 4391 (a) each numerical eligibility limit under Subsections (4)(a) and (b) shall be increased by
 4392 one; and
 4393 (b) each numerical eligibility limit under Subsections (4)(c) and (d) is not applicable if
 4394 the highest level of convicted offense in the criminal episode is:
- 4395 (i) a class B misdemeanor;
 4396 (ii) a class C misdemeanor;
 4397 (iii) a drug possession offense if none of the non-drug possession offenses in the
 4398 criminal episode are a felony or a class A misdemeanor; or
 4399 (iv) an infraction.
- 4400 (8) When determining whether a petitioner is eligible for a certificate of eligibility under
 4401 Subsection (4), (5), or (7), the bureau may not consider a petitioner's pending case or
 4402 prior conviction for:
- 4403 (a) an infraction;
 4404 (b) a traffic offense;
 4405 (c) a minor regulatory offense; or
 4406 (d) a clean slate eligible case that was automatically expunged.
- 4407 (9) If the petitioner received a pardon before May 14, 2013, from the Utah Board of
 4408 Pardons and Parole, the petitioner is entitled to an expungement order for all pardoned
 4409 crimes in accordance with Section 77-27-5.1.
- 4410 Section 56. Section **77-40a-403** is amended to read:
- 4411 **77-40a-403 . Release and use of expunged records -- Agencies.**
- 4412 (1)(a) An agency with an expunged record, or any employee of an agency with an
 4413 expunged record, may not knowingly or intentionally divulge any information

- 4414 contained in the expunged record to any person, or another agency, without a court
4415 order unless:
- 4416 (i) specifically authorized by Subsection (4) or Section 77-40a-404; or
 - 4417 (ii) subject to Subsection (1)(b), the information in an expunged record is being
4418 shared with another agency through a records management system that both
4419 agencies use for the purpose of record management.
- 4420 (b) An agency with a records management system may not disclose any information in
4421 an expunged record to another agency or person, or allow another agency or person
4422 access to an expunged record, if that agency or person does not use the records
4423 management system for the purpose of record management.
- 4424 (2) The following entities or agencies may receive information contained in expunged
4425 records upon specific request:
- 4426 (a) the Board of Pardons and Parole;
 - 4427 (b) Peace Officer Standards and Training;
 - 4428 (c) federal authorities if required by federal law;
 - 4429 (d) the State Board of Education;
 - 4430 (e) the Commission on Criminal and Juvenile Justice, for purposes of investigating
4431 applicants for judicial office; and
 - 4432 (f) a research institution or an agency engaged in research regarding the criminal justice
4433 system if:
 - 4434 (i) the research institution or agency provides a legitimate research purpose for
4435 gathering information from the expunged records;
 - 4436 (ii) the research institution or agency enters into a data sharing agreement with the
4437 court or agency with custody of the expunged records that protects the
4438 confidentiality of any identifying information in the expunged records;
 - 4439 (iii) any research using expunged records does not include any individual's name or
4440 identifying information in any product of that research; and
 - 4441 (iv) any product resulting from research using expunged records includes a disclosure
4442 that expunged records were used for research purposes.
- 4443 (3) Except as otherwise provided by this section or by court order, a person, an agency, or
4444 an entity authorized by this section to view expunged records may not reveal or release
4445 any information obtained from the expunged records to anyone outside the specific
4446 request, including distribution on a public website.
- 4447 (4) A prosecuting attorney may communicate with another prosecuting attorney, or another

- 4448 prosecutorial agency, regarding information in an expunged record that includes a
4449 conviction, or a charge dismissed as a result of a successful completion of a plea in
4450 abeyance agreement, for:
- 4451 (a) stalking as described in Section 76-5-106.5;
4452 (b) a domestic violence offense as defined in Section 77-36-1;
4453 (c) an offense that would [~~require the individual to register as a sex offender, kidnap~~
4454 ~~offender, or child abuse offender as defined in Section 77-41-102~~] result in the
4455 individual being a child abuse offender, a sex offender, or a kidnap offender under
4456 Section 53-29-202; or
- 4457 (d) a weapons offense under Title 76, Chapter 10, Part 5, Weapons.
- 4458 (5) Except as provided in Subsection (7), a prosecuting attorney may not use an expunged
4459 record for the purpose of a sentencing enhancement or as a basis for charging an
4460 individual with an offense that requires a prior conviction.
- 4461 (6) The bureau may also use the information in the bureau's index as provided in Section
4462 53-5-704.
- 4463 (7) If an individual is charged with a felony, or an offense eligible for enhancement based
4464 on a prior conviction, after obtaining an order of expungement, the prosecuting attorney
4465 may petition the court in which the individual is charged to open the expunged records
4466 upon a showing of good cause.
- 4467 (8)(a) For judicial sentencing, a court may order any records expunged under this
4468 chapter or Section 77-27-5.1 to be opened and admitted into evidence.
- 4469 (b) The records are confidential and are available for inspection only by the court,
4470 parties, counsel for the parties, and any other person who is authorized by the court to
4471 inspect them.
- 4472 (c) At the end of the action or proceeding, the court shall order the records expunged
4473 again.
- 4474 (d) Any person authorized by this Subsection (8) to view expunged records may not
4475 reveal or release any information obtained from the expunged records to anyone
4476 outside the court.
- 4477 (9) Records released under this chapter are classified as protected under Section 63G-2-305
4478 and are accessible only as provided under Title 63G, Chapter 2, Part 2, Access to
4479 Records, and Subsection 53-10-108(2)(k) for records held by the bureau.
- 4480 Section 57. Section **78A-2-301** is amended to read:
4481 **78A-2-301 . Civil fees of the courts of record -- Courts complex design.**

- 4482 (1)(a) The fee for filing any civil complaint or petition invoking the jurisdiction of a
4483 court of record not governed by another subsection is \$375.
- 4484 (b) The fee for filing a complaint or petition is:
- 4485 (i) \$90 if the claim for damages or amount in interpleader exclusive of court costs,
4486 interest, and attorney fees is \$2,000 or less;
- 4487 (ii) \$200 if the claim for damages or amount in interpleader exclusive of court costs,
4488 interest, and attorney fees is greater than \$2,000 and less than \$10,000;
- 4489 (iii) \$375 if the claim for damages or amount in interpleader is \$10,000 or more;
- 4490 (iv) except as provided in Subsection (1)(b)(v), \$325 if the petition is filed for an
4491 action described in Title 81, Chapter 4, Dissolution of Marriage;
- 4492 (v) \$35 for a petition for temporary separation described in Section 81-4-104;
- 4493 (vi) \$125 if the petition is for removal from the [The-]Sex, Kidnap, and Child Abuse
4494 Offender Registry under Section [~~77-41-112~~] 53-29-204, 53-29-205, or 53-29-206;
4495 and
- 4496 (vii) \$35 if the petition is for guardianship and the prospective ward is the biological
4497 or adoptive child of the petitioner.
- 4498 (c) The fee for filing a small claims affidavit is:
- 4499 (i) \$60 if the claim for damages or amount in interpleader exclusive of court costs,
4500 interest, and attorney fees is \$2,000 or less;
- 4501 (ii) \$100 if the claim for damages or amount in interpleader exclusive of court costs,
4502 interest, and attorney fees is greater than \$2,000, but less than \$7,500; and
- 4503 (iii) \$185 if the claim for damages or amount in interpleader exclusive of court costs,
4504 interest, and attorney fees is \$7,500 or more.
- 4505 (d) The fee for filing a counter claim, cross claim, complaint in intervention, third party
4506 complaint, or other claim for relief against an existing or joined party other than the
4507 original complaint or petition is:
- 4508 (i) \$55 if the claim for relief exclusive of court costs, interest, and attorney fees is
4509 \$2,000 or less;
- 4510 (ii) \$165 if the claim for relief exclusive of court costs, interest, and attorney fees is
4511 greater than \$2,000 and less than \$10,000;
- 4512 (iii) \$170 if the original petition is filed under Subsection (1)(a), the claim for relief is
4513 \$10,000 or more, or the party seeks relief other than monetary damages; and
- 4514 (iv) \$130 if the original petition is filed for an action described in Title 81, Chapter 4,
4515 Dissolution of Marriage.

- 4516 (e) The fee for filing a small claims counter affidavit is:
- 4517 (i) \$50 if the claim for relief exclusive of court costs, interest, and attorney fees is
- 4518 \$2,000 or less;
- 4519 (ii) \$70 if the claim for relief exclusive of court costs, interest, and attorney fees is
- 4520 greater than \$2,000, but less than \$7,500; and
- 4521 (iii) \$120 if the claim for relief exclusive of court costs, interest, and attorney fees is
- 4522 \$7,500 or more.
- 4523 (f) The fee for depositing funds under Section 57-1-29 when not associated with an
- 4524 action already before the court is determined under Subsection (1)(b) based on the
- 4525 amount deposited.
- 4526 (g) The fee for filing a petition is:
- 4527 (i) \$240 for trial de novo of an adjudication of the justice court or of the small claims
- 4528 department; and
- 4529 (ii) \$80 for an appeal of a municipal administrative determination in accordance with
- 4530 Section 10-3-703.7.
- 4531 (h) The fee for filing a notice of appeal, petition for appeal of an interlocutory order, or
- 4532 petition for writ of certiorari is \$240.
- 4533 (i) The fee for filing a petition for expungement is \$150.
- 4534 (j)(i) Fifteen dollars of the fees established by Subsections (1)(a) through (i) shall be
- 4535 allocated to and between the Judges' Contributory Retirement Trust Fund and the
- 4536 Judges' Noncontributory Retirement Trust Fund, as provided in Title 49, Chapter
- 4537 17, Judges' Contributory Retirement Act, and Title 49, Chapter 18, Judges'
- 4538 Noncontributory Retirement Act.
- 4539 (ii) Four dollars of the fees established by Subsections (1)(a) through (i) shall be
- 4540 allocated by the state treasurer to be deposited into the restricted account,
- 4541 Children's Legal Defense Account, as provided in Section 51-9-408.
- 4542 (iii) Five dollars of the fees established under Subsections (1)(a) through (e), (1)(g),
- 4543 and (1)(s) shall be allocated to and deposited with the Dispute Resolution Account
- 4544 as provided in Section 78B-6-209.
- 4545 (iv) Thirty dollars of the fees established by Subsections (1)(a), (1)(b)(iii) and (iv),
- 4546 (1)(d)(iii) and (iv), (1)(g)(ii), (1)(h), and (1)(i) shall be allocated by the state
- 4547 treasurer to be deposited into the restricted account, Court Security Account, as
- 4548 provided in Section 78A-2-602.
- 4549 (v) Twenty dollars of the fees established by Subsections (1)(b)(i) and (ii), (1)(d)(ii)

- 4550 and (1)(g)(i) shall be allocated by the state treasurer to be deposited into the
4551 restricted account, Court Security Account, as provided in Section 78A-2-602.
- 4552 (k) The fee for filing a judgment, order, or decree of a court of another state or of the
4553 United States is \$35.
- 4554 (l) The fee for filing a renewal of judgment in accordance with Section 78B-6-1801 is
4555 50% of the fee for filing an original action seeking the same relief.
- 4556 (m) The fee for filing probate or child custody documents from another state is \$35.
- 4557 (n)(i) The fee for filing an abstract or transcript of judgment, order, or decree of the
4558 State Tax Commission is \$30.
- 4559 (ii) The fee for filing an abstract or transcript of judgment of a court of law of this
4560 state or a judgment, order, or decree of an administrative agency, commission,
4561 board, council, or hearing officer of this state or of its political subdivisions other
4562 than the State Tax Commission, is \$50.
- 4563 (o) The fee for filing a judgment by confession without action under Section 78B-5-205
4564 is \$35.
- 4565 (p) The fee for filing an award of arbitration for confirmation, modification, or vacation
4566 under Title 78B, Chapter 11, Utah Uniform Arbitration Act, that is not part of an
4567 action before the court is \$35.
- 4568 (q) The fee for filing a petition or counter-petition to modify a domestic relations order
4569 other than a protective order or stalking injunction is \$100.
- 4570 (r) The fee for filing any accounting required by law is:
- 4571 (i) \$15 for an estate valued at \$50,000 or less;
- 4572 (ii) \$30 for an estate valued at \$75,000 or less but more than \$50,000;
- 4573 (iii) \$50 for an estate valued at \$112,000 or less but more than \$75,000;
- 4574 (iv) \$90 for an estate valued at \$168,000 or less but more than \$112,000; and
- 4575 (v) \$175 for an estate valued at more than \$168,000.
- 4576 (s) The fee for filing a demand for a civil jury is \$250.
- 4577 (t) The fee for filing a notice of deposition in this state concerning an action pending in
4578 another state under Utah Rules of Civil Procedure, Rule 30 is \$35.
- 4579 (u) The fee for filing documents that require judicial approval but are not part of an
4580 action before the court is \$35.
- 4581 (v) The fee for a petition to open a sealed record is \$35.
- 4582 (w) The fee for a writ of replevin, attachment, execution, or garnishment is \$50 in
4583 addition to any fee for a complaint or petition.

- 4584 (x)(i) The fee for a petition for authorization for a minor to marry required by Section
4585 81-2-304 is \$5.
- 4586 (ii) The fee for a petition for emancipation of a minor provided in Title 80, Chapter 7,
4587 Emancipation, is \$50.
- 4588 (y) The fee for a certificate issued under Section 26B-8-128 is \$8.
- 4589 (z) The fee for a certified copy of a document is \$4 per document plus 50 cents per page.
- 4590 (aa) The fee for an exemplified copy of a document is \$6 per document plus 50 cents per
4591 page.
- 4592 (bb) The Judicial Council shall, by rule, establish a schedule of fees for copies of
4593 documents and forms and for the search and retrieval of records under Title 63G,
4594 Chapter 2, Government Records Access and Management Act. Fees under
4595 Subsection (1)(bb) and (cc) shall be credited to the court as a reimbursement of
4596 expenditures.
- 4597 (cc) The Judicial Council may, by rule, establish a reasonable fee to allow members of
4598 the public to conduct a limited amount of searches on the Xchange database without
4599 having to pay a monthly subscription fee.
- 4600 (dd) There is no fee for services or the filing of documents not listed in this section or
4601 otherwise provided by law.
- 4602 (ee) Except as provided in this section, all fees collected under this section are paid to
4603 the General Fund. Except as provided in this section, all fees shall be paid at the time
4604 the clerk accepts the pleading for filing or performs the requested service.
- 4605 (ff) The filing fees under this section may not be charged to the state, the state's
4606 agencies, or political subdivisions filing or defending any action. In judgments
4607 awarded in favor of the state, its agencies, or political subdivisions, except the Office
4608 of Recovery Services, the court shall order the filing fees and collection costs to be
4609 paid by the judgment debtor. The sums collected under this Subsection (1)(ff) shall
4610 be applied to the fees after credit to the judgment, order, fine, tax, lien, or other
4611 penalty and costs permitted by law.
- 4612 (2)(a)(i) From March 17, 1994, until June 30, 1998, the state court administrator shall
4613 transfer all revenues representing the difference between the fees in effect after
4614 May 2, 1994, and the fees in effect before February 1, 1994, as dedicated credits
4615 to the Division of Facilities Construction and Management Capital Projects Fund.
- 4616 (ii)(A) Except as provided in Subsection (2)(a)(ii)(B), the Division of Facilities
4617 Construction and Management shall use up to \$3,750,000 of the revenue

- 4618 deposited into the Capital Projects Fund under this Subsection (2)(a) to design
4619 and take other actions necessary to initiate the development of a courts
4620 complex in Salt Lake City.
- 4621 (B) If the Legislature approves funding for construction of a courts complex in
4622 Salt Lake City in the 1995 Annual General Session, the Division of Facilities
4623 Construction and Management shall use the revenue deposited into the Capital
4624 Projects Fund under this Subsection (2)(a)(ii) to construct a courts complex in
4625 Salt Lake City.
- 4626 (C) After the courts complex is completed and all bills connected with its
4627 construction have been paid, the Division of Facilities Construction and
4628 Management shall use any money remaining in the Capital Projects Fund under
4629 this Subsection (2)(a)(ii) to fund the Vernal District Court building.
- 4630 (iii) The Division of Facilities Construction and Management may enter into
4631 agreements and make expenditures related to this project before the receipt of
4632 revenues provided for under this Subsection (2)(a)(iii).
- 4633 (iv) The Division of Facilities Construction and Management shall:
- 4634 (A) make those expenditures from unexpended and unencumbered building funds
4635 already appropriated to the Capital Projects Fund; and
- 4636 (B) reimburse the Capital Projects Fund upon receipt of the revenues provided for
4637 under this Subsection (2).
- 4638 (b) After June 30, 1998, the state court administrator shall ensure that all revenues
4639 representing the difference between the fees in effect after May 2, 1994, and the fees
4640 in effect before February 1, 1994, are transferred to the Division of Finance for
4641 deposit in the restricted account.
- 4642 (c) The Division of Finance shall deposit all revenues received from the state court
4643 administrator into the restricted account created by this section.
- 4644 (d)(i) From May 1, 1995, until June 30, 1998, the state court administrator shall
4645 transfer \$7 of the amount of a fine or bail forfeiture paid for a violation of Title
4646 41, Motor Vehicles, in a court of record to the Division of Facilities Construction
4647 and Management Capital Projects Fund. The division of money pursuant to
4648 Section 78A-5-110 shall be calculated on the balance of the fine or bail forfeiture
4649 paid.
- 4650 (ii) After June 30, 1998, the state court administrator or a municipality shall transfer
4651 \$7 of the amount of a fine or bail forfeiture paid for a violation of Title 41, Motor

4652 Vehicles, in a court of record to the Division of Finance for deposit in the
 4653 restricted account created by this section. The division of money pursuant to
 4654 Section 78A-5-110 shall be calculated on the balance of the fine or bail forfeiture
 4655 paid.

4656 (3)(a) There is created within the General Fund a restricted account known as the State
 4657 Courts Complex Account.

4658 (b) The Legislature may appropriate money from the restricted account to the state court
 4659 administrator for the following purposes only:

4660 (i) to repay costs associated with the construction of the court complex that were
 4661 funded from sources other than revenues provided for under this Subsection

4662 (3)(b)(i); and

4663 (ii) to cover operations and maintenance costs on the court complex.

4664 Section 58. Section **78B-8-302** is amended to read:

4665 **78B-8-302 . Process servers.**

4666 (1) A complaint, a summons, or a subpoena may be served by an individual who is:

4667 (a) 18 years old or older at the time of service; and

4668 (b) not a party to the action or a party's attorney.

4669 (2) Except as provided in Subsection (5), the following may serve all process issued by the
 4670 courts of this state:

4671 (a) a peace officer employed by a political subdivision of the state acting within the
 4672 scope and jurisdiction of the peace officer's employment;

4673 (b) a sheriff or appointed deputy sheriff employed by a county of the state;

4674 (c) a constable, or the constable's deputy, serving in compliance with applicable law;

4675 (d) an investigator employed by the state and authorized by law to serve civil process; or

4676 (e) a private investigator licensed in accordance with Title 53, Chapter 9, Private
 4677 Investigator Regulation Act.

4678 (3) A private investigator licensed in accordance with Title 53, Chapter 9, Private
 4679 Investigator Regulation Act, may not make an arrest pursuant to a bench warrant.

4680 (4) While serving process, a private investigator shall:

4681 (a) have on the investigator's body a visible form of credentials and identification
 4682 identifying:

4683 (i) the investigator's name;

4684 (ii) that the investigator is a licensed private investigator; and

4685 (iii) the name and address of the agency employing the investigator or, if the

- 4686 investigator is self-employed, the address of the investigator's place of business;
- 4687 (b) verbally communicate to the person being served that the investigator is acting as a
- 4688 process server; and
- 4689 (c) print on the first page of each document served:
- 4690 (i) the investigator's name and identification number as a private investigator; and
- 4691 (ii) the address and phone number for the investigator's place of business.
- 4692 (5) The following may only serve process under this section when the use of force is
- 4693 authorized on the face of the document, or when a breach of the peace is imminent or
- 4694 likely under the totality of the circumstances:
- 4695 (a) a law enforcement officer, as defined in Section 53-13-103; or
- 4696 (b) a special function officer, as defined in Section 53-13-105, who is:
- 4697 (i) employed as an appointed deputy sheriff by a county of the state; or
- 4698 (ii) a constable.
- 4699 (6) The following may not serve process issued by a court:
- 4700 (a) an individual convicted of a felony violation of an offense [~~listed in Subsection~~
- 4701 ~~77-41-102(19)~~] that would result in the individual being a sex offender under
- 4702 Subsection 53-29-202(2)(b); or
- 4703 (b) an individual who is a respondent in a proceeding described in Title 78B, Chapter 7,
- 4704 Protective Orders and Stalking Injunctions, in which a court has granted the
- 4705 petitioner a protective order.
- 4706 (7) An individual serving process shall:
- 4707 (a) legibly document the date and time of service on the front page of the document
- 4708 being served;
- 4709 (b) legibly print the process server's name, address, and telephone number on the return
- 4710 of service;
- 4711 (c) sign the return of service in substantial compliance with Title 78B, Chapter 18a,
- 4712 Uniform Unsworn Declarations Act;
- 4713 (d) if the process server is a peace officer, sheriff, or deputy sheriff, legibly print the
- 4714 badge number of the process server on the return of service; and
- 4715 (e) if the process server is a private investigator, legibly print the private investigator's
- 4716 identification number on the return of service.
- 4717 Section 59. Section **80-3-406** is amended to read:
- 4718 **80-3-406 . Permanency plan -- Reunification services.**
- 4719 (1) If the juvenile court orders continued removal at the dispositional hearing under Section

- 4720 80-3-402, and that the minor remain in the custody of the division, the juvenile court
4721 shall first:
- 4722 (a) establish a primary permanency plan and a concurrent permanency plan for the minor
4723 in accordance with this section; and
- 4724 (b) determine whether, in view of the primary permanency plan, reunification services
4725 are appropriate for the minor and the minor's family under Subsections (5) through (8).
- 4726 (2)(a) The concurrent permanency plan shall include:
- 4727 (i) a representative list of the conditions under which the primary permanency plan
4728 will be abandoned in favor of the concurrent permanency plan; and
- 4729 (ii) an explanation of the effect of abandoning or modifying the primary permanency
4730 plan.
- 4731 (b) In determining the primary permanency plan and concurrent permanency plan, the
4732 juvenile court shall consider:
- 4733 (i) the preference for kinship placement over nonkinship placement, including the
4734 rebuttable presumption described in Subsection 80-3-302(7)(a);
- 4735 (ii) the potential for a guardianship placement if parental rights are terminated and no
4736 appropriate adoption placement is available; and
- 4737 (iii) the use of an individualized permanency plan, only as a last resort.
- 4738 (3)(a) The juvenile court may amend a minor's primary permanency plan before the
4739 establishment of a final permanency plan under Section 80-3-409.
- 4740 (b) The juvenile court is not limited to the terms of the concurrent permanency plan in
4741 the event that the primary permanency plan is abandoned.
- 4742 (c) If, at any time, the juvenile court determines that reunification is no longer a minor's
4743 primary permanency plan, the juvenile court shall conduct a permanency hearing in
4744 accordance with Section 80-3-409 on or before the earlier of:
- 4745 (i) 30 days after the day on which the juvenile court makes the determination
4746 described in this Subsection (3)(c); or
- 4747 (ii) the day on which the provision of reunification services, described in Section
4748 80-3-409, ends.
- 4749 (4)(a) Because of the state's interest in and responsibility to protect and provide
4750 permanency for minors who are abused, neglected, or dependent, the Legislature
4751 finds that a parent's interest in receiving reunification services is limited.
- 4752 (b) The juvenile court may determine that:
- 4753 (i) efforts to reunify a minor with the minor's family are not reasonable or

- 4754 appropriate, based on the individual circumstances; and
- 4755 (ii) reunification services should not be provided.
- 4756 (c) In determining reasonable efforts to be made with respect to a minor, and in making
- 4757 reasonable efforts, the juvenile court and the division shall consider the minor's
- 4758 health, safety, and welfare as the paramount concern.
- 4759 (5) There is a presumption that reunification services should not be provided to a parent if
- 4760 the juvenile court finds, by clear and convincing evidence, that any of the following
- 4761 circumstances exist:
- 4762 (a) the whereabouts of the parents are unknown, based on a verified affidavit indicating
- 4763 that a reasonably diligent search has failed to locate the parent;
- 4764 (b) subject to Subsection (6)(a), the parent is suffering from a mental illness of such
- 4765 magnitude that the mental illness renders the parent incapable of utilizing
- 4766 reunification services;
- 4767 (c) the minor was previously adjudicated as an abused child due to physical abuse,
- 4768 sexual abuse, or sexual exploitation, and following the adjudication the child:
- 4769 (i) was removed from the custody of the minor's parent;
- 4770 (ii) was subsequently returned to the custody of the parent; and
- 4771 (iii) is being removed due to additional physical abuse, sexual abuse, or sexual
- 4772 exploitation;
- 4773 (d) the parent:
- 4774 (i) caused the death of another minor through abuse or neglect;
- 4775 (ii) committed, aided, abetted, attempted, conspired, or solicited to commit:
- 4776 (A) murder or manslaughter of a minor; or
- 4777 (B) child abuse homicide;
- 4778 (iii) committed sexual abuse against the minor;
- 4779 (iv) is [~~a registered sex offender or required to register as a sex offender~~] a sex
- 4780 offender under Subsection 53-29-202(2)(b); or
- 4781 (v)(A) intentionally, knowingly, or recklessly causes the death of another parent
- 4782 of the minor;
- 4783 (B) is identified by a law enforcement agency as the primary suspect in an
- 4784 investigation for intentionally, knowingly, or recklessly causing the death of
- 4785 another parent of the minor; or
- 4786 (C) is being prosecuted for or has been convicted of intentionally, knowingly, or
- 4787 recklessly causing the death of another parent of the minor;

- 4788 (e) the minor suffered severe abuse by the parent or by any individual known by the
4789 parent if the parent knew or reasonably should have known that the individual was
4790 abusing the minor;
- 4791 (f) the minor is adjudicated as an abused minor as a result of severe abuse by the parent,
4792 and the juvenile court finds that it would not benefit the minor to pursue reunification
4793 services with the offending parent;
- 4794 (g) the parent's rights are terminated with regard to any other minor;
- 4795 (h) the minor was removed from the minor's home on at least two previous occasions
4796 and reunification services were offered or provided to the family at those times;
- 4797 (i) the parent has abandoned the minor for a period of six months or longer;
- 4798 (j) the parent permitted the minor to reside, on a permanent or temporary basis, at a
4799 location where the parent knew or should have known that a clandestine laboratory
4800 operation was located;
- 4801 (k) except as provided in Subsection (6)(b), with respect to a parent who is the minor's
4802 birth mother, the minor has fetal alcohol syndrome, fetal alcohol spectrum disorder,
4803 or was exposed to an illegal or prescription drug that was abused by the minor's
4804 mother while the minor was in utero, if the minor was taken into division custody for
4805 that reason, unless the mother agrees to enroll in, is currently enrolled in, or has
4806 recently and successfully completed a substance use disorder treatment program
4807 approved by the department; or
- 4808 (l) any other circumstance that the juvenile court determines should preclude
4809 reunification efforts or services.
- 4810 (6)(a) The juvenile court shall base the finding under Subsection (5)(b) on competent
4811 evidence from at least two medical or mental health professionals, who are not
4812 associates, establishing that, even with the provision of services, the parent is not
4813 likely to be capable of adequately caring for the minor within 12 months after the day
4814 on which the juvenile court finding is made.
- 4815 (b) The juvenile court may disregard the provisions of Subsection (5)(k) if the juvenile
4816 court finds, under the circumstances of the case, that the substance use disorder
4817 treatment described in Subsection (5)(k) is not warranted.
- 4818 (7) In determining whether reunification services are appropriate, the juvenile court shall
4819 take into consideration:
- 4820 (a) failure of the parent to respond to previous services or comply with a previous child
4821 and family plan;

- 4822 (b) the fact that the minor was abused while the parent was under the influence of drugs
4823 or alcohol;
- 4824 (c) any history of violent behavior directed at the minor or an immediate family member;
- 4825 (d) whether a parent continues to live with an individual who abused the minor;
- 4826 (e) any patterns of the parent's behavior that have exposed the minor to repeated abuse;
- 4827 (f) testimony by a competent professional that the parent's behavior is unlikely to be
4828 successful; and
- 4829 (g) whether the parent has expressed an interest in reunification with the minor.
- 4830 (8) If, under Subsections (5)(b) through (l), the juvenile court does not order reunification
4831 services, a permanency hearing shall be conducted within 30 days in accordance with
4832 Section 80-3-409.
- 4833 (9)(a) Subject to Subsections (9)(b) through (e), if the juvenile court determines that
4834 reunification services are appropriate for the minor and the minor's family, the
4835 juvenile court shall provide for reasonable parent-time with the parent or parents
4836 from whose custody the minor was removed, unless parent-time is not in the best
4837 interest of the minor.
- 4838 (b) Parent-time is in the best interests of a minor unless the juvenile court makes a
4839 finding that it is necessary to deny parent-time in order to:
- 4840 (i) protect the physical safety of the minor;
- 4841 (ii) protect the life of the minor; or
- 4842 (iii) prevent the minor from being traumatized by contact with the parent due to the
4843 minor's fear of the parent in light of the nature of the alleged abuse or neglect.
- 4844 (c) Notwithstanding Subsection (9)(a), a juvenile court may not deny parent-time based
4845 solely on a parent's failure to:
- 4846 (i) prove that the parent has not used legal or illegal substances; or
- 4847 (ii) comply with an aspect of the child and family plan that is ordered by the juvenile
4848 court.
- 4849 (d) Parent-time shall be under the least restrictive conditions necessary to:
- 4850 (i) protect the physical safety of the child; or
- 4851 (ii) prevent the child from being traumatized by contact with the parent due to the
4852 minor's fear of the parent in light of the nature of the alleged abuse or neglect.
- 4853 (e)(i) The division or the person designated by the division or a court to supervise a
4854 parent-time session may deny parent-time for the session if the division or the
4855 supervising person determines that, based on the parent's condition, it is necessary

- 4856 to deny parent-time to:
- 4857 (A) protect the physical safety of the child;
- 4858 (B) protect the life of the child; or
- 4859 (C) consistent with Subsection (9)(e)(ii), prevent the child from being traumatized
- 4860 by contact with the parent.
- 4861 (ii) In determining whether the condition of the parent described in Subsection
- 4862 (9)(e)(i) will traumatize a child, the division or the person supervising the
- 4863 parent-time session shall consider the impact that the parent's condition will have
- 4864 on the child in light of:
- 4865 (A) the child's fear of the parent; and
- 4866 (B) the nature of the alleged abuse or neglect.
- 4867 (10)(a) If the juvenile court determines that reunification services are appropriate, the
- 4868 juvenile court shall order that the division make reasonable efforts to provide services
- 4869 to the minor and the minor's parent for the purpose of facilitating reunification of the
- 4870 family, for a specified period of time.
- 4871 (b) In providing the services described in Subsection (10)(a), the juvenile court and the
- 4872 division shall consider the minor's health, safety, and welfare as the paramount
- 4873 concern.
- 4874 (11) In cases where sexual abuse, sexual exploitation, abandonment, severe abuse, or severe
- 4875 neglect are involved:
- 4876 (a) the juvenile court does not have any duty to order reunification services; and
- 4877 (b) the division does not have a duty to make reasonable efforts to or in any other way
- 4878 attempt to provide reunification services or attempt to rehabilitate the offending
- 4879 parent or parents.
- 4880 (12)(a) The juvenile court shall:
- 4881 (i) determine whether the services offered or provided by the division under the child
- 4882 and family plan constitute reasonable efforts on the part of the division;
- 4883 (ii) determine and define the responsibilities of the parent under the child and family
- 4884 plan in accordance with Subsection 80-3-307(5)(g)(iii); and
- 4885 (iii) identify verbally on the record, or in a written document provided to the parties,
- 4886 the responsibilities described in Subsection (12)(a)(ii), for the purpose of assisting
- 4887 in any future determination regarding the provision of reasonable efforts, in
- 4888 accordance with state and federal law.
- 4889 (b) If the parent is in a substance use disorder treatment program, other than a certified

- 4890 drug court program, the juvenile court may order the parent:
- 4891 (i) to submit to supplementary drug or alcohol testing, in accordance with Subsection
- 4892 80-3-110(6), in addition to the testing recommended by the parent's substance use
- 4893 disorder program based on a finding of reasonable suspicion that the parent is
- 4894 abusing drugs or alcohol; and
- 4895 (ii) to provide the results of drug or alcohol testing recommended by the substance
- 4896 use disorder program to the juvenile court or division.
- 4897 (13)(a) The time period for reunification services may not exceed 12 months from the
- 4898 day on which the minor was initially removed from the minor's home, unless the time
- 4899 period is extended under Subsection 80-3-409(7).
- 4900 (b) This section does not entitle any parent to an entire 12 months of reunification
- 4901 services.
- 4902 (14)(a) If reunification services are ordered, the juvenile court may terminate those
- 4903 services at any time.
- 4904 (b) If, at any time, continuation of reasonable efforts to reunify a minor is determined to
- 4905 be inconsistent with the final permanency plan for the minor established under
- 4906 Section 80-3-409, then measures shall be taken, in a timely manner, to:
- 4907 (i) place the minor in accordance with the final permanency plan; and
- 4908 (ii) complete whatever steps are necessary to finalize the permanent placement of the
- 4909 minor.
- 4910 (15) Any physical custody of the minor by the parent or a relative during the period
- 4911 described in Subsections (10) through (14) does not interrupt the running of the period.
- 4912 (16)(a) If reunification services are ordered, the juvenile court shall conduct a
- 4913 permanency hearing in accordance with Section 80-3-409 before the day on which
- 4914 the time period for reunification services expires.
- 4915 (b) The permanency hearing shall be held no later than 12 months after the original
- 4916 removal of the minor.
- 4917 (c) If reunification services are not ordered, a permanency hearing shall be conducted
- 4918 within 30 days in accordance with Section 80-3-409.
- 4919 (17) With regard to a minor in the custody of the division whose parent or parents are
- 4920 ordered to receive reunification services but who have abandoned that minor for a period
- 4921 of six months from the day on which reunification services are ordered:
- 4922 (a) the juvenile court shall terminate reunification services; and
- 4923 (b) the division shall petition the juvenile court for termination of parental rights.

- 4924 (18) When a minor is under the custody of the division and has been separated from a
4925 sibling due to foster care or adoptive placement, a juvenile court may order sibling
4926 visitation, subject to the division obtaining consent from the sibling's guardian,
4927 according to the juvenile court's determination of the best interests of the minor for
4928 whom the hearing is held.
- 4929 (19)(a) If reunification services are not ordered under this section, and the whereabouts
4930 of a parent becomes known within six months after the day on which the out-of-home
4931 placement of the minor is made, the juvenile court may order the division to provide
4932 reunification services.
- 4933 (b) The time limits described in this section are not tolled by the parent's absence.
- 4934 (20)(a) If a parent is incarcerated or institutionalized, the juvenile court shall order
4935 reasonable services unless the juvenile court determines that those services would be
4936 detrimental to the minor.
- 4937 (b) In making the determination described in Subsection (20)(a), the juvenile court shall
4938 consider:
- 4939 (i) the age of the minor;
4940 (ii) the degree of parent-child bonding;
4941 (iii) the length of the sentence;
4942 (iv) the nature of the treatment;
4943 (v) the nature of the crime or illness;
4944 (vi) the degree of detriment to the minor if services are not offered;
4945 (vii) for a minor who is 10 years old or older, the minor's attitude toward the
4946 implementation of family reunification services; and
4947 (viii) any other appropriate factors.
- 4948 (c) Reunification services for an incarcerated parent are subject to the time limitations
4949 imposed in this section.
- 4950 (d) Reunification services for an institutionalized parent are subject to the time
4951 limitations imposed in this section, unless the juvenile court determines that
4952 continued reunification services would be in the minor's best interest.
- 4953 Section 60. Section **80-5-201** is amended to read:
4954 **80-5-201 . Division responsibilities.**
- 4955 (1) The division is responsible for all minors committed to the division by juvenile courts
4956 under Sections 80-6-703 and 80-6-705.
- 4957 (2) The division shall:

- 4958 (a) establish and administer a continuum of community, secure, and nonsecure programs
4959 for all minors committed to the division;
- 4960 (b) establish and maintain all detention and secure care facilities and set minimum
4961 standards for all detention and secure care facilities;
- 4962 (c) establish and operate prevention and early intervention youth services programs for
4963 nonadjudicated minors placed with the division;
- 4964 (d) establish observation and assessment programs necessary to serve minors in a
4965 nonresidential setting under Subsection 80-6-706(1);
- 4966 (e) place minors committed to the division under Section 80-6-703 in the most
4967 appropriate program for supervision and treatment;
- 4968 (f) employ staff necessary to:
- 4969 (i) supervise and control minors committed to the division for secure care or
4970 placement in the community;
- 4971 (ii) supervise and coordinate treatment of minors committed to the division for
4972 placement in community-based programs; and
- 4973 (iii) control and supervise adjudicated and nonadjudicated minors placed with the
4974 division for temporary services in juvenile receiving centers, youth services, and
4975 other programs established by the division;
- 4976 (g) control or detain a minor committed to the division, or in the temporary custody of
4977 the division, in a manner that is consistent with public safety and rules made by the
4978 division;
- 4979 (h) establish and operate work programs for minors committed to the division by the
4980 juvenile court that:
- 4981 (i) are not residential;
- 4982 (ii) provide labor to help in the operation, repair, and maintenance of public facilities,
4983 parks, highways, and other programs designated by the division;
- 4984 (iii) provide educational and prevocational programs in cooperation with the State
4985 Board of Education for minors placed in the program; and
- 4986 (iv) provide counseling to minors;
- 4987 (i) establish minimum standards for the operation of all private residential and
4988 nonresidential rehabilitation facilities that provide services to minors who have
4989 committed an offense in this state or in any other state;
- 4990 (j) provide regular training for secure care staff, detention staff, case management staff,
4991 and staff of the community-based programs;

- 4992 (k) designate employees to obtain the saliva DNA specimens required under Section
4993 53-10-403;
- 4994 (l) ensure that the designated employees receive appropriate training and that the
4995 specimens are obtained in accordance with accepted protocol;
- 4996 (m) register an individual with the Department of Public Safety who:
4997 (i) is adjudicated for an offense [~~listed in Subsection 77-41-102(1) or 77-41-102(19)]~~
4998 that would result in the individual being a child abuse offender under Subsection
4999 53-29-202(2)(a) or a sex offender under Subsection 53-29-202(2)(b);
- 5000 (ii) is committed to the division for secure care; and
5001 (iii)(A) if the individual is a youth offender, remains in the division's custody 30
5002 days before the individual's 21st birthday; or
5003 (B) if the individual is a serious youth offender, remains in the division's custody
5004 30 days before the individual's 25th birthday; and
- 5005 (n) ensure that a program delivered to a minor under this section is an evidence-based
5006 program in accordance with Section 63M-7-208.
- 5007 (3)(a) The division is authorized to employ special function officers, as defined in
5008 Section 53-13-105, to:
5009 (i) locate and apprehend minors who have absconded from division custody;
5010 (ii) transport minors taken into custody in accordance with division policy;
5011 (iii) investigate cases; and
5012 (iv) carry out other duties as assigned by the division.
- 5013 (b) A special function officer may be:
5014 (i) employed through a contract with the Department of Public Safety, or any law
5015 enforcement agency certified by the Peace Officer Standards and Training
5016 Division; or
5017 (ii) directly hired by the division.
- 5018 (4) In the event of an unauthorized leave from secure care, detention, a community-based
5019 program, a juvenile receiving center, a home, or any other designated placement of a
5020 minor, a division employee has the authority and duty to locate and apprehend the
5021 minor, or to initiate action with a local law enforcement agency for assistance.
- 5022 (5) The division may proceed with an initial medical screening or assessment of a child
5023 admitted to a detention facility to ensure the safety of the child and others in the
5024 detention facility if the division makes a good faith effort to obtain consent for the
5025 screening or assessment from the child's parent or guardian.

5026 Section 61. Section **80-8-101** is amended to read:

5027 **80-8-101 . Definitions.**

5028 As used in this chapter:

5029 (1) "Child" means an individual under 18 years old.

5030 (2) "Registered sex offender check" means a search of:

5031 (a) the [~~state's Sex and Kidnap Offender Registry~~] registry described in [~~Title 77, Chapter~~
5032 ~~41, Sex and Kidnap Offender Registry~~] Title 53, Chapter 29, Sex, Kidnap, and Child
5033 Abuse Offender Registry; and

5034 (b) the National Sex Offender Public Website administered by the United States
5035 Department of Justice.

5036 (3) "Sexual abuse" means the same as that term is defined in Section 78B-2-308.

5037 (4)(a) "Youth services organization" means a sports league, athletic association, church
5038 or religious organization, scouting organization, or similar formally organized
5039 association, league, or organization, that provides recreational, educational, cultural,
5040 or social programs or activities to 25 or more children.

5041 (b) "Youth services organization" does not include any person that is required to conduct
5042 a background check on employees or volunteers under any other provision of state or
5043 federal law.

5044 (5) "Youth worker" means an individual:

5045 (a) who is 18 years old or older;

5046 (b) who is employed by or volunteers with a youth services organization; and

5047 (c) whose responsibilities as an employee or volunteer with the youth services
5048 organization give the individual regular and repeated care, supervision, guidance, or
5049 control of a child or children.

5050 Section 62. Section **80-8-201** is amended to read:

5051 **80-8-201 . Youth protection requirements.**

5052 (1) A youth service organization may not employ a youth worker or allow an individual to
5053 volunteer as a youth worker unless the youth service organization has completed a
5054 registered sex offender check for the individual.

5055 (2) A youth services organization shall require a potential youth worker to provide the
5056 individual's full name and a current, government-issued identification to facilitate the
5057 registered sex offender check required by Subsection (1).

5058 (3) If an individual is registered on the [~~state's Sex and Kidnap Offender Registry~~] registry
5059 described in Title 53, Chapter 29, Sex, Kidnap, and Child Abuse Offender Registry, or

5060 the National Sex Offender Public Website, a youth service organization may not employ
5061 the individual as a youth worker or allow the individual to volunteer as a youth worker.

5062 Section 63. Section **81-9-202** is amended to read:

5063 **81-9-202 . Advisory guidelines for a custody and parent-time arrangement.**

- 5064 (1) In addition to the parent-time schedules provided in Sections 81-9-302 and 81-9-304,
5065 the following advisory guidelines are suggested to govern a custody and parent-time
5066 arrangement between parents.
- 5067 (2) A parent-time schedule mutually agreed upon by both parents is preferable to a
5068 court-imposed solution.
- 5069 (3) A parent-time schedule shall be used to maximize the continuity and stability of the
5070 minor child's life.
- 5071 (4) Each parent shall give special consideration to make the minor child available to attend
5072 family functions including funerals, weddings, family reunions, religious holidays,
5073 important ceremonies, and other significant events in the life of the minor child or in the
5074 life of either parent which may inadvertently conflict with the parent-time schedule.
- 5075 (5)(a) The court shall determine the responsibility for the pick up, delivery, and return of
5076 the minor child when the parent-time order is entered.
- 5077 (b) The court may change the responsibility described in Subsection (5)(a) at any time a
5078 subsequent modification is made to the parent-time order.
- 5079 (c) If the noncustodial parent will be providing transportation, the custodial parent shall:
5080 (i) have the minor child ready for parent-time at the time the minor child is to be
5081 picked up ; and
5082 (ii) be present at the custodial home or make reasonable alternate arrangements to
5083 receive the minor child at the time the minor child is returned.
- 5084 (d) If the custodial parent will be transporting the minor child, the noncustodial parent
5085 shall:
5086 (i) be at the appointed place at the time the noncustodial parent is to receive the
5087 minor child; and
5088 (ii) have the minor child ready to be picked up at the appointed time and place or
5089 have made reasonable alternate arrangements for the custodial parent to pick up
5090 the minor child.
- 5091 (6) A parent may not interrupt regular school hours for a school-age minor child for the
5092 exercise of parent-time.
- 5093 (7) The court may:

- 5094 (a) make alterations in the parent-time schedule to reasonably accommodate the work
5095 schedule of both parents; and
- 5096 (b) increase the parent-time allowed to the noncustodial parent but may not diminish the
5097 standardized parent-time provided in Sections 81-9-302 and 81-9-304.
- 5098 (8) The court may make alterations in the parent-time schedule to reasonably accommodate
5099 the distance between the parties and the expense of exercising parent-time.
- 5100 (9) A parent may not withhold parent-time or child support due to the other parent's failure
5101 to comply with a court-ordered parent-time schedule.
- 5102 (10)(a) The custodial parent shall notify the noncustodial parent within 24 hours of
5103 receiving notice of all significant school, social, sports, and community functions in
5104 which the minor child is participating or being honored.
- 5105 (b) The noncustodial parent is entitled to attend and participate fully in the functions
5106 described in Subsection (10)(a).
- 5107 (c) The noncustodial parent shall have access directly to all school reports including
5108 preschool and daycare reports and medical records.
- 5109 (d) A parent shall immediately notify the other parent in the event of a medical
5110 emergency.
- 5111 (11) Each parent shall provide the other with the parent's current address and telephone
5112 number, email address, and other virtual parent-time access information within 24 hours
5113 of any change.
- 5114 (12)(a) Each parent shall permit and encourage, during reasonable hours, reasonable and
5115 uncensored communications with the minor child, in the form of mail privileges and
5116 virtual parent-time if the equipment is reasonably available.
- 5117 (b) If the parents cannot agree on whether the equipment is reasonably available, the
5118 court shall decide whether the equipment for virtual parent-time is reasonably [
5119 ~~available~~by] available by taking into consideration:
- 5120 (i) the best interests of the minor child;
- 5121 (ii) each parent's ability to handle any additional expenses for virtual parent-time; and
- 5122 (iii) any other factors the court considers material.
- 5123 (13)(a) Parental care is presumed to be better care for the minor child than surrogate care.
- 5124 (b) The court shall encourage the parties to cooperate in allowing the noncustodial
5125 parent, if willing and able to transport the minor child, to provide the child care.
- 5126 (c) Child care arrangements existing during the marriage are preferred as are child care
5127 arrangements with nominal or no charge.

- 5128 (14) Each parent shall:
- 5129 (a) provide all surrogate care providers with the name, current address, and telephone
- 5130 number of the other parent; and
- 5131 (b) provide the noncustodial parent with the name, current address, and telephone
- 5132 number of all surrogate care providers unless the court for good cause orders
- 5133 otherwise.
- 5134 (15)(a) Each parent is entitled to an equal division of major religious holidays celebrated
- 5135 by the parents.
- 5136 (b) The parent who celebrates a religious holiday that the other parent does not celebrate
- 5137 shall have the right to be together with the minor child on the religious holiday.
- 5138 (16) If the minor child is on a different parent-time schedule than a sibling, based on
- 5139 Sections 81-9-302 and 81-9-304, the parents should consider if an upward deviation for
- 5140 parent-time with all the minor children so that parent-time is uniform between school
- 5141 aged and nonschool aged children, is appropriate.
- 5142 (17)(a) When one or both parents are servicemembers or contemplating joining a
- 5143 uniformed service, the parents should resolve issues of custodial responsibility in the
- 5144 event of deployment as soon as practicable through reaching a voluntary agreement
- 5145 pursuant to Section 78B-20-201 or through court order obtained pursuant to this part.
- 5146 (b) Service members shall ensure their family care plan reflects orders and agreements
- 5147 entered and filed pursuant to Title 78B, Chapter 20, Uniform Deployed Parents
- 5148 Custody, Parent-time, and Visitation Act.
- 5149 (18) A parent shall immediately notify the other parent if:
- 5150 (a) the parent resides with an individual or provides an individual with access to the
- 5151 minor child; and
- 5152 (b) the parent knows that the individual:
- 5153 (i) is required to register as a sex offender~~[or]~~ , a kidnap offender, or a child abuse
- 5154 offender for an offense committed against a minor child under [~~Title 77, Chapter~~
- 5155 ~~41, Sex and Kidnap Offender Registry]~~ Title 53, Chapter 29, Sex, Kidnap, and
- 5156 Child Abuse Offender Registry; or
- 5157 [~~ii~~] ~~is required to register as a child abuse offender under Title 77, Chapter 43, Child~~
- 5158 ~~Abuse Offender Registry; or]~~
- 5159 [~~iii~~] (ii) has been convicted of:
- 5160 (A) a child abuse offense under Section 76-5-109, 76-5-109.2, 76-5-109.3,
- 5161 76-5-114, or 76-5-208;

- 5162 (B) a sexual offense against a minor child under Title 76, Chapter 5, Part 4, Sexual
 5163 Offenses;
 5164 (C) an offense for kidnapping or human trafficking of a minor child under Title
 5165 76, Chapter 5, Part 3, Kidnapping, Trafficking, and Smuggling;
 5166 (D) a sexual exploitation offense against a minor child under Title 76, Chapter 5b,
 5167 Sexual Exploitation Act; or
 5168 (E) an offense that is substantially similar to an offense under Subsections [
 5169 ~~(18)(b)(iii)(A)~~] (18)(b)(ii)(A) through (D).

5170 (19)(a) For emergency purposes, whenever the minor child travels with a parent, the
 5171 parent shall provide the following information to the other parent:

- 5172 (i) an itinerary of travel dates;
 5173 (ii) destinations;
 5174 (iii) places where the minor child or traveling parent can be reached; and
 5175 (iv) the name and telephone number of an available third person who would be
 5176 knowledgeable of the minor child's location.
 5177 (b) Unchaperoned travel of a minor child under the age of five years is not
 5178 recommended.

5179 Section 64. Section **81-9-208** is amended to read:

5180 **81-9-208 . Modification or termination of a custody or parent-time order --**

5181 **Noncompliance with a parent-time order.**

- 5182 (1) The court has continuing jurisdiction to make subsequent changes to modify:
 5183 (a) custody of a minor child if there is a showing of a substantial and material change in
 5184 circumstances since the entry of the order; and
 5185 (b) parent-time for a minor child if there is a showing that there is a change in
 5186 circumstances since the entry of the order.
 5187 (2) A substantial and material change in circumstances under Subsection (1)(a) includes a
 5188 showing by a parent that the other parent:
 5189 (a) resides with an individual or provides an individual with access to the minor child;
 5190 and
 5191 (b) knows that the individual:
 5192 (i) is required to register as a sex offender~~[-or]~~ , a kidnap offender, or a child abuse
 5193 offender for an offense committed against a minor child under [~~Title 77, Chapter~~
 5194 ~~41, Sex and Kidnap Offender Registry~~] Title 53, Chapter 29, Sex, Kidnap, and
 5195 Child Abuse Offender Registry; or

- 5196 ~~[(ii) is required to register as a child abuse offender under Title 77, Chapter 43, Child~~
 5197 ~~Abuse Offender Registry; or]~~
- 5198 ~~[(iii)]~~ (ii) has been convicted of:
- 5199 (A) a child abuse offense under Section 76-5-109, 76-5-109.2, 76-5-109.3,
 5200 76-5-114, or 76-5-208;
- 5201 (B) a sexual offense against a minor child under Title 76, Chapter 5, Part 4, Sexual
 5202 Offenses;
- 5203 (C) an offense for kidnapping or human trafficking of a minor child under Title
 5204 76, Chapter 5, Part 3, Kidnapping, Trafficking, and Smuggling;
- 5205 (D) a sexual exploitation offense against a minor child under Title 76, Chapter 5b,
 5206 Sexual Exploitation Act; or
- 5207 (E) an offense that is substantially similar to an offense under Subsections [
 5208 ~~(2)(b)(iii)(A)]~~ (2)(b)(ii)(A) through (D).
- 5209 (3) On the petition of one or both of the parents, or the joint legal or physical custodians if
 5210 they are not the parents, the court may, after a hearing, modify or terminate an order that
 5211 established joint legal custody or joint physical custody if:
- 5212 (a) the verified petition or accompanying affidavit initially alleges that admissible
 5213 evidence will show that there has been a substantial and material change in the
 5214 circumstances of the minor child or one or both parents or joint legal or physical
 5215 custodians since the entry of the order to be modified;
- 5216 (b) a modification of the terms and conditions of the order would be an improvement for
 5217 and in the best interest of the minor child; and
- 5218 (c)(i) both parents have complied in good faith with the dispute resolution procedure
 5219 in accordance with Subsection 81-9-205(8); or
- 5220 (ii) if no dispute resolution procedure is contained in the order that established joint
 5221 legal custody or joint physical custody, the court orders the parents to participate
 5222 in a dispute resolution procedure in accordance with Subsection 81-9-205(13)
 5223 unless the parents certify that, in good faith, they have used a dispute resolution
 5224 procedure to resolve their dispute.
- 5225 (4)(a) In determining whether the best interest of a minor child will be served by either
 5226 modifying or terminating the joint legal custody or joint physical custody order, the
 5227 court shall, in addition to other factors the court considers relevant, consider the
 5228 factors described in Sections 81-9-204 and 81-9-205.
- 5229 (b) A court order modifying or terminating an existing joint legal custody or joint

- 5230 physical custody order shall contain written findings that:
- 5231 (i) a substantial and material change of circumstance has occurred; and
- 5232 (ii) a modification of the terms and conditions of the order would be an improvement
- 5233 for and in the best interest of the minor child.
- 5234 (c) The court shall give substantial weight to the existing joint legal custody or joint
- 5235 physical custody order when the minor child is thriving, happy, and well-adjusted.
- 5236 (5) The court shall, in every case regarding a petition for termination of a joint legal
- 5237 custody or joint physical custody order, consider reasonable alternatives to preserve the
- 5238 existing order in accordance with Section 81-9-204.
- 5239 (6) The court may modify the terms and conditions of the existing order in accordance with
- 5240 this chapter and may order the parents to file a parenting plan in accordance with
- 5241 Section 81-9-203.
- 5242 (7) A parent requesting a modification from sole custody to joint legal custody or joint
- 5243 physical custody or both, or any other type of shared parenting arrangement, shall file
- 5244 and serve a proposed parenting plan with the petition to modify in accordance with
- 5245 Section 81-9-203.
- 5246 (8) If an issue before the court involves custodial responsibility in the event of deployment
- 5247 of one or both parents who are service members, and the service member has not yet
- 5248 been notified of deployment, the court shall resolve the issue based on the standards in
- 5249 Sections 78B-20-306 through 78B-20-309.
- 5250 (9) If the court finds that an action to modify custody or parent-time is filed or answered
- 5251 frivolously and, in a manner, designed to harass the other party, the court shall assess
- 5252 attorney fees as costs against the offending party.
- 5253 (10) If a petition to modify custody or parent-time provisions of a court order is made and
- 5254 denied, the court shall order the petitioner to pay the reasonable attorney fees expended
- 5255 by the prevailing party in that action if the court determines that the petition was without
- 5256 merit and not asserted or defended against in good faith.
- 5257 (11) If a motion or petition alleges noncompliance with a parent-time order by a parent, or a
- 5258 visitation order by a grandparent or other member of the immediate family where a
- 5259 visitation or parent-time right has been previously granted by the court, the court:
- 5260 (a) may award to the prevailing party:
- 5261 (i) actual attorney fees incurred;
- 5262 (ii) the costs incurred by the prevailing party because of the other party's failure to
- 5263 provide or exercise court-ordered visitation or parent-time, including:

- 5264 (A) court costs;
- 5265 (B) child care expenses;
- 5266 (C) transportation expenses actually incurred;
- 5267 (D) lost wages, if ascertainable; or
- 5268 (E) counseling for a parent or a minor child if ordered or approved by the court; or
- 5269 (iii) any other appropriate equitable remedy; and
- 5270 (b) shall award reasonable make-up parent-time to the prevailing party, unless make-up
- 5271 parent-time is not in the best interest of the minor child.

5272 **Section 65. Repealer.**

5273 This bill repeals:

5274 **Section 77-41-102, Definitions.**

5275 **Section 77-41-103, Department duties.**

5276 **Section 77-41-104, Registration of offenders -- Department and agency requirements.**

5277 **Section 77-41-106, Offenses requiring lifetime registration.**

5278 **Section 77-41-107, Penalties.**

5279 **Section 77-41-108, Classification of information.**

5280 **Section 77-41-109, Miscellaneous provisions.**

5281 **Section 77-41-110, Sex offender, kidnap offender, and child abuse offender registry --**

5282 **Department to maintain.**

5283 **Section 77-41-111, Fees.**

5284 **Section 77-41-112, Removal from registry -- Requirements -- Procedure.**

5285 **Section 77-41-113, Removal for offenses or convictions for which registration is no**

5286 **longer required.**

5287 **Section 77-41-114, Registration for individuals under 18 years old at the time of the**

5288 **offense.**

5289 **Section 77-41-105, Registration of offenders -- Offender responsibilities.**

5290 **Section 66. Effective Date.**

5291 This bill takes effect on May 7, 2025.

5292 **Section 67. Coordinating S.B. 41 with H.B. 21.**

5293 If S.B. 41, Sex, Kidnap, and Child Abuse Offender Registry Amendments, and H.B.

5294 21, Criminal Code Recodification and Cross References, both pass and become law, the

5295 Legislature intends that, on May 7, 2025:

5296 (1) Subsection 76-5-419(5)(a), which section is renumbered from Section 76-9-702,

5297 in H.B. 21 be amended to read:

_5298 "(5)(a) As described in Subsection 53-29-202(4), for purposes of Subsection (3), a
_5299 plea of guilty or nolo contendere to a charge under this section that is held in abeyance under
_5300 Title 77, Chapter 2a, Pleas in Abeyance, is the equivalent of a conviction."; and
_5301 (2) Subsection 53-29-204(2)(f), enacted in S.B. 41, be amended to read:
_5302 "(f) a class A misdemeanor violation of:
_5303 (i) voyeurism under Section 76-12-306;
_5304 (ii) recorded or photographed voyeurism under Section 76-12-307; or
_5305 (iii) distribution of images obtained through voyeurism under Section
_5306 76-12-308;".