

SB0041S02 compared with SB0041S01

{Omitted text} shows text that was in SB0041S01 but was omitted in SB0041S02

inserted text shows text that was not in SB0041S01 but was inserted into SB0041S02

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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; {and}
- 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

This bill provides a coordination clause.

AMENDS:

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

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- 13-67-101 , as last amended by Laws of Utah 2024, Chapter 234 , as last amended by Laws of Utah 2024, Chapter 234
- 20 26B-2-120 , as last amended by Laws of Utah 2024, Chapter 234 , as last amended by Laws of Utah 2024, Chapter 234
- 21 41-3-205.5 , as last amended by Laws of Utah 2012, Chapter 145 , as last amended by Laws of Utah 2012, Chapter 145
- 22 41-3-209 , as last amended by Laws of Utah 2024, Chapter 251 , as last amended by Laws of Utah 2024, Chapter 251
- 23 42-1-1 , as last amended by Laws of Utah 2024, Chapter 296 , as last amended by Laws of Utah 2024, Chapter 296
- 24 53-3-205 , as last amended by Laws of Utah 2024, Chapters 116, 234 , as last amended by Laws of Utah 2024, Chapters 116, 234
- 25 53-3-216 , as last amended by Laws of Utah 2024, Chapter 234 , as last amended by Laws of Utah 2024, Chapter 234
- 26 53-3-804 , as last amended by Laws of Utah 2024, Chapters 116, 234 , as last amended by Laws of Utah 2024, Chapters 116, 234
- 27 53-3-806.5 , as last amended by Laws of Utah 2024, Chapter 234 , as last amended by Laws of Utah 2024, Chapter 234
- 28 53-3-807 , as last amended by Laws of Utah 2024, Chapter 234 , as last amended by Laws of Utah 2024, Chapter 234
- 29 53-10-214 , as enacted by Laws of Utah 2019, Chapter 406 , 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 , 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 , as last amended by Laws of Utah 2024, Chapter 234
- 32 57-8-3 , as last amended by Laws of Utah 2024, Chapter 519 , 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 , as last amended by Laws of Utah 2024, Chapters 115, 519
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- 57-8a-102 , as last amended by Laws of Utah 2024, Chapter 519 , 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 , 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 , as last amended by Laws of Utah 2024, Chapter 234
- 37 63G-7-301 , as last amended by Laws of Utah 2024, Chapter 234 , as last amended by Laws of Utah 2024, Chapter 234
- 38 76-1-201 , as last amended by Laws of Utah 2024, Chapter 234 , as last amended by Laws of Utah 2024, Chapter 234
- 39 76-1-202 , as last amended by Laws of Utah 2024, Chapter 234 , as last amended by Laws of Utah 2024, Chapter 234
- 40 76-3-402 , as last amended by Laws of Utah 2024, Chapter 234 , as last amended by Laws of Utah 2024, Chapter 234
- 41 76-5-401 , as last amended by Laws of Utah 2024, Chapter 234 , 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 , 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 , as last amended by Laws of Utah 2024, Chapter 234
- 44 76-9-702 , as last amended by Laws of Utah 2024, Chapter 234 , 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 , 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 , as last amended by Laws of Utah 2024, Chapter 205**
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- 45 ~~76-9-702.5 , as last amended by Laws of Utah 2024, Chapter 2 , as last amended by Laws of Utah 2024, Chapter 2}~~
- 47 77-2-2.3 , as last amended by Laws of Utah 2024, Chapter 234 , as last amended by Laws of Utah 2024, Chapter 234
- 48

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- 77-11c-101 , as last amended by Laws of Utah 2024, Chapter 234 , 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 , 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 , as last amended by Laws of Utah 2024, Chapter 234
- 51 77-40a-303 , as last amended by Laws of Utah 2024, Chapter 180 , as last amended by Laws of Utah 2024, Chapter 180
- 52 77-40a-403 , as last amended by Laws of Utah 2024, Chapter 180 , as last amended by Laws of Utah 2024, Chapter 180
- 53 78A-2-301 , as last amended by Laws of Utah 2024, Chapter 366 , as last amended by Laws of Utah 2024, Chapter 366
- 54 78B-8-302 , as last amended by Laws of Utah 2024, Chapter 234 , as last amended by Laws of Utah 2024, Chapter 234
- 55 80-3-406 , as last amended by Laws of Utah 2023, Chapter 320 , 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 , as last amended by Laws of Utah 2024, Chapters 116, 234
- 57 80-8-101 , as enacted by Laws of Utah 2024, Chapter 371 , as enacted by Laws of Utah 2024, Chapter 371
- 58 80-8-201 , as enacted by Laws of Utah 2024, Chapter 371 , as enacted by Laws of Utah 2024, Chapter 371
- 59 81-9-202 , as renumbered and amended by Laws of Utah 2024, Chapter 366 , 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 , as renumbered and amended by Laws of Utah 2024, Chapter 366
- 61 ENACTS:
- 62 53-29-101 , Utah Code Annotated 1953 , Utah Code Annotated 1953
- 63 53-29-102 , Utah Code Annotated 1953 , Utah Code Annotated 1953
- 64 53-29-201 , Utah Code Annotated 1953 , Utah Code Annotated 1953
- 65 53-29-202 , Utah Code Annotated 1953 , Utah Code Annotated 1953

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66 **53-29-203** , Utah Code Annotated 1953 , Utah Code Annotated 1953
67 **53-29-204** , Utah Code Annotated 1953 , Utah Code Annotated 1953
68 **53-29-205** , Utah Code Annotated 1953 , Utah Code Annotated 1953
69 **53-29-206** , Utah Code Annotated 1953 , Utah Code Annotated 1953
70 **53-29-207** , Utah Code Annotated 1953 , Utah Code Annotated 1953
71 **53-29-301** , Utah Code Annotated 1953 , Utah Code Annotated 1953
72 **53-29-302** , Utah Code Annotated 1953 , Utah Code Annotated 1953
73 **53-29-303** , Utah Code Annotated 1953 , Utah Code Annotated 1953
74 **53-29-304** , Utah Code Annotated 1953 , Utah Code Annotated 1953
75 **53-29-305** , Utah Code Annotated 1953 , Utah Code Annotated 1953
76 **53-29-401** , Utah Code Annotated 1953 , Utah Code Annotated 1953
77 **53-29-402** , Utah Code Annotated 1953 , Utah Code Annotated 1953
78 **53-29-403** , Utah Code Annotated 1953 , Utah Code Annotated 1953
79 **53-29-404** , Utah Code Annotated 1953 , Utah Code Annotated 1953
80 **53-29-405** , Utah Code Annotated 1953 , 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, Chapters 116,
234) , (Renumbered from 77-27-21.7, as last amended by Laws of Utah 2024, Chapters 116, 234)
84 **53-29-307** , (Renumbered from 77-27-21.8, as last amended by Laws of Utah 2024, Chapter 234) ,
(Renumbered from 77-27-21.8, as last amended by Laws of Utah 2024, Chapter 234)

86 REPEALS:

87 **77-41-102** , as last amended by Laws of Utah 2024, Chapter 234 , 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 , 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 , as last amended by Laws of Utah
2023, Chapter 128
90 **77-41-105** , as last amended by Laws of Utah 2024, Chapter 234 , as last amended by Laws of Utah
2024, Chapter 234
91 **77-41-106** , as last amended by Laws of Utah 2024, Chapter 234 , as last amended by Laws of Utah
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- 92 **77-41-107** , as last amended by Laws of Utah 2024, Chapter 234 , as last amended by Laws of Utah
2024, Chapter 234
- 93 **77-41-108** , as enacted by Laws of Utah 2012, Chapter 145 , as enacted by Laws of Utah 2012,
Chapter 145
- 94 **77-41-109** , as last amended by Laws of Utah 2024, Chapter 234 , as last amended by Laws of Utah
2024, Chapter 234
- 95 **77-41-110** , as last amended by Laws of Utah 2024, Chapter 234 , as last amended by Laws of Utah
2024, Chapter 234
- 96 **77-41-111** , as last amended by Laws of Utah 2023, Chapter 128 , 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 , 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 , as last amended by Laws of Utah
2024, Chapter 234
- 99 **77-41-114** , as last amended by Laws of Utah 2024, Chapter 234 , as last amended by Laws of Utah
2024, Chapter 234
- 100 **Utah Code Sections affected by Coordination Clause:**
- 101 **53-29-202** , Utah Code Annotated 1953 , Utah Code Annotated 1953
- 102 **53-29-203** , Utah Code Annotated 1953 , Utah Code Annotated 1953
- 103 **53-29-204** , Utah Code Annotated 1953 , Utah Code Annotated 1953
- 104 **53-29-205** , Utah Code Annotated 1953 , Utah Code Annotated 1953
- 105 **76-9-702** , as last amended by Laws of Utah 2024, Chapter 234 , as last amended by Laws of Utah
2024, Chapter 234

106

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

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

109 **13-51-107. Driver requirements.**

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

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

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- 107 (i) the individual's name, address, and age;
- 108 (ii) a copy of the individual's driver license, including the driver license number; and
- 109 (iii) proof that the vehicle that the individual will use to provide transportation network services is
registered with the Division of Motor Vehicles;
- 111 (b) require the individual to consent to a criminal background check of the individual by the
transportation network company or the transportation network company's designee; and
- 114 (c) obtain and review a report that lists the individual's driving history.
- 115 (2) A transportation company may not allow an individual to provide transportation network services as
a transportation network driver if the individual:
- 117 (a) has committed more than three moving violations in the three years before the day on which the
individual applies to become a transportation network driver;
- 119 (b) has been convicted, in the seven years before the day on which the individual applies to become a
transportation network driver, of:
- 121 (i) driving under the influence of alcohol or drugs;
- 122 (ii) fraud;
- 123 (iii) a sexual offense;
- 124 (iv) a felony involving a motor vehicle;
- 125 (v) a crime involving property damage;
- 126 (vi) a crime involving theft;
- 127 (vii) a crime of violence; or
- 128 (viii) an act of terror;
- 129 (c) is required to register as a sex offender, kidnap offender, or child abuse offender in accordance with
~~[Title 77, Chapter 41, Sex, Kidnap, and Child Abuse Offender Registry]~~ Title 53, Chapter 29, Sex,
Kidnap, and Child Abuse Offender Registry;
- 132 (d) does not have a valid Utah driver license; or
- 133 (e) is not at least 18 years old.
- 134 (3)
- . (a) A transportation network company shall prohibit a transportation network driver from accepting
a request for a prearranged ride if the motor vehicle that the transportation network driver uses to
provide transportation network services fails to comply with:
- 138 (i) equipment standards described in Section 41-6a-1601; and

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- 139 (ii) emission requirements adopted by a county under Section 41-6a-1642.
- 140 (b)
- . (i) If upon visual inspection, a defect relating to the equipment standards described in Section 41-6a-1601 can be reasonably identified, an airport operator may perform a safety inspection of a transportation network driver's vehicle operating within the airport to ensure compliance with equipment standards described in Section 41-6a-1601.
- 145 (ii) An airport operator shall conduct all inspections under this Subsection (3) in such a manner to minimize impact to the transportation network driver's and transportation network company vehicle's availability to provide prearranged rides.
- 148 (4) A transportation network driver, while providing transportation network services, shall carry proof, in physical or electronic form, that the transportation network driver is covered by insurance that satisfies the requirements of Section 13-51-108.
- 158 Section 2. Section **13-67-101** is amended to read:
- 159 **13-67-101. Definitions.**
- As used in this chapter:
- 154 (1) "Banned member" means a member whose account or profile is the subject of a fraud ban.
- 156 (2) "Criminal background screening" means a name search for an individual's criminal conviction and is conducted by searching:
- 158 (a) available and regularly updated government public record databases that in the aggregate provide national coverage for criminal conviction records; or
- 160 (b) a regularly updated database with national coverage of criminal conviction records and sexual offender registries maintained by a private vendor.
- 162 (3)
- . (a) "Criminal conviction" means a conviction for a crime in this state, another state, or under federal law.
- 164 (b) "Criminal conviction" includes an offense that would require registration under [~~Title 77, Chapter 41, Sex, Kidnap, and Child Abuse Offender Registry~~] Title 53, Chapter 29, Sex, Kidnap, and Child Abuse Offender Registry, or under a similar law in a different jurisdiction.
- 168 (4) "Division" means the Division of Consumer Protection in the Department of Commerce.
- 169

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- (5) "Fraud ban" means the expulsion of a member from an online dating service because, in the judgment of the online dating service provider, there is a significant risk the member will attempt to obtain money from another member through fraudulent means.
- 172 (6) "Member" means an individual who submits to an online dating service provider the information required by the online dating service provider to access the online dating service provider's online dating service.
- 175 (7) "Online dating service" means a product or service that is:
- 176 (a) conducted through a website or a mobile application; and
- 177 (b) primarily marketed and intended to offer a member access to dating or romantic relationships with another member by arranging or facilitating the social introduction of members.
- 180 (8) "Online dating service provider" means a person [~~predominately~~] predominantly engaged in the business of offering an online dating service.
- 182 (9) "Utah member" means a member who provides a Utah billing address or zip code when registering with an online dating service provider.

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

192 **26B-2-120. Background check -- Direct access to children or vulnerable adults.**

186 (1) As used in this section:

187 (a)

. (i) "Applicant" means an individual who is associated with a certification, contract, or licensee with the department under this part and has direct access, including:

190 (A) an adoptive parent or prospective adoptive parent, including an applicant for an adoption in accordance with Section 78B-6-128;

192 (B) a foster parent or prospective foster parent;

193 (C) an individual who provides respite care to a foster parent or an adoptive parent on more than one occasion;

195 (D) an individual who transports a child for a youth transportation company;

196 (E) an individual who provides certified peer support, as defined in Section 26B-5-610;

198 (F) an individual who provides peer supports, has a disability or a family member with a disability, or is in recovery from a mental illness or a substance use disorder;

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- (G) an individual who has lived experience with the services provided by the department, and uses that lived experience to provide support, guidance, or services to promote resiliency and recovery;
- 204 (H) an individual who is identified as a mental health professional, licensed under Title 58, Chapter 60, Mental Health Professional Practice Act, and engaged in the practice of mental health therapy, as defined in Section 58-60-102;
- 207 (I) an individual, other than the child or vulnerable adult receiving the service, who is 12 years old or older and resides in a home, that is licensed or certified by the division;
- 210 (J) an individual who is 12 years old or older and is associated with a certification, contract, or licensee with the department under this part and has or will likely have direct access;
- 213 (K) a foster home licensee that submits an application for an annual background screening as required by Subsection 26B-2-105(4)(d)(iii); or
- 215 (L) a short-term relief care provider.
- 216 (ii) "Applicant" does not include:
- 217 (A) an individual who is in the custody of the Division of Child and Family Services or the Division of Juvenile Justice and Youth Services;
- 219 (B) an individual who applies for employment with, or is employed by, the Department of Health and Human Services;
- 221 (C) a parent of a person receiving services from the Division of Services for People with Disabilities, if the parent provides direct care to and resides with the person, including if the parent provides direct care to and resides with the person pursuant to a court order; or
- 225 (D) an individual or a department contractor who provides services in an adults only substance use disorder program, as defined by rule adopted by the Department of Health and Human Services in accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, and who is not a program director or a member, as defined by Section 26B-2-105, of the program.
- 230 (b) "Application" means a background check application to the office.
- 231 (c) "Bureau" means the Bureau of Criminal Identification within the Department of Public Safety, created in Section 53-10-201.
- 233 (d) "Criminal finding" means a record of:
- 234 (i) an arrest for a criminal offense;
- 235 (ii) a warrant for a criminal arrest;

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- 236 (iii) charges for a criminal offense; or
237 (iv) a criminal conviction.
- 238 (e) "Direct access" means that an individual has, or likely will have:
239 (i) contact with or access to a child or vulnerable adult by which the individual will have the
opportunity for personal communication or touch with the child or vulnerable adult; or
242 (ii) an opportunity to view medical, financial, or other confidential personal identifying information of
the child, the child's parent or legal guardian, or the vulnerable adult.
- 245 (f)
. (i) "Direct access qualified" means that the applicant has an eligible determination by the office within
the license and renewal time period; and
247 (ii) no more than 180 days have passed since the date on which the applicant's association with a
certification, contract, or licensee with the department expires.
- 249 (g) "Incidental care" means occasional care, not in excess of five hours per week and never overnight,
for a foster child.
- 251 (h) "Licensee" means an individual or a human services program licensed by the division.
- 253 (i) "Non-criminal finding" means a record maintained in:
254 (i) the Division of Child and Family Services' Management Information System described in Section
80-2-1001;
256 (ii) the Division of Child and Family Services' Licensing Information System described in Section
80-2-1002;
258 (iii) the Division of Aging and Adult Services' vulnerable adult abuse, neglect, or exploitation database
described in Section 26B-6-210;
- 260 (iv) juvenile court arrest, adjudication, and disposition records;
- 261 (v) the Sex, Kidnap, and Child Abuse Offender Registry described in [~~Title 77, Chapter 41, Sex,
Kidnap, and Child Abuse Offender Registry~~] Title 53, Chapter 29, Sex, Kidnap, and Child Abuse
Offender Registry, or a national sex offender registry; or
- 265 (vi) a state child abuse or neglect registry.
- 266 (j) "Office" means the Office of Background Processing within the department.
- 267 (k) "Personal identifying information" means:
268 (i) current name, former names, nicknames, and aliases;
269 (ii) date of birth;

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- 270 (iii) physical address and email address;
- 271 (iv) telephone number;
- 272 (v) driver license or other government-issued identification;
- 273 (vi) social security number;
- 274 (vii) only for applicants who are 18 years old or older, fingerprints, in a form specified by the office;
and
- 276 (viii) other information specified by the office by rule made in accordance with Title 63G, Chapter 3,
Utah Administrative Rulemaking Act.
- 278 (2) Except as provided in Subsection (12), an applicant or a representative shall submit the following to
the office:
- 280 (a) personal identifying information;
- 281 (b) a fee established by the office under Section 63J-1-504;
- 282 (c) a disclosure form, specified by the office, for consent for:
- 283 (i) an initial background check upon association with a certification, contract, or licensee with the
department;
- 285 (ii) ongoing monitoring of fingerprints and registries until no longer associated with a certification,
contract, or licensee with the department for 180 days;
- 287 (iii) a background check when the office determines that reasonable cause exists; and
- 288 (iv) retention of personal identifying information, including fingerprints, for monitoring and notification
as described in Subsections (3)(c) and (4);
- 290 (d) if an applicant resided outside of the United States and its territories during the five years
immediately preceding the day on which the information described in Subsections (2)(a) through
(c) is submitted to the office, documentation establishing whether the applicant was convicted of a
crime during the time that the applicant resided outside of the United States or its territories; and
- 295 (e) an application showing an applicant's association with a certification, contract, or a licensee with
the department, for the purpose of the office tracking the direct access qualified status of the
applicant, which expires 180 days after the date on which the applicant is no longer associated with
a certification, contract, or a licensee with the department.
- 300 (3) The office:
- 301 (a) shall perform the following duties as part of a background check of an applicant before the office
grants or denies direct access qualified status to an applicant:

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- 303 (i) check state and regional criminal background databases for the applicant's criminal history by:
- 305 (A) submitting personal identifying information to the bureau for a search; or
- 306 (B) using the applicant's personal identifying information to search state and regional criminal background databases as authorized under Section 53-10-108;
- 308 (ii) submit the applicant's personal identifying information and fingerprints to the bureau for a criminal history search of applicable national criminal background databases;
- 311 (iii) search the Division of Child and Family Services' Licensing Information System described in Section 80-2-1002;
- 313 (iv) search the Sex, Kidnap, and Child Abuse Offender Registry described in [~~Title 77, Chapter 41, Sex, Kidnap, and Child Abuse Offender Registry~~] Title 53, Chapter 29, Sex, Kidnap, and Child Abuse Offender Registry, or a national sex offender registry for an applicant 18 years old or older;
- 317 (v) if the applicant is associated with a licensee for a prospective foster or adoptive parent, search the Division of Child and Family Services' Management Information System described in Section 80-2-1001;
- 320 (vi) search the Division of Aging and Adult Services' vulnerable adult abuse, neglect, or exploitation database described in Section 26B-6-210;
- 322 (vii) search the juvenile court records for substantiated findings of severe child abuse or neglect described in Section 80-3-404; and
- 324 (viii) search the juvenile court arrest, adjudication, and disposition records, as provided under Section 78A-6-209;
- 326 (b) may conduct all or portions of a background check in connection with determining whether an applicant is direct access qualified, as provided by rule, made by the office in accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act:
- 329 (i) for an annual renewal; or
- 330 (ii) when the office determines that reasonable cause exists;
- 331 (c) may submit an applicant's personal identifying information, including fingerprints, to the bureau for checking, retaining, and monitoring of state and national criminal background databases and for notifying the office of new criminal activity associated with the applicant;
- 335 (d) shall track the status of an applicant under this section to ensure that the applicant is not required to duplicate the submission of the applicant's fingerprints if the applicant is associated with more than one certification, contract, or licensee with the department;

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- 339 (e) shall notify the bureau when a direct access qualified individual has not been associated with a
certification, contract, or licensee with the department for a period of 180 days;
- 342 (f) shall adopt measures to strictly limit access to personal identifying information solely to the
individuals responsible for processing and entering the applications for background checks and to
protect the security of the personal identifying information the office reviews under this Subsection
(3);
- 346 (g) as necessary to comply with the federal requirement to check a state's child abuse and neglect
registry regarding any applicant working in a congregate care program, shall:
- 349 (i) search the Division of Child and Family Services' Licensing Information System described in
Section 80-2-1002; and
- 351 (ii) require the child abuse and neglect registry be checked in each state where an applicant resided at
any time during the five years immediately preceding the day on which the application is submitted
to the office; and
- 354 (h) shall make rules, in accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, to
implement the provisions of this Subsection (3) relating to background checks.
- 357 (4)
- . (a) With the personal identifying information the office submits to the bureau under Subsection (3),
the bureau shall check against state and regional criminal background databases for the applicant's
criminal history.
- 360 (b) With the personal identifying information and fingerprints the office submits to the bureau under
Subsection (3), the bureau shall check against national criminal background databases for the
applicant's criminal history.
- 363 (c) Upon direction from the office, and with the personal identifying information and fingerprints the
office submits to the bureau under Subsection (3)(c), the bureau shall:
- 365 (i) maintain a separate file of the fingerprints for search by future submissions to the local and regional
criminal records databases, including latent prints; and
- 367 (ii) monitor state and regional criminal background databases and identify criminal activity associated
with the applicant.
- 369 (d) The bureau is authorized to submit the fingerprints to the Federal Bureau of Investigation Next
Generation Identification System, to be retained in the Federal Bureau of Investigation Next
Generation Identification System for the purpose of:

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- 372 (i) being searched by future submissions to the national criminal records databases, including the
Federal Bureau of Investigation Next Generation Identification System and latent prints; and
- 375 (ii) monitoring national criminal background databases and identifying criminal activity associated with
the applicant.
- 377 (e) The [~~Bureau~~] bureau shall notify and release to the office all information of criminal activity
associated with the applicant.
- 379 (f) Upon notice that an individual who has direct access qualified status will no longer be associated
with a certification, contract, or licensee with the department, the bureau shall:
- 382 (i) discard and destroy any retained fingerprints; and
- 383 (ii) notify the Federal Bureau of Investigation when the license has expired or an individual's direct
access to a child or a vulnerable adult has ceased, so that the Federal Bureau of Investigation
will discard and destroy the retained fingerprints from the Federal Bureau of Investigation Next
Generation Identification System.
- 387 (5)
- . (a) Except as provided in Subsection (5)(b), the office shall deny direct access qualified status to an
applicant who, within three years from the date on which the office conducts the background check,
was convicted of:
- 390 (i) a felony or misdemeanor involving conduct that constitutes any of the following:
- 391 (A) an offense identified as domestic violence, lewdness, voyeurism, battery, cruelty to animals, or
bestiality;
- 393 (B) a violation of any pornography law, including sexual exploitation of a minor or aggravated sexual
exploitation of a minor;
- 395 (C) sexual solicitation or prostitution;
- 396 (D) a violent offense committed in the presence of a child, as described in Section 76-3-203.10;
- 398 (E) an offense included in Title 76, Chapter 4, Part 4, Enticement of a Minor;
- 399 (F) an offense included in Title 76, Chapter 5, Offenses Against the Individual;
- 400 (G) an offense included in Title 76, Chapter 5b, Sexual Exploitation Act;
- 401 (H) an offense included in Title 76, Chapter 7, Offenses Against the Family;
- 402 (I) an offense included in Title 76, Chapter 9, Part 4, Offenses Against Privacy;
- 403 (J) an offense included in Title 76, Chapter 10, Part 4, Weapons of Mass Destruction;
- 405 (K) an offense included in Title 78B, Chapter 7, Protective Orders and Stalking Injunctions;

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- 407 (L) aggravated arson, as described in Section 76-6-103;
- 408 (M) aggravated burglary, as described in Section 76-6-203;
- 409 (N) aggravated exploitation of prostitution, as described in Section 76-10-1306;
- 410 (O) aggravated robbery, as described in Section 76-6-302;
- 411 (P) endangering persons in a human services program, as described in Section 26B-2-113;
- 413 (Q) failure to report, as described in Section 80-2-609;
- 414 (R) identity fraud crime, as described in Section 76-6-1102;
- 415 (S) leaving a child unattended in a motor vehicle, as described in Section 76-10-2202;
- 417 (T) riot, as described in Section 76-9-101;
- 418 (U) sexual battery, as described in Section 76-9-702.1; or
- 419 (V) threatening with or using a dangerous weapon in a fight or quarrel, as described in Section
76-10-506; or
- 421 (ii) a felony or misdemeanor offense committed outside of the state that, if committed in the state,
would constitute a violation of an offense described in Subsection (5)(a)(i).
- 424 (b)
- . (i) Subsection (5)(a) does not apply to an applicant who is seeking a position as a peer support provider
or a mental health professional, if the applicant provides services in a program that serves only
adults with a primary mental health diagnosis, with or without a co-occurring substance use
disorder.
- 428 (ii) The office shall conduct a comprehensive review of an applicant described in Subsection (5)(b)(i) in
accordance with Subsection (7).
- 430 (c) The office shall deny direct access qualified status to an applicant if the office finds that a court
order prohibits the applicant from having direct access to a child or vulnerable adult.
- 433 (6) The office shall conduct a comprehensive review of an applicant's background check if the
applicant:
- 435 (a) has a felony or class A misdemeanor conviction that is more than three years from the date on which
the office conducts the background check, for an offense described in Subsection (5)(a);
- 438 (b) has a felony charge or conviction that is no more than 10 years from the date on which the office
conducts the background check for an offense not described in Subsection (5)(a);
- 441

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- (c) has a felony charge or conviction that is more than 10 years from the date on which the office conducts the background check, for an offense not described in Subsection (5)(a), with criminal or non-criminal findings after the date of the felony charge or conviction;
- 445 (d) has a class B misdemeanor or class C misdemeanor conviction that is more than three years and no more than 10 years from the date on which the office conducts the background check for an offense described in Subsection (5)(a);
- 448 (e) has a class B misdemeanor or class C misdemeanor conviction that is more than 10 years from the date on which the office conducts the background check, for an offense described in Subsection (5)(a), with criminal or non-criminal findings after the date of conviction;
- 452 (f) has a misdemeanor charge or conviction that is no more than three years from the date on which the office conducts the background check for an offense not described in Subsection (5)(a);
- 455 (g) has a misdemeanor charge or conviction that is more than three years from the date on which the office conducts the background check, for an offense not described in Subsection (5)(a), with criminal or non-criminal findings after the date of charge or conviction;
- 459 (h) is currently subject to a plea in abeyance or diversion agreement for an offense described in Subsection (5)(a);
- 461 (i) appears on the Sex, Kidnap, and Child Abuse Offender Registry described in [~~Title 77, Chapter 41, Sex, Kidnap, and Child Abuse Offender Registry~~] Title 53, Chapter 29, Sex, Kidnap, and Child Abuse Offender Registry, or a national sex offender registry;
- 465 (j) has a record of an adjudication in juvenile court for an act that, if committed by an adult, would be a felony or misdemeanor, if the applicant is:
- 467 (i) under 28 years old; or
- 468 (ii) 28 years old or older and has been convicted of, has pleaded no contest to, or is currently subject to a plea in abeyance or diversion agreement for a felony or a misdemeanor offense described in Subsection (5)(a);
- 471 (k) has a pending charge for an offense described in Subsection (5)(a);
- 472 (l) has a listing that occurred no more than 15 years from the date on which the office conducts the background check in the Division of Child and Family Services' Licensing Information System described in Section 80-2-1002;

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- (m) has a listing that occurred more than 15 years from the date on which the office conducts the background check in the Division of Child and Family Services' Licensing Information System described in Section 80-2-1002, with criminal or non-criminal findings after the date of the listing;
- 479 (n) has a listing that occurred no more than 15 years from the date on which the office conducts the background check in the Division of Aging and Adult Services' vulnerable adult abuse, neglect, or exploitation database described in Section 26B-6-210;
- 483 (o) has a listing that occurred more than 15 years from the date on which the office conducts the background check in the Division of Aging and Adult Services' vulnerable adult abuse, neglect, or exploitation database described in Section 26B-6-210, with criminal or non-criminal findings after the date of the listing;
- 487 (p) has a substantiated finding that occurred no more than 15 years from the date on which the office conducts the background check of severe child abuse or neglect under Section 80-3-404 or 80-3-504[-]; or
- 490 (q) has a substantiated finding that occurred more than 15 years from the date on which the office conducts the background check of severe child abuse or neglect under Section 80-3-404 or 80-3-504, with criminal or non-criminal findings after the date of the listing.
- 494 (7)
- . (a) The comprehensive review shall include an examination of:
- 495 (i) the date of the offense or incident;
- 496 (ii) the nature and seriousness of the offense or incident;
- 497 (iii) the circumstances under which the offense or incident occurred;
- 498 (iv) the age of the perpetrator when the offense or incident occurred;
- 499 (v) whether the offense or incident was an isolated or repeated incident;
- 500 (vi) whether the offense or incident directly relates to abuse of a child or vulnerable adult, including:
- 502 (A) actual or threatened, nonaccidental physical, mental, or financial harm;
- 503 (B) sexual abuse;
- 504 (C) sexual exploitation; or
- 505 (D) negligent treatment;
- 506 (vii) any evidence provided by the applicant of rehabilitation, counseling, psychiatric treatment received, or additional academic or vocational schooling completed;

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- 508 (viii) the applicant's risk of harm to clientele in the program or in the capacity for which the
applicant is applying; and
- 510 (ix) if the background check of an applicant is being conducted for the purpose of giving direct
access qualified status to an applicant seeking a position in a congregate care program or to
become a prospective foster or adoptive parent, any listing in the Division of Child and Family
Services' Management Information System described in Section 80-2-1001.
- 515 (b) At the conclusion of the comprehensive review, the office shall deny direct access qualified status
to an applicant if the office finds the approval would likely create a risk of harm to a child or
vulnerable adult.
- 518 (8) The office shall grant direct access qualified status to an applicant who is not denied under this
section.
- 520 (9)
- . (a) The office may conditionally grant direct access qualified status to an applicant, for a maximum of
60 days after the day on which the office sends written notice, without requiring that the applicant
be directly supervised, if the office:
- 523 (i) is awaiting the results of the criminal history search of national criminal background databases;
and
- 525 (ii) would otherwise grant direct access qualified status to the applicant under this section.
- 527 (b) The office may conditionally grant direct access qualified status to an applicant, for a maximum of
one year after the day on which the office sends written notice, without requiring that the applicant
be directly supervised if the office:
- 530 (i) is awaiting the results of an out-of-state registry for providers other than foster and adoptive parents;
and
- 532 (ii) would otherwise grant direct access qualified status to the applicant under this section.
- 534 (c) Upon receiving the results of the criminal history search of a national criminal background database,
the office shall grant or deny direct access qualified status to the applicant in accordance with this
section.
- 537 (10)
- . (a) Each time an applicant is associated with a licensee, the department shall review the current status
of the applicant's background check to ensure the applicant is still eligible for direct access qualified
status in accordance with this section.

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- 540 (b) A licensee may not permit an individual to have direct access to a child or a vulnerable adult without
being directly supervised unless:
- 542 (i) the individual is the parent or guardian of the child, or the guardian of the vulnerable adult;
- 544 (ii) the individual is approved by the parent or guardian of the child, or the guardian of the vulnerable
adult, to have direct access to the child or the vulnerable adult;
- 546 (iii) the individual is only permitted to have direct access to a vulnerable adult who voluntarily invites
the individual to visit; or
- 548 (iv) the individual only provides incidental care for a foster child on behalf of a foster parent who has
used reasonable and prudent judgment to select the individual to provide the incidental care for the
foster child.
- 551 (c) Notwithstanding any other provision of this section, an applicant who is denied direct access
qualified status shall not have direct access to a child or vulnerable adult unless the office grants
direct access qualified status to the applicant through a subsequent application in accordance with
this section.
- 555 (11) If the office denies direct access qualified status to an applicant, the applicant may request a
hearing in the department's Office of Administrative Hearings to challenge the office's decision.
- 558 (12)
- . (a) This Subsection (12) applies to an applicant associated with a certification, contract, or licensee
serving adults only.
- 560 (b) A program director or a member, as defined in Section 26B-2-105, of the licensee shall comply with
this section.
- 562 (c) The office shall conduct a comprehensive review for an applicant if:
- 563 (i) the applicant is seeking a position:
- 564 (A) as a peer support provider;
- 565 (B) as a mental health professional; or
- 566 (C) in a program that serves only adults with a primary mental health diagnosis, with or without a co-
occurring substance use disorder; and
- 568 (ii) within three years from the date on which the office conducts the background check, the applicant
has a felony or misdemeanor charge or conviction or a non-criminal finding.
- 571 (13)
- .

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- (a) This Subsection (13) applies to an applicant seeking a position in a congregate care program, an applicant seeking to provide a prospective foster home, an applicant seeking to provide a prospective adoptive home, and each adult living in the home of the prospective foster or prospective adoptive home.
- 575 (b) As federally required, the office shall:
- 576 (i) check the child abuse and neglect registry in each state where each applicant resided in the five years immediately preceding the day on which the applicant applied to be a foster or adoptive parent, to determine whether the prospective foster or adoptive parent is listed in the registry as having a substantiated or supported finding of child abuse or neglect; and
- 581 (ii) except for applicants seeking a position in a congregate care program, check the child abuse and neglect registry in each state where each adult living in the home of the prospective foster or adoptive home resided in the five years immediately preceding the day on which the applicant applied to be a foster or adoptive parent, to determine whether the adult is listed in the registry as having a substantiated or supported finding of child abuse or neglect.
- 587 (c) The requirements described in Subsection (13)(b) do not apply to the extent that:
- 588 (i) federal law or rule permits otherwise; or
- 589 (ii) the requirements would prohibit the Division of Child and Family Services or a court from placing a child with:
- 591 (A) a noncustodial parent under Section 80-2a-301, 80-3-302, or 80-3-303; or
- 592 (B) a relative, other than a noncustodial parent, under Section 80-2a-301, 80-3-302, or 80-3-303, pending completion of the background check described in Subsections (5), (6), and (7).
- 595 (d) Notwithstanding Subsections (5) through (10), the office shall deny direct access qualified status if the applicant has been convicted of:
- 597 (i) a felony involving conduct that constitutes any of the following:
- 598 (A) child abuse, as described in Sections 76-5-109, 76-5-109.2, and 76-5-109.3;
- 599 (B) commission of domestic violence in the presence of a child, as described in Section 76-5-114;
- 601 (C) abuse or neglect of a child with a disability, as described in Section 76-5-110;
- 602 (D) intentional aggravated abuse of a vulnerable adult, as described in Section 76-5-111;
- 604 (E) endangerment of a child or vulnerable adult, as described in Section 76-5-112.5;
- 606 (F) aggravated murder, as described in Section 76-5-202;
- 607 (G) murder, as described in Section 76-5-203;

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- 608 (H) manslaughter, as described in Section 76-5-205;
- 609 (I) child abuse homicide, as described in Section 76-5-208;
- 610 (J) homicide by assault, as described in Section 76-5-209;
- 611 (K) kidnapping, as described in Section 76-5-301;
- 612 (L) child kidnapping, as described in Section 76-5-301.1;
- 613 (M) aggravated kidnapping, as described in Section 76-5-302;
- 614 (N) human trafficking of a child, as described in Section 76-5-308.5;
- 615 (O) an offense described in Title 76, Chapter 5, Part 4, Sexual Offenses;
- 616 (P) sexual exploitation of a minor, as described in Title 76, Chapter 5b, Sexual Exploitation Act;
- 618 (Q) aggravated exploitation of a minor, as described in Section 76-5b-201.1;
- 619 (R) aggravated arson, as described in Section 76-6-103;
- 620 (S) aggravated burglary, as described in Section 76-6-203;
- 621 (T) aggravated robbery, as described in Section 76-6-302;
- 622 (U) lewdness involving a child, as described in Section 76-9-702.5;
- 623 (V) incest, as described in Section 76-7-102; or
- 624 (W) domestic violence, as described in Section 77-36-1; or
- 625 (ii) an offense committed outside the state that, if committed in the state, would constitute a violation of an offense described in Subsection (13)(d)(i).
- 627 (e) Notwithstanding Subsections (5) through (10), the office shall deny direct access qualified status to an applicant if, within the five years from the date on which the office conducts the background check, the applicant was convicted of a felony involving conduct that constitutes a violation of any of the following:
- 631 (i) aggravated assault, as described in Section 76-5-103;
- 632 (ii) aggravated assault by a prisoner, as described in Section 76-5-103.5;
- 633 (iii) mayhem, as described in Section 76-5-105;
- 634 (iv) an offense described in Title 58, Chapter 37, Utah Controlled Substances Act;
- 635 (v) an offense described in Title 58, Chapter 37a, Utah Drug Paraphernalia Act;
- 636 (vi) an offense described in Title 58, Chapter 37b, Imitation Controlled Substances Act;
- 638 (vii) an offense described in Title 58, Chapter 37c, Utah Controlled Substance Precursor Act; or
- 640 (viii) an offense described in Title 58, Chapter 37d, Clandestine Drug Lab Act.
- 641

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- (f) In addition to the circumstances described in Subsection (6), the office shall conduct a comprehensive review of an applicant's background check under this section if the applicant:
- 644 (i) has an offense described in Subsection (5)(a);
- 645 (ii) has an infraction conviction entered on a date that is no more than three years before the date on which the office conducts the background check;
- 647 (iii) has a listing in the Division of Child and Family Services' Licensing Information System described in Section 80-2-1002;
- 649 (iv) has a listing in the Division of Aging and Adult Services' vulnerable adult, neglect, or exploitation database described in Section 26B-2-210;
- 651 (v) has a substantiated finding of severe child abuse or neglect under Section 80-3-404 or 80-3-504; or
- 653 (vi) has a listing on the registry check described in Subsection (13)(b) as having a substantiated or supported finding of a severe type of child abuse or neglect, as defined in Section 80-1-102.
- 656 (14) In accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, the office may make rules, consistent with this part, to:
- 658 (a) establish procedures for, and information to be examined in, the comprehensive review described in Subsections (6), (7), and (13); and
- 660 (b) determine whether to consider an offense or incident that occurred while an individual was in the custody of the Division of Child and Family Services or the Division of Juvenile Justice and Youth Services for purposes of granting or denying direct access qualified status to an applicant.

671 Section 4. Section **41-3-205.5** is amended to read:

672 **41-3-205.5. Licenses -- Criminal background check required on salesperson's licenses --**

Payment of cost.

- 667 (1)
- . (a) Every applicant for a salesperson's license shall submit fingerprints with a completed application to the division.
- 669 (b) [~~A person~~] An individual [~~or An individual~~] required to renew a salesperson license on or before June 30, 2010, shall submit fingerprints to the division on or before November 30, 2010.
- 671 (2) The division shall submit fingerprints for each applicant described in Subsection (1) to the Bureau of Criminal Identification established in Section 53-10-201.
- 673 (3) The Bureau of Criminal Identification shall:
- 674

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- (a) check the information submitted by the division for an applicant under Subsection (2) against the applicable state and regional criminal records databases; and
- 676 (b) release to the division all information obtained under Subsection (3)(a) relating to the applicant.
- 678 (4)
- . (a) The Bureau of Criminal Identification shall maintain a separate file of fingerprints submitted under Subsection (2) and notify the division when a new entry is made in the applicable state and regional database against ~~[a person]~~ an individual whose fingerprints are held in the file regarding any matter involving an arrest under state law involving:
- 683 (i) motor vehicles;
- 684 (ii) controlled substances;
- 685 (iii) fraud; or
- 686 ~~[(iv) a registerable sex offense under Section 77-41-106.]~~
- 687 (iv) an offense that would result in the individual being a sex offender under Subsection 53-29-202(2)(b) and required to register for the individual's lifetime under Subsection 53-29-203(1)(b).
- 690 (b) Upon request by the division, the Bureau of Criminal Identification shall inform the division whether a person whose arrest was reported to the division under Subsection (4)(a) was subsequently convicted of the charge for which the person was arrested.
- 693 (5) In addition to any fees imposed under this chapter, the division shall:
- 694 (a) impose on individuals submitting fingerprints in accordance with this section the fees that the Bureau of Criminal Identification is authorized to collect for the services the Bureau of Criminal Identification provides under Subsections (3) and (4); and
- 697 (b) remit the fees collected under Subsection (5)(a) to the Bureau of Criminal Identification.
- 699 (6) The division shall use information received from the Bureau of Criminal Identification under this section to determine whether a license should be denied, suspended, or revoked under Section 41-3-209.
- 709 Section 5. Section **41-3-209** is amended to read:
- 710 **41-3-209. Administrator's findings -- Suspension and revocation of license.**
- 704 (1) If the administrator finds that an applicant is not qualified to receive a license, a license may not be granted.
- 706 (2)

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

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or finds other reasonable cause, the administrator may, by complying with the emergency procedures of Title 63G, Chapter 4, Administrative Procedures Act:

- 747 (a) suspend the license on terms and for a period of time the administrator finds reasonable; or
749 (b) revoke the license.
750 (5)
. (a) After suspending or revoking a license, the administrator may take reasonable action to:
752 (i) notify the public that the licensee is no longer in business; and
753 (ii) prevent the former licensee from violating the law by conducting business without a license.
755 (b) Action under Subsection (5)(a) may include signs, banners, barriers, locks, bulletins, and notices.
757 (c) Any business being conducted incidental to the business for which the former licensee was licensed may continue to operate subject to the preventive action taken under this subsection.

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

768 **42-1-1. By petition to district court -- Contents.**

- 762 (1) Any natural person, desiring to change the natural person's name, may file a petition in the district court of the county where the natural person resides, setting forth:
764 (a) the cause for which the change of name is sought;
765 (b) the name proposed; and
766 (c) that the natural person has been a bona fide resident of the county for the year immediately prior to the filing of the petition.
768 (2)
. (a) A natural person petitioning for a name change under this section shall indicate on the petition whether the individual is [~~registered with the state's Sex and Kidnap Offender Registry~~] required to register under Title 53, Chapter 29, Sex, Kidnap, and Child Abuse Offender Registry.
772 (b) The court may request additional information from a natural person who is [~~registered with the state's Sex and Kidnap Offender Registry~~] required to register under Title 53, Chapter 29, Sex, Kidnap, and Child Abuse Offender Registry, to make the determination described in Subsection [~~77-41-105(8)~~] 53-29-303(3).
776 (3) The provisions of Title 76, Chapter 8, Part 5, Falsification in Official Matters, apply to this section when applicable.

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

786

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

- 783 (1) An application for an original license, provisional license, or endorsement shall be:
784 (a) made upon a form furnished by the division; and
785 (b) accompanied by a nonrefundable fee set under Section 53-3-105.
- 786 (2) An application and fee for an original provisional class D license or an original class D license entitle the applicant to:
788 (a) not more than three attempts to pass both the knowledge and the skills tests for a class D license within six months after the date of the application;
790 (b) a learner permit if needed pending completion of the application and testing process; and
792 (c) an original class D license and license certificate after all tests are passed and requirements are completed.
- 794 (3) An application and fee for a motorcycle or taxicab endorsement entitle the applicant to:
795 (a) not more than three attempts to pass both the knowledge and skills tests within six months after the date of the application;
797 (b) a motorcycle learner permit after the motorcycle knowledge test is passed; and
798 (c) a motorcycle or taxicab endorsement when all tests are passed.
- 799 (4) An application for a commercial class A, B, or C license entitles the applicant to:
800 (a) not more than two attempts to pass a knowledge test when accompanied by the fee provided in Subsection 53-3-105(18);
802 (b) not more than two attempts to pass a skills test when accompanied by a fee in Subsection 53-3-105(19) within six months after the date of application;
804 (c) both a commercial driver instruction permit and a temporary license permit for the license class held before the applicant submits the application if needed after the knowledge test is passed; and
807 (d) an original commercial class A, B, or C license and license certificate when all applicable tests are passed.
- 809 (5) An application and fee for a CDL endorsement entitle the applicant to:
810 (a) not more than two attempts to pass a knowledge test and not more than two attempts to pass a skills test within six months after the date of the application; and
812 (b) a CDL endorsement when all tests are passed.

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

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

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

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

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

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- (b) When received, the driver's record becomes part of the driver's record in this state with the same effect as though entered originally on the driver's record in this state.
- 977 (12) An application for reinstatement of a license after the suspension, cancellation, disqualification, denial, or revocation of a previous license is accompanied by the additional fee or fees specified in Section 53-3-105.
- 980 (13) An individual who has an appointment with the division for testing and fails to keep the appointment or to cancel at least 48 hours in advance of the appointment shall pay the fee under Section 53-3-105.
- 983 (14) An applicant who applies for an original license or renewal of a license agrees that the individual's license is subject to a suspension or revocation authorized under this title or Title 41, Motor Vehicles.
- 986 (15)
- . (a) A licensee shall authenticate the indication of intent under Subsection (8)(a)(vi) in accordance with division rule.
- 988 (b)
- . (i) Notwithstanding Title 63G, Chapter 2, Government Records Access and Management Act, the division may, upon request, release to an organ procurement organization, as defined in Section 26B-8-301, the names and addresses of all applicants who, under Subsection (8)(a)(vi), indicate that they intend to make an anatomical gift.
- 993 (ii) An organ procurement organization may use released information only to:
- 994 (A) obtain additional information for an anatomical gift registry; and
- 995 (B) inform licensees of anatomical gift options, procedures, and benefits.
- 996 (16) Notwithstanding Title 63G, Chapter 2, Government Records Access and Management Act, the division may release to the Department of Veterans and Military Affairs the names and addresses of all applicants who indicate their status as a veteran under Subsection (8)(a)(viii).
- 1000 (17) Notwithstanding Title 63G, Chapter 2, Government Records Access and Management Act, the division shall, upon request, release to the Sex, Kidnap, and Child Abuse Offender Registry office in the Department of Public Safety, the names and addresses of all applicants who, under Subsection (8)(a)(vii), indicate they are required to register as a sex offender, kidnap offender, or child abuse offender in accordance with [~~Title 77, Chapter 41, Sex, Kidnap, and Child Abuse Offender Registry~~] Title 53, Chapter 29, Sex, Kidnap, and Child Abuse Offender Registry.

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- 1007 (18) The division and its employees are not liable, as a result of false or inaccurate information
provided under Subsection (8)(a)(vi) or (viii), for direct or indirect:
- 1009 (a) loss;
- 1010 (b) detriment; or
- 1011 (c) injury.
- 1012 (19) An applicant who knowingly fails to provide the information required under Subsection (8)(a)(vii)
is guilty of a class A misdemeanor.
- 1014 (20) A person may not hold both an unexpired Utah license certificate and an unexpired identification
card.
- 1016 (21)
- . (a) An applicant who applies for an original motorcycle endorsement to a regular license certificate is
exempt from the requirement to pass the knowledge and skills test to be eligible for the motorcycle
endorsement if the applicant:
- 1019 (i) is a resident of the state of Utah;
- 1020 (ii)
- . (A) is ordered to active duty and stationed outside of Utah in any of the armed forces of the United
States; or
- 1022 (B) is an immediate family member or dependent of an individual described in Subsection (21)(a)(ii)(A)
and is residing outside of Utah;
- 1024 (iii) has a digitized driver license photo on file with the division;
- 1025 (iv) provides proof to the division of the successful completion of a certified Motorcycle Safety
Foundation rider training course; and
- 1027 (v) provides the necessary information and documentary evidence required under Subsection (8).
- 1029 (b) In accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, the division shall
make rules:
- 1031 (i) establishing the procedures for an individual to obtain a motorcycle endorsement under this
Subsection (21); and
- 1033 (ii) identifying the applicable restrictions for a motorcycle endorsement issued under this Subsection
(21).
- 1042 Section 8. Section **53-3-216** is amended to read:
- 1043

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53-3-216. Change of address -- Duty of licensee to notify division within 10 days -- Change of name -- Proof necessary -- Method of giving notice by division.

- 1038 (1)
- (a) Except as provided in Subsection (1)(b), if an individual, after applying for or receiving a license, moves from the address named in the application or in the license certificate issued to the individual, the individual shall, within 10 days after the day on which the individual moves, notify the division in a manner specified by the division of the individual's new address and the number of any license certificate held by the individual.
- 1044 (b) If an individual who is required to register as a sex offender, kidnap offender, or child abuse offender under [~~Title 77, Chapter 41, Sex, Kidnap, and Child Abuse Offender Registry~~] Title 53, Chapter 29, Sex, Kidnap, and Child Abuse Offender Registry, after applying for or receiving a license, moves from the address named in the application or in the license certificate issued to the individual, the individual shall, within 30 days after the day on which the individual moves, apply for an updated license in-person at a division office.
- 1051 (2) If an applicant requests to change the surname on the applicant's license, the division shall issue a substitute license with the new name upon receiving an application and fee for a duplicate license and any of the following proofs of the applicant's full legal name:
- 1054 (a) an original or certified copy of the applicant's marriage certificate;
- 1055 (b) a certified copy of a court order under Title 42, Chapter 1, Change of Name, showing the name change;
- 1057 (c) an original or certified copy of a birth certificate issued by a government agency;
- 1058 (d) a certified copy of a divorce decree or annulment granted the applicant that specifies the name change requested; or
- 1060 (e) a certified copy of a divorce decree that does not specify the name change requested together with:
- 1062 (i) an original or certified copy of the applicant's birth certificate;
- 1063 (ii) the applicant's marriage license;
- 1064 (iii) a driver license record showing use of a maiden name; or
- 1065 (iv) other documentation the division finds acceptable.
- 1066 (3)
- (a) If the division is authorized or required to give a notice under this chapter or other law regulating the operation of vehicles, the notice shall, unless otherwise prescribed, be given by:

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- 1069 (i) personal delivery to the individual to be notified; or
1070 (ii) deposit in the United States mail with postage prepaid, addressed to the individual at the
individual's address as shown by the records of the division.
- 1072 (b) The giving of notice by mail is complete upon the expiration of four days after the deposit of the
notice.
- 1074 (c) Proof of the giving of notice in either manner may be made by the certificate of an officer or
employee of the division or affidavit of an individual 18 years [~~of age~~] old or older, naming the
individual to whom the notice was given and specifying the time, place, and manner of giving the
notice.
- 1078 (4) The division may use state mailing or United States Postal Service information to:
1079 (a) verify an address on an application or on records of the division; and
1080 (b) correct mailing addresses in the division's records.
- 1081 (5) A violation of the provisions of Subsection (1) is an infraction.
- 1089 Section 9. Section **53-3-804** is amended to read:
1090 **53-3-804. Application for identification card -- Required information -- Release of
anatomical gift information -- Cancellation of identification card.**
- 1085 (1) To apply for a regular identification card or limited-term identification card, an applicant shall:
1087 (a) be a Utah resident;
1088 (b) have a Utah residence address; and
1089 (c) appear in person at any license examining station.
- 1090 (2) An applicant shall provide the following information to the division:
1091 (a) true and full legal name and Utah residence address;
1092 (b) date of birth as set forth in a certified copy of the applicant's birth certificate, or other satisfactory
evidence of birth, which shall be attached to the application;
1094 (c)
1095 . (i) social security number; or
1096 (ii) written proof that the applicant is ineligible to receive a social security number;
1097 (d) place of birth;
1098 (e) height and weight;
1099 (f) color of eyes and hair;
(g) signature;

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- 1100 (h) photograph;
- 1101 (i) evidence of the applicant's lawful presence in the United States by providing documentary evidence:
- 1103 (i) that the applicant is:
- 1104 (A) a United States citizen;
- 1105 (B) a United States national; or
- 1106 (C) a legal permanent resident alien; or
- 1107 (ii) of the applicant's:
- 1108 (A) unexpired immigrant or nonimmigrant visa status for admission into the United States;
- 1110 (B) pending or approved application for asylum in the United States;
- 1111 (C) admission into the United States as a refugee;
- 1112 (D) pending or approved application for temporary protected status in the United States;
- 1114 (E) approved deferred action status;
- 1115 (F) pending application for adjustment of status to legal permanent resident or conditional resident; or
- 1117 (G) conditional permanent resident alien status;
- 1118 (j) an indication whether the applicant intends to make an anatomical gift under Title 26B, Chapter 8, Part 3, Revised Uniform Anatomical Gift Act;
- 1120 (k) an indication whether the applicant is required to register as a sex offender, kidnap offender, or child abuse offender in accordance with [~~Title 77, Chapter 41, Sex, Kidnap, and Child Abuse Offender Registry~~] Title 53, Chapter 29, Sex, Kidnap, and Child Abuse Offender Registry; and
- 1124 (l) an indication whether the applicant is a veteran of the United States Armed Forces, verification that the applicant has received an honorable or general discharge from the United States Armed Forces, and an indication whether the applicant does or does not authorize sharing the information with the state Department of Veterans and Military Affairs.
- 1129 (3)
- . (a) The requirements of Section 53-3-234 apply to this section for each individual, age 16 and older, applying for an identification card.
- 1131 (b) Refusal to consent to the release of information under Section 53-3-234 shall result in the denial of the identification card.
- 1133 (4) An individual person who knowingly fails to provide the information required under Subsection (2) (k) is guilty of a class A misdemeanor.
- 1135 (5)

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- . (a) A person may not hold both an unexpired Utah license certificate and an unexpired identification card.
- 1137 (b) A person who holds a regular or limited term Utah driver license and chooses to relinquish the person's driving privilege may apply for an identification card under this chapter, provided:
- 1140 (i) the driver:
- 1141 (A) no longer qualifies for a driver license for failure to meet the requirement in Section 53-3-304; or
- 1143 (B) makes a personal decision to permanently discontinue driving;
- 1144 (ii) the driver:
- 1145 (A) submits an application to the division on a form approved by the division in person, through electronic means, or by mail;
- 1147 (B) affirms their intention to permanently discontinue driving; and
- 1148 (C) surrenders to the division the driver license certificate; and
- 1149 (iii) the division possesses a digital photograph of the driver obtained within the preceding 10 years.
- 1151 (c)
- . (i) The division shall waive the fee under Section 53-3-105 for an identification card for an original identification card application under this Subsection (5).
- 1153 (ii) The fee waiver described in Subsection (5)(c)(i) does not apply to a person whose driving privilege is suspended or revoked.
- 1155 (6) Notwithstanding Title 63G, Chapter 2, Government Records Access and Management Act, the division shall, upon request, release to the Sex, Kidnap, and Child Abuse Offender Registry office in the Department of Public Safety, the names and addresses of all applicants who, under Subsection (2)(k), indicate they are required to register as a sex offender, kidnap offender, or child abuse offender in accordance with [~~Title 77, Chapter 41, Sex, Kidnap, and Child Abuse Offender Registry~~] Title 53, Chapter 29, Sex, Kidnap, and Child Abuse Offender Registry.
- 1169 Section 10. Section **53-3-806.5** is amended to read:
- 1170 **53-3-806.5. Identification card required if offender does not have driver license.**
- 1164 (1)
- . (a) An individual who does not hold a current driver license in compliance with Section 53-3-205 and is required to register as a sex offender, kidnap offender, or child abuse offender in accordance with [~~Title 77, Chapter 41, Sex, Kidnap, and Child Abuse Offender Registry~~] Title 53, Chapter 29, Sex, Kidnap, and Child Abuse Offender Registry, shall obtain an identification card.

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- 1169 (b) The individual shall maintain a current identification card during the time the individual is required
to register as a sex offender, kidnap offender, or child abuse offender and the individual does not
hold a valid driver license.
- 1172 (2) Failure to maintain a current identification card as required under Subsection (1) is a class A
misdemeanor for each month of violation of Subsection (1).
- 1181 Section 11. Section **53-3-807** is amended to read:
- 1182 **53-3-807. Expiration -- Address and name change -- Extension.**
- 1176 (1)
- . (a) A regular identification card expires on the birth date of the applicant in the fifth year after the
issuance of the regular identification card.
- 1178 (b) A limited-term identification card expires on:
- 1179 (i) the expiration date of the period of time of the individual's authorized stay in the United States or on
the birth date of the applicant in the fifth year after the issuance of the limited-term identification
card, whichever is sooner; or
- 1182 (ii) on the date of issuance in the first year after the year that the limited-term identification card was
issued if there is no definite end to the individual's period of authorized stay.
- 1185 (2)
- . (a) Except as provided in Subsection (2)(b), if an individual has applied for and received an
identification card and subsequently moves from the address shown on the application or on the
card, the individual shall, within 10 days after the day on which the individual moves, notify the
division in a manner specified by the division of the individual's new address.
- 1190 (b) If an individual who is required to register as a sex offender, kidnap offender, or child abuse
offender under [~~Title 77, Chapter 41, Sex, Kidnap, and Child Abuse Offender Registry~~] Title 53,
Chapter 29, Sex, Kidnap, and Child Abuse Offender Registry, has applied for and received an
identification card and subsequently moves from the address shown on the application or on the
card, the individual shall, within 30 days after the day on which the individual moves, apply for an
updated identification card in-person at a division office.
- 1197 (3) If an individual has applied for and received an identification card and subsequently changes the
individual's name under Title 42, Chapter 1, Change of Name, the individual:
- 1200 (a) shall surrender the card to the division; and
- 1201 (b) may apply for a new card in the individual's new name by:

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- 1202 (i) furnishing proper documentation to the division as provided in Section 53-3-804; and
1204 (ii) paying the fee required under Section 53-3-105.
- 1205 (4) A person 21 years old or older with a disability, as defined under the Americans with Disabilities Act of 1990, Pub. L. 101-336, may extend the expiration date on an identification card for five years if the person with a disability or an agent of the person with a disability:
- 1209 (a) requests that the division send the application form to obtain the extension or requests an application form in person at the division's offices;
- 1211 (b) completes the application;
- 1212 (c) certifies that the extension is for a person 21 years old or older with a disability; and
- 1213 (d) returns the application to the division together with the identification card fee required under Section 53-3-105.
- 1215 (5)
- . (a) The division may extend a valid regular identification card issued after January 1, 2010, for five years at any time within six months before the day on which the identification card expires.
- 1218 (b) The application for an extension of a regular identification card is accompanied by a fee under Section 53-3-105.
- 1220 (c) The division shall allow extensions:
- 1221 (i) by mail, electronic means, or other means as determined by the division at the appropriate extension fee rate under Section 53-3-105; and
- 1223 (ii) only if the applicant qualifies under this section.
- 1224 (6)
- . (a) A regular identification card may only be extended once under Subsections (4) and (5).
- 1226 (b) After an extension an application for an identification card must be applied for in person at the division's offices.
- 1235 Section 12. Section **53-10-214** is amended to read:
- 1236 **53-10-214. Reporting requirements.**
- The bureau shall submit a record received pursuant to Section 53-10-208.1 for all nonextraditable warrants issued for violent felonies as defined in Section 76-3-203.5 and all under Title 53, Chapter 29,
- Sex, Kidnap, and Child Abuse Offender Registry,
- 1234 77-41-107

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nonextraditable warrants issued for knowingly failing to register for a sexual offense pursuant to Section [] 53-29-305 to the National Crime Information Center within 48 hours of receipt, excluding Saturdays, Sundays, and legal holidays.

1243 Section 13. Section **53-10-403** is amended to read:

1244 **53-10-403. DNA specimen analysis -- Application to offenders, including minors.**

1238 (1) Sections 53-10-403.6, 53-10-404, 53-10-404.5, 53-10-405, and 53-10-406 apply to:

1239 (a) a person who has pled guilty to or has been convicted of any of the offenses under Subsection (2)(a) or (b) on or after July 1, 2002;

1241 (b) a person who has pled guilty to or has been convicted by any other state or by the United States government of an offense which if committed in this state would be punishable as one or more of the offenses listed in Subsection (2)(a) or (b) on or after July 1, 2003;

1245 (c) a person who has been booked on or after January 1, 2011, through December 31, 2014, for any offense under Subsection (2)(c);

1247 (d) a person who has been booked:

1248 (i) by a law enforcement agency that is obtaining a DNA specimen on or after May 13, 2014, through December 31, 2014, under Subsection 53-10-404(4)(b) for any felony offense; or

1251 (ii) on or after January 1, 2015, for any felony offense; or

1252 (e) a minor:

1253 (i)

. (A) who is adjudicated by the juvenile court for an offense described in Subsection (2) that is within the jurisdiction of the juvenile court on or after July 1, 2002; or

1256 (B) who is adjudicated by the juvenile court for an offense described in Subsection (2) and is in the legal custody of the Division of Juvenile Justice Services for the offense on or after July 1, 2002; and

1259 (ii) who is 14 years old or older at the time of the commission of the offense described in Subsection (2).

1261 (2) Offenses referred to in Subsection (1) are:

1262 (a) any felony or class A misdemeanor under the Utah Code;

1263 (b) any offense under Subsection (2)(a):

1264 (i) for which the court enters a judgment for conviction to a lower degree of offense under Section 76-3-402; or

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- 1266 (ii) regarding which the court allows the defendant to enter a plea in abeyance as defined in Section 77-2a-1; or
- 1268 (c)
- . (i) any violent felony as defined in Section 53-10-403.5;
- 1269 (ii) sale or use of body parts, Section 26B-8-315;
- 1270 (iii) failure to stop at an accident that resulted in death, Section 41-6a-401.5;
- 1271 (iv) operating a motor vehicle with any amount of a controlled substance in an individual's body and causing serious bodily injury or death, as codified before May 4, 2022, Laws of Utah 2021, Chapter 236, Section 1, Subsection 58-37-8(2)(g);
- 1275 (v) a felony violation of enticing a minor, Section 76-4-401;
- 1276 (vi) negligently operating a vehicle resulting in injury, Subsection 76-5-102.1(2)(b);
- 1277 (vii) a felony violation of propelling a substance or object at a correctional officer, a peace officer, or an employee or a volunteer, including health care providers, Section 76-5-102.6;
- 1280 (viii) automobile homicide, Subsection 76-5-207(2)(b);
- 1281 (ix) aggravated human trafficking, Section 76-5-310, and aggravated human smuggling, Section 76-5-310.1;
- 1283 (x) a felony violation of unlawful sexual activity with a minor, Section 76-5-401;
- 1284 (xi) a felony violation of sexual abuse of a minor, Section 76-5-401.1;
- 1285 (xii) unlawful sexual contact with a 16 or 17-year old, Section 76-5-401.2;
- 1286 (xiii) sale of a child, Section 76-7-203;
- 1287 (xiv) aggravated escape, Section 76-8-309.3;
- 1288 (xv) a felony violation of threatened or attempted assault on an elected official, Section 76-8-313;
- 1290 (xvi) threat with intent to impede, intimidate, interfere, or retaliate against a judge or a member of the Board of Pardons and Parole or acting against a family member of a judge or a member of the Board of Pardons and Parole, Section 76-8-316;
- 1293 (xvii) assault with intent to impede, intimidate, interfere, or retaliate against a judge or a member of the Board of Pardons and Parole or acting against a family member of a judge or a member of the Board of Pardons and Parole, Section 76-8-316.2;
- 1297 (xviii) aggravated assault with intent to impede, intimidate, interfere, or retaliate against a judge or a member of the Board of Pardons and Parole or acting against a family member of a judge or a member of the Board of Pardons and Parole, Section 76-8-316.4;

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- 1301 (xix) attempted murder with intent to impede, intimidate, interfere, or retaliate against a judge or a member of the Board of Pardons and Parole or acting against a family member of a judge or a member of the Board of Pardons and Parole, Section 76-8-316.6;
- 1305 (xx) advocating criminal syndicalism or sabotage, Section 76-8-902;
- 1306 (xxi) assembling for advocating criminal syndicalism or sabotage, Section 76-8-903;
- 1307 (xxii) a felony violation of sexual battery, Section 76-9-702.1;
- 1308 (xxiii) a felony violation of lewdness involving a child, Section 76-9-702.5;
- 1309 (xxiv) a felony violation of abuse or desecration of a dead human body, Section 76-9-704;
- 1311 (xxv) manufacture, possession, sale, or use of a weapon of mass destruction, Section 76-10-402;
- 1313 (xxvi) manufacture, possession, sale, or use of a hoax weapon of mass destruction, Section 76-10-403;
- 1315 (xxvii) possession of a concealed firearm in the commission of a violent felony, Subsection 76-10-504(4);
- 1317 (xxviii) assault with the intent to commit bus hijacking with a dangerous weapon, Subsection 76-10-1504(3);
- 1319 (xxix) commercial obstruction, Subsection 76-10-2402(2);
- 1320 (xxx) a felony violation of failure to register as a sex or kidnap offender, Section [77-41-107] 53-29-305;
- 1322 (xxxi) repeat violation of a protective order, Subsection 77-36-1.1(4); or
- 1323 (xxxii) violation of condition for release after arrest under Section 78B-7-802.
- 1331 Section 14. Section **53-10-404** is amended to read:
- 1332 **53-10-404. DNA specimen analysis -- Requirement to obtain the specimen.**
- 1326 (1) As used in this section, "person" means a person or minor described in Section 53-10-403.
- 1328 (2)
- . (a) A person under Section 53-10-403 or any person required to register as a sex offender, kidnap offender, or child abuse offender under ~~[Title 77, Chapter 41, Sex, Kidnap, and Child Abuse Offender Registry]~~ Title 53, Chapter 29, Sex, Kidnap, and Child Abuse Offender Registry, shall provide a DNA specimen and shall reimburse the agency responsible for obtaining the DNA specimen \$150 for the cost of obtaining the DNA specimen unless:
- 1334 (i) the person was booked under Section 53-10-403 and is not required to reimburse the agency under Section 53-10-404.5; or
- 1336 (ii) the agency determines the person lacks the ability to pay.

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- 1337 (b)
. (i)
. (A) The responsible agencies shall establish guidelines and procedures for determining if the person is able to pay the fee.
- 1339 (B) An agency's implementation of Subsection (2)(b)(i) meets an agency's obligation to determine an inmate's ability to pay.
- 1341 (ii) An agency's guidelines and procedures may provide for the assessment of \$150 on the inmate's county trust fund account and may allow a negative balance in the account until the \$150 is paid in full.
- 1344 (3)
. (a)
. (i) All fees collected under Subsection (2) shall be deposited into the DNA Specimen Restricted Account created in Section 53-10-407, except that the agency collecting the fee may retain not more than \$25 per individual specimen for the costs of obtaining the saliva DNA specimen.
- 1348 (ii) The agency collecting the \$150 fee may not retain from each separate fee more than \$25, and no amount of the \$150 fee may be credited to any other fee or agency obligation.
- 1351 (b) The responsible agency shall determine the method of collecting the DNA specimen. Unless the responsible agency determines there are substantial reasons for using a different method of collection or the person refuses to cooperate with the collection, the preferred method of collection shall be obtaining a saliva specimen.
- 1355 (c) The responsible agency may use reasonable force, as established by its guidelines and procedures, to collect the DNA sample if the person refuses to cooperate with the collection.
- 1358 (d) If the judgment places the person on probation, the person shall submit to the obtaining of a DNA specimen as a condition of the probation.
- 1360 (e)
. (i) Under this section a person is required to provide one DNA specimen and pay the collection fee as required under this section.
- 1362 (ii) The person shall provide an additional DNA specimen only if the DNA specimen previously provided is not adequate for analysis.
- 1364 (iii) The collection fee is not imposed for a second or subsequent DNA specimen collected under this section.

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- 1366 (f) Any agency that is authorized to obtain a DNA specimen under this part may collect any outstanding amount of a fee due under this section from any person who owes any portion of the fee and deposit the amount in the DNA Specimen Restricted Account created in Section 53-10-407.
- 1370 (4)
- . (a) The responsible agency shall cause a DNA specimen to be obtained as soon as possible and transferred to the Department of Public Safety:
- 1372 (i) after a conviction or an adjudication by the juvenile court;
- 1373 (ii) on and after January 1, 2011, through December 31, 2014, after the booking of a person for any offense under Subsection 53-10-403(1)(c); and
- 1375 (iii) on and after January 1, 2015, after the booking of a person for any felony offense, as provided under Subsection 53-10-403(1)(d)(ii).
- 1377 (b) On and after May 13, 2014, through December 31, 2014, the responsible agency may cause a DNA specimen to be obtained and transferred to the Department of Public Safety after the booking of a person for any felony offense, as provided under Subsection 53-10-403(1)(d)(i).
- 1381 (c) If notified by the Department of Public Safety that a DNA specimen is not adequate for analysis, the agency shall, as soon as possible:
- 1383 (i) obtain and transmit an additional DNA specimen; or
- 1384 (ii) request that another agency that has direct access to the person and that is authorized to collect DNA specimens under this section collect the necessary second DNA specimen and transmit it to the Department of Public Safety.
- 1387 (d) Each agency that is responsible for collecting DNA specimens under this section shall establish:
- 1389 (i) a tracking procedure to record the handling and transfer of each DNA specimen it obtains; and
- 1391 (ii) a procedure to account for the management of all fees it collects under this section.
- 1393 (5)
- . (a) The Department of Corrections is the responsible agency whenever the person is committed to the custody of or is under the supervision of the Department of Corrections.
- 1396 (b) If a minor described in Subsection 53-10-403(3) is not committed to the legal custody of the Division of Juvenile Justice and Youth Services upon an adjudication, the juvenile court is the responsible agency regarding the collection of a DNA specimen from the minor.
- 1400 (c) If a minor described in Subsection 53-10-403(3) is committed to the legal custody of the Division of Juvenile Justice and Youth Services upon an adjudication, the Division of Juvenile Justice and

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Youth Services is the responsible agency regarding the collection of a DNA specimen from the minor.

- 1404 (d) The sheriff operating a county jail is the responsible agency regarding the collection of DNA specimens from persons who:
- 1406 (i) have pled guilty to or have been convicted of an offense listed under Subsection 53-10-403(2) but who have not been committed to the custody of or are not under the supervision of the Department of Corrections;
- 1409 (ii) are incarcerated in the county jail:
- 1410 (A) as a condition of probation for a felony offense; or
- 1411 (B) for a misdemeanor offense for which collection of a DNA specimen is required;
- 1413 (iii) on and after January 1, 2011, through May 12, 2014, are booked at the county jail for any offense under Subsection 53-10-403(1)(c); and
- 1415 (iv) are booked at the county jail:
- 1416 (A) by a law enforcement agency that is obtaining a DNA specimen for any felony offense on or after May 13, 2014, through December 31, 2014, under Subsection 53-10-404(4)(b); or
- 1419 (B) on or after January 1, 2015, for any felony offense.
- 1420 (e) Each agency required to collect a DNA specimen under this section shall:
- 1421 (i) designate employees to obtain the saliva DNA specimens required under this section; and
- 1423 (ii) ensure that employees designated to collect the DNA specimens receive appropriate training and that the specimens are obtained in accordance with generally accepted protocol.
- 1426 (6)
- . (a) As used in this Subsection (6), "department" means the Department of Corrections.
- 1428 (b) Priority of obtaining DNA specimens by the department is:
- 1429 (i) first, to obtain DNA specimens of persons who as of July 1, 2002, are in the custody of or under the supervision of the department before these persons are released from incarceration, parole, or probation, if their release date is prior to that of persons under Subsection (6)(b)(ii), but in no case later than July 1, 2004; and
- 1434 (ii) second, the department shall obtain DNA specimens from persons who are committed to the custody of the department or who are placed under the supervision of the department after July 1, 2002, within 120 days after the commitment, if possible, but not later than prior to release from

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incarceration if the person is imprisoned, or prior to the termination of probation if the person is placed on probation.

- 1440 (c) The priority for obtaining DNA specimens from persons under Subsection (6)(b)(ii) is:
- 1442 (i) first, persons on probation;
- 1443 (ii) second, persons on parole; and
- 1444 (iii) third, incarcerated persons.
- 1445 (d) Implementation of the schedule of priority under Subsection (6)(c) is subject to the priority of Subsection (6)(b)(i), to ensure that the Department of Corrections obtains DNA specimens from persons in the custody of or under the supervision of the Department of Corrections as of July 1, 2002, prior to their release.
- 1449 (7)
- . (a) As used in this Subsection (7):
- 1450 (i) "Court" means the juvenile court.
- 1451 (ii) "Division" means the Division of Juvenile Justice and Youth Services.
- 1452 (b) Priority of obtaining DNA specimens by the court from minors under Section 53-10-403 whose cases are under the jurisdiction of the court but who are not in the legal custody of the division shall be:
- 1455 (i) first, to obtain specimens from minors whose cases, as of July 1, 2002, are under the court's jurisdiction, before the court's jurisdiction over the minors' cases terminates; and
- 1458 (ii) second, to obtain specimens from minors whose cases are under the jurisdiction of the court after July 1, 2002, within 120 days of the minor's case being found to be within the court's jurisdiction, if possible, but no later than before the court's jurisdiction over the minor's case terminates.
- 1462 (c) Priority of obtaining DNA specimens by the division from minors under Section 53-10-403 who are committed to the legal custody of the division shall be:
- 1464 (i) first, to obtain specimens from minors who as of July 1, 2002, are within the division's legal custody and who have not previously provided a DNA specimen under this section, before termination of the division's legal custody of these minors; and
- 1468 (ii) second, to obtain specimens from minors who are placed in the legal custody of the division after July 1, 2002, within 120 days of the minor's being placed in the custody of the division, if possible, but no later than before the termination of the court's jurisdiction over the minor's case.
- 1472 (8)

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- . (a) The Department of Corrections, the juvenile court, the Division of Juvenile Justice and Youth Services, and all law enforcement agencies in the state shall by policy establish procedures for obtaining saliva DNA specimens, and shall provide training for employees designated to collect saliva DNA specimens.
- 1476 (b)
- . (i) The department may designate correctional officers, including those employed by the adult probation and parole section of the department, to obtain the saliva DNA specimens required under this section.
- 1479 (ii) The department shall ensure that the designated employees receive appropriate training and that the specimens are obtained in accordance with accepted protocol.
- 1481 (c) Blood DNA specimens shall be obtained in accordance with Section 53-10-405.

1488 Section 15 is enacted to read:

1483 **CHAPTER 29. SEX, KIDNAP, AND CHILD ABUSE OFFENDER REGISTRY**

1484 **Part 1. General Provisions**

1491 **53-29-101. Definitions.**

As used in this chapter:

- 1487 (1) "Bureau" means the Bureau of Criminal Identification of the Department of Public Safety established in Section 53-10-201.
- 1489 (2) "Certificate of eligibility" means the certificate issued by the bureau described in Section 53-29-207.
- 1491 (3) "Child abuse offender" means an individual who meets the requirements under Subsection 53-29-202(2)(a).
- 1493 (4)
- . (a) "Convicted" means a plea or conviction of:
- 1494 (i) guilty;
- 1495 (ii) guilty with a mental illness; or
- 1496 (iii) no contest.
- 1497 (b) "Convicted" includes, except as provided in Subsection 53-29-202(4), the period a plea is held in abeyance pursuant to a plea in abeyance agreement as defined in Section 77-2a-1.
- 1500 (c) "Convicted" does not include:
- 1501 (i) a withdrawn or dismissed plea in abeyance;

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- 1502 (ii) a diversion agreement; or
- 1503 (iii) an adjudication of a minor for an offense under Section 80-6-701.
- 1504 (5) "Division" means the Division of Juvenile Justice and Youth Services.
- 1505 (6) "Employed" means employment that is full time or part time, whether financially compensated, volunteered, or for the purpose of government or educational benefit.
- 1507 (7) "Kidnap offender" means an individual who meets the requirements under Subsection 53-29-202(2) (c).
- 1509 (8) "Offender" means an individual who qualifies as a sex offender, a kidnap offender, or a child abuse offender as described in Section 53-29-202.
- 1511 (9)
- 1513 (a) "Online identifier" means any electronic mail, chat, instant messenger, social networking, or similar name used for Internet communication.
- 1513 (b) "Online identifier" does not include date of birth, social security number, PIN number, or Internet passwords.
- 1515 (10) "Primary residence" means the location where an offender regularly resides, even if the offender intends to move to another location or return to another location at a future date.
- 1517 (11) "Registrable offense" means an offense described in Subsection 53-29-202(1).
- 1518 (12) "Registration website" means the Sex, Kidnap, and Child Abuse Offender Notification and Registration website described in Section 53-29-404.
- 1520 (13) "Registry" means the Sex, Kidnap, and Child Abuse Offender Registry maintained by the department and created in Section 53-29-102 to monitor and track offenders.
- 1522 (14) "Registry office" means the office within the department that manages the Sex, Kidnap, and Child Abuse Offender Registry.
- 1524 (15) "Sex offender" means an individual who meets the requirements under Subsection 53-29-202(2) (b).
- 1526 (16) "Vehicle" means a motor vehicle, an aircraft, or a watercraft subject to registration in any jurisdiction.
- 1534 Section 16 is enacted to read:
- 1535 **53-29-102. Sex, Kidnap, and Child Abuse Offender Registry -- Creation -- Purpose.**
- 1531 (1) The department, to assist law enforcement in investigating kidnapping and sex-related crimes and in apprehending offenders, shall:

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- 1533 (a) develop and operate a system known as the Sex, Kidnap, and Child Abuse Offender Registry to
1536 collect, analyze, maintain, and disseminate information on offenders and registrable offenses; and
1537 (b) make information listed in Subsection 53-29-404(3) available to the public.
1537 (2) This chapter does not create or impose any duty on any individual to request or obtain information
regarding any offender from the department.

1545 Section 17 is enacted to read:

1540 **Part 2. Registrable Offenses, Timelines for Registration, and Petitions for Removal**

1547 **53-29-201. Definitions.**

As used in this part:

- 1543 (1) "Court" means a state, federal, or military court.
1544 (2) "External jurisdiction" means:
1545 (a) a state of the United States not including Utah;
1546 (b) the United States federal government;
1547 (c) Indian country;
1548 (d) a United States territory;
1549 (e) the United States military; or
1550 (f) Canada, Australia, New Zealand, or the United Kingdom.
1551 (3) "Indian country" means:
1552 (a) all land within the limits of an Indian reservation under the jurisdiction of the United States
government, regardless of the issuance of any patent, and includes rights-of-way running through
the reservation;
1555 (b) all dependent Indian communities within the borders of the United States whether within the
original or subsequently acquired territory, and whether or not within the limits of a state; and
1558 (c) all Indian allotments, including the Indian allotments to which the Indian titles have not been
extinguished, including rights-of-way running through the allotments.
1560 (4) "Natural parent" means a minor's biological or adoptive parent, including the minor's noncustodial
parent.
1562 (5) "Traffic offense" does not include a violation of Title 41, Chapter 6a, Part 5, Driving Under the
Influence and Reckless Driving.

1571 Section 18 is enacted to read:

1572

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

- 1567 (1) An individual is an offender described in Subsection (2) and subject to the requirements,
restrictions, and penalties described in this chapter if the individual:
- 1569 (a) has been convicted in this state of:
- 1570 (i) aggravated child abuse under Subsection 76-5-109.2(3)(a) or (b);
- 1571 (ii) a felony or class A misdemeanor violation of enticing a minor under Section 76-4-401;
- 1573 (iii) sexual exploitation of a vulnerable adult under Section 76-5b-202;
- 1574 (iv) human trafficking for sexual exploitation under Section 76-5-308.1;
- 1575 (v) human trafficking of a child for sexual exploitation under Subsection 76-5-308.5(4)(b);
- 1577 (vi) aggravated human trafficking for sexual exploitation under Section 76-5-310;
- 1578 (vii) human trafficking of a vulnerable adult for sexual exploitation under Section 76-5-311;
- 1580 (viii) unlawful sexual activity with a minor under Section 76-5-401, except as provided in Subsection
76-5-401(3)(b) or (c);
- 1582 (ix) sexual abuse of a minor under Section 76-5-401.1, on the individual's first offense unless the
individual was younger than 21 years old at the time of the offense then on the individual's second
offense;
- 1585 (x) unlawful sexual conduct with a 16 or 17 year old under Section 76-5-401.2;
- 1586 (xi) rape under Section 76-5-402;
- 1587 (xii) rape of a child under Section 76-5-402.1;
- 1588 (xiii) object rape under Section 76-5-402.2;
- 1589 (xiv) object rape of a child under Section 76-5-402.3;
- 1590 (xv) a felony violation of forcible sodomy under Section 76-5-403;
- 1591 (xvi) sodomy on a child under Section 76-5-403.1;
- 1592 (xvii) forcible sexual abuse under Section 76-5-404;
- 1593 (xviii) sexual abuse of a child under Section 76-5-404.1;
- 1594 (xix) aggravated sexual abuse of a child under Section 76-5-404.3;
- 1595 (xx) aggravated sexual assault under Section 76-5-405;
- 1596 (xxi) custodial sexual relations under Section 76-5-412, if the victim in custody is younger than 18
years old and the offense is committed on or after May 10, 2011;
- 1598 (xxii) sexual exploitation of a minor under Section 76-5b-201;

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- 1599 (xxiii) aggravated sexual exploitation of a minor under Section 76-5b-201.1;
- 1600 (xxiv) sexual extortion or aggravated sexual extortion under Section 76-5b-204;
- 1601 (xxv) incest under Section 76-7-102;
- 1602 (xxvi) lewdness under Section 76-9-702, if the individual has been convicted of the offense four or more times;
- 1604 (xxvii) sexual battery under Section 76-9-702.1, if the individual has been convicted of the offense four or more times;
- 1606 (xxviii) any combination of convictions of lewdness under Section 76-9-702, and of sexual battery under Section 76-9-702.1, that total four or more convictions;
- 1608 (xxix) lewdness involving a child under Section 76-9-702.5;
- 1609 (xxx) a felony or class A misdemeanor violation of voyeurism under Section 76-9-702.7;
- 1611 (xxxi) aggravated exploitation of prostitution under Section 76-10-1306;
- 1612 (xxxii) kidnapping under Subsection 76-5-301(2)(c) or (d), if the offender was not the natural parent of the child victim;
- 1614 (xxxiii) child kidnapping under Section 76-5-301.1, if the offender was not the natural parent of the child victim;
- 1616 (xxxiv) aggravated kidnapping under Section 76-5-302, if the offender was not the natural parent of the child victim;
- 1618 (xxxv) human trafficking for labor under Section 76-5-308, if the offender was not the natural parent of the child victim;
- 1620 (xxxvi) human smuggling under Section 76-5-308.3, if the offender was not the natural parent of the child victim;
- 1622 (xxxvii) human trafficking of a child for labor under Subsection 76-5-308.5(4)(a), if the offender was not the natural parent of the child victim;
- 1624 (xxxviii) aggravated human trafficking for labor under Section 76-5-310, if the offender was not the natural parent of the child victim;
- 1626 (xxxix) aggravated human smuggling under Section 76-5-310.1, if the offender was not the natural parent of the child victim;
- 1628 (xl) human trafficking of a vulnerable adult for labor under Section 76-5-311, if the offender was not the natural parent of the child victim; or
- 1630

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(xli) attempting, soliciting, or conspiring to commit a felony violation of an offense listed in Subsections (1)(a)(i) through (xl);

1632 (b)

. (i) has been convicted of a criminal offense, or an attempt, solicitation, or conspiracy to commit a criminal offense in an external jurisdiction that is substantially equivalent to the offense listed in Subsection (1)(a); and

1635 (ii)

. (A) is a Utah resident; or

1636 (B) is not a Utah resident and is in this state for a total of 10 days in a 12-month period, regardless of whether the individual intends to permanently reside in this state;

1639 (c)

. (i)

. (A) is required to register on a registry in an external jurisdiction for individuals who have committed an offense listed in Subsection (1)(a) or a substantially equivalent offense;

1642 (B) is ordered by a court to register on a registry for individuals who have committed an offense listed in Subsection (1)(a) or a substantially equivalent offense; or

1645 (C) would be required to register on a registry in an external jurisdiction for individuals who have committed an offense listed in Subsection (1)(a), or a substantially equivalent offense, if residing in the external jurisdiction of the conviction regardless of the date of the conviction or a previous registration requirement; and

1650 (ii) is in this state for a total of 10 days in a 12-month period, regardless of whether the individual intends to permanently reside in this state;

1652 (d)

. (i)

. (A) is a nonresident regularly employed or working in this state; or

1653 (B) who is a student in this state; and

1654 (ii)

. (A) is convicted of an offense listed in Subsection (1)(a) or a substantially equivalent offense in an external jurisdiction; or

1656

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- (B) is required to register on a sex, kidnap, and child abuse registry, or an equivalent registry, in the individual's state of residence based on a conviction for an offense that is not substantially equivalent to an offense listed in Subsection (1)(a);
- 1660 (e) is found not guilty by reason of insanity in this state or in an external jurisdiction of an offense listed in Subsection (1)(a) or a substantially equivalent offense; or
- 1662 (f)
- . (i) is adjudicated under Section 80-6-701 for one or more offenses listed in Subsection (1)(a); and
- 1664 (ii) has been committed to the division for secure care, as defined in Section 80-1-102, for that offense if:
- 1666 (A) the individual remains in the division's custody until 30 days before the individual's 21st birthday;
- 1668 (B) the juvenile court extended the juvenile court's jurisdiction over the individual under Section 80-6-605 and the individual remains in the division's custody until 30 days before the individual's 25th birthday; or
- 1671 (C) the individual is moved from the division's custody to the custody of the department before expiration of the division's jurisdiction over the individual.
- 1673 (2) Subject to Subsection (3), an individual is:
- 1674 (a) a child abuse offender if the individual:
- 1675 (i) has committed, attempted, solicited, or conspired to commit an offense described in Subsection (1) (a)(i); or
- 1677 (ii) meets a requirement described in Subsections (1)(b) through (e) for an offense described in Subsection (1)(a)(i) or a substantially equivalent offense;
- 1679 (b) a sex offender if the individual:
- 1680 (i) has committed, attempted, solicited, or conspired to commit an offense described in Subsections (1) (a)(ii) through (xxx); or
- 1682 (ii) meets a requirement described in Subsections (1)(b) through (e) for an offense described in Subsections (1)(a)(ii) through (xxx) or a substantially equivalent offense; or
- 1685 (c) a kidnap offender if the individual:
- 1686 (i) has committed, attempted, solicited, or conspired to commit an offense described in Subsections (1) (a)(xxxii) through (xl); or
- 1688 (ii) meets a requirement described in Subsections (1)(b) through (e) for an offense described in Subsections (1)(a)(xxxii) through (xl) or a substantially equivalent offense.

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- 1691 (3) An individual who has committed a registrable offense described in Subsection (1)(d)(ii)(B) in an external jurisdiction that is not substantially equivalent to an offense described in Subsection (1)(a) and is required to register on a sex, kidnap, and child abuse registry, or an equivalent registry, in the individual's state of residence is a child abuse offender, sex offender, or kidnap offender based on the individual's status on the registry in the individual's state of residence.
- 1697 (4) Notwithstanding Subsection 53-29-101(4)(a), a plea of guilty or nolo contendere to a charge of sexual battery or lewdness that is held in abeyance under Title 77, Chapter 2a, Pleas in Abeyance, is the equivalent of a conviction even if the charge is subsequently reduced or dismissed in accordance with the plea in abeyance agreement.
- 1709 Section **19** is enacted to read:
- 1710 **53-29-203. Registration lengths -- 10 years -- Lifetime.**
- 1703 (1) Except as provided in Subsection (2), (3), or (4), an individual who commits a registrable offense is required to register on the registry for:
- 1705 (a) 10 years after the day on which the offender's sentence for the offense has been terminated if the registrable offense is for:
- 1707 (i) a felony or class A misdemeanor violation of enticing a minor under Section 76-4-401, if the offender enticed the minor to engage in sexual activity that is one of the offenses described in Subsections (1)(a)(ii) through (xxiii);
- 1710 (ii) aggravated child abuse under Subsection 76-5-109.2(3)(a) or (b);
- 1711 (iii) kidnapping under Subsection 76-5-301(2)(c) or (d), if the offender was not the natural parent of the child victim;
- 1713 (iv) human trafficking for labor under Section 76-5-308, if the offender was not the natural parent of the child victim;
- 1715 (v) human smuggling under Section 76-5-308.3, if the offender was not the natural parent of the child victim;
- 1717 (vi) human trafficking of a child for labor under Subsection 76-5-308.5(4)(a), if the offender was not the natural parent of the child victim;
- 1719 (vii) aggravated human trafficking for labor under Section 76-5-310, if the offender was not the natural parent of the child victim;
- 1721 (viii) aggravated human smuggling under Section 76-5-310.1;
- 1722 (ix) human trafficking of a vulnerable adult for labor under Section 76-5-311;

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- 1723 (x) a felony violation of unlawful sexual activity with a minor under Section 76-5-401;
- 1724 (xi) sexual abuse of a minor under Section 76-5-401.1;
- 1725 (xii) unlawful sexual conduct with a 16 or 17 year old under Section 76-5-401.2;
- 1726 (xiii) forcible sexual abuse under Section 76-5-404;
- 1727 (xiv) custodial sexual relations under Section 76-5-412;
- 1728 (xv) sexual exploitation of a vulnerable adult under Section 76-5b-202;
- 1729 (xvi) sexual extortion under Subsection 76-5b-204(2)(a);
- 1730 (xvii) incest under Section 76-7-102;
- 1731 (xviii) four or more convictions of lewdness under Section 76-9-702;
- 1732 (xix) four or more convictions of sexual battery under Section 76-9-702.1;
- 1733 (xx) any combination of convictions of lewdness under Section 76-9-702, and of sexual battery under Section 76-9-702.1, that total four or more convictions;
- 1735 (xxi) lewdness involving a child under Section 76-9-702.5;
- 1736 (xxii) a felony or class A misdemeanor violation of voyeurism under Section 76-9-702.7;
- 1738 (xxiii) aggravated exploitation of prostitution under Section 76-10-1306, committed on or before May 9, 2011;
- 1740 (xxiv) attempting, soliciting, or conspiring to commit an offense listed in Subsections (1)(a)(i) through (xxiii) if the attempt, solicitation, or conspiracy is a registrable offense; or
- 1743 (xxv) attempting, soliciting, or conspiring to commit:
- 1744 (A) aggravated kidnapping under Section 76-5-302, if the offender was not the natural parent of the child victim;
- 1746 (B) human trafficking for sexual exploitation under Section 76-5-308.1, if the offender was not the natural parent of the child victim;
- 1748 (C) human trafficking of a child for sexual exploitation under Subsection 76-5-308.5(4)(b), if the offender was not the natural parent of the child victim;
- 1750 (D) aggravated human trafficking for sexual exploitation under Section 76-5-310, if the offender was not the natural parent of the child victim;
- 1752 (E) human trafficking of a vulnerable adult for sexual exploitation under Section 76-5-311, if the offender was not the natural parent of the child victim;
- 1754 (F) forcible sodomy under Section 76-5-403;
- 1755 (G) sexual abuse of a child under Section 76-5-404.1;

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- 1756 (H) sexual exploitation of a minor under Section 76-5b-201;
- 1757 (I) aggravated sexual exploitation of a minor under Section 76-5b-201.1;
- 1758 (J) aggravated sexual extortion under Subsection 76-5b-204(2)(b); or
- 1759 (K) aggravated exploitation of prostitution under Section 76-10-1306, on or after May 10, 2011; or
- 1761 (b) the offender's lifetime if the registrable offense is:
- 1762 (i) a conviction for an offense described in Subsection (1)(a), if the offender has, at the time of conviction for the offense:
- 1764 (A) previously been convicted of an offense described in Subsection (1)(a), or a substantially equivalent offense in an external jurisdiction ~~{, not including the offenses listed in Subsections (1)(a)(xviii) through (xx)}~~; or
- 1767 (B) previously been required to register as an offender for an offense described in Subsection (1)(a) committed as a juvenile;
- 1769 (ii) a following offense, including attempting, soliciting, or conspiring to commit a felony violation of:
- 1771 (A) child kidnapping under Section 76-5-301.1, if the offender was not the natural parent of the child victim;
- 1773 (B) rape under Section 76-5-402;
- 1774 (C) rape of a child under Section 76-5-402.1;
- 1775 (D) object rape under Section 76-5-402.2;
- 1776 (E) object rape of a child under Section 76-5-402.3;
- 1777 (F) sodomy on a child under Section 76-5-403.1;
- 1778 (G) aggravated sexual abuse of a child under Section 76-5-404.3; or
- 1779 (H) aggravated sexual assault under Section 76-5-405;
- 1780 (iii) aggravated kidnapping under Section 76-5-302, if the offender was not the natural parent of the child victim;
- 1782 (iv) human trafficking for sexual exploitation under Section 76-5-308.1, if the offender was not the natural parent of the child victim;
- 1784 (v) human trafficking of a child for sexual exploitation under Subsection 76-5-308.5(4)(b), if the offender was not the natural parent of the child victim;
- 1786 (vi) aggravated human trafficking for sexual exploitation under Section 76-5-310, if the offender was not the natural parent of the child victim;
- 1788

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- (vii) human trafficking of a vulnerable adult for sexual exploitation under Section 76-5-311, if the offender was not the natural parent of the child victim;
- 1790 (viii) forcible sodomy under Section 76-5-403;
- 1791 (ix) sexual abuse of a child under Section 76-5-404.1;
- 1792 (x) sexual exploitation of a minor under Section 76-5b-201;
- 1793 (xi) aggravated sexual exploitation of a minor under Section 76-5b-201.1;
- 1794 (xii) aggravated sexual extortion under Subsection 76-5b-204(2)(b);
- 1795 (xiii) aggravated exploitation of prostitution under Section 76-10-1306, on or after May 10, 2011; or
- 1797 (xiv) a felony violation of enticing a minor under Section 76-4-401, if the offender enticed the minor to engage in sexual activity that is one of the offenses described in Subsections (1)(b)(ii) through (xiii).
- 1800 (2) An individual who qualifies as an offender based on a conviction in an external jurisdiction for a registrable offense, or a substantially equivalent offense, and is on an external jurisdiction's sex, kidnap, and child abuse registry, or an equivalent registry, is required to register on the registry for the time period required by the external jurisdiction.
- 1805 (3) If the sentencing court at any time after an offender is convicted of an offense requiring lifetime registration described in Subsection (1)(b) determines that the offender was under 21 years old at the time the offense was committed and the offense did not involve force or coercion, the requirement that the offender register for the offender's lifetime does not apply and the offender shall register for 10 years after the day on which the offender's sentence for the offense has been terminated.
- 1811 (4) Except for an individual who is adjudicated for a registrable offense and is an offender who meets the requirements under Subsection 53-29-202(1)(f), an individual who is under 18 years old and commits a registrable offense after May 3, 2023, is not subject to registration requirements under this chapter unless the offender:
- 1815 (a) is charged by criminal information in juvenile court under Section 80-6-503;
- 1816 (b) is bound over to district court in accordance with Section 80-6-504; and
- 1817 (c) is convicted of a registrable offense.
- 1818 (5) An offender subject to the 10-year or lifetime registration requirements under Subsection (1) may petition the court for an order of removal from the registry in accordance with Section 53-29-204, 53-29-205, or 53-29-206.
- 1829 Section 20 is enacted to read:
- 1830 **53-29-204. Five-year petition for removal from registry -- Eligibility.**

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- 1823 (1) An offender who is required to register on the registry for a registrable offense described in Subsection (2) that is subject to a 10-year registration period, as described in Section 53-29-203, is eligible to petition the court under Section 53-29-207 for an order of removal from the registry after five years after the day on which the offender's sentence for the offense has been terminated if:
- 1828 (a) the offense is the only offense for which the offender was required to register;
- 1829 (b) the offender has not been convicted of another offense, excluding a traffic offense, after the day on which the offender was convicted of the offense for which the offender is required to register, as evidenced by a certificate of eligibility issued by the bureau;
- 1833 (c) the offender successfully completed all treatment ordered by the court or the Board of Pardons and Parole relating to the offense; and
- 1835 (d) the offender has paid all restitution ordered by the court or the Board of Pardons and Parole relating to the offense.
- 1837 (2) The offenses that qualify for a five-year petition for an order of removal from the registry referenced in Subsection (1) are:
- 1839 (a) a class A misdemeanor violation of enticing a minor under Section 76-4-401;
- 1840 (b) kidnapping under Subsection 76-5-301(2)(c) or (d);
- 1841 (c) a felony violation of unlawful sexual activity with a minor under Section 76-5-401, if, at the time of the offense, the offender is not more than 10 years older than the victim;
- 1844 (d) sexual abuse of a minor under Section 76-5-401.1, if, at the time of the offense, the offender is not more than 10 years older than the victim;
- 1846 (e) unlawful sexual conduct with a 16 or 17 year old under Section 76-5-401.2, if at the time of the offense, the offender is not more than 15 years older than the victim;
- 1848 (f) a class A misdemeanor violation of voyeurism under Section 76-9-702.7;
- 1849 (g) attempting, soliciting, or conspiring to commit an offense listed in Subsections (2)(a) through (f) if the attempt, solicitation, or conspiracy is a registrable offense; and
- 1851 (h) an offense committed in an external jurisdiction that is not substantially equivalent to a registrable offense described in Subsection 53-29-202(1)(a).
- 1862 Section 21 is enacted to read:
- 1863 **53-29-205. Ten-year petition for removal from registry -- Eligibility.**
- 1855 (1) An offender who is required to register on the registry for a registrable offense described in Subsection (3) subject to a 10-year registration period as described in Section 53-29-203 is eligible

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to petition the court under Section 53-29-207 for an order of removal from the registry at a 10-year after entrance into the community period described in Subsection (2) if:

- 1860 (a) the offender has not been convicted of another offense that is a class A misdemeanor, felony, or capital felony within the most recent 10-year period after the date described in Subsection (2), as evidenced by a certificate of eligibility issued by the bureau;
- 1864 (b) the offender successfully completed all treatment ordered by the court or the Board of Pardons and Parole relating to the offense; and
- 1866 (c) the offender has paid all restitution ordered by the court or the Board of Pardons and Parole relating to the offense.
- 1868 (2) An offender who qualifies under Subsection (1) may petition the court under Section 53-29-207 for an order of removal from the registry if 10 years have passed after the later of the following events in which the offender entered into the community:
- 1871 (a) the day on which the offender was placed on probation;
- 1872 (b) the day on which the offender was released from incarceration to parole;
- 1873 (c) the day on which the offender's sentence was terminated without parole;
- 1874 (d) the day on which the offender entered a community-based residential program; or
- 1875 (e) for a minor, as defined in Section 80-1-102, the day on which the division's custody of the offender was terminated.
- 1877 (3) The offenses that qualify for a 10-year petition for an order of removal from the registry referenced in Subsection (1) are:
- 1879 (a) a felony violation of enticing a minor under Section 76-4-401, if the offender enticed the minor to engage in sexual activity that is one of the offenses described in Subsections (3)(b) through (v);
- 1882 (b) aggravated child abuse under Subsection 76-5-109.2(3)(a) or (b);
- 1883 (c) human trafficking for labor under Section 76-5-308;
- 1884 (d) human smuggling under Section 76-5-308.3;
- 1885 (e) human trafficking of a child for labor under Subsection 76-5-308.5(4)(a);
- 1886 (f) aggravated human trafficking for labor under Section 76-5-310;
- 1887 (g) aggravated human smuggling under Section 76-5-310.1;
- 1888 (h) human trafficking of a vulnerable adult for labor under Section 76-5-311;
- 1889 (i) a felony violation of unlawful sexual activity with a minor under Section 76-5-401, if, at the time of the offense, the offender is more than 10 years older than the victim;

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- 1891 (j) sexual abuse of a minor under Section 76-5-401.1, if, at the time of the offense, the offender is more than 10 years older than the victim;
- 1893 (k) unlawful sexual conduct with a 16 or 17 year old under Section 76-5-401.2, if, at the time of the offense, the offender is more than 15 years older than the victim;
- 1895 (l) forcible sexual abuse under Section 76-5-404;
- 1896 (m) custodial sexual relations under Section 76-5-412, if the victim in custody is younger than 18 years old and the offense is committed on or after May 10, 2011;
- 1898 (n) sexual exploitation of a vulnerable adult under Section 76-5b-202;
- 1899 (o) sexual extortion under Subsection 76-5b-204(2)(a);
- 1900 (p) incest under Section 76-7-102;
- 1901 (q) four **or more** convictions of lewdness under Section 76-9-702;
- 1902 (r) four **or more** convictions of sexual battery under Section 76-9-702.1;
- 1903 (s) any combination of convictions of lewdness under Section 76-9-702, and of sexual battery under Section 76-9-702.1, that total four **or more** convictions;
- 1905 (t) lewdness involving a child under Section 76-9-702.5;
- 1906 (u) a felony violation of voyeurism under Section 76-9-702.7;
- 1907 (v) aggravated exploitation of prostitution under Section 76-10-1306, committed on or before May 9, 2011;
- 1909 (w) attempting, soliciting, or conspiring to commit an offense listed in Subsections (3)(a) through ~~(w)~~ (v) if the attempt, solicitation, or conspiracy is a registrable offense;
- 1911 (x) attempting, soliciting, or conspiring to commit a felony violation of:
- 1912 (i) child kidnapping under Section 76-5-301.1, if the offender was not the natural parent of the child victim;
- 1914 (ii) rape under Section 76-5-402;
- 1915 (iii) rape of a child under Section 76-5-402.1;
- 1916 (iv) object rape under Section 76-5-402.2;
- 1917 (v) object rape of a child under Section 76-5-402.3;
- 1918 (vi) sodomy on a child under Section 76-5-403.1;
- 1919 (vii) aggravated sexual abuse of a child under Section 76-5-404.3; or
- 1920 (viii) aggravated sexual assault under Section 76-5-405; or
- 1921

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- (y) an offense described in Subsection 53-29-203(1)(b) that would otherwise be subject to a 20-year petition for removal as described in Section 53-29-206, if:
- 1923 (i) the sentencing court determines that the offender was under 21 years old at the time the offense was committed; and
- 1925 (ii) the offense did not involve force or coercion as described in Subsection 53-29-203(3).
- 1927 (4) An individual who is as an offender under Section 53-29-202 based on a conviction in an external jurisdiction for a registrable offense, or a substantially equivalent offense, and is required to register on the external jurisdiction's sex, kidnap, or child abuse offender registry, or an equivalent registry, may petition for removal from the registry in accordance with the requirements of this section if the individual:
- 1932 (a) does not have a lifetime registration requirement on the external jurisdiction's sex, kidnap, or child abuse offender registry, or an equivalent registry;
- 1934 (b) meets the requirements described in Subsections (1)(a) through (c);
- 1935 (c) has resided in this state for at least 183 days in a year for two consecutive years; and
- 1936 (d) intends to primarily reside in this state.
- 1946 Section 22 is enacted to read:
- 1947 **53-29-206. Twenty-year petition for removal from registry -- Eligibility.**
- 1939 (1) An offender who is required to register on the registry for a registrable offense subject to a lifetime registration period described in Subsection 53-29-203(1)(b) is eligible to petition the court under Section 53-29-207 for an order of removal from the registry at a 20-year entrance into the community period described in Subsection (2) if:
- 1943 (a) the offender has not been convicted of another offense that is a class A misdemeanor, felony, or capital felony within the most recent 20-year period after the date described in Subsection (2), as evidenced by a certificate of eligibility issued by the bureau;
- 1947 (b) the offender successfully completed all treatment ordered by the court or the Board of Pardons and Parole relating to the offense;
- 1949 (c) the offender has paid all restitution ordered by the court or the Board of Pardons and Parole relating to the offense; and
- 1951 (d) the offender submits to an evidence-based risk assessment that:
- 1952 (i) meets the standards for the current risk assessment, score, and risk level required by the Board of Pardons and Parole for parole termination requests;

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- 1954 (ii) is completed within the six months before the date on which the petition is filed; and
1956 (iii) describes the evidence-based risk assessment of the current level of risk to the safety of the public
posed by the offender.
- 1958 (2) An offender who qualifies under Subsection (1) may petition the court under Section 53-29-207 for
an order of removal from the registry if 20 years have passed after the later of the following events
in which the offender has entered into the community:
- 1961 (a) the day on which the offender was placed on probation;
1962 (b) the day on which the offender was released from incarceration to parole;
1963 (c) the day on which the offender's sentence was terminated without parole;
1964 (d) the day on which the offender entered a community-based residential program; or
1965 (e) for a minor, as defined in Section 80-1-102, the day on which the division's custody of the offender
was terminated.
- 1967 (3) An individual who is as an offender under Section 53-29-202 based on a conviction in an external
jurisdiction for a registrable offense or a substantially equivalent offense, and is required to register
on the external jurisdiction's sex, kidnap, or child abuse offender registry, or an equivalent registry,
may petition for removal from the registry in accordance with the requirements of this section if the
individual:
- 1972 (a) is required to register on the external jurisdiction's sex, kidnap, or child abuse offender registry, or
an equivalent registry, for the individual's lifetime;
- 1974 (b) meets the requirements described in Subsections (1)(a) through (d);
1975 (c) has resided in this state for at least 183 days in a year for two consecutive years; and
1976 (d) intends to primarily reside in this state.

1986 Section 23 is enacted to read:

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

- 1980 (1) Before an {an-} offender who is eligible to petition for an order of removal from the registry as
described in Section 53-29-204, 53-29-205, or 53-29-206 may file a petition with the court for
an order of removal from the registry, the offender shall apply to the bureau for a certificate of
eligibility for removal from the registry that states that the offender has met certain qualifications for
removal.

1985

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- (2) After the bureau receives an offender's application for a certificate of eligibility for removal from the registry, the bureau shall:
- 1987 (a) perform a check of records of governmental agencies, including national criminal databases, to determine whether an offender meets the requirements described in:
- 1989 (i) Subsection 53-29-204(1), if the offender is seeking a five-year petition for removal;
- 1991 (ii) Subsections 53-29-205(1) and (2), if the offender is seeking a 10-year petition for removal; or
- 1993 (iii) Subsections 53-29-206(1) and (2), if the offender is seeking a 20-year petition for removal; and
- 1995 (b) if the bureau determines that the offender meets the requirements described in Subsection (2)(a), issue a certificate of eligibility for removal from the registry to the offender, which is valid for 90 days after the day on which the bureau issues the certificate.
- 1999 (3)
- (a) After an offender has received the certificate of eligibility for removal from the registry described in Subsection (2), the offender may petition the court for an order of removal from the registry, and shall include in the petition:
- 2002 (i) the original information or indictment regarding the registrable offense that the offender committed;
- 2004 (ii) the court docket; and
- 2005 (iii) the certificate of eligibility for removal from the registry.
- 2006 (b) An offender who files a petition with the court as described in Subsection (3)(a) shall provide a copy of the petition to the prosecutor.
- 2008 (4) A prosecutor, upon receipt of the petition described in Subsection (3), shall:
- 2009 (a) provide notice of the petition by first-class mail to the victim at the most recent address of record on file or, if the victim is still a minor under 18 years old, to the parent or guardian of the victim, that includes:
- 2012 (i) a copy of the petition;
- 2013 (ii) an explanation that the victim has a right to object to the removal of the offender from the registry or make other recommendations to the court; and
- 2015 (iii) instructions for how the victim can file an objection or recommendation with the court; and
- 2017 (b) provide the following, if available, to the court within 30 days after the day on which the prosecutor receives the petition:
- 2019

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- (i) the presentencing report created for the offender based on the registrable offense committed by the offender;
- 2021 (ii) any evaluation done as part of sentencing for the registrable offense; and
- 2022 (iii) other information the prosecutor determines the court should consider.
- 2023 (5) A victim, or the victim's parent or guardian if the victim is a minor under 18 years old, may respond to a petition described in Subsection (3) by filing a recommendation or objection with the court within 45 days after the day on which the petition is mailed to the victim.
- 2027 (6)
- . (a) A court receiving a petition under this section shall:
- 2028 (i) review the petition and all documents submitted with the petition; and
- 2029 (ii) hold a hearing if requested by the prosecutor or the victim.
- 2030 (b)
- . (i) Except as provided in Subsection (6)(b)(ii) or (iii), the court may grant the petition for removal and order the removal of the offender from the registry if the court determines that the offender has met the requirements for issuance of a certificate of eligibility for removal issued under Subsection (2) and removal is not contrary to the interests of the public.
- 2035 (ii) When considering a petition filed by an offender subject to a lifetime registration requirement and eligible for a 20-year petition for removal from the registry as described in Section 53-29-206, the court shall determine whether the offender has demonstrated, by clear and convincing evidence, that the offender is rehabilitated and does not pose a threat to the safety of the public.
- 2040 (iii) In making the determination described in Subsection (6)(b)(ii), the court may consider:
- 2042 (A) the nature and degree of violence involved in the registrable offense;
- 2043 (B) the age and number of victims of the registrable offense;
- 2044 (C) the age of the offender at the time the registrable offense was committed;
- 2045 (D) the offender's performance while on supervision for the registrable offense;
- 2046 (E) the offender's stability in employment and housing;
- 2047 (F) the offender's community and personal support system;
- 2048 (G) other criminal and relevant noncriminal behavior of the offender both before and after the offender committed the registrable offense;
- 2050 (H) if applicable, the level of risk posed by the offender as evidenced by the evidence-based risk assessment described in Subsection 53-29-206(1)(d); and

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- 2052 (l) any other relevant factors.
- 2053 (c) In determining whether removal from the registry is contrary to the interests of the public, the court may not consider removal unless the offender has substantially complied with all registration requirements under this chapter at all times.
- 2056 (d) If the court grants the petition, the court shall forward a copy of the order directing removal of the offender from the registry to the department and the office of the prosecutor.
- 2059 (e)
- . (i) Except as provided in Subsection (6)(e)(ii), if the court denies the petition, the offender may not submit another petition for three years after the day on which the court denied the petition.
- 2062 (ii) If the offender is an offender subject to a lifetime registration requirement and eligible for a 20-year petition for removal from the registry as described in Section 53-29-206 and files a petition for removal that is denied by the court, the offender may not submit another petition for eight years after the day on which the court denied the petition.
- 2067 (f) The court shall notify the victim and the registry office of the court's decision under this Subsection (6) within three days after the day on which the court issues the court's decision.
- 2070 (7)
- . (a) An offender who intentionally or knowingly provides false or misleading information to the bureau when applying for a certificate of eligibility under this section is guilty of a class B misdemeanor and subject to prosecution under Section 76-8-504.6.
- 2074 (b) The bureau may, even if the offender is not prosecuted for providing the false or misleading information, deny a certificate of eligibility to an offender who provides false or misleading information on an application.
- 2077 (8)
- . (a)
- . (i) The bureau shall charge application and issuance fees for a certificate of eligibility for removal from the registry under this section in accordance with the process in Section 63J-1-504.
- 2080 (ii) The application fee shall be paid at the time the offender submits an application to the bureau for a certificate of eligibility for removal from the registry.
- 2082 (iii) If the bureau determines that the issuance of a certificate of eligibility for removal from the registry is appropriate, the offender will be charged an additional fee for the issuance of the certificate.

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2085 (b) Funds generated under this Subsection (8) shall be deposited into the General Fund as a dedicated credit by the department to cover the costs incurred in determining eligibility.

2097 Section 24 is enacted to read:

2089 **Part 3. Offender, Court, and Law Enforcement Responsibilities**

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

As used in this part:

2092 (1) "Business day" means a day on which state offices are open for regular business.

2093 (2) "Correctional facility" means:

2094 (a) a county jail;

2095 (b) a secure correctional facility as defined by Section 64-13-1; or

2096 (c) a secure care facility as defined in Section 80-1-102.

2097 (3) "Secondary residence" means real property that an offender owns or has a financial interest in, or a location where the offender stays overnight a total of 10 or more nights in a 12-month period when not staying at the offender's primary residence.

2109 Section 25 is enacted to read:

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

2102 (1) A law enforcement agency shall, in the manner prescribed by the department, inform the department of:

2104 (a) the receipt of a report or complaint of a registrable offense, within three business days after the day on which the law enforcement agency received the report or complaint; and

2107 (b) the arrest of an individual suspected of a registrable offense, within five business days after the day on which the law enforcement agency arrested the individual.

2109 (2) The Department of Corrections shall register an offender in the custody of the Department of Corrections with the department upon:

2111 (a) placement on probation;

2112 (b) commitment to a secure correctional facility operated by or under contract with the Department of Corrections;

2114 (c) release from confinement to parole status, termination or expiration of sentence, or escape;

2116 (d) entrance to and release from any community-based residential program operated by or under contract with the Department of Corrections; or

2118 (e) termination of probation or parole.

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- 2119 (3) The sheriff of the county in which an offender is confined shall register an offender with the department, as required under this chapter, if the offender is not in the custody of the Department of Corrections and is confined in a correctional facility not operated by or under contract with the Department of Corrections upon:
- 2123 (a) commitment to the correctional facility; and
- 2124 (b) release from confinement.
- 2125 (4)
- . (a) Except as provided in Subsection (4)(b), if an offender is sent on an assignment outside a secure facility, including being assigned for firefighting or disaster control, the official who has physical custody of the offender shall, within a reasonable time after the day of the offender's removal from the secure facility, notify the local law enforcement agencies where the offender is assigned.
- 2130 (b) Subsection (4)(a) does not apply to an offender temporarily released from a secure facility setting who is under the supervision of a correctional facility official.
- 2132 (5) The division shall register an offender in the custody of the division with the department, as required under this chapter, before the offender's release from custody of the division.
- 2135 (6) A state mental hospital shall register an offender committed to the state mental hospital with the department, as required under this chapter, upon the offender's admission and upon the offender's discharge.
- 2138 (7)
- . (a) A municipal or county law enforcement agency shall register an offender who resides within the agency's jurisdiction and is not under the supervision of the Division of Adult Probation and Parole within the Department of Corrections.
- 2141 (b) A municipal or county law enforcement agency may conduct offender registration under this chapter, if the agency ensures that the agency's staff responsible for registration:
- 2144 (i) have received initial training by the department and have been certified by the department as qualified and authorized to conduct registrations and enter offender registration information into the registry database; and
- 2147 (ii) annually certifies with the department.
- 2148 (8) An agency in the state that registers with the department an offender on probation, an offender who has been released from confinement to parole status or termination, or an offender whose sentence has expired, shall inform the offender of the duty to comply with the continuing registration

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requirements of this chapter during the period of registration required in Section 53-29-203, including:

- 2153 (a) notification to the state agencies in the states where the registrant presently resides and plans to
reside when moving across state lines;
- 2155 (b) verification of address at least every 60 days pursuant to a parole agreement for lifetime parolees;
and
- 2157 (c) notification to the out-of-state agency where the offender is living, regardless of whether the
offender is a resident of that state.

2168 Section **26** is enacted to read:

2169 **53-29-303. Court responsibilities related to the registry.**

- 2161 (1) The court shall, after an offender is convicted of a registrable offense, within three business days
after the day on which the conviction is entered, forward a signed copy of the judgment and
sentence to the registry office.
- 2164 (2) Upon modifying, withdrawing, setting aside, vacating, or otherwise altering a conviction for a
registrable offense, the court shall, within three business days, forward a signed copy of the order to
the registry office.
- 2167 (3)
- . (a) An offender may change the offender's name in accordance with Title 42, Chapter 1, Change of
Name, if the name change is not contrary to the interests of the public.
- 2170 (b) Notwithstanding Section 42-1-2, an offender shall provide notice to the department at least 30 days
before the day on which the hearing for the name change is held.
- 2172 (c) The court shall provide a copy of the order granting the offender's name change to the department
within 10 days after the day on which the court issues the order.
- 2174 (d) If the court orders an offender's name to be changed, the department shall publish on the registration
website the offender's former name and the offender's changed name as an alias.
- 2177 (4) Notwithstanding Title 63G, Chapter 2, Government Records Access and Management Act,
information under Subsection (2) that is collected and released under Subsection 53-29-404(3)(a) is
public information, unless otherwise restricted under this chapter.
- 2180 (5) The department shall redact information regarding the identity or location of a victim from
information provided under Subsection (2).

2190 Section **27** is enacted to read:

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

2184 (1) An offender shall:

2185 (a) if the offender is on probation or parole under the supervision of the Department of Corrections,
register in person with the Division of Adult Probation and Parole; or

2187 (b) if the offender is not on probation or parole under the supervision of the Department of Corrections,
register in person with the police department or sheriff's office that has jurisdiction over the area
where the offender resides.

2190 (2) An offender registering under Subsection (1) shall register for the duration of the offender's
applicable registration period described in Section 53-29-203:

2192 (a) each year during the month of the offender's date of birth;

2193 (b) during the month that is the sixth month after the offender's birth month; and

2194 (c) within three business days after the day on which there is a change of the offender's primary
residence, any secondary residences, place of employment, vehicle information, or educational
information described in Subsection (4).

2197 (3) An offender who enters this state from another jurisdiction is required to register with the
department within 10 days after the day on which the offender enters the state, regardless of the
offender's length of stay.

2200 (4)

. (a) When registering under Subsection (1), an offender shall provide the following information:

2202 (i) all names and aliases by which the offender is or has been known;

2203 (ii) the addresses of the offender's primary and secondary residences;

2204 (iii) a physical description, including the offender's date of birth, height, weight, eye color, and hair
color;

2206 (iv) the make, model, color, year, plate number, and vehicle identification number of a vehicle or
vehicles the offender owns or drives more than 12 times per year;

2208 (v) a current photograph of the offender;

2209 (vi) a set of fingerprints, if a set has not already been provided;

2210 (vii) a DNA specimen, taken in accordance with Section 53-10-404, if a set has not already been
provided;

2212 (viii) telephone numbers and any other designations used by the offender for routing or self-
identification in telephonic communications from fixed locations or cellular telephones;

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- 2215 (ix) online identifiers and the addresses the offender uses for routing or self-identification in Internet communications or postings;
- 2217 (x) the name and Internet address of all websites on which the offender is registered using an online identifier, including all online identifiers used to access those websites;
- 2220 (xi) a copy of the offender's passport, if a passport has been issued to the offender;
- 2221 (xii) if the offender is an alien, all documents establishing the offender's immigration status;
- 2223 (xiii) all professional licenses that authorize the offender to engage in an occupation or carry out a trade or business, including any identifiers, such as numbers;
- 2225 (xiv) each educational institution in Utah at which the offender is employed or is a student, and a change of enrollment or employment status of the offender at an educational institution;
- 2228 (xv) the name, the telephone number, and the address of a place where the offender is employed or will be employed;
- 2230 (xvi) the name, the telephone number, and the address of a place where the offender works as a volunteer or will work as a volunteer; and
- 2232 (xvii) the offender's social security number.
- 2233 (b) The department shall redact information regarding the identity or location of a victim from information provided under Subsection (4)(a).
- 2235 (5) Notwithstanding Subsections (4)(a)(ix) and (x) and 53-29-404(7), an offender is not required to provide the department with:
- 2237 (a) the offender's online identifier and password used exclusively for the offender's employment on equipment provided by an employer and used to access the employer's private network; or
- 2240 (b) online identifiers for the offender's financial accounts, including a bank, retirement, or investment account.
- 2242 (6) Notwithstanding Title 77, Chapter 40a, Expungement of Criminal Records, an offender convicted of a registrable offense is required to register in accordance with this section unless the offender is removed from the registry under Section 53-29-207.
- 2245 (7) Except as provided in Subsection 53-29-404(7), in the case of an offender adjudicated in another jurisdiction as a juvenile and required to register under this chapter, the offender shall register in the time period and in the frequency consistent with the requirements of Subsection (3).
- 2249 (8)
- . (a) An offender required to register on the registry shall, in the month of the offender's birth:

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- 2251 (i) pay to the department an annual fee of \$100 each year the offender is subject to the registration requirements of this chapter; and
- 2253 (ii) pay to the registering agency, if the registering agency is an agency other than the department, an annual fee of not more than \$25, which may be assessed by that agency for providing registration.
- 2256 (b) Notwithstanding Subsection (8)(a), an offender who is confined in a secure facility or in a state mental hospital is not required to pay the annual fee.
- 2258 (c) The department shall deposit fees collected in accordance with this chapter into the General Fund as a dedicated credit, to be used by the department for maintaining the offender registry under this chapter and monitoring offender registration compliance, including the costs of:
- 2262 (i) data entry;
- 2263 (ii) processing registration packets;
- 2264 (iii) updating registry information; and
- 2265 (iv) reporting an offender not in compliance with registration requirements to a law enforcement agency.
- 2275 Section 28 is enacted to read:
- 2276 **53-29-305. Failing to register or providing false or incomplete information -- Penalties.**
- 2270 (1) An offender who knowingly fails to register under this chapter or provides false or incomplete information is guilty of:
- 2272 (a) a third degree felony and shall be sentenced to serve a term of incarceration of not less than 30 days and also at least one year of probation if:
- 2274 (i) the offender is required to register for a registrable offense that is a felony or adjudicated delinquent for a registrable offense committed before May 3, 2023, that would be a felony if the juvenile were an adult; or
- 2277 (ii) the offender is required to register for the offender's lifetime as described in Subsection 53-29-203(1)(b); or
- 2279 (b) a class A misdemeanor and shall be sentenced to serve a term of incarceration of not less than 30 days and also at least one year of probation if the offender is required to register for a misdemeanor conviction that is a registrable offense or is adjudicated delinquent for a registrable offense committed before May 3, 2023, that would be a misdemeanor if the juvenile were an adult.
- 2284 (2)

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- . (a) The court or Board of Pardons and Parole may not release an individual who violates this chapter from serving the term required under Subsection (1).
- 2286 (b) This Subsection (2) supersedes any other provision of the law contrary to this chapter.
- 2287 (3) The offender shall register for an additional year for every year in which the offender does not comply with the registration requirements of this chapter.
- 2297 Section **53-29-306** is renumbered and amended to read:
- 2299 ~~[77-27-21.7]~~ **53-29-306. Sex offender restrictions.**
- 2292 (1) As used in this section:
- 2293 (a) "Condominium project" means the same as that term is defined in Section 57-8-3.
- 2294 (b) "Minor" means an individual who is younger than 18 years old[;] .
- 2295 (c)
- . (i) "Protected area" means the premises occupied by:
- 2296 (A) a licensed day care or preschool facility;
- 2297 (B) a public swimming pool or a swimming pool maintained, operated, or owned by a homeowners' association, condominium project, or apartment complex;
- 2299 (C) a public or private primary or secondary school that is not on the grounds of a correctional facility;
- 2301 (D) a community park that is open to the public or a park maintained, operated, or owned by a homeowners' association, condominium project, or apartment complex;
- 2304 (E) a public playground or a playground maintained, operated, or owned by a homeowners' association, condominium project, or apartment complex, including those areas designed to provide minors with space, recreational equipment, or other amenities intended to allow minors to engage in physical activity; and
- 2309 (F) except as provided in Subsection (1)(c)(ii), an area that is 1,000 feet or less from the residence of a victim of the sex offender if the sex offender is subject to a victim requested restriction.
- 2312 (ii) "Protected area" does not include:
- 2313 (A) the area described in Subsection (1)(c)(i)(F) if the victim is a member of the immediate family of the sex offender and the terms of the sex offender's agreement of probation or parole allow the sex offender to reside in the same residence as the victim;
- 2317 (B) a park, playground, or swimming pool located on the property of a residential home;
- 2319

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- (C) a park or swimming pool that prohibits minors at all times from using the park or swimming pool;
or
- 2321 (D) a park or swimming pool maintained, operated, or owned by a homeowners' association,
condominium project, or apartment complex established for residents 55 years old or older if no
minors are present at the park or swimming pool at the time the sex offender is present at the park or
swimming pool.
- 2325 ~~[(d) "Sex offender" means an adult or juvenile who is required to register in accordance with Title 77,
Chapter 41, Sex, Kidnap, and Child Abuse Offender Registry, due to a conviction for an offense that
is committed against a person younger than 18 years old.]~~
- 2329 (2) For purposes of Subsection (1)(c)(i)(F), a sex offender who has committed a registrable offense
against an individual younger than 18 years old is subject to a victim requested restriction if:
- 2332 (a) the sex offender is on probation or parole for an offense that requires the offender to register in
accordance with ~~[Title 77, Chapter 41, Sex, Kidnap, and Child Abuse Offender Registry]~~ this
chapter;
- 2335 (b) the victim or the victim's parent or guardian advises the ~~[Department of Public Safety]~~ department
that the victim elects to restrict the sex offender from the area and authorizes the ~~[Department of
Public Safety]~~ department to advise the sex offender of the area where the victim resides; and
- 2339 (c) the ~~[Department of Public Safety]~~ department notifies the sex offender in writing that the sex
offender is prohibited from being in the area described in Subsection (1)(c)(i)(F) and provides a
description of the location of the protected area to the sex offender.
- 2343 (3) A sex offender who has committed a registrable offense against an individual younger than 18 years
old may not:
- 2345 (a) be in a protected area except:
- 2346 (i) when the sex offender must be in a protected area to perform the sex offender's parental
responsibilities;
- 2348 (ii)
- . (A) when the protected area is a public or private primary or secondary school; and
- 2350 (B) the school is open and being used for a public activity other than a school-related function that
involves a minor; or
- 2352 (iii)
- .

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- (A) if the protected area is a licensed day care or preschool facility located within a building that is open to the public for purposes other than the operation of the day care or preschool facility; and
- 2355 (B) the sex offender does not enter a part of the building that is occupied by the day care or preschool facility; or
- 2357 (b) serve as an athletic coach, manager, or trainer for a sports team of which a minor who is younger than 18 years old is a member.
- 2359 (4) A sex offender who violates this section is guilty of:
- 2360 (a) a class A misdemeanor; or
- 2361 (b) if previously convicted of violating this section within the last ten years, a third degree felony.
- 2371 Section **53-29-307** is renumbered and amended to read:
- 2373 **[~~77-27-21.8~~53-29-307. Sex offender in presence of a child -- Definitions -- Penalties.**
- 2366 (1) As used in this section:
- 2367 (a) "Accompany" means:
- 2368 (i) to be in the presence of an individual; and
- 2369 (ii) to move or travel with that individual from one location to another, whether outdoors, indoors, or in or on any type of vehicle.
- 2371 (b) "Child" means an individual younger than 14 years [~~of age~~] old.
- 2372 (2) A sex offender subject to registration in accordance with [~~Title 77, Chapter 41, Sex, Kidnap, and Child Abuse Offender Registry~~] this chapter, for [~~an~~] a registrable offense committed or attempted to be committed against a child younger than 14 years [~~of age~~] old is guilty of a class A misdemeanor if the sex offender requests, invites, or solicits a child to accompany the sex offender, under circumstances that do not constitute an attempt to violate Section 76-5-301.1, child kidnapping, unless:
- 2378 (a)
- . (i) the sex offender, prior to accompanying the child:
- 2379 (A) verbally advises the child's parent or legal guardian that the sex offender is on the state sex offender registry and is required by state law to obtain written permission in order for the sex offender to accompany the child; and
- 2382 (B) requests that the child's parent or legal guardian provide written authorization for the sex offender to accompany the child, including the specific dates and locations;
- 2385

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- (ii) the child's parent or legal guardian has provided to the sex offender written authorization, including the specific dates and locations, for the sex offender to accompany the child; and
- 2388 (iii) the sex offender has possession of the written authorization and is accompanying the child only at the dates and locations specified in the authorization;
- 2390 (b) the child's parent or guardian has verbally authorized the sex offender to accompany the child either in the child's residence or on property appurtenant to the child's residence, but in no other locations; or
- 2393 (c) the child is the natural child of the sex offender, and the offender is not prohibited by any court order, or probation or parole provision, from contact with the child.
- 2395 (3)
- . (a) A sex offender convicted of a violation of Subsection (2) is subject to registration in accordance with [~~Title 77, Chapter 41, Sex, Kidnap, and Child Abuse Offender Registry~~] this chapter, for an additional five years subsequent to the required registration [~~under Section 77-41-105~~] described in Section 53-29-203.
- 2399 (b) The period of additional registration imposed under Subsection (3)(a) is also in addition to any period of registration imposed under Subsection [~~77-41-107(3)~~] 53-29-305(3) for failure to comply with registration requirements.
- 2402 (4) It is not a defense to a prosecution under this section that the defendant mistakenly believed the individual to be 14 years [~~of age~~] old or older at the time of the offense or was unaware of the individual's true age.
- 2405 (5) This section does not apply if a sex offender is acting to rescue a child who is in an emergency and life-threatening situation.

2416 Section **31** is enacted to read:

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Part 4. Department Functions Related to the Registry

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

Reserved.

2420 Section **32** is enacted to read:

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

2413 (1) The department shall:

2414 (a) maintain the registration website;

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

2417 (i)

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

2420 (B) promptly made available to the district superintendent of the school district where the offender is employed if the educational institution is an institution of primary education; and

2423 (ii) entered into the appropriate state records or data system; and

2424 (c) make available to an offender the name of the local law enforcement agency or state agency that the offender should contact to register, the location for registering, and the requirements of registration.

2427 (2)

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

2431 (i) the residence that the offender is leaving is located; and

2432 (ii) the residence to which the offender is moving is located.

2433 (b) The department shall provide notification under Subsection (2)(a) if the offender's change of address is:

2435 (i) between law enforcement agency jurisdictions; or

2436 (ii) within one law enforcement agency jurisdiction.

2437 (3) The department may make administrative rules necessary to implement this chapter, including:

2439 (a) the method for dissemination of the information; and

2440 (b) instructions to the public regarding the use of the information.

2450 Section 33 is enacted to read:

2451 **53-29-403. Intervention in legal action by the department.**

2443 (1) Subject to Subsection (2), the department may intervene in any matter, including a criminal action, where the matter purports to affect an individual's registration requirements under this chapter.

2446 (2) The department may only file a motion to intervene under Subsection (1) within 60 days after the day on which:

2448

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- (a) the sentencing court enters a judgment or sentence against an individual for a registrable offense, if the details of the written plea agreement, judgment, or sentence indicate that the individual's registration requirements under this chapter could be affected; or
- 2452 (b) a court modifies, withdraws, sets aside, vacates, or otherwise alters an individual's conviction for a registrable offense, affecting the individual's registration requirement under this chapter if the written plea agreement, judgment, or sentence entered at the time the individual was sentenced did not indicate that the individual's registration requirement could be affected.
- 2466 Section 34 is enacted to read:
- 2467 **53-29-404. Sex, Kidnap, and Child Abuse Offender Notification and Registration website.**
- 2460 (1) The department shall maintain a Sex, Kidnap, and Child Abuse Offender Notification and Registration website on the Internet available to the public.
- 2462 (2) The registration website shall be indexed by both the surname of the offender and by postal codes.
- 2464 (3)
- . (a) Except as provided in Subsection (3)(b), the registration website shall include the following information:
- 2466 (i) all names and aliases by which the offender is or has been known, but not including any online identifiers;
- 2468 (ii) the addresses of the offender's primary, secondary, and temporary residences;
- 2469 (iii) a physical description, including the offender's date of birth, height, weight, eye color, and hair color;
- 2471 (iv) the make, model, color, year, and plate number of any vehicle or vehicles the offender owns or regularly drives;
- 2473 (v) a current photograph of the offender;
- 2474 (vi) a list of all professional licenses that authorize the offender to engage in an occupation or carry out a trade or business;
- 2476 (vii) each educational institution in Utah at which the offender is employed or is a student;
- 2478 (viii) a list of places where the offender works as a volunteer;
- 2479 (ix) any registrable offenses for which the offender has been convicted or adjudicated; and
- 2481 (x) other relevant identifying information of the offender as determined by the department.
- 2483 (b) The department shall redact any information the department receives under Subsection (3)(a) that, if disclosed, could reasonably identify a victim.

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- 2485 (4)
- . (a) The department shall enable the public to search the registration website to determine if the following search criteria are linked to an offender:
- 2487 (i) telephone numbers or other designations for an offender provided under Subsection 53-29-304(4)(a)(vii);
- 2489 (ii) online identifiers or other addresses for an offender provided under Subsection 53-29-304(4)(a)(ix); and
- 2491 (iii) names and Internet addresses of websites on which an offender is registered using an online identifier, including the online identifier used to access the website.
- 2494 (b) The department shall ensure that a search performed using the criteria in Subsection (4)(a):
- 2496 (i) provides the individual requesting the search with only information regarding whether the criteria are linked to an offender; and
- 2498 (ii) does not return the name or any other identifying information about an offender.
- 2499 (c) The department is not required to:
- 2500 (i) report the results of the search under Subsection (4)(a) to a law enforcement agency; or
- 2502 (ii) based on the results of a search under Subsection (4)(a), open an investigation.
- 2503 (5)
- . (a) Subject to Subsection (5)(b), the department shall place a disclaimer on the registration website informing the public that:
- 2505 (i) the information contained on the site is obtained from offenders and the department does not guarantee the information's accuracy or completeness;
- 2507 (ii) members of the public are not allowed to use the information to harass or threaten an offender or a member of an offender's family; and
- 2509 (iii) harassment, stalking, or threats against an offender or an offender's family are prohibited and may violate Utah criminal laws.
- 2511 (b) Before a user may access the registry website, the department shall require the user to indicate that the user has read the disclaimer, understands the disclaimer, and agrees to comply with the disclaimer's terms.
- 2514 (6)
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- (a) If an offender was under 18 years old at the time of committing a registrable offense described in Subsection 53-29-202(1)(a), (c), or (f), and as a result is required to register on the registry, the department shall maintain, but not publish, the offender's information on the registration website.
- 2518 (b)
- (i) If, based on the information provided to the department by the sentencing court, prosecuting entity, offender, or offender's counsel, the department cannot determine whether the offender is eligible for an exemption to publication on the registration website as described in Subsection (6)(a), the department shall continue to publish the offender's information on the registration website.
- 2523 (ii) Information may be provided to the department at any time in order to clarify the offender's age at the time the offender committed the registrable offense.
- 2525 (iii) This section does not prohibit the department from seeking or receiving information from individuals or entities other than those identified in Subsection (6)(b)(i).
- 2528 (c) This Subsection (6):
- 2529 (i) applies to an offender with a registration requirement on or after May 3, 2023, regardless of when the offender was first required to register; and
- 2531 (ii) does not apply to an offender who is required to register for the offender's lifetime due to the offender being convicted of two or more registrable offenses or being convicted of one registrable offense and, at the time of the conviction for the registrable offense, being previously required to register as an offender for an offense committed as a juvenile as described in Subsection 53-29-203(1)(b).
- 2536 (7) In the case of an offender adjudicated in an external jurisdiction as a juvenile and required to register under this chapter the department shall maintain, but not publish, the offender's information on the registration website if the external jurisdiction where the juvenile offender was adjudicated does not publish the juvenile offender's information on a public website.
- 2541 (8) Any information in the department's possession not listed in Subsection (3)(a) that is not available to the public shall be shared:
- 2543 (a) for a purpose under this chapter; or
- 2544 (b) in accordance with Section 63G-2-206.
- 2554 Section 35 is enacted to read:
- 2555 **53-29-405. Removal for offenses or convictions for which registration is no longer required.**
- 2548 (1) The department shall automatically remove an individual who is currently on the registry if:

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- 2550 (a) the only offense or offenses for which the individual is on the registry are listed in Subsection (2); or
- 2552 (b) the department receives a formal notification or order from the court or the Board of Pardons and Parole that the conviction for the registrable offense for which the individual is on the registry has been reversed, vacated, or pardoned.
- 2555 (2) The offenses described in Subsection (1)(a) are:
- 2556 (a) a class B or class C misdemeanor for enticing a minor under Section 76-4-401;
- 2557 (b) kidnapping under Subsection 76-5-301(2)(a) or (b);
- 2558 (c) child kidnapping under Section 76-5-301.1, if the offender was the natural parent of the child victim;
- 2560 (d) unlawful detention under Section 76-5-304;
- 2561 (e) a third degree felony for unlawful sexual intercourse before 1986, or a class B misdemeanor for unlawful sexual intercourse, under Section 76-5-401; or
- 2563 (f) sodomy, but not forcible sodomy, under Section 76-5-403.
- 2564 (3) The department shall notify an individual who has been removed from the registry in accordance with Subsection (1) and inform the individual in the notice that the individual is no longer required to register as an offender.
- 2567 (4) An individual who is currently on the registry may submit a request to the department to be removed from the registry if the individual believes that the individual qualifies for removal under Subsection (1).
- 2570 (5) The department, upon receipt of a request for removal from the registry in accordance with this section, shall:
- 2572 (a) check the registry for the individual's current status;
- 2573 (b) determine whether the individual qualifies for removal based upon this section; and
- 2574 (c) notify the individual in writing of the department's determination and whether the individual:
- 2576 (i) qualifies for removal from the registry; or
- 2577 (ii) does not qualify for removal.
- 2578 (6) If the department determines that the individual qualifies for removal from the registry, the department shall remove the offender from the registry.
- 2580 (7)
- . (a) If the department determines that the individual does not qualify for removal from the registry, the department shall provide an explanation in writing for the department's determination.
- 2583

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- (b) The department's determination under Subsection (7)(a) is final and not subject to administrative review.
- 2585 (8) The department or an employee of the department is not civilly liable for a determination made in good faith in accordance with this section.
- 2587 (9)
- (a) The department shall provide a response to a request for removal within 30 days after the day on which the department receives the request.
- 2589 (b) If the response under Subsection (9)(a) cannot be provided within 30 days after the day on which the department receives the request, the department shall notify the 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.**
- As used in this chapter:
- 2595 (1) "Assessment" means any charge imposed by the association, including:
- 2596 (a) common expenses on or against a unit owner pursuant to the provisions of the declaration, bylaws, or this chapter; and
- 2598 (b) an amount that an association of unit owners assesses to a unit owner under Subsection 57-8-43(9) (g).
- 2600 (2) "Association of unit owners" or "association" means all of the unit owners:
- 2601 (a) acting as a group in accordance with the declaration and bylaws; or
- 2602 (b) organized as a legal entity in accordance with the declaration.
- 2603 (3) "Building" means a building, containing units, and comprising a part of the property.
- 2604 (4) "Commercial condominium project" means a condominium project that has no residential units within the project.
- 2606 (5) "Common areas and facilities" unless otherwise provided in the declaration or lawful amendments to the declaration means:
- 2608 (a) the land included within the condominium project, whether leasehold or in fee simple;
- 2610 (b) the foundations, columns, girders, beams, supports, main walls, roofs, halls, corridors, lobbies, stairs, stairways, fire escapes, entrances, and exits of the building;
- 2612 (c) the basements, yards, gardens, parking areas, and storage spaces;
- 2613 (d) the premises for lodging of janitors or persons in charge of the property;

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- 2614 (e) installations of central services such as power, light, gas, hot and cold water, heating, refrigeration, air conditioning, and incinerating;
- 2616 (f) the elevators, tanks, pumps, motors, fans, compressors, ducts, and in general all apparatus and installations existing for common use;
- 2618 (g) such community and commercial facilities as may be provided for in the declaration; and
- 2620 (h) all other parts of the property necessary or convenient to its existence, maintenance, and safety, or normally in common use.
- 2622 (6) "Common expenses" means:
- 2623 (a) all sums lawfully assessed against the unit owners;
- 2624 (b) expenses of administration, maintenance, repair, or replacement of the common areas and facilities;
- 2626 (c) expenses agreed upon as common expenses by the association of unit owners; and
- 2627 (d) expenses declared common expenses by this chapter, or by the declaration or the bylaws.
- 2629 (7) "Common profits," unless otherwise provided in the declaration or lawful amendments to the declaration, means the balance of all income, rents, profits, and revenues from the common areas and facilities remaining after the deduction of the common expenses.
- 2632 (8) "Condominium" means the ownership of a single unit in a multiunit project together with an undivided interest in common in the common areas and facilities of the property.
- 2634 (9) "Condominium plat" means a plat or plats of survey of land and units prepared in accordance with Section 57-8-13.
- 2636 (10) "Condominium project" means a real estate condominium project; a plan or project whereby two or more units, whether contained in existing or proposed apartments, commercial or industrial buildings or structures, or otherwise, are separately offered or proposed to be offered for sale. Condominium project also means the property when the context so requires.
- 2641 (11) "Condominium unit" means a unit together with the undivided interest in the common areas and facilities appertaining to that unit. Any reference in this chapter to a condominium unit includes both a physical unit together with its appurtenant undivided interest in the common areas and facilities and a time period unit together with its appurtenant undivided interest, unless the reference is specifically limited to a time period unit.
- 2647 (12) "Contractible condominium" means a condominium project from which one or more portions of the land within the project may be withdrawn in accordance with provisions of the declaration and of this chapter. If the withdrawal can occur only by the expiration or termination of one or more

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leases, then the condominium project is not a contractible condominium within the meaning of this chapter.

- 2652 (13) "Convertible land" means a building site which is a portion of the common areas and facilities, described by metes and bounds, within which additional units or limited common areas and facilities may be created in accordance with this chapter.
- 2655 (14) "Convertible space" means a portion of the structure within the condominium project, which portion may be converted into one or more units or common areas and facilities, including limited common areas and facilities in accordance with this chapter.
- 2658 (15) "Declarant" means all persons who execute the declaration or on whose behalf the declaration is executed. From the time of the recordation of any amendment to the declaration expanding an expandable condominium, all persons who execute that amendment or on whose behalf that amendment is executed shall also come within this definition. Any successors of the persons referred to in this subsection who come to stand in the same relation to the condominium project as their predecessors also come within this definition.
- 2665 (16) "Declaration" means the instrument by which the property is submitted to the provisions of this act, as it from time to time may be lawfully amended.
- 2667 (17) "Electrical corporation" means the same as that term is defined in Section 54-2-1.
- 2668 (18) "Expandable condominium" means a condominium project to which additional land or an interest in it may be added in accordance with the declaration and this chapter.
- 2670 (19) "Gas corporation" means the same as that term is defined in Section 54-2-1.
- 2671 (20) "Governing documents":
- 2672 (a) means a written instrument by which an association of unit owners may:
- 2673 (i) exercise powers; or
- 2674 (ii) manage, maintain, or otherwise affect the property under the jurisdiction of the association of unit owners; and
- 2676 (b) includes:
- 2677 (i) articles of incorporation;
- 2678 (ii) bylaws;
- 2679 (iii) a plat;
- 2680 (iv) a declaration of covenants, conditions, and restrictions; and
- 2681 (v) rules of the association of unit owners.

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- 2682 (21) "Independent third party" means a person that:
- 2683 (a) is not related to the unit owner;
- 2684 (b) shares no pecuniary interests with the unit owner; and
- 2685 (c) purchases the unit in good faith and without the intent to defraud a current or future lienholder.
- 2687 (22) "Judicial foreclosure" means a foreclosure of a unit:
- 2688 (a) for the nonpayment of an assessment;
- 2689 (b) in the manner provided by law for the foreclosure of a mortgage on real property; and
- 2690 (c) as provided in this chapter.
- 2691 (23) "Leasehold condominium" means a condominium project in all or any portion of which each unit owner owns an estate for years in his unit, or in the land upon which that unit is situated, or both, with all those leasehold interests to expire naturally at the same time. A condominium project including leased land, or an interest in the land, upon which no units are situated or to be situated is not a leasehold condominium within the meaning of this chapter.
- 2697 (24) "Limited common areas and facilities" means those common areas and facilities designated in the declaration as reserved for use of a certain unit or units to the exclusion of the other units.
- 2700 (25) "Majority" or "majority of the unit owners," unless otherwise provided in the declaration or lawful amendments to the declaration, means the owners of more than 50% in the aggregate in interest of the undivided ownership of the common areas and facilities.
- 2704 (26) "Management committee" means the committee as provided in the declaration charged with and having the responsibility and authority to make and to enforce all of the reasonable rules covering the operation and maintenance of the property.
- 2707 (27) "Management committee meeting" means a gathering of a management committee, whether in person or by means of electronic communication, at which the management committee can take binding action.
- 2710 (28)
- . (a) "Means of electronic communication" means an electronic system that allows individuals to communicate orally in real time.
- 2712 (b) "Means of electronic communication" includes:
- 2713 (i) web conferencing;
- 2714 (ii) video conferencing; and
- 2715 (iii) telephone conferencing.

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- 2716 (29) "Mixed-use condominium project" means a condominium project that has both residential and
commercial units in the condominium project.
- 2718 (30) "Nonjudicial foreclosure" means the sale of a unit:
- 2719 (a) for the nonpayment of an assessment;
- 2720 (b) in the same manner as the sale of trust property under Sections 57-1-19 through 57-1-34; and
- 2722 (c) as provided in this chapter.
- 2723 (31) "Par value" means a number of dollars or points assigned to each unit by the declaration.
Substantially identical units shall be assigned the same par value, but units located at substantially
different heights above the ground, or having substantially different views, or having substantially
different amenities or other characteristics that might result in differences in market value, may be
considered substantially identical within the meaning of this subsection. If par value is stated in
terms of dollars, that statement may not be considered to reflect or control the sales price or fair
market value of any unit, and no opinion, appraisal, or fair market transaction at a different figure
may affect the par value of any unit, or any undivided interest in the common areas and facilities,
voting rights in the unit owners' association, liability for common expenses, or right to common
profits, assigned on the basis thereof.
- 2734 (32) "Period of administrative control" means the period of control described in Subsection
57-8-16.5(1).
- 2736 (33) "Person" means an individual, corporation, partnership, association, trustee, or other legal entity.
- 2738 (34) "Political sign" means any sign or document that advocates:
- 2739 (a) the election or defeat of a candidate for public office; or
- 2740 (b) the approval or defeat of a ballot proposition.
- 2741 (35) "Property" means the land, whether leasehold or in fee simple, the building, if any, all
improvements and structures thereon, all easements, rights, and appurtenances belonging thereto,
and all articles of personal property intended for use in connection therewith.
- 2744 (36) "Protected area" means the same as that term is defined in Section [~~77-27-21.7~~] 53-29-306.
- 2746 (37) "Record," "recording," "recorded," and "recorder" have the meaning stated in Chapter 3, Recording
of Documents.
- 2748 (38) "Rentals" or "rental unit" means:
- 2749 (a) a unit that:
- 2750 (i) is not owned by an entity or trust; and

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- 2751 (ii) is occupied by an individual while the unit owner is not occupying the unit as the unit owner's primary residence; or
- 2753 (b) an occupied unit owned by an entity or trust, regardless of who occupies the unit.
- 2754 (39) "Size" means the number of cubic feet, or the number of square feet of ground or floor space, within each unit as computed by reference to the record of survey map and rounded off to a whole number. Certain spaces within the units including attic, basement, or garage space may be omitted from the calculation or be partially discounted by the use of a ratio, if the same basis of calculation is employed for all units in the condominium project and if that basis is described in the declaration.
- 2760 (40) "Time period unit" means an annually recurring part or parts of a year specified in the declaration as a period for which a unit is separately owned and includes a timeshare estate as defined in Section 57-19-2.
- 2763 (41) "Unconstructed unit" means a unit that:
- 2764 (a) is intended, as depicted in the condominium plat, to be fully or partially contained in a building; and
- 2766 (b) is not constructed.
- 2767 (42)
- . (a) "Unit" means a separate part of the property intended for any type of independent use, which is created by the recording of a declaration and a condominium plat that describes the unit boundaries.
- 2770 (b) "Unit" includes one or more rooms or spaces located in one or more floors or a portion of a floor in a building.
- 2772 (c) "Unit" includes a convertible space, in accordance with Subsection 57-8-13.4(3).
- 2773 (43) "Unit number" means the number, letter, or combination of numbers and letters designating the unit in the declaration and in the record of survey map.
- 2775 (44) "Unit owner" means the person or persons owning a unit in fee simple and an undivided interest in the fee simple estate of the common areas and facilities in the percentage specified and established in the declaration or, in the case of a leasehold condominium project, the person or persons whose leasehold interest or interests in the condominium unit extend for the entire balance of the unexpired term or terms.
- 2780 (45) "Water wise landscaping" means:
- 2781 (a) installation of plant materials, suited to the microclimate and soil conditions, that can:
- 2782 (i) remain healthy with minimal irrigation once established; or
- 2783 (ii) be maintained without the use of overhead spray irrigation;

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- 2784 (b) use of water for outdoor irrigation through proper and efficient irrigation design and water application; or
- 2786 (c) use of other landscape design features that:
- 2787 (i) minimize the landscape's need for supplemental water from irrigation;
- 2788 (ii) reduce the landscape area dedicated to lawn or turf; or
- 2789 (iii) encourage vegetative coverage.
- 2790 (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.**
- 2793 (1)
- . (a) Except as provided in Subsection (1)(b), a rule shall treat similarly situated unit owners similarly.
- 2795 (b) Notwithstanding Subsection (1)(a), a rule may:
- 2796 (i) vary according to the level and type of service that the association of unit owners provides to unit owners;
- 2798 (ii) differ between residential and nonresidential uses; or
- 2799 (iii) for a unit that a unit owner leases for a term of less than 30 days, impose a reasonable limit on the number of individuals that may use the common areas and facilities as the rental unit tenant's guest or as the unit owner's guest.
- 2802 (2)
- . (a) If a unit owner owns a rental unit and is in compliance with the association of unit owners' governing documents and any rule that the association of unit owners adopts under Subsection (5), a rule may not treat the unit owner differently because the unit owner owns a rental unit.
- 2806 (b) Notwithstanding Subsection (2)(a), a rule may:
- 2807 (i) limit or prohibit a rental unit owner from using the common areas and facilities for purposes other than attending an association meeting or managing the rental unit;
- 2809 (ii) if the rental unit owner retains the right to use the association of unit owners' common areas and facilities, even occasionally:
- 2811 (A) charge a rental unit owner a fee to use the common areas and facilities; and
- 2812 (B) for a unit that a unit owner leases for a term of less than 30 days, impose a reasonable limit on the number of individuals that may use the common areas and facilities as the rental unit tenant's guest or as the unit owner's guest; or

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- 2815 (iii) include a provision in the association of unit owners' governing documents that:
- 2816 (A) requires each tenant of a rental unit to abide by the terms of the governing documents; and
- 2818 (B) holds the tenant and the rental unit owner jointly and severally liable for a violation of a provision of the governing documents.
- 2820 (3)
- . (a) A rule may not interfere with the freedom of a unit owner to determine the composition of the unit owner's household.
- 2822 (b) Notwithstanding Subsection (3)(a), an association of unit owners may:
- 2823 (i) require that all occupants of a dwelling be members of a single housekeeping unit; or
- 2825 (ii) limit the total number of occupants permitted in each residential dwelling on the basis of the residential dwelling's:
- 2827 (A) size and facilities; and
- 2828 (B) fair use of the common areas and facilities.
- 2829 (4) Unless contrary to a declaration, a rule may require a minimum lease term.
- 2830 (5) Unless otherwise provided in the declaration, an association of unit owners may by rule:
- 2831 (a) regulate the use, maintenance, repair, replacement, and modification of common areas and facilities;
- 2833 (b) impose and receive any payment, fee, or charge for:
- 2834 (i) the use, rental, or operation of the common areas, except limited common areas and facilities; and
- 2836 (ii) a service provided to a unit owner;
- 2837 (c) impose a charge for a late payment of an assessment; or
- 2838 (d) provide for the indemnification of the association of unit owners' officers and management committee consistent with Title 16, Chapter 6a, Utah Revised Nonprofit Corporation Act.
- 2841 (6)
- . (a) Except as provided in Subsection (6)(b), a rule may not prohibit a unit owner from installing a personal security camera immediately adjacent to the entryway, window, or other outside entry point of the owner's condominium unit.
- 2844 (b) A rule may prohibit a unit owner from installing a personal security camera in a common area not physically connected to the owner's unit.
- 2846 (7)
- . (a) A rule may not abridge the right of a unit owner to display a religious or holiday sign, symbol, or decoration inside the owner's condominium unit.

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- 2848 (b) An association may adopt a reasonable time, place, and manner restriction with respect to a display
that is visible from the exterior of a unit.
- 2850 (8)
- . (a) A rule may not:
- 2851 (i) prohibit a unit owner from displaying in a window of the owner's condominium unit:
- 2853 (A) a for-sale sign; or
- 2854 (B) a political sign;
- 2855 (ii) regulate the content of a political sign; or
- 2856 (iii) establish design criteria for a political sign.
- 2857 (b) Notwithstanding Subsection (8)(a), a rule may reasonably regulate the size and time, place, and
manner of posting a for-sale sign or a political sign.
- 2859 (9) For any area for which one or more unit owners are responsible for landscape maintenance, the
association of unit owners:
- 2861 (a) shall adopt rules supporting water wise landscaping, including:
- 2862 (i) low water use requirements on lawns during drought conditions;
- 2863 (ii) design criterion for water wise landscaping; and
- 2864 (iii) limiting permissible plant material to specific water wise plant material;
- 2865 (b) may not prohibit low water use on lawns during drought conditions; and
- 2866 (c) may not prohibit or restrict the conversion of a grass park strip to water-efficient landscaping.
- 2868 (10) A rule may restrict a sex offender from accessing a protected area that is maintained,
operated, or owned by the association, subject to the exceptions described in Subsection
[77-27-21.7(3)] 53-29-306(3).
- 2871 (11)
- . (a) Except as provided in this Subsection (11), a rule may not prohibit a unit owner from making
modifications, consistent with industry standards, for radon mitigation.
- 2873 (b) Subsection (11)(a) does not apply if the modifications would violate:
- 2874 (i) a local land use ordinance;
- 2875 (ii) a building code;
- 2876 (iii) a health code; or
- 2877 (iv) a fire code.
- 2878

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- (c) A rule governing the placement or external appearance of modifications may apply to modifications for radon mitigation unless the rule would:
- 2880 (i) unreasonably interfere with the modifications' functionality; or
- 2881 (ii) add more than 40% of the modifications' original cost to the cost of installing the modifications.
- 2883 (d) A rule may require that a unit owner making modifications related to radon mitigation:
- 2885 (i) demonstrate or provide proof of radon contamination; and
- 2886 (ii) provide proof that the modifications and any related construction will be performed by a licensed person.
- 2888 (12) A rule shall be reasonable.
- 2889 (13) A declaration, or an amendment to a declaration, may vary any of the requirements of Subsections (1) through (5), except Subsection (1)(b)(ii).
- 2891 (14) This section applies to an association of unit owners regardless of when the association of unit owners is created.
- 2902 Section 38. Section **57-8a-102** is amended to read:
- 2903 **57-8a-102. Definitions.**
- As used in this chapter:
- 2896 (1)
- . (a) "Assessment" means a charge imposed or levied:
- 2897 (i) by the association;
- 2898 (ii) on or against a lot or a lot owner; and
- 2899 (iii) pursuant to a governing document recorded with the county recorder.
- 2900 (b) "Assessment" includes:
- 2901 (i) a common expense; and
- 2902 (ii) an amount assessed against a lot owner under Subsection 57-8a-405(7).
- 2903 (2)
- . (a) Except as provided in Subsection (2)(b), "association" means a corporation or other legal entity, any member of which:
- 2905 (i) is an owner of a residential lot located within the jurisdiction of the association, as described in the governing documents; and
- 2907 (ii) by virtue of membership or ownership of a residential lot is obligated to pay:
- 2908 (A) real property taxes;

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- 2909 (B) insurance premiums;
- 2910 (C) maintenance costs; or
- 2911 (D) for improvement of real property not owned by the member.
- 2912 (b) "Association" or "homeowner association" does not include an association created under Chapter 8, Condominium Ownership Act.
- 2914 (3) "Board meeting" means a gathering of a board, whether in person or by means of electronic communication, at which the board can take binding action.
- 2916 (4) "Board of directors" or "board" means the entity, regardless of name, with primary authority to manage the affairs of the association.
- 2918 (5) "Common areas" means property that the association:
- 2919 (a) owns;
- 2920 (b) maintains;
- 2921 (c) repairs; or
- 2922 (d) administers.
- 2923 (6) "Common expense" means costs incurred by the association to exercise any of the powers provided for in the association's governing documents.
- 2925 (7) "Declarant":
- 2926 (a) means the person who executes a declaration and submits it for recording in the office of the recorder of the county in which the property described in the declaration is located; and
- 2929 (b) includes the person's successor and assign.
- 2930 (8) "Director" means a member of the board of directors.
- 2931 (9) "Electrical corporation" means the same as that term is defined in Section 54-2-1.
- 2932 (10) "Gas corporation" means the same as that term is defined in Section 54-2-1.
- 2933 (11)
- . (a) "Governing documents" means a written instrument by which the association may:
- 2935 (i) exercise powers; or
- 2936 (ii) manage, maintain, or otherwise affect the property under the jurisdiction of the association.
- 2938 (b) "Governing documents" includes:
- 2939 (i) articles of incorporation;
- 2940 (ii) bylaws;
- 2941 (iii) a plat;

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- 2942 (iv) a declaration of covenants, conditions, and restrictions; and
2943 (v) rules of the association.
- 2944 (12) "Independent third party" means a person that:
2945 (a) is not related to the owner of the residential lot;
2946 (b) shares no pecuniary interests with the owner of the residential lot; and
2947 (c) purchases the residential lot in good faith and without the intent to defraud a current or future
lienholder.
- 2949 (13) "Judicial foreclosure" means a foreclosure of a lot:
2950 (a) for the nonpayment of an assessment;
2951 (b) in the manner provided by law for the foreclosure of a mortgage on real property; and
2952 (c) as provided in Part 3, Collection of Assessments.
- 2953 (14) "Lease" or "leasing" means regular, exclusive occupancy of a lot:
2954 (a) by a person or persons other than the owner; and
2955 (b) for which the owner receives a consideration or benefit, including a fee, service, gratuity, or
emolument.
- 2957 (15) "Limited common areas" means common areas described in the declaration and allocated for the
exclusive use of one or more lot owners.
- 2959 (16) "Lot" means:
2960 (a) a lot, parcel, plot, or other division of land:
2961 (i) designated for separate ownership or occupancy; and
2962 (ii)
. (A) shown on a recorded subdivision plat; or
2963 (B) the boundaries of which are described in a recorded governing document; or
2964 (b)
. (i) a unit in a condominium association if the condominium association is a part of a development; or
2966 (ii) a unit in a real estate cooperative if the real estate cooperative is part of a development.
- 2968 (17)
. (a) "Means of electronic communication" means an electronic system that allows individuals to
communicate orally in real time.
2970 (b) "Means of electronic communication" includes:
2971 (i) web conferencing;

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- 2972 (ii) video conferencing; and
2973 (iii) telephone conferencing.
- 2974 (18) "Mixed-use project" means a project under this chapter that has both residential and commercial lots in the project.
- 2976 (19) "Nonjudicial foreclosure" means the sale of a lot:
2977 (a) for the nonpayment of an assessment;
2978 (b) in the same manner as the sale of trust property under Sections 57-1-19 through 57-1-34; and
2980 (c) as provided in Part 3, Collection of Assessments.
- 2981 (20) "Period of administrative control" means the period during which the person who filed the association's governing documents or the person's successor in interest retains authority to:
2984 (a) appoint or remove members of the association's board of directors; or
2985 (b) exercise power or authority assigned to the association under the association's governing documents.
- 2987 (21) "Political sign" means any sign or document that advocates:
2988 (a) the election or defeat of a candidate for public office; or
2989 (b) the approval or defeat of a ballot proposition.
- 2990 (22) "Protected area" means the same as that term is defined in Section 77-27-21.7.
- 2991 (23) "Rentals" or "rental lot" means:
2992 (a) a lot that:
2993 (i) is not owned by an entity or trust; and
2994 (ii) is occupied by an individual while the lot owner is not occupying the lot as the lot owner's primary residence;
2996 (b) an occupied lot owned by an entity or trust, regardless of who occupies the lot; or
2997 (c) an internal accessory dwelling unit as defined in Section 10-9a-530 or 17-27a-526.
- 2998 (24) "Residential lot" means a lot, the use of which is limited by law, covenant, or otherwise to primarily residential or recreational purposes.
- 3000 (25)
. (a) "Rule" means a policy, guideline, restriction, procedure, or regulation of an association that:
3002 (i) is not set forth in a contract, easement, article of incorporation, bylaw, or declaration; and
3004 (ii) governs:
3005 (A) the conduct of persons; or
3006 (B) the use, quality, type, design, or appearance of real property or personal property.

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- 3008 (b) "Rule" does not include the internal business operating procedures of a board.
- 3009 (26) "Sex offender" means ~~[the same as that term is defined in Section 77-27-21.7]~~ an individual who is a sex offender as described in Subsection 53-29-202(2)(b) if the offense that the individual committed that resulted in the individual being a sex offender was committed against an individual younger than 18 years old.
- 3013 (27) "Solar energy system" means:
- 3014 (a) a system that is used to produce electric energy from sunlight; and
- 3015 (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 design criteria.**
- 3019 (1)
- . (a) Except as provided in Subsection (1)(b), a rule shall treat similarly situated lot owners similarly.
- 3021 (b) Notwithstanding Subsection (1)(a), a rule may:
- 3022 (i) vary according to the level and type of service that the association provides to lot owners;
- 3024 (ii) differ between residential and nonresidential uses; and
- 3025 (iii) for a lot that an owner leases for a term of less than 30 days, impose a reasonable limit on the number of individuals who may use the common areas and facilities as guests of the lot tenant or lot owner.
- 3028 (2)
- . (a) If a lot owner owns a rental lot and is in compliance with the association's governing documents and any rule that the association adopts under Subsection (4), a rule may not treat the lot owner differently because the lot owner owns a rental lot.
- 3031 (b) Notwithstanding Subsection (2)(a), a rule may:
- 3032 (i) limit or prohibit a rental lot owner from using the common areas for purposes other than attending an association meeting or managing the rental lot;
- 3034 (ii) if the rental lot owner retains the right to use the association's common areas, even occasionally:
- 3036 (A) charge a rental lot owner a fee to use the common areas; or
- 3037 (B) for a lot that an owner leases for a term of less than 30 days, impose a reasonable limit on the number of individuals who may use the common areas and facilities as guests of the lot tenant or lot owner; or

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- 3040 (iii) include a provision in the association's governing documents that:
- 3041 (A) requires each tenant of a rental lot to abide by the terms of the governing documents; and
- 3043 (B) holds the tenant and the rental lot owner jointly and severally liable for a violation of a provision of the governing documents.
- 3045 (3)
- . (a) A rule criterion may not abridge the rights of a lot owner to display a religious or holiday sign, symbol, or decoration:
- 3047 (i) inside a dwelling on a lot; or
- 3048 (ii) outside a dwelling on:
- 3049 (A) a lot;
- 3050 (B) the exterior of the dwelling, unless the association has an ownership interest in, or a maintenance, repair, or replacement obligation for, the exterior; or
- 3052 (C) the front yard of the dwelling, unless the association has an ownership interest in, or a maintenance, repair, or replacement obligation for, the yard.
- 3054 (b) Notwithstanding Subsection (3)(a), the association may adopt a reasonable time, place, and manner restriction with respect to a display that is:
- 3056 (i) outside a dwelling on:
- 3057 (A) a lot;
- 3058 (B) the exterior of the dwelling; or
- 3059 (C) the front yard of the dwelling; and
- 3060 (ii) visible from outside the lot.
- 3061 (4)
- . (a) A rule may not prohibit a lot owner from displaying a political sign:
- 3062 (i) inside a dwelling on a lot; or
- 3063 (ii) outside a dwelling on:
- 3064 (A) a lot;
- 3065 (B) the exterior of the dwelling, regardless of whether the association has an ownership interest in the exterior; or
- 3067 (C) the front yard of the dwelling, regardless of whether the association has an ownership interest in the yard.
- 3069 (b) A rule may not regulate the content of a political sign.

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- 3070 (c) Notwithstanding Subsection (4)(a), a rule may reasonably regulate the time, place, and manner of posting a political sign.
- 3072 (d) An association design provision may not establish design criteria for a political sign.
- 3073 (5)
- . (a) A rule may not prohibit a lot owner from displaying a for-sale sign:
- 3074 (i) inside a dwelling on a lot; or
- 3075 (ii) outside a dwelling on:
- 3076 (A) a lot;
- 3077 (B) the exterior of the dwelling, regardless of whether the association has an ownership interest in the exterior; or
- 3079 (C) the front yard of the dwelling, regardless of whether the association has an ownership interest in the yard.
- 3081 (b) Notwithstanding Subsection (5)(a), a rule may reasonably regulate the time, place, and manner of posting a for-sale sign.
- 3083 (6)
- . (a) A rule may not interfere with the freedom of a lot owner to determine the composition of the lot owner's household.
- 3085 (b) Notwithstanding Subsection (6)(a), an association may:
- 3086 (i) require that all occupants of a dwelling be members of a single housekeeping unit; or
- 3088 (ii) limit the total number of occupants permitted in each residential dwelling on the basis of the residential dwelling's:
- 3090 (A) size and facilities; and
- 3091 (B) fair use of the common areas.
- 3092 (7)
- . (a) A rule may not interfere with a reasonable activity of a lot owner within the confines of a dwelling or lot, including backyard landscaping or amenities, to the extent that the activity is in compliance with local laws and ordinances, including nuisance laws and ordinances.
- 3096 (b) Notwithstanding Subsection (7)(a), a rule may prohibit an activity within the confines of a dwelling or lot, including backyard landscaping or amenities, if the activity:
- 3099 (i) is not normally associated with a project restricted to residential use; or
- 3100 (ii)

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- . (A) creates monetary costs for the association or other lot owners;
- 3101 (B) creates a danger to the health or safety of occupants of other lots;
- 3102 (C) generates excessive noise or traffic;
- 3103 (D) creates unsightly conditions visible from outside the dwelling;
- 3104 (E) creates an unreasonable source of annoyance to persons outside the lot; or
- 3105 (F) if there are attached dwellings, creates the potential for smoke to enter another lot owner's dwelling, the common areas, or limited common areas.
- 3107 (c) If permitted by law, an association may adopt rules described in Subsection (7)(b) that affect the use of or behavior inside the dwelling.
- 3109 (8)
 - . (a) A rule may not, to the detriment of a lot owner and over the lot owner's written objection to the board, alter the allocation of financial burdens among the various lots.
 - 3111 (b) Notwithstanding Subsection [~~(7)(b)~~] (8)(a), an association may:
 - 3112 (i) change the common areas available to a lot owner;
 - 3113 (ii) adopt generally applicable rules for the use of common areas; or
 - 3114 (iii) deny use privileges to a lot owner who:
 - 3115 (A) is delinquent in paying assessments;
 - 3116 (B) abuses the common areas; or
 - 3117 (C) violates the governing documents.
 - 3118 (c) This Subsection (8) does not permit a rule that:
 - 3119 (i) alters the method of levying assessments; or
 - 3120 (ii) increases the amount of assessments as provided in the declaration.
 - 3121 (9)
 - . (a) Subject to Subsection (9)(b), a rule may not:
 - 3122 (i) prohibit the transfer of a lot; or
 - 3123 (ii) require the consent of the association or board to transfer a lot.
 - 3124 (b) Unless contrary to a declaration, a rule may require a minimum lease term.
 - 3125 (10)
 - . (a) A rule may not require a lot owner to dispose of personal property that was in or on a lot before the adoption of the rule or design criteria if the personal property was in compliance with all rules and other governing documents previously in force.

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- 3128 (b) The exemption in Subsection (10)(a):
- 3129 (i) applies during the period of the lot owner's ownership of the lot; and
- 3130 (ii) does not apply to a subsequent lot owner who takes title to the lot after adoption of the rule described in Subsection (10)(a).
- 3132 (11) A rule or action by the association or action by the board may not unreasonably impede a declarant's ability to satisfy existing development financing for community improvements and right to develop:
- 3135 (a) the project; or
- 3136 (b) other properties in the vicinity of the project.
- 3137 (12) A rule or association or board action may not interfere with:
- 3138 (a) the use or operation of an amenity that the association does not own or control; or
- 3139 (b) the exercise of a right associated with an easement.
- 3140 (13) A rule may not divest a lot owner of the right to proceed in accordance with a completed application for design review, or to proceed in accordance with another approval process, under the terms of the governing documents in existence at the time the completed application was submitted by the owner for review.
- 3144 (14) Unless otherwise provided in the declaration, an association may by rule:
- 3145 (a) regulate the use, maintenance, repair, replacement, and modification of common areas;
- 3147 (b) impose and receive any payment, fee, or charge for:
- 3148 (i) the use, rental, or operation of the common areas, except limited common areas; and
- 3150 (ii) a service provided to a lot owner;
- 3151 (c) impose a charge for a late payment of an assessment; or
- 3152 (d) provide for the indemnification of the association's officers and board consistent with Title 16, Chapter 6a, Utah Revised Nonprofit Corporation Act.
- 3154 (15) A rule may not prohibit a lot owner from installing a personal security camera immediately adjacent to the entryway, window, or other outside entry point of the owner's dwelling unit.
- 3157 (16)
- . (a) For any area for which one or more lot owners are responsible for landscape maintenance of any landscaping within the lot owner's lot or the common areas, the association shall adopt rules supporting water wise landscaping as defined in Section 57-8a-231 including:
- 3161 (i) low water use requirements on lawns during drought conditions;

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- 3162 (ii) design criterion for water wise landscaping; and
- 3163 (iii) limiting permissible plant material to specific water wise plant material.
- 3164 (b) A rule may not:
- 3165 (i) prohibit or restrict the conversion of a grass park strip to water wise landscaping as defined in
Section 57-8a-231; or
- 3167 (ii) prohibit low water use on lawns during drought conditions.
- 3168 (17)
- . (a) Except as provided in Subsection (17)(b), a rule may not prohibit the owner of a residential lot from
constructing an internal accessory dwelling unit, as defined in Section 10-9a-530 or 17-27a-526,
within the owner's residential lot.
- 3171 (b) Subsection (17)(a) does not apply if the construction would violate:
- 3172 (i) a local land use ordinance;
- 3173 (ii) a building code;
- 3174 (iii) a health code; or
- 3175 (iv) a fire code.
- 3176 (18)
- . (a) Except as provided in Subsection (18)(b), a rule may not prohibit the owner of a residential lot from
making modifications, consistent with industry standards, for radon mitigation.
- 3179 (b) Subsection (18)(a) does not apply if the modifications would violate:
- 3180 (i) a local land use ordinance;
- 3181 (ii) a building code;
- 3182 (iii) a health code; or
- 3183 (iv) a fire code.
- 3184 (c) A rule governing the placement or external appearance of modifications for radon mitigation does
not apply to a lot owner's modifications if the rule would:
- 3186 (i) unreasonably interfere with the modifications' functionality; or
- 3187 (ii) add more than 40% of the modifications' original cost to the cost of installing the modifications.
- 3189 (d) A rule may require that a lot owner making modifications related to radon mitigation:
- 3190 (i) demonstrate or provide proof of radon contamination; and
- 3191 (ii) provide proof that the modifications and any related construction will be performed by a licensed
person.

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- 3193 (19) A rule may restrict a sex offender from accessing a protected area that is maintained, operated, or owned by the association, subject to the exceptions described in Subsection [77-27-21.7(3)] 53-29-306(3).
- 3196 (20) A rule shall be reasonable.
- 3197 (21) A declaration, or an amendment to a declaration, may vary any of the requirements of Subsections (1), (2), (6), and (8) through (14), except Subsection (1)(b)(ii).
- 3199 (22) A rule may not be inconsistent with a provision of the association's declaration, bylaws, or articles of incorporation.
- 3201 (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.**
- 3204 (1) The following records are private:
- 3205 (a) records concerning an individual's eligibility for unemployment insurance benefits, social services, welfare benefits, or the determination of benefit levels;
- 3207 (b) records containing data on individuals describing medical history, diagnosis, condition, treatment, evaluation, or similar medical data;
- 3209 (c) records of publicly funded libraries that when examined alone or with other records identify a patron;
- 3211 (d) records received by or generated by or for:
- 3212 (i) the Independent Legislative Ethics Commission, except for:
- 3213 (A) the commission's summary data report that is required under legislative rule; and
- 3215 (B) any other document that is classified as public under legislative rule; or
- 3216 (ii) a Senate or House Ethics Committee in relation to the review of ethics complaints, unless the record is classified as public under legislative rule;
- 3218 (e) records received by, or generated by or for, the Independent Executive Branch Ethics Commission, except as otherwise expressly provided in Title 63A, Chapter 14, Review of Executive Branch Ethics Complaints;
- 3221 (f) records received or generated for a Senate confirmation committee concerning character, professional competence, or physical or mental health of an individual:
- 3223 (i) if, prior to the meeting, the chair of the committee determines release of the records:
- 3225 (A) reasonably could be expected to interfere with the investigation undertaken by the committee; or

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- 3227 (B) would create a danger of depriving a person of a right to a fair proceeding or impartial hearing; and
- 3229 (ii) after the meeting, if the meeting was closed to the public;
- 3230 (g) employment records concerning a current or former employee of, or applicant for employment with, a governmental entity that would disclose that individual's home address, home telephone number, social security number, insurance coverage, marital status, or payroll deductions;
- 3234 (h) records or parts of records under Section 63G-2-303 that a current or former employee identifies as private according to the requirements of that section;
- 3236 (i) that part of a record indicating a person's social security number or federal employer identification number if provided under Section 31A-23a-104, 31A-25-202, 31A-26-202, 58-1-301, 58-55-302, 61-1-4, or 61-2f-203;
- 3239 (j) that part of a voter registration record identifying a voter's:
- 3240 (i) driver license or identification card number;
- 3241 (ii) social security number, or last four digits of the social security number;
- 3242 (iii) email address;
- 3243 (iv) date of birth; or
- 3244 (v) phone number;
- 3245 (k) a voter registration record that is classified as a private record by the lieutenant governor or a county clerk under Subsection 20A-2-101.1(5)(a), 20A-2-104(4)(h), or 20A-2-204(4)(b);
- 3248 (l) a voter registration record that is withheld under Subsection 20A-2-104(7);
- 3249 (m) a withholding request form described in Subsections 20A-2-104(7) and (8) and any verification submitted in support of the form;
- 3251 (n) a record that:
- 3252 (i) contains information about an individual;
- 3253 (ii) is voluntarily provided by the individual; and
- 3254 (iii) goes into an electronic database that:
- 3255 (A) is designated by and administered under the authority of the Chief Information Officer; and
- 3257 (B) acts as a repository of information about the individual that can be electronically retrieved and used to facilitate the individual's online interaction with a state agency;
- 3260 (o) information provided to the Commissioner of Insurance under:
- 3261 (i) Subsection 31A-23a-115(3)(a);
- 3262 (ii) Subsection 31A-23a-302(4); or

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- 3263 (iii) Subsection 31A-26-210(4);
- 3264 (p) information obtained through a criminal background check under Title 11, Chapter 40, Criminal Background Checks by Political Subdivisions Operating Water Systems;
- 3266 (q) information provided by an offender that is:
- 3267 (i) required by the registration requirements of [~~Title 77, Chapter 41, Sex, Kidnap, and Child Abuse Offender Registry~~] Title 53, Chapter 29, Sex, Kidnap, and Child Abuse Offender Registry; and
- 3270 (ii) not required to be made available to the public under Subsection [~~77-41-110(4)~~] 53-29-404(3)(a);
- 3272 (r) a statement and any supporting documentation filed with the attorney general in accordance with Section 34-45-107, if the federal law or action supporting the filing involves homeland security;
- 3275 (s) electronic toll collection customer account information received or collected under Section 72-6-118 and customer information described in Section 17B-2a-815 received or collected by a public transit district, including contact and payment information and customer travel data;
- 3279 (t) an email address provided by a military or overseas voter under Section 20A-16-501;
- 3280 (u) a completed military-overseas ballot that is electronically transmitted under Title 20A, Chapter 16, Uniform Military and Overseas Voters Act;
- 3282 (v) records received by or generated by or for the Political Subdivisions Ethics Review Commission established in Section 63A-15-201, except for:
- 3284 (i) the commission's summary data report that is required in Section 63A-15-202; and
- 3285 (ii) any other document that is classified as public in accordance with Title 63A, Chapter 15, Political Subdivisions Ethics Review Commission;
- 3287 (w) a record described in Section 53G-9-604 that verifies that a parent was notified of an incident or threat;
- 3289 (x) a criminal background check or credit history report conducted in accordance with Section 63A-3-201;
- 3291 (y) a record described in Subsection 53-5a-104(7);
- 3292 (z) on a record maintained by a county for the purpose of administering property taxes, an individual's:
- 3294 (i) email address;
- 3295 (ii) phone number; or
- 3296 (iii) personal financial information related to a person's payment method;
- 3297 (aa) a record submitted by a taxpayer to establish the taxpayer's eligibility for an exemption, deferral, abatement, or relief under:

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- 3299 (i) Title 59, Chapter 2, Part 11, Exemptions;
- 3300 (ii) Title 59, Chapter 2, Part 12, Property Tax Relief;
- 3301 (iii) Title 59, Chapter 2, Part 18, Tax Deferral and Tax Abatement; or
- 3302 (iv) Title 59, Chapter 2, Part 19, Armed Forces Exemptions;
- 3303 (bb) a record provided by the State Tax Commission in response to a request under Subsection 59-1-403(4)(y)(iii);
- 3305 (cc) a record of the Child Welfare Legislative Oversight Panel regarding an individual child welfare case, as described in Subsection 36-33-103(3); and
- 3307 (dd) a record relating to drug or alcohol testing of a state employee under Section 63A-17-1004;
- 3309 (ee) a record relating to a request by a state elected official or state employee who has been threatened to the Division of Technology Services to remove personal identifying information from the open web under Section 63A-16-109; and
- 3312 (ff) a record including confidential information as that term is defined in Section 67-27-105.
- 3314 (2) The following records are private if properly classified by a governmental entity:
- 3315 (a) records concerning a current or former employee of, or applicant for employment with a governmental entity, including performance evaluations and personal status information such as race, religion, or disabilities, but not including records that are public under Subsection 63G-2-301(2)(b) or 63G-2-301(3)(o) or private under Subsection (1)(b);
- 3320 (b) records describing an individual's finances, except that the following are public:
- 3321 (i) records described in Subsection 63G-2-301(2);
- 3322 (ii) information provided to the governmental entity for the purpose of complying with a financial assurance requirement; or
- 3324 (iii) records that must be disclosed in accordance with another statute;
- 3325 (c) records of independent state agencies if the disclosure of those records would conflict with the fiduciary obligations of the agency;
- 3327 (d) other records containing data on individuals the disclosure of which constitutes a clearly unwarranted invasion of personal privacy;
- 3329 (e) records provided by the United States or by a government entity outside the state that are given with the requirement that the records be managed as private records, if the providing entity states in writing that the record would not be subject to public disclosure if retained by it;
- 3333

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- (f) any portion of a record in the custody of the Division of Aging and Adult Services, created in Section 26B-6-102, that may disclose, or lead to the discovery of, the identity of a person who made a report of alleged abuse, neglect, or exploitation of a vulnerable adult; and
- 3337 (g) audio and video recordings created by a body-worn camera, as defined in Section 77-7a-103, that record sound or images inside a home or residence except for recordings that:
- 3340 (i) depict the commission of an alleged crime;
- 3341 (ii) record any encounter between a law enforcement officer and a person that results in death or bodily injury, or includes an instance when an officer fires a weapon;
- 3343 (iii) record any encounter that is the subject of a complaint or a legal proceeding against a law enforcement officer or law enforcement agency;
- 3345 (iv) contain an officer involved critical incident as defined in Subsection 76-2-408(1)(f); or
- 3347 (v) have been requested for reclassification as a public record by a subject or authorized agent of a subject featured in the recording.
- 3349 (3)
- . (a) As used in this Subsection (3), "medical records" means medical reports, records, statements, history, diagnosis, condition, treatment, and evaluation.
- 3351 (b) Medical records in the possession of the University of Utah Hospital, its clinics, doctors, or affiliated entities are not private records or controlled records under Section 63G-2-304 when the records are sought:
- 3354 (i) in connection with any legal or administrative proceeding in which the patient's physical, mental, or emotional condition is an element of any claim or defense; or
- 3356 (ii) after a patient's death, in any legal or administrative proceeding in which any party relies upon the condition as an element of the claim or defense.
- 3358 (c) Medical records are subject to production in a legal or administrative proceeding according to state or federal statutes or rules of procedure and evidence as if the 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.**
- 3363 (1)
- . (a) Immunity from suit of each governmental entity is waived as to any contractual obligation.
- 3365

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- (b) Actions arising out of contractual rights or obligations are not subject to the requirements of Section 63G-7-401, 63G-7-402, 63G-7-403, or 63G-7-601.
- 3367 (c) The Division of Water Resources is not liable for failure to deliver water from a reservoir or associated facility authorized by Title 73, Chapter 26, Bear River Development Act, if the failure to deliver the contractual amount of water is due to drought, other natural condition, or safety condition that causes a deficiency in the amount of available water.
- 3372 (2) Immunity from suit of each governmental entity is waived:
- 3373 (a) as to any action brought to recover, obtain possession of, or quiet title to real or personal property;
- 3375 (b) as to any action brought to foreclose mortgages or other liens on real or personal property, to determine any adverse claim on real or personal property, or to obtain an adjudication about any mortgage or other lien that the governmental entity may have or claim on real or personal property;
- 3379 (c) as to any action based on the negligent destruction, damage, or loss of goods, merchandise, or other property while it is in the possession of any governmental entity or employee, if the property was seized for the purpose of forfeiture under any provision of state law;
- 3383 (d) subject to Section 63G-7-302, as to any action brought under the authority of Utah
- 3384 Constitution, Article I, Section 22, for the recovery of compensation from the governmental entity when the governmental entity has taken or damaged private property for public uses without just compensation;
- 3387 (e) as to any claim for attorney fees or costs under Section 63G-2-209, 63G-2-405, or 63G-2-802;
- 3389 (f) for actual damages under Title 67, Chapter 21, Utah Protection of Public Employees Act;
- 3391 (g) as to any action brought to obtain relief from a land use regulation that imposes a substantial burden on the free exercise of religion under Title 63L, Chapter 5, Utah Religious Land Use Act;
- 3394 (h) except as provided in Subsection 63G-7-201(3), as to any injury caused by:
- 3395 (i) a defective, unsafe, or dangerous condition of any highway, road, street, alley, crosswalk, sidewalk, culvert, tunnel, bridge, viaduct, or other structure located on them; or
- 3398 (ii) any defective or dangerous condition of a public building, structure, dam, reservoir, or other public improvement;
- 3400 (i) subject to Subsections 63G-7-101(4) and 63G-7-201(4), as to any injury proximately caused by a negligent act or omission of an employee committed within the scope of employment;
- 3403 (j) notwithstanding Subsection 63G-7-101(4), as to a claim for an injury resulting from a sexual battery, as provided in Section 76-9-702.1, committed:

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- 3405 (i) against a student of a public elementary or secondary school, including a charter school; and
- 3407 (ii) by an employee of a public elementary or secondary school or charter school who:
- 3408 (A) at the time of the sexual battery, held a position of special trust, as defined in Section 76-5-404.1, with respect to the student;
- 3410 (B) is criminally charged in connection with the sexual battery; and
- 3411 (C) the public elementary or secondary school or charter school knew or in the exercise of reasonable care should have known, at the time of the employee's hiring, to be a sex offender, a kidnap offender, or a child abuse offender as [defined] described in Section [77-41-102] 53-29-202, required to register under [~~Title 77, Chapter 41, Sex, Kidnap, and Child Abuse Offender Registry~~] Title 53, Chapter 29, Sex, Kidnap, and Child Abuse Offender Registry, whose status as a sex offender, kidnap offender, or child abuse offender would have been revealed in a background check under Section 53G-11-402;
- 3419 (k) as to any action brought under Section 78B-6-2303; and
- 3420 (l) as to any action brought to obtain relief under Title 53B, Chapter 27, Part 6, Student Legal Representation.
- 3422 (3)
- . (a) As used in this Subsection (3):
- 3423 (i) "Code of conduct" means a code of conduct that:
- 3424 (A) is not less stringent than a model code of conduct, created by the State Board of Education, establishing a professional standard of care for preventing the conduct described in Subsection (3) (a)(i)(D);
- 3427 (B) is adopted by the applicable local education governing body;
- 3428 (C) regulates behavior of a school employee toward a student; and
- 3429 (D) includes a prohibition against any sexual conduct between an employee and a student and against the employee and student sharing any sexually explicit or lewd communication, image, or photograph.
- 3432 (ii) "Local education agency" means:
- 3433 (A) a school district;
- 3434 (B) a charter school; or
- 3435 (C) the Utah Schools for the Deaf and the Blind.
- 3436 (iii) "Local education governing board" means:

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- 3437 (A) for a school district, the local school board;
- 3438 (B) for a charter school, the charter school governing board; or
- 3439 (C) for the Utah Schools for the Deaf and the Blind, the state board.
- 3440 (iv) "Public school" means a public elementary or secondary school.
- 3441 (v) "Sexual abuse" means the offense described in Subsection 76-5-404.1(2).
- 3442 (vi) "Sexual battery" means the offense described in Section 76-9-702.1, considering the term "child" in that section to include an individual under age 18.
- 3444 (b) Notwithstanding Subsection 63G-7-101(4), immunity from suit is waived as to a claim against a local education agency for an injury resulting from a sexual battery or sexual abuse committed against a student of a public school by a paid employee of the public school who is criminally charged in connection with the sexual battery or sexual abuse, unless:
- 3449 (i) at the time of the sexual battery or sexual abuse, the public school was subject to a code of conduct; and
- 3451 (ii) before the sexual battery or sexual abuse occurred, the public school had:
- 3452 (A) provided training on the code of conduct to the employee; and
- 3453 (B) required the employee to sign a statement acknowledging that the employee has read and understands the code of conduct.
- 3455 (4)
- . (a) As used in this Subsection (4):
- 3456 (i) "Higher education institution" means an institution included within the state system of higher education under Section 53B-1-102.
- 3458 (ii) "Policy governing behavior" means a policy adopted by a higher education institution or the Utah Board of Higher Education that:
- 3460 (A) establishes a professional standard of care for preventing the conduct described in Subsections (4) (a)(ii)(C) and (D);
- 3462 (B) regulates behavior of a special trust employee toward a subordinate student;
- 3463 (C) includes a prohibition against any sexual conduct between a special trust employee and a subordinate student; and
- 3465 (D) includes a prohibition against a special trust employee and subordinate student sharing any sexually explicit or lewd communication, image, or photograph.
- 3467 (iii) "Sexual battery" means the offense described in Section 76-9-702.1.

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- 3468 (iv) "Special trust employee" means an employee of a higher education institution who is in a
position of special trust, as defined in Section 76-5-404.1, with a higher education student.
- 3471 (v) "Subordinate student" means a student:
- 3472 (A) of a higher education institution; and
- 3473 (B) whose educational opportunities could be adversely impacted by a special trust employee.
- 3475 (b) Notwithstanding Subsection 63G-7-101(4), immunity from suit is waived as to a claim for an injury
resulting from a sexual battery committed against a subordinate student by a special trust employee,
unless:
- 3478 (i) the institution proves that the special trust employee's behavior that otherwise would constitute a
sexual battery was:
- 3480 (A) with a subordinate student who was at least 18 years old at the time of the behavior; and
- 3482 (B) with the student's consent; or
- 3483 (ii)
- . (A) at the time of the sexual battery, the higher education institution was subject to a policy governing
behavior; and
- 3485 (B) before the sexual battery occurred, the higher education institution had taken 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.**
- 3489 (1) A person is subject to prosecution in this state for an offense which the person commits, while either
within or outside the state, by the person's own conduct or that of another for which the person is
legally accountable, if:
- 3492 (a) the offense is committed either wholly or partly within the state;
- 3493 (b) the conduct outside the state constitutes an attempt to commit an offense within the state;
- 3495 (c) the conduct outside the state constitutes a conspiracy to commit an offense within the state and an
act in furtherance of the conspiracy occurs in the state; or
- 3497 (d) the conduct within the state constitutes an attempt, solicitation, or conspiracy to commit in another
jurisdiction an offense under the laws of both this state and the other jurisdiction.
- 3500 (2) An offense is committed partly within this state if either the conduct which is any element of the
offense, or the result which is an element, occurs within this state.

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- (3) In homicide offenses, the "result" is either the physical contact which causes death or the death itself.
- 3504 (a) If the body of a homicide victim is found within the state, the death shall be presumed to have occurred within the state.
- 3506 (b) If jurisdiction is based on this presumption, this state retains jurisdiction unless the defendant proves by clear and convincing evidence that:
- 3508 (i) the result of the homicide did not occur in this state; and
- 3509 (ii) the defendant did not engage in any conduct in this state which is any element of the offense.
- 3511 (4)
- . [(a)] An offense which is based on an omission to perform a duty imposed by the law of this state is committed within the state regardless of the location of the offender at the time of the omission.
- 3514 [~~(b) For the purpose of establishing venue for a violation of Subsection 77-41-105(3) concerning sex offender, kidnap offender, or child abuse registration, the offense is considered to be committed:~~]
- 3517 [~~(i) at the most recent registered primary residence of the offender, if the actual location of the offender at the time of the violation is not known; or]~~
- 3519 [~~(ii) at the location of the offender at the time the offender is apprehended.]~~
- 3520 (5)
- . (a) If no jurisdictional issue is raised, the pleadings are sufficient to establish jurisdiction.
- 3522 (b) The defendant may challenge jurisdiction by filing a motion before trial stating which facts exist that deprive the state of jurisdiction.
- 3524 (c) The burden is upon the state to initially establish jurisdiction over the offense by a preponderance of the evidence by showing under the provisions of Subsections (1) through (4) that the offense was committed either wholly or partly within the borders of the state.
- 3528 (d) If after the prosecution has met its burden of proof under Subsection (5)(c) the defendant claims that the state is deprived of jurisdiction or may not exercise jurisdiction, the burden is upon the defendant to prove by a preponderance of the evidence:
- 3532 (i) any facts claimed; and
- 3533 (ii) why those facts deprive the state of jurisdiction.
- 3534 (6) Facts that deprive the state of jurisdiction or prohibit the state from exercising jurisdiction include the fact that the:
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- (a) defendant is serving in a position that is entitled to diplomatic immunity from prosecution and that the defendant's country has not waived that diplomatic immunity;
- 3538 (b) defendant is a member of the armed forces of another country and that the crime that he is alleged to have committed is one that due to an international agreement, such as a status of forces agreement between his country and the United States, cedes the exercise of jurisdiction over him for that offense to his country;
- 3542 (c) defendant is an enrolled member of an Indian tribe, as defined in Section 9-9-101, and that the Indian tribe has a legal status with the United States or the state that vests jurisdiction in either tribal or federal courts for certain offenses committed within the exterior boundaries of a tribal reservation, and that the facts establish that the crime is one that vests jurisdiction in tribal or federal court; or
- 3547 (d) offense occurred on land that is exclusively within federal jurisdiction.
- 3548 (7)
- . (a) The Legislature finds that identity fraud under Chapter 6, Part 11, Identity Fraud Act, involves the use of personal identifying information which is uniquely personal to the consumer or business victim of that identity fraud and which information is considered to be in lawful possession of the consumer or business victim wherever the consumer or business victim currently resides or is found.
- 3553 (b) For purposes of Subsection (1)(a), an offense which is based on a violation of Chapter 6, Part 11, Identity Fraud Act, is committed partly within this state, regardless of the location of the offender at the time of the offense, if the victim of the identity fraud resides or is found in this state.
- 3557 (8) The judge shall determine jurisdiction.
- 3567 Section 43. Section **76-1-202** is amended to read:
- 3568 **76-1-202. Venue of actions.**
- 3560 (1) Criminal actions shall be tried in the county, district, or precinct where the offense is alleged to have been committed. In determining the proper place of trial, the following provisions shall apply:
- 3563 (a) If the commission of an offense commenced outside the state is consummated within this state, the offender shall be tried in the county where the offense is consummated.
- 3565 (b) When conduct constituting elements of an offense or results that constitute elements, whether the conduct or result constituting elements is in itself unlawful, shall occur in two or more counties, trial of the offense may be held in any of the counties concerned.

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- (c) If a person committing an offense upon the person of another is located in one county and his victim is located in another county at the time of the commission of the offense, trial may be held in either county.
- 3572 (d) If a cause of death is inflicted in one county and death ensues in another county, the offender may be tried in either county.
- 3574 (e) A person who commits an inchoate offense may be tried in any county in which any act that is an element of the offense, including the agreement in conspiracy, is committed.
- 3577 (f) Where a person in one county solicits, aids, abets, agrees, or attempts to aid another in the planning or commission of an offense in another county, he may be tried for the offense in either county.
- 3580 (g) When an offense is committed within this state and it cannot be readily determined in which county or district the offense occurred, the following provisions shall be applicable:
- 3583 (i) When an offense is committed upon any railroad car, vehicle, watercraft, or aircraft passing within this state, the offender may be tried in any county through which such railroad car, vehicle, watercraft, or aircraft has passed.
- 3586 (ii) When an offense is committed on any body of water bordering on or within this state, the offender may be tried in any county adjacent to such body of water. The words "body of water" shall include but not be limited to any stream, river, lake, or reservoir, whether natural or man-made.
- 3590 (iii) A person who commits theft may be tried in any county in which he exerts control over the property affected.
- 3592 (iv) If an offense is committed on or near the boundary of two or more counties, trial of the offense may be held in any of such counties.
- 3594 (v) For any other offense, trial may be held in the county in which the defendant resides, or, if he has no fixed residence, in the county in which he is apprehended or to which he is extradited.
- 3597 (h) A person who commits an offense based on Chapter 6, Part 11, Identity Fraud Act, may be tried in the county:
- 3599 (i) where the victim's personal identifying information was obtained;
- 3600 (ii) where the defendant used or attempted to use the personally identifying information;
- 3602 (iii) where the victim of the identity fraud resides or is found; or
- 3603 (iv) if multiple offenses of identity fraud occur in multiple jurisdictions, in any county where the victim's identity was used or obtained, or where the victim resides or is found.
- 3606

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- (i) For the purpose of establishing venue for a violation of [~~Subsection 77-41-105(3)~~] Section 53-29-304 concerning sex offender, kidnap offender, or child abuse offender registration, the offense is considered to be committed:
- 3609 (i) at the most recent registered primary residence of the offender, if the actual location of the offender at the time of the violation is not known; or
- 3611 (ii) at the location of the offender at the time the offender is apprehended.
- 3612 (2) All objections of improper place of trial are waived by a defendant unless made before 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.**
- 3616 (1) As used in this section:
- 3617 (a) "Lower degree of offense" includes an offense for which:
- 3618 (i) a statutory enhancement is charged in the information or indictment that would increase either the maximum or the minimum sentence; and
- 3620 (ii) the court removes the statutory enhancement in accordance with this section.
- 3621 (b) "Minor regulatory offense" means the same as that term is defined in Section 77-40a-101.
- 3623 (c)
- . (i) "Rehabilitation program" means a program designed to reduce criminogenic and recidivism risks.
- 3625 (ii) "Rehabilitation program" includes:
- 3626 (A) a domestic violence treatment program, as that term is defined in Section 26B-2-101;
- 3628 (B) a residential, vocational, and life skills program, as that term is defined in Section 13-53-102;
- 3630 (C) a substance abuse treatment program, as that term is defined in Section 26B-2-101;
- 3632 (D) a substance use disorder treatment program, as that term is defined in Section 26B-2-101;
- 3634 (E) a youth program, as that term is defined in Section 26B-2-101;
- 3635 (F) a program that meets the standards established by the Department of Corrections under Section 64-13-25;
- 3637 (G) a drug court, a veterans court, or a mental health court certified by the Judicial Council; or
- 3639 (H) a program that is substantially similar to a program described in Subsections (1)(c)(ii)(A) through (G).
- 3641 (d) "Serious offense" means a felony or misdemeanor offense that is not a minor regulatory offense or a traffic offense.
- 3643 (e) "Traffic offense" means the same as that term is defined in Section 77-40a-101.

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- 3644 (f)
- . (i) Except as provided in Subsection (1)(f)(ii), "violent felony" means the same as that term is defined in Section 76-3-203.5.
- 3646 (ii) "Violent felony" does not include an offense, or any attempt, solicitation, or conspiracy to commit an offense, for:
- 3648 (A) the possession, use, or removal of explosive, chemical, or incendiary devices under Subsection 76-10-306(3), (5), or (6); or
- 3650 (B) the purchase or possession of a dangerous weapon or handgun by a restricted person under Section 76-10-503.
- 3652 (2) The court may enter a judgment of conviction for a lower degree of offense than established by statute and impose a sentence at the time of sentencing for the lower degree of offense if the court:
- 3655 (a) takes into account:
- 3656 (i) the nature and circumstances of the offense of which the defendant was found guilty; and
- 3658 (ii) the history and character of the defendant;
- 3659 (b) gives any victim present at the sentencing and the prosecuting attorney an opportunity to be heard; and
- 3661 (c) concludes that the degree of offense established by statute would be unduly harsh to record as a conviction on the record for the defendant.
- 3663 (3) Upon a motion from the prosecuting attorney or the defendant, the court may enter a judgment of conviction for a lower degree of offense than established by statute:
- 3665 (a) after the defendant is successfully discharged from probation or parole for the conviction; and
- 3667 (b) if the court finds that entering a judgment of conviction for a lower degree of offense is in the interest of justice in accordance with Subsection (7).
- 3669 (4) Upon a motion from the prosecuting attorney or the defendant, the court may enter a judgment of conviction for a lower degree of offense than established by statute if:
- 3671 (a) the defendant's probation or parole for the conviction did not result in a successful discharge but the defendant is successfully discharged from probation or parole for a subsequent conviction of an offense;
- 3674 (b)
- . (i) at least five years have passed after the day on which the defendant is sentenced for the subsequent conviction; or

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- 3676 (ii) at least three years have passed after the day on which the defendant is sentenced for the subsequent conviction and the prosecuting attorney consents to the reduction;
- 3679 (c) the defendant is not convicted of a serious offense during the time period described in Subsection (4) (b);
- 3681 (d) there are no criminal proceedings pending against the defendant;
- 3682 (e) the defendant is not on probation, on parole, or currently incarcerated for any other offense;
- 3684 (f) if the offense for which the reduction is sought is a violent felony, the prosecuting attorney consents to the reduction; and
- 3686 (g) the court finds that entering a judgment of conviction for a lower degree of offense is in the interest of justice in accordance with Subsection (7).
- 3688 (5) Upon a motion from the prosecuting attorney or the defendant, the court may enter a judgment of conviction for a lower degree of offense than established by statute if:
- 3690 (a) the defendant's probation or parole for the conviction did not result in a successful discharge but the defendant is successfully discharged from a rehabilitation program;
- 3692 (b) at least three years have passed after the day on which the defendant is successfully discharged from the rehabilitation program;
- 3694 (c) the defendant is not convicted of a serious offense during the time period described in Subsection (5) (b);
- 3696 (d) there are no criminal proceedings pending against the defendant;
- 3697 (e) the defendant is not on probation, on parole, or currently incarcerated for any other offense;
- 3699 (f) if the offense for which the reduction is sought is a violent felony, the prosecuting attorney consents to the reduction; and
- 3701 (g) the court finds that entering a judgment of conviction for a lower degree of offense is in the interest of justice in accordance with Subsection (7).
- 3703 (6) Upon a motion from the prosecuting attorney or the defendant, the court may enter a judgment of conviction for a lower degree of offense than established by statute if:
- 3705 (a) at least five years have passed after the day on which the defendant's probation or parole for the conviction did not result in a successful discharge;
- 3707 (b) the defendant is not convicted of a serious offense during the time period described in Subsection (6)(a);
- 3709 (c) there are no criminal proceedings pending against the defendant;

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- 3710 (d) the defendant is not on probation, on parole, or currently incarcerated for any other offense;
- 3712 (e) if the offense for which the reduction is sought is a violent felony, the prosecuting attorney consents to the reduction; and
- 3714 (f) the court finds that entering a judgment of conviction for a lower degree of offense is in the interest of justice in accordance with Subsection (7).
- 3716 (7) In determining whether entering a judgment of a conviction for a lower degree of offense is in the interest of justice under Subsection (3), (4), (5), or (6):
- 3718 (a) the court shall consider:
- 3719 (i) the nature, circumstances, and severity of the offense for which a reduction is sought;
- 3721 (ii) the physical, emotional, or other harm that the defendant caused any victim of the offense for which the reduction is sought; and
- 3723 (iii) any input from a victim of the offense; and
- 3724 (b) the court may consider:
- 3725 (i) any special characteristics or circumstances of the defendant, including the defendant's criminogenic risks and needs;
- 3727 (ii) the defendant's criminal history;
- 3728 (iii) the defendant's employment and community service history;
- 3729 (iv) whether the defendant participated in a rehabilitative program and successfully completed the program;
- 3731 (v) any effect that a reduction would have on the defendant's ability to obtain or reapply for a professional license from the Department of Commerce;
- 3733 (vi) whether the level of the offense has been reduced by law after the defendant's conviction;
- 3735 (vii) any potential impact that the reduction would have on public safety; or
- 3736 (viii) any other circumstances that are reasonably related to the defendant or the offense for which the reduction is sought.
- 3738 (8)
- . (a) A court may only enter a judgment of conviction for a lower degree of offense under Subsection (3), (4), (5), or (6) after:
- 3740 (i) notice is provided to the other party;
- 3741 (ii) reasonable efforts have been made by the prosecuting attorney to provide notice to any victims; and

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- 3743 (iii) a hearing is held if a hearing is requested by either party.
- 3744 (b) A prosecuting attorney is entitled to a hearing on a motion seeking to reduce a judgment of conviction for a lower degree of offense under Subsection (3), (4), (5), or (6).
- 3747 (c) In a motion under Subsection (3), (4), (5), or (6) and at a requested hearing on the motion, the moving party has the burden to provide evidence sufficient to demonstrate that the requirements under Subsection (3), (4), (5), or (6) are met.
- 3750 (d) If a defendant files a motion under this section, the prosecuting attorney shall respond to the motion within 35 days after the day on which the motion is filed with the court.
- 3753 (9) A court has jurisdiction to consider and enter a judgment of conviction for a lower degree of offense under Subsection (3), (4), (5), or (6) regardless of whether the defendant is committed to jail as a condition of probation or is sentenced to prison.
- 3756 (10)
- . (a) An offense may be reduced only one degree under this section, unless the prosecuting attorney specifically agrees in writing or on the court record that the offense may be reduced two degrees.
- 3759 (b) An offense may not be reduced under this section by more than two degrees.
- 3760 (11) This section does not preclude an individual from obtaining or being granted an expungement of the individual's record in accordance with [~~Title 44, Chapter 40A, Expungement of Criminal Records~~] Title 77, Chapter 40a, Expungement of Criminal Records.
- 3764 (12) The court may not enter a judgment for a conviction for a lower degree of offense under this section if:
- 3766 (a) the reduction is specifically precluded by law; or
- 3767 (b) any unpaid balance remains on court-ordered restitution for the offense for which the reduction is sought.
- 3769 (13) When the court enters a judgment for a lower degree of offense under this section, the actual title of the offense for which the reduction is made may not be altered.
- 3771 (14)
- . (a) An individual may not obtain a reduction under this section of a conviction that requires the individual to register as a sex offender, kidnap offender, or child abuse offender under Section 53-29-202 until the registration requirements under [~~Title 77, Chapter 41, Sex, Kidnap, and Child Abuse Offender Registry~~] Title 53, Chapter 29, Sex, Kidnap, and Child Abuse Offender Registry, have expired.

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3776 (b) An individual required to register as a sex offender, kidnap offender, or child abuse offender
under Section 53-29-202 and required to register for the individual's lifetime [~~under Subsection~~
77-41-105(3)(e)] as described in Subsection 53-29-203(1)(b), may not be granted a reduction of the
conviction for the offense or offenses that require 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 raised by**
defendant -- Limitations.

3784 (1)

. (a) As used in this section, "minor" means an individual who is 14 years old or older, but younger than
16 years old, at the time the sexual activity described in Subsection (2) occurred.

3787 (b) Terms defined in Section 76-1-101.5 apply to this section.

3788 (2)

. (a) Under circumstances not amounting to an offense listed in Subsection (4), an actor 18 years old or
older commits unlawful sexual activity with a minor if the actor:

3790 (i) has sexual intercourse with the minor;

3791 (ii) engages in any sexual act with the minor involving the genitals of an individual and the mouth
or anus of another individual; or

3793 (iii) causes the penetration, however slight, of the genital or anal opening of the minor by a foreign
object, substance, instrument, or device, including a part of the human body, with the intent
to cause substantial emotional or bodily pain to any individual or with the intent to arouse or
gratify the sexual desire of any individual.

3797 (b) Any touching, however slight, is sufficient to constitute the relevant element of a violation of
Subsection (2)(a)(ii).

3799 (3)

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

3800 (b)

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

3803 [(A)] (i) the defendant is less than four years older than the minor at the time the sexual activity
occurred; or

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- 3805 ~~[(B)]~~ (ii) the defendant is 18 years old and enrolled in high school at the time the sexual activity occurred.
- 3807 ~~[(ii) An offense under Subsection (3)(b)(i) is not subject to registration under Subsection 77-41-102(19)(a)(vii).]~~
- 3809 (c)
- . [(i)] Notwithstanding Subsection (3)(a), if the defendant establishes by a preponderance of the evidence the mitigating factor that the defendant was younger than 21 years old at the time the sexual activity occurred, the offense is a class A misdemeanor.
- 3813 ~~[(ii) An offense under Subsection (3)(c)(i) is not subject to registration under Subsection 77-41-102(19)(a)(vii).]~~
- 3815 (4) The offenses referred to in Subsection (2)(a) are:
- 3816 (a) rape, in violation of Section 76-5-402;
- 3817 (b) object rape, in violation of Section 76-5-402.2;
- 3818 (c) forcible sodomy, in violation of Section 76-5-403;
- 3819 (d) aggravated sexual assault, in violation of Section 76-5-405; or
- 3820 (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.**
- 3823 (1)
- . (a) As used in this section:
- 3824 (i) "Indecent liberties" means:
- 3825 (A) the actor touching another individual's genitals, anus, buttocks, pubic area, or female breast;
- 3827 (B) causing any part of an individual's body to touch the actor's or another's genitals, pubic area, anus, buttocks, or female breast;
- 3829 (C) simulating or pretending to engage in sexual intercourse with another individual, including genital-genital, oral-genital, anal-genital, or oral-anal intercourse; or
- 3832 (D) causing an individual to simulate or pretend to engage in sexual intercourse with the actor or another, including genital-genital, oral-genital, anal-genital, or oral-anal intercourse.
- 3835 (ii) "Minor" means an individual who is 14 years old or older, but younger than 16 years old, at the time the sexual activity described in Subsection (2) occurred.
- 3837 (b) Terms defined in Section 76-1-101.5 apply to this section.

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- 3838 (2)
- . (a) Under circumstances not amounting to an offense listed in Subsection (4), an actor commits sexual abuse of a minor if the actor:
- 3840 (i) is four years or more older than the minor; and
- 3841 (ii) with the intent to cause substantial emotional or bodily pain to any individual, or with the intent to arouse or gratify the sexual desire of any individual:
- 3843 (A) touches the anus, buttocks, pubic area, or any part of the genitals of the minor;
- 3844 (B) touches the breast of a female minor; or
- 3845 (C) otherwise takes indecent liberties with the minor.
- 3846 (b) Any touching, even if accomplished through clothing, is sufficient to constitute the relevant element of a violation of Subsection (2)(a).
- 3848 (3) A violation of Subsection (2)(a) is[~~:~~]
- 3849 [~~(a)~~] a class A misdemeanor[~~and~~] .
- 3850 [~~(b) not subject to registration under Subsection 77-41-102(19)(a)(viii) on a first offense if the offender was younger than 21 years old at the time of the offense.~~]
- 3852 (4) The offenses referred to in Subsection (2)(a) are:
- 3853 (a) unlawful sexual activity with a minor, in violation of Section 76-5-401;
- 3854 (b) rape, in violation of Section 76-5-402;
- 3855 (c) object rape, in violation of Section 76-5-402.2;
- 3856 (d) forcible sodomy, in violation of Section 76-5-403;
- 3857 (e) aggravated sexual assault, in violation of Section 76-5-405; or
- 3858 (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.**
- 3861 (1)
- . (a) As used in this section, "adolescent" means an individual who is 12 years old or older but younger than 18 years old.
- 3863 (b) Terms defined in Section 76-1-101.5 apply to this section.
- 3864 (2) Under circumstances not amounting to an offense listed in Subsection (5), an actor commits unlawful sexual activity if:
- 3866 (a)

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- . (i) the actor is 12 years old or older but younger than 18 years old;
- 3867 (ii) the actor engages in sexual activity with an adolescent;
- 3868 (iii) the actor is not the biological sibling of the adolescent; and
- 3869 (iv) both the actor and the adolescent mutually agree to the sexual activity; or
- 3870 (b)
- . (i) the actor engages in sexual activity with an adolescent who is 13 years old;
- 3871 (ii) the actor is 18 years old and enrolled in high school at the time that the sexual activity occurred;
- 3873 (iii) the actor is not the biological sibling of the adolescent; and
- 3874 (iv) both the actor and the adolescent mutually agree to the sexual activity.
- 3875 (3)
- . (a) A violation of Subsection (2)(a) is a:
 - 3876 (i) third degree felony if an actor who is 17 years old engages in unlawful adolescent sexual activity with an adolescent who is 13 years old;
 - 3878 (ii) third degree felony if an actor who is 16 years old engages in unlawful adolescent sexual activity with an adolescent who is 12 years old;
 - 3880 (iii) class A misdemeanor if an actor who is 16 years old engages in unlawful adolescent sexual activity with an adolescent who is 13 years old;
 - 3882 (iv) class A misdemeanor if an actor who is 14 or 15 years old engages in unlawful adolescent sexual activity with an adolescent who is 12 years old;
 - 3884 (v) class B misdemeanor if an actor who is 17 years old engages in unlawful adolescent sexual activity with an adolescent who is 14 years old;
 - 3886 (vi) class B misdemeanor if an actor who is 15 years old engages in unlawful adolescent sexual activity with an adolescent who is 13 years old;
 - 3888 (vii) class C misdemeanor if an actor who is 12 or 13 years old engages in unlawful adolescent sexual activity with an adolescent who is 12 or 13 years old; and
 - 3890 (viii) class C misdemeanor if an actor who is 14 years old engages in unlawful adolescent sexual activity with an adolescent who is 13 years old.
- 3892 (b) A violation of Subsection (2)(b) is a third degree felony.
- 3893 (4) The actor and the adolescent do not mutually agree to the sexual activity under Subsection (2) if:
 - 3895 (a) the adolescent expresses lack of agreement to the sexual activity through words or conduct;
 - 3897 (b) the actor overcomes the adolescent's will through:

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- 3898 (i) threats to the adolescent or any other individual;
- 3899 (ii) force;
- 3900 (iii) coercion; or
- 3901 (iv) enticement;
- 3902 (c) the actor is able to overcome the adolescent through concealment or by the element of surprise;
- 3904 (d) the actor knows, or reasonably should know, that the adolescent has a mental disease or defect, which renders the adolescent unable to:
- 3906 (i) appraise the nature of the act;
- 3907 (ii) resist the act;
- 3908 (iii) understand the possible consequences to the adolescent's health or safety; or
- 3909 (iv) appraise the nature of the relationship between the actor and the adolescent;
- 3910 (e) the actor knows that the adolescent participates in the sexual activity because the adolescent erroneously believes that the actor is someone else; or
- 3912 (f) the actor intentionally impaired the power of the adolescent to appraise or control the adolescent's conduct by administering any substance without the adolescent's knowledge.
- 3915 (5) The offenses referred to in Subsection (2) are:
- 3916 (a) rape under Section 76-5-402;
- 3917 (b) object rape under Section 76-5-402.2;
- 3918 (c) forcible sodomy under Section 76-5-403;
- 3919 (d) aggravated sexual assault under Section 76-5-405;
- 3920 (e) incest under Section 76-7-102; or
- 3921 (f) an attempt to commit an offense listed in Subsections (5)(a) through (e).
- 3922 (6) An offense under this section is not eligible for a nonjudicial adjustment under Section 80-6-303.5 or a referral to a youth court under Section 80-6-902.
- 3924 (7) Except for an offense that is transferred to a district court by the juvenile court in accordance with Section 80-6-504, the district court may enter any sentence or combination of sentences that would have been available in juvenile court but for the delayed reporting or delayed filing of the information in the district court.
- 3928 [~~(8) An offense under this section is not subject to registration under Subsection 77-41-102(19).]~~
- 3940 Section 48. Section **76-9-702** is amended to read:
- 3941 **76-9-702. Lewdness.**

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- 3932 (1) A person is guilty of lewdness if the person under circumstances not amounting to rape, object rape, forcible sodomy, forcible sexual abuse, aggravated sexual assault, sexual abuse of a minor, unlawful sexual conduct with a 16- or 17-year-old, custodial sexual relations under Section 76-5-412, custodial sexual misconduct under Section 76-5-412.2, custodial sexual relations with youth receiving state services under Section 76-5-413, custodial sexual misconduct with youth receiving state services under Section 76-5-413.2, or an attempt to commit any of these offenses, performs any of the following acts in a public place or under circumstances which the person should know will likely cause affront or alarm to, on, or in the presence of another individual who is 14 years old or older:
- 3942 (a) an act of sexual intercourse or sodomy;
- 3943 (b) exposes his or her genitals, the female breast below the top of the areola, the buttocks, the anus, or the pubic area;
- 3945 (c) masturbates; or
- 3946 (d) any other act of lewdness.
- 3947 (2)
- . (a) A person convicted the first or second time of a violation of Subsection (1) is guilty of a class B misdemeanor, except under Subsection (2)(b).
- 3949 (b) A person convicted of a violation of Subsection (1) is guilty of a third degree felony if at the time of the violation:
- 3951 (i) the person is a sex offender as defined in Section ~~[77-27-21.7]~~ 57-8a-102;
- 3952 (ii) the person has been previously convicted two or more times of violating Subsection (1);
- 3954 (iii) the person has previously been convicted of a violation of Subsection (1) and has also previously been convicted of a violation of Section 76-9-702.5;
- 3956 (iv) the person commits the offense of lewdness while also committing the offense of:
- 3957 (A) criminal trespass in a sex-designated changing room under Subsection 76-6-206(2)(d);
- 3959 (B) lewdness involving a child under Section 76-9-702.5;
- 3960 (C) voyeurism under Section 76-9-702.7; or
- 3961 (D) loitering in a privacy space under Section 76-9-702.8; or
- 3962 (v) the person commits the offense of lewdness in a sex-designated privacy space, as defined in Section 76-9-702.8, that is not designated for individuals of the actor's sex.
- 3965 (c)

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- . (i) [~~For~~ As described in Subsection 53-29-202(4), for { As described in Subsection 53-29-202(4), ~~for~~ } purposes of this Subsection (2) [~~and Subsection 77-41-102(19)~~], a plea of guilty or nolo contendere to a charge under this section that is held in abeyance under Title 77, Chapter 2a, Pleas in Abeyance, is the equivalent of a conviction.
- 3969a (ii) This Subsection (2)(c) also applies if the charge under this Subsection (2) has been subsequently reduced or dismissed in accordance with the plea in abeyance agreement.
- 3971 (3)
- . (a) As used in this Subsection (3):
- 3972 (i) "Common area of a privacy space" means any area of a privacy space other than:
- 3973 (A) a toilet stall with a closed door;
- 3974 (B) immediately in front of a urinal during use; or
- 3975 (C) a shower stall with a closed door or other closed covering.
- 3976 (ii) "Privacy space" means the same as that term is defined in Section 76-9-702.8.
- 3977 (b) The common area of a privacy space constitutes a public place or circumstance described in Subsection (1) where an act or an attempted act described in Subsection (1) constitutes lewdness.
- 3980 (c) Within the common area of a dressing room, fitting room, locker room, changing facility, or any other space designated for multiple individuals to dress or undress within the same space, exposing, displaying, or otherwise uncovering genitalia that does not correspond with the sex designation of the changing room constitutes an act or an attempted act described in Subsection (1) that constitutes lewdness.
- 3985 (4) A woman's breast feeding, including breast feeding in any location where the woman otherwise may rightfully be, does not under any circumstance constitute a lewd act, 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.**
- 3990 (1) An actor is guilty of sexual battery if the actor, under circumstances not amounting to an offense under Subsection (2), intentionally touches, whether or not through clothing, the anus, buttocks, or any part of the genitals of another individual, or the breast of a female individual, and the actor's conduct is under circumstances the actor knows or should know will likely cause affront or alarm to the individual touched.
- 3995 (2) Offenses referred to in Subsection (1) are:

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- 3996 (a) rape under Section 76-5-402;
- 3997 (b) rape of a child under Section 76-5-402.1;
- 3998 (c) object rape under Section 76-5-402.2;
- 3999 (d) object rape of a child under Section 76-5-402.3;
- 4000 (e) forcible sodomy under Subsection 76-5-403(2);
- 4001 (f) sodomy on a child under Section 76-5-403.1;
- 4002 (g) forcible sexual abuse under Section 76-5-404;
- 4003 (h) sexual abuse of a child under Section 76-5-404.1;
- 4004 (i) aggravated sexual abuse of a child under Section 76-5-404.3;
- 4005 (j) aggravated sexual assault under Section 76-5-405; and
- 4006 (k) an attempt to commit an offense under this Subsection (2).
- 4007 (3) Sexual battery is a class A misdemeanor.
- 4008 [~~(4)~~
- . (~~(a) For purposes of Subsection 77-41-102(19) only, a plea of guilty or nolo contendere to a charge under this section that is held in abeyance under Title 77, Chapter 2a, Pleas in Abeyance, is the equivalent of a conviction.~~]
- 4011 [~~(b) This Subsection (4) also applies if the charge under this section has been subsequently reduced or dismissed in accordance with the plea in abeyance 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 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 child, sodomy upon a child, sexual abuse of a child, aggravated sexual abuse of a child, or an attempt to commit any of those offenses, intentionally or [~~knowingly does~~] knowingly does any of the following in the presence of a child who is under 14 years 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, anus, or pubic area:

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- 4041 (A) in a public place; or
- 4042 (B) in a private place under circumstances the actor should know will likely cause affront or alarm or with the intent to arouse or gratify the sexual desire of the 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 child, object rape of a child, sodomy upon a child, sexual abuse of a child, aggravated sexual abuse of a child, or an attempt to commit any of those offenses, intentionally or knowingly does any of the following in the presence of a child who is under 14 years old with the intent to cause affront or alarm to the child or with the intent to 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 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 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 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 Section 76-5b-201 or aggravated sexual exploitation of a child under Section 76-5b-201.1, intentionally or knowingly causes a child under 14 years old to expose the child's genitals, anus, or breast, if female, to the actor, with the intent to arouse or 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 misdemeanor.
- 4070 (b) A violation of Subsection (2) is a third degree felony if at the time of the violation, the actor:
- 4072 (i) is a sex offender [as defined in Section 77-27-21.7] as described in Subsection 53-29-202(2)(b) and the offense that the actor committed that resulted in the actor being a sex offender was committed against an individual younger than 18 years old;
- 4076 (ii) previously has been convicted of a violation of this section;

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- 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 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 defined in Section 76-9-702.8, that is not designated for individuals of the actor's sex.
- 4086 (4)
- . (a) The common area of a privacy space constitutes a public place or circumstance described in Subsection (2) where an act or an attempted act described in Subsection (2) constitutes lewdness involving a child.
- 4089 (b) Within the common area of a government entity's dressing room, fitting room, locker room, changing facility, or any other space designated for multiple individuals to dress or undress within the same space, exposing, displaying, or otherwise uncovering genitalia that does not correspond with the sex designation of the changing room constitutes an act or an attempted act described in Subsection (2) that constitutes lewdness involving a child.
- 4014 ~~{Section 50. Section 76-9-702.5 is amended to read: }~~
- 4015 **76-9-702.5. Lewdness involving a child.**
- 4016 (1) As used in this section:
- 4017 (a) "In the presence of" includes within visual contact through an electronic device.
- 4018 (b) "Common area of a privacy space" means the same as that term is defined in Section 76-9-702.
- 4020 (c) "Privacy space" means the same as that term is defined in Section 76-9-702.8.
- 4021 (2) A person is guilty of lewdness involving a child if the person under circumstances not amounting to rape of a child, object rape of a child, sodomy upon a child, sexual abuse of a child, aggravated sexual abuse of a child, or an attempt to commit any of those offenses, intentionally or knowingly:
- 4025 (a) does any of the following in the presence of a child who is under 14 years of age:
- 4026 (i) performs an act of sexual intercourse or sodomy;
- 4027 (ii) exposes his or her genitals, the female breast below the top of the areola, the buttocks, the anus, or the pubic area:
- 4029 (A) in a public place; or
- 4030

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- (B) in a private place under circumstances the person should know will likely cause affront or alarm or with the intent to arouse or gratify the sexual desire of the actor or the child;
- 4033 (iii) masturbates; or
- 4034 (iv) performs any other act of lewdness; or
- 4035 (b) under circumstances not amounting to sexual exploitation of a child under Section 76-5b-201 or aggravated sexual exploitation of a child under Section 76-5b-201.1, causes a child under the age of 14 years to expose his or her genitals, anus, or breast, if female, to the actor, with the intent to arouse or gratify the sexual desire of the actor or the child.
- 4040 (3)
- . (a) Lewdness involving a child is a class A misdemeanor, except under Subsection (3)(b).
- 4042 (b) Lewdness involving a child is a third degree felony if at the time of the violation:
- 4043 (i) the person is a sex offender [~~as defined in Section 77-27-21.7~~] as described in Subsection 53-29-202(2)(b) and the offense that the individual committed that resulted in the individual being a sex offender was committed against an individual younger than 18 years old;
- 4047 (ii) the person has previously been convicted of a violation of this section;
- 4048 (iii) the person commits the offense of lewdness involving a child while also committing the offense of:
- 4050 (A) criminal trespass in a sex-designated changing room under Subsection 76-6-206(2)(d);
- 4052 (B) lewdness under Section 76-9-702;
- 4053 (C) voyeurism under Section 76-9-702.7; or
- 4054 (D) loitering in a privacy space under Section 76-9-702.8; or
- 4055 (iv) the person commits the offense of lewdness involving a child in a sex-designated privacy space, as defined in Section 76-9-702.8, that is not designated for individuals of the actor's sex.
- 4058 (4)
- . (a) The common area of a privacy space constitutes a public place or circumstance described in Subsection (2) where an act or an attempted act described in Subsection (2) constitutes lewdness involving a child.
- 4061 (b) Within the common area of a government entity's dressing room, fitting room, locker room, changing facility, or any other space designated for multiple individuals to dress or undress within the same space, exposing, displaying, or otherwise uncovering genitalia that does not correspond with the sex designation of the changing room constitutes an act or an attempted act described in Subsection (2) that constitutes lewdness involving a child.

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

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

4069 (1) Notwithstanding any other provision of law, a prosecuting attorney may:

4070 (a) present and file an information charging an individual for an offense under Subsections 76-3-103(1)
(b) through (d), Subsection 76-3-103(2), or Section 76-3-104 with a classification of the offense
at one degree lower than the classification that is provided in statute if the prosecuting attorney
believes that the sentence would be disproportionate to the offense because there are special
circumstances relating to the offense; or

4076 (b) subject to the approval of the court, amend an information, as part of a plea agreement, to charge an
individual for an offense under Subsections 76-3-103(1)(b) through (d), Subsection 76-3-103(2), or
Section 76-3-104 with a classification of the offense at one degree lower than the classification that
is provided in statute.

4080 (2) A court may:

4081 (a) enter a judgment of conviction for an offense filed under Subsection (1) at one degree lower than
classified in statute; and

4083 (b) impose a sentence for the offense filed under Subsection (1) at one degree lower than classified in
statute.

4085 (3) A conviction of an offense at one degree lower than classified in statute under Subsection (2) does
not affect the requirements for registration of the offense under [~~Title 77, Chapter 41, Sex, Kidnap,
and Child Abuse Offender Registry~~] Title 53, Chapter 29, Sex, Kidnap, and Child Abuse Offender
Registry, if the elements of the offense for which the defendant is convicted are the same as the
elements of [~~an~~] a registrable offense described in Section [~~77-41-102~~] 53-29-202.

4091 (4) This section does not preclude an individual from obtaining and being granted an expungement for
the individual's record in accordance with Title 77, Chapter 40a, Expungement of Criminal Records.

4122 Section 52. Section **77-11c-101** is amended to read:

4123 **77-11c-101. Definitions.**

As used in this chapter:

4097 (1) "Acquitted" means the same as that term is defined in Section 77-11b-101.

4098 (2) "Adjudicated" means that:

4099 (a)

. (i) a judgment of conviction by plea or verdict of an offense has been entered by a court; and

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- 4101 (ii) a sentence has been imposed by the court; or
- 4102 (b) a judgment has been entered for an adjudication of an offense by a juvenile court under Section 80-6-701.
- 4104 (3) "Adjudication" means:
- 4105 (a) a judgment of conviction by plea or verdict of an offense; or
- 4106 (b) an adjudication for an offense by a juvenile court under Section 80-6-701.
- 4107 (4) "Agency" means the same as that term is defined in Section 77-11a-101.
- 4108 (5) "Appellate court" means the Utah Court of Appeals, the Utah Supreme Court, or the United States Supreme Court.
- 4110 (6)
- . (a) "Biological evidence" means an item that contains blood, semen, hair, saliva, epithelial cells, latent fingerprint evidence that may contain biological material suitable for DNA testing, or other identifiable human biological material that:
- 4113 (i) is collected as part of an investigation or prosecution of a violent felony offense; and
- 4115 (ii) may reasonably be used to incriminate or exculpate a person for the violent felony offense.
- 4117 (b) "Biological evidence" includes:
- 4118 (i) material that is catalogued separately, including:
- 4119 (A) on a slide or swab; or
- 4120 (B) inside a test tube, if the evidentiary sample that previously was inside the test tube has been consumed by testing;
- 4122 (ii) material that is present on other evidence, including clothing, a ligature, bedding, a drinking cup, a cigarette, or a weapon, from which a DNA profile may be obtained;
- 4125 (iii) the contents of a sexual assault kit; and
- 4126 (iv) for a violent felony offense, material described in this Subsection (6) that is in the custody of an evidence collecting or retaining entity on May 4, 2022.
- 4128 (7) "Claimant" means the same as that term is defined in Section 77-11a-101.
- 4129 (8) "Computer" means the same as that term is defined in Section 77-11a-101.
- 4130 (9) "Continuous chain of custody" means:
- 4131 (a) for a law enforcement agency or a court, that legal standards regarding a continuous chain of custody are maintained; and
- 4133

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- (b) for an entity that is not a law enforcement agency or a court, that the entity maintains a record in accordance with legal standards required of the entity.
- 4135 (10) "Contraband" means the same as that term is defined in Section 77-11a-101.
- 4136 (11) "Controlled substance" means the same as that term is defined in Section 58-37-2.
- 4137 (12) "Court" means a municipal, county, or state court.
- 4138 (13) "DNA" means deoxyribonucleic acid.
- 4139 (14) "DNA profile" means a unique identifier of an individual derived from DNA.
- 4140 (15) "Drug paraphernalia" means the same as that term is defined in Section 58-37a-3.
- 4141 (16) "Evidence" means property, contraband, or an item or substance that:
- 4142 (a) is seized or collected as part of an investigation or prosecution of an offense; and
- 4143 (b) may reasonably be used to incriminate or exculpate an individual for an offense.
- 4144 (17)
- . (a) "Evidence collecting or retaining entity" means an entity within the state that collects, stores, or retrieves biological evidence.
- 4146 (b) "Evidence collecting or retaining entity" includes:
- 4147 (i) a medical or forensic entity;
- 4148 (ii) a law enforcement agency;
- 4149 (iii) a court; and
- 4150 (iv) an official, employee, or agent of an entity or agency described in this Subsection (17).
- 4152 (v) "Evidence collecting or retaining entity" does not include a collecting facility defined in Section 53-10-902.
- 4154 (18) "Exhibit" means property, contraband, or an item or substance that is admitted into evidence for a court proceeding.
- 4156 (19) "In custody" means an individual who:
- 4157 (a) is incarcerated, civilly committed, on parole, or on probation; or
- 4158 (b) is required to register under [~~Title 77, Chapter 41, Sex, Kidnap, and Child Abuse Offender Registry~~] Title 53, Chapter 29, Sex, Kidnap, and Child Abuse Offender Registry.
- 4161 (20) "Law enforcement agency" means the same as that term is defined in Section 77-11a-101.
- 4163 (21) "Medical or forensic entity" means a private or public hospital, medical facility, or other entity that secures biological evidence or conducts forensic examinations related to criminal investigations.
- 4166 (22) "Physical evidence" includes evidence that:

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- 4167 (a) is related to:
- 4168 (i) an investigation;
- 4169 (ii) an arrest; or
- 4170 (iii) a prosecution that resulted in a judgment of conviction; and
- 4171 (b) is in the actual or constructive possession of a law enforcement agency or a court or an agent of a law enforcement agency or a court.
- 4173 (23) "Property" means the same as that term is defined in Section 77-11a-101.
- 4174 (24) "Prosecuting attorney" means the same as that term is defined in Section 77-11a-101.
- 4175 (25) "Sexual assault kit" means the same as that term is defined in Section 53-10-902.
- 4176 (26) "Victim" means the same as that term is defined in Section 53-10-902.
- 4177 (27) "Violent felony offense" means the same as the term "violent felony" is defined in Section 76-3-203.5.
- 4179 (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 Offender Registry.**
- 4183 (1) If the board grants a pardon for a conviction described in Section 53-29-202 that is the basis for an individual's registration on the Sex, Kidnap, and Child Abuse Offender Registry, the board shall issue an order directing the Department of Public Safety to remove the individual's name and personal information relating to the pardoned conviction from the Sex, Kidnap, and Child Abuse Offender Registry.
- 4188 (2) An order described in Subsection (1), issued by the board, satisfies the notification 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.**
- 4192 (1) The commission shall provide an application form to an applicant who seeks to participate in the program under this part.
- 4194 (2) The commission may not charge an applicant or program participant for an application or participation fee to apply for, or participate in, the program.
- 4196 (3) The application shall include:
- 4197 (a) the applicant's name;

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- 4198 (b) a mailing address, a phone number, and an email address where the applicant may be contacted by the commission;
- 4200 (c) an indication regarding whether the assailant is employed by a state or local government entity, and if applicable, the name of the state or local government entity;
- 4202 (d) a statement that the applicant understands and consents to:
- 4203 (i) remain enrolled in the program for four years, unless the applicant's participation in the program is cancelled under Section 77-38-617;
- 4205 (ii) while the applicant is enrolled in the program, notify the commission when the applicant changes the applicant's actual address or legal name;
- 4207 (iii) develop a safety plan with a program assistant;
- 4208 (iv) authorize the commission to notify a state or local government entity that the applicant is a program participant;
- 4210 (v) submit written notice to the commission if the applicant chooses to cancel the applicant's participation in the program;
- 4212 (vi) register to vote in person at the office of the clerk in the county where the applicant's actual address is located; and
- 4214 (vii) certify that the commission is the applicant's designated agent for service of process for personal service;
- 4216 (e) evidence that the applicant, or a minor or an incapacitated individual residing with the applicant, is a victim, including:
- 4218 (i) a law enforcement, court, or other state, local, or federal government agency record; or
- 4220 (ii) a document from:
- 4221 (A) a domestic violence program, facility, or shelter;
- 4222 (B) a sexual assault program; or
- 4223 (C) a religious, medical, or other professional from whom the applicant, or the minor or the incapacitated individual residing with the applicant, sought assistance in dealing with alleged abuse, domestic violence, stalking, or a sexual offense;
- 4227 (f) a statement from the applicant that a disclosure of the applicant's actual address would endanger the applicant, or a minor or an incapacitated individual residing with the applicant;
- 4230 (g) a statement by the applicant that the applicant:
- 4231 (i) resides at a residential address that is not known by the assailant;

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- 4232 (ii) has relocated to a different residential address in the past 90 days that is not known by the assailant;
or
- 4234 (iii) will relocate to a different residential address in the state within 90 days that is not known by the
assailant;
- 4236 (h) the actual address that:
- 4237 (i) the applicant requests that the commission not disclose; and
- 4238 (ii) is at risk of discovery by the assailant or potential assailant;
- 4239 (i) a statement by the applicant disclosing:
- 4240 (i) the existence of a court order or action involving the applicant, or a minor or an incapacitated
individual residing with the applicant, related to a divorce proceeding, a child support order or
judgment, or the allocation of custody or parent-time; and
- 4244 (ii) the court that issued the order or has jurisdiction over the action;
- 4245 (j) the name of any other individual who resides with the applicant who needs to be a program
participant to ensure the safety of the applicant, or a minor or an incapacitated individual residing
with the applicant;
- 4248 (k) a statement by the applicant that:
- 4249 (i) the applicant, or a minor or an incapacitated individual residing at the same address as the applicant,
will benefit from participation in the program;
- 4251 (ii) if the applicant intends to vote, the applicant will register to vote at the office of the clerk in the
county in which the applicant actually resides; and
- 4253 (iii) the applicant does not have a current obligation to register as a sex offender, kidnap offender,
or child abuse offender under [~~Title 77, Chapter 41, Sex, Kidnap, and Child Abuse Offender
Registry~~] Title 53, Chapter 29, Sex, Kidnap, and Child Abuse Offender Registry;
- 4257 (l) a statement by the applicant, under penalty of perjury, that the information contained in the
application is true;
- 4259 (m) a statement that:
- 4260 (i) if the applicant intends to use the assigned address for any correspondence with the State Tax
Commission, the applicant must provide the State Tax Commission with the applicant's social
security number, federal employee identification number, and any other identification number
related to a tax, fee, charge, or license administered by the State Tax Commission; and
- 4265

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(ii) if the applicant intends to use the assigned address for correspondence to a state or local government entity for the purpose of titling or registering a motor vehicle or a watercraft that is owned or leased by the applicant, the applicant shall provide to the state or local government entity for each motor vehicle or watercraft:

4269 (A) the motor vehicle or hull identification number;

4270 (B) the license plate or registration number for the motor vehicle or the watercraft; and

4272 (C) the physical address where each motor vehicle or watercraft is stored; and

4273 (n) a statement that any assistance or counseling provided by a program assistant as part 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 conviction.**

4278 (1) Except as otherwise provided by this section, a petitioner is eligible to receive a certificate of eligibility from the bureau to expunge the records of a conviction if:

4280 (a) the petitioner has paid in full all fines and interest ordered by the court related to the conviction for which expungement is sought;

4282 (b) the petitioner has paid in full all restitution ordered by the court under Section 77-38b-205; and

4284 (c) the following time periods have passed after the day on which the petitioner was convicted or released from incarceration, parole, or probation, whichever occurred last, for the conviction that the petitioner seeks to expunge:

4287 (i) 10 years for the conviction of a misdemeanor under Subsection 41-6a-501(2);

4288 (ii) 10 years for the conviction of a felony for operating a motor vehicle with any amount of a controlled substance in an individual's body and causing serious bodily injury or death, as codified before May 4, 2022, Laws of Utah 2021,

4291 Chapter 236, Section 1, Subsection 58-37-8(2)(g);

4292 (iii) seven years for the conviction of a felony;

4293 (iv) five years for the conviction of a drug possession offense that is a felony;

4294 (v) five years for the conviction of a class A misdemeanor;

4295 (vi) four years for the conviction of a class B misdemeanor; or

4296 (vii) three years for the conviction of a class C misdemeanor or infraction.

4297 (2) A petitioner is not eligible to receive a certificate of eligibility from the bureau to expunge the records of a conviction under Subsection (1) if:

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- 4299 (a) except as provided in Subsection (3), the conviction for which expungement is sought is:
- 4301 (i) a capital felony;
- 4302 (ii) a first degree felony;
- 4303 (iii) a felony conviction of a violent felony as defined in Subsection 76-3-203.5(1)(c)(i);
- 4305 (iv) a felony conviction described in Subsection 41-6a-501(2);
- 4306 (v) an offense, or a combination of offenses, that would [~~require the individual to register as a sex offender, as defined in Section 77-41-102~~] result in the individual being a sex offender under Subsection 53-29-202(2)(b); or
- 4309 (vi) [~~a registerable child abuse offense as defined in Subsection 77-41-102(1);~~] an offense, or a combination of offenses, that would result in the individual being a child abuse offender under Subsection 53-29-202(2)(a); ~~+~~
- 4312 (b) there is a criminal proceeding for a misdemeanor or felony offense pending against the petitioner, unless the criminal proceeding is for a traffic offense;
- 4314 (c) there is a plea in abeyance for a misdemeanor or felony offense pending against the petitioner, unless the plea in abeyance is for a traffic offense;
- 4316 (d) the petitioner is currently incarcerated, on parole, or on probation, unless the petitioner is on probation or parole for an infraction, a traffic offense, or a minor regulatory offense;
- 4319 (e) the petitioner intentionally or knowingly provides false or misleading information on the application for a certificate of eligibility;
- 4321 (f) there is a criminal protective order or a criminal stalking injunction in effect for the case; or
- 4323 (g) the bureau determines that the petitioner's criminal history makes the petitioner ineligible for a certificate of eligibility under Subsection (4) or (5).
- 4325 (3) Subsection (2)(a) does not apply to a conviction for a qualifying sexual offense, as defined in Section 76-3-209, if, at the time of the offense, a petitioner who committed the offense was at least 14 years old but under 18 years old, unless the petitioner was convicted by a district court as an adult in accordance with [~~Title 80, Chapter 6, Part 5, Transfer to District Court~~] Title 80, Chapter 6, Part 5, Minor Tried as an Adult.
- 4330 (4) Subject to Subsections (6), (7), and (8), a petitioner is not eligible to receive a certificate of eligibility if, at the time the petitioner seeks the certificate of eligibility, the bureau determines that the petitioner's criminal history, including previously expunged convictions, contains any of the following:

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- 4334 (a) two or more felony convictions other than for drug possession offenses, each of which is contained in a separate criminal episode;
- 4336 (b) any combination of three or more convictions other than for drug possession offenses that include two class A misdemeanor convictions, each of which is contained in a separate criminal episode;
- 4339 (c) any combination of four or more convictions other than for drug possession offenses that include three class B misdemeanor convictions, each of which is contained in a separate criminal episode; or
- 4342 (d) five or more convictions other than for drug possession offenses of any degree whether misdemeanor or felony, each of which is contained in a separate criminal episode.
- 4345 (5) Subject to Subsections (7) and (8), a petitioner is not eligible to receive a certificate of eligibility if, at the time the petitioner seeks the certificate of eligibility, the bureau determines that the petitioner's criminal history, including previously expunged convictions, contains any of the following:
- 4349 (a) three or more felony convictions for drug possession offenses, each of which is contained in a separate criminal episode; or
- 4351 (b) any combination of five or more convictions for drug possession offenses, each of which is contained in a separate criminal episode.
- 4353 (6) If the petitioner's criminal history contains convictions for both a drug possession offense and a non-drug possession offense arising from the same criminal episode, the bureau shall count that criminal episode as a conviction under Subsection (4) if any non-drug possession offense in that episode:
- 4357 (a) is a felony or class A misdemeanor; or
- 4358 (b) has the same or a longer waiting period under Subsection (1)(c) than any drug possession offense in that episode.
- 4360 (7) Except as provided in Subsection (8), if at least 10 years have passed after the day on which the petitioner was convicted or released from incarceration, parole, or probation, whichever occurred last, for all convictions:
- 4363 (a) each numerical eligibility limit under Subsections (4)(a) and (b) shall be increased by one; and
- 4365 (b) each numerical eligibility limit under Subsections (4)(c) and (d) is not applicable if the highest level of convicted offense in the criminal episode is:
- 4367 (i) a class B misdemeanor;
- 4368 (ii) a class C misdemeanor;
- 4369

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- (iii) a drug possession offense if none of the non-drug possession offenses in the criminal episode are a felony or a class A misdemeanor; or
- 4371 (iv) an infraction.
- 4372 (8) When determining whether a petitioner is eligible for a certificate of eligibility under Subsection (4), (5), or (7), the bureau may not consider a petitioner's pending case or prior conviction for:
 - 4375 (a) an infraction;
 - 4376 (b) a traffic offense;
 - 4377 (c) a minor regulatory offense; or
 - 4378 (d) a clean slate eligible case that was automatically expunged.
- 4379 (9) If the petitioner received a pardon before May 14, 2013, from the Utah Board of Pardons and Parole, the petitioner is entitled to an expungement order for all pardoned 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.**
- 4384 (1)
 - . (a) An agency with an expunged record, or any employee of an agency with an expunged record, may not knowingly or intentionally divulge any information contained in the expunged record to any person, or another agency, without a court order unless:
 - 4388 (i) specifically authorized by Subsection (4) or Section 77-40a-404; or
 - 4389 (ii) subject to Subsection (1)(b), the information in an expunged record is being shared with another agency through a records management system that both agencies use for the purpose of record management.
 - 4392 (b) An agency with a records management system may not disclose any information in an expunged record to another agency or person, or allow another agency or person access to an expunged record, if that agency or person does not use the records management system for the purpose of record management.
- 4396 (2) The following entities or agencies may receive information contained in expunged records upon specific request:
 - 4398 (a) the Board of Pardons and Parole;
 - 4399 (b) Peace Officer Standards and Training;
 - 4400 (c) federal authorities if required by federal law;

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- 4401 (d) the State Board of Education;
- 4402 (e) the Commission on Criminal and Juvenile Justice, for purposes of investigating applicants for
judicial office; and
- 4404 (f) a research institution or an agency engaged in research regarding the criminal justice system if:
- 4406 (i) the research institution or agency provides a legitimate research purpose for gathering information
from the expunged records;
- 4408 (ii) the research institution or agency enters into a data sharing agreement with the court or agency with
custody of the expunged records that protects the confidentiality of any identifying information in
the expunged records;
- 4411 (iii) any research using expunged records does not include any individual's name or identifying
information in any product of that research; and
- 4413 (iv) any product resulting from research using expunged records includes a disclosure that expunged
records were used for research purposes.
- 4415 (3) Except as otherwise provided by this section or by court order, a person, an agency, or an entity
authorized by this section to view expunged records may not reveal or release any information
obtained from the expunged records to anyone outside the specific request, including distribution on
a public website.
- 4419 (4) A prosecuting attorney may communicate with another prosecuting attorney, or another
prosecutorial agency, regarding information in an expunged record that includes a conviction, or a
charge dismissed as a result of a successful completion of a plea in abeyance agreement, for:
- 4423 (a) stalking as described in Section 76-5-106.5;
- 4424 (b) a domestic violence offense as defined in Section 77-36-1;
- 4425 (c) an offense that would [~~require the individual to register as a sex offender, kidnap offender, or
child abuse offender as defined in Section 77-41-102~~] result in the individual being a child abuse
offender, a sex offender, or a kidnap offender under Section 53-29-202; or
- 4429 (d) a weapons offense under Title 76, Chapter 10, Part 5, Weapons.
- 4430 (5) Except as provided in Subsection (7), a prosecuting attorney may not use an expunged record for the
purpose of a sentencing enhancement or as a basis for charging an individual with an offense that
requires a prior conviction.
- 4433 (6) The bureau may also use the information in the bureau's index as provided in Section 53-5-704.
- 4435

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- (7) If an individual is charged with a felony, or an offense eligible for enhancement based on a prior conviction, after obtaining an order of expungement, the prosecuting attorney may petition the court in which the individual is charged to open the expunged records upon a showing of good cause.
- 4439 (8)
- . (a) For judicial sentencing, a court may order any records expunged under this chapter or Section 77-27-5.1 to be opened and admitted into evidence.
- 4441 (b) The records are confidential and are available for inspection only by the court, parties, counsel for the parties, and any other person who is authorized by the court to inspect them.
- 4444 (c) At the end of the action or proceeding, the court shall order the records expunged again.
- 4446 (d) Any person authorized by this Subsection (8) to view expunged records may not reveal or release any information obtained from the expunged records to anyone outside the court.
- 4449 (9) Records released under this chapter are classified as protected under Section 63G-2-305 and are accessible only as provided under Title 63G, Chapter 2, Part 2, Access to 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.**
- 4454 (1)
- . (a) The fee for filing any civil complaint or petition invoking the jurisdiction of a court of record not governed by another subsection is \$375.
- 4456 (b) The fee for filing a complaint or petition is:
- 4457 (i) \$90 if the claim for damages or amount in interpleader exclusive of court costs, interest, and attorney fees is \$2,000 or less;
- 4459 (ii) \$200 if the claim for damages or amount in interpleader exclusive of court costs, interest, and attorney fees is greater than \$2,000 and less than \$10,000;
- 4461 (iii) \$375 if the claim for damages or amount in interpleader is \$10,000 or more;
- 4462 (iv) except as provided in Subsection (1)(b)(v), \$325 if the petition is filed for an action described in Title 81, Chapter 4, Dissolution of Marriage;
- 4464 (v) \$35 for a petition for temporary separation described in Section 81-4-104;
- 4465 (vi) \$125 if the petition is for removal from the [The]Sex, Kidnap, and Child Abuse Offender Registry under Section [~~77-41-112~~] 53-29-204, 53-29-205, or 53-29-206; and
- 4468

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- (vii) \$35 if the petition is for guardianship and the prospective ward is the biological or adoptive child of the petitioner.
- 4470 (c) The fee for filing a small claims affidavit is:
- 4471 (i) \$60 if the claim for damages or amount in interpleader exclusive of court costs, interest, and attorney fees is \$2,000 or less;
- 4473 (ii) \$100 if the claim for damages or amount in interpleader exclusive of court costs, interest, and attorney fees is greater than \$2,000, but less than \$7,500; and
- 4475 (iii) \$185 if the claim for damages or amount in interpleader exclusive of court costs, interest, and attorney fees is \$7,500 or more.
- 4477 (d) The fee for filing a counter claim, cross claim, complaint in intervention, third party complaint, or other claim for relief against an existing or joined party other than the original complaint or petition is:
- 4480 (i) \$55 if the claim for relief exclusive of court costs, interest, and attorney fees is \$2,000 or less;
- 4482 (ii) \$165 if the claim for relief exclusive of court costs, interest, and attorney fees is greater than \$2,000 and less than \$10,000;
- 4484 (iii) \$170 if the original petition is filed under Subsection (1)(a), the claim for relief is \$10,000 or more, or the party seeks relief other than monetary damages; and
- 4486 (iv) \$130 if the original petition is filed for an action described in Title 81, Chapter 4, Dissolution of Marriage.
- 4488 (e) The fee for filing a small claims counter affidavit is:
- 4489 (i) \$50 if the claim for relief exclusive of court costs, interest, and attorney fees is \$2,000 or less;
- 4491 (ii) \$70 if the claim for relief exclusive of court costs, interest, and attorney fees is greater than \$2,000, but less than \$7,500; and
- 4493 (iii) \$120 if the claim for relief exclusive of court costs, interest, and attorney fees is \$7,500 or more.
- 4495 (f) The fee for depositing funds under Section 57-1-29 when not associated with an action already before the court is determined under Subsection (1)(b) based on the amount deposited.
- 4498 (g) The fee for filing a petition is:
- 4499 (i) \$240 for trial de novo of an adjudication of the justice court or of the small claims department; and
- 4501 (ii) \$80 for an appeal of a municipal administrative determination in accordance with Section 10-3-703.7.
- 4503

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- (h) The fee for filing a notice of appeal, petition for appeal of an interlocutory order, or petition for writ of certiorari is \$240.
- 4505 (i) The fee for filing a petition for expungement is \$150.
- 4506 (j)
- . (i) Fifteen dollars of the fees established by Subsections (1)(a) through (i) shall be allocated to and between the Judges' Contributory Retirement Trust Fund and the Judges' Noncontributory Retirement Trust Fund, as provided in Title 49, Chapter 17, Judges' Contributory Retirement Act, and Title 49, Chapter 18, Judges' Noncontributory Retirement Act.
- 4511 (ii) Four dollars of the fees established by Subsections (1)(a) through (i) shall be allocated by the state treasurer to be deposited into the restricted account, Children's Legal Defense Account, as provided in Section 51-9-408.
- 4514 (iii) Five dollars of the fees established under Subsections (1)(a) through (e), (1)(g), and (1)(s) shall be allocated to and deposited with the Dispute Resolution Account as provided in Section 78B-6-209.
- 4517 (iv) Thirty dollars of the fees established by Subsections (1)(a), (1)(b)(iii) and (iv), (1)(d)(iii) and (iv), (1)(g)(ii), (1)(h), and (1)(i) shall be allocated by the state treasurer to be deposited into the restricted account, Court Security Account, as provided in Section 78A-2-602.
- 4521 (v) Twenty dollars of the fees established by Subsections (1)(b)(i) and (ii), (1)(d)(ii) and (1)(g)(i) shall be allocated by the state treasurer to be deposited into the restricted account, Court Security Account, as provided in Section 78A-2-602.
- 4524 (k) The fee for filing a judgment, order, or decree of a court of another state or of the United States is \$35.
- 4526 (l) The fee for filing a renewal of judgment in accordance with Section 78B-6-1801 is 50% of the fee for filing an original action seeking the same relief.
- 4528 (m) The fee for filing probate or child custody documents from another state is \$35.
- 4529 (n)
- . (i) The fee for filing an abstract or transcript of judgment, order, or decree of the State Tax Commission is \$30.
- 4531 (ii) The fee for filing an abstract or transcript of judgment of a court of law of this state or a judgment, order, or decree of an administrative agency, commission, board, council, or hearing officer of this state or of its political subdivisions other than the State Tax Commission, is \$50.
- 4535 (o) The fee for filing a judgment by confession without action under Section 78B-5-205 is \$35.

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- 4537 (p) The fee for filing an award of arbitration for confirmation, modification, or vacation under Title 78B, Chapter 11, Utah Uniform Arbitration Act, that is not part of an action before the court is \$35.
- 4540 (q) The fee for filing a petition or counter-petition to modify a domestic relations order other than a protective order or stalking injunction is \$100.
- 4542 (r) The fee for filing any accounting required by law is:
- 4543 (i) \$15 for an estate valued at \$50,000 or less;
- 4544 (ii) \$30 for an estate valued at \$75,000 or less but more than \$50,000;
- 4545 (iii) \$50 for an estate valued at \$112,000 or less but more than \$75,000;
- 4546 (iv) \$90 for an estate valued at \$168,000 or less but more than \$112,000; and
- 4547 (v) \$175 for an estate valued at more than \$168,000.
- 4548 (s) The fee for filing a demand for a civil jury is \$250.
- 4549 (t) The fee for filing a notice of deposition in this state concerning an action pending in another state under Utah Rules of Civil Procedure, Rule 30 is \$35.
- 4551 (u) The fee for filing documents that require judicial approval but are not part of an action before the court is \$35.
- 4553 (v) The fee for a petition to open a sealed record is \$35.
- 4554 (w) The fee for a writ of replevin, attachment, execution, or garnishment is \$50 in addition to any fee for a complaint or petition.
- 4556 (x)
- . (i) The fee for a petition for authorization for a minor to marry required by Section 81-2-304 is \$5.
- 4558 (ii) The fee for a petition for emancipation of a minor provided in Title 80, Chapter 7, Emancipation, is \$50.
- 4560 (y) The fee for a certificate issued under Section 26B-8-128 is \$8.
- 4561 (z) The fee for a certified copy of a document is \$4 per document plus 50 cents per page.
- 4562 (aa) The fee for an exemplified copy of a document is \$6 per document plus 50 cents per page.
- 4564 (bb) The Judicial Council shall, by rule, establish a schedule of fees for copies of documents and forms and for the search and retrieval of records under Title 63G, Chapter 2, Government Records Access and Management Act. Fees under Subsection (1)(bb) and (cc) shall be credited to the court as a reimbursement of expenditures.
- 4569

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- (cc) The Judicial Council may, by rule, establish a reasonable fee to allow members of the public to conduct a limited amount of searches on the XChange database without having to pay a monthly subscription fee.
- 4572 (dd) There is no fee for services or the filing of documents not listed in this section or otherwise provided by law.
- 4574 (ee) Except as provided in this section, all fees collected under this section are paid to the General Fund. Except as provided in this section, all fees shall be paid at the time the clerk accepts the pleading for filing or performs the requested service.
- 4577 (ff) The filing fees under this section may not be charged to the state, the state's agencies, or political subdivisions filing or defending any action. In judgments awarded in favor of the state, its agencies, or political subdivisions, except the Office of Recovery Services, the court shall order the filing fees and collection costs to be paid by the judgment debtor. The sums collected under this Subsection (1)(ff) shall be applied to the fees after credit to the judgment, order, fine, tax, lien, or other penalty and costs permitted by law.
- 4584 (2)
- . (a)
- . (i) From March 17, 1994, until June 30, 1998, the state court administrator shall transfer all revenues representing the difference between the fees in effect after May 2, 1994, and the fees in effect before February 1, 1994, as dedicated credits to the Division of Facilities Construction and Management Capital Projects Fund.
- 4589 (ii)
- . (A) Except as provided in Subsection (2)(a)(ii)(B), the Division of Facilities Construction and Management shall use up to \$3,750,000 of the revenue deposited into the Capital Projects Fund under this Subsection (2)(a) to design and take other actions necessary to initiate the development of a courts complex in Salt Lake City.
- 4594 (B) If the Legislature approves funding for construction of a courts complex in Salt Lake City in the 1995 Annual General Session, the Division of Facilities Construction and Management shall use the revenue deposited into the Capital Projects Fund under this Subsection (2)(a)(ii) to construct a courts complex in Salt Lake City.

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- (C) After the courts complex is completed and all bills connected with its construction have been paid, the Division of Facilities Construction and Management shall use any money remaining in the Capital Projects Fund under this Subsection (2)(a)(ii) to fund the Vernal District Court building.
- 4603 (iii) The Division of Facilities Construction and Management may enter into agreements and
make expenditures related to this project before the receipt of revenues provided for under this
Subsection (2)(a)(iii).
- 4606 (iv) The Division of Facilities Construction and Management shall:
- 4607 (A) make those expenditures from unexpended and unencumbered building funds already appropriated
to the Capital Projects Fund; and
- 4609 (B) reimburse the Capital Projects Fund upon receipt of the revenues provided for under this Subsection
(2).
- 4611 (b) After June 30, 1998, the state court administrator shall ensure that all revenues representing the
difference between the fees in effect after May 2, 1994, and the fees in effect before February 1,
1994, are transferred to the Division of Finance for deposit in the restricted account.
- 4615 (c) The Division of Finance shall deposit all revenues received from the state court administrator into
the restricted account created by this section.
- 4617 (d)
- . (i) From May 1, 1995, until June 30, 1998, the state court administrator shall transfer \$7 of the amount
of a fine or bail forfeiture paid for a violation of Title 41, Motor Vehicles, in a court of record to the
Division of Facilities Construction and Management Capital Projects Fund. The division of money
pursuant to Section 78A-5-110 shall be calculated on the balance of the fine or bail forfeiture paid.
- 4623 (ii) After June 30, 1998, the state court administrator or a municipality shall transfer \$7 of the amount
of a fine or bail forfeiture paid for a violation of Title 41, Motor Vehicles, in a court of record to
the Division of Finance for deposit in the restricted account created by this section. The division of
money pursuant to Section 78A-5-110 shall be calculated on the balance of the fine or bail forfeiture
paid.
- 4629 (3)
- . (a) There is created within the General Fund a restricted account known as the State Courts Complex
Account.
- 4631 (b) The Legislature may appropriate money from the restricted account to the state court administrator
for the following purposes only:

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- 4633 (i) to repay costs associated with the construction of the court complex that were funded from sources
other than revenues provided for under this Subsection (3)(b)(i); and
- 4636 (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.**
- 4639 (1) A complaint, a summons, or a subpoena may be served by an individual who is:
- 4640 (a) 18 years old or older at the time of service; and
- 4641 (b) not a party to the action or a party's attorney.
- 4642 (2) Except as provided in Subsection (5), the following may serve all process issued by the courts of
this state:
- 4644 (a) a peace officer employed by a political subdivision of the state acting within the scope and
jurisdiction of the peace officer's employment;
- 4646 (b) a sheriff or appointed deputy sheriff employed by a county of the state;
- 4647 (c) a constable, or the constable's deputy, serving in compliance with applicable law;
- 4648 (d) an investigator employed by the state and authorized by law to serve civil process; or
- 4649 (e) a private investigator licensed in accordance with Title 53, Chapter 9, Private Investigator
Regulation Act.
- 4651 (3) A private investigator licensed in accordance with Title 53, Chapter 9, Private Investigator
Regulation Act, may not make an arrest pursuant to a bench warrant.
- 4653 (4) While serving process, a private investigator shall:
- 4654 (a) have on the investigator's body a visible form of credentials and identification identifying:
- 4656 (i) the investigator's name;
- 4657 (ii) that the investigator is a licensed private investigator; and
- 4658 (iii) the name and address of the agency employing the investigator or, if the investigator is self-
employed, the address of the investigator's place of business;
- 4660 (b) verbally communicate to the person being served that the investigator is acting as a process server;
and
- 4662 (c) print on the first page of each document served:
- 4663 (i) the investigator's name and identification number as a private investigator; and
- 4664 (ii) the address and phone number for the investigator's place of business.
- 4665

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(5) The following may only serve process under this section when the use of force is authorized on the face of the document, or when a breach of the peace is imminent or likely under the totality of the circumstances:

4668 (a) a law enforcement officer, as defined in Section 53-13-103; or

4669 (b) a special function officer, as defined in Section 53-13-105, who is:

4670 (i) employed as an appointed deputy sheriff by a county of the state; or

4671 (ii) a constable.

4672 (6) The following may not serve process issued by a court:

4673 (a) an individual convicted of a felony violation of an offense [~~listed in Subsection 77-41-102(19)~~] that would result in the individual being a sex offender under Subsection 53-29-202(2)(b); or

4676 (b) an individual who is a respondent in a proceeding described in Title 78B, Chapter 7, Protective Orders and Stalking Injunctions, in which a court has granted the petitioner a protective order.

4679 (7) An individual serving process shall:

4680 (a) legibly document the date and time of service on the front page of the document being served;

4682 (b) legibly print the process server's name, address, and telephone number on the return of service;

4684 (c) sign the return of service in substantial compliance with Title 78B, Chapter 18a, Uniform Unsworn Declarations Act;

4686 (d) if the process server is a peace officer, sheriff, or deputy sheriff, legibly print the badge number of the process server on the return of service; and

4688 (e) if the process server is a private investigator, legibly print the private investigator's 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.**

4692 (1) If the juvenile court orders continued removal at the dispositional hearing under Section 80-3-402, and that the minor remain in the custody of the division, the juvenile court shall first:

4695 (a) establish a primary permanency plan and a concurrent permanency plan for the minor in accordance with this section; and

4697 (b) determine whether, in view of the primary permanency plan, reunification services are appropriate for the minor and the minor's family under Subsections (5) through (8).

4699 (2)

. (a) The concurrent permanency plan shall include:

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- 4700 (i) a representative list of the conditions under which the primary permanency plan will be
abandoned in favor of the concurrent permanency plan; and
- 4702 (ii) an explanation of the effect of abandoning or modifying the primary permanency plan.
- 4704 (b) In determining the primary permanency plan and concurrent permanency plan, the juvenile court
shall consider:
- 4706 (i) the preference for kinship placement over nonkinship placement, including the rebuttable
presumption described in Subsection 80-3-302(7)(a);
- 4708 (ii) the potential for a guardianship placement if parental rights are terminated and no appropriate
adoption placement is available; and
- 4710 (iii) the use of an individualized permanency plan, only as a last resort.
- 4711 (3)
- . (a) The juvenile court may amend a minor's primary permanency plan before the establishment of a
final permanency plan under Section 80-3-409.
- 4713 (b) The juvenile court is not limited to the terms of the concurrent permanency plan in the event that the
primary permanency plan is abandoned.
- 4715 (c) If, at any time, the juvenile court determines that reunification is no longer a minor's primary
permanency plan, the juvenile court shall conduct a permanency hearing in accordance with Section
80-3-409 on or before the earlier of:
- 4718 (i) 30 days after the day on which the juvenile court makes the determination described in this
Subsection (3)(c); or
- 4720 (ii) the day on which the provision of reunification services, described in Section 80-3-409, ends.
- 4722 (4)
- . (a) Because of the state's interest in and responsibility to protect and provide permanency for minors
who are abused, neglected, or dependent, the Legislature finds that a parent's interest in receiving
reunification services is limited.
- 4725 (b) The juvenile court may determine that:
- 4726 (i) efforts to reunify a minor with the minor's family are not reasonable or appropriate, based on the
individual circumstances; and
- 4728 (ii) reunification services should not be provided.
- 4729

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- (c) In determining reasonable efforts to be made with respect to a minor, and in making reasonable efforts, the juvenile court and the division shall consider the minor's health, safety, and welfare as the paramount concern.
- 4732 (5) There is a presumption that reunification services should not be provided to a parent if the juvenile court finds, by clear and convincing evidence, that any of the following circumstances exist:
- 4735 (a) the whereabouts of the parents are unknown, based on a verified affidavit indicating that a reasonably diligent search has failed to locate the parent;
- 4737 (b) subject to Subsection (6)(a), the parent is suffering from a mental illness of such magnitude that the mental illness renders the parent incapable of utilizing reunification services;
- 4740 (c) the minor was previously adjudicated as an abused child due to physical abuse, sexual abuse, or sexual exploitation, and following the adjudication the child:
- 4742 (i) was removed from the custody of the minor's parent;
- 4743 (ii) was subsequently returned to the custody of the parent; and
- 4744 (iii) is being removed due to additional physical abuse, sexual abuse, or sexual exploitation;
- 4746 (d) the parent:
- 4747 (i) caused the death of another minor through abuse or neglect;
- 4748 (ii) committed, aided, abetted, attempted, conspired, or solicited to commit:
- 4749 (A) murder or manslaughter of a minor; or
- 4750 (B) child abuse homicide;
- 4751 (iii) committed sexual abuse against the minor;
- 4752 (iv) is [~~a registered sex offender or required to register as a sex offender~~] a sex offender under Subsection 53-29-202(2)(b); or
- 4754 (v)
- . (A) intentionally, knowingly, or recklessly causes the death of another parent of the minor;
- 4756 (B) is identified by a law enforcement agency as the primary suspect in an investigation for intentionally, knowingly, or recklessly causing the death of another parent of the minor; or
- 4759 (C) is being prosecuted for or has been convicted of intentionally, knowingly, or recklessly causing the death of another parent of the minor;
- 4761 (e) the minor suffered severe abuse by the parent or by any individual known by the parent if the parent knew or reasonably should have known that the individual was abusing the minor;
- 4764

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- (f) the minor is adjudicated as an abused minor as a result of severe abuse by the parent, and the juvenile court finds that it would not benefit the minor to pursue reunification services with the offending parent;
- 4767 (g) the parent's rights are terminated with regard to any other minor;
- 4768 (h) the minor was removed from the minor's home on at least two previous occasions and reunification services were offered or provided to the family at those times;
- 4770 (i) the parent has abandoned the minor for a period of six months or longer;
- 4771 (j) the parent permitted the minor to reside, on a permanent or temporary basis, at a location where the parent knew or should have known that a clandestine laboratory operation was located;
- 4774 (k) except as provided in Subsection (6)(b), with respect to a parent who is the minor's birth mother, the minor has fetal alcohol syndrome, fetal alcohol spectrum disorder, or was exposed to an illegal or prescription drug that was abused by the minor's mother while the minor was in utero, if the minor was taken into division custody for that reason, unless the mother agrees to enroll in, is currently enrolled in, or has recently and successfully completed a substance use disorder treatment program approved by the department; or
- 4781 (l) any other circumstance that the juvenile court determines should preclude reunification efforts or services.
- 4783 (6)
 - . (a) The juvenile court shall base the finding under Subsection (5)(b) on competent evidence from at least two medical or mental health professionals, who are not associates, establishing that, even with the provision of services, the parent is not likely to be capable of adequately caring for the minor within 12 months after the day on which the juvenile court finding is made.
 - 4788 (b) The juvenile court may disregard the provisions of Subsection (5)(k) if the juvenile court finds, under the circumstances of the case, that the substance use disorder treatment described in Subsection (5)(k) is not warranted.
 - 4791 (7) In determining whether reunification services are appropriate, the juvenile court shall take into consideration:
 - 4793 (a) failure of the parent to respond to previous services or comply with a previous child and family plan;
 - 4795 (b) the fact that the minor was abused while the parent was under the influence of drugs or alcohol;
 - 4797 (c) any history of violent behavior directed at the minor or an immediate family member;
 - 4798 (d) whether a parent continues to live with an individual who abused the minor;

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- 4799 (e) any patterns of the parent's behavior that have exposed the minor to repeated abuse;
- 4800 (f) testimony by a competent professional that the parent's behavior is unlikely to be successful; and
- 4802 (g) whether the parent has expressed an interest in reunification with the minor.
- 4803 (8) If, under Subsections (5)(b) through (l), the juvenile court does not order reunification services, a permanency hearing shall be conducted within 30 days in accordance with Section 80-3-409.
- 4806 (9)
- . (a) Subject to Subsections (9)(b) through (e), if the juvenile court determines that reunification services are appropriate for the minor and the minor's family, the juvenile court shall provide for reasonable parent-time with the parent or parents from whose custody the minor was removed, unless parent-time is not in the best interest of the minor.
- 4811 (b) Parent-time is in the best interests of a minor unless the juvenile court makes a finding that it is necessary to deny parent-time in order to:
- 4813 (i) protect the physical safety of the minor;
- 4814 (ii) protect the life of the minor; or
- 4815 (iii) prevent the minor from being traumatized by contact with the parent due to the minor's fear of the parent in light of the nature of the alleged abuse or neglect.
- 4817 (c) Notwithstanding Subsection (9)(a), a juvenile court may not deny parent-time based solely on a parent's failure to:
- 4819 (i) prove that the parent has not used legal or illegal substances; or
- 4820 (ii) comply with an aspect of the child and family plan that is ordered by the juvenile court.
- 4822 (d) Parent-time shall be under the least restrictive conditions necessary to:
- 4823 (i) protect the physical safety of the child; or
- 4824 (ii) prevent the child from being traumatized by contact with the parent due to the minor's fear of the parent in light of the nature of the alleged abuse or neglect.
- 4826 (e)
- . (i) The division or the person designated by the division or a court to supervise a parent-time session may deny parent-time for the session if the division or the supervising person determines that, based on the parent's condition, it is necessary to deny parent-time to:
- 4830 (A) protect the physical safety of the child;
- 4831 (B) protect the life of the child; or
- 4832

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(C) consistent with Subsection (9)(e)(ii), prevent the child from being traumatized by contact with the parent.

4834 (ii) In determining whether the condition of the parent described in Subsection (9)(e)(i) will traumatize
a child, the division or the person supervising the parent-time session shall consider the impact that
the parent's condition will have on the child in light of:

4838 (A) the child's fear of the parent; and

4839 (B) the nature of the alleged abuse or neglect.

4840 (10)

. (a) If the juvenile court determines that reunification services are appropriate, the juvenile court shall
order that the division make reasonable efforts to provide services to the minor and the minor's
parent for the purpose of facilitating reunification of the family, for a specified period of time.

4844 (b) In providing the services described in Subsection (10)(a), the juvenile court and the division shall
consider the minor's health, safety, and welfare as the paramount concern.

4847 (11) In cases where sexual abuse, sexual exploitation, abandonment, severe abuse, or severe neglect are
involved:

4849 (a) the juvenile court does not have any duty to order reunification services; and

4850 (b) the division does not have a duty to make reasonable efforts to or in any other way attempt to
provide reunification services or attempt to rehabilitate the offending parent or parents.

4853 (12)

. (a) The juvenile court shall:

4854 (i) determine whether the services offered or provided by the division under the child and family
plan constitute reasonable efforts on the part of the division;

4856 (ii) determine and define the responsibilities of the parent under the child and family plan in
accordance with Subsection 80-3-307(5)(g)(iii); and

4858 (iii) identify verbally on the record, or in a written document provided to the parties, the
responsibilities described in Subsection (12)(a)(ii), for the purpose of assisting in any future
determination regarding the provision of reasonable efforts, in accordance with state and federal
law.

4862 (b) If the parent is in a substance use disorder treatment program, other than a certified drug court
program, the juvenile court may order the parent:

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- 4868 (i) to submit to supplementary drug or alcohol testing, in accordance with Subsection 80-3-110(6), in addition to the testing recommended by the parent's substance use disorder program based on a finding of reasonable suspicion that the parent is abusing drugs or alcohol; and
- 4870 (ii) to provide the results of drug or alcohol testing recommended by the substance use disorder program to the juvenile court or division.
- 4870 (13)
 - . (a) The time period for reunification services may not exceed 12 months from the day on which the minor was initially removed from the minor's home, unless the time period is extended under Subsection 80-3-409(7).
- 4873 (b) This section does not entitle any parent to an entire 12 months of reunification services.
- 4875 (14)
 - . (a) If reunification services are ordered, the juvenile court may terminate those services at any time.
- 4877 (b) If, at any time, continuation of reasonable efforts to reunify a minor is determined to be inconsistent with the final permanency plan for the minor established under Section 80-3-409, then measures shall be taken, in a timely manner, to:
 - 4880 (i) place the minor in accordance with the final permanency plan; and
 - 4881 (ii) complete whatever steps are necessary to finalize the permanent placement of the minor.
- 4883 (15) Any physical custody of the minor by the parent or a relative during the period described in Subsections (10) through (14) does not interrupt the running of the period.
- 4885 (16)
 - . (a) If reunification services are ordered, the juvenile court shall conduct a permanency hearing in accordance with Section 80-3-409 before the day on which the time period for reunification services expires.
 - 4888 (b) The permanency hearing shall be held no later than 12 months after the original removal of the minor.
 - 4890 (c) If reunification services are not ordered, a permanency hearing shall be conducted within 30 days in accordance with Section 80-3-409.
- 4892 (17) With regard to a minor in the custody of the division whose parent or parents are ordered to receive reunification services but who have abandoned that minor for a period of six months from the day on which reunification services are ordered:
 - 4895 (a) the juvenile court shall terminate reunification services; and

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- 4896 (b) the division shall petition the juvenile court for termination of parental rights.
- 4897 (18) When a minor is under the custody of the division and has been separated from a sibling due to foster care or adoptive placement, a juvenile court may order sibling visitation, subject to the division obtaining consent from the sibling's guardian, according to the juvenile court's determination of the best interests of the minor for whom the hearing is held.
- 4902 (19)
- . (a) If reunification services are not ordered under this section, and the whereabouts of a parent becomes known within six months after the day on which the out-of-home placement of the minor is made, the juvenile court may order the division to provide reunification services.
- 4906 (b) The time limits described in this section are not tolled by the parent's absence.
- 4907 (20)
- . (a) If a parent is incarcerated or institutionalized, the juvenile court shall order reasonable services unless the juvenile court determines that those services would be detrimental to the minor.
- 4910 (b) In making the determination described in Subsection (20)(a), the juvenile court shall consider:
- 4912 (i) the age of the minor;
- 4913 (ii) the degree of parent-child bonding;
- 4914 (iii) the length of the sentence;
- 4915 (iv) the nature of the treatment;
- 4916 (v) the nature of the crime or illness;
- 4917 (vi) the degree of detriment to the minor if services are not offered;
- 4918 (vii) for a minor who is 10 years old or older, the minor's attitude toward the implementation of family reunification services; and
- 4920 (viii) any other appropriate factors.
- 4921 (c) Reunification services for an incarcerated parent are subject to the time limitations imposed in this section.
- 4923 (d) Reunification services for an institutionalized parent are subject to the time limitations imposed in this section, unless the juvenile court determines that 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.**
- 4928

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- (1) The division is responsible for all minors committed to the division by juvenile courts under Sections 80-6-703 and 80-6-705.
- 4930 (2) The division shall:
- 4931 (a) establish and administer a continuum of community, secure, and nonsecure programs for all minors committed to the division;
- 4933 (b) establish and maintain all detention and secure care facilities and set minimum standards for all detention and secure care facilities;
- 4935 (c) establish and operate prevention and early intervention youth services programs for nonadjudicated minors placed with the division;
- 4937 (d) establish observation and assessment programs necessary to serve minors in a nonresidential setting under Subsection 80-6-706(1);
- 4939 (e) place minors committed to the division under Section 80-6-703 in the most appropriate program for supervision and treatment;
- 4941 (f) employ staff necessary to:
- 4942 (i) supervise and control minors committed to the division for secure care or placement in the community;
- 4944 (ii) supervise and coordinate treatment of minors committed to the division for placement in community-based programs; and
- 4946 (iii) control and supervise adjudicated and nonadjudicated minors placed with the division for temporary services in juvenile receiving centers, youth services, and other programs established by the division;
- 4949 (g) control or detain a minor committed to the division, or in the temporary custody of the division, in a manner that is consistent with public safety and rules made by the division;
- 4952 (h) establish and operate work programs for minors committed to the division by the juvenile court that:
- 4954 (i) are not residential;
- 4955 (ii) provide labor to help in the operation, repair, and maintenance of public facilities, parks, highways, and other programs designated by the division;
- 4957 (iii) provide educational and prevocational programs in cooperation with the State Board of Education for minors placed in the program; and
- 4959 (iv) provide counseling to minors;
- 4960

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- (i) establish minimum standards for the operation of all private residential and nonresidential rehabilitation facilities that provide services to minors who have committed an offense in this state or in any other state;
- 4963 (j) provide regular training for secure care staff, detention staff, case management staff, and staff of the community-based programs;
- 4965 (k) designate employees to obtain the saliva DNA specimens required under Section 53-10-403;
- 4967 (l) ensure that the designated employees receive appropriate training and that the specimens are obtained in accordance with accepted protocol;
- 4969 (m) register an individual with the Department of Public Safety who:
 - 4970 (i) is adjudicated for an offense [~~listed in Subsection 77-41-102(1) or 77-41-102(19)~~] that would result in the individual being a child abuse offender under Subsection 53-29-202(2)(a) or a sex offender under Subsection 53-29-202(2)(b);
 - 4973 (ii) is committed to the division for secure care; and
 - 4974 (iii)
 - . (A) if the individual is a youth offender, remains in the division's custody 30 days before the individual's 21st birthday; or
 - 4976 (B) if the individual is a serious youth offender, remains in the division's custody 30 days before the individual's 25th birthday; and
 - 4978 (n) ensure that a program delivered to a minor under this section is an evidence-based program in accordance with Section 63M-7-208.
- 4980 (3)
 - . (a) The division is authorized to employ special function officers, as defined in Section 53-13-105, to:
 - 4982 (i) locate and apprehend minors who have absconded from division custody;
 - 4983 (ii) transport minors taken into custody in accordance with division policy;
 - 4984 (iii) investigate cases; and
 - 4985 (iv) carry out other duties as assigned by the division.
 - 4986 (b) A special function officer may be:
 - 4987 (i) employed through a contract with the Department of Public Safety, or any law enforcement agency certified by the Peace Officer Standards and Training Division; or
 - 4990 (ii) directly hired by the division.
- 4991

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- (4) In the event of an unauthorized leave from secure care, detention, a community-based program, a juvenile receiving center, a home, or any other designated placement of a minor, a division employee has the authority and duty to locate and apprehend the minor, or to initiate action with a local law enforcement agency for assistance.
- 4995 (5) The division may proceed with an initial medical screening or assessment of a child admitted to a detention facility to ensure the safety of the child and others in the detention facility if the division makes a good faith effort to obtain consent for the 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.**
- As used in this chapter:
- 5002 (1) "Child" means an individual under 18 years old.
- 5003 (2) "Registered sex offender check" means a search of:
- 5004 (a) the [~~state's Sex and Kidnap Offender Registry~~] registry described in [~~Title 77, Chapter 41, Sex and Kidnap Offender Registry~~] Title 53, Chapter 29, Sex, Kidnap, and Child Abuse Offender Registry;
- and
- 5007 (b) the National Sex Offender Public Website administered by the United States Department of Justice.
- 5009 (3) "Sexual abuse" means the same as that term is defined in Section 78B-2-308.
- 5010 (4)
- . (a) "Youth services organization" means a sports league, athletic association, church or religious organization, scouting organization, or similar formally organized association, league, or organization, that provides recreational, educational, cultural, or social programs or activities to 25 or more children.
- 5014 (b) "Youth services organization" does not include any person that is required to conduct a background check on employees or volunteers under any other provision of state or federal law.
- 5017 (5) "Youth worker" means an individual:
- 5018 (a) who is 18 years old or older;
- 5019 (b) who is employed by or volunteers with a youth services organization; and
- 5020 (c) whose responsibilities as an employee or volunteer with the youth services organization give the individual regular and repeated care, supervision, guidance, or control of a child or children.
- 5050 Section 62. Section **80-8-201** is amended to read:

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

- 5025 (1) A youth service organization may not employ a youth worker or allow an individual to volunteer as a youth worker unless the youth service organization has completed a registered sex offender check for the individual.
- 5028 (2) A youth services organization shall require a potential youth worker to provide the individual's full name and a current, government-issued identification to facilitate the registered sex offender check required by Subsection (1).
- 5031 (3) If an individual is registered on the [~~state's Sex and Kidnap Offender Registry~~] registry described in Title 53, Chapter 29, Sex, Kidnap, and Child Abuse Offender Registry, or the National Sex Offender Public Website, a youth service organization may not employ 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.**

- 5037 (1) In addition to the parent-time schedules provided in Sections 81-9-302 and 81-9-304, the following advisory guidelines are suggested to govern a custody and parent-time arrangement between parents.
- 5040 (2) A parent-time schedule mutually agreed upon by both parents is preferable to a court-imposed solution.
- 5042 (3) A parent-time schedule shall be used to maximize the continuity and stability of the minor child's life.
- 5044 (4) Each parent shall give special consideration to make the minor child available to attend family functions including funerals, weddings, family reunions, religious holidays, important ceremonies, and other significant events in the life of the minor child or in the life of either parent which may inadvertently conflict with the parent-time schedule.
- 5048 (5)
- . (a) The court shall determine the responsibility for the pick up, delivery, and return of the minor child when the parent-time order is entered.
- 5050 (b) The court may change the responsibility described in Subsection (5)(a) at any time a subsequent modification is made to the parent-time order.
- 5052 (c) If the noncustodial parent will be providing transportation, the custodial parent shall:
- 5053 (i) have the minor child ready for parent-time at the time the minor child is to be picked up ; and

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- 5055 (ii) be present at the custodial home or make reasonable alternate arrangements to receive the minor child at the time the minor child is returned.
- 5057 (d) If the custodial parent will be transporting the minor child, the noncustodial parent shall:
- 5059 (i) be at the appointed place at the time the noncustodial parent is to receive the minor child; and
- 5061 (ii) have the minor child ready to be picked up at the appointed time and place or have made reasonable alternate arrangements for the custodial parent to pick up the minor child.
- 5064 (6) A parent may not interrupt regular school hours for a school-age minor child for the exercise of parent-time.
- 5066 (7) The court may:
- 5067 (a) make alterations in the parent-time schedule to reasonably accommodate the work schedule of both parents; and
- 5069 (b) increase the parent-time allowed to the noncustodial parent but may not diminish the standardized parent-time provided in Sections 81-9-302 and 81-9-304.
- 5071 (8) The court may make alterations in the parent-time schedule to reasonably accommodate the distance between the parties and the expense of exercising parent-time.
- 5073 (9) A parent may not withhold parent-time or child support due to the other parent's failure to comply with a court-ordered parent-time schedule.
- 5075 (10)
- . (a) The custodial parent shall notify the noncustodial parent within 24 hours of receiving notice of all significant school, social, sports, and community functions in which the minor child is participating or being honored.
- 5078 (b) The noncustodial parent is entitled to attend and participate fully in the functions described in Subsection (10)(a).
- 5080 (c) The noncustodial parent shall have access directly to all school reports including preschool and daycare reports and medical records.
- 5082 (d) A parent shall immediately notify the other parent in the event of a medical emergency.
- 5084 (11) Each parent shall provide the other with the parent's current address and telephone number, email address, and other virtual parent-time access information within 24 hours of any change.
- 5087 (12)
- .

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- (a) Each parent shall permit and encourage, during reasonable hours, reasonable and uncensored communications with the minor child, in the form of mail privileges and virtual parent-time if the equipment is reasonably available.
- 5090 (b) If the parents cannot agree on whether the equipment is reasonably available, the court shall decide whether the equipment for virtual parent-time is reasonably ~~available by~~ available by taking into consideration:
- 5093 (i) the best interests of the minor child;
- 5094 (ii) each parent's ability to handle any additional expenses for virtual parent-time; and
- 5095 (iii) any other factors the court considers material.
- 5096 (13)
- . (a) Parental care is presumed to be better care for the minor child than surrogate care.
- 5098 (b) The court shall encourage the parties to cooperate in allowing the noncustodial parent, if willing and able to transport the minor child, to provide the child care.
- 5100 (c) Child care arrangements existing during the marriage are preferred as are child care arrangements with nominal or no charge.
- 5102 (14) Each parent shall:
- 5103 (a) provide all surrogate care providers with the name, current address, and telephone number of the other parent; and
- 5105 (b) provide the noncustodial parent with the name, current address, and telephone number of all surrogate care providers unless the court for good cause orders otherwise.
- 5108 (15)
- . (a) Each parent is entitled to an equal division of major religious holidays celebrated by the parents.
- 5110 (b) The parent who celebrates a religious holiday that the other parent does not celebrate shall have the right to be together with the minor child on the religious holiday.
- 5112 (16) If the minor child is on a different parent-time schedule than a sibling, based on Sections 81-9-302 and 81-9-304, the parents should consider if an upward deviation for parent-time with all the minor children so that parent-time is uniform between school aged and nonschool aged children, is appropriate.
- 5116 (17)
- . (a) When one or both parents are servicemembers or contemplating joining a uniformed service, the parents should resolve issues of custodial responsibility in the event of deployment as soon as

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practicable through reaching a voluntary agreement pursuant to Section 78B-20-201 or through court order obtained pursuant to this part.

- 5120 (b) Service members shall ensure their family care plan reflects orders and agreements entered and filed pursuant to Title 78B, Chapter 20, Uniform Deployed Parents Custody, Parent-time, and Visitation Act.
- 5123 (18) A parent shall immediately notify the other parent if:
- 5124 (a) the parent resides with an individual or provides an individual with access to the minor child; and
- 5126 (b) the parent knows that the individual:
- 5127 (i) is required to register as a sex offender ~~(,)~~ ~~[- or]~~ , a kidnap offender, or a child abuse offender for an offense committed against a minor child under ~~[Title 77, Chapter 41, Sex and Kidnap Offender Registry]~~ Title 53, Chapter 29, Sex, Kidnap, and Child Abuse Offender Registry; or
- 5131 ~~[(ii) is required to register as a child abuse offender under Title 77, Chapter 43, Child Abuse Offender Registry; or]~~
- 5133 ~~[(iii)]~~ (ii) has been convicted of:
- 5134 (A) a child abuse offense under Section 76-5-109, 76-5-109.2, 76-5-109.3, 76-5-114, or 76-5-208;
- 5136 (B) a sexual offense against a minor child under Title 76, Chapter 5, Part 4, Sexual Offenses;
- 5138 (C) an offense for kidnapping or human trafficking of a minor child under Title 76, Chapter 5, Part 3, Kidnapping, Trafficking, and Smuggling;
- 5140 (D) a sexual exploitation offense against a minor child under Title 76, Chapter 5b, Sexual Exploitation Act; or
- 5142 (E) an offense that is substantially similar to an offense under Subsections ~~[(18)(b)(iii)(A)]~~ (18)(b)(ii) (A) through (D).
- 5144 (19)
- . (a) For emergency purposes, whenever the minor child travels with a parent, the parent shall provide the following information to the other parent:
- 5146 (i) an itinerary of travel dates;
- 5147 (ii) destinations;
- 5148 (iii) places where the minor child or traveling parent can be reached; and
- 5149 (iv) the name and telephone number of an available third person who would be knowledgeable of the minor child's location.
- 5151 (b) Unchaperoned travel of a minor child under the age of five years is not recommended.

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

5156 (1) The court has continuing jurisdiction to make subsequent changes to modify:

5157 (a) custody of a minor child if there is a showing of a substantial and material change in circumstances
since the entry of the order; and

5159 (b) parent-time for a minor child if there is a showing that there is a change in circumstances since the
entry of the order.

5161 (2) A substantial and material change in circumstances under Subsection (1)(a) includes a showing by a
parent that the other parent:

5163 (a) resides with an individual or provides an individual with access to the minor child; and

5165 (b) knows that the individual:

5166 (i) is required to register as a sex offender ~~+~~ ~~or~~ ~~;~~ a kidnap offender, or a child abuse offender for an
offense committed against a minor child under [~~Title 77, Chapter 41, Sex and Kidnap Offender
Registry~~] Title 53, Chapter 29, Sex, Kidnap, and Child Abuse Offender Registry; or

5170 [~~ii~~ ~~is required to register as a child abuse offender under Title 77, Chapter 43, Child Abuse Offender
Registry; or~~]

5172 [~~iii~~] ii has been convicted of:

5173 (A) a child abuse offense under Section 76-5-109, 76-5-109.2, 76-5-109.3, 76-5-114, or 76-5-208;

5175 (B) a sexual offense against a minor child under Title 76, Chapter 5, Part 4, Sexual Offenses;

5177 (C) an offense for kidnapping or human trafficking of a minor child under Title 76, Chapter 5, Part 3,
Kidnapping, Trafficking, and Smuggling;

5179 (D) a sexual exploitation offense against a minor child under Title 76, Chapter 5b, Sexual Exploitation
Act; or

5181 (E) an offense that is substantially similar to an offense under Subsections [~~(2)(b)(iii)(A)~~] (2)(b)(ii)(A)
through (D).

5183 (3) On the petition of one or both of the parents, or the joint legal or physical custodians if they are not
the parents, the court may, after a hearing, modify or terminate an order that established joint legal
custody or joint physical custody if:

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- (a) the verified petition or accompanying affidavit initially alleges that admissible evidence will show that there has been a substantial and material change in the circumstances of the minor child or one or both parents or joint legal or physical custodians since the entry of the order to be modified;
- 5190 (b) a modification of the terms and conditions of the order would be an improvement for and in the best interest of the minor child; and
- 5192 (c)
- . (i) both parents have complied in good faith with the dispute resolution procedure in accordance with Subsection 81-9-205(8); or
- 5194 (ii) if no dispute resolution procedure is contained in the order that established joint legal custody or joint physical custody, the court orders the parents to participate in a dispute resolution procedure in accordance with Subsection 81-9-205(13) unless the parents certify that, in good faith, they have used a dispute resolution procedure to resolve their dispute.
- 5199 (4)
- . (a) In determining whether the best interest of a minor child will be served by either modifying or terminating the joint legal custody or joint physical custody order, the court shall, in addition to other factors the court considers relevant, consider the factors described in Sections 81-9-204 and 81-9-205.
- 5203 (b) A court order modifying or terminating an existing joint legal custody or joint physical custody order shall contain written findings that:
- 5205 (i) a substantial and material change of circumstance has occurred; and
- 5206 (ii) a modification of the terms and conditions of the order would be an improvement for and in the best interest of the minor child.
- 5208 (c) The court shall give substantial weight to the existing joint legal custody or joint physical custody order when the minor child is thriving, happy, and well-adjusted.
- 5210 (5) The court shall, in every case regarding a petition for termination of a joint legal custody or joint physical custody order, consider reasonable alternatives to preserve the existing order in accordance with Section 81-9-204.
- 5213 (6) The court may modify the terms and conditions of the existing order in accordance with this chapter and may order the parents to file a parenting plan in accordance with Section 81-9-203.
- 5216

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- (7) A parent requesting a modification from sole custody to joint legal custody or joint physical custody or both, or any other type of shared parenting arrangement, shall file and serve a proposed parenting plan with the petition to modify in accordance with Section 81-9-203.
- 5220 (8) If an issue before the court involves custodial responsibility in the event of deployment of one or both parents who are service members, and the service member has not yet been notified of deployment, the court shall resolve the issue based on the standards in Sections 78B-20-306 through 78B-20-309.
- 5224 (9) If the court finds that an action to modify custody or parent-time is filed or answered frivolously and, in a manner, designed to harass the other party, the court shall assess attorney fees as costs against the offending party.
- 5227 (10) If a petition to modify custody or parent-time provisions of a court order is made and denied, the court shall order the petitioner to pay the reasonable attorney fees expended by the prevailing party in that action if the court determines that the petition was without merit and not asserted or defended against in good faith.
- 5231 (11) If a motion or petition alleges noncompliance with a parent-time order by a parent, or a visitation order by a grandparent or other member of the immediate family where a visitation or parent-time right has been previously granted by the court, the court:
- 5234 (a) may award to the prevailing party:
- 5235 (i) actual attorney fees incurred;
- 5236 (ii) the costs incurred by the prevailing party because of the other party's failure to provide or exercise court-ordered visitation or parent-time, including:
- 5238 (A) court costs;
- 5239 (B) child care expenses;
- 5240 (C) transportation expenses actually incurred;
- 5241 (D) lost wages, if ascertainable; or
- 5242 (E) counseling for a parent or a minor child if ordered or approved by the court; or
- 5243 (iii) any other appropriate equitable remedy; and
- 5244 (b) shall award reasonable make-up parent-time to the prevailing party, unless make-up parent-time is not in the best interest of the minor child.
- 5272 Section 65. **Repealer.**

This Bill Repeals:

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- 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.**
- This bill takes effect on May 7, 2025.
- 5292 Section 67. **Coordinating S.B. 41 with H.B. 21.**

If S.B. 41, Sex, Kidnap, and Child Abuse Offender Registry Amendments, and H.B. 21, Criminal Code Recodification and Cross References, both pass and become law, the Legislature intends that, on May 7, 2025:

(1) Subsection 76-5-419(5)(a), which section is renumbered from Section 76-9-702 in H.B. 21, be amended to read:

"(5)(a) As described in Subsection 53-29-202(4), for purposes of Subsection (3), a plea of guilty or nolo contendere to a charge under this section that is held in abeyance under Title 77, Chapter 2a, Pleas in Abeyance, is the equivalent of a conviction.";

(2) Subsection 53-29-202(1)(a)(xxx), which section is enacted in S.B. 41, be amended to read:

"(xxx) a felony or class A misdemeanor violation of:

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(A) voyeurism under Section 76-12-306;

(B) recorded or photographed voyeurism under Section 76-12-307; or

(C) distribution of images obtained through voyeurism under Section 76-12-308;";

(3) Subsection 53-29-203(1)(a)(xxii), which section is enacted in S.B. 41, be amended to read:

"(xxii) a felony or class A misdemeanor violation of:

(A) voyeurism under Section 76-12-306;

(B) recorded or photographed voyeurism under Section 76-12-307; or

(C) distribution of images obtained through voyeurism under Section 76-12-308;";

(4) Subsection 53-29-204(2)(f), which section is enacted in S.B. 41, be amended to read:

"(f) a class A misdemeanor violation of:

(i) voyeurism under Section 76-12-306;

(ii) recorded or photographed voyeurism under Section 76-12-307; or

(iii) distribution of images obtained through voyeurism under Section 76-12-308;"; and

(5) Subsection 53-29-205 (3)(u), which section is enacted in S.B. 41, be amended to read:

"(u) a felony violation of:

(i) recorded or photographed voyeurism under Section 76-12-307; or

(ii) distribution of images obtained through voyeurism under Section 76-12-308;".

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