

HB0197S02 compared with HB0197S01

{Omitted text} shows text that was in HB0197S01 but was omitted in HB0197S02
inserted text shows text that was not in HB0197S01 but was inserted into HB0197S02

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Criminal Conduct Amendments

2025 GENERAL SESSION

STATE OF UTAH

Chief Sponsor: Ariel Defay

Senate Sponsor:

2

LONG TITLE

General Description:

This bill amends the crime of enticing a minor and provisions related to the Sex, Kidnap, and Child Abuse Offender Registry.

Highlighted Provisions:

This bill:

- ▶ amends the crime of enticing a minor;
- ▶ adds factors that a sentencing court must consider in making a determination regarding whether an individual under 21 years old used force or coercion when committing a registrable offense for purposes of determining registration length on the Sex, Kidnap, and Child Abuse Offender Registry;
- ▶ clarifies which prosecuting agency is required to receive a petition from an offender petitioning to be removed from the Sex, Kidnap, and Child Abuse Offender Registry and the responsibilities of that agency in notifying the victim regarding the petition;
- ▶ requires an offender on the Sex, Kidnap, and Child Abuse Offender Registry who is required to register on the registry because of an offense committed in another jurisdiction to be removed from

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the other jurisdiction's registry in order to be removed from the Sex, Kidnap, and Child Abuse Offender Registry;

21 ▶ contains a coordination clause to coordinate technical changes between this bill and S.B. 41, Sex, Kidnap, and Child Abuse Offender Registry Amendments; and

23 ▶ makes technical and conforming changes.

24 **Money Appropriated in this Bill:**

25 None

26 This bill provides a coordination clause.

29 **AMENDS:**

30 **76-4-401** , as last amended by Laws of Utah 2023, Chapter 457 , as last amended by Laws of Utah 2023, Chapter 457

31 **77-41-105** , as last amended by Laws of Utah 2024, Chapter 234 , as last amended by Laws of Utah 2024, Chapter 234

32 **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

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

34

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

36 Section 1. Section **76-4-401** is amended to read:

37 **76-4-401. Enticing a minor -- Elements -- Penalties.**

38 (1)

 . (a) As used in this section:

39 (i) "Minor" means an individual who is under 18 years old.

40 (ii) "Electronic communication" means the same as that term is defined in Section 76-9-201.

42 (iii) "Electronic communication device" means the same as that term is defined in Section 76-9-201.

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

45 (2) An actor commits enticement of a minor if the actor knowingly:

46 (a) uses an electronic communication or an electronic communication device to:

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- (i) solicit, seduce, lure, or entice a minor, or to attempt to solicit, seduce, lure, or entice a minor, or another person [~~that~~] who the actor believes to be a minor, to engage in sexual activity that is a violation of state criminal law; [~~or~~]
- 50 (ii) communicate with any individual with the intent to solicit, seduce, lure, or entice a minor, or attempt to solicit, seduce, lure, or entice a minor, to engage in sexual activity that is a violation of state criminal law; or
- 53 [~~(ii)~~] (iii)
- . (A) initiate contact with a minor or a person the actor believes to be a minor; and
- 55 (B) subsequent to the action described in Subsection [~~(2)(a)(ii)(A)~~] (2)(a)(iii)(A), by any electronic or written means, solicits, seduces, lures, or entices the minor, or attempts to solicit, seduce, lure, or entice the minor, or a person the actor believes to be the minor, to engage in sexual activity that is a violation of state criminal law; or
- 60 (b) develops a relationship of trust with [~~the~~] a minor or the minor's parent or guardian with the intent to solicit, seduce, lure, or entice the minor, or attempt to solicit, seduce, lure, or entice the minor, to engage in sexual activity that is a violation of state criminal law.
- 64 (3) It is not a defense to the crime of enticing a minor under Subsection (2), or an attempt to commit this offense, that a law enforcement officer or an undercover operative who is employed by a law enforcement agency was involved in the detection or investigation of the offense.
- 68 (4) Enticement of a minor under Subsection (2) is punishable as follows:
- 69 (a) enticement to engage in sexual activity that would be a first degree felony for the actor is a:
- 71 (i) second degree felony upon the first conviction for violation of this Subsection (4)(a); and
- 73 (ii) first degree felony punishable by imprisonment for an indeterminate term of not fewer than three years and which may be for life, upon a second or any subsequent conviction for a violation of this Subsection (4)(a);
- 76 (b) enticement to engage in sexual activity that would be a second degree felony for the actor is a third degree felony;
- 78 (c) enticement to engage in sexual activity that would be a third degree felony for the actor is a class A misdemeanor;
- 80 (d) enticement to engage in sexual activity that would be a class A misdemeanor for the actor is a class B misdemeanor; and

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(e) enticement to engage in sexual activity that would be a class B misdemeanor for the actor is a class C misdemeanor.

84 (5)

(a) When an actor who commits a felony violation of this section has been previously convicted of an offense under Subsection (5)(b), the court may not in any way shorten the prison sentence, and the court may not:

87 (i) grant probation;

88 (ii) suspend the execution or imposition of the sentence;

89 (iii) enter a judgment for a lower category of offense; or

90 (iv) order hospitalization.

91 (b) The sections referred to in Subsection (5)(a) are:

92 (i) Section 76-4-401, enticing a minor;

93 (ii) Section 76-5-301.1, child kidnapping;

94 (iii) Section 76-5-402, rape;

95 (iv) Section 76-5-402.1, rape of a child;

96 (v) Section 76-5-402.2, object rape;

97 (vi) Section 76-5-402.3, object rape of a child;

98 (vii) Section 76-5-403, forcible sodomy;

99 (viii) Section 76-5-403.1, sodomy on a child;

100 (ix) Section 76-5-404, forcible sexual abuse;

101 (x) Section 76-5-404.1, sexual abuse of a child and Section 76-5-404.3, aggravated sexual abuse of a child;

103 (xi) Section 76-5-405, aggravated sexual assault;

104 (xii) Section 76-5-308.5, human trafficking of a child;

105 (xiii) any offense in any other state or federal jurisdiction that constitutes or would constitute a crime in Subsections (5)(b)(i) through (xii); or

107 (xiv) the attempt, solicitation, or conspiracy to commit any of the offenses in Subsections (5)(b)(i) through (xiii).

109 Section 2. Section **77-41-105** is amended to read:

110 **77-41-105. Registration of offenders -- Offender responsibilities.**

111 (1)

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- . (a) An offender who enters this state from another jurisdiction is required to register under Subsection (3) and Subsection 77-41-102(1), (11), or (19).
- 113 (b) The offender shall 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.
- 115 (2)
- . (a) An offender required to register under Subsection 77-41-102(1), (11), or (19) who is under supervision by the department shall register in person with the Division of Adult Probation and Parole.
- 118 (b) An offender required to register under Subsection 77-41-102(1), (11), or (19) who is no longer under supervision by the department shall register in person with the police department or sheriff's office that has jurisdiction over the area where the offender resides.
- 122 (3)
- . (a) Except as provided in Subsections (3)(b), (3)(c), and (4), an offender shall, for the duration of the sentence and for 10 years after termination of sentence or custody of the division, register each year during the month of the offender's date of birth, during the month that is the sixth month after the offender's birth month, and 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 required to be submitted under Subsection (7).
- 129 (b) Except as provided in Subsections (3)(c)(iii), (4), and (5), an offender who is convicted in another jurisdiction of an offense listed in Subsection 77-41-102(1), (11), or (19), a substantially similar offense, another offense that requires registration in the jurisdiction of conviction, or an offender who is ordered by a court of another jurisdiction to register as an offender shall register for the time period required by the jurisdiction where the offender was convicted or ordered to register.
- 135 (c)
- . (i) An offender convicted as an adult of an offense listed in Section 77-41-106 shall, for the offender's lifetime, register each year during the month of the offender's birth, during the month that is the sixth month after the offender's birth month, and also 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 required to be submitted under Subsection (7).

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- (ii) Except as provided in Subsection (3)(c)(iii), the registration requirement described in Subsection (3)(c)(i) is not subject to exemptions and may not be terminated or altered during the offender's lifetime, unless a petition is granted under Section 77-41-112.
- 146 (iii)
- . (A) If the sentencing court at any time after conviction determines, after considering the factors described in Subsection (3)(c)(iv) and any other factor the sentencing court determines is relevant, that the offense does not involve force or coercion, lifetime registration under Subsection (3)(c)(i) does not apply to an offender who commits the offense when the offender is under 21 years old.
- 152 (B) For an offense listed in Section 77-41-106, an offender who commits the offense when the offender is under 21 years old shall register for the registration period required under Subsection (3)(a), unless a petition is granted under Section 77-41-112.
- 156 (iv) In determining whether an offense committed by an offender involves force or coercion under Subsection (3)(c)(iii)(A), the sentencing court shall consider:
- 158 (A) the age of the victim;
- 159 (B) the vulnerability of the victim;
- 160 (C) the physical, mental, psychological, or emotional harm the victim suffered from the offense;
- 162 (D) whether the offender used fraud or deception to commit the offense; and
- 163 (E) if any child sexual abuse material, as that term is defined in Section 76-5b-103, was:
- 165 (I) distributed to the victim by the offender; or
- 166 (II) distributed, produced, or possessed by the offender at the time of the offense that involved force or coercion against a victim depicted in the child sexual abuse material.
- 169 (d) For the purpose of establishing venue for a violation of this Subsection (3), the violation is considered to be committed:
- 171 (i) at the most recent registered primary residence of the offender or at the location of the offender, if the actual location of the offender at the time of the violation is not known; or
- 174 (ii) at the location of the offender at the time the offender is apprehended.
- 175 (4) Notwithstanding Subsection (3) and Section 77-41-106, an offender who is confined in a secure facility or in a state mental hospital is not required to register during the period of confinement.
- 178 (5)
- .

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- 182 (a) Except as provided in Subsection (5)(b), 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).
- 185 (b) If the jurisdiction of the offender's adjudication does not publish the offender's information on a public website, the department shall maintain, but not publish the offender's information on the registration website.
- 188 (6) A sex offender who violates Section 77-27-21.8 regarding being in the presence of a child while required to register under this chapter shall register for an additional five years subsequent to the registration period otherwise required under this chapter.
- 190 (7) An offender shall provide the department or the registering entity with the following information:
- 191 (a) all names and aliases by which the offender is or has been known;
- 192 (b) the addresses of the offender's primary and secondary residences;
- 194 (c) a physical description, including the offender's date of birth, height, weight, eye and hair color;
- 196 (d) 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;
- 197 (e) a current photograph of the offender;
- 198 (f) a set of fingerprints, if one has not already been provided;
- 200 (g) a DNA specimen, taken in accordance with Section 53-10-404, if one has not already been provided;
- 203 (h) telephone numbers and any other designations used by the offender for routing or self-identification in telephonic communications from fixed locations or cellular telephones;
- 205 (i) Internet identifiers and the addresses the offender uses for routing or self-identification in Internet communications or postings;
- 208 (j) 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;
- 209 (k) a copy of the offender's passport, if a passport has been issued to the offender;
- 211 (l) if the offender is an alien, all documents establishing the offender's immigration status;
- 213 (m) 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;

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- (n) each educational institution in Utah at which the offender is employed, carries on a vocation, or is a student, and a change of enrollment or employment status of the offender at an educational institution;
- 216 (o) the name, the telephone number, and the address of a place where the offender is employed or will be employed;
- 218 (p) 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
- 220 (q) the offender's social security number.
- 221 (8)
- . (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.
- 223 (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.
- 225 (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.
- 227 (d) If the court orders an offender's name changed, the department shall publish on the registration website the offender's former name, and the offender's changed name as an alias.
- 230 (9) Notwithstanding Subsections (7)(i) and (j) and 77-41-103(1)(c), an offender is not required to provide the department with:
- 232 (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
- 235 (b) online identifiers for the offender's financial accounts, including a bank, retirement, or investment account.

237 Section 3. Section **77-41-112** is amended to read:

238 **77-41-112. Removal from registry -- Requirements -- Procedure.**

239 (1)

. ~~(a)~~

. (i) ~~[An]~~ Subject to Subsections (8) and (9), an offender who is required to register with the Sex, Kidnap, and Child Abuse Offender Registry may petition the court for an order removing the offender from the Sex, Kidnap, and Child Abuse Offender Registry if:

243 ~~{(a){}}~~ ~~{(A)}~~

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- . ~~{(i)} {A}~~ the offender was convicted of an offense described in Subsection (2);
- 245 ~~{(ii)} {A}~~ at least five years have passed after the day on which the offender's sentence for the offense terminated;
- 247 ~~{(iii)} {A}~~ the offense is the only offense for which the offender was required to register;
- 249 ~~{(iv)} {A}~~ the offender has not been convicted of another offense, excluding a traffic offense, since 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;
- 253 ~~{(v)} {A}~~ the offender successfully completed all treatment ordered by the court or the Board of Pardons and Parole relating to the offense; and
- 255 ~~{(vi)} {A}~~ the offender has paid all restitution ordered by the court or the Board of Pardons and Parole relating to the offense;
- 257 ~~{(b)} {B}~~
- . ~~{(i)} {A}~~ the offender is required to register in accordance with Subsection 77-41-105(3)(a);
- 259 ~~{(ii)} {A}~~ at least 10 years have passed after the later of:
- 260 ~~{(A)} {Aa}~~ the day on which the offender was placed on probation;
- 261 ~~{(B)} {Ab}~~ the day on which the offender was released from incarceration to parole;
- 263 ~~{(C)} {Ac}~~ the day on which the offender's sentence was terminated without parole;
- 265 ~~{(D)} {Ad}~~ the day on which the offender entered a community-based residential program; or
- 267 ~~{(E)} {Ae}~~ for a minor, as defined in Section 80-1-102, the day on which the division's custody of the offender was terminated;
- 269 ~~{(iii)} {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 (1)(b)(ii), as evidenced by a certificate of eligibility issued by the bureau;
- 273 ~~{(iv)} {A}~~ the offender successfully completed all treatment ordered by the court or the Board of Pardons and Parole relating to the offense; and
- 275 ~~{(v)} {A}~~ the offender has paid all restitution ordered by the court or the Board of Pardons and Parole relating to the offense; or
- 277 ~~{(c)} {C}~~
- . ~~{(i)} {A}~~ the offender is required to register in accordance with Subsection 77-41-105(3)(c);
- 279 ~~{(ii)} {A}~~ at least 20 years have passed after the later of:
- 280 ~~{(A)} {Aa}~~ the day on which the offender was placed on probation;

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- 281 ~~{(B)} { (Bb)}~~ the day on which the offender was released from incarceration to parole;
- 283 ~~{(C)} { (Ce)}~~ the day on which the offender's sentence was terminated without parole;
- 285 ~~{(D)} { (Dd)}~~ the day on which the offender entered a community-based residential program; or
- 287 ~~{(E)} { (Ee)}~~ for a minor, as defined in Section 80-1-102, the day on which the division's custody of the offender was terminated;
- 289 ~~{(iii)} { (III)}~~ 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 (1)(c)(ii), as evidenced by a certificate of eligibility issued by the bureau;
- 293 ~~{(iv)} { (IV)}~~ the offender completed all treatment ordered by the court or the Board of Pardons and Parole relating to the offense;
- 295 ~~{(v)} { (V)}~~ the offender has paid all restitution ordered by the court or the Board of Pardons and Parole relating to the offense; and
- 297 ~~{(vi)} { (VI)}~~ the offender submits to an evidence-based risk assessment to the court, with the offender's petition, that:
- 299 ~~{(A)} { (Aa)}~~ meets the standards for the current risk assessment, score, and risk level required by the Board of Pardons and Parole for parole termination requests;
- 302 ~~{(B)} { (Bb)}~~ is completed within the six months before the date on which the petition is filed; and
- 304 ~~{(C)} { (Ce)}~~ describes the evidence-based risk assessment of the current level of risk to the safety of the public posed by the offender.
- 306 (2) The offenses referred to in Subsection (1)(a)(i) are:
- 307 (a) enticing a minor under Section 76-4-401, if the offense is a class A misdemeanor;
- 308 (b) kidnapping under Section 76-5-301;
- 309 (c) unlawful detention under Section 76-5-304, if the conviction of violating Section 76-5-304 is the only conviction for which the offender is required to register;
- 311 (d) 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;
- 313 (e) 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;
- 315 (f) unlawful sexual conduct with a 16 or 17 year old under Section 76-5-401.2, and at the time of the offense, the offender is not more than 15 years older than the victim;
- 317 (g) voyeurism under Section 76-9-702.7, if the offense is a class A misdemeanor; or

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- 318 (h) an offense for which an individual is required to register under Subsection 77-41-102(1)(c), (11)
(c), or (19)(c), if the offense is not substantially equivalent to an offense described in Subsection
77-41-102(1)(a), (11)(a), or (19)(a).
- 321 (3)
. (a)
. (i) An offender seeking removal from the Sex, Kidnap, and Child Abuse Offender Registry under
this section shall apply for a certificate of eligibility from the bureau.
- 324 (ii) An offender who intentionally or knowingly provides false or misleading information to the
bureau when applying for a certificate of eligibility is guilty of a class B misdemeanor and
subject to prosecution under Section 76-8-504.6.
- 327 (iii) Regardless of whether the offender is prosecuted, the bureau may deny a certificate of
eligibility to an offender who provides false information on an application.
- 330 (b)
. (i) The bureau shall:
- 331 (A) perform a check of records of governmental agencies, including national criminal databases, to
determine whether an offender is eligible to receive a certificate of eligibility; and
- 334 (B) determine whether the offender meets the requirements described in Subsection (1)(a)(ii), (a)
(v), (a)(vi), (b)(ii), (b)(iv), (b)(v), (c)(ii), (c)(iv), or (c)(v).
- 337 (ii) If the offender meets the requirements described in Subsection (1)(a), (b), or (c), the bureau shall
issue a certificate of eligibility to the offender, which is valid for a period of 90 days after the day on
which the bureau issues the certificate.
- 340 (4)
. (a)
. (i) The bureau shall charge application and issuance fees for a certificate of eligibility in accordance
with the process in Section 63J-1-504.
- 342 (ii) The application fee shall be paid at the time the offender submits an application for a certificate
of eligibility to the bureau.
- 344 (iii) If the bureau determines that the issuance of a certificate of eligibility is appropriate, the
offender will be charged an additional fee for the issuance of a certificate of eligibility.
- 347 (b) Funds generated under this Subsection (4) shall be deposited into the General Fund as a dedicated
credit by the department to cover the costs incurred in determining eligibility.

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350 (5)

. (a) The offender shall file the petition, including original information, the court docket, the certificate of eligibility from the bureau, and the document from the department described in Subsection [~~(3)~~(b) (iv)] (3)(b)(ii) with the court, and deliver a copy of the petition to:

354 (i) [-] if the offender is required to register on the Sex, Kidnap, and Child Abuse Offender Registry for a conviction of an offense committed in this state, the office of the prosecutor[-] that prosecuted the offender for the offense; or

357 (ii) if the offender is required to register on the Sex, Kidnap, and Child Abuse Offender Registry for a conviction of an offense committed in another jurisdiction, the attorney general's office.

360 (b) Upon receipt of a petition for removal from the Sex, Kidnap, and Child Abuse Offender Registry[-] under Subsection (5)(a):

362 (i) [-]the office of the prosecutor shall 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 most recent address of record on file for the victim's parent or guardian[-of the victim] ; or

366 (ii) the attorney general's office shall, if reasonably practicable, provide notice of the petition by first-class mail to the most recent address of record for the victim or, if the victim is still a minor under 18 years old, to the most recent address of record for the victim's parent or guardian.

370 (c) The notice described in Subsection (5)(b) shall include a copy of the petition, state that the victim has a right to object to the removal of the offender from the registry, and provide instructions for registering an objection with the court.

373 (d) The office of the prosecutor shall provide the following, if available, to the court within 30 days after the day on which the office receives the petition:

375 (i) presentencing report;

376 (ii) an evaluation done as part of sentencing; and

377 (iii) other information the office of the prosecutor determines the court should consider.

379 (e) The victim, or the victim's parent or guardian if the victim is a minor under 18 years old, may respond to the petition by filing a recommendation or objection with the court within 45 days after the day on which the petition is mailed to the victim.

382 (6)

. (a) The court shall:

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

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- 384 (ii) hold a hearing if requested by the prosecutor or the victim.
- 385 (b)
- . (i) Except as provided in Subsections (6)(b)(ii) and (iii), the court may grant the petition and order removal of the offender from the registry if the court determines that the offender has met the requirements described in Subsection (1)(a) or (b) and removal is not contrary to the interests of the public.
- 389 (ii) When considering a petition filed under Subsection (1)(c), 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.
- 393 (iii) In making the determination described in Subsection (6)(b)(ii), the court may consider:
- 395 (A) the nature and degree of violence involved in the offense that requires registration;
- 397 (B) the age and number of victims of the offense that requires registration;
- 398 (C) the age of the offender at the time of the offense that requires registration;
- 399 (D) the offender's performance while on supervision for the offense that requires registration;
- 401 (E) the offender's stability in employment and housing;
- 402 (F) the offender's community and personal support system;
- 403 (G) other criminal and relevant noncriminal behavior of the offender both before and after the offense that requires registration;
- 405 (H) the level of risk posed by the offender as evidenced by the evidence-based risk assessment described in Subsection (1)(c)(vi); and
- 407 (I) any other relevant factors.
- 408 (c) In determining whether removal 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.
- 411 (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.
- 414 (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.
- 416 (ii) If the offender files a petition under Subsection (1)(c) and the court denies the petition, the offender may not submit another petition for eight years.

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- 418 (7) The court shall notify the victim and the Sex, Kidnap, and Child Abuse Offender Registry office in
the department of the court's decision within three days after the day on which the court issues the
court's decision in the same manner described in Subsection (5).
- 422 (8) Except as provided in Subsection (9), an offender required to register under Subsection
77-41-105(3)(b) may petition for early removal from ~~[the registry]~~ the Sex, Kidnap, and Child
Abuse Offender Registry under Subsection ~~[(1)(b) if the offender:]~~ (1)(a) or (b) if the offender:
- 426 (a) meets the applicable requirements of Subsections (1)(a) or (1)(b)(ii) through (v);
427 (b) has resided in this state for at least 183 days in a year for two consecutive years;~~and]~~
428 (c) intends to primarily reside in this state~~[-]~~ ; and
429 (d) has received an order from a court in the external jurisdiction where the offender was initially
required to register on a sex, kidnap, and child abuse registry, or an equivalent registry, that
authorizes the offender to be removed from the Sex, Kidnap, and Child Abuse Offender Registry.
- 433 (9) An offender required to register under Subsection 77-41-105(3)(b) for life may petition for early
removal from ~~[the registry]~~ the Sex, Kidnap, and Child Abuse Offender Registry under Subsection
(1)(c) if:
- 436 (a) the offense requiring the offender to register is substantially equivalent to an offense listed in
Section 77-41-106;
- 438 (b) the offender meets the requirements of Subsections (1)(c)(ii) through (vi);
- 439 (c) the offender has resided in this state for at least 183 days in a year for two consecutive years;~~and]~~
441 (d) the offender intends to primarily reside in this state~~[-]~~ ; and
442 (e) the offender has received an order from a court in the external jurisdiction where the offender was
initially required to register on a sex, kidnap, and child abuse registry, or an equivalent registry, that
authorizes the offender to be removed from the Sex, Kidnap, and Child Abuse Offender Registry.

438 Section 4. **Effective date.**

This bill takes effect on May 7, 2025.

440 Section 5. **Coordinating H.B. 197 with S.B. 41.**

If H.B. 197, Criminal Conduct Amendments, and S.B. 41, Sex, Kidnap, and Child Abuse Offender Registry Amendments, both pass and become law, the Legislature intends that, on May 7, 2025:

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

"(3) (a) If the sentencing court at any time after an offender is convicted of an offense

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requiring lifetime registration described in Subsection (1)(b), and after considering the factors described in Subsection (3)(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.

(b) In determining whether an offense committed by an offender involves force or coercion under Subsection (3)(a), the sentencing court shall consider:

- (i) the age of the victim;
- (ii) the vulnerability of the victim;
- (iii) the physical, mental, psychological, or emotional harm the victim suffered from the offense;
- (iv) whether the offender used fraud or deception to commit the offense;
- (v) if any child sexual abuse material, as that term is defined in Section 76-5b-103, was:

(A) distributed to the victim by the offender; or

(B) distributed, produced, or possessed by the offender at the time of the offense, that involved force or coercion against a victim depicted in the child sexual abuse material; and

(vi) any other factor the sentencing court determines is relevant.";

(2) Subsection 53-29-205(4), enacted in S.B. 41, be amended to read:

"(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:

- (a) does not have a lifetime registration requirement on the external jurisdiction's sex, kidnap, or child abuse offender registry, or an equivalent registry;
- (b) meets the requirements described in Subsections (1)(a) through (c);
- (c) has resided in this state for at least 183 days in a year for two consecutive years;
- (d) intends to primarily reside in this state; and

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(e) has received an order from a court in the external jurisdiction where the offender was initially required to register on a sex, kidnap, and child abuse registry, or an equivalent registry, that authorizes the offender to be removed from the Sex, Kidnap, and Child Abuse Offender Registry.";

(3) Subsection 53-29-206(3), enacted in S.B. 41, be amended to read:

"(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:

(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;

(b) meets the requirements described in Subsections (1)(a) through (d);

(c) has resided in this state for at least 183 days in a year for two consecutive years;

(d) intends to primarily reside in this state; and

(e) the offender has received an order from a court in the external jurisdiction where the offender was initially required to register on a sex, kidnap, and child abuse registry, or an equivalent registry, that authorizes the offender to be removed from the Sex, Kidnap, and Child Abuse Offender Registry.";

(4) Subsection 53-29-207(3)(b), enacted in S.B. 41, be amended to read:

"(b) An offender who files a petition with the court as described in Subsection (3)(a) shall provide a copy of the petition to:

(i) if the offender is required to register on the Sex, Kidnap, and Child Abuse Offender Registry for a conviction of an offense committed in this state, the office of the prosecutor that prosecuted the offender for the offense; or

(ii) if the offender is required to register on the Sex, Kidnap, and Child Abuse Offender Registry for a conviction of an offense committed in another jurisdiction, the attorney general's office."; and

(5) Subsection 53-29-207(4), enacted in S.B. 41, be amended to read:

"(4)(a) Subject to Subsections (4)(c) and (d), a prosecutor, upon receipt of a petition described in Subsection (3)(b)(i), shall provide notice of the petition by first-class mail to the

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victim at the most recent address of record on file or, if the victim is still a minor under 18 years old, to the most recent address of record on file for the victim's parent or guardian.

(b) Subject to Subsections (4)(c) and (d), the attorney general, upon receipt of a petition described in Subsection (3)(b)(ii), shall, if reasonably practicable, provide notice of the petition by first-class mail to the most recent address of record for the victim or, if the victim is still a minor under 18 years old, to the most recent address of record for the victim's parent or guardian.

(c) The notice described in Subsection (4)(a) or (b) shall include:

(i) a copy of the petition;

(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

(iii) instructions for how the victim can file an objection or recommendation with the court.

(d) A prosecutor or the attorney general shall provide the following, if available, to the court within 30 days after the day on which the prosecutor or attorney general receives the petition:

(i) the presentencing report created for the offender based on the registrable offense committed by the offender;

(ii) any evaluation done as part of sentencing for the registrable offense; and

(iii) other information the prosecutor determines the court should consider.".

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