

Keith Grover proposes the following substitute bill:

Sex, Kidnap, and Child Abuse Offender Registry Amendments

2025 GENERAL SESSION

STATE OF UTAH

Chief Sponsor: Keith Grover

House Sponsor: Matthew H. Gwynn

LONG TITLE

General Description:

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

Highlighted Provisions:

This bill:

- recodifies the statutes applicable to the Sex, Kidnap, and Child Abuse Offender Registry;
- contains coordination clauses to coordinate technical changes between this bill, H.B. 21,

Criminal Code Recodification and Cross References, and S.B. 24, Child Abuse and

Torture Amendments; and

- makes technical and conforming changes.

Money Appropriated in this Bill:

None

Other Special Clauses:

This bill provides coordination clauses.

Utah Code Sections Affected:

AMENDS:

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

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

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

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

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

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

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

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

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

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

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

30 **53-10-214**, as enacted by Laws of Utah 2019, Chapter 406
31 **53-10-403**, as last amended by Laws of Utah 2024, Chapters 96, 153, 187, and 256
32 **53-10-404**, as last amended by Laws of Utah 2024, Chapter 234
33 **57-8-3**, as last amended by Laws of Utah 2024, Chapter 519
34 **57-8-8.1**, as last amended by Laws of Utah 2024, Chapters 115, 519
35 **57-8a-102**, as last amended by Laws of Utah 2024, Chapter 519
36 **57-8a-218**, as last amended by Laws of Utah 2024, Chapters 115, 519
37 **63G-2-302**, as last amended by Laws of Utah 2024, Chapter 234
38 **63G-7-301**, as last amended by Laws of Utah 2024, Chapter 234
39 **76-1-201**, as last amended by Laws of Utah 2024, Chapter 234
40 **76-1-202**, as last amended by Laws of Utah 2024, Chapter 234
41 **76-3-402**, as last amended by Laws of Utah 2024, Chapter 234
42 **76-5-401**, as last amended by Laws of Utah 2024, Chapter 234
43 **76-5-401.1**, as last amended by Laws of Utah 2024, Chapter 234
44 **76-5-401.3**, as last amended by Laws of Utah 2024, Chapter 234
45 **76-9-702**, as last amended by Laws of Utah 2024, Chapter 234
46 **76-9-702.1**, as last amended by Laws of Utah 2024, Chapter 234
47 **76-9-702.5**, as last amended by Laws of Utah 2024, Chapter 205
48 **77-2-2.3**, as last amended by Laws of Utah 2024, Chapter 234
49 **77-11c-101**, as last amended by Laws of Utah 2024, Chapter 234
50 **77-27-5.2**, as last amended by Laws of Utah 2024, Chapters 116, 234
51 **77-38-605**, as last amended by Laws of Utah 2024, Chapter 234
52 **77-40a-303**, as last amended by Laws of Utah 2024, Chapter 180
53 **77-40a-403**, as last amended by Laws of Utah 2024, Chapter 180
54 **78A-2-301**, as last amended by Laws of Utah 2024, Chapter 366
55 **78B-8-302**, as last amended by Laws of Utah 2024, Chapter 234
56 **80-3-406**, as last amended by Laws of Utah 2023, Chapter 320
57 **80-5-201**, as last amended by Laws of Utah 2024, Chapters 116, 234
58 **80-8-101**, as enacted by Laws of Utah 2024, Chapter 371
59 **80-8-201**, as enacted by Laws of Utah 2024, Chapter 371
60 **81-9-202**, as renumbered and amended by Laws of Utah 2024, Chapter 366
61 **81-9-208**, as renumbered and amended by Laws of Utah 2024, Chapter 366

62 ENACTS:

63 **53-29-101**, Utah Code Annotated 1953

64 **53-29-102**, Utah Code Annotated 1953
65 **53-29-201**, Utah Code Annotated 1953
66 **53-29-202**, Utah Code Annotated 1953
67 **53-29-203**, Utah Code Annotated 1953
68 **53-29-204**, Utah Code Annotated 1953
69 **53-29-205**, Utah Code Annotated 1953
70 **53-29-206**, Utah Code Annotated 1953
71 **53-29-207**, Utah Code Annotated 1953
72 **53-29-301**, Utah Code Annotated 1953
73 **53-29-302**, Utah Code Annotated 1953
74 **53-29-303**, Utah Code Annotated 1953
75 **53-29-304**, Utah Code Annotated 1953
76 **53-29-305**, Utah Code Annotated 1953
77 **53-29-401**, Utah Code Annotated 1953
78 **53-29-402**, Utah Code Annotated 1953
79 **53-29-403**, Utah Code Annotated 1953
80 **53-29-404**, Utah Code Annotated 1953
81 **53-29-405**, Utah Code Annotated 1953

82 RENUMBERS AND AMENDS:

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

87 REPEALS:

88 **77-41-102**, as last amended by Laws of Utah 2024, Chapter 234
89 **77-41-103**, as last amended by Laws of Utah 2024, Chapters 116, 234
90 **77-41-104**, as last amended by Laws of Utah 2023, Chapter 128
91 **77-41-105**, as last amended by Laws of Utah 2024, Chapter 234
92 **77-41-106**, as last amended by Laws of Utah 2024, Chapter 234
93 **77-41-107**, as last amended by Laws of Utah 2024, Chapter 234
94 **77-41-108**, as enacted by Laws of Utah 2012, Chapter 145
95 **77-41-109**, as last amended by Laws of Utah 2024, Chapter 234
96 **77-41-110**, as last amended by Laws of Utah 2024, Chapter 234
97 **77-41-111**, as last amended by Laws of Utah 2023, Chapter 128

98 **77-41-112**, as last amended by Laws of Utah 2024, Chapters 116, 234

99 **77-41-113**, as last amended by Laws of Utah 2024, Chapter 234

100 **77-41-114**, as last amended by Laws of Utah 2024, Chapter 234

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

102 **53-29-202**, Utah Code Annotated 1953

103 **53-29-203**, Utah Code Annotated 1953

104 **53-29-204**, Utah Code Annotated 1953

105 **53-29-205**, Utah Code Annotated 1953

106 **76-9-702**, as last amended by Laws of Utah 2024, Chapter 234

107

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

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

110 **13-51-107 . Driver requirements.**

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

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

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

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

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

119 (b) require the individual to consent to a criminal background check of the individual by
 120 the transportation network company or the transportation network company's
 121 designee; and

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

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

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

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

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

130 (ii) fraud;

131 (iii) a sexual offense;

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

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

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

193 **26B-2-120 . Background check -- Direct access to children or vulnerable adults.**

- 194 (1) As used in this section:
- 195 (a)(i) "Applicant" means an individual who is associated with a certification,
196 contract, or licensee with the department under this part and has direct access,
197 including:
- 198 (A) an adoptive parent or prospective adoptive parent, including an applicant for
199 an adoption in accordance with Section 78B-6-128;

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

- 234 only substance use disorder program, as defined by rule adopted by the
235 Department of Health and Human Services in accordance with Title 63G,
236 Chapter 3, Utah Administrative Rulemaking Act, and who is not a program
237 director or a member, as defined by Section 26B-2-105, of the program.
- 238 (b) "Application" means a background check application to the office.
- 239 (c) "Bureau" means the Bureau of Criminal Identification within the Department of
240 Public Safety, created in Section 53-10-201.
- 241 (d) "Criminal finding" means a record of:
- 242 (i) an arrest for a criminal offense;
- 243 (ii) a warrant for a criminal arrest;
- 244 (iii) charges for a criminal offense; or
- 245 (iv) a criminal conviction.
- 246 (e) "Direct access" means that an individual has, or likely will have:
- 247 (i) contact with or access to a child or vulnerable adult by which the individual will
248 have the opportunity for personal communication or touch with the child or
249 vulnerable adult; or
- 250 (ii) an opportunity to view medical, financial, or other confidential personal
251 identifying information of the child, the child's parent or legal guardian, or the
252 vulnerable adult.
- 253 (f)(i) "Direct access qualified" means that the applicant has an eligible determination
254 by the office within the license and renewal time period; and
- 255 (ii) no more than 180 days have passed since the date on which the applicant's
256 association with a certification, contract, or licensee with the department expires.
- 257 (g) "Incidental care" means occasional care, not in excess of five hours per week and
258 never overnight, for a foster child.
- 259 (h) "Licensee" means an individual or a human services program licensed by the
260 division.
- 261 (i) "Non-criminal finding" means a record maintained in:
- 262 (i) the Division of Child and Family Services' Management Information System
263 described in Section 80-2-1001;
- 264 (ii) the Division of Child and Family Services' Licensing Information System
265 described in Section 80-2-1002;
- 266 (iii) the Division of Aging and Adult Services' vulnerable adult abuse, neglect, or
267 exploitation database described in Section 26B-6-210;

- 268 (iv) juvenile court arrest, adjudication, and disposition records;
- 269 (v) the Sex, Kidnap, and Child Abuse Offender Registry described in [~~Title 77,~~
- 270 ~~Chapter 41, Sex, Kidnap, and Child Abuse Offender Registry]~~ Title 53, Chapter
- 271 29, Sex, Kidnap, and Child Abuse Offender Registry, or a national sex offender
- 272 registry; or
- 273 (vi) a state child abuse or neglect registry.
- 274 (j) "Office" means the Office of Background Processing within the department.
- 275 (k) "Personal identifying information" means:
- 276 (i) current name, former names, nicknames, and aliases;
- 277 (ii) date of birth;
- 278 (iii) physical address and email address;
- 279 (iv) telephone number;
- 280 (v) driver license or other government-issued identification;
- 281 (vi) social security number;
- 282 (vii) only for applicants who are 18 years old or older, fingerprints, in a form
- 283 specified by the office; and
- 284 (viii) other information specified by the office by rule made in accordance with Title
- 285 63G, Chapter 3, Utah Administrative Rulemaking Act.
- 286 (2) Except as provided in Subsection (12), an applicant or a representative shall submit the
- 287 following to the office:
- 288 (a) personal identifying information;
- 289 (b) a fee established by the office under Section 63J-1-504;
- 290 (c) a disclosure form, specified by the office, for consent for:
- 291 (i) an initial background check upon association with a certification, contract, or
- 292 licensee with the department;
- 293 (ii) ongoing monitoring of fingerprints and registries until no longer associated with a
- 294 certification, contract, or licensee with the department for 180 days;
- 295 (iii) a background check when the office determines that reasonable cause exists; and
- 296 (iv) retention of personal identifying information, including fingerprints, for
- 297 monitoring and notification as described in Subsections (3)(c) and (4);
- 298 (d) if an applicant resided outside of the United States and its territories during the five
- 299 years immediately preceding the day on which the information described in
- 300 Subsections (2)(a) through (c) is submitted to the office, documentation establishing
- 301 whether the applicant was convicted of a crime during the time that the applicant

- 302 resided outside of the United States or its territories; and
- 303 (e) an application showing an applicant's association with a certification, contract, or a
- 304 licensee with the department, for the purpose of the office tracking the direct access
- 305 qualified status of the applicant, which expires 180 days after the date on which the
- 306 applicant is no longer associated with a certification, contract, or a licensee with the
- 307 department.
- 308 (3) The office:
- 309 (a) shall perform the following duties as part of a background check of an applicant
- 310 before the office grants or denies direct access qualified status to an applicant:
- 311 (i) check state and regional criminal background databases for the applicant's
- 312 criminal history by:
- 313 (A) submitting personal identifying information to the bureau for a search; or
- 314 (B) using the applicant's personal identifying information to search state and
- 315 regional criminal background databases as authorized under Section 53-10-108;
- 316 (ii) submit the applicant's personal identifying information and fingerprints to the
- 317 bureau for a criminal history search of applicable national criminal background
- 318 databases;
- 319 (iii) search the Division of Child and Family Services' Licensing Information System
- 320 described in Section 80-2-1002;
- 321 (iv) search the Sex, Kidnap, and Child Abuse Offender Registry described in [~~Title~~
- 322 ~~77, Chapter 41, Sex, Kidnap, and Child Abuse Offender Registry~~] Title 53,
- 323 Chapter 29, Sex, Kidnap, and Child Abuse Offender Registry, or a national sex
- 324 offender registry for an applicant 18 years old or older;
- 325 (v) if the applicant is associated with a licensee for a prospective foster or adoptive
- 326 parent, search the Division of Child and Family Services' Management
- 327 Information System described in Section 80-2-1001;
- 328 (vi) search the Division of Aging and Adult Services' vulnerable adult abuse, neglect,
- 329 or exploitation database described in Section 26B-6-210;
- 330 (vii) search the juvenile court records for substantiated findings of severe child abuse
- 331 or neglect described in Section 80-3-404; and
- 332 (viii) search the juvenile court arrest, adjudication, and disposition records, as
- 333 provided under Section 78A-6-209;
- 334 (b) may conduct all or portions of a background check in connection with determining
- 335 whether an applicant is direct access qualified, as provided by rule, made by the

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

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

- 404 (D) a violent offense committed in the presence of a child, as described in Section
405 76-3-203.10;
- 406 (E) an offense included in Title 76, Chapter 4, Part 4, Enticement of a Minor;
- 407 (F) an offense included in Title 76, Chapter 5, Offenses Against the Individual;
- 408 (G) an offense included in Title 76, Chapter 5b, Sexual Exploitation Act;
- 409 (H) an offense included in Title 76, Chapter 7, Offenses Against the Family;
- 410 (I) an offense included in Title 76, Chapter 9, Part 4, Offenses Against Privacy;
- 411 (J) an offense included in Title 76, Chapter 10, Part 4, Weapons of Mass
412 Destruction;
- 413 (K) an offense included in Title 78B, Chapter 7, Protective Orders and Stalking
414 Injunctions;
- 415 (L) aggravated arson, as described in Section 76-6-103;
- 416 (M) aggravated burglary, as described in Section 76-6-203;
- 417 (N) aggravated exploitation of prostitution, as described in Section 76-10-1306;
- 418 (O) aggravated robbery, as described in Section 76-6-302;
- 419 (P) endangering persons in a human services program, as described in Section
420 26B-2-113;
- 421 (Q) failure to report, as described in Section 80-2-609;
- 422 (R) identity fraud crime, as described in Section 76-6-1102;
- 423 (S) leaving a child unattended in a motor vehicle, as described in Section
424 76-10-2202;
- 425 (T) riot, as described in Section 76-9-101;
- 426 (U) sexual battery, as described in Section 76-9-702.1; or
- 427 (V) threatening with or using a dangerous weapon in a fight or quarrel, as
428 described in Section 76-10-506; or
- 429 (ii) a felony or misdemeanor offense committed outside of the state that, if committed
430 in the state, would constitute a violation of an offense described in Subsection
431 (5)(a)(i).
- 432 (b)(i) Subsection (5)(a) does not apply to an applicant who is seeking a position as a
433 peer support provider or a mental health professional, if the applicant provides
434 services in a program that serves only adults with a primary mental health
435 diagnosis, with or without a co-occurring substance use disorder.
- 436 (ii) The office shall conduct a comprehensive review of an applicant described in
437 Subsection (5)(b)(i) in accordance with Subsection (7).

- 438 (c) The office shall deny direct access qualified status to an applicant if the office finds
439 that a court order prohibits the applicant from having direct access to a child or
440 vulnerable adult.
- 441 (6) The office shall conduct a comprehensive review of an applicant's background check if
442 the applicant:
- 443 (a) has a felony or class A misdemeanor conviction that is more than three years from
444 the date on which the office conducts the background check, for an offense described
445 in Subsection (5)(a);
- 446 (b) has a felony charge or conviction that is no more than 10 years from the date on
447 which the office conducts the background check for an offense not described in
448 Subsection (5)(a);
- 449 (c) has a felony charge or conviction that is more than 10 years from the date on which
450 the office conducts the background check, for an offense not described in Subsection
451 (5)(a), with criminal or non-criminal findings after the date of the felony charge or
452 conviction;
- 453 (d) has a class B misdemeanor or class C misdemeanor conviction that is more than
454 three years and no more than 10 years from the date on which the office conducts the
455 background check for an offense described in Subsection (5)(a);
- 456 (e) has a class B misdemeanor or class C misdemeanor conviction that is more than 10
457 years from the date on which the office conducts the background check, for an
458 offense described in Subsection (5)(a), with criminal or non-criminal findings after
459 the date of conviction;
- 460 (f) has a misdemeanor charge or conviction that is no more than three years from the
461 date on which the office conducts the background check for an offense not described
462 in Subsection (5)(a);
- 463 (g) has a misdemeanor charge or conviction that is more than three years from the date
464 on which the office conducts the background check, for an offense not described in
465 Subsection (5)(a), with criminal or non-criminal findings after the date of charge or
466 conviction;
- 467 (h) is currently subject to a plea in abeyance or diversion agreement for an offense
468 described in Subsection (5)(a);
- 469 (i) appears on the Sex, Kidnap, and Child Abuse Offender Registry described in [~~Title~~
470 ~~77, Chapter 41, Sex, Kidnap, and Child Abuse Offender Registry~~] Title 53, Chapter
471 29, Sex, Kidnap, and Child Abuse Offender Registry, or a national sex offender

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

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

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

- 574 (C) in a program that serves only adults with a primary mental health diagnosis,
575 with or without a co-occurring substance use disorder; and
- 576 (ii) within three years from the date on which the office conducts the background
577 check, the applicant has a felony or misdemeanor charge or conviction or a
578 non-criminal finding.
- 579 (13)(a) This Subsection (13) applies to an applicant seeking a position in a congregate
580 care program, an applicant seeking to provide a prospective foster home, an applicant
581 seeking to provide a prospective adoptive home, and each adult living in the home of
582 the prospective foster or prospective adoptive home.
- 583 (b) As federally required, the office shall:
- 584 (i) check the child abuse and neglect registry in each state where each applicant
585 resided in the five years immediately preceding the day on which the applicant
586 applied to be a foster or adoptive parent, to determine whether the prospective
587 foster or adoptive parent is listed in the registry as having a substantiated or
588 supported finding of child abuse or neglect; and
- 589 (ii) except for applicants seeking a position in a congregate care program, check the
590 child abuse and neglect registry in each state where each adult living in the home
591 of the prospective foster or adoptive home resided in the five years immediately
592 preceding the day on which the applicant applied to be a foster or adoptive parent,
593 to determine whether the adult is listed in the registry as having a substantiated or
594 supported finding of child abuse or neglect.
- 595 (c) The requirements described in Subsection (13)(b) do not apply to the extent that:
- 596 (i) federal law or rule permits otherwise; or
- 597 (ii) the requirements would prohibit the Division of Child and Family Services or a
598 court from placing a child with:
- 599 (A) a noncustodial parent under Section 80-2a-301, 80-3-302, or 80-3-303; or
600 (B) a relative, other than a noncustodial parent, under Section 80-2a-301, 80-3-302,
601 or 80-3-303, pending completion of the background check described in
602 Subsections (5), (6), and (7).
- 603 (d) Notwithstanding Subsections (5) through (10), the office shall deny direct access
604 qualified status if the applicant has been convicted of:
- 605 (i) a felony involving conduct that constitutes any of the following:
- 606 (A) child abuse, as described in Sections 76-5-109, 76-5-109.2, and 76-5-109.3;
607 (B) commission of domestic violence in the presence of a child, as described in

- 608 Section 76-5-114;
- 609 (C) abuse or neglect of a child with a disability, as described in Section 76-5-110;
- 610 (D) intentional aggravated abuse of a vulnerable adult, as described in Section
- 611 76-5-111;
- 612 (E) endangerment of a child or vulnerable adult, as described in Section
- 613 76-5-112.5;
- 614 (F) aggravated murder, as described in Section 76-5-202;
- 615 (G) murder, as described in Section 76-5-203;
- 616 (H) manslaughter, as described in Section 76-5-205;
- 617 (I) child abuse homicide, as described in Section 76-5-208;
- 618 (J) homicide by assault, as described in Section 76-5-209;
- 619 (K) kidnapping, as described in Section 76-5-301;
- 620 (L) child kidnapping, as described in Section 76-5-301.1;
- 621 (M) aggravated kidnapping, as described in Section 76-5-302;
- 622 (N) human trafficking of a child, as described in Section 76-5-308.5;
- 623 (O) an offense described in Title 76, Chapter 5, Part 4, Sexual Offenses;
- 624 (P) sexual exploitation of a minor, as described in Title 76, Chapter 5b, Sexual
- 625 Exploitation Act;
- 626 (Q) aggravated exploitation of a minor, as described in Section 76-5b-201.1;
- 627 (R) aggravated arson, as described in Section 76-6-103;
- 628 (S) aggravated burglary, as described in Section 76-6-203;
- 629 (T) aggravated robbery, as described in Section 76-6-302;
- 630 (U) lewdness involving a child, as described in Section 76-9-702.5;
- 631 (V) incest, as described in Section 76-7-102; or
- 632 (W) domestic violence, as described in Section 77-36-1; or
- 633 (ii) an offense committed outside the state that, if committed in the state, would
- 634 constitute a violation of an offense described in Subsection (13)(d)(i).
- 635 (e) Notwithstanding Subsections (5) through (10), the office shall deny direct access
- 636 qualified status to an applicant if, within the five years from the date on which the
- 637 office conducts the background check, the applicant was convicted of a felony
- 638 involving conduct that constitutes a violation of any of the following:
- 639 (i) aggravated assault, as described in Section 76-5-103;
- 640 (ii) aggravated assault by a prisoner, as described in Section 76-5-103.5;
- 641 (iii) mayhem, as described in Section 76-5-105;

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

- 676 completed application to the division.
- 677 (b) [~~A person~~] An individual required to renew a salesperson license on or before June
678 30, 2010, shall submit fingerprints to the division on or before November 30, 2010.
- 679 (2) The division shall submit fingerprints for each applicant described in Subsection (1) to
680 the Bureau of Criminal Identification established in Section 53-10-201.
- 681 (3) The Bureau of Criminal Identification shall:
- 682 (a) check the information submitted by the division for an applicant under Subsection (2)
683 against the applicable state and regional criminal records databases; and
- 684 (b) release to the division all information obtained under Subsection (3)(a) relating to the
685 applicant.
- 686 (4)(a) The Bureau of Criminal Identification shall maintain a separate file of fingerprints
687 submitted under Subsection (2) and notify the division when a new entry is made in
688 the applicable state and regional database against [~~a person~~] an individual whose
689 fingerprints are held in the file regarding any matter involving an arrest under state
690 law involving:
- 691 (i) motor vehicles;
- 692 (ii) controlled substances;
- 693 (iii) fraud; or
- 694 [~~(iv) a registerable sex offense under Section 77-41-106.~~]
- 695 (iv) an offense that would result in the individual being a sex offender under
696 Subsection 53-29-202(2)(b) and required to register for the individual's lifetime
697 under Subsection 53-29-203(1)(b).
- 698 (b) Upon request by the division, the Bureau of Criminal Identification shall inform the
699 division whether a person whose arrest was reported to the division under Subsection
700 (4)(a) was subsequently convicted of the charge for which the person was arrested.
- 701 (5) In addition to any fees imposed under this chapter, the division shall:
- 702 (a) impose on individuals submitting fingerprints in accordance with this section the fees
703 that the Bureau of Criminal Identification is authorized to collect for the services the
704 Bureau of Criminal Identification provides under Subsections (3) and (4); and
- 705 (b) remit the fees collected under Subsection (5)(a) to the Bureau of Criminal
706 Identification.
- 707 (6) The division shall use information received from the Bureau of Criminal Identification
708 under this section to determine whether a license should be denied, suspended, or
709 revoked under Section 41-3-209.

710 Section 5. Section **41-3-209** is amended to read:

711 **41-3-209 . Administrator's findings -- Suspension and revocation of license.**

712 (1) If the administrator finds that an applicant is not qualified to receive a license, a license
713 may not be granted.

714 (2)(a) If the administrator finds that there is reasonable cause to deny, suspend, or
715 revoke a license issued under this chapter, the administrator shall deny, suspend, or
716 revoke the license.

717 (b) Reasonable cause for denial, suspension, or revocation of a license includes, in
718 relation to the applicant or license holder or any of the applicant or license holder's
719 partners, officers, or directors:

720 (i) lack of a principal place of business or authorized service center as required by
721 this chapter;

722 (ii) lack of a sales tax license required under Title 59, Chapter 12, Sales and Use Tax
723 Act;

724 (iii) lack of a bond in effect as required by this chapter;

725 (iv) current revocation or suspension of a dealer, dismantler, auction, or salesperson
726 license issued in another state;

727 (v) nonpayment of required fees;

728 (vi) making a false statement on any application for a license under this chapter or for
729 a special license plate;

730 (vii) a violation of any state or federal law involving motor vehicles;

731 (viii) a violation of any state or federal law involving controlled substances;

732 (ix) charges filed with any county attorney, district attorney, or U.S. attorney in any
733 court of competent jurisdiction for a violation of any state or federal law involving
734 motor vehicles;

735 (x) a violation of any state or federal law involving fraud;

736 (xi) a violation of any state or federal law involving [~~a registerable sex offense under~~
737 Section 77-41-106] an offense that would result in the individual being a sex
738 offender under Subsection 53-29-202(2)(b) and required to register for the
739 individual's lifetime under Subsection 53-29-203(1)(b);

740 (xii) having had a license issued under this chapter revoked within five years from
741 the date of application; or

742 (xiii) failure to comply with any applicable qualification or requirement imposed
743 under this chapter.

- 744 (c) Any action taken by the administrator under Subsection (2)(b)(ix) shall remain in
 745 effect until a final resolution is reached by the court involved or the charges are
 746 dropped.
- 747 (3) If the administrator finds that an applicant is not qualified to receive a license under this
 748 section, the administrator shall provide the applicant written notice of the reason for the
 749 denial.
- 750 (4) If the administrator finds that the license holder has been convicted by a court of
 751 competent jurisdiction of violating any of the provisions of this chapter or any rules
 752 made by the administrator, or finds other reasonable cause, the administrator may, by
 753 complying with the emergency procedures of Title 63G, Chapter 4, Administrative
 754 Procedures Act:
- 755 (a) suspend the license on terms and for a period of time the administrator finds
 756 reasonable; or
- 757 (b) revoke the license.
- 758 (5)(a) After suspending or revoking a license, the administrator may take reasonable
 759 action to:
- 760 (i) notify the public that the licensee is no longer in business; and
 761 (ii) prevent the former licensee from violating the law by conducting business
 762 without a license.
- 763 (b) Action under Subsection (5)(a) may include signs, banners, barriers, locks, bulletins,
 764 and notices.
- 765 (c) Any business being conducted incidental to the business for which the former
 766 licensee was licensed may continue to operate subject to the preventive action taken
 767 under this subsection.

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

769 **42-1-1 . By petition to district court -- Contents.**

- 770 (1) Any natural person, desiring to change the natural person's name, may file a petition in
 771 the district court of the county where the natural person resides, setting forth:
- 772 (a) the cause for which the change of name is sought;
 773 (b) the name proposed; and
 774 (c) that the natural person has been a bona fide resident of the county for the year
 775 immediately prior to the filing of the petition.
- 776 (2)(a) A natural person petitioning for a name change under this section shall indicate on
 777 the petition whether the individual is [~~registered with the state's Sex and Kidnap~~

778 Offender Registry] required to register under Title 53, Chapter 29, Sex, Kidnap, and
 779 Child Abuse Offender Registry.

780 (b) The court may request additional information from a natural person who is [
 781 ~~registered with the state's Sex and Kidnap Offender Registry]~~ required to register
 782 under Title 53, Chapter 29, Sex, Kidnap, and Child Abuse Offender Registry, to
 783 make the determination described in Subsection [~~77-41-105(8)]~~ 53-29-303(3).

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

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

787 **53-3-205 . Application for license or endorsement -- Fee required -- Tests --**
 788 **Expiration dates of licenses and endorsements -- Information required -- Previous**
 789 **licenses surrendered -- Driving record transferred from other states -- Reinstatement --**
 790 **Fee required -- License agreement.**

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

880 card was issued or renewed.

881 (8)(a) In addition to the information required by Title 63G, Chapter 4, Administrative
882 Procedures Act, for requests for agency action, an applicant shall:

883 (i) provide:

884 (A) the applicant's full legal name;

885 (B) the applicant's birth date;

886 (C) the applicant's sex;

887 (D)(I) documentary evidence of the applicant's valid social security number;

888 (II) written proof that the applicant is ineligible to receive a social security
889 number;

890 (III) the applicant's temporary identification number (ITIN) issued by the
891 Internal Revenue Service for an individual who:

892 (Aa) does not qualify for a social security number; and

893 (Bb) is applying for a driving privilege card; or

894 (IV) other documentary evidence approved by the division;

895 (E) the applicant's Utah residence address as documented by a form or forms
896 acceptable under rules made by the division under Section 53-3-104, unless the
897 application is for a temporary CDL issued under Subsection 53-3-407(2)(b);
898 and

899 (F) fingerprints, or a fingerprint confirmation form described in Subsection
900 53-3-205.5(1)(a)(ii), and a photograph in accordance with Section 53-3-205.5
901 if the applicant is applying for a driving privilege card;

902 (ii) provide evidence of the applicant's lawful presence in the United States by
903 providing documentary evidence:

904 (A) that the applicant is:

905 (I) a United States citizen;

906 (II) a United States national; or

907 (III) a legal permanent resident alien; or

908 (B) of the applicant's:

909 (I) unexpired immigrant or nonimmigrant visa status for admission into the
910 United States;

911 (II) pending or approved application for asylum in the United States;

912 (III) admission into the United States as a refugee;

913 (IV) pending or approved application for temporary protected status in the

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

- 948 (i)(A) social security number;
- 949 (B) temporary identification number (ITIN); or
- 950 (C) other number assigned by the division if Subsection (8)(a)(i)(D)(IV) applies;
- 951 and
- 952 (ii) indication whether the applicant is required to register as a sex offender, kidnap
- 953 offender, or child abuse offender in accordance with [~~Title 77, Chapter 41, Sex,~~
- 954 ~~Kidnap, and Child Abuse Offender Registry~~] Title 53, Chapter 29, Sex, Kidnap,
- 955 and Child Abuse Offender Registry.
- 956 (9) The division shall require proof of an applicant's name, birth date, and birthplace by at
- 957 least one of the following means:
- 958 (a) current license certificate;
- 959 (b) birth certificate;
- 960 (c) Selective Service registration; or
- 961 (d) other proof, including church records, family Bible notations, school records, or
- 962 other evidence considered acceptable by the division.
- 963 (10)(a) Except as provided in Subsection (10)(c), if an applicant receives a license in a
- 964 higher class than what the applicant originally was issued:
- 965 (i) the license application is treated as an original application; and
- 966 (ii) license and endorsement fees is assessed under Section 53-3-105.
- 967 (b) An applicant that receives a downgraded license in a lower license class during an
- 968 existing license cycle that has not expired:
- 969 (i) may be issued a duplicate license with a lower license classification for the
- 970 remainder of the existing license cycle; and
- 971 (ii) shall be assessed a duplicate license fee under Subsection 53-3-105(25) if a
- 972 duplicate license is issued under Subsection (10)(b)(i).
- 973 (c) An applicant who has received a downgraded license in a lower license class under
- 974 Subsection (10)(b):
- 975 (i) may, when eligible, receive a duplicate license in the highest class previously
- 976 issued during a license cycle that has not expired for the remainder of the existing
- 977 license cycle; and
- 978 (ii) shall be assessed a duplicate license fee under Subsection 53-3-105(25) if a
- 979 duplicate license is issued under Subsection (10)(c)(i).
- 980 (11)(a) When an application is received from an applicant previously licensed in another
- 981 state to drive a motor vehicle, the division shall request a copy of the driver's record

- 982 from the other state.
- 983 (b) When received, the driver's record becomes part of the driver's record in this state
984 with the same effect as though entered originally on the driver's record in this state.
- 985 (12) An application for reinstatement of a license after the suspension, cancellation,
986 disqualification, denial, or revocation of a previous license is accompanied by the
987 additional fee or fees specified in Section 53-3-105.
- 988 (13) An individual who has an appointment with the division for testing and fails to keep
989 the appointment or to cancel at least 48 hours in advance of the appointment shall pay
990 the fee under Section 53-3-105.
- 991 (14) An applicant who applies for an original license or renewal of a license agrees that the
992 individual's license is subject to a suspension or revocation authorized under this title or
993 Title 41, Motor Vehicles.
- 994 (15)(a) A licensee shall authenticate the indication of intent under Subsection (8)(a)(vi)
995 in accordance with division rule.
- 996 (b)(i) Notwithstanding Title 63G, Chapter 2, Government Records Access and
997 Management Act, the division may, upon request, release to an organ procurement
998 organization, as defined in Section 26B-8-301, the names and addresses of all
999 applicants who, under Subsection (8)(a)(vi), indicate that they intend to make an
1000 anatomical gift.
- 1001 (ii) An organ procurement organization may use released information only to:
1002 (A) obtain additional information for an anatomical gift registry; and
1003 (B) inform licensees of anatomical gift options, procedures, and benefits.
- 1004 (16) Notwithstanding Title 63G, Chapter 2, Government Records Access and Management
1005 Act, the division may release to the Department of Veterans and Military Affairs the
1006 names and addresses of all applicants who indicate their status as a veteran under
1007 Subsection (8)(a)(viii).
- 1008 (17) Notwithstanding Title 63G, Chapter 2, Government Records Access and Management
1009 Act, the division shall, upon request, release to the Sex, Kidnap, and Child Abuse
1010 Offender Registry office in the Department of Public Safety, the names and addresses of
1011 all applicants who, under Subsection (8)(a)(vii), indicate they are required to register as
1012 a sex offender, kidnap offender, or child abuse offender in accordance with [~~Title 77,~~
1013 ~~Chapter 41, Sex, Kidnap, and Child Abuse Offender Registry~~] Title 53, Chapter 29, Sex,
1014 Kidnap, and Child Abuse Offender Registry.
- 1015 (18) The division and its employees are not liable, as a result of false or inaccurate

- 1016 information provided under Subsection (8)(a)(vi) or (viii), for direct or indirect:
- 1017 (a) loss;
- 1018 (b) detriment; or
- 1019 (c) injury.
- 1020 (19) An applicant who knowingly fails to provide the information required under
- 1021 Subsection (8)(a)(vii) is guilty of a class A misdemeanor.
- 1022 (20) A person may not hold both an unexpired Utah license certificate and an unexpired
- 1023 identification card.
- 1024 (21)(a) An applicant who applies for an original motorcycle endorsement to a regular
- 1025 license certificate is exempt from the requirement to pass the knowledge and skills
- 1026 test to be eligible for the motorcycle endorsement if the applicant:
- 1027 (i) is a resident of the state of Utah;
- 1028 (ii)(A) is ordered to active duty and stationed outside of Utah in any of the armed
- 1029 forces of the United States; or
- 1030 (B) is an immediate family member or dependent of an individual described in
- 1031 Subsection (21)(a)(ii)(A) and is residing outside of Utah;
- 1032 (iii) has a digitized driver license photo on file with the division;
- 1033 (iv) provides proof to the division of the successful completion of a certified
- 1034 Motorcycle Safety Foundation rider training course; and
- 1035 (v) provides the necessary information and documentary evidence required under
- 1036 Subsection (8).
- 1037 (b) In accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, the
- 1038 division shall make rules:
- 1039 (i) establishing the procedures for an individual to obtain a motorcycle endorsement
- 1040 under this Subsection (21); and
- 1041 (ii) identifying the applicable restrictions for a motorcycle endorsement issued under
- 1042 this Subsection (21).

1043 Section 8. Section **53-3-216** is amended to read:

1044 **53-3-216 . Change of address -- Duty of licensee to notify division within 10 days**
 1045 **-- Change of name -- Proof necessary -- Method of giving notice by division.**

- 1046 (1)(a) Except as provided in Subsection (1)(b), if an individual, after applying for or
- 1047 receiving a license, moves from the address named in the application or in the license
- 1048 certificate issued to the individual, the individual shall, within 10 days after the day
- 1049 on which the individual moves, notify the division in a manner specified by the

- 1050 division of the individual's new address and the number of any license certificate held
1051 by the individual.
- 1052 (b) If an individual who is required to register as a sex offender, kidnap offender, or
1053 child abuse offender under [~~Title 77, Chapter 41, Sex, Kidnap, and Child Abuse~~
1054 ~~Offender Registry~~] Title 53, Chapter 29, Sex, Kidnap, and Child Abuse Offender
1055 Registry, after applying for or receiving a license, moves from the address named in
1056 the application or in the license certificate issued to the individual, the individual
1057 shall, within 30 days after the day on which the individual moves, apply for an
1058 updated license in-person at a division office.
- 1059 (2) If an applicant requests to change the surname on the applicant's license, the division
1060 shall issue a substitute license with the new name upon receiving an application and fee
1061 for a duplicate license and any of the following proofs of the applicant's full legal name:
1062 (a) an original or certified copy of the applicant's marriage certificate;
1063 (b) a certified copy of a court order under Title 42, Chapter 1, Change of Name, showing
1064 the name change;
1065 (c) an original or certified copy of a birth certificate issued by a government agency;
1066 (d) a certified copy of a divorce decree or annulment granted the applicant that specifies
1067 the name change requested; or
1068 (e) a certified copy of a divorce decree that does not specify the name change requested
1069 together with:
1070 (i) an original or certified copy of the applicant's birth certificate;
1071 (ii) the applicant's marriage license;
1072 (iii) a driver license record showing use of a maiden name; or
1073 (iv) other documentation the division finds acceptable.
- 1074 (3)(a) If the division is authorized or required to give a notice under this chapter or other
1075 law regulating the operation of vehicles, the notice shall, unless otherwise prescribed,
1076 be given by:
1077 (i) personal delivery to the individual to be notified; or
1078 (ii) deposit in the United States mail with postage prepaid, addressed to the individual
1079 at the individual's address as shown by the records of the division.
- 1080 (b) The giving of notice by mail is complete upon the expiration of four days after the
1081 deposit of the notice.
- 1082 (c) Proof of the giving of notice in either manner may be made by the certificate of an
1083 officer or employee of the division or affidavit of an individual 18 years [~~of age~~] old

1084 or older, naming the individual to whom the notice was given and specifying the
1085 time, place, and manner of giving the notice.

1086 (4) The division may use state mailing or United States Postal Service information to:

1087 (a) verify an address on an application or on records of the division; and

1088 (b) correct mailing addresses in the division's records.

1089 (5) A violation of the provisions of Subsection (1) is an infraction.

1090 Section 9. Section **53-3-804** is amended to read:

1091 **53-3-804 . Application for identification card -- Required information -- Release**
1092 **of anatomical gift information -- Cancellation of identification card.**

1093 (1) To apply for a regular identification card or limited-term identification card, an
1094 applicant shall:

1095 (a) be a Utah resident;

1096 (b) have a Utah residence address; and

1097 (c) appear in person at any license examining station.

1098 (2) An applicant shall provide the following information to the division:

1099 (a) true and full legal name and Utah residence address;

1100 (b) date of birth as set forth in a certified copy of the applicant's birth certificate, or other
1101 satisfactory evidence of birth, which shall be attached to the application;

1102 (c)(i) social security number; or

1103 (ii) written proof that the applicant is ineligible to receive a social security number;

1104 (d) place of birth;

1105 (e) height and weight;

1106 (f) color of eyes and hair;

1107 (g) signature;

1108 (h) photograph;

1109 (i) evidence of the applicant's lawful presence in the United States by providing
1110 documentary evidence:

1111 (i) that the applicant is:

1112 (A) a United States citizen;

1113 (B) a United States national; or

1114 (C) a legal permanent resident alien; or

1115 (ii) of the applicant's:

1116 (A) unexpired immigrant or nonimmigrant visa status for admission into the
1117 United States;

- 1118 (B) pending or approved application for asylum in the United States;
1119 (C) admission into the United States as a refugee;
1120 (D) pending or approved application for temporary protected status in the United
1121 States;
1122 (E) approved deferred action status;
1123 (F) pending application for adjustment of status to legal permanent resident or
1124 conditional resident; or
1125 (G) conditional permanent resident alien status;
- 1126 (j) an indication whether the applicant intends to make an anatomical gift under Title
1127 26B, Chapter 8, Part 3, Revised Uniform Anatomical Gift Act;
- 1128 (k) an indication whether the applicant is required to register as a sex offender, kidnap
1129 offender, or child abuse offender in accordance with [~~Title 77, Chapter 41, Sex,~~
1130 ~~Kidnap, and Child Abuse Offender Registry~~] Title 53, Chapter 29, Sex, Kidnap, and
1131 Child Abuse Offender Registry; and
- 1132 (l) an indication whether the applicant is a veteran of the United States Armed Forces,
1133 verification that the applicant has received an honorable or general discharge from
1134 the United States Armed Forces, and an indication whether the applicant does or does
1135 not authorize sharing the information with the state Department of Veterans and
1136 Military Affairs.
- 1137 (3)(a) The requirements of Section 53-3-234 apply to this section for each individual,
1138 age 16 and older, applying for an identification card.
- 1139 (b) Refusal to consent to the release of information under Section 53-3-234 shall result
1140 in the denial of the identification card.
- 1141 (4) An individual person who knowingly fails to provide the information required under
1142 Subsection (2)(k) is guilty of a class A misdemeanor.
- 1143 (5)(a) A person may not hold both an unexpired Utah license certificate and an
1144 unexpired identification card.
- 1145 (b) A person who holds a regular or limited term Utah driver license and chooses to
1146 relinquish the person's driving privilege may apply for an identification card under
1147 this chapter, provided:
- 1148 (i) the driver:
- 1149 (A) no longer qualifies for a driver license for failure to meet the requirement in
1150 Section 53-3-304; or
1151 (B) makes a personal decision to permanently discontinue driving;

- 1152 (ii) the driver:
- 1153 (A) submits an application to the division on a form approved by the division in
- 1154 person, through electronic means, or by mail;
- 1155 (B) affirms their intention to permanently discontinue driving; and
- 1156 (C) surrenders to the division the driver license certificate; and
- 1157 (iii) the division possesses a digital photograph of the driver obtained within the
- 1158 preceding 10 years.
- 1159 (c)(i) The division shall waive the fee under Section 53-3-105 for an identification
- 1160 card for an original identification card application under this Subsection (5).
- 1161 (ii) The fee waiver described in Subsection (5)(c)(i) does not apply to a person whose
- 1162 driving privilege is suspended or revoked.
- 1163 (6) Notwithstanding Title 63G, Chapter 2, Government Records Access and Management
- 1164 Act, the division shall, upon request, release to the Sex, Kidnap, and Child Abuse
- 1165 Offender Registry office in the Department of Public Safety, the names and addresses of
- 1166 all applicants who, under Subsection (2)(k), indicate they are required to register as a sex
- 1167 offender, kidnap offender, or child abuse offender in accordance with [~~Title 77, Chapter~~
- 1168 ~~41, Sex, Kidnap, and Child Abuse Offender Registry~~] Title 53, Chapter 29, Sex, Kidnap,
- 1169 and Child Abuse Offender Registry.
- 1170 Section 10. Section **53-3-806.5** is amended to read:
- 1171 **53-3-806.5 . Identification card required if offender does not have driver license.**
- 1172 (1)(a) An individual who does not hold a current driver license in compliance with
- 1173 Section 53-3-205 and is required to register as a sex offender, kidnap offender, or
- 1174 child abuse offender in accordance with [~~Title 77, Chapter 41, Sex, Kidnap, and~~
- 1175 ~~Child Abuse Offender Registry~~] Title 53, Chapter 29, Sex, Kidnap, and Child Abuse
- 1176 Offender Registry, shall obtain an identification card.
- 1177 (b) The individual shall maintain a current identification card during the time the
- 1178 individual is required to register as a sex offender, kidnap offender, or child abuse
- 1179 offender and the individual does not hold a valid driver license.
- 1180 (2) Failure to maintain a current identification card as required under Subsection (1) is a
- 1181 class A misdemeanor for each month of violation of Subsection (1).
- 1182 Section 11. Section **53-3-807** is amended to read:
- 1183 **53-3-807 . Expiration -- Address and name change -- Extension.**
- 1184 (1)(a) A regular identification card expires on the birth date of the applicant in the fifth
- 1185 year after the issuance of the regular identification card.

- 1186 (b) A limited-term identification card expires on:
- 1187 (i) the expiration date of the period of time of the individual's authorized stay in the
- 1188 United States or on the birth date of the applicant in the fifth year after the
- 1189 issuance of the limited-term identification card, whichever is sooner; or
- 1190 (ii) on the date of issuance in the first year after the year that the limited-term
- 1191 identification card was issued if there is no definite end to the individual's period
- 1192 of authorized stay.
- 1193 (2)(a) Except as provided in Subsection (2)(b), if an individual has applied for and
- 1194 received an identification card and subsequently moves from the address shown on
- 1195 the application or on the card, the individual shall, within 10 days after the day on
- 1196 which the individual moves, notify the division in a manner specified by the division
- 1197 of the individual's new address.
- 1198 (b) If an individual who is required to register as a sex offender, kidnap offender, or
- 1199 child abuse offender under [~~Title 77, Chapter 41, Sex, Kidnap, and Child Abuse~~
- 1200 ~~Offender Registry~~] Title 53, Chapter 29, Sex, Kidnap, and Child Abuse Offender
- 1201 Registry, has applied for and received an identification card and subsequently moves
- 1202 from the address shown on the application or on the card, the individual shall, within
- 1203 30 days after the day on which the individual moves, apply for an updated
- 1204 identification card in-person at a division office.
- 1205 (3) If an individual has applied for and received an identification card and subsequently
- 1206 changes the individual's name under Title 42, Chapter 1, Change of Name, the
- 1207 individual:
- 1208 (a) shall surrender the card to the division; and
- 1209 (b) may apply for a new card in the individual's new name by:
- 1210 (i) furnishing proper documentation to the division as provided in Section 53-3-804;
- 1211 and
- 1212 (ii) paying the fee required under Section 53-3-105.
- 1213 (4) A person 21 years old or older with a disability, as defined under the Americans with
- 1214 Disabilities Act of 1990, Pub. L. 101-336, may extend the expiration date on an
- 1215 identification card for five years if the person with a disability or an agent of the person
- 1216 with a disability:
- 1217 (a) requests that the division send the application form to obtain the extension or
- 1218 requests an application form in person at the division's offices;
- 1219 (b) completes the application;

1220 (c) certifies that the extension is for a person 21 years old or older with a disability; and
 1221 (d) returns the application to the division together with the identification card fee
 1222 required under Section 53-3-105.

1223 (5)(a) The division may extend a valid regular identification card issued after January 1,
 1224 2010, for five years at any time within six months before the day on which the
 1225 identification card expires.

1226 (b) The application for an extension of a regular identification card is accompanied by a
 1227 fee under Section 53-3-105.

1228 (c) The division shall allow extensions:

1229 (i) by mail, electronic means, or other means as determined by the division at the
 1230 appropriate extension fee rate under Section 53-3-105; and

1231 (ii) only if the applicant qualifies under this section.

1232 (6)(a) A regular identification card may only be extended once under Subsections (4)
 1233 and (5).

1234 (b) After an extension an application for an identification card must be applied for in
 1235 person at the division's offices.

1236 Section 12. Section **53-10-214** is amended to read:

1237 **53-10-214 . Reporting requirements.**

1238 The bureau shall submit a record received pursuant to Section 53-10-208.1 for all
 1239 nonextraditable warrants issued for violent felonies as defined in Section 76-3-203.5 and all
 1240 nonextraditable warrants issued for knowingly failing to register under Title 53, Chapter 29,
 1241 Sex, Kidnap, and Child Abuse Offender Registry, for a sexual offense pursuant to Section [
 1242 ~~77-41-107~~] 53-29-305 to the National Crime Information Center within 48 hours of receipt,
 1243 excluding Saturdays, Sundays, and legal holidays.

1244 Section 13. Section **53-10-403** is amended to read:

1245 **53-10-403 . DNA specimen analysis -- Application to offenders, including minors.**

1246 (1) Sections 53-10-403.6, 53-10-404, 53-10-404.5, 53-10-405, and 53-10-406 apply to:

1247 (a) a person who has pled guilty to or has been convicted of any of the offenses under
 1248 Subsection (2)(a) or (b) on or after July 1, 2002;

1249 (b) a person who has pled guilty to or has been convicted by any other state or by the
 1250 United States government of an offense which if committed in this state would be
 1251 punishable as one or more of the offenses listed in Subsection (2)(a) or (b) on or after
 1252 July 1, 2003;

1253 (c) a person who has been booked on or after January 1, 2011, through December 31,

- 1254 2014, for any offense under Subsection (2)(c);
- 1255 (d) a person who has been booked:
- 1256 (i) by a law enforcement agency that is obtaining a DNA specimen on or after May
- 1257 13, 2014, through December 31, 2014, under Subsection 53-10-404(4)(b) for any
- 1258 felony offense; or
- 1259 (ii) on or after January 1, 2015, for any felony offense; or
- 1260 (e) a minor:
- 1261 (i)(A) who is adjudicated by the juvenile court for an offense described in
- 1262 Subsection (2) that is within the jurisdiction of the juvenile court on or after
- 1263 July 1, 2002; or
- 1264 (B) who is adjudicated by the juvenile court for an offense described in
- 1265 Subsection (2) and is in the legal custody of the Division of Juvenile Justice
- 1266 Services for the offense on or after July 1, 2002; and
- 1267 (ii) who is 14 years old or older at the time of the commission of the offense
- 1268 described in Subsection (2).
- 1269 (2) Offenses referred to in Subsection (1) are:
- 1270 (a) any felony or class A misdemeanor under the Utah Code;
- 1271 (b) any offense under Subsection (2)(a):
- 1272 (i) for which the court enters a judgment for conviction to a lower degree of offense
- 1273 under Section 76-3-402; or
- 1274 (ii) regarding which the court allows the defendant to enter a plea in abeyance as
- 1275 defined in Section 77-2a-1; or
- 1276 (c)(i) any violent felony as defined in Section 53-10-403.5;
- 1277 (ii) sale or use of body parts, Section 26B-8-315;
- 1278 (iii) failure to stop at an accident that resulted in death, Section 41-6a-401.5;
- 1279 (iv) operating a motor vehicle with any amount of a controlled substance in an
- 1280 individual's body and causing serious bodily injury or death, as codified before
- 1281 May 4, 2022, Laws of Utah 2021, Chapter 236, Section 1, Subsection 58-37-8
- 1282 (2)(g);
- 1283 (v) a felony violation of enticing a minor, Section 76-4-401;
- 1284 (vi) negligently operating a vehicle resulting in injury, Subsection 76-5-102.1(2)(b);
- 1285 (vii) a felony violation of propelling a substance or object at a correctional officer, a
- 1286 peace officer, or an employee or a volunteer, including health care providers,
- 1287 Section 76-5-102.6;

- 1288 (viii) automobile homicide, Subsection 76-5-207(2)(b);
1289 (ix) aggravated human trafficking, Section 76-5-310, and aggravated human
1290 smuggling, Section 76-5-310.1;
1291 (x) a felony violation of unlawful sexual activity with a minor, Section 76-5-401;
1292 (xi) a felony violation of sexual abuse of a minor, Section 76-5-401.1;
1293 (xii) unlawful sexual contact with a 16 or 17-year old, Section 76-5-401.2;
1294 (xiii) sale of a child, Section 76-7-203;
1295 (xiv) aggravated escape, Section 76-8-309.3;
1296 (xv) a felony violation of threatened or attempted assault on an elected official,
1297 Section 76-8-313;
1298 (xvi) threat with intent to impede, intimidate, interfere, or retaliate against a judge or
1299 a member of the Board of Pardons and Parole or acting against a family member
1300 of a judge or a member of the Board of Pardons and Parole, Section 76-8-316;
1301 (xvii) assault with intent to impede, intimidate, interfere, or retaliate against a judge
1302 or a member of the Board of Pardons and Parole or acting against a family
1303 member of a judge or a member of the Board of Pardons and Parole, Section
1304 76-8-316.2;
1305 (xviii) aggravated assault with intent to impede, intimidate, interfere, or retaliate
1306 against a judge or a member of the Board of Pardons and Parole or acting against
1307 a family member of a judge or a member of the Board of Pardons and Parole,
1308 Section 76-8-316.4;
1309 (xix) attempted murder with intent to impede, intimidate, interfere, or retaliate
1310 against a judge or a member of the Board of Pardons and Parole or acting against
1311 a family member of a judge or a member of the Board of Pardons and Parole,
1312 Section 76-8-316.6;
1313 (xx) advocating criminal syndicalism or sabotage, Section 76-8-902;
1314 (xxi) assembling for advocating criminal syndicalism or sabotage, Section 76-8-903;
1315 (xxii) a felony violation of sexual battery, Section 76-9-702.1;
1316 (xxiii) a felony violation of lewdness involving a child, Section 76-9-702.5;
1317 (xxiv) a felony violation of abuse or desecration of a dead human body, Section
1318 76-9-704;
1319 (xxv) manufacture, possession, sale, or use of a weapon of mass destruction, Section
1320 76-10-402;
1321 (xxvi) manufacture, possession, sale, or use of a hoax weapon of mass destruction,

- 1322 Section 76-10-403;
- 1323 (xxvii) possession of a concealed firearm in the commission of a violent felony,
- 1324 Subsection 76-10-504(4);
- 1325 (xxviii) assault with the intent to commit bus hijacking with a dangerous weapon,
- 1326 Subsection 76-10-1504(3);
- 1327 (xxix) commercial obstruction, Subsection 76-10-2402(2);
- 1328 (xxx) a felony violation of failure to register as a sex or kidnap offender, Section [
- 1329 ~~77-41-107~~] 53-29-305;
- 1330 (xxxi) repeat violation of a protective order, Subsection 77-36-1.1(4); or
- 1331 (xxxii) violation of condition for release after arrest under Section 78B-7-802.
- 1332 Section 14. Section **53-10-404** is amended to read:
- 1333 **53-10-404 . DNA specimen analysis -- Requirement to obtain the specimen.**
- 1334 (1) As used in this section, "person" means a person or minor described in Section
- 1335 53-10-403.
- 1336 (2)(a) A person under Section 53-10-403 or any person required to register as a sex
- 1337 offender, kidnap offender, or child abuse offender under [~~Title 77, Chapter 41, Sex,~~
- 1338 ~~Kidnap, and Child Abuse Offender Registry~~] Title 53, Chapter 29, Sex, Kidnap, and
- 1339 Child Abuse Offender Registry, shall provide a DNA specimen and shall reimburse
- 1340 the agency responsible for obtaining the DNA specimen \$150 for the cost of
- 1341 obtaining the DNA specimen unless:
- 1342 (i) the person was booked under Section 53-10-403 and is not required to reimburse
- 1343 the agency under Section 53-10-404.5; or
- 1344 (ii) the agency determines the person lacks the ability to pay.
- 1345 (b)(i)(A) The responsible agencies shall establish guidelines and procedures for
- 1346 determining if the person is able to pay the fee.
- 1347 (B) An agency's implementation of Subsection (2)(b)(i) meets an agency's
- 1348 obligation to determine an inmate's ability to pay.
- 1349 (ii) An agency's guidelines and procedures may provide for the assessment of \$150
- 1350 on the inmate's county trust fund account and may allow a negative balance in the
- 1351 account until the \$150 is paid in full.
- 1352 (3)(a)(i) All fees collected under Subsection (2) shall be deposited into the DNA
- 1353 Specimen Restricted Account created in Section 53-10-407, except that the
- 1354 agency collecting the fee may retain not more than \$25 per individual specimen
- 1355 for the costs of obtaining the saliva DNA specimen.

- 1356 (ii) The agency collecting the \$150 fee may not retain from each separate fee more
1357 than \$25, and no amount of the \$150 fee may be credited to any other fee or
1358 agency obligation.
- 1359 (b) The responsible agency shall determine the method of collecting the DNA specimen.
1360 Unless the responsible agency determines there are substantial reasons for using a
1361 different method of collection or the person refuses to cooperate with the collection,
1362 the preferred method of collection shall be obtaining a saliva specimen.
- 1363 (c) The responsible agency may use reasonable force, as established by its guidelines
1364 and procedures, to collect the DNA sample if the person refuses to cooperate with the
1365 collection.
- 1366 (d) If the judgment places the person on probation, the person shall submit to the
1367 obtaining of a DNA specimen as a condition of the probation.
- 1368 (e)(i) Under this section a person is required to provide one DNA specimen and pay
1369 the collection fee as required under this section.
- 1370 (ii) The person shall provide an additional DNA specimen only if the DNA specimen
1371 previously provided is not adequate for analysis.
- 1372 (iii) The collection fee is not imposed for a second or subsequent DNA specimen
1373 collected under this section.
- 1374 (f) Any agency that is authorized to obtain a DNA specimen under this part may collect
1375 any outstanding amount of a fee due under this section from any person who owes
1376 any portion of the fee and deposit the amount in the DNA Specimen Restricted
1377 Account created in Section 53-10-407.
- 1378 (4)(a) The responsible agency shall cause a DNA specimen to be obtained as soon as
1379 possible and transferred to the Department of Public Safety:
- 1380 (i) after a conviction or an adjudication by the juvenile court;
- 1381 (ii) on and after January 1, 2011, through December 31, 2014, after the booking of a
1382 person for any offense under Subsection 53-10-403(1)(c); and
- 1383 (iii) on and after January 1, 2015, after the booking of a person for any felony
1384 offense, as provided under Subsection 53-10-403(1)(d)(ii).
- 1385 (b) On and after May 13, 2014, through December 31, 2014, the responsible agency may
1386 cause a DNA specimen to be obtained and transferred to the Department of Public
1387 Safety after the booking of a person for any felony offense, as provided under
1388 Subsection 53-10-403(1)(d)(i).
- 1389 (c) If notified by the Department of Public Safety that a DNA specimen is not adequate

- 1390 for analysis, the agency shall, as soon as possible:
- 1391 (i) obtain and transmit an additional DNA specimen; or
- 1392 (ii) request that another agency that has direct access to the person and that is
- 1393 authorized to collect DNA specimens under this section collect the necessary
- 1394 second DNA specimen and transmit it to the Department of Public Safety.
- 1395 (d) Each agency that is responsible for collecting DNA specimens under this section
- 1396 shall establish:
- 1397 (i) a tracking procedure to record the handling and transfer of each DNA specimen it
- 1398 obtains; and
- 1399 (ii) a procedure to account for the management of all fees it collects under this
- 1400 section.
- 1401 (5)(a) The Department of Corrections is the responsible agency whenever the person is
- 1402 committed to the custody of or is under the supervision of the Department of
- 1403 Corrections.
- 1404 (b) If a minor described in Subsection 53-10-403(3) is not committed to the legal
- 1405 custody of the Division of Juvenile Justice and Youth Services upon an adjudication,
- 1406 the juvenile court is the responsible agency regarding the collection of a DNA
- 1407 specimen from the minor.
- 1408 (c) If a minor described in Subsection 53-10-403(3) is committed to the legal custody of
- 1409 the Division of Juvenile Justice and Youth Services upon an adjudication, the
- 1410 Division of Juvenile Justice and Youth Services is the responsible agency regarding
- 1411 the collection of a DNA specimen from the minor.
- 1412 (d) The sheriff operating a county jail is the responsible agency regarding the collection
- 1413 of DNA specimens from persons who:
- 1414 (i) have pled guilty to or have been convicted of an offense listed under Subsection
- 1415 53-10-403(2) but who have not been committed to the custody of or are not under
- 1416 the supervision of the Department of Corrections;
- 1417 (ii) are incarcerated in the county jail:
- 1418 (A) as a condition of probation for a felony offense; or
- 1419 (B) for a misdemeanor offense for which collection of a DNA specimen is
- 1420 required;
- 1421 (iii) on and after January 1, 2011, through May 12, 2014, are booked at the county
- 1422 jail for any offense under Subsection 53-10-403(1)(c); and
- 1423 (iv) are booked at the county jail:

- 1424 (A) by a law enforcement agency that is obtaining a DNA specimen for any felony
1425 offense on or after May 13, 2014, through December 31, 2014, under
1426 Subsection 53-10-404(4)(b); or
1427 (B) on or after January 1, 2015, for any felony offense.
- 1428 (e) Each agency required to collect a DNA specimen under this section shall:
- 1429 (i) designate employees to obtain the saliva DNA specimens required under this
1430 section; and
- 1431 (ii) ensure that employees designated to collect the DNA specimens receive
1432 appropriate training and that the specimens are obtained in accordance with
1433 generally accepted protocol.
- 1434 (6)(a) As used in this Subsection (6), "department" means the Department of Corrections.
- 1435 (b) Priority of obtaining DNA specimens by the department is:
- 1436 (i) first, to obtain DNA specimens of persons who as of July 1, 2002, are in the
1437 custody of or under the supervision of the department before these persons are
1438 released from incarceration, parole, or probation, if their release date is prior to
1439 that of persons under Subsection (6)(b)(ii), but in no case later than July 1, 2004;
1440 and
- 1441 (ii) second, the department shall obtain DNA specimens from persons who are
1442 committed to the custody of the department or who are placed under the
1443 supervision of the department after July 1, 2002, within 120 days after the
1444 commitment, if possible, but not later than prior to release from incarceration if
1445 the person is imprisoned, or prior to the termination of probation if the person is
1446 placed on probation.
- 1447 (c) The priority for obtaining DNA specimens from persons under Subsection (6)(b)(ii)
1448 is:
- 1449 (i) first, persons on probation;
- 1450 (ii) second, persons on parole; and
- 1451 (iii) third, incarcerated persons.
- 1452 (d) Implementation of the schedule of priority under Subsection (6)(c) is subject to the
1453 priority of Subsection (6)(b)(i), to ensure that the Department of Corrections obtains
1454 DNA specimens from persons in the custody of or under the supervision of the
1455 Department of Corrections as of July 1, 2002, prior to their release.
- 1456 (7)(a) As used in this Subsection (7):
- 1457 (i) "Court" means the juvenile court.

- 1458 (ii) "Division" means the Division of Juvenile Justice and Youth Services.
- 1459 (b) Priority of obtaining DNA specimens by the court from minors under Section
- 1460 53-10-403 whose cases are under the jurisdiction of the court but who are not in the
- 1461 legal custody of the division shall be:
- 1462 (i) first, to obtain specimens from minors whose cases, as of July 1, 2002, are under
- 1463 the court's jurisdiction, before the court's jurisdiction over the minors' cases
- 1464 terminates; and
- 1465 (ii) second, to obtain specimens from minors whose cases are under the jurisdiction
- 1466 of the court after July 1, 2002, within 120 days of the minor's case being found to
- 1467 be within the court's jurisdiction, if possible, but no later than before the court's
- 1468 jurisdiction over the minor's case terminates.
- 1469 (c) Priority of obtaining DNA specimens by the division from minors under Section
- 1470 53-10-403 who are committed to the legal custody of the division shall be:
- 1471 (i) first, to obtain specimens from minors who as of July 1, 2002, are within the
- 1472 division's legal custody and who have not previously provided a DNA specimen
- 1473 under this section, before termination of the division's legal custody of these
- 1474 minors; and
- 1475 (ii) second, to obtain specimens from minors who are placed in the legal custody of
- 1476 the division after July 1, 2002, within 120 days of the minor's being placed in the
- 1477 custody of the division, if possible, but no later than before the termination of the
- 1478 court's jurisdiction over the minor's case.
- 1479 (8)(a) The Department of Corrections, the juvenile court, the Division of Juvenile Justice
- 1480 and Youth Services, and all law enforcement agencies in the state shall by policy
- 1481 establish procedures for obtaining saliva DNA specimens, and shall provide training
- 1482 for employees designated to collect saliva DNA specimens.
- 1483 (b)(i) The department may designate correctional officers, including those employed
- 1484 by the adult probation and parole section of the department, to obtain the saliva
- 1485 DNA specimens required under this section.
- 1486 (ii) The department shall ensure that the designated employees receive appropriate
- 1487 training and that the specimens are obtained in accordance with accepted protocol.
- 1488 (c) Blood DNA specimens shall be obtained in accordance with Section 53-10-405.

1489 Section 15. Section **53-29-101** is enacted to read:

1490 **CHAPTER 29. SEX, KIDNAP, AND CHILD ABUSE OFFENDER REGISTRY**

1491

Part 1. General Provisions

1492 53-29-101 . Definitions.

1493 As used in this chapter:

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

- 1524 (11) "Registrable offense" means an offense described in Subsection 53-29-202(1).
 1525 (12) "Registration website" means the Sex, Kidnap, and Child Abuse Offender Notification
 1526 and Registration website described in Section 53-29-404.
 1527 (13) "Registry" means the Sex, Kidnap, and Child Abuse Offender Registry maintained by
 1528 the department and created in Section 53-29-102 to monitor and track offenders.
 1529 (14) "Registry office" means the office within the department that manages the Sex,
 1530 Kidnap, and Child Abuse Offender Registry.
 1531 (15) "Sex offender" means an individual who meets the requirements under Subsection
 1532 53-29-202(2)(b).
 1533 (16) "Vehicle" means a motor vehicle, an aircraft, or a watercraft subject to registration in
 1534 any jurisdiction.

1535 Section 16. Section **53-29-102** is enacted to read:

1536 **53-29-102 . Sex, Kidnap, and Child Abuse Offender Registry -- Creation --**

1537 **Purpose.**

- 1538 (1) The department, to assist law enforcement in investigating kidnapping and sex-related
 1539 crimes and in apprehending offenders, shall:
 1540 (a) develop and operate a system known as the Sex, Kidnap, and Child Abuse Offender
 1541 Registry to collect, analyze, maintain, and disseminate information on offenders and
 1542 registrable offenses; and
 1543 (b) make information listed in Subsection 53-29-404(3) available to the public.
 1544 (2) This chapter does not create or impose any duty on any individual to request or obtain
 1545 information regarding any offender from the department.

1546 Section 17. Section **53-29-201** is enacted to read:

1547 **Part 2. Registrable Offenses, Timelines for Registration, and Petitions for Removal**

1548 **53-29-201 . Definitions.**

1549 As used in this part:

- 1550 (1) "Court" means a state, federal, or military court.
 1551 (2) "External jurisdiction" means:
 1552 (a) a state of the United States not including Utah;
 1553 (b) the United States federal government;
 1554 (c) Indian country;
 1555 (d) a United States territory;
 1556 (e) the United States military; or
 1557 (f) Canada, Australia, New Zealand, or the United Kingdom.

- 1558 (3) "Indian country" means:
 1559 (a) all land within the limits of an Indian reservation under the jurisdiction of the United
 1560 States government, regardless of the issuance of any patent, and includes
 1561 rights-of-way running through the reservation;
 1562 (b) all dependent Indian communities within the borders of the United States whether
 1563 within the original or subsequently acquired territory, and whether or not within the
 1564 limits of a state; and
 1565 (c) all Indian allotments, including the Indian allotments to which the Indian titles have
 1566 not been extinguished, including rights-of-way running through the allotments.
 1567 (4) "Natural parent" means a minor's biological or adoptive parent, including the minor's
 1568 noncustodial parent.
 1569 (5) "Traffic offense" does not include a violation of Title 41, Chapter 6a, Part 5, Driving
 1570 Under the Influence and Reckless Driving.

1571 *The following section is affected by a coordination clause at the end of this bill.*

1572 Section 18. Section **53-29-202** is enacted to read:

1573 **53-29-202 . Registrable offenses -- Status as a sex offender, kidnap offender, and**
 1574 **child abuse offender established.**

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

- 1592 offense then on the individual's second offense;
- 1593 (x) unlawful sexual conduct with a 16 or 17 year old under Section 76-5-401.2;
- 1594 (xi) rape under Section 76-5-402;
- 1595 (xii) rape of a child under Section 76-5-402.1;
- 1596 (xiii) object rape under Section 76-5-402.2;
- 1597 (xiv) object rape of a child under Section 76-5-402.3;
- 1598 (xv) a felony violation of forcible sodomy under Section 76-5-403;
- 1599 (xvi) sodomy on a child under Section 76-5-403.1;
- 1600 (xvii) forcible sexual abuse under Section 76-5-404;
- 1601 (xviii) sexual abuse of a child under Section 76-5-404.1;
- 1602 (xix) aggravated sexual abuse of a child under Section 76-5-404.3;
- 1603 (xx) aggravated sexual assault under Section 76-5-405;
- 1604 (xxi) custodial sexual relations under Section 76-5-412, if the victim in custody is
- 1605 younger than 18 years old and the offense is committed on or after May 10, 2011;
- 1606 (xxii) sexual exploitation of a minor under Section 76-5b-201;
- 1607 (xxiii) aggravated sexual exploitation of a minor under Section 76-5b-201.1;
- 1608 (xxiv) sexual extortion or aggravated sexual extortion under Section 76-5b-204;
- 1609 (xxv) incest under Section 76-7-102;
- 1610 (xxvi) lewdness under Section 76-9-702, if the individual has been convicted of the
- 1611 offense four or more times;
- 1612 (xxvii) sexual battery under Section 76-9-702.1, if the individual has been convicted
- 1613 of the offense four or more times;
- 1614 (xxviii) any combination of convictions of lewdness under Section 76-9-702, and of
- 1615 sexual battery under Section 76-9-702.1, that total four or more convictions;
- 1616 (xxix) lewdness involving a child under Section 76-9-702.5;
- 1617 (xxx) a felony or class A misdemeanor violation of voyeurism under Section
- 1618 76-9-702.7;
- 1619 (xxxii) aggravated exploitation of prostitution under Section 76-10-1306;
- 1620 (xxxiii) kidnapping under Subsection 76-5-301(2)(c) or (d), if the offender was not the
- 1621 natural parent of the child victim;
- 1622 (xxxiiii) child kidnapping under Section 76-5-301.1, if the offender was not the
- 1623 natural parent of the child victim;
- 1624 (xxxv) aggravated kidnapping under Section 76-5-302, if the offender was not the
- 1625 natural parent of the child victim;

1626 (xxxv) human trafficking for labor under Section 76-5-308, if the offender was not
1627 the natural parent of the child victim;

1628 (xxxvi) human smuggling under Section 76-5-308.3, if the offender was not the
1629 natural parent of the child victim;

1630 (xxxvii) human trafficking of a child for labor under Subsection 76-5-308.5(4)(a), if
1631 the offender was not the natural parent of the child victim;

1632 (xxxviii) aggravated human trafficking for labor under Section 76-5-310, if the
1633 offender was not the natural parent of the child victim;

1634 (xxxix) aggravated human smuggling under Section 76-5-310.1, if the offender was
1635 not the natural parent of the child victim;

1636 (xl) human trafficking of a vulnerable adult for labor under Section 76-5-311, if the
1637 offender was not the natural parent of the child victim; or

1638 (xli) attempting, soliciting, or conspiring to commit a felony violation of an offense
1639 listed in Subsections (1)(a)(i) through (xl);

1640 (b)(i) has been convicted of a criminal offense, or an attempt, solicitation, or
1641 conspiracy to commit a criminal offense in an external jurisdiction that is
1642 substantially equivalent to the offense listed in Subsection (1)(a); and

1643 (ii)(A) is a Utah resident; or

1644 (B) is not a Utah resident and is in this state for a total of 10 days in a 12-month
1645 period, regardless of whether the individual intends to permanently reside in
1646 this state;

1647 (c)(i)(A) is required to register on a registry in an external jurisdiction for
1648 individuals who have committed an offense listed in Subsection (1)(a) or a
1649 substantially equivalent offense;

1650 (B) is ordered by a court to register on a registry for individuals who have
1651 committed an offense listed in Subsection (1)(a) or a substantially equivalent
1652 offense; or

1653 (C) would be required to register on a registry in an external jurisdiction for
1654 individuals who have committed an offense listed in Subsection (1)(a), or a
1655 substantially equivalent offense, if residing in the external jurisdiction of the
1656 conviction regardless of the date of the conviction or a previous registration
1657 requirement; and

1658 (ii) is in this state for a total of 10 days in a 12-month period, regardless of whether
1659 the individual intends to permanently reside in this state;

- 1660 (d)(i)(A) is a nonresident regularly employed or working in this state; or
1661 (B) who is a student in this state; and
1662 (ii)(A) is convicted of an offense listed in Subsection (1)(a) or a substantially
1663 equivalent offense in an external jurisdiction; or
1664 (B) is required to register on a sex, kidnap, and child abuse registry, or an
1665 equivalent registry, in the individual's state of residence based on a conviction
1666 for an offense that is not substantially equivalent to an offense listed in
1667 Subsection (1)(a);
1668 (e) is found not guilty by reason of insanity in this state or in an external jurisdiction of
1669 an offense listed in Subsection (1)(a) or a substantially equivalent offense; or
1670 (f)(i) is adjudicated under Section 80-6-701 for one or more offenses listed in
1671 Subsection (1)(a); and
1672 (ii) has been committed to the division for secure care, as defined in Section 80-1-102,
1673 for that offense if:
1674 (A) the individual remains in the division's custody until 30 days before the
1675 individual's 21st birthday;
1676 (B) the juvenile court extended the juvenile court's jurisdiction over the individual
1677 under Section 80-6-605 and the individual remains in the division's custody
1678 until 30 days before the individual's 25th birthday; or
1679 (C) the individual is moved from the division's custody to the custody of the
1680 department before expiration of the division's jurisdiction over the individual.
1681 (2) Subject to Subsection (3), an individual is:
1682 (a) a child abuse offender if the individual:
1683 (i) has committed, attempted, solicited, or conspired to commit an offense described
1684 in Subsection (1)(a)(i); or
1685 (ii) meets a requirement described in Subsections (1)(b) through (e) for an offense
1686 described in Subsection (1)(a)(i) or a substantially equivalent offense;
1687 (b) a sex offender if the individual:
1688 (i) has committed, attempted, solicited, or conspired to commit an offense described
1689 in Subsections (1)(a)(ii) through (xxxi); or
1690 (ii) meets a requirement described in Subsections (1)(b) through (e) for an offense
1691 described in Subsections (1)(a)(ii) through (xxxi) or a substantially equivalent
1692 offense; or
1693 (c) a kidnap offender if the individual:

1694 (i) has committed, attempted, solicited, or conspired to commit an offense described
 1695 in Subsections (1)(a)(xxxii) through (xl); or

1696 (ii) meets a requirement described in Subsections (1)(b) through (e) for an offense
 1697 described in Subsections (1)(a)(xxxii) through (xl) or a substantially equivalent
 1698 offense.

1699 (3) An individual who has committed a registrable offense described in Subsection
 1700 (1)(d)(ii)(B) in an external jurisdiction that is not substantially equivalent to an offense
 1701 described in Subsection (1)(a) and is required to register on a sex, kidnap, and child
 1702 abuse registry, or an equivalent registry, in the individual's state of residence is a child
 1703 abuse offender, sex offender, or kidnap offender based on the individual's status on the
 1704 registry in the individual's state of residence.

1705 (4) Notwithstanding Subsection 53-29-101(4)(a), a plea of guilty or nolo contendere to a
 1706 charge of sexual battery or lewdness that is held in abeyance under Title 77, Chapter 2a,
 1707 Pleas in Abeyance, is the equivalent of a conviction even if the charge is subsequently
 1708 reduced or dismissed in accordance with the plea in abeyance agreement.

1709 *The following section is affected by a coordination clause at the end of this bill.*

1710 Section 19. Section **53-29-203** is enacted to read:

1711 **53-29-203 . Registration lengths -- 10 years -- Lifetime.**

1712 (1) Except as provided in Subsection (2), (3), or (4), an individual who commits a
 1713 registrable offense is required to register on the registry for:

1714 (a) 10 years after the day on which the offender's sentence for the offense has been
 1715 terminated if the registrable offense is for:

1716 (i) a felony or class A misdemeanor violation of enticing a minor under Section
 1717 76-4-401, if the offender enticed the minor to engage in sexual activity that is one
 1718 of the offenses described in Subsections (1)(a)(ii) through (xxiii);

1719 (ii) aggravated child abuse under Subsection 76-5-109.2(3)(a) or (b);

1720 (iii) kidnapping under Subsection 76-5-301(2)(c) or (d), if the offender was not the
 1721 natural parent of the child victim;

1722 (iv) human trafficking for labor under Section 76-5-308, if the offender was not the
 1723 natural parent of the child victim;

1724 (v) human smuggling under Section 76-5-308.3, if the offender was not the natural
 1725 parent of the child victim;

1726 (vi) human trafficking of a child for labor under Subsection 76-5-308.5(4)(a), if the
 1727 offender was not the natural parent of the child victim;

- 1728 (vii) aggravated human trafficking for labor under Section 76-5-310, if the offender
1729 was not the natural parent of the child victim;
- 1730 (viii) aggravated human smuggling under Section 76-5-310.1;
- 1731 (ix) human trafficking of a vulnerable adult for labor under Section 76-5-311;
- 1732 (x) a felony violation of unlawful sexual activity with a minor under Section 76-5-401;
- 1733 (xi) sexual abuse of a minor under Section 76-5-401.1;
- 1734 (xii) unlawful sexual conduct with a 16 or 17 year old under Section 76-5-401.2;
- 1735 (xiii) forcible sexual abuse under Section 76-5-404;
- 1736 (xiv) custodial sexual relations under Section 76-5-412;
- 1737 (xv) sexual exploitation of a vulnerable adult under Section 76-5b-202;
- 1738 (xvi) sexual extortion under Subsection 76-5b-204(2)(a);
- 1739 (xvii) incest under Section 76-7-102;
- 1740 (xviii) four or more convictions of lewdness under Section 76-9-702;
- 1741 (xix) four or more convictions of sexual battery under Section 76-9-702.1;
- 1742 (xx) any combination of convictions of lewdness under Section 76-9-702, and of
1743 sexual battery under Section 76-9-702.1, that total four or more convictions;
- 1744 (xxi) lewdness involving a child under Section 76-9-702.5;
- 1745 (xxii) a felony or class A misdemeanor violation of voyeurism under Section
1746 76-9-702.7;
- 1747 (xxiii) aggravated exploitation of prostitution under Section 76-10-1306, committed
1748 on or before May 9, 2011;
- 1749 (xxiv) attempting, soliciting, or conspiring to commit an offense listed in Subsections
1750 (1)(a)(i) through (xxiii) if the attempt, solicitation, or conspiracy is a registrable
1751 offense; or
- 1752 (xxv) attempting, soliciting, or conspiring to commit:
- 1753 (A) aggravated kidnapping under Section 76-5-302, if the offender was not the
1754 natural parent of the child victim;
- 1755 (B) human trafficking for sexual exploitation under Section 76-5-308.1, if the
1756 offender was not the natural parent of the child victim;
- 1757 (C) human trafficking of a child for sexual exploitation under Subsection
1758 76-5-308.5(4)(b), if the offender was not the natural parent of the child victim;
- 1759 (D) aggravated human trafficking for sexual exploitation under Section 76-5-310,
1760 if the offender was not the natural parent of the child victim;
- 1761 (E) human trafficking of a vulnerable adult for sexual exploitation under Section

- 1762 76-5-311, if the offender was not the natural parent of the child victim;
1763 (F) forcible sodomy under Section 76-5-403;
1764 (G) sexual abuse of a child under Section 76-5-404.1;
1765 (H) sexual exploitation of a minor under Section 76-5b-201;
1766 (I) aggravated sexual exploitation of a minor under Section 76-5b-201.1;
1767 (J) aggravated sexual extortion under Subsection 76-5b-204(2)(b); or
1768 (K) aggravated exploitation of prostitution under Section 76-10-1306, on or after
1769 May 10, 2011; or
- 1770 (b) the offender's lifetime if the registrable offense is:
- 1771 (i) a conviction for an offense described in Subsection (1)(a), if the offender has, at
1772 the time of conviction for the offense:
- 1773 (A) previously been convicted of an offense described in Subsection (1)(a), or a
1774 substantially equivalent offense in an external jurisdiction; or
- 1775 (B) previously been required to register as an offender for an offense described in
1776 Subsection (1)(a) committed as a juvenile;
- 1777 (ii) a following offense, including attempting, soliciting, or conspiring to commit a
1778 felony violation of:
- 1779 (A) child kidnapping under Section 76-5-301.1, if the offender was not the natural
1780 parent of the child victim;
- 1781 (B) rape under Section 76-5-402;
- 1782 (C) rape of a child under Section 76-5-402.1;
- 1783 (D) object rape under Section 76-5-402.2;
- 1784 (E) object rape of a child under Section 76-5-402.3;
- 1785 (F) sodomy on a child under Section 76-5-403.1;
- 1786 (G) aggravated sexual abuse of a child under Section 76-5-404.3; or
- 1787 (H) aggravated sexual assault under Section 76-5-405;
- 1788 (iii) aggravated kidnapping under Section 76-5-302, if the offender was not the
1789 natural parent of the child victim;
- 1790 (iv) human trafficking for sexual exploitation under Section 76-5-308.1, if the
1791 offender was not the natural parent of the child victim;
- 1792 (v) human trafficking of a child for sexual exploitation under Subsection
1793 76-5-308.5(4)(b), if the offender was not the natural parent of the child victim;
- 1794 (vi) aggravated human trafficking for sexual exploitation under Section 76-5-310, if
1795 the offender was not the natural parent of the child victim;

- 1796 (vii) human trafficking of a vulnerable adult for sexual exploitation under Section
1797 76-5-311, if the offender was not the natural parent of the child victim;
- 1798 (viii) forcible sodomy under Section 76-5-403;
- 1799 (ix) sexual abuse of a child under Section 76-5-404.1;
- 1800 (x) sexual exploitation of a minor under Section 76-5b-201;
- 1801 (xi) aggravated sexual exploitation of a minor under Section 76-5b-201.1;
- 1802 (xii) aggravated sexual extortion under Subsection 76-5b-204(2)(b);
- 1803 (xiii) aggravated exploitation of prostitution under Section 76-10-1306, on or after
1804 May 10, 2011; or
- 1805 (xiv) a felony violation of enticing a minor under Section 76-4-401, if the offender
1806 enticed the minor to engage in sexual activity that is one of the offenses described
1807 in Subsections (1)(b)(ii) through (xiii).
- 1808 (2) An individual who qualifies as an offender based on a conviction in an external
1809 jurisdiction for a registrable offense, or a substantially equivalent offense, and is on an
1810 external jurisdiction's sex, kidnap, and child abuse registry, or an equivalent registry, is
1811 required to register on the registry for the time period required by the external
1812 jurisdiction.
- 1813 (3) If the sentencing court at any time after an offender is convicted of an offense requiring
1814 lifetime registration described in Subsection (1)(b) determines that the offender was
1815 under 21 years old at the time the offense was committed and the offense did not involve
1816 force or coercion, the requirement that the offender register for the offender's lifetime
1817 does not apply and the offender shall register for 10 years after the day on which the
1818 offender's sentence for the offense has been terminated.
- 1819 (4) Except for an individual who is adjudicated for a registrable offense and is an offender
1820 who meets the requirements under Subsection 53-29-202(1)(f), an individual who is
1821 under 18 years old and commits a registrable offense after May 3, 2023, is not subject to
1822 registration requirements under this chapter unless the offender:
- 1823 (a) is charged by criminal information in juvenile court under Section 80-6-503;
- 1824 (b) is bound over to district court in accordance with Section 80-6-504; and
- 1825 (c) is convicted of a registrable offense.
- 1826 (5) An offender subject to the 10-year or lifetime registration requirements under
1827 Subsection (1) may petition the court for an order of removal from the registry in
1828 accordance with Section 53-29-204, 53-29-205, or 53-29-206.
- 1829 *The following section is affected by a coordination clause at the end of this bill.*

1830 Section 20. Section **53-29-204** is enacted to read:

1831 **53-29-204 . Five-year petition for removal from registry -- Eligibility.**

1832 (1) An offender who is required to register on the registry for a registrable offense
 1833 described in Subsection (2) that is subject to a 10-year registration period, as described
 1834 in Section 53-29-203, is eligible to petition the court under Section 53-29-207 for an
 1835 order of removal from the registry after five years after the day on which the offender's
 1836 sentence for the offense has been terminated if:

1837 (a) the offense is the only offense for which the offender was required to register;
 1838 (b) the offender has not been convicted of another offense, excluding a traffic offense,
 1839 after the day on which the offender was convicted of the offense for which the
 1840 offender is required to register, as evidenced by a certificate of eligibility issued by
 1841 the bureau;

1842 (c) the offender successfully completed all treatment ordered by the court or the Board
 1843 of Pardons and Parole relating to the offense; and

1844 (d) the offender has paid all restitution ordered by the court or the Board of Pardons and
 1845 Parole relating to the offense.

1846 (2) The offenses that qualify for a five-year petition for an order of removal from the
 1847 registry referenced in Subsection (1) are:

1848 (a) a class A misdemeanor violation of enticing a minor under Section 76-4-401;

1849 (b) kidnapping under Subsection 76-5-301(2)(c) or (d);

1850 (c) a felony violation of unlawful sexual activity with a minor under Section 76-5-401,
 1851 if, at the time of the offense, the offender is not more than 10 years older than the
 1852 victim;

1853 (d) sexual abuse of a minor under Section 76-5-401.1, if, at the time of the offense, the
 1854 offender is not more than 10 years older than the victim;

1855 (e) unlawful sexual conduct with a 16 or 17 year old under Section 76-5-401.2, if at the
 1856 time of the offense, the offender is not more than 15 years older than the victim;

1857 (f) a class A misdemeanor violation of voyeurism under Section 76-9-702.7;

1858 (g) attempting, soliciting, or conspiring to commit an offense listed in Subsections (2)(a)
 1859 through (f) if the attempt, solicitation, or conspiracy is a registrable offense; and

1860 (h) an offense committed in an external jurisdiction that is not substantially equivalent to
 1861 a registrable offense described in Subsection 53-29-202(1)(a).

1862 *The following section is affected by a coordination clause at the end of this bill.*

1863 Section 21. Section **53-29-205** is enacted to read:

- 1864 **53-29-205 . Ten-year petition for removal from registry -- Eligibility.**
- 1865 (1) An offender who is required to register on the registry for a registrable offense
- 1866 described in Subsection (3) subject to a 10-year registration period as described in
- 1867 Section 53-29-203 is eligible to petition the court under Section 53-29-207 for an order
- 1868 of removal from the registry at a 10-year after entrance into the community period
- 1869 described in Subsection (2) if:
- 1870 (a) the offender has not been convicted of another offense that is a class A misdemeanor,
- 1871 felony, or capital felony within the most recent 10-year period after the date
- 1872 described in Subsection (2), as evidenced by a certificate of eligibility issued by the
- 1873 bureau;
- 1874 (b) the offender successfully completed all treatment ordered by the court or the Board
- 1875 of Pardons and Parole relating to the offense; and
- 1876 (c) the offender has paid all restitution ordered by the court or the Board of Pardons and
- 1877 Parole relating to the offense.
- 1878 (2) An offender who qualifies under Subsection (1) may petition the court under Section
- 1879 53-29-207 for an order of removal from the registry if 10 years have passed after the
- 1880 later of the following events in which the offender entered into the community:
- 1881 (a) the day on which the offender was placed on probation;
- 1882 (b) the day on which the offender was released from incarceration to parole;
- 1883 (c) the day on which the offender's sentence was terminated without parole;
- 1884 (d) the day on which the offender entered a community-based residential program; or
- 1885 (e) for a minor, as defined in Section 80-1-102, the day on which the division's custody
- 1886 of the offender was terminated.
- 1887 (3) The offenses that qualify for a 10-year petition for an order of removal from the registry
- 1888 referenced in Subsection (1) are:
- 1889 (a) a felony violation of enticing a minor under Section 76-4-401, if the offender enticed
- 1890 the minor to engage in sexual activity that is one of the offenses described in
- 1891 Subsections (3)(b) through (v);
- 1892 (b) aggravated child abuse under Subsection 76-5-109.2(3)(a) or (b);
- 1893 (c) human trafficking for labor under Section 76-5-308;
- 1894 (d) human smuggling under Section 76-5-308.3;
- 1895 (e) human trafficking of a child for labor under Subsection 76-5-308.5(4)(a);
- 1896 (f) aggravated human trafficking for labor under Section 76-5-310;
- 1897 (g) aggravated human smuggling under Section 76-5-310.1;

- 1898 (h) human trafficking of a vulnerable adult for labor under Section 76-5-311;
- 1899 (i) a felony violation of unlawful sexual activity with a minor under Section 76-5-401, if,
- 1900 at the time of the offense, the offender is more than 10 years older than the victim;
- 1901 (j) sexual abuse of a minor under Section 76-5-401.1, if, at the time of the offense, the
- 1902 offender is more than 10 years older than the victim;
- 1903 (k) unlawful sexual conduct with a 16 or 17 year old under Section 76-5-401.2, if, at the
- 1904 time of the offense, the offender is more than 15 years older than the victim;
- 1905 (l) forcible sexual abuse under Section 76-5-404;
- 1906 (m) custodial sexual relations under Section 76-5-412, if the victim in custody is
- 1907 younger than 18 years old and the offense is committed on or after May 10, 2011;
- 1908 (n) sexual exploitation of a vulnerable adult under Section 76-5b-202;
- 1909 (o) sexual extortion under Subsection 76-5b-204(2)(a);
- 1910 (p) incest under Section 76-7-102;
- 1911 (q) four or more convictions of lewdness under Section 76-9-702;
- 1912 (r) four or more convictions of sexual battery under Section 76-9-702.1;
- 1913 (s) any combination of convictions of lewdness under Section 76-9-702, and of sexual
- 1914 battery under Section 76-9-702.1, that total four or more convictions;
- 1915 (t) lewdness involving a child under Section 76-9-702.5;
- 1916 (u) a felony violation of voyeurism under Section 76-9-702.7;
- 1917 (v) aggravated exploitation of prostitution under Section 76-10-1306, committed on or
- 1918 before May 9, 2011;
- 1919 (w) attempting, soliciting, or conspiring to commit an offense listed in Subsections
- 1920 (3)(a) through (v) if the attempt, solicitation, or conspiracy is a registrable offense;
- 1921 (x) attempting, soliciting, or conspiring to commit:
- 1922 (i) human trafficking for sexual exploitation under Section 76-5-308.1;
- 1923 (ii) human trafficking of a child for sexual exploitation under Subsection
- 1924 76-5-308.5(4)(b);
- 1925 (iii) aggravated human trafficking for sexual exploitation under Section 76-5-310;
- 1926 (iv) human trafficking of a vulnerable adult for sexual exploitation under Section
- 1927 76-5-311;
- 1928 (v) aggravated kidnapping under Section 76-5-302, except if the offender is a natural
- 1929 parent of the victim;
- 1930 (vi) forcible sodomy under Section 76-5-403;
- 1931 (vii) sexual abuse of a child under Section 76-5-404.1;

- 1932 (viii) sexual exploitation of a minor under Section 76-5b-201;
- 1933 (ix) aggravated sexual exploitation of a minor under Section 76-5b-201.1;
- 1934 (x) aggravated sexual extortion under Subsection 76-5b-204(2)(b); or
- 1935 (xi) aggravated exploitation of prostitution under Section 76-10-1306, on or after
- 1936 May 10, 2011; or
- 1937 (y) an offense described in Subsection 53-29-203(1)(b) that would otherwise be subject
- 1938 to a 20-year petition for removal as described in Section 53-29-206, if:
- 1939 (i) the sentencing court determines that the offender was under 21 years old at the
- 1940 time the offense was committed; and
- 1941 (ii) the offense did not involve force or coercion as described in Subsection
- 1942 53-29-203(3).
- 1943 (4) An individual who is as an offender under Section 53-29-202 based on a conviction in
- 1944 an external jurisdiction for a registrable offense, or a substantially equivalent offense,
- 1945 and is required to register on the external jurisdiction's sex, kidnap, or child abuse
- 1946 offender registry, or an equivalent registry, may petition for removal from the registry in
- 1947 accordance with the requirements of this section if the individual:
- 1948 (a) does not have a lifetime registration requirement on the external jurisdiction's sex,
- 1949 kidnap, or child abuse offender registry, or an equivalent registry;
- 1950 (b) meets the requirements described in Subsections (1)(a) through (c);
- 1951 (c) has resided in this state for at least 183 days in a year for two consecutive years; and
- 1952 (d) intends to primarily reside in this state.
- 1953 Section 22. Section **53-29-206** is enacted to read:
- 1954 **53-29-206 . Twenty-year petition for removal from registry -- Eligibility.**
- 1955 (1) An offender who is required to register on the registry for a registrable offense subject
- 1956 to a lifetime registration period described in Subsection 53-29-203(1)(b) is eligible to
- 1957 petition the court under Section 53-29-207 for an order of removal from the registry at a
- 1958 20-year entrance into the community period described in Subsection (2) if:
- 1959 (a) the offender has not been convicted of another offense that is a class A misdemeanor,
- 1960 felony, or capital felony within the most recent 20-year period after the date
- 1961 described in Subsection (2), as evidenced by a certificate of eligibility issued by the
- 1962 bureau;
- 1963 (b) the offender successfully completed all treatment ordered by the court or the Board
- 1964 of Pardons and Parole relating to the offense;
- 1965 (c) the offender has paid all restitution ordered by the court or the Board of Pardons and

- 1966 Parole relating to the offense; and
- 1967 (d) the offender submits to an evidence-based risk assessment that:
- 1968 (i) meets the standards for the current risk assessment, score, and risk level required
- 1969 by the Board of Pardons and Parole for parole termination requests;
- 1970 (ii) is completed within the six months before the date on which the petition is filed;
- 1971 and
- 1972 (iii) describes the evidence-based risk assessment of the current level of risk to the
- 1973 safety of the public posed by the offender.
- 1974 (2) An offender who qualifies under Subsection (1) may petition the court under Section
- 1975 53-29-207 for an order of removal from the registry if 20 years have passed after the
- 1976 later of the following events in which the offender has entered into the community:
- 1977 (a) the day on which the offender was placed on probation;
- 1978 (b) the day on which the offender was released from incarceration to parole;
- 1979 (c) the day on which the offender's sentence was terminated without parole;
- 1980 (d) the day on which the offender entered a community-based residential program; or
- 1981 (e) for a minor, as defined in Section 80-1-102, the day on which the division's custody
- 1982 of the offender was terminated.
- 1983 (3) An individual who is as an offender under Section 53-29-202 based on a conviction in
- 1984 an external jurisdiction for a registrable offense or a substantially equivalent offense,
- 1985 and is required to register on the external jurisdiction's sex, kidnap, or child abuse
- 1986 offender registry, or an equivalent registry, may petition for removal from the registry in
- 1987 accordance with the requirements of this section if the individual:
- 1988 (a) is required to register on the external jurisdiction's sex, kidnap, or child abuse
- 1989 offender registry, or an equivalent registry, for the individual's lifetime;
- 1990 (b) meets the requirements described in Subsections (1)(a) through (d);
- 1991 (c) has resided in this state for at least 183 days in a year for two consecutive years; and
- 1992 (d) intends to primarily reside in this state.
- 1993 Section 23. Section **53-29-207** is enacted to read:
- 1994 **53-29-207 . Process to petition for removal from registry -- Offender, bureau,**
- 1995 **court, and prosecutor responsibilities.**
- 1996 (1) Before an offender who is eligible to petition for an order of removal from the registry
- 1997 as described in Section 53-29-204, 53-29-205, or 53-29-206 may file a petition with the
- 1998 court for an order of removal from the registry, the offender shall apply to the bureau for
- 1999 a certificate of eligibility for removal from the registry that states that the offender has

- 2000 met certain qualifications for removal.
- 2001 (2) After the bureau receives an offender's application for a certificate of eligibility for
2002 removal from the registry, the bureau shall:
- 2003 (a) perform a check of records of governmental agencies, including national criminal
2004 databases, to determine whether an offender meets the requirements described in:
- 2005 (i) Subsection 53-29-204(1), if the offender is seeking a five-year petition for
2006 removal;
- 2007 (ii) Subsections 53-29-205(1) and (2), if the offender is seeking a 10-year petition for
2008 removal; or
- 2009 (iii) Subsections 53-29-206(1) and (2), if the offender is seeking a 20-year petition
2010 for removal; and
- 2011 (b) if the bureau determines that the offender meets the requirements described in
2012 Subsection (2)(a), issue a certificate of eligibility for removal from the registry to the
2013 offender, which is valid for 90 days after the day on which the bureau issues the
2014 certificate.
- 2015 (3)(a) After an offender has received the certificate of eligibility for removal from the
2016 registry described in Subsection (2), the offender may petition the court for an order
2017 of removal from the registry, and shall include in the petition:
- 2018 (i) the original information or indictment regarding the registrable offense that the
2019 offender committed;
- 2020 (ii) the court docket; and
- 2021 (iii) the certificate of eligibility for removal from the registry.
- 2022 (b) An offender who files a petition with the court as described in Subsection (3)(a) shall
2023 provide a copy of the petition to the prosecutor.
- 2024 (4) A prosecutor, upon receipt of the petition described in Subsection (3), shall:
- 2025 (a) provide notice of the petition by first-class mail to the victim at the most recent
2026 address of record on file or, if the victim is still a minor under 18 years old, to the
2027 parent or guardian of the victim, that includes:
- 2028 (i) a copy of the petition;
- 2029 (ii) an explanation that the victim has a right to object to the removal of the offender
2030 from the registry or make other recommendations to the court; and
- 2031 (iii) instructions for how the victim can file an objection or recommendation with the
2032 court; and
- 2033 (b) provide the following, if available, to the court within 30 days after the day on which

2034 the prosecutor receives the petition:
2035 (i) the presentencing report created for the offender based on the registrable offense
2036 committed by the offender;
2037 (ii) any evaluation done as part of sentencing for the registrable offense; and
2038 (iii) other information the prosecutor determines the court should consider.
2039 (5) A victim, or the victim's parent or guardian if the victim is a minor under 18 years old,
2040 may respond to a petition described in Subsection (3) by filing a recommendation or
2041 objection with the court within 45 days after the day on which the petition is mailed to
2042 the victim.
2043 (6)(a) A court receiving a petition under this section shall:
2044 (i) review the petition and all documents submitted with the petition; and
2045 (ii) hold a hearing if requested by the prosecutor or the victim.
2046 (b)(i) Except as provided in Subsection (6)(b)(ii) or (iii), the court may grant the
2047 petition for removal and order the removal of the offender from the registry if the
2048 court determines that the offender has met the requirements for issuance of a
2049 certificate of eligibility for removal issued under Subsection (2) and removal is
2050 not contrary to the interests of the public.
2051 (ii) When considering a petition filed by an offender subject to a lifetime registration
2052 requirement and eligible for a 20-year petition for removal from the registry as
2053 described in Section 53-29-206, the court shall determine whether the offender has
2054 demonstrated, by clear and convincing evidence, that the offender is rehabilitated
2055 and does not pose a threat to the safety of the public.
2056 (iii) In making the determination described in Subsection (6)(b)(ii), the court may
2057 consider:
2058 (A) the nature and degree of violence involved in the registrable offense;
2059 (B) the age and number of victims of the registrable offense;
2060 (C) the age of the offender at the time the registrable offense was committed;
2061 (D) the offender's performance while on supervision for the registrable offense;
2062 (E) the offender's stability in employment and housing;
2063 (F) the offender's community and personal support system;
2064 (G) other criminal and relevant noncriminal behavior of the offender both before
2065 and after the offender committed the registrable offense;
2066 (H) if applicable, the level of risk posed by the offender as evidenced by the
2067 evidence-based risk assessment described in Subsection 53-29-206(1)(d); and

- 2068 (I) any other relevant factors.
- 2069 (c) In determining whether removal from the registry is contrary to the interests of the
2070 public, the court may not consider removal unless the offender has substantially
2071 complied with all registration requirements under this chapter at all times.
- 2072 (d) If the court grants the petition, the court shall forward a copy of the order directing
2073 removal of the offender from the registry to the department and the office of the
2074 prosecutor.
- 2075 (e)(i) Except as provided in Subsection (6)(e)(ii), if the court denies the petition, the
2076 offender may not submit another petition for three years after the day on which the
2077 court denied the petition.
- 2078 (ii) If the offender is an offender subject to a lifetime registration requirement and
2079 eligible for a 20-year petition for removal from the registry as described in Section
2080 53-29-206 and files a petition for removal that is denied by the court, the offender
2081 may not submit another petition for eight years after the day on which the court
2082 denied the petition.
- 2083 (f) The court shall notify the victim and the registry office of the court's decision under
2084 this Subsection (6) within three days after the day on which the court issues the
2085 court's decision.
- 2086 (7)(a) An offender who intentionally or knowingly provides false or misleading
2087 information to the bureau when applying for a certificate of eligibility under this
2088 section is guilty of a class B misdemeanor and subject to prosecution under Section
2089 76-8-504.6.
- 2090 (b) The bureau may, even if the offender is not prosecuted for providing the false or
2091 misleading information, deny a certificate of eligibility to an offender who provides
2092 false or misleading information on an application.
- 2093 (8)(a)(i) The bureau shall charge application and issuance fees for a certificate of
2094 eligibility for removal from the registry under this section in accordance with the
2095 process in Section 63J-1-504.
- 2096 (ii) The application fee shall be paid at the time the offender submits an application to
2097 the bureau for a certificate of eligibility for removal from the registry.
- 2098 (iii) If the bureau determines that the issuance of a certificate of eligibility for
2099 removal from the registry is appropriate, the offender will be charged an
2100 additional fee for the issuance of the certificate.
- 2101 (b) Funds generated under this Subsection (8) shall be deposited into the General Fund

2102 as a dedicated credit by the department to cover the costs incurred in determining
 2103 eligibility.

2104 Section 24. Section **53-29-301** is enacted to read:

2105 **Part 3. Offender, Court, and Law Enforcement Responsibilities**

2106 **53-29-301 . Definitions.**

2107 As used in this part:

2108 (1) "Business day" means a day on which state offices are open for regular business.

2109 (2) "Correctional facility" means:

2110 (a) a county jail;

2111 (b) a secure correctional facility as defined by Section 64-13-1; or

2112 (c) a secure care facility as defined in Section 80-1-102.

2113 (3) "Secondary residence" means real property that an offender owns or has a financial
 2114 interest in, or a location where the offender stays overnight a total of 10 or more nights
 2115 in a 12-month period when not staying at the offender's primary residence.

2116 Section 25. Section **53-29-302** is enacted to read:

2117 **53-29-302 . Law enforcement and agency responsibilities related to the registry.**

2118 (1) A law enforcement agency shall, in the manner prescribed by the department, inform
 2119 the department of:

2120 (a) the receipt of a report or complaint of a registrable offense, within three business
 2121 days after the day on which the law enforcement agency received the report or
 2122 complaint; and

2123 (b) the arrest of an individual suspected of a registrable offense, within five business
 2124 days after the day on which the law enforcement agency arrested the individual.

2125 (2) The Department of Corrections shall register an offender in the custody of the
 2126 Department of Corrections with the department upon:

2127 (a) placement on probation;

2128 (b) commitment to a secure correctional facility operated by or under contract with the
 2129 Department of Corrections;

2130 (c) release from confinement to parole status, termination or expiration of sentence, or
 2131 escape;

2132 (d) entrance to and release from any community-based residential program operated by
 2133 or under contract with the Department of Corrections; or

2134 (e) termination of probation or parole.

2135 (3) The sheriff of the county in which an offender is confined shall register an offender with

2136 the department, as required under this chapter, if the offender is not in the custody of the
2137 Department of Corrections and is confined in a correctional facility not operated by or
2138 under contract with the Department of Corrections upon:

2139 (a) commitment to the correctional facility; and

2140 (b) release from confinement.

2141 (4)(a) Except as provided in Subsection (4)(b), if an offender is sent on an assignment
2142 outside a secure facility, including being assigned for firefighting or disaster control,
2143 the official who has physical custody of the offender shall, within a reasonable time
2144 after the day of the offender's removal from the secure facility, notify the local law
2145 enforcement agencies where the offender is assigned.

2146 (b) Subsection (4)(a) does not apply to an offender temporarily released from a secure
2147 facility setting who is under the supervision of a correctional facility official.

2148 (5) The division shall register an offender in the custody of the division with the
2149 department, as required under this chapter, before the offender's release from custody of
2150 the division.

2151 (6) A state mental hospital shall register an offender committed to the state mental hospital
2152 with the department, as required under this chapter, upon the offender's admission and
2153 upon the offender's discharge.

2154 (7)(a) A municipal or county law enforcement agency shall register an offender who
2155 resides within the agency's jurisdiction and is not under the supervision of the
2156 Division of Adult Probation and Parole within the Department of Corrections.

2157 (b) A municipal or county law enforcement agency may conduct offender registration
2158 under this chapter, if the agency ensures that the agency's staff responsible for
2159 registration:

2160 (i) have received initial training by the department and have been certified by the
2161 department as qualified and authorized to conduct registrations and enter offender
2162 registration information into the registry database; and

2163 (ii) annually certifies with the department.

2164 (8) An agency in the state that registers with the department an offender on probation, an
2165 offender who has been released from confinement to parole status or termination, or an
2166 offender whose sentence has expired, shall inform the offender of the duty to comply
2167 with the continuing registration requirements of this chapter during the period of
2168 registration required in Section 53-29-203, including:

2169 (a) notification to the state agencies in the states where the registrant presently resides

- 2170 and plans to reside when moving across state lines;
 2171 (b) verification of address at least every 60 days pursuant to a parole agreement for
 2172 lifetime parolees; and
 2173 (c) notification to the out-of-state agency where the offender is living, regardless of
 2174 whether the offender is a resident of that state.

2175 Section 26. Section **53-29-303** is enacted to read:

2176 **53-29-303 . Court responsibilities related to the registry.**

- 2177 (1) The court shall, after an offender is convicted of a registrable offense, within three
 2178 business days after the day on which the conviction is entered, forward a signed copy of
 2179 the judgment and sentence to the registry office.
 2180 (2) Upon modifying, withdrawing, setting aside, vacating, or otherwise altering a
 2181 conviction for a registrable offense, the court shall, within three business days, forward a
 2182 signed copy of the order to the registry office.
 2183 (3)(a) An offender may change the offender's name in accordance with Title 42, Chapter
 2184 1, Change of Name, if the name change is not contrary to the interests of the public.
 2185 (b) Notwithstanding Section 42-1-2, an offender shall provide notice to the department
 2186 at least 30 days before the day on which the hearing for the name change is held.
 2187 (c) The court shall provide a copy of the order granting the offender's name change to
 2188 the department within 10 days after the day on which the court issues the order.
 2189 (d) If the court orders an offender's name to be changed, the department shall publish on
 2190 the registration website the offender's former name and the offender's changed name
 2191 as an alias.
 2192 (4) Notwithstanding Title 63G, Chapter 2, Government Records Access and Management
 2193 Act, information under Subsection (2) that is collected and released under Subsection
 2194 53-29-404(3)(a) is public information, unless otherwise restricted under this chapter.
 2195 (5) The department shall redact information regarding the identity or location of a victim
 2196 from information provided under Subsection (2).

2197 Section 27. Section **53-29-304** is enacted to read:

2198 **53-29-304 . Offender responsibilities related to the registry.**

- 2199 (1) An offender shall:
 2200 (a) if the offender is on probation or parole under the supervision of the Department of
 2201 Corrections, register in person with the Division of Adult Probation and Parole; or
 2202 (b) if the offender is not on probation or parole under the supervision of the Department
 2203 of Corrections, register in person with the police department or sheriff's office that

- 2204 has jurisdiction over the area where the offender resides.
- 2205 (2) An offender registering under Subsection (1) shall register for the duration of the
2206 offender's applicable registration period described in Section 53-29-203:
- 2207 (a) each year during the month of the offender's date of birth;
2208 (b) during the month that is the sixth month after the offender's birth month; and
2209 (c) within three business days after the day on which there is a change of the offender's
2210 primary residence, any secondary residences, place of employment, vehicle
2211 information, or educational information described in Subsection (4).
- 2212 (3) An offender who enters this state from another jurisdiction is required to register with
2213 the department within 10 days after the day on which the offender enters the state,
2214 regardless of the offender's length of stay.
- 2215 (4)(a) When registering under Subsection (1), an offender shall provide the following
2216 information:
- 2217 (i) all names and aliases by which the offender is or has been known;
2218 (ii) the addresses of the offender's primary and secondary residences;
2219 (iii) a physical description, including the offender's date of birth, height, weight, eye
2220 color, and hair color;
2221 (iv) the make, model, color, year, plate number, and vehicle identification number of
2222 a vehicle or vehicles the offender owns or drives more than 12 times per year;
2223 (v) a current photograph of the offender;
2224 (vi) a set of fingerprints, if a set has not already been provided;
2225 (vii) a DNA specimen, taken in accordance with Section 53-10-404, if a set has not
2226 already been provided;
2227 (viii) telephone numbers and any other designations used by the offender for routing
2228 or self-identification in telephonic communications from fixed locations or
2229 cellular telephones;
2230 (ix) online identifiers and the addresses the offender uses for routing or
2231 self-identification in Internet communications or postings;
2232 (x) the name and Internet address of all websites on which the offender is registered
2233 using an online identifier, including all online identifiers used to access those
2234 websites;
2235 (xi) a copy of the offender's passport, if a passport has been issued to the offender;
2236 (xii) if the offender is an alien, all documents establishing the offender's immigration
2237 status;

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

2272 or in a state mental hospital is not required to pay the annual fee.
 2273 (c) The department shall deposit fees collected in accordance with this chapter into the
 2274 General Fund as a dedicated credit, to be used by the department for maintaining the
 2275 offender registry under this chapter and monitoring offender registration compliance,
 2276 including the costs of:
 2277 (i) data entry;
 2278 (ii) processing registration packets;
 2279 (iii) updating registry information; and
 2280 (iv) reporting an offender not in compliance with registration requirements to a law
 2281 enforcement agency.

2282 Section 28. Section **53-29-305** is enacted to read:

2283 **53-29-305 . Failing to register or providing false or incomplete information --**

2284 **Penalties.**

2285 (1) An offender who knowingly fails to register under this chapter or provides false or
 2286 incomplete information is guilty of:
 2287 (a) a third degree felony and shall be sentenced to serve a term of incarceration of not
 2288 less than 30 days and also at least one year of probation if:
 2289 (i) the offender is required to register for a registrable offense that is a felony or
 2290 adjudicated delinquent for a registrable offense committed before May 3, 2023,
 2291 that would be a felony if the juvenile were an adult; or
 2292 (ii) the offender is required to register for the offender's lifetime as described in
 2293 Subsection 53-29-203(1)(b); or
 2294 (b) a class A misdemeanor and shall be sentenced to serve a term of incarceration of not
 2295 less than 30 days and also at least one year of probation if the offender is required to
 2296 register for a misdemeanor conviction that is a registrable offense or is adjudicated
 2297 delinquent for a registrable offense committed before May 3, 2023, that would be a
 2298 misdemeanor if the juvenile were an adult.
 2299 (2)(a) The court or Board of Pardons and Parole may not release an individual who
 2300 violates this chapter from serving the term required under Subsection (1).
 2301 (b) This Subsection (2) supersedes any other provision of the law contrary to this chapter.
 2302 (3) The offender shall register for an additional year for every year in which the offender
 2303 does not comply with the registration requirements of this chapter.

2304 Section 29. Section **53-29-306**, which is renumbered from Section 77-27-21.7 is renumbered
 2305 and amended to read:

2306 **~~[77-27-21.7]~~ 53-29-306 . Sex offender restrictions.**

2307 (1) As used in this section:

2308 (a) "Condominium project" means the same as that term is defined in Section 57-8-3.

2309 (b) "Minor" means an individual who is younger than 18 years old[;] .

2310 (c)(i) "Protected area" means the premises occupied by:

2311 (A) a licensed day care or preschool facility;

2312 (B) a public swimming pool or a swimming pool maintained, operated, or owned
2313 by a homeowners' association, condominium project, or apartment complex;2314 (C) a public or private primary or secondary school that is not on the grounds of a
2315 correctional facility;2316 (D) a community park that is open to the public or a park maintained, operated, or
2317 owned by a homeowners' association, condominium project, or apartment
2318 complex;2319 (E) a public playground or a playground maintained, operated, or owned by a
2320 homeowners' association, condominium project, or apartment complex,
2321 including those areas designed to provide minors with space, recreational
2322 equipment, or other amenities intended to allow minors to engage in physical
2323 activity; and2324 (F) except as provided in Subsection (1)(c)(ii), an area that is 1,000 feet or less
2325 from the residence of a victim of the sex offender if the sex offender is subject
2326 to a victim requested restriction.

2327 (ii) "Protected area" does not include:

2328 (A) the area described in Subsection (1)(c)(i)(F) if the victim is a member of the
2329 immediate family of the sex offender and the terms of the sex offender's
2330 agreement of probation or parole allow the sex offender to reside in the same
2331 residence as the victim;2332 (B) a park, playground, or swimming pool located on the property of a residential
2333 home;2334 (C) a park or swimming pool that prohibits minors at all times from using the park
2335 or swimming pool; or2336 (D) a park or swimming pool maintained, operated, or owned by a homeowners'
2337 association, condominium project, or apartment complex established for
2338 residents 55 years old or older if no minors are present at the park or swimming
2339 pool at the time the sex offender is present at the park or swimming pool.

- 2340 [(d) "Sex offender" means an adult or juvenile who is required to register in accordance
2341 with Title 77, Chapter 41, Sex, Kidnap, and Child Abuse Offender Registry, due to a
2342 conviction for an offense that is committed against a person younger than 18 years
2343 old.]
- 2344 (2) For purposes of Subsection (1)(c)(i)(F), a sex offender who has committed a registrable
2345 offense against an individual younger than 18 years old is subject to a victim requested
2346 restriction if:
- 2347 (a) the sex offender is on probation or parole for an offense that requires the offender to
2348 register in accordance with [~~Title 77, Chapter 41, Sex, Kidnap, and Child Abuse~~
2349 ~~Offender Registry~~] this chapter;
- 2350 (b) the victim or the victim's parent or guardian advises the [~~Department of Public Safety~~]
2351 department that the victim elects to restrict the sex offender from the area and
2352 authorizes the [~~Department of Public Safety~~] department to advise the sex offender of
2353 the area where the victim resides; and
- 2354 (c) the [~~Department of Public Safety~~] department notifies the sex offender in writing that
2355 the sex offender is prohibited from being in the area described in Subsection
2356 (1)(c)(i)(F) and provides a description of the location of the protected area to the sex
2357 offender.
- 2358 (3) A sex offender who has committed a registrable offense against an individual younger
2359 than 18 years old may not:
- 2360 (a) be in a protected area except:
- 2361 (i) when the sex offender must be in a protected area to perform the sex offender's
2362 parental responsibilities;
- 2363 (ii)(A) when the protected area is a public or private primary or secondary school;
2364 and
- 2365 (B) the school is open and being used for a public activity other than a
2366 school-related function that involves a minor; or
- 2367 (iii)(A) if the protected area is a licensed day care or preschool facility located
2368 within a building that is open to the public for purposes other than the
2369 operation of the day care or preschool facility; and
- 2370 (B) the sex offender does not enter a part of the building that is occupied by the
2371 day care or preschool facility; or
- 2372 (b) serve as an athletic coach, manager, or trainer for a sports team of which a minor
2373 who is younger than 18 years old is a member.

2374 (4) A sex offender who violates this section is guilty of:

2375 (a) a class A misdemeanor; or

2376 (b) if previously convicted of violating this section within the last ten years, a third
2377 degree felony.

2378 Section 30. Section **53-29-307**, which is renumbered from Section 77-27-21.8 is renumbered
2379 and amended to read:

2380 ~~[77-27-21.8]~~ **53-29-307 . Sex offender in presence of a child -- Definitions --**

2381 **Penalties.**

2382 (1) As used in this section:

2383 (a) "Accompany" means:

2384 (i) to be in the presence of an individual; and

2385 (ii) to move or travel with that individual from one location to another, whether
2386 outdoors, indoors, or in or on any type of vehicle.

2387 (b) "Child" means an individual younger than 14 years ~~[of age]~~ old.

2388 (2) A sex offender subject to registration in accordance with ~~[Title 77, Chapter 41, Sex,~~
2389 ~~Kidnap, and Child Abuse Offender Registry]~~ this chapter, for ~~[an]~~ a registrable offense
2390 committed or attempted to be committed against a child younger than 14 years ~~[of age]~~
2391 old is guilty of a class A misdemeanor if the sex offender requests, invites, or solicits a
2392 child to accompany the sex offender, under circumstances that do not constitute an
2393 attempt to violate Section 76-5-301.1, child kidnapping, unless:

2394 (a)(i) the sex offender, prior to accompanying the child:

2395 (A) verbally advises the child's parent or legal guardian that the sex offender is on
2396 the state sex offender registry and is required by state law to obtain written
2397 permission in order for the sex offender to accompany the child; and

2398 (B) requests that the child's parent or legal guardian provide written authorization
2399 for the sex offender to accompany the child, including the specific dates and
2400 locations;

2401 (ii) the child's parent or legal guardian has provided to the sex offender written
2402 authorization, including the specific dates and locations, for the sex offender to
2403 accompany the child; and

2404 (iii) the sex offender has possession of the written authorization and is accompanying
2405 the child only at the dates and locations specified in the authorization;

2406 (b) the child's parent or guardian has verbally authorized the sex offender to accompany
2407 the child either in the child's residence or on property appurtenant to the child's

- 2408 residence, but in no other locations; or
- 2409 (c) the child is the natural child of the sex offender, and the offender is not prohibited by
- 2410 any court order, or probation or parole provision, from contact with the child.
- 2411 (3)(a) A sex offender convicted of a violation of Subsection (2) is subject to registration
- 2412 in accordance with [~~Title 77, Chapter 41, Sex, Kidnap, and Child Abuse Offender~~
- 2413 ~~Registry~~] this chapter, for an additional five years subsequent to the required
- 2414 registration [~~under Section 77-41-105~~] described in Section 53-29-203.
- 2415 (b) The period of additional registration imposed under Subsection (3)(a) is also in
- 2416 addition to any period of registration imposed under Subsection [~~77-41-107(3)~~]
- 2417 53-29-305(3) for failure to comply with registration requirements.
- 2418 (4) It is not a defense to a prosecution under this section that the defendant mistakenly
- 2419 believed the individual to be 14 years [~~of age~~] old or older at the time of the offense or
- 2420 was unaware of the individual's true age.
- 2421 (5) This section does not apply if a sex offender is acting to rescue a child who is in an
- 2422 emergency and life-threatening situation.

2423 Section 31. Section **53-29-401** is enacted to read:

2424 **Part 4. Department Functions Related to the Registry**

2425 **53-29-401 . Definitions.**

2426 Reserved.

2427 Section 32. Section **53-29-402** is enacted to read:

2428 **53-29-402 . Department responsibilities related to the registry.**

2429 (1) The department shall:

- 2430 (a) maintain the registration website;
- 2431 (b) ensure that the registration information collected regarding an offender's enrollment
- 2432 or employment at an educational institution is:
- 2433 (i)(A) promptly made available to any law enforcement agency that has
- 2434 jurisdiction where the institution is located if the educational institution is an
- 2435 institution of higher education; or
- 2436 (B) promptly made available to the district superintendent of the school district
- 2437 where the offender is employed if the educational institution is an institution of
- 2438 primary education; and
- 2439 (ii) entered into the appropriate state records or data system; and
- 2440 (c) make available to an offender the name of the local law enforcement agency or state
- 2441 agency that the offender should contact to register, the location for registering, and

2442 the requirements of registration.

2443 (2)(a) When the department receives offender registration information regarding a
 2444 change of an offender's primary residence, the department shall, within five days
 2445 after the day on which the department receives the information, electronically notify
 2446 the law enforcement agencies that have jurisdiction over the area where:

2447 (i) the residence that the offender is leaving is located; and

2448 (ii) the residence to which the offender is moving is located.

2449 (b) The department shall provide notification under Subsection (2)(a) if the offender's
 2450 change of address is:

2451 (i) between law enforcement agency jurisdictions; or

2452 (ii) within one law enforcement agency jurisdiction.

2453 (3) The department may make administrative rules necessary to implement this chapter,
 2454 including:

2455 (a) the method for dissemination of the information; and

2456 (b) instructions to the public regarding the use of the information.

2457 Section 33. Section **53-29-403** is enacted to read:

2458 **53-29-403 . Intervention in legal action by the department.**

2459 (1) Subject to Subsection (2), the department may intervene in any matter, including a
 2460 criminal action, where the matter purports to affect an individual's registration
 2461 requirements under this chapter.

2462 (2) The department may only file a motion to intervene under Subsection (1) within 60 days
 2463 after the day on which:

2464 (a) the sentencing court enters a judgment or sentence against an individual for a
 2465 registrable offense, if the details of the written plea agreement, judgment, or sentence
 2466 indicate that the individual's registration requirements under this chapter could be
 2467 affected; or

2468 (b) a court modifies, withdraws, sets aside, vacates, or otherwise alters an individual's
 2469 conviction for a registrable offense, affecting the individual's registration requirement
 2470 under this chapter if the written plea agreement, judgment, or sentence entered at the
 2471 time the individual was sentenced did not indicate that the individual's registration
 2472 requirement could be affected.

2473 Section 34. Section **53-29-404** is enacted to read:

2474 **53-29-404 . Sex, Kidnap, and Child Abuse Offender Notification and**
 2475 **Registration website.**

- 2476 (1) The department shall maintain a Sex, Kidnap, and Child Abuse Offender Notification
2477 and Registration website on the Internet available to the public.
- 2478 (2) The registration website shall be indexed by both the surname of the offender and by
2479 postal codes.
- 2480 (3)(a) Except as provided in Subsection (3)(b), the registration website shall include the
2481 following information:
- 2482 (i) all names and aliases by which the offender is or has been known, but not
2483 including any online identifiers;
- 2484 (ii) the addresses of the offender's primary, secondary, and temporary residences;
- 2485 (iii) a physical description, including the offender's date of birth, height, weight, eye
2486 color, and hair color;
- 2487 (iv) the make, model, color, year, and plate number of any vehicle or vehicles the
2488 offender owns or regularly drives;
- 2489 (v) a current photograph of the offender;
- 2490 (vi) a list of all professional licenses that authorize the offender to engage in an
2491 occupation or carry out a trade or business;
- 2492 (vii) each educational institution in Utah at which the offender is employed or is a
2493 student;
- 2494 (viii) a list of places where the offender works as a volunteer;
- 2495 (ix) any registrable offenses for which the offender has been convicted or
2496 adjudicated; and
- 2497 (x) other relevant identifying information of the offender as determined by the
2498 department.
- 2499 (b) The department shall redact any information the department receives under
2500 Subsection (3)(a) that, if disclosed, could reasonably identify a victim.
- 2501 (4)(a) The department shall enable the public to search the registration website to
2502 determine if the following search criteria are linked to an offender:
- 2503 (i) telephone numbers or other designations for an offender provided under
2504 Subsection 53-29-304(4)(a)(vii);
- 2505 (ii) online identifiers or other addresses for an offender provided under Subsection
2506 53-29-304(4)(a)(ix); and
- 2507 (iii) names and Internet addresses of websites on which an offender is registered
2508 using an online identifier, including the online identifier used to access the
2509 website.

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

- 2544 (c) This Subsection (6):
- 2545 (i) applies to an offender with a registration requirement on or after May 3, 2023,
- 2546 regardless of when the offender was first required to register; and
- 2547 (ii) does not apply to an offender who is required to register for the offender's lifetime
- 2548 due to the offender being convicted of two or more registrable offenses or being
- 2549 convicted of one registrable offense and, at the time of the conviction for the
- 2550 registrable offense, being previously required to register as an offender for an
- 2551 offense committed as a juvenile as described in Subsection 53-29-203(1)(b).
- 2552 (7) In the case of an offender adjudicated in an external jurisdiction as a juvenile and
- 2553 required to register under this chapter the department shall maintain, but not publish, the
- 2554 offender's information on the registration website if the external jurisdiction where the
- 2555 juvenile offender was adjudicated does not publish the juvenile offender's information
- 2556 on a public website.
- 2557 (8) Any information in the department's possession not listed in Subsection (3)(a) that is not
- 2558 available to the public shall be shared:
- 2559 (a) for a purpose under this chapter; or
- 2560 (b) in accordance with Section 63G-2-206.
- 2561 Section 35. Section **53-29-405** is enacted to read:
- 2562 **53-29-405 . Removal for offenses or convictions for which registration is no**
- 2563 **longer required.**
- 2564 (1) The department shall automatically remove an individual who is currently on the
- 2565 registry if:
- 2566 (a) the only offense or offenses for which the individual is on the registry are listed in
- 2567 Subsection (2); or
- 2568 (b) the department receives a formal notification or order from the court or the Board of
- 2569 Pardons and Parole that the conviction for the registrable offense for which the
- 2570 individual is on the registry has been reversed, vacated, or pardoned.
- 2571 (2) The offenses described in Subsection (1)(a) are:
- 2572 (a) a class B or class C misdemeanor for enticing a minor under Section 76-4-401;
- 2573 (b) kidnapping under Subsection 76-5-301(2)(a) or (b);
- 2574 (c) child kidnapping under Section 76-5-301.1, if the offender was the natural parent of
- 2575 the child victim;
- 2576 (d) unlawful detention under Section 76-5-304;
- 2577 (e) a third degree felony for unlawful sexual intercourse before 1986, or a class B

- 2578 misdemeanor for unlawful sexual intercourse, under Section 76-5-401; or
2579 (f) sodomy, but not forcible sodomy, under Section 76-5-403.
- 2580 (3) The department shall notify an individual who has been removed from the registry in
2581 accordance with Subsection (1) and inform the individual in the notice that the
2582 individual is no longer required to register as an offender.
- 2583 (4) An individual who is currently on the registry may submit a request to the department to
2584 be removed from the registry if the individual believes that the individual qualifies for
2585 removal under Subsection (1).
- 2586 (5) The department, upon receipt of a request for removal from the registry in accordance
2587 with this section, shall:
- 2588 (a) check the registry for the individual's current status;
2589 (b) determine whether the individual qualifies for removal based upon this section; and
2590 (c) notify the individual in writing of the department's determination and whether the
2591 individual:
- 2592 (i) qualifies for removal from the registry; or
2593 (ii) does not qualify for removal.
- 2594 (6) If the department determines that the individual qualifies for removal from the registry,
2595 the department shall remove the offender from the registry.
- 2596 (7)(a) If the department determines that the individual does not qualify for removal from
2597 the registry, the department shall provide an explanation in writing for the
2598 department's determination.
- 2599 (b) The department's determination under Subsection (7)(a) is final and not subject to
2600 administrative review.
- 2601 (8) The department or an employee of the department is not civilly liable for a
2602 determination made in good faith in accordance with this section.
- 2603 (9)(a) The department shall provide a response to a request for removal within 30 days
2604 after the day on which the department receives the request.
- 2605 (b) If the response under Subsection (9)(a) cannot be provided within 30 days after the
2606 day on which the department receives the request, the department shall notify the
2607 individual that the response may be delayed up to 30 additional days.

2608 Section 36. Section **57-8-3** is amended to read:

2609 **57-8-3 . Definitions.**

2610 As used in this chapter:

- 2611 (1) "Assessment" means any charge imposed by the association, including:

- 2612 (a) common expenses on or against a unit owner pursuant to the provisions of the
2613 declaration, bylaws, or this chapter; and
- 2614 (b) an amount that an association of unit owners assesses to a unit owner under
2615 Subsection 57-8-43(9)(g).
- 2616 (2) "Association of unit owners" or "association" means all of the unit owners:
- 2617 (a) acting as a group in accordance with the declaration and bylaws; or
2618 (b) organized as a legal entity in accordance with the declaration.
- 2619 (3) "Building" means a building, containing units, and comprising a part of the property.
- 2620 (4) "Commercial condominium project" means a condominium project that has no
2621 residential units within the project.
- 2622 (5) "Common areas and facilities" unless otherwise provided in the declaration or lawful
2623 amendments to the declaration means:
- 2624 (a) the land included within the condominium project, whether leasehold or in fee
2625 simple;
- 2626 (b) the foundations, columns, girders, beams, supports, main walls, roofs, halls,
2627 corridors, lobbies, stairs, stairways, fire escapes, entrances, and exits of the building;
- 2628 (c) the basements, yards, gardens, parking areas, and storage spaces;
- 2629 (d) the premises for lodging of janitors or persons in charge of the property;
- 2630 (e) installations of central services such as power, light, gas, hot and cold water, heating,
2631 refrigeration, air conditioning, and incinerating;
- 2632 (f) the elevators, tanks, pumps, motors, fans, compressors, ducts, and in general all
2633 apparatus and installations existing for common use;
- 2634 (g) such community and commercial facilities as may be provided for in the declaration;
2635 and
- 2636 (h) all other parts of the property necessary or convenient to its existence, maintenance,
2637 and safety, or normally in common use.
- 2638 (6) "Common expenses" means:
- 2639 (a) all sums lawfully assessed against the unit owners;
- 2640 (b) expenses of administration, maintenance, repair, or replacement of the common areas
2641 and facilities;
- 2642 (c) expenses agreed upon as common expenses by the association of unit owners; and
2643 (d) expenses declared common expenses by this chapter, or by the declaration or the
2644 bylaws.
- 2645 (7) "Common profits," unless otherwise provided in the declaration or lawful amendments

- 2646 to the declaration, means the balance of all income, rents, profits, and revenues from the
2647 common areas and facilities remaining after the deduction of the common expenses.
- 2648 (8) "Condominium" means the ownership of a single unit in a multiunit project together
2649 with an undivided interest in common in the common areas and facilities of the property.
- 2650 (9) "Condominium plat" means a plat or plats of survey of land and units prepared in
2651 accordance with Section 57-8-13.
- 2652 (10) "Condominium project" means a real estate condominium project; a plan or project
2653 whereby two or more units, whether contained in existing or proposed apartments,
2654 commercial or industrial buildings or structures, or otherwise, are separately offered or
2655 proposed to be offered for sale. Condominium project also means the property when the
2656 context so requires.
- 2657 (11) "Condominium unit" means a unit together with the undivided interest in the common
2658 areas and facilities appertaining to that unit. Any reference in this chapter to a
2659 condominium unit includes both a physical unit together with its appurtenant undivided
2660 interest in the common areas and facilities and a time period unit together with its
2661 appurtenant undivided interest, unless the reference is specifically limited to a time
2662 period unit.
- 2663 (12) "Contractible condominium" means a condominium project from which one or more
2664 portions of the land within the project may be withdrawn in accordance with provisions
2665 of the declaration and of this chapter. If the withdrawal can occur only by the expiration
2666 or termination of one or more leases, then the condominium project is not a contractible
2667 condominium within the meaning of this chapter.
- 2668 (13) "Convertible land" means a building site which is a portion of the common areas and
2669 facilities, described by metes and bounds, within which additional units or limited
2670 common areas and facilities may be created in accordance with this chapter.
- 2671 (14) "Convertible space" means a portion of the structure within the condominium project,
2672 which portion may be converted into one or more units or common areas and facilities,
2673 including limited common areas and facilities in accordance with this chapter.
- 2674 (15) "Declarant" means all persons who execute the declaration or on whose behalf the
2675 declaration is executed. From the time of the recordation of any amendment to the
2676 declaration expanding an expandable condominium, all persons who execute that
2677 amendment or on whose behalf that amendment is executed shall also come within this
2678 definition. Any successors of the persons referred to in this subsection who come to
2679 stand in the same relation to the condominium project as their predecessors also come

- 2680 within this definition.
- 2681 (16) "Declaration" means the instrument by which the property is submitted to the
2682 provisions of this act, as it from time to time may be lawfully amended.
- 2683 (17) "Electrical corporation" means the same as that term is defined in Section 54-2-1.
- 2684 (18) "Expandable condominium" means a condominium project to which additional land or
2685 an interest in it may be added in accordance with the declaration and this chapter.
- 2686 (19) "Gas corporation" means the same as that term is defined in Section 54-2-1.
- 2687 (20) "Governing documents":
- 2688 (a) means a written instrument by which an association of unit owners may:
- 2689 (i) exercise powers; or
- 2690 (ii) manage, maintain, or otherwise affect the property under the jurisdiction of the
2691 association of unit owners; and
- 2692 (b) includes:
- 2693 (i) articles of incorporation;
- 2694 (ii) bylaws;
- 2695 (iii) a plat;
- 2696 (iv) a declaration of covenants, conditions, and restrictions; and
- 2697 (v) rules of the association of unit owners.
- 2698 (21) "Independent third party" means a person that:
- 2699 (a) is not related to the unit owner;
- 2700 (b) shares no pecuniary interests with the unit owner; and
- 2701 (c) purchases the unit in good faith and without the intent to defraud a current or future
2702 lienholder.
- 2703 (22) "Judicial foreclosure" means a foreclosure of a unit:
- 2704 (a) for the nonpayment of an assessment;
- 2705 (b) in the manner provided by law for the foreclosure of a mortgage on real property; and
- 2706 (c) as provided in this chapter.
- 2707 (23) "Leasehold condominium" means a condominium project in all or any portion of
2708 which each unit owner owns an estate for years in his unit, or in the land upon which
2709 that unit is situated, or both, with all those leasehold interests to expire naturally at the
2710 same time. A condominium project including leased land, or an interest in the land,
2711 upon which no units are situated or to be situated is not a leasehold condominium within
2712 the meaning of this chapter.
- 2713 (24) "Limited common areas and facilities" means those common areas and facilities

- 2714 designated in the declaration as reserved for use of a certain unit or units to the exclusion
2715 of the other units.
- 2716 (25) "Majority" or "majority of the unit owners," unless otherwise provided in the
2717 declaration or lawful amendments to the declaration, means the owners of more than
2718 50% in the aggregate in interest of the undivided ownership of the common areas and
2719 facilities.
- 2720 (26) "Management committee" means the committee as provided in the declaration charged
2721 with and having the responsibility and authority to make and to enforce all of the
2722 reasonable rules covering the operation and maintenance of the property.
- 2723 (27) "Management committee meeting" means a gathering of a management committee,
2724 whether in person or by means of electronic communication, at which the management
2725 committee can take binding action.
- 2726 (28)(a) "Means of electronic communication" means an electronic system that allows
2727 individuals to communicate orally in real time.
- 2728 (b) "Means of electronic communication" includes:
- 2729 (i) web conferencing;
- 2730 (ii) video conferencing; and
- 2731 (iii) telephone conferencing.
- 2732 (29) "Mixed-use condominium project" means a condominium project that has both
2733 residential and commercial units in the condominium project.
- 2734 (30) "Nonjudicial foreclosure" means the sale of a unit:
- 2735 (a) for the nonpayment of an assessment;
- 2736 (b) in the same manner as the sale of trust property under Sections 57-1-19 through
2737 57-1-34; and
- 2738 (c) as provided in this chapter.
- 2739 (31) "Par value" means a number of dollars or points assigned to each unit by the
2740 declaration. Substantially identical units shall be assigned the same par value, but units
2741 located at substantially different heights above the ground, or having substantially
2742 different views, or having substantially different amenities or other characteristics that
2743 might result in differences in market value, may be considered substantially identical
2744 within the meaning of this subsection. If par value is stated in terms of dollars, that
2745 statement may not be considered to reflect or control the sales price or fair market value
2746 of any unit, and no opinion, appraisal, or fair market transaction at a different figure may
2747 affect the par value of any unit, or any undivided interest in the common areas and

- 2748 facilities, voting rights in the unit owners' association, liability for common expenses, or
2749 right to common profits, assigned on the basis thereof.
- 2750 (32) "Period of administrative control" means the period of control described in Subsection
2751 57-8-16.5(1).
- 2752 (33) "Person" means an individual, corporation, partnership, association, trustee, or other
2753 legal entity.
- 2754 (34) "Political sign" means any sign or document that advocates:
2755 (a) the election or defeat of a candidate for public office; or
2756 (b) the approval or defeat of a ballot proposition.
- 2757 (35) "Property" means the land, whether leasehold or in fee simple, the building, if any, all
2758 improvements and structures thereon, all easements, rights, and appurtenances belonging
2759 thereto, and all articles of personal property intended for use in connection therewith.
- 2760 (36) "Protected area" means the same as that term is defined in Section [~~77-27-21.7~~]
2761 53-29-306.
- 2762 (37) "Record," "recording," "recorded," and "recorder" have the meaning stated in Chapter
2763 3, Recording of Documents.
- 2764 (38) "Rentals" or "rental unit" means:
2765 (a) a unit that:
2766 (i) is not owned by an entity or trust; and
2767 (ii) is occupied by an individual while the unit owner is not occupying the unit as the
2768 unit owner's primary residence; or
2769 (b) an occupied unit owned by an entity or trust, regardless of who occupies the unit.
- 2770 (39) "Size" means the number of cubic feet, or the number of square feet of ground or floor
2771 space, within each unit as computed by reference to the record of survey map and
2772 rounded off to a whole number. Certain spaces within the units including attic,
2773 basement, or garage space may be omitted from the calculation or be partially
2774 discounted by the use of a ratio, if the same basis of calculation is employed for all units
2775 in the condominium project and if that basis is described in the declaration.
- 2776 (40) "Time period unit" means an annually recurring part or parts of a year specified in the
2777 declaration as a period for which a unit is separately owned and includes a timeshare
2778 estate as defined in Section 57-19-2.
- 2779 (41) "Unconstructed unit" means a unit that:
2780 (a) is intended, as depicted in the condominium plat, to be fully or partially contained in
2781 a building; and

- 2782 (b) is not constructed.
- 2783 (42)(a) "Unit" means a separate part of the property intended for any type of
2784 independent use, which is created by the recording of a declaration and a
2785 condominium plat that describes the unit boundaries.
- 2786 (b) "Unit" includes one or more rooms or spaces located in one or more floors or a
2787 portion of a floor in a building.
- 2788 (c) "Unit" includes a convertible space, in accordance with Subsection 57-8-13.4(3).
- 2789 (43) "Unit number" means the number, letter, or combination of numbers and letters
2790 designating the unit in the declaration and in the record of survey map.
- 2791 (44) "Unit owner" means the person or persons owning a unit in fee simple and an
2792 undivided interest in the fee simple estate of the common areas and facilities in the
2793 percentage specified and established in the declaration or, in the case of a leasehold
2794 condominium project, the person or persons whose leasehold interest or interests in the
2795 condominium unit extend for the entire balance of the unexpired term or terms.
- 2796 (45) "Water wise landscaping" means:
- 2797 (a) installation of plant materials, suited to the microclimate and soil conditions, that can:
2798 (i) remain healthy with minimal irrigation once established; or
2799 (ii) be maintained without the use of overhead spray irrigation;
- 2800 (b) use of water for outdoor irrigation through proper and efficient irrigation design and
2801 water application; or
- 2802 (c) use of other landscape design features that:
2803 (i) minimize the landscape's need for supplemental water from irrigation;
2804 (ii) reduce the landscape area dedicated to lawn or turf; or
2805 (iii) encourage vegetative coverage.
- 2806 (46) "Water wise plant material" means a plant material suited to water wise landscaping.
- 2807 Section 37. Section **57-8-8.1** is amended to read:
- 2808 **57-8-8.1 . Equal treatment by rules required -- Limits on rules.**
- 2809 (1)(a) Except as provided in Subsection (1)(b), a rule shall treat similarly situated unit
2810 owners similarly.
- 2811 (b) Notwithstanding Subsection (1)(a), a rule may:
2812 (i) vary according to the level and type of service that the association of unit owners
2813 provides to unit owners;
2814 (ii) differ between residential and nonresidential uses; or
2815 (iii) for a unit that a unit owner leases for a term of less than 30 days, impose a

2816 reasonable limit on the number of individuals that may use the common areas and
2817 facilities as the rental unit tenant's guest or as the unit owner's guest.

2818 (2)(a) If a unit owner owns a rental unit and is in compliance with the association of unit
2819 owners' governing documents and any rule that the association of unit owners adopts
2820 under Subsection (5), a rule may not treat the unit owner differently because the unit
2821 owner owns a rental unit.

2822 (b) Notwithstanding Subsection (2)(a), a rule may:

2823 (i) limit or prohibit a rental unit owner from using the common areas and facilities for
2824 purposes other than attending an association meeting or managing the rental unit;

2825 (ii) if the rental unit owner retains the right to use the association of unit owners'
2826 common areas and facilities, even occasionally:

2827 (A) charge a rental unit owner a fee to use the common areas and facilities; and

2828 (B) for a unit that a unit owner leases for a term of less than 30 days, impose a
2829 reasonable limit on the number of individuals that may use the common areas
2830 and facilities as the rental unit tenant's guest or as the unit owner's guest; or

2831 (iii) include a provision in the association of unit owners' governing documents that:

2832 (A) requires each tenant of a rental unit to abide by the terms of the governing
2833 documents; and

2834 (B) holds the tenant and the rental unit owner jointly and severally liable for a
2835 violation of a provision of the governing documents.

2836 (3)(a) A rule may not interfere with the freedom of a unit owner to determine the
2837 composition of the unit owner's household.

2838 (b) Notwithstanding Subsection (3)(a), an association of unit owners may:

2839 (i) require that all occupants of a dwelling be members of a single housekeeping unit;
2840 or

2841 (ii) limit the total number of occupants permitted in each residential dwelling on the
2842 basis of the residential dwelling's:

2843 (A) size and facilities; and

2844 (B) fair use of the common areas and facilities.

2845 (4) Unless contrary to a declaration, a rule may require a minimum lease term.

2846 (5) Unless otherwise provided in the declaration, an association of unit owners may by rule:

2847 (a) regulate the use, maintenance, repair, replacement, and modification of common
2848 areas and facilities;

2849 (b) impose and receive any payment, fee, or charge for:

- 2850 (i) the use, rental, or operation of the common areas, except limited common areas
2851 and facilities; and
- 2852 (ii) a service provided to a unit owner;
- 2853 (c) impose a charge for a late payment of an assessment; or
- 2854 (d) provide for the indemnification of the association of unit owners' officers and
2855 management committee consistent with Title 16, Chapter 6a, Utah Revised Nonprofit
2856 Corporation Act.
- 2857 (6)(a) Except as provided in Subsection (6)(b), a rule may not prohibit a unit owner from
2858 installing a personal security camera immediately adjacent to the entryway, window,
2859 or other outside entry point of the owner's condominium unit.
- 2860 (b) A rule may prohibit a unit owner from installing a personal security camera in a
2861 common area not physically connected to the owner's unit.
- 2862 (7)(a) A rule may not abridge the right of a unit owner to display a religious or holiday
2863 sign, symbol, or decoration inside the owner's condominium unit.
- 2864 (b) An association may adopt a reasonable time, place, and manner restriction with
2865 respect to a display that is visible from the exterior of a unit.
- 2866 (8)(a) A rule may not:
- 2867 (i) prohibit a unit owner from displaying in a window of the owner's condominium
2868 unit:
- 2869 (A) a for-sale sign; or
- 2870 (B) a political sign;
- 2871 (ii) regulate the content of a political sign; or
- 2872 (iii) establish design criteria for a political sign.
- 2873 (b) Notwithstanding Subsection (8)(a), a rule may reasonably regulate the size and time,
2874 place, and manner of posting a for-sale sign or a political sign.
- 2875 (9) For any area for which one or more unit owners are responsible for landscape
2876 maintenance, the association of unit owners:
- 2877 (a) shall adopt rules supporting water wise landscaping, including:
- 2878 (i) low water use requirements on lawns during drought conditions;
- 2879 (ii) design criterion for water wise landscaping; and
- 2880 (iii) limiting permissible plant material to specific water wise plant material;
- 2881 (b) may not prohibit low water use on lawns during drought conditions; and
- 2882 (c) may not prohibit or restrict the conversion of a grass park strip to water-efficient
2883 landscaping.

2884 (10) A rule may restrict a sex offender from accessing a protected area that is maintained,
2885 operated, or owned by the association, subject to the exceptions described in Subsection [
2886 ~~77-27-21.7(3)~~] 53-29-306(3).

2887 (11)(a) Except as provided in this Subsection (11), a rule may not prohibit a unit owner
2888 from making modifications, consistent with industry standards, for radon mitigation.

2889 (b) Subsection (11)(a) does not apply if the modifications would violate:

2890 (i) a local land use ordinance;

2891 (ii) a building code;

2892 (iii) a health code; or

2893 (iv) a fire code.

2894 (c) A rule governing the placement or external appearance of modifications may apply to
2895 modifications for radon mitigation unless the rule would:

2896 (i) unreasonably interfere with the modifications' functionality; or

2897 (ii) add more than 40% of the modifications' original cost to the cost of installing the
2898 modifications.

2899 (d) A rule may require that a unit owner making modifications related to radon
2900 mitigation:

2901 (i) demonstrate or provide proof of radon contamination; and

2902 (ii) provide proof that the modifications and any related construction will be
2903 performed by a licensed person.

2904 (12) A rule shall be reasonable.

2905 (13) A declaration, or an amendment to a declaration, may vary any of the requirements of
2906 Subsections (1) through (5), except Subsection (1)(b)(ii).

2907 (14) This section applies to an association of unit owners regardless of when the association
2908 of unit owners is created.

2909 Section 38. Section **57-8a-102** is amended to read:

2910 **57-8a-102 . Definitions.**

2911 As used in this chapter:

2912 (1)(a) "Assessment" means a charge imposed or levied:

2913 (i) by the association;

2914 (ii) on or against a lot or a lot owner; and

2915 (iii) pursuant to a governing document recorded with the county recorder.

2916 (b) "Assessment" includes:

2917 (i) a common expense; and

- 2918 (ii) an amount assessed against a lot owner under Subsection 57-8a-405(7).
- 2919 (2)(a) Except as provided in Subsection (2)(b), "association" means a corporation or
2920 other legal entity, any member of which:
- 2921 (i) is an owner of a residential lot located within the jurisdiction of the association, as
2922 described in the governing documents; and
- 2923 (ii) by virtue of membership or ownership of a residential lot is obligated to pay:
- 2924 (A) real property taxes;
- 2925 (B) insurance premiums;
- 2926 (C) maintenance costs; or
- 2927 (D) for improvement of real property not owned by the member.
- 2928 (b) "Association" or "homeowner association" does not include an association created
2929 under Chapter 8, Condominium Ownership Act.
- 2930 (3) "Board meeting" means a gathering of a board, whether in person or by means of
2931 electronic communication, at which the board can take binding action.
- 2932 (4) "Board of directors" or "board" means the entity, regardless of name, with primary
2933 authority to manage the affairs of the association.
- 2934 (5) "Common areas" means property that the association:
- 2935 (a) owns;
- 2936 (b) maintains;
- 2937 (c) repairs; or
- 2938 (d) administers.
- 2939 (6) "Common expense" means costs incurred by the association to exercise any of the
2940 powers provided for in the association's governing documents.
- 2941 (7) "Declarant":
- 2942 (a) means the person who executes a declaration and submits it for recording in the
2943 office of the recorder of the county in which the property described in the declaration
2944 is located; and
- 2945 (b) includes the person's successor and assign.
- 2946 (8) "Director" means a member of the board of directors.
- 2947 (9) "Electrical corporation" means the same as that term is defined in Section 54-2-1.
- 2948 (10) "Gas corporation" means the same as that term is defined in Section 54-2-1.
- 2949 (11)(a) "Governing documents" means a written instrument by which the association
2950 may:
- 2951 (i) exercise powers; or

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

- 2986 (b) "Means of electronic communication" includes:
- 2987 (i) web conferencing;
- 2988 (ii) video conferencing; and
- 2989 (iii) telephone conferencing.
- 2990 (18) "Mixed-use project" means a project under this chapter that has both residential and
- 2991 commercial lots in the project.
- 2992 (19) "Nonjudicial foreclosure" means the sale of a lot:
- 2993 (a) for the nonpayment of an assessment;
- 2994 (b) in the same manner as the sale of trust property under Sections 57-1-19 through
- 2995 57-1-34; and
- 2996 (c) as provided in Part 3, Collection of Assessments.
- 2997 (20) "Period of administrative control" means the period during which the person who filed
- 2998 the association's governing documents or the person's successor in interest retains
- 2999 authority to:
- 3000 (a) appoint or remove members of the association's board of directors; or
- 3001 (b) exercise power or authority assigned to the association under the association's
- 3002 governing documents.
- 3003 (21) "Political sign" means any sign or document that advocates:
- 3004 (a) the election or defeat of a candidate for public office; or
- 3005 (b) the approval or defeat of a ballot proposition.
- 3006 (22) "Protected area" means the same as that term is defined in Section 77-27-21.7.
- 3007 (23) "Rentals" or "rental lot" means:
- 3008 (a) a lot that:
- 3009 (i) is not owned by an entity or trust; and
- 3010 (ii) is occupied by an individual while the lot owner is not occupying the lot as the lot
- 3011 owner's primary residence;
- 3012 (b) an occupied lot owned by an entity or trust, regardless of who occupies the lot; or
- 3013 (c) an internal accessory dwelling unit as defined in Section 10-9a-530 or 17-27a-526.
- 3014 (24) "Residential lot" means a lot, the use of which is limited by law, covenant, or
- 3015 otherwise to primarily residential or recreational purposes.
- 3016 (25)(a) "Rule" means a policy, guideline, restriction, procedure, or regulation of an
- 3017 association that:
- 3018 (i) is not set forth in a contract, easement, article of incorporation, bylaw, or
- 3019 declaration; and

- 3020 (ii) governs:
- 3021 (A) the conduct of persons; or
- 3022 (B) the use, quality, type, design, or appearance of real property or personal
- 3023 property.
- 3024 (b) "Rule" does not include the internal business operating procedures of a board.
- 3025 (26) "Sex offender" means ~~[the same as that term is defined in Section 77-27-21.7]~~ an
- 3026 individual who is a sex offender as described in Subsection 53-29-202(2)(b) if the
- 3027 offense that the individual committed that resulted in the individual being a sex offender
- 3028 was committed against an individual younger than 18 years old.
- 3029 (27) "Solar energy system" means:
- 3030 (a) a system that is used to produce electric energy from sunlight; and
- 3031 (b) the components of the system described in Subsection (27)(a).
- 3032 Section 39. Section **57-8a-218** is amended to read:
- 3033 **57-8a-218 . Equal treatment by rules required -- Limits on association rules and**
- 3034 **design criteria.**
- 3035 (1)(a) Except as provided in Subsection (1)(b), a rule shall treat similarly situated lot
- 3036 owners similarly.
- 3037 (b) Notwithstanding Subsection (1)(a), a rule may:
- 3038 (i) vary according to the level and type of service that the association provides to lot
- 3039 owners;
- 3040 (ii) differ between residential and nonresidential uses; and
- 3041 (iii) for a lot that an owner leases for a term of less than 30 days, impose a reasonable
- 3042 limit on the number of individuals who may use the common areas and facilities
- 3043 as guests of the lot tenant or lot owner.
- 3044 (2)(a) If a lot owner owns a rental lot and is in compliance with the association's
- 3045 governing documents and any rule that the association adopts under Subsection (4), a
- 3046 rule may not treat the lot owner differently because the lot owner owns a rental lot.
- 3047 (b) Notwithstanding Subsection (2)(a), a rule may:
- 3048 (i) limit or prohibit a rental lot owner from using the common areas for purposes
- 3049 other than attending an association meeting or managing the rental lot;
- 3050 (ii) if the rental lot owner retains the right to use the association's common areas,
- 3051 even occasionally:
- 3052 (A) charge a rental lot owner a fee to use the common areas; or
- 3053 (B) for a lot that an owner leases for a term of less than 30 days, impose a

- 3054 reasonable limit on the number of individuals who may use the common areas
3055 and facilities as guests of the lot tenant or lot owner; or
- 3056 (iii) include a provision in the association's governing documents that:
- 3057 (A) requires each tenant of a rental lot to abide by the terms of the governing
3058 documents; and
- 3059 (B) holds the tenant and the rental lot owner jointly and severally liable for a
3060 violation of a provision of the governing documents.
- 3061 (3)(a) A rule criterion may not abridge the rights of a lot owner to display a religious or
3062 holiday sign, symbol, or decoration:
- 3063 (i) inside a dwelling on a lot; or
- 3064 (ii) outside a dwelling on:
- 3065 (A) a lot;
- 3066 (B) the exterior of the dwelling, unless the association has an ownership interest
3067 in, or a maintenance, repair, or replacement obligation for, the exterior; or
- 3068 (C) the front yard of the dwelling, unless the association has an ownership interest
3069 in, or a maintenance, repair, or replacement obligation for, the yard.
- 3070 (b) Notwithstanding Subsection (3)(a), the association may adopt a reasonable time,
3071 place, and manner restriction with respect to a display that is:
- 3072 (i) outside a dwelling on:
- 3073 (A) a lot;
- 3074 (B) the exterior of the dwelling; or
- 3075 (C) the front yard of the dwelling; and
- 3076 (ii) visible from outside the lot.
- 3077 (4)(a) A rule may not prohibit a lot owner from displaying a political sign:
- 3078 (i) inside a dwelling on a lot; or
- 3079 (ii) outside a dwelling on:
- 3080 (A) a lot;
- 3081 (B) the exterior of the dwelling, regardless of whether the association has an
3082 ownership interest in the exterior; or
- 3083 (C) the front yard of the dwelling, regardless of whether the association has an
3084 ownership interest in the yard.
- 3085 (b) A rule may not regulate the content of a political sign.
- 3086 (c) Notwithstanding Subsection (4)(a), a rule may reasonably regulate the time, place,
3087 and manner of posting a political sign.

3088 (d) An association design provision may not establish design criteria for a political sign.

3089 (5)(a) A rule may not prohibit a lot owner from displaying a for-sale sign:

3090 (i) inside a dwelling on a lot; or

3091 (ii) outside a dwelling on:

3092 (A) a lot;

3093 (B) the exterior of the dwelling, regardless of whether the association has an
3094 ownership interest in the exterior; or

3095 (C) the front yard of the dwelling, regardless of whether the association has an
3096 ownership interest in the yard.

3097 (b) Notwithstanding Subsection (5)(a), a rule may reasonably regulate the time, place,
3098 and manner of posting a for-sale sign.

3099 (6)(a) A rule may not interfere with the freedom of a lot owner to determine the
3100 composition of the lot owner's household.

3101 (b) Notwithstanding Subsection (6)(a), an association may:

3102 (i) require that all occupants of a dwelling be members of a single housekeeping unit;
3103 or

3104 (ii) limit the total number of occupants permitted in each residential dwelling on the
3105 basis of the residential dwelling's:

3106 (A) size and facilities; and

3107 (B) fair use of the common areas.

3108 (7)(a) A rule may not interfere with a reasonable activity of a lot owner within the
3109 confines of a dwelling or lot, including backyard landscaping or amenities, to the
3110 extent that the activity is in compliance with local laws and ordinances, including
3111 nuisance laws and ordinances.

3112 (b) Notwithstanding Subsection (7)(a), a rule may prohibit an activity within the
3113 confines of a dwelling or lot, including backyard landscaping or amenities, if the
3114 activity:

3115 (i) is not normally associated with a project restricted to residential use; or

3116 (ii)(A) creates monetary costs for the association or other lot owners;

3117 (B) creates a danger to the health or safety of occupants of other lots;

3118 (C) generates excessive noise or traffic;

3119 (D) creates unsightly conditions visible from outside the dwelling;

3120 (E) creates an unreasonable source of annoyance to persons outside the lot; or

3121 (F) if there are attached dwellings, creates the potential for smoke to enter another

- 3122 lot owner's dwelling, the common areas, or limited common areas.
- 3123 (c) If permitted by law, an association may adopt rules described in Subsection (7)(b)
- 3124 that affect the use of or behavior inside the dwelling.
- 3125 (8)(a) A rule may not, to the detriment of a lot owner and over the lot owner's written
- 3126 objection to the board, alter the allocation of financial burdens among the various lots.
- 3127 (b) Notwithstanding Subsection [~~(7)(b)~~] (8)(a), an association may:
- 3128 (i) change the common areas available to a lot owner;
- 3129 (ii) adopt generally applicable rules for the use of common areas; or
- 3130 (iii) deny use privileges to a lot owner who:
- 3131 (A) is delinquent in paying assessments;
- 3132 (B) abuses the common areas; or
- 3133 (C) violates the governing documents.
- 3134 (c) This Subsection (8) does not permit a rule that:
- 3135 (i) alters the method of levying assessments; or
- 3136 (ii) increases the amount of assessments as provided in the declaration.
- 3137 (9)(a) Subject to Subsection (9)(b), a rule may not:
- 3138 (i) prohibit the transfer of a lot; or
- 3139 (ii) require the consent of the association or board to transfer a lot.
- 3140 (b) Unless contrary to a declaration, a rule may require a minimum lease term.
- 3141 (10)(a) A rule may not require a lot owner to dispose of personal property that was in or
- 3142 on a lot before the adoption of the rule or design criteria if the personal property was
- 3143 in compliance with all rules and other governing documents previously in force.
- 3144 (b) The exemption in Subsection (10)(a):
- 3145 (i) applies during the period of the lot owner's ownership of the lot; and
- 3146 (ii) does not apply to a subsequent lot owner who takes title to the lot after adoption
- 3147 of the rule described in Subsection (10)(a).
- 3148 (11) A rule or action by the association or action by the board may not unreasonably
- 3149 impede a declarant's ability to satisfy existing development financing for community
- 3150 improvements and right to develop:
- 3151 (a) the project; or
- 3152 (b) other properties in the vicinity of the project.
- 3153 (12) A rule or association or board action may not interfere with:
- 3154 (a) the use or operation of an amenity that the association does not own or control; or
- 3155 (b) the exercise of a right associated with an easement.

- 3156 (13) A rule may not divest a lot owner of the right to proceed in accordance with a
3157 completed application for design review, or to proceed in accordance with another
3158 approval process, under the terms of the governing documents in existence at the time
3159 the completed application was submitted by the owner for review.
- 3160 (14) Unless otherwise provided in the declaration, an association may by rule:
- 3161 (a) regulate the use, maintenance, repair, replacement, and modification of common
3162 areas;
- 3163 (b) impose and receive any payment, fee, or charge for:
- 3164 (i) the use, rental, or operation of the common areas, except limited common areas;
3165 and
- 3166 (ii) a service provided to a lot owner;
- 3167 (c) impose a charge for a late payment of an assessment; or
- 3168 (d) provide for the indemnification of the association's officers and board consistent with
3169 Title 16, Chapter 6a, Utah Revised Nonprofit Corporation Act.
- 3170 (15) A rule may not prohibit a lot owner from installing a personal security camera
3171 immediately adjacent to the entryway, window, or other outside entry point of the
3172 owner's dwelling unit.
- 3173 (16)(a) For any area for which one or more lot owners are responsible for landscape
3174 maintenance of any landscaping within the lot owner's lot or the common areas, the
3175 association shall adopt rules supporting water wise landscaping as defined in Section
3176 57-8a-231 including:
- 3177 (i) low water use requirements on lawns during drought conditions;
- 3178 (ii) design criterion for water wise landscaping; and
- 3179 (iii) limiting permissible plant material to specific water wise plant material.
- 3180 (b) A rule may not:
- 3181 (i) prohibit or restrict the conversion of a grass park strip to water wise landscaping
3182 as defined in Section 57-8a-231; or
- 3183 (ii) prohibit low water use on lawns during drought conditions.
- 3184 (17)(a) Except as provided in Subsection (17)(b), a rule may not prohibit the owner of a
3185 residential lot from constructing an internal accessory dwelling unit, as defined in
3186 Section 10-9a-530 or 17-27a-526, within the owner's residential lot.
- 3187 (b) Subsection (17)(a) does not apply if the construction would violate:
- 3188 (i) a local land use ordinance;
- 3189 (ii) a building code;

- 3190 (iii) a health code; or
 3191 (iv) a fire code.
- 3192 (18)(a) Except as provided in Subsection (18)(b), a rule may not prohibit the owner of a
 3193 residential lot from making modifications, consistent with industry standards, for
 3194 radon mitigation.
- 3195 (b) Subsection (18)(a) does not apply if the modifications would violate:
 3196 (i) a local land use ordinance;
 3197 (ii) a building code;
 3198 (iii) a health code; or
 3199 (iv) a fire code.
- 3200 (c) A rule governing the placement or external appearance of modifications for radon
 3201 mitigation does not apply to a lot owner's modifications if the rule would:
 3202 (i) unreasonably interfere with the modifications' functionality; or
 3203 (ii) add more than 40% of the modifications' original cost to the cost of installing the
 3204 modifications.
- 3205 (d) A rule may require that a lot owner making modifications related to radon mitigation:
 3206 (i) demonstrate or provide proof of radon contamination; and
 3207 (ii) provide proof that the modifications and any related construction will be
 3208 performed by a licensed person.
- 3209 (19) A rule may restrict a sex offender from accessing a protected area that is maintained,
 3210 operated, or owned by the association, subject to the exceptions described in Subsection [
 3211 ~~77-27-21.7(3)~~ 53-29-306(3).
- 3212 (20) A rule shall be reasonable.
- 3213 (21) A declaration, or an amendment to a declaration, may vary any of the requirements of
 3214 Subsections (1), (2), (6), and (8) through (14), except Subsection (1)(b)(ii).
- 3215 (22) A rule may not be inconsistent with a provision of the association's declaration,
 3216 bylaws, or articles of incorporation.
- 3217 (23) This section applies to an association regardless of when the association is created.
 3218 Section 40. Section **63G-2-302** is amended to read:
 3219 **63G-2-302 . Private records.**
- 3220 (1) The following records are private:
 3221 (a) records concerning an individual's eligibility for unemployment insurance benefits,
 3222 social services, welfare benefits, or the determination of benefit levels;
 3223 (b) records containing data on individuals describing medical history, diagnosis,

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

- 3258 (iii) email address;
- 3259 (iv) date of birth; or
- 3260 (v) phone number;
- 3261 (k) a voter registration record that is classified as a private record by the lieutenant
- 3262 governor or a county clerk under Subsection 20A-2-101.1(5)(a), 20A-2-104(4)(h), or
- 3263 20A-2-204(4)(b);
- 3264 (l) a voter registration record that is withheld under Subsection 20A-2-104(7);
- 3265 (m) a withholding request form described in Subsections 20A-2-104(7) and (8) and any
- 3266 verification submitted in support of the form;
- 3267 (n) a record that:
- 3268 (i) contains information about an individual;
- 3269 (ii) is voluntarily provided by the individual; and
- 3270 (iii) goes into an electronic database that:
- 3271 (A) is designated by and administered under the authority of the Chief Information
- 3272 Officer; and
- 3273 (B) acts as a repository of information about the individual that can be
- 3274 electronically retrieved and used to facilitate the individual's online interaction
- 3275 with a state agency;
- 3276 (o) information provided to the Commissioner of Insurance under:
- 3277 (i) Subsection 31A-23a-115(3)(a);
- 3278 (ii) Subsection 31A-23a-302(4); or
- 3279 (iii) Subsection 31A-26-210(4);
- 3280 (p) information obtained through a criminal background check under Title 11, Chapter
- 3281 40, Criminal Background Checks by Political Subdivisions Operating Water Systems;
- 3282 (q) information provided by an offender that is:
- 3283 (i) required by the registration requirements of [~~Title 77, Chapter 41, Sex, Kidnap,~~
- 3284 ~~and Child Abuse Offender Registry~~] Title 53, Chapter 29, Sex, Kidnap, and Child
- 3285 Abuse Offender Registry; and
- 3286 (ii) not required to be made available to the public under Subsection [~~77-41-110(4)~~]
- 3287 53-29-404(3)(a);
- 3288 (r) a statement and any supporting documentation filed with the attorney general in
- 3289 accordance with Section 34-45-107, if the federal law or action supporting the filing
- 3290 involves homeland security;
- 3291 (s) electronic toll collection customer account information received or collected under

- 3292 Section 72-6-118 and customer information described in Section 17B-2a-815
3293 received or collected by a public transit district, including contact and payment
3294 information and customer travel data;
- 3295 (t) an email address provided by a military or overseas voter under Section 20A-16-501;
3296 (u) a completed military-overseas ballot that is electronically transmitted under Title
3297 20A, Chapter 16, Uniform Military and Overseas Voters Act;
- 3298 (v) records received by or generated by or for the Political Subdivisions Ethics Review
3299 Commission established in Section 63A-15-201, except for:
- 3300 (i) the commission's summary data report that is required in Section 63A-15-202; and
3301 (ii) any other document that is classified as public in accordance with Title 63A,
3302 Chapter 15, Political Subdivisions Ethics Review Commission;
- 3303 (w) a record described in Section 53G-9-604 that verifies that a parent was notified of an
3304 incident or threat;
- 3305 (x) a criminal background check or credit history report conducted in accordance with
3306 Section 63A-3-201;
- 3307 (y) a record described in Subsection 53-5a-104(7);
- 3308 (z) on a record maintained by a county for the purpose of administering property taxes,
3309 an individual's:
- 3310 (i) email address;
3311 (ii) phone number; or
3312 (iii) personal financial information related to a person's payment method;
- 3313 (aa) a record submitted by a taxpayer to establish the taxpayer's eligibility for an
3314 exemption, deferral, abatement, or relief under:
- 3315 (i) Title 59, Chapter 2, Part 11, Exemptions;
3316 (ii) Title 59, Chapter 2, Part 12, Property Tax Relief;
3317 (iii) Title 59, Chapter 2, Part 18, Tax Deferral and Tax Abatement; or
3318 (iv) Title 59, Chapter 2, Part 19, Armed Forces Exemptions;
- 3319 (bb) a record provided by the State Tax Commission in response to a request under
3320 Subsection 59-1-403(4)(y)(iii);
- 3321 (cc) a record of the Child Welfare Legislative Oversight Panel regarding an individual
3322 child welfare case, as described in Subsection 36-33-103(3); and
- 3323 (dd) a record relating to drug or alcohol testing of a state employee under Section
3324 63A-17-1004;
- 3325 (ee) a record relating to a request by a state elected official or state employee who has

- 3326 been threatened to the Division of Technology Services to remove personal
3327 identifying information from the open web under Section 63A-16-109; and
3328 (ff) a record including confidential information as that term is defined in Section
3329 67-27-105.
- 3330 (2) The following records are private if properly classified by a governmental entity:
- 3331 (a) records concerning a current or former employee of, or applicant for employment
3332 with a governmental entity, including performance evaluations and personal status
3333 information such as race, religion, or disabilities, but not including records that are
3334 public under Subsection 63G-2-301(2)(b) or 63G-2-301(3)(o) or private under
3335 Subsection (1)(b);
- 3336 (b) records describing an individual's finances, except that the following are public:
- 3337 (i) records described in Subsection 63G-2-301(2);
- 3338 (ii) information provided to the governmental entity for the purpose of complying
3339 with a financial assurance requirement; or
- 3340 (iii) records that must be disclosed in accordance with another statute;
- 3341 (c) records of independent state agencies if the disclosure of those records would
3342 conflict with the fiduciary obligations of the agency;
- 3343 (d) other records containing data on individuals the disclosure of which constitutes a
3344 clearly unwarranted invasion of personal privacy;
- 3345 (e) records provided by the United States or by a government entity outside the state that
3346 are given with the requirement that the records be managed as private records, if the
3347 providing entity states in writing that the record would not be subject to public
3348 disclosure if retained by it;
- 3349 (f) any portion of a record in the custody of the Division of Aging and Adult Services,
3350 created in Section 26B-6-102, that may disclose, or lead to the discovery of, the
3351 identity of a person who made a report of alleged abuse, neglect, or exploitation of a
3352 vulnerable adult; and
- 3353 (g) audio and video recordings created by a body-worn camera, as defined in Section
3354 77-7a-103, that record sound or images inside a home or residence except for
3355 recordings that:
- 3356 (i) depict the commission of an alleged crime;
- 3357 (ii) record any encounter between a law enforcement officer and a person that results
3358 in death or bodily injury, or includes an instance when an officer fires a weapon;
- 3359 (iii) record any encounter that is the subject of a complaint or a legal proceeding

- 3360 against a law enforcement officer or law enforcement agency;
- 3361 (iv) contain an officer involved critical incident as defined in Subsection 76-2-408
- 3362 (1)(f); or
- 3363 (v) have been requested for reclassification as a public record by a subject or
- 3364 authorized agent of a subject featured in the recording.
- 3365 (3)(a) As used in this Subsection (3), "medical records" means medical reports, records,
- 3366 statements, history, diagnosis, condition, treatment, and evaluation.
- 3367 (b) Medical records in the possession of the University of Utah Hospital, its clinics,
- 3368 doctors, or affiliated entities are not private records or controlled records under
- 3369 Section 63G-2-304 when the records are sought:
- 3370 (i) in connection with any legal or administrative proceeding in which the patient's
- 3371 physical, mental, or emotional condition is an element of any claim or defense; or
- 3372 (ii) after a patient's death, in any legal or administrative proceeding in which any
- 3373 party relies upon the condition as an element of the claim or defense.
- 3374 (c) Medical records are subject to production in a legal or administrative proceeding
- 3375 according to state or federal statutes or rules of procedure and evidence as if the
- 3376 medical records were in the possession of a nongovernmental medical care provider.
- 3377 Section 41. Section **63G-7-301** is amended to read:
- 3378 **63G-7-301 . Waivers of immunity.**
- 3379 (1)(a) Immunity from suit of each governmental entity is waived as to any contractual
- 3380 obligation.
- 3381 (b) Actions arising out of contractual rights or obligations are not subject to the
- 3382 requirements of Section 63G-7-401, 63G-7-402, 63G-7-403, or 63G-7-601.
- 3383 (c) The Division of Water Resources is not liable for failure to deliver water from a
- 3384 reservoir or associated facility authorized by Title 73, Chapter 26, Bear River
- 3385 Development Act, if the failure to deliver the contractual amount of water is due to
- 3386 drought, other natural condition, or safety condition that causes a deficiency in the
- 3387 amount of available water.
- 3388 (2) Immunity from suit of each governmental entity is waived:
- 3389 (a) as to any action brought to recover, obtain possession of, or quiet title to real or
- 3390 personal property;
- 3391 (b) as to any action brought to foreclose mortgages or other liens on real or personal
- 3392 property, to determine any adverse claim on real or personal property, or to obtain an
- 3393 adjudication about any mortgage or other lien that the governmental entity may have

- 3394 or claim on real or personal property;
- 3395 (c) as to any action based on the negligent destruction, damage, or loss of goods,
 3396 merchandise, or other property while it is in the possession of any governmental
 3397 entity or employee, if the property was seized for the purpose of forfeiture under any
 3398 provision of state law;
- 3399 (d) subject to Section 63G-7-302, as to any action brought under the authority of Utah
 3400 Constitution, Article I, Section 22, for the recovery of compensation from the governmental
 3401 entity when the governmental entity has taken or damaged private property for public uses
 3402 without just compensation;
- 3403 (e) as to any claim for attorney fees or costs under Section 63G-2-209, 63G-2-405, or
 3404 63G-2-802;
- 3405 (f) for actual damages under Title 67, Chapter 21, Utah Protection of Public Employees
 3406 Act;
- 3407 (g) as to any action brought to obtain relief from a land use regulation that imposes a
 3408 substantial burden on the free exercise of religion under Title 63L, Chapter 5, Utah
 3409 Religious Land Use Act;
- 3410 (h) except as provided in Subsection 63G-7-201(3), as to any injury caused by:
- 3411 (i) a defective, unsafe, or dangerous condition of any highway, road, street, alley,
 3412 crosswalk, sidewalk, culvert, tunnel, bridge, viaduct, or other structure located on
 3413 them; or
- 3414 (ii) any defective or dangerous condition of a public building, structure, dam,
 3415 reservoir, or other public improvement;
- 3416 (i) subject to Subsections 63G-7-101(4) and 63G-7-201(4), as to any injury proximately
 3417 caused by a negligent act or omission of an employee committed within the scope of
 3418 employment;
- 3419 (j) notwithstanding Subsection 63G-7-101(4), as to a claim for an injury resulting from a
 3420 sexual battery, as provided in Section 76-9-702.1, committed:
- 3421 (i) against a student of a public elementary or secondary school, including a charter
 3422 school; and
- 3423 (ii) by an employee of a public elementary or secondary school or charter school who:
- 3424 (A) at the time of the sexual battery, held a position of special trust, as defined in
 3425 Section 76-5-404.1, with respect to the student;
- 3426 (B) is criminally charged in connection with the sexual battery; and
- 3427 (C) the public elementary or secondary school or charter school knew or in the

3428 exercise of reasonable care should have known, at the time of the employee's
3429 hiring, to be a sex offender, a kidnap offender, or a child abuse offender as [
3430 defined] described in Section [~~77-41-102~~] 53-29-202, required to register under [
3431 ~~Title 77, Chapter 41, Sex, Kidnap, and Child Abuse Offender Registry~~] Title
3432 53, Chapter 29, Sex, Kidnap, and Child Abuse Offender Registry, whose status
3433 as a sex offender, kidnap offender, or child abuse offender would have been
3434 revealed in a background check under Section 53G-11-402;

3435 (k) as to any action brought under Section 78B-6-2303; and

3436 (l) as to any action brought to obtain relief under Title 53B, Chapter 27, Part 6, Student
3437 Legal Representation.

3438 (3)(a) As used in this Subsection (3):

3439 (i) "Code of conduct" means a code of conduct that:

3440 (A) is not less stringent than a model code of conduct, created by the State Board
3441 of Education, establishing a professional standard of care for preventing the
3442 conduct described in Subsection (3)(a)(i)(D);

3443 (B) is adopted by the applicable local education governing body;

3444 (C) regulates behavior of a school employee toward a student; and

3445 (D) includes a prohibition against any sexual conduct between an employee and a
3446 student and against the employee and student sharing any sexually explicit or
3447 lewd communication, image, or photograph.

3448 (ii) "Local education agency" means:

3449 (A) a school district;

3450 (B) a charter school; or

3451 (C) the Utah Schools for the Deaf and the Blind.

3452 (iii) "Local education governing board" means:

3453 (A) for a school district, the local school board;

3454 (B) for a charter school, the charter school governing board; or

3455 (C) for the Utah Schools for the Deaf and the Blind, the state board.

3456 (iv) "Public school" means a public elementary or secondary school.

3457 (v) "Sexual abuse" means the offense described in Subsection 76-5-404.1(2).

3458 (vi) "Sexual battery" means the offense described in Section 76-9-702.1, considering
3459 the term "child" in that section to include an individual under age 18.

3460 (b) Notwithstanding Subsection 63G-7-101(4), immunity from suit is waived as to a
3461 claim against a local education agency for an injury resulting from a sexual battery or

- 3462 sexual abuse committed against a student of a public school by a paid employee of
3463 the public school who is criminally charged in connection with the sexual battery or
3464 sexual abuse, unless:
- 3465 (i) at the time of the sexual battery or sexual abuse, the public school was subject to a
3466 code of conduct; and
- 3467 (ii) before the sexual battery or sexual abuse occurred, the public school had:
- 3468 (A) provided training on the code of conduct to the employee; and
3469 (B) required the employee to sign a statement acknowledging that the employee
3470 has read and understands the code of conduct.
- 3471 (4)(a) As used in this Subsection (4):
- 3472 (i) "Higher education institution" means an institution included within the state
3473 system of higher education under Section 53B-1-102.
- 3474 (ii) "Policy governing behavior" means a policy adopted by a higher education
3475 institution or the Utah Board of Higher Education that:
- 3476 (A) establishes a professional standard of care for preventing the conduct
3477 described in Subsections (4)(a)(ii)(C) and (D);
3478 (B) regulates behavior of a special trust employee toward a subordinate student;
3479 (C) includes a prohibition against any sexual conduct between a special trust
3480 employee and a subordinate student; and
3481 (D) includes a prohibition against a special trust employee and subordinate student
3482 sharing any sexually explicit or lewd communication, image, or photograph.
- 3483 (iii) "Sexual battery" means the offense described in Section 76-9-702.1.
- 3484 (iv) "Special trust employee" means an employee of a higher education institution
3485 who is in a position of special trust, as defined in Section 76-5-404.1, with a
3486 higher education student.
- 3487 (v) "Subordinate student" means a student:
- 3488 (A) of a higher education institution; and
3489 (B) whose educational opportunities could be adversely impacted by a special
3490 trust employee.
- 3491 (b) Notwithstanding Subsection 63G-7-101(4), immunity from suit is waived as to a
3492 claim for an injury resulting from a sexual battery committed against a subordinate
3493 student by a special trust employee, unless:
- 3494 (i) the institution proves that the special trust employee's behavior that otherwise
3495 would constitute a sexual battery was:

- 3496 (A) with a subordinate student who was at least 18 years old at the time of the
3497 behavior; and
3498 (B) with the student's consent; or
3499 (ii)(A) at the time of the sexual battery, the higher education institution was
3500 subject to a policy governing behavior; and
3501 (B) before the sexual battery occurred, the higher education institution had taken
3502 steps to implement and enforce the policy governing behavior.

3503 Section 42. Section **76-1-201** is amended to read:

3504 **76-1-201 . Jurisdiction of offenses.**

- 3505 (1) A person is subject to prosecution in this state for an offense which the person commits,
3506 while either within or outside the state, by the person's own conduct or that of another
3507 for which the person is legally accountable, if:
3508 (a) the offense is committed either wholly or partly within the state;
3509 (b) the conduct outside the state constitutes an attempt to commit an offense within the
3510 state;
3511 (c) the conduct outside the state constitutes a conspiracy to commit an offense within the
3512 state and an act in furtherance of the conspiracy occurs in the state; or
3513 (d) the conduct within the state constitutes an attempt, solicitation, or conspiracy to
3514 commit in another jurisdiction an offense under the laws of both this state and the
3515 other jurisdiction.
- 3516 (2) An offense is committed partly within this state if either the conduct which is any
3517 element of the offense, or the result which is an element, occurs within this state.
- 3518 (3) In homicide offenses, the "result" is either the physical contact which causes death or
3519 the death itself.
3520 (a) If the body of a homicide victim is found within the state, the death shall be
3521 presumed to have occurred within the state.
3522 (b) If jurisdiction is based on this presumption, this state retains jurisdiction unless the
3523 defendant proves by clear and convincing evidence that:
3524 (i) the result of the homicide did not occur in this state; and
3525 (ii) the defendant did not engage in any conduct in this state which is any element of
3526 the offense.
- 3527 (4)[(a)] An offense which is based on an omission to perform a duty imposed by the law
3528 of this state is committed within the state regardless of the location of the offender at
3529 the time of the omission.

- 3530 ~~[(b) For the purpose of establishing venue for a violation of Subsection 77-41-105(3)~~
 3531 ~~concerning sex offender, kidnap offender, or child abuse registration, the offense is~~
 3532 ~~considered to be committed:]~~
- 3533 ~~[(i) at the most recent registered primary residence of the offender, if the actual~~
 3534 ~~location of the offender at the time of the violation is not known; or]~~
- 3535 ~~[(ii) at the location of the offender at the time the offender is apprehended.]~~
- 3536 (5)(a) If no jurisdictional issue is raised, the pleadings are sufficient to establish
 3537 jurisdiction.
- 3538 (b) The defendant may challenge jurisdiction by filing a motion before trial stating
 3539 which facts exist that deprive the state of jurisdiction.
- 3540 (c) The burden is upon the state to initially establish jurisdiction over the offense by a
 3541 preponderance of the evidence by showing under the provisions of Subsections (1)
 3542 through (4) that the offense was committed either wholly or partly within the borders
 3543 of the state.
- 3544 (d) If after the prosecution has met its burden of proof under Subsection (5)(c) the
 3545 defendant claims that the state is deprived of jurisdiction or may not exercise
 3546 jurisdiction, the burden is upon the defendant to prove by a preponderance of the
 3547 evidence:
- 3548 (i) any facts claimed; and
- 3549 (ii) why those facts deprive the state of jurisdiction.
- 3550 (6) Facts that deprive the state of jurisdiction or prohibit the state from exercising
 3551 jurisdiction include the fact that the:
- 3552 (a) defendant is serving in a position that is entitled to diplomatic immunity from
 3553 prosecution and that the defendant's country has not waived that diplomatic immunity;
- 3554 (b) defendant is a member of the armed forces of another country and that the crime that
 3555 he is alleged to have committed is one that due to an international agreement, such as
 3556 a status of forces agreement between his country and the United States, cedes the
 3557 exercise of jurisdiction over him for that offense to his country;
- 3558 (c) defendant is an enrolled member of an Indian tribe, as defined in Section 9-9-101,
 3559 and that the Indian tribe has a legal status with the United States or the state that vests
 3560 jurisdiction in either tribal or federal courts for certain offenses committed within the
 3561 exterior boundaries of a tribal reservation, and that the facts establish that the crime is
 3562 one that vests jurisdiction in tribal or federal court; or
- 3563 (d) offense occurred on land that is exclusively within federal jurisdiction.

- 3564 (7)(a) The Legislature finds that identity fraud under Chapter 6, Part 11, Identity Fraud
3565 Act, involves the use of personal identifying information which is uniquely personal
3566 to the consumer or business victim of that identity fraud and which information is
3567 considered to be in lawful possession of the consumer or business victim wherever
3568 the consumer or business victim currently resides or is found.
- 3569 (b) For purposes of Subsection (1)(a), an offense which is based on a violation of
3570 Chapter 6, Part 11, Identity Fraud Act, is committed partly within this state,
3571 regardless of the location of the offender at the time of the offense, if the victim of
3572 the identity fraud resides or is found in this state.
- 3573 (8) The judge shall determine jurisdiction.
- 3574 Section 43. Section **76-1-202** is amended to read:
3575 **76-1-202 . Venue of actions.**
- 3576 (1) Criminal actions shall be tried in the county, district, or precinct where the offense is
3577 alleged to have been committed. In determining the proper place of trial, the following
3578 provisions shall apply:
- 3579 (a) If the commission of an offense commenced outside the state is consummated within
3580 this state, the offender shall be tried in the county where the offense is consummated.
- 3581 (b) When conduct constituting elements of an offense or results that constitute elements,
3582 whether the conduct or result constituting elements is in itself unlawful, shall occur in
3583 two or more counties, trial of the offense may be held in any of the counties
3584 concerned.
- 3585 (c) If a person committing an offense upon the person of another is located in one county
3586 and his victim is located in another county at the time of the commission of the
3587 offense, trial may be held in either county.
- 3588 (d) If a cause of death is inflicted in one county and death ensues in another county, the
3589 offender may be tried in either county.
- 3590 (e) A person who commits an inchoate offense may be tried in any county in which any
3591 act that is an element of the offense, including the agreement in conspiracy, is
3592 committed.
- 3593 (f) Where a person in one county solicits, aids, abets, agrees, or attempts to aid another
3594 in the planning or commission of an offense in another county, he may be tried for
3595 the offense in either county.
- 3596 (g) When an offense is committed within this state and it cannot be readily determined
3597 in which county or district the offense occurred, the following provisions shall be

- 3598 applicable:
- 3599 (i) When an offense is committed upon any railroad car, vehicle, watercraft, or
- 3600 aircraft passing within this state, the offender may be tried in any county through
- 3601 which such railroad car, vehicle, watercraft, or aircraft has passed.
- 3602 (ii) When an offense is committed on any body of water bordering on or within this
- 3603 state, the offender may be tried in any county adjacent to such body of water. The
- 3604 words "body of water" shall include but not be limited to any stream, river, lake,
- 3605 or reservoir, whether natural or man-made.
- 3606 (iii) A person who commits theft may be tried in any county in which he exerts
- 3607 control over the property affected.
- 3608 (iv) If an offense is committed on or near the boundary of two or more counties, trial
- 3609 of the offense may be held in any of such counties.
- 3610 (v) For any other offense, trial may be held in the county in which the defendant
- 3611 resides, or, if he has no fixed residence, in the county in which he is apprehended
- 3612 or to which he is extradited.
- 3613 (h) A person who commits an offense based on Chapter 6, Part 11, Identity Fraud Act,
- 3614 may be tried in the county:
- 3615 (i) where the victim's personal identifying information was obtained;
- 3616 (ii) where the defendant used or attempted to use the personally identifying
- 3617 information;
- 3618 (iii) where the victim of the identity fraud resides or is found; or
- 3619 (iv) if multiple offenses of identity fraud occur in multiple jurisdictions, in any
- 3620 county where the victim's identity was used or obtained, or where the victim
- 3621 resides or is found.
- 3622 (i) For the purpose of establishing venue for a violation of [~~Subsection 77-41-105(3)]~~
- 3623 Section 53-29-304 concerning sex offender, kidnap offender, or child abuse offender
- 3624 registration, the offense is considered to be committed:
- 3625 (i) at the most recent registered primary residence of the offender, if the actual
- 3626 location of the offender at the time of the violation is not known; or
- 3627 (ii) at the location of the offender at the time the offender is apprehended.
- 3628 (2) All objections of improper place of trial are waived by a defendant unless made before
- 3629 trial.

3630 Section 44. Section **76-3-402** is amended to read:

3631 **76-3-402 . Conviction of lower degree of offense -- Procedure and limitations.**

- 3632 (1) As used in this section:
- 3633 (a) "Lower degree of offense" includes an offense for which:
- 3634 (i) a statutory enhancement is charged in the information or indictment that would
- 3635 increase either the maximum or the minimum sentence; and
- 3636 (ii) the court removes the statutory enhancement in accordance with this section.
- 3637 (b) "Minor regulatory offense" means the same as that term is defined in Section
- 3638 77-40a-101.
- 3639 (c)(i) "Rehabilitation program" means a program designed to reduce criminogenic
- 3640 and recidivism risks.
- 3641 (ii) "Rehabilitation program" includes:
- 3642 (A) a domestic violence treatment program, as that term is defined in Section
- 3643 26B-2-101;
- 3644 (B) a residential, vocational, and life skills program, as that term is defined in
- 3645 Section 13-53-102;
- 3646 (C) a substance abuse treatment program, as that term is defined in Section
- 3647 26B-2-101;
- 3648 (D) a substance use disorder treatment program, as that term is defined in Section
- 3649 26B-2-101;
- 3650 (E) a youth program, as that term is defined in Section 26B-2-101;
- 3651 (F) a program that meets the standards established by the Department of
- 3652 Corrections under Section 64-13-25;
- 3653 (G) a drug court, a veterans court, or a mental health court certified by the Judicial
- 3654 Council; or
- 3655 (H) a program that is substantially similar to a program described in Subsections
- 3656 (1)(c)(ii)(A) through (G).
- 3657 (d) "Serious offense" means a felony or misdemeanor offense that is not a minor
- 3658 regulatory offense or a traffic offense.
- 3659 (e) "Traffic offense" means the same as that term is defined in Section 77-40a-101.
- 3660 (f)(i) Except as provided in Subsection (1)(f)(ii), "violent felony" means the same as
- 3661 that term is defined in Section 76-3-203.5.
- 3662 (ii) "Violent felony" does not include an offense, or any attempt, solicitation, or
- 3663 conspiracy to commit an offense, for:
- 3664 (A) the possession, use, or removal of explosive, chemical, or incendiary devices
- 3665 under Subsection 76-10-306(3), (5), or (6); or

- 3666 (B) the purchase or possession of a dangerous weapon or handgun by a restricted
3667 person under Section 76-10-503.
- 3668 (2) The court may enter a judgment of conviction for a lower degree of offense than
3669 established by statute and impose a sentence at the time of sentencing for the lower
3670 degree of offense if the court:
- 3671 (a) takes into account:
- 3672 (i) the nature and circumstances of the offense of which the defendant was found
3673 guilty; and
- 3674 (ii) the history and character of the defendant;
- 3675 (b) gives any victim present at the sentencing and the prosecuting attorney an
3676 opportunity to be heard; and
- 3677 (c) concludes that the degree of offense established by statute would be unduly harsh to
3678 record as a conviction on the record for the defendant.
- 3679 (3) Upon a motion from the prosecuting attorney or the defendant, the court may enter a
3680 judgment of conviction for a lower degree of offense than established by statute:
- 3681 (a) after the defendant is successfully discharged from probation or parole for the
3682 conviction; and
- 3683 (b) if the court finds that entering a judgment of conviction for a lower degree of offense
3684 is in the interest of justice in accordance with Subsection (7).
- 3685 (4) Upon a motion from the prosecuting attorney or the defendant, the court may enter a
3686 judgment of conviction for a lower degree of offense than established by statute if:
- 3687 (a) the defendant's probation or parole for the conviction did not result in a successful
3688 discharge but the defendant is successfully discharged from probation or parole for a
3689 subsequent conviction of an offense;
- 3690 (b)(i) at least five years have passed after the day on which the defendant is sentenced
3691 for the subsequent conviction; or
- 3692 (ii) at least three years have passed after the day on which the defendant is sentenced
3693 for the subsequent conviction and the prosecuting attorney consents to the
3694 reduction;
- 3695 (c) the defendant is not convicted of a serious offense during the time period described
3696 in Subsection (4)(b);
- 3697 (d) there are no criminal proceedings pending against the defendant;
- 3698 (e) the defendant is not on probation, on parole, or currently incarcerated for any other
3699 offense;

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

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

- 3768 the court.
- 3769 (9) A court has jurisdiction to consider and enter a judgment of conviction for a lower
3770 degree of offense under Subsection (3), (4), (5), or (6) regardless of whether the
3771 defendant is committed to jail as a condition of probation or is sentenced to prison.
- 3772 (10)(a) An offense may be reduced only one degree under this section, unless the
3773 prosecuting attorney specifically agrees in writing or on the court record that the
3774 offense may be reduced two degrees.
- 3775 (b) An offense may not be reduced under this section by more than two degrees.
- 3776 (11) This section does not preclude an individual from obtaining or being granted an
3777 expungement of the individual's record in accordance with [~~Title 44, Chapter 40A,~~
3778 ~~Expungement of Criminal Records~~] Title 77, Chapter 40a, Expungement of Criminal
3779 Records.
- 3780 (12) The court may not enter a judgment for a conviction for a lower degree of offense
3781 under this section if:
- 3782 (a) the reduction is specifically precluded by law; or
- 3783 (b) any unpaid balance remains on court-ordered restitution for the offense for which the
3784 reduction is sought.
- 3785 (13) When the court enters a judgment for a lower degree of offense under this section, the
3786 actual title of the offense for which the reduction is made may not be altered.
- 3787 (14)(a) An individual may not obtain a reduction under this section of a conviction that
3788 requires the individual to register as a sex offender, kidnap offender, or child abuse
3789 offender under Section 53-29-202 until the registration requirements under [~~Title 77,~~
3790 ~~Chapter 41, Sex, Kidnap, and Child Abuse Offender Registry~~] Title 53, Chapter 29,
3791 Sex, Kidnap, and Child Abuse Offender Registry, have expired.
- 3792 (b) An individual required to register as a sex offender, kidnap offender, or child abuse
3793 offender under Section 53-29-202 and required to register for the individual's lifetime [
3794 ~~under Subsection 77-41-105(3)(e)~~] as described in Subsection 53-29-203(1)(b), may
3795 not be granted a reduction of the conviction for the offense or offenses that require
3796 the individual to register as a sex offender, kidnap offender, or child abuse offender.
- 3797 Section 45. Section **76-5-401** is amended to read:
- 3798 **76-5-401 . Unlawful sexual activity with a minor -- Penalties -- Evidence of age**
3799 **raised by defendant -- Limitations.**
- 3800 (1)(a) As used in this section, "minor" means an individual who is 14 years old or older,
3801 but younger than 16 years old, at the time the sexual activity described in Subsection

- 3802 (2) occurred.
- 3803 (b) Terms defined in Section 76-1-101.5 apply to this section.
- 3804 (2)(a) Under circumstances not amounting to an offense listed in Subsection (4), an actor
- 3805 18 years old or older commits unlawful sexual activity with a minor if the actor:
- 3806 (i) has sexual intercourse with the minor;
- 3807 (ii) engages in any sexual act with the minor involving the genitals of an individual
- 3808 and the mouth or anus of another individual; or
- 3809 (iii) causes the penetration, however slight, of the genital or anal opening of the
- 3810 minor by a foreign object, substance, instrument, or device, including a part of the
- 3811 human body, with the intent to cause substantial emotional or bodily pain to any
- 3812 individual or with the intent to arouse or gratify the sexual desire of any individual.
- 3813 (b) Any touching, however slight, is sufficient to constitute the relevant element of a
- 3814 violation of Subsection (2)(a)(ii).
- 3815 (3)(a) A violation of Subsection (2) is a third degree felony.
- 3816 (b)[(†)] Notwithstanding Subsection (3)(a) or (c), a violation of Subsection (2) is a
- 3817 class B misdemeanor if the defendant establishes by a preponderance of the
- 3818 evidence the mitigating factor that:
- 3819 [(A)] (i) the defendant is less than four years older than the minor at the time the
- 3820 sexual activity occurred; or
- 3821 [(B)] (ii) the defendant is 18 years old and enrolled in high school at the time the
- 3822 sexual activity occurred.
- 3823 [(ii) An offense under Subsection (3)(b)(i) is not subject to registration under
- 3824 Subsection 77-41-102(19)(a)(vii).]
- 3825 (c)[(†)] Notwithstanding Subsection (3)(a), if the defendant establishes by a
- 3826 preponderance of the evidence the mitigating factor that the defendant was
- 3827 younger than 21 years old at the time the sexual activity occurred, the offense is a
- 3828 class A misdemeanor.
- 3829 [(ii) An offense under Subsection (3)(c)(i) is not subject to registration under
- 3830 Subsection 77-41-102(19)(a)(vii).]
- 3831 (4) The offenses referred to in Subsection (2)(a) are:
- 3832 (a) rape, in violation of Section 76-5-402;
- 3833 (b) object rape, in violation of Section 76-5-402.2;
- 3834 (c) forcible sodomy, in violation of Section 76-5-403;
- 3835 (d) aggravated sexual assault, in violation of Section 76-5-405; or

3836 (e) an attempt to commit an offense listed in Subsections (4)(a) through (4)(d).

3837 Section 46. Section **76-5-401.1** is amended to read:

3838 **76-5-401.1 . Sexual abuse of a minor.**

3839 (1)(a) As used in this section:

3840 (i) "Indecent liberties" means:

3841 (A) the actor touching another individual's genitals, anus, buttocks, pubic area, or
3842 female breast;

3843 (B) causing any part of an individual's body to touch the actor's or another's
3844 genitals, pubic area, anus, buttocks, or female breast;

3845 (C) simulating or pretending to engage in sexual intercourse with another
3846 individual, including genital-genital, oral-genital, anal-genital, or oral-anal
3847 intercourse; or

3848 (D) causing an individual to simulate or pretend to engage in sexual intercourse
3849 with the actor or another, including genital-genital, oral-genital, anal-genital, or
3850 oral-anal intercourse.

3851 (ii) "Minor" means an individual who is 14 years old or older, but younger than 16
3852 years old, at the time the sexual activity described in Subsection (2) occurred.

3853 (b) Terms defined in Section 76-1-101.5 apply to this section.

3854 (2)(a) Under circumstances not amounting to an offense listed in Subsection (4), an actor
3855 commits sexual abuse of a minor if the actor:

3856 (i) is four years or more older than the minor; and

3857 (ii) with the intent to cause substantial emotional or bodily pain to any individual, or
3858 with the intent to arouse or gratify the sexual desire of any individual:

3859 (A) touches the anus, buttocks, pubic area, or any part of the genitals of the minor;

3860 (B) touches the breast of a female minor; or

3861 (C) otherwise takes indecent liberties with the minor.

3862 (b) Any touching, even if accomplished through clothing, is sufficient to constitute the
3863 relevant element of a violation of Subsection (2)(a).

3864 (3) A violation of Subsection (2)(a) is[:]

3865 [~~(a)~~] a class A misdemeanor[; and] .

3866 [~~(b)~~] not subject to registration under Subsection 77-41-102(19)(a)(viii) on a first offense
3867 if the offender was younger than 21 years old at the time of the offense.]

3868 (4) The offenses referred to in Subsection (2)(a) are:

3869 (a) unlawful sexual activity with a minor, in violation of Section 76-5-401;

- 3870 (b) rape, in violation of Section 76-5-402;
3871 (c) object rape, in violation of Section 76-5-402.2;
3872 (d) forcible sodomy, in violation of Section 76-5-403;
3873 (e) aggravated sexual assault, in violation of Section 76-5-405; or
3874 (f) an attempt to commit an offense listed in Subsections (4)(a) through (e).

3875 Section 47. Section **76-5-401.3** is amended to read:

3876 **76-5-401.3 . Unlawful adolescent sexual activity -- Penalties -- Limitations.**

3877 (1)(a) As used in this section, "adolescent" means an individual who is 12 years old or
3878 older but younger than 18 years old.

3879 (b) Terms defined in Section 76-1-101.5 apply to this section.

3880 (2) Under circumstances not amounting to an offense listed in Subsection (5), an actor
3881 commits unlawful sexual activity if:

3882 (a)(i) the actor is 12 years old or older but younger than 18 years old;

3883 (ii) the actor engages in sexual activity with an adolescent;

3884 (iii) the actor is not the biological sibling of the adolescent; and

3885 (iv) both the actor and the adolescent mutually agree to the sexual activity; or

3886 (b)(i) the actor engages in sexual activity with an adolescent who is 13 years old;

3887 (ii) the actor is 18 years old and enrolled in high school at the time that the sexual
3888 activity occurred;

3889 (iii) the actor is not the biological sibling of the adolescent; and

3890 (iv) both the actor and the adolescent mutually agree to the sexual activity.

3891 (3)(a) A violation of Subsection (2)(a) is a:

3892 (i) third degree felony if an actor who is 17 years old engages in unlawful adolescent
3893 sexual activity with an adolescent who is 13 years old;

3894 (ii) third degree felony if an actor who is 16 years old engages in unlawful adolescent
3895 sexual activity with an adolescent who is 12 years old;

3896 (iii) class A misdemeanor if an actor who is 16 years old engages in unlawful
3897 adolescent sexual activity with an adolescent who is 13 years old;

3898 (iv) class A misdemeanor if an actor who is 14 or 15 years old engages in unlawful
3899 adolescent sexual activity with an adolescent who is 12 years old;

3900 (v) class B misdemeanor if an actor who is 17 years old engages in unlawful
3901 adolescent sexual activity with an adolescent who is 14 years old;

3902 (vi) class B misdemeanor if an actor who is 15 years old engages in unlawful
3903 adolescent sexual activity with an adolescent who is 13 years old;

- 3904 (vii) class C misdemeanor if an actor who is 12 or 13 years old engages in unlawful
3905 adolescent sexual activity with an adolescent who is 12 or 13 years old; and
3906 (viii) class C misdemeanor if an actor who is 14 years old engages in unlawful
3907 adolescent sexual activity with an adolescent who is 13 years old.
- 3908 (b) A violation of Subsection (2)(b) is a third degree felony.
- 3909 (4) The actor and the adolescent do not mutually agree to the sexual activity under
3910 Subsection (2) if:
- 3911 (a) the adolescent expresses lack of agreement to the sexual activity through words or
3912 conduct;
- 3913 (b) the actor overcomes the adolescent's will through:
- 3914 (i) threats to the adolescent or any other individual;
- 3915 (ii) force;
- 3916 (iii) coercion; or
- 3917 (iv) enticement;
- 3918 (c) the actor is able to overcome the adolescent through concealment or by the element
3919 of surprise;
- 3920 (d) the actor knows, or reasonably should know, that the adolescent has a mental disease
3921 or defect, which renders the adolescent unable to:
- 3922 (i) appraise the nature of the act;
- 3923 (ii) resist the act;
- 3924 (iii) understand the possible consequences to the adolescent's health or safety; or
3925 (iv) appraise the nature of the relationship between the actor and the adolescent;
- 3926 (e) the actor knows that the adolescent participates in the sexual activity because the
3927 adolescent erroneously believes that the actor is someone else; or
- 3928 (f) the actor intentionally impaired the power of the adolescent to appraise or control the
3929 adolescent's conduct by administering any substance without the adolescent's
3930 knowledge.
- 3931 (5) The offenses referred to in Subsection (2) are:
- 3932 (a) rape under Section 76-5-402;
- 3933 (b) object rape under Section 76-5-402.2;
- 3934 (c) forcible sodomy under Section 76-5-403;
- 3935 (d) aggravated sexual assault under Section 76-5-405;
- 3936 (e) incest under Section 76-7-102; or
- 3937 (f) an attempt to commit an offense listed in Subsections (5)(a) through (e).

3938 (6) An offense under this section is not eligible for a nonjudicial adjustment under Section
3939 80-6-303.5 or a referral to a youth court under Section 80-6-902.

3940 (7) Except for an offense that is transferred to a district court by the juvenile court in
3941 accordance with Section 80-6-504, the district court may enter any sentence or
3942 combination of sentences that would have been available in juvenile court but for the
3943 delayed reporting or delayed filing of the information in the district court.

3944 [~~(8) An offense under this section is not subject to registration under Subsection 77-41-102~~
3945 ~~(19).~~]

3946 *The following section is affected by a coordination clause at the end of this bill.*

3947 Section 48. Section **76-9-702** is amended to read:

3948 **76-9-702 . Lewdness.**

3949 (1) A person is guilty of lewdness if the person under circumstances not amounting to rape,
3950 object rape, forcible sodomy, forcible sexual abuse, aggravated sexual assault, sexual
3951 abuse of a minor, unlawful sexual conduct with a 16- or 17-year-old, custodial sexual
3952 relations under Section 76-5-412, custodial sexual misconduct under Section 76-5-412.2,
3953 custodial sexual relations with youth receiving state services under Section 76-5-413,
3954 custodial sexual misconduct with youth receiving state services under Section 76-5-413.2,
3955 or an attempt to commit any of these offenses, performs any of the following acts in a
3956 public place or under circumstances which the person should know will likely cause
3957 affront or alarm to, on, or in the presence of another individual who is 14 years old or
3958 older:

3959 (a) an act of sexual intercourse or sodomy;

3960 (b) exposes his or her genitals, the female breast below the top of the areola, the
3961 buttocks, the anus, or the pubic area;

3962 (c) masturbates; or

3963 (d) any other act of lewdness.

3964 (2)(a) A person convicted the first or second time of a violation of Subsection (1) is
3965 guilty of a class B misdemeanor, except under Subsection (2)(b).

3966 (b) A person convicted of a violation of Subsection (1) is guilty of a third degree felony
3967 if at the time of the violation:

3968 (i) the person is a sex offender as defined in Section [~~77-27-21.7~~] 57-8a-102;

3969 (ii) the person has been previously convicted two or more times of violating
3970 Subsection (1);

3971 (iii) the person has previously been convicted of a violation of Subsection (1) and has

- 3972 also previously been convicted of a violation of Section 76-9-702.5;
- 3973 (iv) the person commits the offense of lewdness while also committing the offense of:
- 3974 (A) criminal trespass in a sex-designated changing room under Subsection
- 3975 76-6-206(2)(d);
- 3976 (B) lewdness involving a child under Section 76-9-702.5;
- 3977 (C) voyeurism under Section 76-9-702.7; or
- 3978 (D) loitering in a privacy space under Section 76-9-702.8; or
- 3979 (v) the person commits the offense of lewdness in a sex-designated privacy space, as
- 3980 defined in Section 76-9-702.8, that is not designated for individuals of the actor's
- 3981 sex.
- 3982 (c)(i) ~~[For]~~ As described in Subsection 53-29-202(4), for purposes of this Subsection
- 3983 ~~(2)[and Subsection 77-41-102(19)]~~, a plea of guilty or nolo contendere to a
- 3984 charge under this section that is held in abeyance under Title 77, Chapter 2a, Pleas
- 3985 in Abeyance, is the equivalent of a conviction.
- 3986 (ii) This Subsection (2)(c) also applies if the charge under this Subsection (2) has
- 3987 been subsequently reduced or dismissed in accordance with the plea in abeyance
- 3988 agreement.
- 3989 (3)(a) As used in this Subsection (3):
- 3990 (i) "Common area of a privacy space" means any area of a privacy space other than:
- 3991 (A) a toilet stall with a closed door;
- 3992 (B) immediately in front of a urinal during use; or
- 3993 (C) a shower stall with a closed door or other closed covering.
- 3994 (ii) "Privacy space" means the same as that term is defined in Section 76-9-702.8.
- 3995 (b) The common area of a privacy space constitutes a public place or circumstance
- 3996 described in Subsection (1) where an act or an attempted act described in Subsection
- 3997 (1) constitutes lewdness.
- 3998 (c) Within the common area of a dressing room, fitting room, locker room, changing
- 3999 facility, or any other space designated for multiple individuals to dress or undress
- 4000 within the same space, exposing, displaying, or otherwise uncovering genitalia that
- 4001 does not correspond with the sex designation of the changing room constitutes an act
- 4002 or an attempted act described in Subsection (1) that constitutes lewdness.
- 4003 (4) A woman's breast feeding, including breast feeding in any location where the woman
- 4004 otherwise may rightfully be, does not under any circumstance constitute a lewd act,
- 4005 irrespective of whether or not the breast is covered during or incidental to feeding.

4006 Section 49. Section **76-9-702.1** is amended to read:

4007 **76-9-702.1 . Sexual battery.**

4008 (1) An actor is guilty of sexual battery if the actor, under circumstances not amounting to an
 4009 offense under Subsection (2), intentionally touches, whether or not through clothing, the
 4010 anus, buttocks, or any part of the genitals of another individual, or the breast of a female
 4011 individual, and the actor's conduct is under circumstances the actor knows or should
 4012 know will likely cause affront or alarm to the individual touched.

4013 (2) Offenses referred to in Subsection (1) are:

- 4014 (a) rape under Section 76-5-402;
- 4015 (b) rape of a child under Section 76-5-402.1;
- 4016 (c) object rape under Section 76-5-402.2;
- 4017 (d) object rape of a child under Section 76-5-402.3;
- 4018 (e) forcible sodomy under Subsection 76-5-403(2);
- 4019 (f) sodomy on a child under Section 76-5-403.1;
- 4020 (g) forcible sexual abuse under Section 76-5-404;
- 4021 (h) sexual abuse of a child under Section 76-5-404.1;
- 4022 (i) aggravated sexual abuse of a child under Section 76-5-404.3;
- 4023 (j) aggravated sexual assault under Section 76-5-405; and
- 4024 (k) an attempt to commit an offense under this Subsection (2).

4025 (3) Sexual battery is a class A misdemeanor.

4026 ~~[(4)(a) For purposes of Subsection 77-41-102(19) only, a plea of guilty or nolo~~
 4027 ~~contendere to a charge under this section that is held in abeyance under Title 77,~~
 4028 ~~Chapter 2a, Pleas in Abeyance, is the equivalent of a conviction.]~~

4029 ~~[(b) This Subsection (4) also applies if the charge under this section has been~~
 4030 ~~subsequently reduced or dismissed in accordance with the plea in abeyance~~
 4031 ~~agreement.]~~

4032 Section 50. Section **76-9-702.5** is amended to read:

4033 **76-9-702.5 . Lewdness involving a child.**

4034 (1) As used in this section:

- 4035 (a) "In the presence of" includes within visual contact through an electronic device.
- 4036 (b) "Common area of a privacy space" means the same as that term is defined in Section
 4037 76-9-702.
- 4038 (c) "Privacy space" means the same as that term is defined in Section 76-9-702.8.

4039 (2) An actor commits lewdness involving a child if:

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

- 4074 (d) the actor performs any other act of lewdness.
- 4075 (3)(a) Except as provided in Subsection (3)(b), a violation of Subsection (2) is a class A
4076 misdemeanor.
- 4077 (b) A violation of Subsection (2) is a third degree felony if at the time of the violation,
4078 the actor:
- 4079 (i) is a sex offender [~~as defined in Section 77-27-21.7~~] as described in Subsection
4080 53-29-202(2)(b) and the offense that the actor committed that resulted in the actor
4081 being a sex offender was committed against an individual younger than 18 years
4082 old;
- 4083 (ii) previously has been convicted of a violation of this section;
- 4084 (iii) commits the violation of Subsection (2) while also committing the offense of:
- 4085 (A) criminal trespass in a sex-designated changing room under Subsection
4086 76-6-206(2)(d);
- 4087 (B) lewdness under Section 76-9-702;
- 4088 (C) voyeurism under Section 76-9-702.7; or
- 4089 (D) loitering in a privacy space under Section 76-9-702.8; or
- 4090 (iv) commits the violation of Subsection (2) in a sex-designated privacy space, as
4091 defined in Section 76-9-702.8, that is not designated for individuals of the actor's
4092 sex.
- 4093 (4)(a) The common area of a privacy space constitutes a public place or circumstance
4094 described in Subsection (2) where an act or an attempted act described in Subsection
4095 (2) constitutes lewdness involving a child.
- 4096 (b) Within the common area of a government entity's dressing room, fitting room, locker
4097 room, changing facility, or any other space designated for multiple individuals to
4098 dress or undress within the same space, exposing, displaying, or otherwise
4099 uncovering genitalia that does not correspond with the sex designation of the
4100 changing room constitutes an act or an attempted act described in Subsection (2) that
4101 constitutes lewdness involving a child.
- 4102 Section 51. Section **77-2-2.3** is amended to read:
- 4103 **77-2-2.3 . Reducing the level of an offense.**
- 4104 (1) Notwithstanding any other provision of law, a prosecuting attorney may:
- 4105 (a) present and file an information charging an individual for an offense under
4106 Subsections 76-3-103(1)(b) through (d), Subsection 76-3-103(2), or Section 76-3-104
4107 with a classification of the offense at one degree lower than the classification that is

4108 provided in statute if the prosecuting attorney believes that the sentence would be
4109 disproportionate to the offense because there are special circumstances relating to the
4110 offense; or

4111 (b) subject to the approval of the court, amend an information, as part of a plea
4112 agreement, to charge an individual for an offense under Subsections 76-3-103(1)(b)
4113 through (d), Subsection 76-3-103(2), or Section 76-3-104 with a classification of the
4114 offense at one degree lower than the classification that is provided in statute.

4115 (2) A court may:

4116 (a) enter a judgment of conviction for an offense filed under Subsection (1) at one
4117 degree lower than classified in statute; and

4118 (b) impose a sentence for the offense filed under Subsection (1) at one degree lower than
4119 classified in statute.

4120 (3) A conviction of an offense at one degree lower than classified in statute under
4121 Subsection (2) does not affect the requirements for registration of the offense under [
4122 ~~Title 77, Chapter 41, Sex, Kidnap, and Child Abuse Offender Registry~~] Title 53, Chapter
4123 29, Sex, Kidnap, and Child Abuse Offender Registry, if the elements of the offense for
4124 which the defendant is convicted are the same as the elements of [an] a registrable
4125 offense described in Section [~~77-41-102~~] 53-29-202.

4126 (4) This section does not preclude an individual from obtaining and being granted an
4127 expungement for the individual's record in accordance with Title 77, Chapter 40a,
4128 Expungement of Criminal Records.

4129 Section 52. Section **77-11c-101** is amended to read:

4130 **77-11c-101 . Definitions.**

4131 As used in this chapter:

4132 (1) "Acquitted" means the same as that term is defined in Section 77-11b-101.

4133 (2) "Adjudicated" means that:

4134 (a)(i) a judgment of conviction by plea or verdict of an offense has been entered by a
4135 court; and

4136 (ii) a sentence has been imposed by the court; or

4137 (b) a judgment has been entered for an adjudication of an offense by a juvenile court
4138 under Section 80-6-701.

4139 (3) "Adjudication" means:

4140 (a) a judgment of conviction by plea or verdict of an offense; or

4141 (b) an adjudication for an offense by a juvenile court under Section 80-6-701.

- 4142 (4) "Agency" means the same as that term is defined in Section 77-11a-101.
- 4143 (5) "Appellate court" means the Utah Court of Appeals, the Utah Supreme Court, or the
4144 United States Supreme Court.
- 4145 (6)(a) "Biological evidence" means an item that contains blood, semen, hair, saliva,
4146 epithelial cells, latent fingerprint evidence that may contain biological material
4147 suitable for DNA testing, or other identifiable human biological material that:
- 4148 (i) is collected as part of an investigation or prosecution of a violent felony offense;
4149 and
- 4150 (ii) may reasonably be used to incriminate or exculpate a person for the violent
4151 felony offense.
- 4152 (b) "Biological evidence" includes:
- 4153 (i) material that is catalogued separately, including:
- 4154 (A) on a slide or swab; or
4155 (B) inside a test tube, if the evidentiary sample that previously was inside the test
4156 tube has been consumed by testing;
- 4157 (ii) material that is present on other evidence, including clothing, a ligature, bedding,
4158 a drinking cup, a cigarette, or a weapon, from which a DNA profile may be
4159 obtained;
- 4160 (iii) the contents of a sexual assault kit; and
- 4161 (iv) for a violent felony offense, material described in this Subsection (6) that is in
4162 the custody of an evidence collecting or retaining entity on May 4, 2022.
- 4163 (7) "Claimant" means the same as that term is defined in Section 77-11a-101.
- 4164 (8) "Computer" means the same as that term is defined in Section 77-11a-101.
- 4165 (9) "Continuous chain of custody" means:
- 4166 (a) for a law enforcement agency or a court, that legal standards regarding a continuous
4167 chain of custody are maintained; and
- 4168 (b) for an entity that is not a law enforcement agency or a court, that the entity maintains
4169 a record in accordance with legal standards required of the entity.
- 4170 (10) "Contraband" means the same as that term is defined in Section 77-11a-101.
- 4171 (11) "Controlled substance" means the same as that term is defined in Section 58-37-2.
- 4172 (12) "Court" means a municipal, county, or state court.
- 4173 (13) "DNA" means deoxyribonucleic acid.
- 4174 (14) "DNA profile" means a unique identifier of an individual derived from DNA.
- 4175 (15) "Drug paraphernalia" means the same as that term is defined in Section 58-37a-3.

- 4176 (16) "Evidence" means property, contraband, or an item or substance that:
- 4177 (a) is seized or collected as part of an investigation or prosecution of an offense; and
- 4178 (b) may reasonably be used to incriminate or exculpate an individual for an offense.
- 4179 (17)(a) "Evidence collecting or retaining entity" means an entity within the state that
- 4180 collects, stores, or retrieves biological evidence.
- 4181 (b) "Evidence collecting or retaining entity" includes:
- 4182 (i) a medical or forensic entity;
- 4183 (ii) a law enforcement agency;
- 4184 (iii) a court; and
- 4185 (iv) an official, employee, or agent of an entity or agency described in this Subsection
- 4186 (17).
- 4187 (v) "Evidence collecting or retaining entity" does not include a collecting facility
- 4188 defined in Section 53-10-902.
- 4189 (18) "Exhibit" means property, contraband, or an item or substance that is admitted into
- 4190 evidence for a court proceeding.
- 4191 (19) "In custody" means an individual who:
- 4192 (a) is incarcerated, civilly committed, on parole, or on probation; or
- 4193 (b) is required to register under [~~Title 77, Chapter 41, Sex, Kidnap, and Child Abuse~~
- 4194 ~~Offender Registry~~] Title 53, Chapter 29, Sex, Kidnap, and Child Abuse Offender
- 4195 Registry.
- 4196 (20) "Law enforcement agency" means the same as that term is defined in Section
- 4197 77-11a-101.
- 4198 (21) "Medical or forensic entity" means a private or public hospital, medical facility, or
- 4199 other entity that secures biological evidence or conducts forensic examinations related to
- 4200 criminal investigations.
- 4201 (22) "Physical evidence" includes evidence that:
- 4202 (a) is related to:
- 4203 (i) an investigation;
- 4204 (ii) an arrest; or
- 4205 (iii) a prosecution that resulted in a judgment of conviction; and
- 4206 (b) is in the actual or constructive possession of a law enforcement agency or a court or
- 4207 an agent of a law enforcement agency or a court.
- 4208 (23) "Property" means the same as that term is defined in Section 77-11a-101.
- 4209 (24) "Prosecuting attorney" means the same as that term is defined in Section 77-11a-101.

- 4210 (25) "Sexual assault kit" means the same as that term is defined in Section 53-10-902.
- 4211 (26) "Victim" means the same as that term is defined in Section 53-10-902.
- 4212 (27) "Violent felony offense" means the same as the term "violent felony" is defined in
4213 Section 76-3-203.5.
- 4214 (28) "Wildlife" means the same as that term is defined in Section 23A-1-101.
- 4215 Section 53. Section **77-27-5.2** is amended to read:
- 4216 **77-27-5.2 . Board authority to order removal from Sex, Kidnap, and Child Abuse**
4217 **Offender Registry.**
- 4218 (1) If the board grants a pardon for a conviction described in Section 53-29-202 that is the
4219 basis for an individual's registration on the Sex, Kidnap, and Child Abuse Offender
4220 Registry, the board shall issue an order directing the Department of Public Safety to
4221 remove the individual's name and personal information relating to the pardoned
4222 conviction from the Sex, Kidnap, and Child Abuse Offender Registry.
- 4223 (2) An order described in Subsection (1), issued by the board, satisfies the notification
4224 requirement described in Subsection [~~77-41-113(1)(b)~~] 53-29-405(1)(b).
- 4225 Section 54. Section **77-38-605** is amended to read:
- 4226 **77-38-605 . Administration -- Application.**
- 4227 (1) The commission shall provide an application form to an applicant who seeks to
4228 participate in the program under this part.
- 4229 (2) The commission may not charge an applicant or program participant for an application
4230 or participation fee to apply for, or participate in, the program.
- 4231 (3) The application shall include:
- 4232 (a) the applicant's name;
- 4233 (b) a mailing address, a phone number, and an email address where the applicant may be
4234 contacted by the commission;
- 4235 (c) an indication regarding whether the assailant is employed by a state or local
4236 government entity, and if applicable, the name of the state or local government entity;
- 4237 (d) a statement that the applicant understands and consents to:
- 4238 (i) remain enrolled in the program for four years, unless the applicant's participation
4239 in the program is cancelled under Section 77-38-617;
- 4240 (ii) while the applicant is enrolled in the program, notify the commission when the
4241 applicant changes the applicant's actual address or legal name;
- 4242 (iii) develop a safety plan with a program assistant;
- 4243 (iv) authorize the commission to notify a state or local government entity that the

- 4244 applicant is a program participant;
- 4245 (v) submit written notice to the commission if the applicant chooses to cancel the
4246 applicant's participation in the program;
- 4247 (vi) register to vote in person at the office of the clerk in the county where the
4248 applicant's actual address is located; and
- 4249 (vii) certify that the commission is the applicant's designated agent for service of
4250 process for personal service;
- 4251 (e) evidence that the applicant, or a minor or an incapacitated individual residing with
4252 the applicant, is a victim, including:
- 4253 (i) a law enforcement, court, or other state, local, or federal government agency
4254 record; or
- 4255 (ii) a document from:
- 4256 (A) a domestic violence program, facility, or shelter;
4257 (B) a sexual assault program; or
4258 (C) a religious, medical, or other professional from whom the applicant, or the
4259 minor or the incapacitated individual residing with the applicant, sought
4260 assistance in dealing with alleged abuse, domestic violence, stalking, or a
4261 sexual offense;
- 4262 (f) a statement from the applicant that a disclosure of the applicant's actual address
4263 would endanger the applicant, or a minor or an incapacitated individual residing with
4264 the applicant;
- 4265 (g) a statement by the applicant that the applicant:
- 4266 (i) resides at a residential address that is not known by the assailant;
4267 (ii) has relocated to a different residential address in the past 90 days that is not
4268 known by the assailant; or
4269 (iii) will relocate to a different residential address in the state within 90 days that is
4270 not known by the assailant;
- 4271 (h) the actual address that:
- 4272 (i) the applicant requests that the commission not disclose; and
4273 (ii) is at risk of discovery by the assailant or potential assailant;
- 4274 (i) a statement by the applicant disclosing:
- 4275 (i) the existence of a court order or action involving the applicant, or a minor or an
4276 incapacitated individual residing with the applicant, related to a divorce
4277 proceeding, a child support order or judgment, or the allocation of custody or

- 4278 parent-time; and
- 4279 (ii) the court that issued the order or has jurisdiction over the action;
- 4280 (j) the name of any other individual who resides with the applicant who needs to be a
- 4281 program participant to ensure the safety of the applicant, or a minor or an
- 4282 incapacitated individual residing with the applicant;
- 4283 (k) a statement by the applicant that:
- 4284 (i) the applicant, or a minor or an incapacitated individual residing at the same
- 4285 address as the applicant, will benefit from participation in the program;
- 4286 (ii) if the applicant intends to vote, the applicant will register to vote at the office of
- 4287 the clerk in the county in which the applicant actually resides; and
- 4288 (iii) the applicant does not have a current obligation to register as a sex offender,
- 4289 kidnap offender, or child abuse offender under [~~Title 77, Chapter 41, Sex, Kidnap,~~
- 4290 ~~and Child Abuse Offender Registry~~] Title 53, Chapter 29, Sex, Kidnap, and Child
- 4291 Abuse Offender Registry;
- 4292 (l) a statement by the applicant, under penalty of perjury, that the information contained
- 4293 in the application is true;
- 4294 (m) a statement that:
- 4295 (i) if the applicant intends to use the assigned address for any correspondence with
- 4296 the State Tax Commission, the applicant must provide the State Tax Commission
- 4297 with the applicant's social security number, federal employee identification
- 4298 number, and any other identification number related to a tax, fee, charge, or
- 4299 license administered by the State Tax Commission; and
- 4300 (ii) if the applicant intends to use the assigned address for correspondence to a state
- 4301 or local government entity for the purpose of titling or registering a motor vehicle
- 4302 or a watercraft that is owned or leased by the applicant, the applicant shall provide
- 4303 to the state or local government entity for each motor vehicle or watercraft:
- 4304 (A) the motor vehicle or hull identification number;
- 4305 (B) the license plate or registration number for the motor vehicle or the watercraft;
- 4306 and
- 4307 (C) the physical address where each motor vehicle or watercraft is stored; and
- 4308 (n) a statement that any assistance or counseling provided by a program assistant as part
- 4309 of the program does not constitute legal advice or legal services to the applicant.

4310 Section 55. Section **77-40a-303** is amended to read:

4311 **77-40a-303 . Requirements for a certificate of eligibility to expunge records of a**

4312 **conviction.**

- 4313 (1) Except as otherwise provided by this section, a petitioner is eligible to receive a
4314 certificate of eligibility from the bureau to expunge the records of a conviction if:
- 4315 (a) the petitioner has paid in full all fines and interest ordered by the court related to the
4316 conviction for which expungement is sought;
- 4317 (b) the petitioner has paid in full all restitution ordered by the court under Section
4318 77-38b-205; and
- 4319 (c) the following time periods have passed after the day on which the petitioner was
4320 convicted or released from incarceration, parole, or probation, whichever occurred
4321 last, for the conviction that the petitioner seeks to expunge:
- 4322 (i) 10 years for the conviction of a misdemeanor under Subsection 41-6a-501(2);
4323 (ii) 10 years for the conviction of a felony for operating a motor vehicle with any amount of a
4324 controlled substance in an individual's body and causing serious bodily injury or death, as
4325 codified before May 4, 2022, Laws of Utah 2021,
4326 Chapter 236, Section 1, Subsection 58-37-8(2)(g);
- 4327 (iii) seven years for the conviction of a felony;
- 4328 (iv) five years for the conviction of a drug possession offense that is a felony;
- 4329 (v) five years for the conviction of a class A misdemeanor;
- 4330 (vi) four years for the conviction of a class B misdemeanor; or
- 4331 (vii) three years for the conviction of a class C misdemeanor or infraction.
- 4332 (2) A petitioner is not eligible to receive a certificate of eligibility from the bureau to
4333 expunge the records of a conviction under Subsection (1) if:
- 4334 (a) except as provided in Subsection (3), the conviction for which expungement is
4335 sought is:
- 4336 (i) a capital felony;
- 4337 (ii) a first degree felony;
- 4338 (iii) a felony conviction of a violent felony as defined in Subsection 76-3-203.5
4339 (1)(c)(i);
- 4340 (iv) a felony conviction described in Subsection 41-6a-501(2);
- 4341 (v) an offense, or a combination of offenses, that would [~~require the individual to~~
4342 ~~register as a sex offender, as defined in Section 77-41-102] result in the individual
4343 being a sex offender under Subsection 53-29-202(2)(b); or~~
- 4344 (vi) [~~a registerable child abuse offense as defined in Subsection 77-41-102(1);~~] an
4345 offense, or a combination of offenses, that would result in the individual being a

- 4346 child abuse offender under Subsection 53-29-202(2)(a);
- 4347 (b) there is a criminal proceeding for a misdemeanor or felony offense pending against
- 4348 the petitioner, unless the criminal proceeding is for a traffic offense;
- 4349 (c) there is a plea in abeyance for a misdemeanor or felony offense pending against the
- 4350 petitioner, unless the plea in abeyance is for a traffic offense;
- 4351 (d) the petitioner is currently incarcerated, on parole, or on probation, unless the
- 4352 petitioner is on probation or parole for an infraction, a traffic offense, or a minor
- 4353 regulatory offense;
- 4354 (e) the petitioner intentionally or knowingly provides false or misleading information on
- 4355 the application for a certificate of eligibility;
- 4356 (f) there is a criminal protective order or a criminal stalking injunction in effect for the
- 4357 case; or
- 4358 (g) the bureau determines that the petitioner's criminal history makes the petitioner
- 4359 ineligible for a certificate of eligibility under Subsection (4) or (5).
- 4360 (3) Subsection (2)(a) does not apply to a conviction for a qualifying sexual offense, as
- 4361 defined in Section 76-3-209, if, at the time of the offense, a petitioner who committed
- 4362 the offense was at least 14 years old but under 18 years old, unless the petitioner was
- 4363 convicted by a district court as an adult in accordance with [~~Title 80, Chapter 6, Part 5,~~
- 4364 ~~Transfer to District Court~~] Title 80, Chapter 6, Part 5, Minor Tried as an Adult.
- 4365 (4) Subject to Subsections (6), (7), and (8), a petitioner is not eligible to receive a certificate
- 4366 of eligibility if, at the time the petitioner seeks the certificate of eligibility, the bureau
- 4367 determines that the petitioner's criminal history, including previously expunged
- 4368 convictions, contains any of the following:
- 4369 (a) two or more felony convictions other than for drug possession offenses, each of
- 4370 which is contained in a separate criminal episode;
- 4371 (b) any combination of three or more convictions other than for drug possession offenses
- 4372 that include two class A misdemeanor convictions, each of which is contained in a
- 4373 separate criminal episode;
- 4374 (c) any combination of four or more convictions other than for drug possession offenses
- 4375 that include three class B misdemeanor convictions, each of which is contained in a
- 4376 separate criminal episode; or
- 4377 (d) five or more convictions other than for drug possession offenses of any degree
- 4378 whether misdemeanor or felony, each of which is contained in a separate criminal
- 4379 episode.

- 4380 (5) Subject to Subsections (7) and (8), a petitioner is not eligible to receive a certificate of
4381 eligibility if, at the time the petitioner seeks the certificate of eligibility, the bureau
4382 determines that the petitioner's criminal history, including previously expunged
4383 convictions, contains any of the following:
- 4384 (a) three or more felony convictions for drug possession offenses, each of which is
4385 contained in a separate criminal episode; or
 - 4386 (b) any combination of five or more convictions for drug possession offenses, each of
4387 which is contained in a separate criminal episode.
- 4388 (6) If the petitioner's criminal history contains convictions for both a drug possession
4389 offense and a non-drug possession offense arising from the same criminal episode, the
4390 bureau shall count that criminal episode as a conviction under Subsection (4) if any
4391 non-drug possession offense in that episode:
- 4392 (a) is a felony or class A misdemeanor; or
 - 4393 (b) has the same or a longer waiting period under Subsection (1)(c) than any drug
4394 possession offense in that episode.
- 4395 (7) Except as provided in Subsection (8), if at least 10 years have passed after the day on
4396 which the petitioner was convicted or released from incarceration, parole, or probation,
4397 whichever occurred last, for all convictions:
- 4398 (a) each numerical eligibility limit under Subsections (4)(a) and (b) shall be increased by
4399 one; and
 - 4400 (b) each numerical eligibility limit under Subsections (4)(c) and (d) is not applicable if
4401 the highest level of convicted offense in the criminal episode is:
 - 4402 (i) a class B misdemeanor;
 - 4403 (ii) a class C misdemeanor;
 - 4404 (iii) a drug possession offense if none of the non-drug possession offenses in the
4405 criminal episode are a felony or a class A misdemeanor; or
 - 4406 (iv) an infraction.
- 4407 (8) When determining whether a petitioner is eligible for a certificate of eligibility under
4408 Subsection (4), (5), or (7), the bureau may not consider a petitioner's pending case or
4409 prior conviction for:
- 4410 (a) an infraction;
 - 4411 (b) a traffic offense;
 - 4412 (c) a minor regulatory offense; or
 - 4413 (d) a clean slate eligible case that was automatically expunged.

4414 (9) If the petitioner received a pardon before May 14, 2013, from the Utah Board of
4415 Pardons and Parole, the petitioner is entitled to an expungement order for all pardoned
4416 crimes in accordance with Section 77-27-5.1.

4417 Section 56. Section **77-40a-403** is amended to read:

4418 **77-40a-403 . Release and use of expunged records -- Agencies.**

4419 (1)(a) An agency with an expunged record, or any employee of an agency with an
4420 expunged record, may not knowingly or intentionally divulge any information
4421 contained in the expunged record to any person, or another agency, without a court
4422 order unless:

4423 (i) specifically authorized by Subsection (4) or Section 77-40a-404; or

4424 (ii) subject to Subsection (1)(b), the information in an expunged record is being
4425 shared with another agency through a records management system that both
4426 agencies use for the purpose of record management.

4427 (b) An agency with a records management system may not disclose any information in
4428 an expunged record to another agency or person, or allow another agency or person
4429 access to an expunged record, if that agency or person does not use the records
4430 management system for the purpose of record management.

4431 (2) The following entities or agencies may receive information contained in expunged
4432 records upon specific request:

4433 (a) the Board of Pardons and Parole;

4434 (b) Peace Officer Standards and Training;

4435 (c) federal authorities if required by federal law;

4436 (d) the State Board of Education;

4437 (e) the Commission on Criminal and Juvenile Justice, for purposes of investigating
4438 applicants for judicial office; and

4439 (f) a research institution or an agency engaged in research regarding the criminal justice
4440 system if:

4441 (i) the research institution or agency provides a legitimate research purpose for
4442 gathering information from the expunged records;

4443 (ii) the research institution or agency enters into a data sharing agreement with the
4444 court or agency with custody of the expunged records that protects the
4445 confidentiality of any identifying information in the expunged records;

4446 (iii) any research using expunged records does not include any individual's name or
4447 identifying information in any product of that research; and

- 4448 (iv) any product resulting from research using expunged records includes a disclosure
4449 that expunged records were used for research purposes.
- 4450 (3) Except as otherwise provided by this section or by court order, a person, an agency, or
4451 an entity authorized by this section to view expunged records may not reveal or release
4452 any information obtained from the expunged records to anyone outside the specific
4453 request, including distribution on a public website.
- 4454 (4) A prosecuting attorney may communicate with another prosecuting attorney, or another
4455 prosecutorial agency, regarding information in an expunged record that includes a
4456 conviction, or a charge dismissed as a result of a successful completion of a plea in
4457 abeyance agreement, for:
- 4458 (a) stalking as described in Section 76-5-106.5;
4459 (b) a domestic violence offense as defined in Section 77-36-1;
4460 (c) an offense that would [~~require the individual to register as a sex offender, kidnap
4461 offender, or child abuse offender as defined in Section 77-41-102~~] result in the
4462 individual being a child abuse offender, a sex offender, or a kidnap offender under
4463 Section 53-29-202; or
4464 (d) a weapons offense under Title 76, Chapter 10, Part 5, Weapons.
- 4465 (5) Except as provided in Subsection (7), a prosecuting attorney may not use an expunged
4466 record for the purpose of a sentencing enhancement or as a basis for charging an
4467 individual with an offense that requires a prior conviction.
- 4468 (6) The bureau may also use the information in the bureau's index as provided in Section
4469 53-5-704.
- 4470 (7) If an individual is charged with a felony, or an offense eligible for enhancement based
4471 on a prior conviction, after obtaining an order of expungement, the prosecuting attorney
4472 may petition the court in which the individual is charged to open the expunged records
4473 upon a showing of good cause.
- 4474 (8)(a) For judicial sentencing, a court may order any records expunged under this
4475 chapter or Section 77-27-5.1 to be opened and admitted into evidence.
- 4476 (b) The records are confidential and are available for inspection only by the court,
4477 parties, counsel for the parties, and any other person who is authorized by the court to
4478 inspect them.
- 4479 (c) At the end of the action or proceeding, the court shall order the records expunged
4480 again.
- 4481 (d) Any person authorized by this Subsection (8) to view expunged records may not

4482 reveal or release any information obtained from the expunged records to anyone
4483 outside the court.

4484 (9) Records released under this chapter are classified as protected under Section 63G-2-305
4485 and are accessible only as provided under Title 63G, Chapter 2, Part 2, Access to
4486 Records, and Subsection 53-10-108(2)(k) for records held by the bureau.

4487 Section 57. Section **78A-2-301** is amended to read:

4488 **78A-2-301 . Civil fees of the courts of record -- Courts complex design.**

4489 (1)(a) The fee for filing any civil complaint or petition invoking the jurisdiction of a
4490 court of record not governed by another subsection is \$375.

4491 (b) The fee for filing a complaint or petition is:

4492 (i) \$90 if the claim for damages or amount in interpleader exclusive of court costs,
4493 interest, and attorney fees is \$2,000 or less;

4494 (ii) \$200 if the claim for damages or amount in interpleader exclusive of court costs,
4495 interest, and attorney fees is greater than \$2,000 and less than \$10,000;

4496 (iii) \$375 if the claim for damages or amount in interpleader is \$10,000 or more;

4497 (iv) except as provided in Subsection (1)(b)(v), \$325 if the petition is filed for an
4498 action described in Title 81, Chapter 4, Dissolution of Marriage;

4499 (v) \$35 for a petition for temporary separation described in Section 81-4-104;

4500 (vi) \$125 if the petition is for removal from the [The-]Sex, Kidnap, and Child Abuse
4501 Offender Registry under Section [~~77-41-112~~] 53-29-204, 53-29-205, or 53-29-206;
4502 and

4503 (vii) \$35 if the petition is for guardianship and the prospective ward is the biological
4504 or adoptive child of the petitioner.

4505 (c) The fee for filing a small claims affidavit is:

4506 (i) \$60 if the claim for damages or amount in interpleader exclusive of court costs,
4507 interest, and attorney fees is \$2,000 or less;

4508 (ii) \$100 if the claim for damages or amount in interpleader exclusive of court costs,
4509 interest, and attorney fees is greater than \$2,000, but less than \$7,500; and

4510 (iii) \$185 if the claim for damages or amount in interpleader exclusive of court costs,
4511 interest, and attorney fees is \$7,500 or more.

4512 (d) The fee for filing a counter claim, cross claim, complaint in intervention, third party
4513 complaint, or other claim for relief against an existing or joined party other than the
4514 original complaint or petition is:

4515 (i) \$55 if the claim for relief exclusive of court costs, interest, and attorney fees is

- 4516 \$2,000 or less;
- 4517 (ii) \$165 if the claim for relief exclusive of court costs, interest, and attorney fees is
4518 greater than \$2,000 and less than \$10,000;
- 4519 (iii) \$170 if the original petition is filed under Subsection (1)(a), the claim for relief is
4520 \$10,000 or more, or the party seeks relief other than monetary damages; and
- 4521 (iv) \$130 if the original petition is filed for an action described in Title 81, Chapter 4,
4522 Dissolution of Marriage.
- 4523 (e) The fee for filing a small claims counter affidavit is:
- 4524 (i) \$50 if the claim for relief exclusive of court costs, interest, and attorney fees is
4525 \$2,000 or less;
- 4526 (ii) \$70 if the claim for relief exclusive of court costs, interest, and attorney fees is
4527 greater than \$2,000, but less than \$7,500; and
- 4528 (iii) \$120 if the claim for relief exclusive of court costs, interest, and attorney fees is
4529 \$7,500 or more.
- 4530 (f) The fee for depositing funds under Section 57-1-29 when not associated with an
4531 action already before the court is determined under Subsection (1)(b) based on the
4532 amount deposited.
- 4533 (g) The fee for filing a petition is:
- 4534 (i) \$240 for trial de novo of an adjudication of the justice court or of the small claims
4535 department; and
- 4536 (ii) \$80 for an appeal of a municipal administrative determination in accordance with
4537 Section 10-3-703.7.
- 4538 (h) The fee for filing a notice of appeal, petition for appeal of an interlocutory order, or
4539 petition for writ of certiorari is \$240.
- 4540 (i) The fee for filing a petition for expungement is \$150.
- 4541 (j)(i) Fifteen dollars of the fees established by Subsections (1)(a) through (i) shall be
4542 allocated to and between the Judges' Contributory Retirement Trust Fund and the
4543 Judges' Noncontributory Retirement Trust Fund, as provided in Title 49, Chapter
4544 17, Judges' Contributory Retirement Act, and Title 49, Chapter 18, Judges'
4545 Noncontributory Retirement Act.
- 4546 (ii) Four dollars of the fees established by Subsections (1)(a) through (i) shall be
4547 allocated by the state treasurer to be deposited into the restricted account,
4548 Children's Legal Defense Account, as provided in Section 51-9-408.
- 4549 (iii) Five dollars of the fees established under Subsections (1)(a) through (e), (1)(g),

- 4550 and (1)(s) shall be allocated to and deposited with the Dispute Resolution Account
4551 as provided in Section 78B-6-209.
- 4552 (iv) Thirty dollars of the fees established by Subsections (1)(a), (1)(b)(iii) and (iv),
4553 (1)(d)(iii) and (iv), (1)(g)(ii), (1)(h), and (1)(i) shall be allocated by the state
4554 treasurer to be deposited into the restricted account, Court Security Account, as
4555 provided in Section 78A-2-602.
- 4556 (v) Twenty dollars of the fees established by Subsections (1)(b)(i) and (ii), (1)(d)(ii)
4557 and (1)(g)(i) shall be allocated by the state treasurer to be deposited into the
4558 restricted account, Court Security Account, as provided in Section 78A-2-602.
- 4559 (k) The fee for filing a judgment, order, or decree of a court of another state or of the
4560 United States is \$35.
- 4561 (l) The fee for filing a renewal of judgment in accordance with Section 78B-6-1801 is
4562 50% of the fee for filing an original action seeking the same relief.
- 4563 (m) The fee for filing probate or child custody documents from another state is \$35.
- 4564 (n)(i) The fee for filing an abstract or transcript of judgment, order, or decree of the
4565 State Tax Commission is \$30.
- 4566 (ii) The fee for filing an abstract or transcript of judgment of a court of law of this
4567 state or a judgment, order, or decree of an administrative agency, commission,
4568 board, council, or hearing officer of this state or of its political subdivisions other
4569 than the State Tax Commission, is \$50.
- 4570 (o) The fee for filing a judgment by confession without action under Section 78B-5-205
4571 is \$35.
- 4572 (p) The fee for filing an award of arbitration for confirmation, modification, or vacation
4573 under Title 78B, Chapter 11, Utah Uniform Arbitration Act, that is not part of an
4574 action before the court is \$35.
- 4575 (q) The fee for filing a petition or counter-petition to modify a domestic relations order
4576 other than a protective order or stalking injunction is \$100.
- 4577 (r) The fee for filing any accounting required by law is:
- 4578 (i) \$15 for an estate valued at \$50,000 or less;
- 4579 (ii) \$30 for an estate valued at \$75,000 or less but more than \$50,000;
- 4580 (iii) \$50 for an estate valued at \$112,000 or less but more than \$75,000;
- 4581 (iv) \$90 for an estate valued at \$168,000 or less but more than \$112,000; and
- 4582 (v) \$175 for an estate valued at more than \$168,000.
- 4583 (s) The fee for filing a demand for a civil jury is \$250.

- 4584 (t) The fee for filing a notice of deposition in this state concerning an action pending in
4585 another state under Utah Rules of Civil Procedure, Rule 30 is \$35.
- 4586 (u) The fee for filing documents that require judicial approval but are not part of an
4587 action before the court is \$35.
- 4588 (v) The fee for a petition to open a sealed record is \$35.
- 4589 (w) The fee for a writ of replevin, attachment, execution, or garnishment is \$50 in
4590 addition to any fee for a complaint or petition.
- 4591 (x)(i) The fee for a petition for authorization for a minor to marry required by Section
4592 81-2-304 is \$5.
- 4593 (ii) The fee for a petition for emancipation of a minor provided in Title 80, Chapter 7,
4594 Emancipation, is \$50.
- 4595 (y) The fee for a certificate issued under Section 26B-8-128 is \$8.
- 4596 (z) The fee for a certified copy of a document is \$4 per document plus 50 cents per page.
- 4597 (aa) The fee for an exemplified copy of a document is \$6 per document plus 50 cents per
4598 page.
- 4599 (bb) The Judicial Council shall, by rule, establish a schedule of fees for copies of
4600 documents and forms and for the search and retrieval of records under Title 63G,
4601 Chapter 2, Government Records Access and Management Act. Fees under
4602 Subsection (1)(bb) and (cc) shall be credited to the court as a reimbursement of
4603 expenditures.
- 4604 (cc) The Judicial Council may, by rule, establish a reasonable fee to allow members of
4605 the public to conduct a limited amount of searches on the Xchange database without
4606 having to pay a monthly subscription fee.
- 4607 (dd) There is no fee for services or the filing of documents not listed in this section or
4608 otherwise provided by law.
- 4609 (ee) Except as provided in this section, all fees collected under this section are paid to
4610 the General Fund. Except as provided in this section, all fees shall be paid at the time
4611 the clerk accepts the pleading for filing or performs the requested service.
- 4612 (ff) The filing fees under this section may not be charged to the state, the state's
4613 agencies, or political subdivisions filing or defending any action. In judgments
4614 awarded in favor of the state, its agencies, or political subdivisions, except the Office
4615 of Recovery Services, the court shall order the filing fees and collection costs to be
4616 paid by the judgment debtor. The sums collected under this Subsection (1)(ff) shall
4617 be applied to the fees after credit to the judgment, order, fine, tax, lien, or other

- 4618 penalty and costs permitted by law.
- 4619 (2)(a)(i) From March 17, 1994, until June 30, 1998, the state court administrator shall
4620 transfer all revenues representing the difference between the fees in effect after
4621 May 2, 1994, and the fees in effect before February 1, 1994, as dedicated credits
4622 to the Division of Facilities Construction and Management Capital Projects Fund.
- 4623 (ii)(A) Except as provided in Subsection (2)(a)(ii)(B), the Division of Facilities
4624 Construction and Management shall use up to \$3,750,000 of the revenue
4625 deposited into the Capital Projects Fund under this Subsection (2)(a) to design
4626 and take other actions necessary to initiate the development of a courts
4627 complex in Salt Lake City.
- 4628 (B) If the Legislature approves funding for construction of a courts complex in
4629 Salt Lake City in the 1995 Annual General Session, the Division of Facilities
4630 Construction and Management shall use the revenue deposited into the Capital
4631 Projects Fund under this Subsection (2)(a)(ii) to construct a courts complex in
4632 Salt Lake City.
- 4633 (C) After the courts complex is completed and all bills connected with its
4634 construction have been paid, the Division of Facilities Construction and
4635 Management shall use any money remaining in the Capital Projects Fund under
4636 this Subsection (2)(a)(ii) to fund the Vernal District Court building.
- 4637 (iii) The Division of Facilities Construction and Management may enter into
4638 agreements and make expenditures related to this project before the receipt of
4639 revenues provided for under this Subsection (2)(a)(iii).
- 4640 (iv) The Division of Facilities Construction and Management shall:
- 4641 (A) make those expenditures from unexpended and unencumbered building funds
4642 already appropriated to the Capital Projects Fund; and
- 4643 (B) reimburse the Capital Projects Fund upon receipt of the revenues provided for
4644 under this Subsection (2).
- 4645 (b) After June 30, 1998, the state court administrator shall ensure that all revenues
4646 representing the difference between the fees in effect after May 2, 1994, and the fees
4647 in effect before February 1, 1994, are transferred to the Division of Finance for
4648 deposit in the restricted account.
- 4649 (c) The Division of Finance shall deposit all revenues received from the state court
4650 administrator into the restricted account created by this section.
- 4651 (d)(i) From May 1, 1995, until June 30, 1998, the state court administrator shall

4652 transfer \$7 of the amount of a fine or bail forfeiture paid for a violation of Title
4653 41, Motor Vehicles, in a court of record to the Division of Facilities Construction
4654 and Management Capital Projects Fund. The division of money pursuant to
4655 Section 78A-5-110 shall be calculated on the balance of the fine or bail forfeiture
4656 paid.

4657 (ii) After June 30, 1998, the state court administrator or a municipality shall transfer
4658 \$7 of the amount of a fine or bail forfeiture paid for a violation of Title 41, Motor
4659 Vehicles, in a court of record to the Division of Finance for deposit in the
4660 restricted account created by this section. The division of money pursuant to
4661 Section 78A-5-110 shall be calculated on the balance of the fine or bail forfeiture
4662 paid.

4663 (3)(a) There is created within the General Fund a restricted account known as the State
4664 Courts Complex Account.

4665 (b) The Legislature may appropriate money from the restricted account to the state court
4666 administrator for the following purposes only:

4667 (i) to repay costs associated with the construction of the court complex that were
4668 funded from sources other than revenues provided for under this Subsection
4669 (3)(b)(i); and

4670 (ii) to cover operations and maintenance costs on the court complex.

4671 Section 58. Section **78B-8-302** is amended to read:

4672 **78B-8-302 . Process servers.**

4673 (1) A complaint, a summons, or a subpoena may be served by an individual who is:

4674 (a) 18 years old or older at the time of service; and

4675 (b) not a party to the action or a party's attorney.

4676 (2) Except as provided in Subsection (5), the following may serve all process issued by the
4677 courts of this state:

4678 (a) a peace officer employed by a political subdivision of the state acting within the
4679 scope and jurisdiction of the peace officer's employment;

4680 (b) a sheriff or appointed deputy sheriff employed by a county of the state;

4681 (c) a constable, or the constable's deputy, serving in compliance with applicable law;

4682 (d) an investigator employed by the state and authorized by law to serve civil process; or

4683 (e) a private investigator licensed in accordance with Title 53, Chapter 9, Private
4684 Investigator Regulation Act.

4685 (3) A private investigator licensed in accordance with Title 53, Chapter 9, Private

- 4686 Investigator Regulation Act, may not make an arrest pursuant to a bench warrant.
- 4687 (4) While serving process, a private investigator shall:
- 4688 (a) have on the investigator's body a visible form of credentials and identification
- 4689 identifying:
- 4690 (i) the investigator's name;
- 4691 (ii) that the investigator is a licensed private investigator; and
- 4692 (iii) the name and address of the agency employing the investigator or, if the
- 4693 investigator is self-employed, the address of the investigator's place of business;
- 4694 (b) verbally communicate to the person being served that the investigator is acting as a
- 4695 process server; and
- 4696 (c) print on the first page of each document served:
- 4697 (i) the investigator's name and identification number as a private investigator; and
- 4698 (ii) the address and phone number for the investigator's place of business.
- 4699 (5) The following may only serve process under this section when the use of force is
- 4700 authorized on the face of the document, or when a breach of the peace is imminent or
- 4701 likely under the totality of the circumstances:
- 4702 (a) a law enforcement officer, as defined in Section 53-13-103; or
- 4703 (b) a special function officer, as defined in Section 53-13-105, who is:
- 4704 (i) employed as an appointed deputy sheriff by a county of the state; or
- 4705 (ii) a constable.
- 4706 (6) The following may not serve process issued by a court:
- 4707 (a) an individual convicted of a felony violation of an offense [~~listed in Subsection~~
- 4708 ~~77-41-102(19)] that would result in the individual being a sex offender under~~
- 4709 Subsection 53-29-202(2)(b); or
- 4710 (b) an individual who is a respondent in a proceeding described in Title 78B, Chapter 7,
- 4711 Protective Orders and Stalking Injunctions, in which a court has granted the
- 4712 petitioner a protective order.
- 4713 (7) An individual serving process shall:
- 4714 (a) legibly document the date and time of service on the front page of the document
- 4715 being served;
- 4716 (b) legibly print the process server's name, address, and telephone number on the return
- 4717 of service;
- 4718 (c) sign the return of service in substantial compliance with Title 78B, Chapter 18a,
- 4719 Uniform Unsworn Declarations Act;

- 4720 (d) if the process server is a peace officer, sheriff, or deputy sheriff, legibly print the
4721 badge number of the process server on the return of service; and
- 4722 (e) if the process server is a private investigator, legibly print the private investigator's
4723 identification number on the return of service.
- 4724 Section 59. Section **80-3-406** is amended to read:
- 4725 **80-3-406 . Permanency plan -- Reunification services.**
- 4726 (1) If the juvenile court orders continued removal at the dispositional hearing under Section
4727 80-3-402, and that the minor remain in the custody of the division, the juvenile court
4728 shall first:
- 4729 (a) establish a primary permanency plan and a concurrent permanency plan for the minor
4730 in accordance with this section; and
- 4731 (b) determine whether, in view of the primary permanency plan, reunification services
4732 are appropriate for the minor and the minor's family under Subsections (5) through (8).
- 4733 (2)(a) The concurrent permanency plan shall include:
- 4734 (i) a representative list of the conditions under which the primary permanency plan
4735 will be abandoned in favor of the concurrent permanency plan; and
- 4736 (ii) an explanation of the effect of abandoning or modifying the primary permanency
4737 plan.
- 4738 (b) In determining the primary permanency plan and concurrent permanency plan, the
4739 juvenile court shall consider:
- 4740 (i) the preference for kinship placement over nonkinship placement, including the
4741 rebuttable presumption described in Subsection 80-3-302(7)(a);
- 4742 (ii) the potential for a guardianship placement if parental rights are terminated and no
4743 appropriate adoption placement is available; and
- 4744 (iii) the use of an individualized permanency plan, only as a last resort.
- 4745 (3)(a) The juvenile court may amend a minor's primary permanency plan before the
4746 establishment of a final permanency plan under Section 80-3-409.
- 4747 (b) The juvenile court is not limited to the terms of the concurrent permanency plan in
4748 the event that the primary permanency plan is abandoned.
- 4749 (c) If, at any time, the juvenile court determines that reunification is no longer a minor's
4750 primary permanency plan, the juvenile court shall conduct a permanency hearing in
4751 accordance with Section 80-3-409 on or before the earlier of:
- 4752 (i) 30 days after the day on which the juvenile court makes the determination
4753 described in this Subsection (3)(c); or

- 4754 (ii) the day on which the provision of reunification services, described in Section
4755 80-3-409, ends.
- 4756 (4)(a) Because of the state's interest in and responsibility to protect and provide
4757 permanency for minors who are abused, neglected, or dependent, the Legislature
4758 finds that a parent's interest in receiving reunification services is limited.
- 4759 (b) The juvenile court may determine that:
- 4760 (i) efforts to reunify a minor with the minor's family are not reasonable or
4761 appropriate, based on the individual circumstances; and
4762 (ii) reunification services should not be provided.
- 4763 (c) In determining reasonable efforts to be made with respect to a minor, and in making
4764 reasonable efforts, the juvenile court and the division shall consider the minor's
4765 health, safety, and welfare as the paramount concern.
- 4766 (5) There is a presumption that reunification services should not be provided to a parent if
4767 the juvenile court finds, by clear and convincing evidence, that any of the following
4768 circumstances exist:
- 4769 (a) the whereabouts of the parents are unknown, based on a verified affidavit indicating
4770 that a reasonably diligent search has failed to locate the parent;
- 4771 (b) subject to Subsection (6)(a), the parent is suffering from a mental illness of such
4772 magnitude that the mental illness renders the parent incapable of utilizing
4773 reunification services;
- 4774 (c) the minor was previously adjudicated as an abused child due to physical abuse,
4775 sexual abuse, or sexual exploitation, and following the adjudication the child:
- 4776 (i) was removed from the custody of the minor's parent;
4777 (ii) was subsequently returned to the custody of the parent; and
4778 (iii) is being removed due to additional physical abuse, sexual abuse, or sexual
4779 exploitation;
- 4780 (d) the parent:
- 4781 (i) caused the death of another minor through abuse or neglect;
4782 (ii) committed, aided, abetted, attempted, conspired, or solicited to commit:
4783 (A) murder or manslaughter of a minor; or
4784 (B) child abuse homicide;
4785 (iii) committed sexual abuse against the minor;
4786 (iv) is [~~a registered sex offender or required to register as a sex offender~~] a sex
4787 offender under Subsection 53-29-202(2)(b); or

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

- 4822 (b) The juvenile court may disregard the provisions of Subsection (5)(k) if the juvenile
4823 court finds, under the circumstances of the case, that the substance use disorder
4824 treatment described in Subsection (5)(k) is not warranted.
- 4825 (7) In determining whether reunification services are appropriate, the juvenile court shall
4826 take into consideration:
- 4827 (a) failure of the parent to respond to previous services or comply with a previous child
4828 and family plan;
- 4829 (b) the fact that the minor was abused while the parent was under the influence of drugs
4830 or alcohol;
- 4831 (c) any history of violent behavior directed at the minor or an immediate family member;
- 4832 (d) whether a parent continues to live with an individual who abused the minor;
- 4833 (e) any patterns of the parent's behavior that have exposed the minor to repeated abuse;
- 4834 (f) testimony by a competent professional that the parent's behavior is unlikely to be
4835 successful; and
- 4836 (g) whether the parent has expressed an interest in reunification with the minor.
- 4837 (8) If, under Subsections (5)(b) through (l), the juvenile court does not order reunification
4838 services, a permanency hearing shall be conducted within 30 days in accordance with
4839 Section 80-3-409.
- 4840 (9)(a) Subject to Subsections (9)(b) through (e), if the juvenile court determines that
4841 reunification services are appropriate for the minor and the minor's family, the
4842 juvenile court shall provide for reasonable parent-time with the parent or parents
4843 from whose custody the minor was removed, unless parent-time is not in the best
4844 interest of the minor.
- 4845 (b) Parent-time is in the best interests of a minor unless the juvenile court makes a
4846 finding that it is necessary to deny parent-time in order to:
- 4847 (i) protect the physical safety of the minor;
- 4848 (ii) protect the life of the minor; or
- 4849 (iii) prevent the minor from being traumatized by contact with the parent due to the
4850 minor's fear of the parent in light of the nature of the alleged abuse or neglect.
- 4851 (c) Notwithstanding Subsection (9)(a), a juvenile court may not deny parent-time based
4852 solely on a parent's failure to:
- 4853 (i) prove that the parent has not used legal or illegal substances; or
- 4854 (ii) comply with an aspect of the child and family plan that is ordered by the juvenile
4855 court.

- 4856 (d) Parent-time shall be under the least restrictive conditions necessary to:
- 4857 (i) protect the physical safety of the child; or
- 4858 (ii) prevent the child from being traumatized by contact with the parent due to the
- 4859 minor's fear of the parent in light of the nature of the alleged abuse or neglect.
- 4860 (e)(i) The division or the person designated by the division or a court to supervise a
- 4861 parent-time session may deny parent-time for the session if the division or the
- 4862 supervising person determines that, based on the parent's condition, it is necessary
- 4863 to deny parent-time to:
- 4864 (A) protect the physical safety of the child;
- 4865 (B) protect the life of the child; or
- 4866 (C) consistent with Subsection (9)(e)(ii), prevent the child from being traumatized
- 4867 by contact with the parent.
- 4868 (ii) In determining whether the condition of the parent described in Subsection
- 4869 (9)(e)(i) will traumatize a child, the division or the person supervising the
- 4870 parent-time session shall consider the impact that the parent's condition will have
- 4871 on the child in light of:
- 4872 (A) the child's fear of the parent; and
- 4873 (B) the nature of the alleged abuse or neglect.
- 4874 (10)(a) If the juvenile court determines that reunification services are appropriate, the
- 4875 juvenile court shall order that the division make reasonable efforts to provide services
- 4876 to the minor and the minor's parent for the purpose of facilitating reunification of the
- 4877 family, for a specified period of time.
- 4878 (b) In providing the services described in Subsection (10)(a), the juvenile court and the
- 4879 division shall consider the minor's health, safety, and welfare as the paramount
- 4880 concern.
- 4881 (11) In cases where sexual abuse, sexual exploitation, abandonment, severe abuse, or severe
- 4882 neglect are involved:
- 4883 (a) the juvenile court does not have any duty to order reunification services; and
- 4884 (b) the division does not have a duty to make reasonable efforts to or in any other way
- 4885 attempt to provide reunification services or attempt to rehabilitate the offending
- 4886 parent or parents.
- 4887 (12)(a) The juvenile court shall:
- 4888 (i) determine whether the services offered or provided by the division under the child
- 4889 and family plan constitute reasonable efforts on the part of the division;

- 4890 (ii) determine and define the responsibilities of the parent under the child and family
4891 plan in accordance with Subsection 80-3-307(5)(g)(iii); and
- 4892 (iii) identify verbally on the record, or in a written document provided to the parties,
4893 the responsibilities described in Subsection (12)(a)(ii), for the purpose of assisting
4894 in any future determination regarding the provision of reasonable efforts, in
4895 accordance with state and federal law.
- 4896 (b) If the parent is in a substance use disorder treatment program, other than a certified
4897 drug court program, the juvenile court may order the parent:
- 4898 (i) to submit to supplementary drug or alcohol testing, in accordance with Subsection
4899 80-3-110(6), in addition to the testing recommended by the parent's substance use
4900 disorder program based on a finding of reasonable suspicion that the parent is
4901 abusing drugs or alcohol; and
- 4902 (ii) to provide the results of drug or alcohol testing recommended by the substance
4903 use disorder program to the juvenile court or division.
- 4904 (13)(a) The time period for reunification services may not exceed 12 months from the
4905 day on which the minor was initially removed from the minor's home, unless the time
4906 period is extended under Subsection 80-3-409(7).
- 4907 (b) This section does not entitle any parent to an entire 12 months of reunification
4908 services.
- 4909 (14)(a) If reunification services are ordered, the juvenile court may terminate those
4910 services at any time.
- 4911 (b) If, at any time, continuation of reasonable efforts to reunify a minor is determined to
4912 be inconsistent with the final permanency plan for the minor established under
4913 Section 80-3-409, then measures shall be taken, in a timely manner, to:
- 4914 (i) place the minor in accordance with the final permanency plan; and
4915 (ii) complete whatever steps are necessary to finalize the permanent placement of the
4916 minor.
- 4917 (15) Any physical custody of the minor by the parent or a relative during the period
4918 described in Subsections (10) through (14) does not interrupt the running of the period.
- 4919 (16)(a) If reunification services are ordered, the juvenile court shall conduct a
4920 permanency hearing in accordance with Section 80-3-409 before the day on which
4921 the time period for reunification services expires.
- 4922 (b) The permanency hearing shall be held no later than 12 months after the original
4923 removal of the minor.

- 4924 (c) If reunification services are not ordered, a permanency hearing shall be conducted
4925 within 30 days in accordance with Section 80-3-409.
- 4926 (17) With regard to a minor in the custody of the division whose parent or parents are
4927 ordered to receive reunification services but who have abandoned that minor for a period
4928 of six months from the day on which reunification services are ordered:
- 4929 (a) the juvenile court shall terminate reunification services; and
4930 (b) the division shall petition the juvenile court for termination of parental rights.
- 4931 (18) When a minor is under the custody of the division and has been separated from a
4932 sibling due to foster care or adoptive placement, a juvenile court may order sibling
4933 visitation, subject to the division obtaining consent from the sibling's guardian,
4934 according to the juvenile court's determination of the best interests of the minor for
4935 whom the hearing is held.
- 4936 (19)(a) If reunification services are not ordered under this section, and the whereabouts
4937 of a parent becomes known within six months after the day on which the out-of-home
4938 placement of the minor is made, the juvenile court may order the division to provide
4939 reunification services.
- 4940 (b) The time limits described in this section are not tolled by the parent's absence.
- 4941 (20)(a) If a parent is incarcerated or institutionalized, the juvenile court shall order
4942 reasonable services unless the juvenile court determines that those services would be
4943 detrimental to the minor.
- 4944 (b) In making the determination described in Subsection (20)(a), the juvenile court shall
4945 consider:
- 4946 (i) the age of the minor;
4947 (ii) the degree of parent-child bonding;
4948 (iii) the length of the sentence;
4949 (iv) the nature of the treatment;
4950 (v) the nature of the crime or illness;
4951 (vi) the degree of detriment to the minor if services are not offered;
4952 (vii) for a minor who is 10 years old or older, the minor's attitude toward the
4953 implementation of family reunification services; and
4954 (viii) any other appropriate factors.
- 4955 (c) Reunification services for an incarcerated parent are subject to the time limitations
4956 imposed in this section.
- 4957 (d) Reunification services for an institutionalized parent are subject to the time

4958 limitations imposed in this section, unless the juvenile court determines that
4959 continued reunification services would be in the minor's best interest.

4960 Section 60. Section **80-5-201** is amended to read:

4961 **80-5-201 . Division responsibilities.**

- 4962 (1) The division is responsible for all minors committed to the division by juvenile courts
4963 under Sections 80-6-703 and 80-6-705.
- 4964 (2) The division shall:
- 4965 (a) establish and administer a continuum of community, secure, and nonsecure programs
4966 for all minors committed to the division;
 - 4967 (b) establish and maintain all detention and secure care facilities and set minimum
4968 standards for all detention and secure care facilities;
 - 4969 (c) establish and operate prevention and early intervention youth services programs for
4970 nonadjudicated minors placed with the division;
 - 4971 (d) establish observation and assessment programs necessary to serve minors in a
4972 nonresidential setting under Subsection 80-6-706(1);
 - 4973 (e) place minors committed to the division under Section 80-6-703 in the most
4974 appropriate program for supervision and treatment;
 - 4975 (f) employ staff necessary to:
 - 4976 (i) supervise and control minors committed to the division for secure care or
4977 placement in the community;
 - 4978 (ii) supervise and coordinate treatment of minors committed to the division for
4979 placement in community-based programs; and
 - 4980 (iii) control and supervise adjudicated and nonadjudicated minors placed with the
4981 division for temporary services in juvenile receiving centers, youth services, and
4982 other programs established by the division;
 - 4983 (g) control or detain a minor committed to the division, or in the temporary custody of
4984 the division, in a manner that is consistent with public safety and rules made by the
4985 division;
 - 4986 (h) establish and operate work programs for minors committed to the division by the
4987 juvenile court that:
 - 4988 (i) are not residential;
 - 4989 (ii) provide labor to help in the operation, repair, and maintenance of public facilities,
4990 parks, highways, and other programs designated by the division;
 - 4991 (iii) provide educational and prevocational programs in cooperation with the State

- 4992 Board of Education for minors placed in the program; and
- 4993 (iv) provide counseling to minors;
- 4994 (i) establish minimum standards for the operation of all private residential and
- 4995 nonresidential rehabilitation facilities that provide services to minors who have
- 4996 committed an offense in this state or in any other state;
- 4997 (j) provide regular training for secure care staff, detention staff, case management staff,
- 4998 and staff of the community-based programs;
- 4999 (k) designate employees to obtain the saliva DNA specimens required under Section
- 5000 53-10-403;
- 5001 (l) ensure that the designated employees receive appropriate training and that the
- 5002 specimens are obtained in accordance with accepted protocol;
- 5003 (m) register an individual with the Department of Public Safety who:
- 5004 (i) is adjudicated for an offense [~~listed in Subsection 77-41-102(1) or 77-41-102(19)]~~
- 5005 that would result in the individual being a child abuse offender under Subsection
- 5006 53-29-202(2)(a) or a sex offender under Subsection 53-29-202(2)(b);
- 5007 (ii) is committed to the division for secure care; and
- 5008 (iii)(A) if the individual is a youth offender, remains in the division's custody 30
- 5009 days before the individual's 21st birthday; or
- 5010 (B) if the individual is a serious youth offender, remains in the division's custody
- 5011 30 days before the individual's 25th birthday; and
- 5012 (n) ensure that a program delivered to a minor under this section is an evidence-based
- 5013 program in accordance with Section 63M-7-208.
- 5014 (3)(a) The division is authorized to employ special function officers, as defined in
- 5015 Section 53-13-105, to:
- 5016 (i) locate and apprehend minors who have absconded from division custody;
- 5017 (ii) transport minors taken into custody in accordance with division policy;
- 5018 (iii) investigate cases; and
- 5019 (iv) carry out other duties as assigned by the division.
- 5020 (b) A special function officer may be:
- 5021 (i) employed through a contract with the Department of Public Safety, or any law
- 5022 enforcement agency certified by the Peace Officer Standards and Training
- 5023 Division; or
- 5024 (ii) directly hired by the division.
- 5025 (4) In the event of an unauthorized leave from secure care, detention, a community-based

5026 program, a juvenile receiving center, a home, or any other designated placement of a
 5027 minor, a division employee has the authority and duty to locate and apprehend the
 5028 minor, or to initiate action with a local law enforcement agency for assistance.

5029 (5) The division may proceed with an initial medical screening or assessment of a child
 5030 admitted to a detention facility to ensure the safety of the child and others in the
 5031 detention facility if the division makes a good faith effort to obtain consent for the
 5032 screening or assessment from the child's parent or guardian.

5033 Section 61. Section **80-8-101** is amended to read:

5034 **80-8-101 . Definitions.**

5035 As used in this chapter:

5036 (1) "Child" means an individual under 18 years old.

5037 (2) "Registered sex offender check" means a search of:

5038 (a) the [~~state's Sex and Kidnap Offender Registry~~] registry described in [~~Title 77, Chapter~~
 5039 ~~41, Sex and Kidnap Offender Registry~~] Title 53, Chapter 29, Sex, Kidnap, and Child
 5040 Abuse Offender Registry; and

5041 (b) the National Sex Offender Public Website administered by the United States
 5042 Department of Justice.

5043 (3) "Sexual abuse" means the same as that term is defined in Section 78B-2-308.

5044 (4)(a) "Youth services organization" means a sports league, athletic association, church
 5045 or religious organization, scouting organization, or similar formally organized
 5046 association, league, or organization, that provides recreational, educational, cultural,
 5047 or social programs or activities to 25 or more children.

5048 (b) "Youth services organization" does not include any person that is required to conduct
 5049 a background check on employees or volunteers under any other provision of state or
 5050 federal law.

5051 (5) "Youth worker" means an individual:

5052 (a) who is 18 years old or older;

5053 (b) who is employed by or volunteers with a youth services organization; and

5054 (c) whose responsibilities as an employee or volunteer with the youth services
 5055 organization give the individual regular and repeated care, supervision, guidance, or
 5056 control of a child or children.

5057 Section 62. Section **80-8-201** is amended to read:

5058 **80-8-201 . Youth protection requirements.**

5059 (1) A youth service organization may not employ a youth worker or allow an individual to

- 5060 volunteer as a youth worker unless the youth service organization has completed a
5061 registered sex offender check for the individual.
- 5062 (2) A youth services organization shall require a potential youth worker to provide the
5063 individual's full name and a current, government-issued identification to facilitate the
5064 registered sex offender check required by Subsection (1).
- 5065 (3) If an individual is registered on the [~~state's Sex and Kidnap Offender Registry~~] registry
5066 described in Title 53, Chapter 29, Sex, Kidnap, and Child Abuse Offender Registry, or
5067 the National Sex Offender Public Website, a youth service organization may not employ
5068 the individual as a youth worker or allow the individual to volunteer as a youth worker.
- 5069 Section 63. Section **81-9-202** is amended to read:
- 5070 **81-9-202 . Advisory guidelines for a custody and parent-time arrangement.**
- 5071 (1) In addition to the parent-time schedules provided in Sections 81-9-302 and 81-9-304,
5072 the following advisory guidelines are suggested to govern a custody and parent-time
5073 arrangement between parents.
- 5074 (2) A parent-time schedule mutually agreed upon by both parents is preferable to a
5075 court-imposed solution.
- 5076 (3) A parent-time schedule shall be used to maximize the continuity and stability of the
5077 minor child's life.
- 5078 (4) Each parent shall give special consideration to make the minor child available to attend
5079 family functions including funerals, weddings, family reunions, religious holidays,
5080 important ceremonies, and other significant events in the life of the minor child or in the
5081 life of either parent which may inadvertently conflict with the parent-time schedule.
- 5082 (5)(a) The court shall determine the responsibility for the pick up, delivery, and return of
5083 the minor child when the parent-time order is entered.
- 5084 (b) The court may change the responsibility described in Subsection (5)(a) at any time a
5085 subsequent modification is made to the parent-time order.
- 5086 (c) If the noncustodial parent will be providing transportation, the custodial parent shall:
5087 (i) have the minor child ready for parent-time at the time the minor child is to be
5088 picked up ; and
5089 (ii) be present at the custodial home or make reasonable alternate arrangements to
5090 receive the minor child at the time the minor child is returned.
- 5091 (d) If the custodial parent will be transporting the minor child, the noncustodial parent
5092 shall:
5093 (i) be at the appointed place at the time the noncustodial parent is to receive the

- 5094 minor child; and
- 5095 (ii) have the minor child ready to be picked up at the appointed time and place or
- 5096 have made reasonable alternate arrangements for the custodial parent to pick up
- 5097 the minor child.
- 5098 (6) A parent may not interrupt regular school hours for a school-age minor child for the
- 5099 exercise of parent-time.
- 5100 (7) The court may:
- 5101 (a) make alterations in the parent-time schedule to reasonably accommodate the work
- 5102 schedule of both parents; and
- 5103 (b) increase the parent-time allowed to the noncustodial parent but may not diminish the
- 5104 standardized parent-time provided in Sections 81-9-302 and 81-9-304.
- 5105 (8) The court may make alterations in the parent-time schedule to reasonably accommodate
- 5106 the distance between the parties and the expense of exercising parent-time.
- 5107 (9) A parent may not withhold parent-time or child support due to the other parent's failure
- 5108 to comply with a court-ordered parent-time schedule.
- 5109 (10)(a) The custodial parent shall notify the noncustodial parent within 24 hours of
- 5110 receiving notice of all significant school, social, sports, and community functions in
- 5111 which the minor child is participating or being honored.
- 5112 (b) The noncustodial parent is entitled to attend and participate fully in the functions
- 5113 described in Subsection (10)(a).
- 5114 (c) The noncustodial parent shall have access directly to all school reports including
- 5115 preschool and daycare reports and medical records.
- 5116 (d) A parent shall immediately notify the other parent in the event of a medical
- 5117 emergency.
- 5118 (11) Each parent shall provide the other with the parent's current address and telephone
- 5119 number, email address, and other virtual parent-time access information within 24 hours
- 5120 of any change.
- 5121 (12)(a) Each parent shall permit and encourage, during reasonable hours, reasonable and
- 5122 uncensored communications with the minor child, in the form of mail privileges and
- 5123 virtual parent-time if the equipment is reasonably available.
- 5124 (b) If the parents cannot agree on whether the equipment is reasonably available, the
- 5125 court shall decide whether the equipment for virtual parent-time is reasonably [
- 5126 ~~available~~by] available by taking into consideration:
- 5127 (i) the best interests of the minor child;

- 5128 (ii) each parent's ability to handle any additional expenses for virtual parent-time; and
5129 (iii) any other factors the court considers material.
- 5130 (13)(a) Parental care is presumed to be better care for the minor child than surrogate care.
5131 (b) The court shall encourage the parties to cooperate in allowing the noncustodial
5132 parent, if willing and able to transport the minor child, to provide the child care.
5133 (c) Child care arrangements existing during the marriage are preferred as are child care
5134 arrangements with nominal or no charge.
- 5135 (14) Each parent shall:
5136 (a) provide all surrogate care providers with the name, current address, and telephone
5137 number of the other parent; and
5138 (b) provide the noncustodial parent with the name, current address, and telephone
5139 number of all surrogate care providers unless the court for good cause orders
5140 otherwise.
- 5141 (15)(a) Each parent is entitled to an equal division of major religious holidays celebrated
5142 by the parents.
5143 (b) The parent who celebrates a religious holiday that the other parent does not celebrate
5144 shall have the right to be together with the minor child on the religious holiday.
- 5145 (16) If the minor child is on a different parent-time schedule than a sibling, based on
5146 Sections 81-9-302 and 81-9-304, the parents should consider if an upward deviation for
5147 parent-time with all the minor children so that parent-time is uniform between school
5148 aged and nonschool aged children, is appropriate.
- 5149 (17)(a) When one or both parents are servicemembers or contemplating joining a
5150 uniformed service, the parents should resolve issues of custodial responsibility in the
5151 event of deployment as soon as practicable through reaching a voluntary agreement
5152 pursuant to Section 78B-20-201 or through court order obtained pursuant to this part.
5153 (b) Service members shall ensure their family care plan reflects orders and agreements
5154 entered and filed pursuant to Title 78B, Chapter 20, Uniform Deployed Parents
5155 Custody, Parent-time, and Visitation Act.
- 5156 (18) A parent shall immediately notify the other parent if:
5157 (a) the parent resides with an individual or provides an individual with access to the
5158 minor child; and
5159 (b) the parent knows that the individual:
5160 (i) is required to register as a sex offender~~[or]~~, a kidnap offender, or a child abuse
5161 offender for an offense committed against a minor child under [~~Title 77, Chapter~~

- 5162 ~~41, Sex and Kidnap Offender Registry]~~ Title 53, Chapter 29, Sex, Kidnap, and
 5163 Child Abuse Offender Registry; or
 5164 ~~[(ii) is required to register as a child abuse offender under Title 77, Chapter 43, Child~~
 5165 ~~Abuse Offender Registry; or]~~
 5166 [(iii)] (ii) has been convicted of:
 5167 (A) a child abuse offense under Section 76-5-109, 76-5-109.2, 76-5-109.3,
 5168 76-5-114, or 76-5-208;
 5169 (B) a sexual offense against a minor child under Title 76, Chapter 5, Part 4, Sexual
 5170 Offenses;
 5171 (C) an offense for kidnapping or human trafficking of a minor child under Title
 5172 76, Chapter 5, Part 3, Kidnapping, Trafficking, and Smuggling;
 5173 (D) a sexual exploitation offense against a minor child under Title 76, Chapter 5b,
 5174 Sexual Exploitation Act; or
 5175 (E) an offense that is substantially similar to an offense under Subsections [
 5176 ~~(18)(b)(iii)(A)]~~ (18)(b)(ii)(A) through (D).
 5177 (19)(a) For emergency purposes, whenever the minor child travels with a parent, the
 5178 parent shall provide the following information to the other parent:
 5179 (i) an itinerary of travel dates;
 5180 (ii) destinations;
 5181 (iii) places where the minor child or traveling parent can be reached; and
 5182 (iv) the name and telephone number of an available third person who would be
 5183 knowledgeable of the minor child's location.
 5184 (b) Unchaperoned travel of a minor child under the age of five years is not
 5185 recommended.
 5186 Section 64. Section **81-9-208** is amended to read:
 5187 **81-9-208 . Modification or termination of a custody or parent-time order --**
 5188 **Noncompliance with a parent-time order.**
 5189 (1) The court has continuing jurisdiction to make subsequent changes to modify:
 5190 (a) custody of a minor child if there is a showing of a substantial and material change in
 5191 circumstances since the entry of the order; and
 5192 (b) parent-time for a minor child if there is a showing that there is a change in
 5193 circumstances since the entry of the order.
 5194 (2) A substantial and material change in circumstances under Subsection (1)(a) includes a
 5195 showing by a parent that the other parent:

- 5196 (a) resides with an individual or provides an individual with access to the minor child;
5197 and
- 5198 (b) knows that the individual:
- 5199 (i) is required to register as a sex offender~~[or]~~, a kidnap offender, or a child abuse
5200 offender for an offense committed against a minor child under [~~Title 77, Chapter~~
5201 ~~41, Sex and Kidnap Offender Registry~~] Title 53, Chapter 29, Sex, Kidnap, and
5202 Child Abuse Offender Registry; or
- 5203 [~~ii~~] ~~is required to register as a child abuse offender under Title 77, Chapter 43, Child~~
5204 ~~Abuse Offender Registry; or]~~
- 5205 [~~iii~~] (ii) has been convicted of:
- 5206 (A) a child abuse offense under Section 76-5-109, 76-5-109.2, 76-5-109.3,
5207 76-5-114, or 76-5-208;
- 5208 (B) a sexual offense against a minor child under Title 76, Chapter 5, Part 4, Sexual
5209 Offenses;
- 5210 (C) an offense for kidnapping or human trafficking of a minor child under Title
5211 76, Chapter 5, Part 3, Kidnapping, Trafficking, and Smuggling;
- 5212 (D) a sexual exploitation offense against a minor child under Title 76, Chapter 5b,
5213 Sexual Exploitation Act; or
- 5214 (E) an offense that is substantially similar to an offense under Subsections [
5215 ~~(2)(b)(iii)(A)~~] (2)(b)(ii)(A) through (D).
- 5216 (3) On the petition of one or both of the parents, or the joint legal or physical custodians if
5217 they are not the parents, the court may, after a hearing, modify or terminate an order that
5218 established joint legal custody or joint physical custody if:
- 5219 (a) the verified petition or accompanying affidavit initially alleges that admissible
5220 evidence will show that there has been a substantial and material change in the
5221 circumstances of the minor child or one or both parents or joint legal or physical
5222 custodians since the entry of the order to be modified;
- 5223 (b) a modification of the terms and conditions of the order would be an improvement for
5224 and in the best interest of the minor child; and
- 5225 (c)(i) both parents have complied in good faith with the dispute resolution procedure
5226 in accordance with Subsection 81-9-205(8); or
- 5227 (ii) if no dispute resolution procedure is contained in the order that established joint
5228 legal custody or joint physical custody, the court orders the parents to participate
5229 in a dispute resolution procedure in accordance with Subsection 81-9-205(13)

- 5230 unless the parents certify that, in good faith, they have used a dispute resolution
5231 procedure to resolve their dispute.
- 5232 (4)(a) In determining whether the best interest of a minor child will be served by either
5233 modifying or terminating the joint legal custody or joint physical custody order, the
5234 court shall, in addition to other factors the court considers relevant, consider the
5235 factors described in Sections 81-9-204 and 81-9-205.
- 5236 (b) A court order modifying or terminating an existing joint legal custody or joint
5237 physical custody order shall contain written findings that:
- 5238 (i) a substantial and material change of circumstance has occurred; and
5239 (ii) a modification of the terms and conditions of the order would be an improvement
5240 for and in the best interest of the minor child.
- 5241 (c) The court shall give substantial weight to the existing joint legal custody or joint
5242 physical custody order when the minor child is thriving, happy, and well-adjusted.
- 5243 (5) The court shall, in every case regarding a petition for termination of a joint legal
5244 custody or joint physical custody order, consider reasonable alternatives to preserve the
5245 existing order in accordance with Section 81-9-204.
- 5246 (6) The court may modify the terms and conditions of the existing order in accordance with
5247 this chapter and may order the parents to file a parenting plan in accordance with
5248 Section 81-9-203.
- 5249 (7) A parent requesting a modification from sole custody to joint legal custody or joint
5250 physical custody or both, or any other type of shared parenting arrangement, shall file
5251 and serve a proposed parenting plan with the petition to modify in accordance with
5252 Section 81-9-203.
- 5253 (8) If an issue before the court involves custodial responsibility in the event of deployment
5254 of one or both parents who are service members, and the service member has not yet
5255 been notified of deployment, the court shall resolve the issue based on the standards in
5256 Sections 78B-20-306 through 78B-20-309.
- 5257 (9) If the court finds that an action to modify custody or parent-time is filed or answered
5258 frivolously and, in a manner, designed to harass the other party, the court shall assess
5259 attorney fees as costs against the offending party.
- 5260 (10) If a petition to modify custody or parent-time provisions of a court order is made and
5261 denied, the court shall order the petitioner to pay the reasonable attorney fees expended
5262 by the prevailing party in that action if the court determines that the petition was without
5263 merit and not asserted or defended against in good faith.

5264 (11) If a motion or petition alleges noncompliance with a parent-time order by a parent, or a
5265 visitation order by a grandparent or other member of the immediate family where a
5266 visitation or parent-time right has been previously granted by the court, the court:

5267 (a) may award to the prevailing party:

5268 (i) actual attorney fees incurred;

5269 (ii) the costs incurred by the prevailing party because of the other party's failure to
5270 provide or exercise court-ordered visitation or parent-time, including:

5271 (A) court costs;

5272 (B) child care expenses;

5273 (C) transportation expenses actually incurred;

5274 (D) lost wages, if ascertainable; or

5275 (E) counseling for a parent or a minor child if ordered or approved by the court; or

5276 (iii) any other appropriate equitable remedy; and

5277 (b) shall award reasonable make-up parent-time to the prevailing party, unless make-up
5278 parent-time is not in the best interest of the minor child.

5279 **Section 65. Repealer.**

5280 This bill repeals:

5281 Section **77-41-102, Definitions.**

5282 Section **77-41-103, Department duties.**

5283 Section **77-41-104, Registration of offenders -- Department and agency requirements.**

5284 Section **77-41-106, Offenses requiring lifetime registration.**

5285 Section **77-41-107, Penalties.**

5286 Section **77-41-108, Classification of information.**

5287 Section **77-41-109, Miscellaneous provisions.**

5288 Section **77-41-110, Sex offender, kidnap offender, and child abuse offender registry --**

5289 **Department to maintain.**

5290 Section **77-41-111, Fees.**

5291 Section **77-41-112, Removal from registry -- Requirements -- Procedure.**

5292 Section **77-41-113, Removal for offenses or convictions for which registration is no**
5293 **longer required.**

5294 Section **77-41-114, Registration for individuals under 18 years old at the time of the**
5295 **offense.**

5296 Section **77-41-105, Registration of offenders -- Offender responsibilities.**

5297 Section **66. Effective Date.**

5298 This bill takes effect on May 7, 2025.

5299 **Section 67. Coordinating S.B. 41 with H.B. 21.**

5300 If S.B. 41, Sex, Kidnap, and Child Abuse Offender Registry Amendments, and H.B.
5301 21, Criminal Code Recodification and Cross References, both pass and become law, the
5302 Legislature intends that, on May 7, 2025:

5303 (1) Subsection 76-5-419(5)(a), which section is renumbered from Section 76-9-702,
5304 in H.B. 21 be amended to read:

5305 "(5)(a) As described in Subsection 53-29-202(4), for purposes of Subsection (3), a
5306 plea of guilty or nolo contendere to a charge under this section that is held in abeyance under
5307 Title 77, Chapter 2a, Pleas in Abeyance, is the equivalent of a conviction."; and

5308 (2) Subsection 53-29-204(2)(f), enacted in S.B. 41, be amended to read:

5309 "(f) a class A misdemeanor violation of:

5310 (i) voyeurism under Section 76-12-306;

5311 (ii) recorded or photographed voyeurism under Section 76-12-307; or

5312 (iii) distribution of images obtained through voyeurism under Section
5313 76-12-308;".

5314 **Section 68. Coordinating S.B. 41 with H.B. 21 if S.B. 24 does not pass and become law.**

5315 If S.B. 41, Sex, Kidnap, and Child Abuse Offender Registry Amendments, and H.B.
5316 21, Criminal Code Recodification and Cross References, both pass and become law, and S.B.
5317 24, Child Abuse and Torture Amendments, does not pass, the Legislature intends that, on May
5318 7, 2025:

5319 (1) Subsection 53-29-202(1)(a)(xxx), enacted in S.B. 41, be amended to read:

5320 "(xxx) a felony or class A misdemeanor violation of:

5321 (A) voyeurism under Section 76-12-306;

5322 (B) recorded or photographed voyeurism under Section 76-12-307; or

5323 (C) distribution of images obtained through voyeurism under Section 76-12-308;";

5324 (2) Subsection 53-29-203(1)(a)(xxii), enacted in S.B. 41, be amended to read:

5325 "(xxii) a felony or class A misdemeanor violation of:

5326 (A) voyeurism under Section 76-12-306;

5327 (B) recorded or photographed voyeurism under Section 76-12-307; or

5328 (C) distribution of images obtained through voyeurism under Section 76-12-308;";

5329 and

5330 (3) Subsection 53-29-205(3)(u), enacted in S.B. 41, be amended to read:

5331 "(u) a felony violation of:

- 5332 (i) recorded or photographed voyeurism under Section 76-12-307; or
- 5333 (ii) distribution of images obtained through voyeurism under Section 76-12-308;".