

Todd Weiler proposes the following substitute bill:

Sex, Kidnap, and Child Abuse Offender Adjustments

2025 GENERAL SESSION

STATE OF UTAH

Chief Sponsor: Todd Weiler

House Sponsor:

LONG TITLE

General Description:

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

Highlighted Provisions:

This bill:

▸ reduces the amount of time that must elapse before an offender who is on the Sex, Kidnap, and Child Abuse Offender Registry for an offense requiring lifetime registration

is:

- able to first petition for early removal from the registry; and
- able to file an additional petition for early removal if the offender's previous petition is

denied; and

▸ makes technical and conforming changes.

Money Appropriated in this Bill:

None

Other Special Clauses:

None

Utah Code Sections Affected:

AMENDS:

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

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

Section 1. Section **77-41-112** is amended to read:

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

(1) An offender who is required to register with the Sex, Kidnap, and Child Abuse Offender Registry may petition the court for an order removing the offender from the Sex, Kidnap, and Child Abuse Offender Registry if:

(a)(i) the offender was convicted of an offense described in Subsection (2);

- 30 (ii) at least five years have passed after the day on which the offender's sentence for
31 the offense terminated;
- 32 (iii) the offense is the only offense for which the offender was required to register;
- 33 (iv) the offender has not been convicted of another offense, excluding a traffic
34 offense, since the day on which the offender was convicted of the offense for
35 which the offender is required to register, as evidenced by a certificate of
36 eligibility issued by the bureau;
- 37 (v) the offender successfully completed all treatment ordered by the court or the
38 Board of Pardons and Parole relating to the offense; and
- 39 (vi) the offender has paid all restitution ordered by the court or the Board of Pardons
40 and Parole relating to the offense;
- 41 (b)(i) the offender is required to register in accordance with Subsection 77-41-105
42 (3)(a);
- 43 (ii) at least 10 years have passed after the later of:
- 44 (A) the day on which the offender was placed on probation;
- 45 (B) the day on which the offender was released from incarceration to parole;
- 46 (C) the day on which the offender's sentence was terminated without parole;
- 47 (D) the day on which the offender entered a community-based residential
48 program; or
- 49 (E) for a minor, as defined in Section 80-1-102, the day on which the division's
50 custody of the offender was terminated;
- 51 (iii) the offender has not been convicted of another offense that is a class A
52 misdemeanor, felony, or capital felony within the most recent 10-year period after
53 the date described in Subsection (1)(b)(ii), as evidenced by a certificate of
54 eligibility issued by the bureau;
- 55 (iv) the offender successfully completed all treatment ordered by the court or the
56 Board of Pardons and Parole relating to the offense; and
- 57 (v) the offender has paid all restitution ordered by the court or the Board of Pardons
58 and Parole relating to the offense; or
- 59 (c)(i) the offender is required to register in accordance with Subsection 77-41-105
60 (3)(c);
- 61 (ii) at least [20] 12 years have passed after the later of:
- 62 (A) the day on which the offender was placed on probation;
- 63 (B) the day on which the offender was released from incarceration to parole;

- 64 (C) the day on which the offender's sentence was terminated without parole;
- 65 (D) the day on which the offender entered a community-based residential
- 66 program; or
- 67 (E) for a minor, as defined in Section 80-1-102, the day on which the division's
- 68 custody of the offender was terminated;
- 69 (iii) the offender has not been convicted of another offense that is a class A
- 70 misdemeanor, felony, or capital felony within the most recent 20-year period after
- 71 the date described in Subsection (1)(c)(ii), as evidenced by a certificate of
- 72 eligibility issued by the bureau;
- 73 (iv) the offender completed all treatment ordered by the court or the Board of
- 74 Pardons and Parole relating to the offense;
- 75 (v) the offender has paid all restitution ordered by the court or the Board of Pardons
- 76 and Parole relating to the offense; and
- 77 (vi) the offender submits to an evidence-based risk assessment to the court, with the
- 78 offender's petition, that:
- 79 (A) meets the standards for the current risk assessment, score, and risk level
- 80 required by the Board of Pardons and Parole for parole termination requests;
- 81 (B) is completed within the six months before the date on which the petition is
- 82 filed; and
- 83 (C) describes the evidence-based risk assessment of the current level of risk to the
- 84 safety of the public posed by the offender.
- 85 (2) The offenses referred to in Subsection (1)(a)(i) are:
- 86 (a) enticing a minor under Section 76-4-401, if the offense is a class A misdemeanor;
- 87 (b) kidnapping under Section 76-5-301;
- 88 (c) unlawful detention under Section 76-5-304, if the conviction of violating Section
- 89 76-5-304 is the only conviction for which the offender is required to register;
- 90 (d) unlawful sexual activity with a minor under Section 76-5-401, if, at the time of the
- 91 offense, the offender is not more than 10 years older than the victim;
- 92 (e) sexual abuse of a minor under Section 76-5-401.1, if, at the time of the offense, the
- 93 offender is not more than 10 years older than the victim;
- 94 (f) unlawful sexual conduct with a 16 or 17 year old under Section 76-5-401.2, and at
- 95 the time of the offense, the offender is not more than 15 years older than the victim;
- 96 (g) voyeurism under Section 76-9-702.7, if the offense is a class A misdemeanor; or
- 97 (h) an offense for which an individual is required to register under Subsection 77-41-102

98 (1)(c), (11)(c), or (19)(c), if the offense is not substantially equivalent to an offense
99 described in Subsection 77-41-102(1)(a), (11)(a), or (19)(a).

100 (3)(a)(i) An offender seeking removal from the Sex, Kidnap, and Child Abuse

101 Offender Registry under this section shall apply for a certificate of eligibility from
102 the bureau.

103 (ii) An offender who intentionally or knowingly provides false or misleading
104 information to the bureau when applying for a certificate of eligibility is guilty of
105 a class B misdemeanor and subject to prosecution under Section 76-8-504.6.

106 (iii) Regardless of whether the offender is prosecuted, the bureau may deny a
107 certificate of eligibility to an offender who provides false information on an
108 application.

109 (b)(i) The bureau shall:

110 (A) perform a check of records of governmental agencies, including national
111 criminal databases, to determine whether an offender is eligible to receive a
112 certificate of eligibility; and

113 (B) determine whether the offender meets the requirements described in
114 Subsection (1)(a)(ii), (a)(v), (a)(vi), (b)(ii), (b)(iv), (b)(v), (c)(ii), (c)(iv), or
115 (c)(v).

116 (ii) If the offender meets the requirements described in Subsection (1)(a), (b), or (c),
117 the bureau shall issue a certificate of eligibility to the offender, which is valid for a
118 period of 90 days after the day on which the bureau issues the certificate.

119 (4)(a)(i) The bureau shall charge application and issuance fees for a certificate of
120 eligibility in accordance with the process in Section 63J-1-504.

121 (ii) The application fee shall be paid at the time the offender submits an application
122 for a certificate of eligibility to the bureau.

123 (iii) If the bureau determines that the issuance of a certificate of eligibility is
124 appropriate, the offender will be charged an additional fee for the issuance of a
125 certificate of eligibility.

126 (b) Funds generated under this Subsection (4) shall be deposited into the General Fund
127 as a dedicated credit by the department to cover the costs incurred in determining
128 eligibility.

129 (5)(a) The offender shall file the petition, including original information, the court
130 docket, the certificate of eligibility from the bureau, and the document from the
131 department described in Subsection (3)(b)(iv) with the court, and deliver a copy of

- 132 the petition to the office of the prosecutor.
- 133 (b) Upon receipt of a petition for removal from the Sex, Kidnap, and Child Abuse
134 Offender Registry, the office of the prosecutor shall provide notice of the petition by
135 first-class mail to the victim at the most recent address of record on file or, if the
136 victim is still a minor under 18 years old, to the parent or guardian of the victim.
- 137 (c) The notice described in Subsection (5)(b) shall include a copy of the petition, state
138 that the victim has a right to object to the removal of the offender from the registry,
139 and provide instructions for registering an objection with the court.
- 140 (d) The office of the prosecutor shall provide the following, if available, to the court
141 within 30 days after the day on which the office receives the petition:
142 (i) presentencing report;
143 (ii) an evaluation done as part of sentencing; and
144 (iii) other information the office of the prosecutor determines the court should
145 consider.
- 146 (e) The victim, or the victim's parent or guardian if the victim is a minor under 18 years
147 old, may respond to the petition by filing a recommendation or objection with the
148 court within 45 days after the day on which the petition is mailed to the victim.
- 149 (6)(a) The court shall:
150 (i) review the petition and all documents submitted with the petition; and
151 (ii) hold a hearing if requested by the prosecutor or the victim.
- 152 (b)(i) Except as provided in Subsections (6)(b)(ii) and (iii), the court may grant the
153 petition and order removal of the offender from the registry if the court determines
154 that the offender has met the requirements described in Subsection (1)(a) or (b)
155 and removal is not contrary to the interests of the public.
- 156 (ii) When considering a petition filed under Subsection (1)(c), the court shall
157 determine whether the offender has demonstrated, by clear and convincing
158 evidence, that the offender is rehabilitated and does not pose a threat to the safety
159 of the public.
- 160 (iii) In making the determination described in Subsection (6)(b)(ii), the court may
161 consider:
162 (A) the nature and degree of violence involved in the offense that requires
163 registration;
164 (B) the age and number of victims of the offense that requires registration;
165 (C) the age of the offender at the time of the offense that requires registration;

- 166 (D) the offender's performance while on supervision for the offense that requires
167 registration;
- 168 (E) the offender's stability in employment and housing;
- 169 (F) the offender's community and personal support system;
- 170 (G) other criminal and relevant noncriminal behavior of the offender both before
171 and after the offense that requires registration;
- 172 (H) the level of risk posed by the offender as evidenced by the evidence-based risk
173 assessment described in Subsection (1)(c)(vi); and
- 174 (I) any other relevant factors.
- 175 (c) In determining whether removal is contrary to the interests of the public, the court
176 may not consider removal unless the offender has substantially complied with all
177 registration requirements under this chapter at all times.
- 178 (d) If the court grants the petition, the court shall forward a copy of the order directing
179 removal of the offender from the registry to the department and the office of the
180 prosecutor.
- 181 (e)(i) Except as provided in Subsection (6)(e)(ii), if the court denies the petition, the
182 offender may not submit another petition for three years.
- 183 (ii) If the offender files a petition under Subsection (1)(c) and the court denies the
184 petition, the offender may not submit another petition for ~~eight~~ five years.
- 185 (7) The court shall notify the victim and the Sex, Kidnap, and Child Abuse Offender
186 Registry office in the department of the court's decision within three days after the day
187 on which the court issues the court's decision in the same manner described in
188 Subsection (5).
- 189 (8) Except as provided in Subsection (9), an offender required to register under Subsection
190 77-41-105(3)(b) may petition for early removal from the registry under Subsection
191 (1)(b) if the offender:
- 192 (a) meets the requirements of Subsections (1)(b)(ii) through (v);
- 193 (b) has resided in this state for at least 183 days in a year for two consecutive years; and
- 194 (c) intends to primarily reside in this state.
- 195 (9) An offender required to register under Subsection 77-41-105(3)(b) for life may petition
196 for early removal from the registry under Subsection (1)(c) if:
- 197 (a) the offense requiring the offender to register is substantially equivalent to an offense
198 listed in Section 77-41-106;
- 199 (b) the offender meets the requirements of Subsections (1)(c)(ii) through (vi);

200 (c) the offender has resided in this state for at least 183 days in a year for two
201 consecutive years; and

202 (d) the offender intends to primarily reside in this state.

203 Section 2. **Effective Date.**

204 This bill takes effect on May 7, 2025.