

Utah Department of Corrections

Presentation to Judiciary
Interim Committee

Sex & Kidnap Offender Registry

August 2019



Overview

- Who is required to register in Utah
- Lifetime offenses
- When and how an offender is placed on the registry
- Statistics
- Early removal requirements



Who Has to Register?

There are **SIX** groups of Sex and Kidnap offenders required to register in the State of Utah

per Utah Code 77-41-102 (9) and (17)

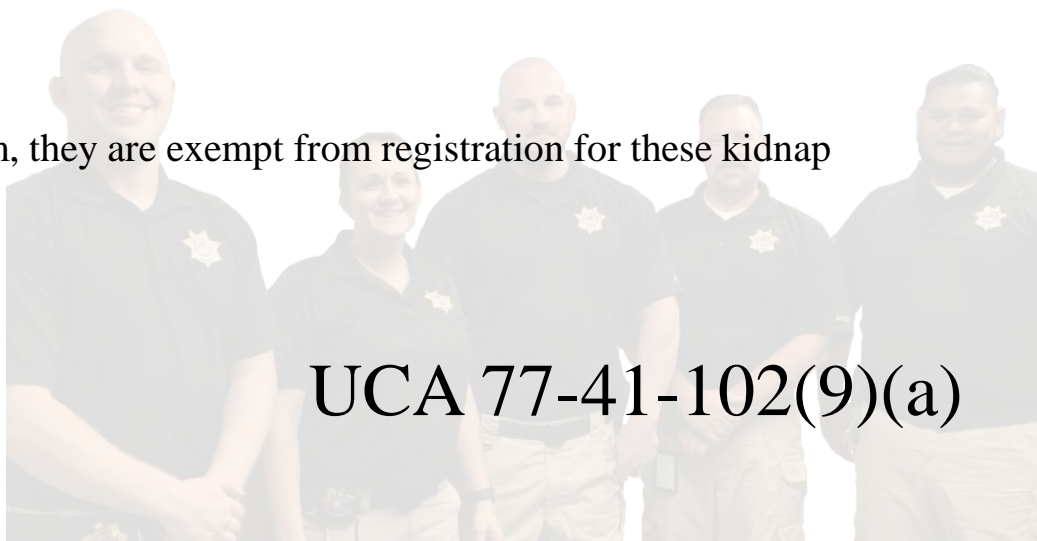


GROUP 1 — Utah Convictions

Any offender convicted in a Utah court of one of these registerable kidnap offenses:

- Kidnapping — 76-5-301(1)(c) or (d)
- Child kidnapping
- Aggravated kidnapping
- Aggravated human trafficking (on or after May 10, 2011)

**If the offender is the natural parent (biological, adoptive or non-custodial) of the victim, they are exempt from registration for these kidnap offenses



UCA 77-41-102(9)(a)

GROUP 1 — Utah Convictions (*continued*)

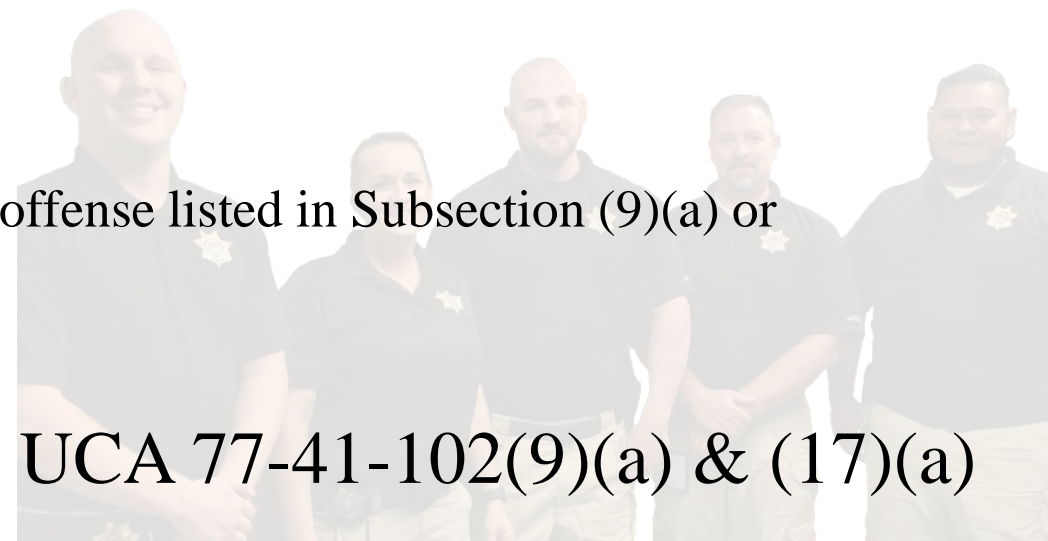
Any offender convicted in a Utah court of a registerable sex offense:

- (i) enticing a minor
- (ii) sexual exploitation of a vulnerable adult (on or after May 10, 2011)
- (iii) unlawful sexual activity with a minor
- (iv) sexual abuse of a minor
- (v) unlawful sexual conduct with a 16 or 17 year old
- (vi) rape
- (vii) rape of a child
- (viii) object rape
- (ix) object rape of a child
- (x) forcible sodomy
- (xi) sodomy on a child
- (xii) forcible sexual abuse
- (xiii) sexual abuse of a child or aggravated sexual abuse of a child
- (xiv) aggravated sexual assault

UCA 77-41-102(17)(a)

GROUP 1 — Utah Convictions (*continued*)

- (xv) custodial sexual relations, when the individual in custody is younger than 18 years of age, if the offense is committed on or after May 10, 2011
- (xvi) sexual exploitation of a minor
- (xvii) sexual extortion or aggravated sexual extortion
- (xviii) incest
- (xix) lewdness, if the individual has been convicted of the offense four or more times
- (xx) sexual battery, if the individual has been convicted of the offense four or more times
- (xxii) lewdness involving a child
- (xxiii) voyeurism
- (xxiv) aggravated exploitation of prostitution
- attempting, soliciting, or conspiring to commit any felony offense listed in Subsection (9)(a) or (17)(a)



UCA 77-41-102(9)(a) & (17)(a)

GROUP 2 — Substantially Equivalent Convictions

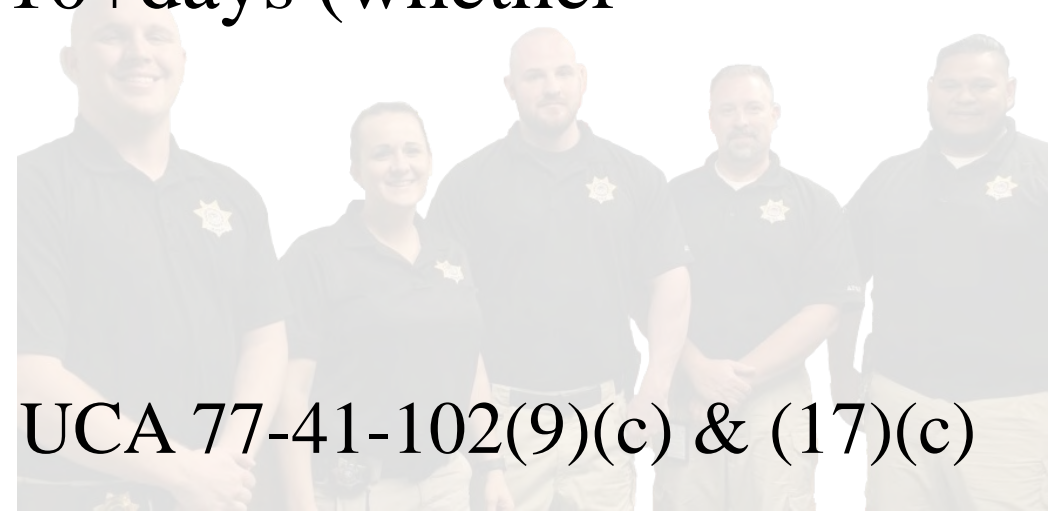
Any offender convicted in another jurisdiction of an offense that is substantially equivalent to a Utah registerable offense (*determined by the Attorney General's Office*), **and** who is: a Utah resident or a non-resident who is in this state for 10+ days



UCA 77-41-102(9)(b) & (17)(b)

GROUP 3 — Out of State Convictions & Registration Requirements

Any offender who is required to register in any other jurisdiction of original conviction, or who is required to register by any state, federal or military court, or who would be required to register if residing in the jurisdiction of original conviction; and who is in this state for 10+days (whether permanent resident or not)



UCA 77-41-102(9)(c) & (17)(c)

GROUP 4 — Non-resident Employees or Students in Utah

Any offender who is a nonresident regularly employed or working in this state or who is a student in this state and was convicted of a Utah registerable offense, an out of state substantially equivalent conviction, or an out of state registerable conviction



UCA 77-41-102(9)(d) & (17)(d)

GROUP 5 — Not Guilty by Reason of Insanity Convictions

Any offender found not guilty by reason of insanity in Utah
or any other jurisdiction of one or more registerable offenses



UCA 77-41-102(9)(e) & (17)(e)

GROUP 6 — Utah Juvenile Adjudications

Any offender adjudicated delinquent based on a registerable offense and who has been committed to the Division for secure confinement for that offense **and** remains in the Division's custody 30 days before the offender's 21st birthday

(Registration requirement is confirmed by the Attorney General's Office)



UCA 77-41-102(9)(f) & (17)(f)

GROUP 6 — *(continued)* Out of State Juvenile Adjudications

Any offender with an out of state juvenile adjudication is required to register in the State of Utah if they are/were ordered by their adjudicating court to register.

However, if the state the offender was adjudicated in does not publish them to a public Registry website, the offender will not be listed on Utah's Registry website either (still required to register).

(Registration requirement is confirmed by the Attorney General's Office)

UCA 77-41-102(9)(c) & (17)(c) & 77-41-105(5)

Lifetime Registration Offenses

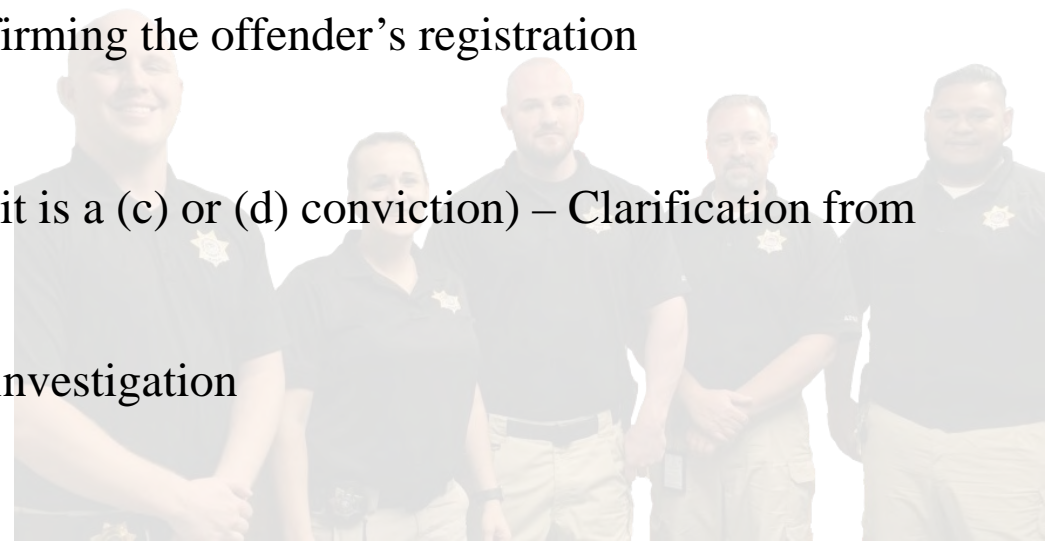
- (1) any offense listed in Subsection 77-41-102(9) or (17) if, at the time of the conviction, the offender has previously been convicted of an offense listed in Subsection 77-41-102(9) or (17) or has previously been required to register as a sex offender for an offense committed as a juvenile;
- (2) a conviction for any of the following offenses, including attempting, soliciting, or conspiring to commit any felony of:
 - (a) child kidnapping, except if the offender is a natural parent of the victim;
 - (b) rape;
 - (c) rape of a child;
 - (d) object rape;
 - (e) object rape of a child;
 - (f) sodomy on a child;
 - (g) aggravated sexual abuse of a child; or
 - (h) aggravated sexual assault;
- (3) a felony violation of enticing a minor over the Internet;
- (4) aggravated kidnapping, except if the offender is a natural parent of the victim;
- (5) forcible sodomy;
- (6) sexual abuse of a child;
- (7) sexual exploitation of a minor;
- (8) aggravated sexual extortion; or
- (9) aggravated exploitation of prostitution, on or after May 10, 2011.



UCA 77-41-106

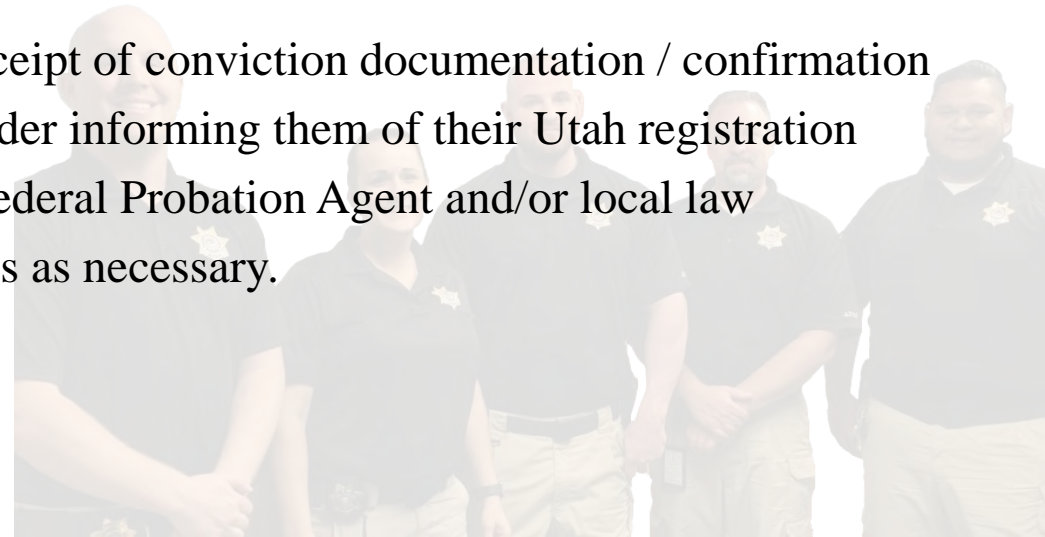
Documentation Required to Put an Offender on the Sex & Kidnap Offender Registry Website

- Judgment and conviction document, signed by a Judge
- Pre/post-sentence Investigation Report or Police Report
- Signed/dated Utah registration form or Duty to Register letter
- Written confirmation from original jurisdiction of conviction including registration length and frequency
- Email documentation from the Utah Attorney General's Office confirming the offender's registration requirement (when necessary)
- Kidnap convictions (when court documents do not specify whether it is a (c) or (d) conviction) – Clarification from Prosecutor
- Print out of Criminal History (in state and out of state) for detailed investigation



Procedure to Put an Offender on the Sex & Kidnap Offender Registry Website

1. Obtain all required documentation. Confirm the Judgment and conviction document date results in a registerable conviction under Utah law.
2. If the offender's conviction falls under 77-41-105(c)(iii) (conviction is normally a lifetime requirement, however offender was under 21 when offense was committed) AND the offender was convicted on/after 05/09/2017 we need written documentation from the Utah Attorney General's Office confirming the offender's registration requirement.
3. If offender has not already signed a Utah registration form – Upon receipt of conviction documentation / confirmation of registration requirement, send a Duty to Register letter to the offender informing them of their Utah registration requirements. A copy of the letter is sent to the offender's AP&P or Federal Probation Agent and/or local law enforcement agency which has jurisdiction over the offender's address as necessary.
4. Complete a four signature validation document.



Current Statistics from the Sex & Kidnap Offender Public Website

Active Offenders	5,255
Incarcerated Offenders	2,262
Offenders Moved Out of State	1,393
Deported Offenders	654
Offenders Incarcerated Out of State	91

Total Offenders	9,655
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Data extracted on August 15, 2019

Early Removal from the Registry

Eligible Offenders — Part 1

Offenders convicted in Utah of one of seven specific offenses may petition the court for early removal from the Sex & Kidnap Offender Registry

- Must be convicted of one of the seven offenses listed in Subsection 77-41-112(2)
 - Enticing a Minor, if the offense is a class A misdemeanor
 - Kidnapping
 - Unlawful detention, if the conviction is the only conviction the offender is registering for
 - Unlawful Sexual Activity with a Minor if, at the time of the offense, the offender is not more than 10 years older than the victim
 - Sexual Abuse of a Minor, if, at the time of the offense, the offender is not more than 10 years older than the victim
 - Unlawful Sexual Conduct with a 16 or 17 year old, and at the time of the offense, the offender is not more than 15 years older than the victim
 - Voyeurism, if the offense is a class A misdemeanor
- At least five years must have passed since the offender's sentence terminated
- The offense must be the only offense for which the offender is required to register
- The offender cannot have been convicted of any other offenses (excluding traffic offenses), as evidenced by a Certificate of Eligibility issued by BCI
- All treatment ordered by the Court or BOPP must have been completed
- All restitution ordered by the Court or BOPP must have been paid

AND

- The offender must have complied with ALL registration requirements at ALL times



UCA 77-41-112

Early Removal from the Registry

Eligible Offenders — Part 2

Offenders registering in Utah with a ten year after sentence termination registration requirement may petition the court for early removal from the Sex & Kidnap Offender Registry

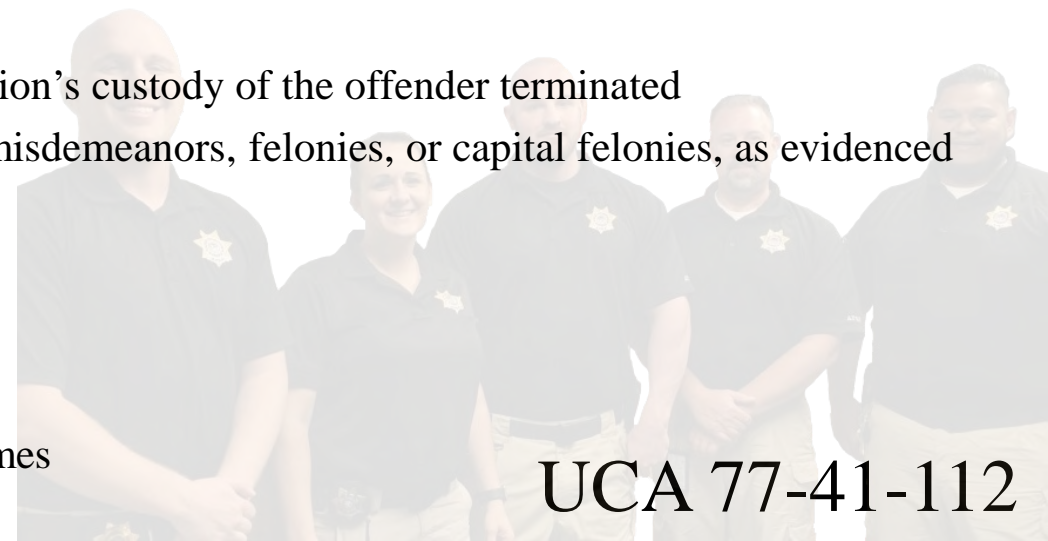
- Must have a ten year past termination of sentence registration requirement
- At least ten years must have passed since the later of:
 - The offender's placement on probation
 - The offender's release from incarceration to parole
 - The date the offender's sentence terminated without parole
 - The date the offender entered a community-based residential program

OR

- For a minor (as defined in Section 78A-6-105) the date on which the Division's custody of the offender terminated
- The offender cannot have been convicted of any other offenses that are class A misdemeanors, felonies, or capital felonies, as evidenced by a Certificate of Eligibility issued by BCI
- All treatment ordered by the Court or BOPP must have been completed
- All restitution ordered by the Court or BOPP must have been paid

AND

- The offender must have complied with ALL registration requirements at ALL times



UCA 77-41-112

Offenders Removed from Registry by Year

Year	10 years past termination of sentence	Early termination petitions received	Offenders removed due to early termination petition
2019 to Date	208	25	3
2018	309	34	1
2017	305	12	3
2016	318	11	4
2015	325	1	1
2014	280	**	**
2013	302	**	**
2012	275	**	**
2011	272		
2010	278		
2009	266		
2008 (May – December)*	218		
Total	3,356	83	12

* System start date May 2008

** Do not have hard data to confirm number of petitions versus number of early removals

Data extracted on August 15, 2019

Questions?

