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STATE OF UTAH

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2022 - DRAFT

# DRAFT - Collateral Consequences Guide



This manual and interactive forms can be found at  
<https://justice.utah.gov/Sentencing/>

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## I. Introduction

### WHAT ARE COLLATERAL CONSEQUENCES?

Collateral consequences are legal and regulatory restrictions that apply to individuals convicted of criminal offenses, independent of the criminal sentence. Collateral consequences include restrictions on employment, business and occupational licensing, voting, education, and other rights, benefits, and opportunities. Because these consequences are not expressed as part of the criminal sentence, individuals facing criminal convictions may not be aware of them.

### WHAT IS THE COLLATERAL CONSEQUENCES GUIDE?

This guide was created in response to 2021's Senate Bill 215, which directed the Utah Sentencing Commission to create a guide that "identif[ies] any provision of state law, including the Utah Constitution, and any administrative rule that imposes a collateral consequence." Collateral consequences identified in this guide include both **discretionary restrictions**, which a government official or agency *may* impose as a result of conviction; and **mandatory sanctions** that *will* issue as a result of conviction, even if not included as part of the sentence.<sup>1</sup>

#### Disclaimer

This guide is for informational purposes only. It has not been enacted into law and does not have the force of law. This guide does not confer any rights and has no effect on a plea, an adjudication, a conviction, a sentence, or a disposition. Any reference, including an error or omission, does not cause any collateral consequence to be imposed or prevent any collateral consequence from being imposed. This guide is focused on Utah statutes and administrative code. It does not include collateral consequences that may be imposed by any laws or regulations from a county, a municipality, another state, or the United States. This guide may not include all collateral consequences that exist under state law or regulation. This guide does not include any provision of state law or administrative rule imposing a collateral consequence enacted after March 31, 2022.

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<sup>1</sup> See Utah Code 63M-7-405(6)



## HOW CAN I USE THE COLLATERAL CONSEQUENCES GUIDE?

The Collateral Consequences Guide includes two main sections: first, a **collateral consequences table** that describes and categorizes collateral consequences of criminal convictions in state law; second, a series of more detailed guides to **special categories of collateral consequences** that impact particular groups, such as juveniles, individuals convicted of sex offenses, and individuals facing immigration impacts.

### HOW TO USE THE COLLATERAL CONSEQUENCES TABLE

The Collateral Consequences Table lists all collateral consequences in state code or administrative rule and categorizes them based on what aspect of life or participation in society they most impact (i.e. “Civil Fines,” “Civil Rights,” “Employment/Licensing,” etc) Within those larger categories are subcategories specifying the context in which those restrictions arise (i.e. “Employment/Licensing”--> “Health Care - Nurse”). The table then includes a citation to the statute or administrative code section that creates the collateral consequence, followed by a brief description of the restriction and how it may be imposed.

Individuals facing conviction for a criminal offense may refer to the corresponding table and search it for consequences that may impact them. Note that the brief description of each consequence included in the table will likely not be enough to give the individual a complete understanding of how the restriction operates or even if it will *necessarily* be imposed on them. **The table is not intended to replace sound legal advice from an expert.** Instead, the table can help individuals or their lawyers quickly spot restrictions that *may* impact them and provide a starting point for examining the restriction in more detail.

The table may be especially useful in identifying potential consequences prior to pleading guilty to a criminal offense. If both parties are aware of the most important consequences of conviction outside of the sentence, they may better individualize plea negotiations and achieve better justice.

### HOW TO USE THE GUIDES TO SPECIAL CATEGORIES OF COLLATERAL CONSEQUENCES

While the Collateral Consequences Table provides only a quick reference sheet, it is supplemented by more extensive guides to special categories of collateral consequences. For this first version of the guide, the special categories include **Sex and Kidnap Offender Registry Consequences, Collateral Consequences for Juveniles, Criminal Asset Forfeiture,** and **Immigration Consequences.** Individuals facing collateral consequences in these categories may wish to fully read the applicable guides to gain a better understanding of how these consequences will impact their lives.

Although these guides provide more detailed analysis than the collateral consequences table, **they are also not intended to replace sound legal advice from an expert.** In fact, due to the extent of collateral consequences in these categories, consultation with a lawyer with expertise in the area is especially essential.



## II. COLLATERAL CONSEQUENCE TABLE

### COLLATERAL CONSEQUENCES OF CRIMINAL CONVICTIONS:

Category	Subcategory	Authority	Consequence
Business Licensing	Alcohol Business License	UT § 32B-4-305	Convictions of an alcohol-related offense will subject the business entity to fines and discretionary revocation of business license
Business Licensing	Cigarette Business License	UT § 59-14-202	Conviction for selling, receiving, or being involved in smuggling of counterfeit cigarettes will result in denial or revocation of business license.
Civil Fines	Nurse Practice Act	U.A.C. R156-31b-402	Permits fines to be imposed in accordance with a violation of the Nurse Practice Act.
Civil Fines	Nurse Midwife Practice Act	U.A.C. R156-44a-402	Permits fines to be imposed in accordance with a violation of the Nurse Midwife Practice Act.
Civil Fines	Pharmacy Practice Act	U.A.C. R156-17b-402	Permits fines to be imposed in accordance with a violation of the Pharmacy Practice Act.
Civil Fines	Utah Medical Practice Act	U.A.C. R156-67-503	Permits fines to be imposed in accordance with a violation of the Utah Medical Practice Act.
Civil Fines	Utah Osteopathic Medical Practice Act	U.A.C. R156-68-503	Permits fines to be imposed in accordance with a violation of the Utah Osteopathic Medical Practice Act.
Civil Fines	Utah Health Code Violations	UT § 36-23-6(2), (3)	Allows the imposition of a civil penalty for violation of the Utah Health Code enforcement provisions in addition to any penalties resulting from a criminal conviction.
Civil Fines	Insurance Sales	UT § 31A-16-111	Violation of any insurance statute can result in fines up to \$20,000 per violation and revocation of license
Civil Rights	Voting	UT § 20A-2-101, 101.3, 101.5	Rights terminated for a felony or misdemeanor offense that violates Title 20A of the election code. For felony offenses, rights may be restored if sentenced to probation, granted parole, or upon a completed term of incarceration.
Driver's License	Driver's License Suspension - Discretionary	UT § 41-6a-1715, 41-6a-1716, 53-3-218, 62A-11-603, UT § 76-6-404.7	A violation of the following offenses may result in suspension or revocation of a driver's license (discretionary): <ul style="list-style-type: none"> <li>Careless Driving (41-6a-1715)</li> <li>Use of a Wireless Communication Device (41-6a-1716)</li> <li>Operating a Motor Vehicle without Operator Security (41-12a-302, et seq)</li> <li>Delinquent Child Support Obligations (62A-11-603)</li> <li>Theft of Motor Vehicle Fuel (76-6-404.7)</li> <li>Other moving violations if a person fails to appear (53-3-218)</li> </ul>

Category	Subcategory	Authority	Consequence
Driver's License	Driver's License Suspension - Mandatory	UT § 53-3-220	<p>A violation of the following offenses may result in suspension or revocation of a driver's license (mandatory):</p> <ul style="list-style-type: none"> <li>• Manslaughter or Negligent Homicide Resulting from Driving a Motor Vehicle</li> <li>• Driving Under the Influence (Drugs or Alcohol)</li> <li>• Perjury or False Statement to the Driver's License Division</li> <li>• Any other felony motor vehicle violation</li> <li>• Any other felony in which a motor vehicle is used to facilitate the offense</li> <li>• Failure to stop or render aid after a motor vehicle accident</li> <li>• Two charges of reckless driving, impaired driving, or any combination</li> <li>• Failure to stop at command of an officer</li> <li>• Offenses under the Uniform Commercial Driver's License Act requiring disqualification</li> <li>• A felony violation involving discharge of a firearm from a vehicle;</li> <li>• Using an explosive, chemical, or incendiary device from a vehicle</li> <li>• Operating a Vehicle without an Ignition Interlock Device</li> <li>• Motor Vehicle Speed Contest or Exhibition of Speed</li> <li>• Refusal of a Chemical Test</li> <li>• Controlled Substance Violations (if in the interest of public safety and recidivism reduction)</li> </ul>
Education	Scholarships – State	UT § 53B-8-105, 109; U.A.C. R765-604-4, R765-609-4	Individuals with a felony conviction are not eligible for the New Century or Base Regents' scholarships.
Education	Student Suspension and Expulsion	UT § 53G-8-205(2)(a)(ii)	Permits the suspension or expulsion of a public-school student who commits an act "involving the use of force or the threatened use of force which if committed by an adult would be a felony or class A misdemeanor."
Education/ Employment	Educators	U.A.C. R277-502-6, 214-2, 515-3, 516-5	<p>Permits the denial of an educator's license renewal upon the conviction of any felony. Also permits the suspension or revocation of an educator's license upon a felony conviction.</p> <p>Requires any felony conviction be reported to the educator's school district or charter school.</p>

Category	Subcategory	Authority	Consequence
Education / Employment	Peace Officer Training Academy	U.A.C. R728-403-1, 403-4, 401-3  UT § 53-6-203, 206	Prohibits individuals with felony convictions from admission to and certification from training programs.  Individuals with felony convictions are ineligible for peace officer basic training and examination, and are ineligible for waiving a peace officer training course.
Education / Employment	Educators, Instructors, Trainers (Alcohol)	U.A.C. R523-12-9	An individual convicted of any felony or an offense involving illegal use of controlled substances is no longer eligible to serve as an on-premises alcohol training and education seminar provider
<b>Employment / Professional Licensing</b>	<b>General - All State Licensed Professionals</b>	<b>UT § 58-1-401</b>	<b>The Division of Professional Licensing (DOPL) may refuse to issue a license to an applicant, or may revoke, suspend, restrict, place on probation, or otherwise act upon the license for “any unlawful conduct” including felony or misdemeanor convictions.</b>  <b>DOPL has created “criminal history guidelines” for licensees, viewable through searching for the applicable profession at <a href="http://dopl.utah.gov/licenses.html">dopl.utah.gov/licenses.html</a></b>
Employment / Licensing	Real Estate Prelicensing and Continuing Education	U.A.C. R162-2f-206a	Any director, owner, or student is no longer eligible to serve in their respective capacity upon the conviction of any felony.
Employment / Licensing	Dentists, Dental Hygienists and Educators	UT § 58-69-401	Conviction of any felony may result in discretionary denial, suspension, or revocation of a dental license.
Employment / Licensing	Pharmacy Intern Licensing	UT § 58-17b-304	Disqualifies an individual with a felony conviction from this type of intern licensing.
Employment / Licensing	<b>Banking and Financial Services</b> - Appraisal Management	UT § 61-2e-203,	Discretionary denial or revocation of license for any misdemeanor or felony conviction for crimes involving fraud, dishonesty, misrepresentation, or money laundering
Employment/Licensing	<b>Banking and Financial Services</b> - Depository Institutions	UT § 7-1-508	No person convicted of a felony or misdemeanor involving fraud or dishonest conduct may serve as an officer, director, or employee of a depository institution, unless authorized by the commissioner
Employment	<b>Banking and Financial Services Professions</b> - Life Estate Settlements	UT § 31A-36-113	An individual convicted of a felony involving dishonesty or breach of trust cannot participate in the business of life estate settlements.
Employment/Licensing	<b>Banking and Financial Services</b> - Money Transmitter License	UT § 7-25-203	If an individual or their executive officer, key shareholder, or director has been convicted of any felony in the last 7 years, or a felony involving fraud, dishonesty, breach of trust, or money laundering, they may be ineligible for a money transmitter license.



Category	Subcategory	Authority	Consequence
Employment / Licensing	<b>Banking and Financial Services</b> - Securities / Real Estate Broker-Dealers, Agents, Investment Advisers, and Investment Adviser Representatives	UT § 61-1-6,	Discretionary denial or revocation of license for any misdemeanor or felony conviction for crimes involving fraud, dishonesty, misrepresentation, or money laundering
Employment / Licensing	<b>Building, Construction, and Development</b> - Building Inspectors	UT § 58-56-9.5	Discretionary denial, suspension, or revocation of license for any felony or misdemeanor conviction
Employment / Licensing	<b>Building, Construction, and Development</b> - Construction Trade Licensee	UT § 58-55-401 UT § 58-55-503	Discretionary denial, suspension, or revocation of license for any felony or misdemeanor conviction
Employment / Licensing	<b>Building, Construction, and Development</b> - Professional Engineers and Land Surveyors	UT § 58-22-401	Discretionary denial, suspension, or revocation of license for any felony or misdemeanor conviction
Employment / Licensing	<b>Building, Construction, and Development</b> - Landscape Architects	UT § 58-53-401	Discretionary denial, suspension, or revocation of license for any felony or misdemeanor conviction
Employment / Licensing	<b>Building, Construction, and Development</b> - Architects	UT § 58-3a-401	Discretionary denial, suspension, or revocation of license for any felony or misdemeanor conviction
Employment / Licensing	<b>Building, Construction, and Development</b> - Commercial Interior Designer	UT § 58-86-205	Discretionary denial, suspension, or revocation of state certification for any misdemeanor or felony conviction.
Employment / Licensing	Certified Public Accountant	UT § 58-26a-401, U.A.C. RF590-254-7	Conviction of a crime involving fraud, dishonesty, misrepresentation, or money laundering results in mandatory suspension/ineligibility.  Discretionary denial, suspension, or revocation of license for any felony or misdemeanor conviction
Employment / Licensing	Child Care Programs and Providers	U.A.C. 430-90-7, 430-50-7 UT § 35A-3-310.5	Licensing ineligibility for childcare providers and subsidized childcare provider upon a misdemeanor or felony conviction, including juvenile adjudications.
Employment / Licensing	<b>Commercial Transportation</b>	U.A.C. R651-206-3, R708-2-11, R708-2-25, R315-320-4, R315-320-5  UT § 53-3-414	Transporting passengers for hire: Discretionary denial, suspension, or revocation for the conviction of controlled substance or motor vehicle offenses.  <b>Commercial driver's license:</b> Mandatory denial, suspension, or revocation for any felony conviction or offenses involving controlled substances, violence, persons offenses, or motor vehicle offenses

Category	Subcategory	Authority	Consequence
Employment / Licensing	<b>Commercial Transportation (Con't from previous page)</b>	U.A.C. R651-206-3, R708-2-11, R708-2-25, R315-320-4, R315-320-5  UT § 53-3-414	<b>Driving school instructor:</b> Mandatory ineligibility for the conviction of any felony, controlled substance offense, crimes involving violence or person offenses, motor vehicle offenses, crimes involving fraud, dishonesty, misrepresentation, money laundering, moral turpitude, or sex offenses.  <b>Waste tire transportation and recycling:</b> Discretionary revocation for crimes involving fraud, dishonesty, misrepresentation, or money laundering
Employment / Licensing	<b>Cosmetology</b> - Cosmetologists, Barbers, Estheticians, Electrologist, and Nail Technicians	UT § 58-11a-401 UT § 58-11a-503	Discretionary suspension of license for sex offenses  Discretionary license ineligibility for offenses involving controlled substances, crimes of violence, or person offenses  Discretionary denial, suspension, or revocation of license for any felony or misdemeanor conviction.
Employment / Licensing	Driving Professions	U.A.C. R277-507-3, 5  U.A.C. R708-48-4, 6  UT § 41-22-32  U.A.C. R909-2-28,  U.A.C. 708-21-12  U.A.C. R523-11-3, 11-5	<b>Driver education endorsement:</b> mandatory denial for any felony conviction or controlled substance offense  <b>Ignition interlock system installer:</b> Ineligible for license due to any felony conviction or crimes involving fraud, dishonesty, misrepresentation, money laundering, or crimes of moral turpitude  <b>Off-highway vehicle safety instructor:</b> Mandatory ineligibility for controlled substance offenses, motor vehicle offenses, sex offenses, and crimes involving violence/person offenses  <b>Pilot escort driver:</b> discretionary ineligibility for conviction of controlled substance offense or motor vehicle offense  <b>Third party driver tester and examiner:</b> mandatory denial/revocation for crimes involving fraud, dishonesty, misrepresentation, money laundering, or moral turpitude  <b>DUI Education Providers:</b> a felony conviction precludes employment as a DUI educational provider.

Category	Subcategory	Authority	Consequence
Employment/Licensing	Educators and Education Volunteers	UT § 53E-6-603 U.A.C. R277-212-11, 527-3, 214-2, 214-3	<p>Mandatory denial of educator license if the individual was convicted of a felony of a sexual nature, a sex offense against a minor child, sexually explicit conduct with a student.</p> <p>Discretionary denial of educator license for any behavior found pursuant to a criminal matter considered immoral, unprofessional, incompetent, or unethical.</p> <p>Discretionary denial of a license application for the conviction of any sex offense, misdemeanor, crimes of violence, person offenses, or felony.</p> <p>A public school may not employ a person denied a License for the above reasons, including as a volunteer</p> <p>Rebuttable presumption of unfitness for individuals convicted of a felony to serve as an educator.</p>
Employment / Licensing	Emergency Services	UT § 62A-2-120 U.A.C. R438-12-4, R710-11-7, R710-5-7, R710-7-7, R710-1-9	<p><b>Access to children or vulnerable adults:</b> Discretionary ineligibility for licensing upon the conviction of any misdemeanor, sex offense, or crime of violence or person offense.</p> <p><b>BAC blood draw technician:</b> Discretionary revocation of license for the conviction of any felony or crimes involving fraud, dishonesty, misrepresentation, money laundering or moral turpitude.</p> <p><b>Emergency medical services, fire alarm/sprinkler inspecting and testing, fire suppression system servicing, or portable fire extinguisher services:</b> Discretionary denial, suspension, or revocation of license for the conviction of any misdemeanor or felony.</p>
Employment / Licensing	Fireworks License	U.A.C. R710-2-9	Discretionary denial, suspension, or revocation of a license for any misdemeanor or felony conviction
Employment / Licensing	Funeral Services	UT § 58-9-401	Discretionary denial, suspension, or revocation of license for any misdemeanor or felony conviction
Employment / Licensing	<b>Health Care</b> - General	UT § 26-21-204	The conviction of any felony or misdemeanor will result in discretionary ineligibility for clearance for direct patient access.
Employment / Licensing	<b>Health Care</b> - Access to Children and Vulnerable Adults	UT § 62A-2-210	Discretionary ineligibility for licensing upon the conviction of any misdemeanor, sex offense, or crime of violence or person offense

Category	Subcategory	Authority	Consequence
Employment / Licensing	<b>Health Care</b> - Acupuncture	UT § 58-72-401	Discretionary denial, suspension, or revocation of license for any misdemeanor or felony conviction
Employment / Licensing	<b>Health Care</b> - Athletic Trainer	UT § 58-40a-401	Discretionary denial, suspension, or revocation of license for any misdemeanor or felony conviction
Employment / Licensing	<b>Health Care</b> - Chiropractic Physician	UT § 58-73-401 U.A.C. R156-73-302	Discretionary ineligibility for licensing for the conviction of offenses involving controlled substance, crimes of violence, person offenses, or sex offenses.  Discretionary denial, suspension, or revocation of license for the conviction of any misdemeanor or felony.
Employment / Licensing	<b>Health Care</b> - Dentist, Dental Hygienist, or Dental Educator	UT § 58-69-401	Discretionary denial, suspension, or revocation of licensing for the conviction of any misdemeanor or felony.
Employment / Licensing	<b>Health Care</b> - Dietitian	UT § 58-49-11	Discretionary denial, suspension, or revocation of licensing for the conviction of any misdemeanor or felony.
Employment / Licensing	<b>Health Care</b> - Direct Entry Midwife	UT § 58-77-401	Discretionary denial, suspension, or revocation of licensing for the conviction of any misdemeanor or felony.
Employment / Licensing	<b>Health Care</b> - Physician Licensing	UT § 58-67b-108	Expedited physician license: Ineligible for renewal upon the conviction of any misdemeanor or felony.
Employment / Licensing	<b>Health Care</b> - Health Facility Administrator	UT § 58-15-401	Expedited physician license: Ineligible for renewal upon the conviction of any misdemeanor or felony.
Employment / Licensing	<b>Health Care</b> - Hearing Instrument Specialist	UT § 58-46a-401	Discretionary denial, suspension, or revocation of licensing for the conviction of any misdemeanor or felony
Employment / Licensing	<b>Health Care</b> - Massage Therapy	UT § 58-47b-401 U.A.C. R156-47b-302d	Discretionary denial, suspension, or revocation of license for any misdemeanor or felony conviction.  Discretionary ineligibility for licensing for the conviction of offenses involving controlled substance, crimes of violence, person offenses, or sex offenses.
Employment / Licensing	<b>Health Care</b> - Mental Health Professionals	UT § 58-60-108	Discretionary denial, suspension, or revocation of license for any misdemeanor or felony conviction.
Employment / Licensing	<b>Health Care</b> - Medicaid Providers	U.A.C. R414-22-3 U.A.C. R414-22-4 U.A.C. R414-22-9	Discretionary denial or revocation of licensing for the conviction of crimes involving dishonesty, misrepresentation, or money laundering.  Mandatory denial or revocation for the conviction of controlled substance offenses, sex offenses, or health care fraud.

Category	Subcategory	Authority	Consequence
Employment / Licensing	<b>Health Care</b> - Medicaid Providers <b>(Con'd from previous page)</b>	U.A.C. R414-22-3 U.A.C. R414-22-4 U.A.C. R414-22-9	Discretionary sanctions for any misdemeanor or felony conviction  Mandatory additional monitoring for any misdemeanor conviction
Employment / Licensing	<b>Health Care</b> - Medical Language Interpreter	UT § 58-80a-401	Discretionary denial, suspension, or revocation of licensing upon the conviction of any misdemeanor or felony
Employment / Licensing	<b>Health Care</b> - Naturopathic Physician	UT § 58-71-401	Discretionary denial, suspension, or revocation of licensing upon the conviction of any misdemeanor or felony
Employment / Licensing	<b>Health Care</b> - Nurse	UT § 58-31b-302 UT § 58-31e-102	Mandatory disqualification for licensing after conviction of a violent felony  Discretionary denial, suspension, or revocation of licensing upon the conviction of any misdemeanor or felony  The conviction of any misdemeanor or felony will result in a denial of an interstate compact license
Employment / Licensing	<b>Health Care</b> - Nurse Midwife	UT § 58-44a-401	Discretionary denial, suspension, or revocation of licensing upon the conviction of any misdemeanor or felony
Employment / Licensing	<b>Health Care</b> - Occupational Therapist	UT § 58-42a-401	Discretionary denial, suspension, or revocation of licensing upon the conviction of any misdemeanor or felony
Employment / Licensing	<b>Health Care</b> - Online prescribing, dispensing, or facilitation	UT § 58-83-401	Discretionary denial, suspension, or revocation of licensing upon the conviction of any misdemeanor or felony
Employment / Licensing	<b>Health Care</b> - Optometrist	UT § 58-16a-401	Discretionary denial, suspension, or revocation of licensing upon the conviction of any misdemeanor or felony
Employment / Licensing	<b>Health Care</b> - Osteopathic Medical Practice	UT § 58-68-401	Discretionary denial, suspension, or revocation of licensing upon the conviction of any misdemeanor or felony
Employment / Licensing	<b>Health Care</b> - Pharmaceutical Practice	UT § 58-17b-303 UT § 58-17b-304 UT § 58-17b-305	Pharmacist, pharmacy intern, pharmacy technician: Ineligibility for licensing upon the conviction of any misdemeanor or felony
Employment / Licensing	<b>Health Care</b> - Physical Therapist	UT § 58-24b-305	Discretionary denial, suspension, or revocation of licensing upon the conviction of any misdemeanor or felony

Category	Subcategory	Authority	Consequence
Employment / Licensing	<b>Health Care</b> - Physician Assistant	UT § 58-70a-401	Discretionary denial, suspension, or revocation of licensing upon the conviction of any misdemeanor or felony.
Employment / Licensing	<b>Health Care</b> - Physician	UT § 58-67-401	Discretionary denial, suspension, or revocation of licensing upon the conviction of any misdemeanor or felony.
Employment / Licensing	<b>Health Care</b> - Podiatric Physician	UT § 58-5a-401	Discretionary denial, suspension, or revocation of licensing upon the conviction of any misdemeanor or felony
Employment / Licensing	<b>Health Care</b> - Psychologist	UT § 58-61-401	Discretionary denial, suspension, or revocation of licensing upon the conviction of any misdemeanor or felony
Employment / Licensing	<b>Health Care</b> - Radiology	UT § 58-54-401	Discretionary denial, suspension, or revocation of licensing upon the conviction of any misdemeanor or felony
Employment / Licensing	<b>Health Care</b> - Recreational Therapy	UT § 58-40-401	Discretionary denial, suspension, or revocation of licensing upon the conviction of any misdemeanor or felony
Employment / Licensing	<b>Health Care</b> - Respiratory Care	UT § 58-57-8	Discretionary denial, suspension, or revocation of licensing upon the conviction of any misdemeanor or felony
Employment / Licensing	<b>Health Care</b> - Sex Offender Treatment Provider	UAC R251-109-5	Discretionary suspension of approval to treat sex offenders for any misdemeanor or felony conviction or "other legitimate penological reasons"
Employment / Licensing	<b>Health Care</b> - Speech Pathologies or Audiologist	UT § 58-41-9	Discretionary denial, suspension, or revocation of licensing upon the conviction of any misdemeanor or felony.  May re-apply one year after revocation.
Employment / Licensing	<b>Health Care</b> - Vocational Rehabilitation Professional	UT § 68-78-401	Discretionary denial, suspension, or revocation of licensing upon the conviction of any misdemeanor or felony
Employment / Licensing	<b>Health Care</b> - Abortion Funds Restrictions	UT § 26-18-4	A Department of Health Employee that authorizes funds for an abortion will forfeit their office and is guilty of a class B misdemeanor, unless abortion is required due to the life of the mother being in danger  Any person or organization that, under guise of other medical treatment, uses Medicaid funds for abortion is guilty of 3rd degree felony and their authorization to practice medicine will be revoked
Employment / Licensing	Hunting Guide / Outfitter	UT § 58-79-401	Discretionary denial, suspension, or revocation of license for the conviction of any felony or controlled substance offense

Category	Subcategory	Authority	Consequence
Employment / Licensing	<b>Insurance Services and Sales</b> - Illustration Actuary	U.A.C. R590-177-11	Ineligible for license for any conviction involving fraudulent or dishonest practices
Employment / Licensing	<b>Insurance Services and Sales</b> - Insurance Adjuster	UT § 31A-26-203, UT § 31A-26-213 UT § 31A-26-214	Discretionary denial, suspension, revocation, or probation of license for any felony conviction, for misdemeanor offenses involving fraud, dishonesty, misrepresentation, or money laundering, or for any child support offense.
Employment / Licensing	<b>Insurance Services and Sales</b> - Insurance Marketing	UT § 31A-23a-105 UT § 31A-23a-112	Discretionary denial, suspension, revocation, or probation of license for any felony conviction, for misdemeanor offenses involving fraud, dishonesty, misrepresentation, or money laundering, or for any child support offense.
Employment / Licensing	<b>Insurance Services and Sales</b> - Insurance Navigator	UT § 31A-23b-202 UT § 31A-23b-401 UT § 31A-23b-402	Discretionary denial, suspension, revocation, or probation of license for any felony conviction, for misdemeanor offenses involving fraud, dishonesty, misrepresentation, or money laundering, or for any child support offense.
Employment / Licensing	<b>Insurance Services and Sales</b> - Life Settlement Provider	UT § 31A-36-104	Discretionary denial, suspension, revocation, or probation of license for any felony conviction, for misdemeanor offenses involving fraud, dishonesty, misrepresentation, or money laundering, or for any child support offense.
Employment / Licensing	<b>Insurance Services and Sales</b> - Third Party Administrator	UT § 31A-25-203 UT § 31A-25-208 UT § 31A-25-209	Discretionary denial, suspension, revocation, or probation of license for any felony conviction, for misdemeanor offenses involving fraud, dishonesty, misrepresentation, or money laundering, or for any child support offense.
Employment / Licensing	<b>Law Enforcement</b> - Department of Corrections	U.A.C. R251-105-3 UT § 53-6-211	Ineligible for employment after any conviction punishable by imprisonment (may not apply to all positions).  POST-certification also subject to suspension or revocation based on conduct constituting a criminal offense.
Employment / Licensing	<b>Law Enforcement</b> - Dispatcher	UT § 53-6-302	Ineligible to take required exams after any conviction that is punishable by imprisonment in state or federal prison.  **Expunged records may be considered
Employment / Licensing	<b>Law Enforcement</b> - Police Officer / POST Certification	UT § 53-6-211	POST-certification subject to investigation, suspension or revocation for any conduct constituting a criminal offense, except Class C Misdemeanors or Infractions.



Category	Subcategory	Authority	Consequence
Employment / Licensing	<b>Law Enforcement</b> - Private Probation Provider	UT § 58-50-7	Discretionary denial, suspension, or revocation of licensing upon the conviction of any misdemeanor or felony
Employment / Licensing	<b>Legal Services</b> - Attorney	UT R. Jud. Admin. 15-708 UT R. Jud. Admin. 11-560 UT R. Jud. Admin. 11-564 UT R. Jud. Admin. 11-581	<p><b>Bar Admission / Re-Admission:</b></p> <p>Criminal charges and unlawful conduct are factors for the character and fitness committee to consider when determining whether an applicant meets the character and fitness requirements for licensure.</p> <p>An applicant whose record manifests a significant deficiency in honesty, trustworthiness, diligence, or reliability shall be denied admission.</p> <p>There is a rebuttable presumption against bar admission for any applicant convicted of a felony offense.</p> <p>Applicants are ineligible for admission until the sentence for the felony conviction is complete.</p> <p><b>Attorney Discipline:</b></p> <p>A lawyer must notify the Office of Professional Conduct (OPC) upon conviction (including a plea in abeyance) for any crime except misdemeanor traffic offenses not involving the use of alcohol or drugs. The OPC may file an action for interim suspension of the attorney's bar license.</p> <p>Criminal conduct may be considered as grounds for attorney discipline including suspension or delicensure (disbarment).</p>
Employment / Licensing	<b>Legal Services</b> - Bail Bonds Enforcement Agents	UT § 53-11-109 UT § 53-11-119	Conviction of any felony, crimes of violence or person offenses, weapons offenses, public corruption offenses, or crimes involving fraud, dishonesty, misrepresentation, money laundering, or moral turpitude result in mandatory ineligibility for licensing and discretionary suspension or revocation of licensing
Employment / Licensing	<b>Legal Services</b> - Court Reporter	UT § 58-74-401	Discretionary denial, suspension, or revocation of licensing upon the conviction of any misdemeanor or felony



Category	Subcategory	Authority	Consequence
Employment / Licensing	<b>Legal Services-</b> Judge	UT § 78A-11-105	The Judicial Conduct Commission may reprimand, censure, suspend, remove, or involuntarily retire a judge after conviction of a felony  A judge in a court of record must also be admitted to practice law, so attorney discipline as a result of criminal conviction may result in removal (see “attorney” section above).
Employment / Licensing	<b>Legal Services-</b> Mediator	UT R. Jud. Ad-min. 4-510.03	To be included on the courts ADR roster of mediators, a review of all personal involvement in criminal proceedings will be completed. Misdemeanor or felony convictions may result in suspension or revocation of license.
Employment / Licensing	<b>Legal Services-</b> Notary Public	UT § 46-1-3	Discretionary denial of licensing for conviction of crimes involving dishonesty or moral turpitude (any felony; crimes involving fraud, dishonesty, misrepresentation, or money laundering)
Employment / Licensing	Lobbyist	UT § 36-11-103, 401  U.A.C. R623-1-6	Discretionary denial of license for certain crimes of violence/person offenses, or for disrupting public meetings.  Discretionary denial of license for various financial offenses, or for failure to pay fines or fees for lobbying violations.
Employment / Licensing	<b>Motor Vehicles</b> - Dealer License	UT § 41-3-209, 41-3-201	Mandatory denial, suspension, or revocation for controlled substance offenses, motor vehicle offenses, sex offenses, or crimes involving fraud, dishonesty, misrepresentation, or money laundering.
Employment/Licensing	<b>Motor Vehicles</b> - Ignition Interlock System Installer	U.A.C. R708-48-4	Ineligible for license due to any felony conviction or crimes involving fraud, dishonesty, misrepresentation, money laundering, or crimes of moral turpitude
Employment / Licensing	<b>Motor Vehicles</b> - Oil, Fuel	U.A.C. R710-6-6	Discretionary denial, suspension, or revocation of a liquid petroleum gas applicant, manager, or employee’s licensing for any misdemeanor or felony conviction
Employment / Licensing	<b>Motor Vehicles</b> - Safety Inspection Certificates and Licensing	U.A.C. R714-158-11	Discretionary denial, suspension, or revocation for the conviction of crimes involving fraud, dishonesty, misrepresentation, money laundering, or moral turpitude.
Employment / Licensing	<b>Private Investigation and Security</b> - Contract Security Officer	UT § 58-63-302 U.A.C. R156-63a-607, 302f	A private security officer is ineligible for licensing after conviction of any felony, or any misdemeanor involving fraud, dishonesty, misrepresentation, money laundering, or moral turpitude.  Discretionary ineligibility for other crimes including sex offenses.

Category	Subcategory	Authority	Consequence
Employment / Licensing	<b>Private Investigation and Security</b> - Armored Car Security Company or Officer	UT § 58-63-302 U.A.C. R156-63a-607	An armored car security officer is ineligible for licensing after conviction of any felony, or any misdemeanor involving fraud, dishonesty, misrepresentation, money laundering, or moral turpitude.
Employment / Licensing	<b>Private Investigation and Security</b> - Deception Detection Examiner (Lie Detector)	UT § 58-64-401	Discretionary denial, suspension, or revocation of licensing for any misdemeanor or felony conviction
Employment / Licensing	<b>Private Investigation and Security</b> - Private Investigator	UT § 53-9-108	Discretionary denial, suspension, or revocation for the conviction of any felony, crimes of violence, person offenses, weapons offenses, or crimes involving fraud, dishonesty, misrepresentation, money laundering, or moral turpitude.
Employment / Licensing	<b>Racing &amp; Gaming Licenses</b> - Horse racing	UT §§ 4-38-104, 4-38-301 U.A.C. R52-7-5	Discretionary denial, suspension, or revocation of horse racing license for any felony conviction. Discretionary suspension or eviction from a racetrack for crimes involving fraud, dishonesty, misrepresentation, or money laundering.
Employment / Licensing	<b>Real Estate, Property Services</b> - Appraiser	U.A.C. R162-2g-302 UT § 61-2g-304 61-2g-502,	Mandatory denial of registration for an appraiser trainee shall be denied registration for felony conviction or jail release date within five years of the application, or for a misdemeanor involving fraud, misrepresentation, theft, or dishonesty within three years of the application.  Discretionary denial of registration for other criminal convictions.  Discretionary revocation, suspension, or probation of appraisal license for felony convictions and misdemeanor convictions involving dishonesty, fraud, deceit, misrepresentation, or theft.
Employment / Licensing	<b>Real Estate, Property Services</b> - Real Estate Broker, Associate Broker, or Sales Agent	UT § 61-2f-401, UT § 61-2f-407,	Disciplinary action including license suspension or revocation for a felony conviction, or for misdemeanor convictions involving fraud, misrepresentation, theft, or dishonesty.
Employment / Licensing	<b>Real Estate, Property Services</b> - Real Estate School Certification	U.A.C. R162-2f-206a, R162-2f-204,	Mandatory denial, suspension, or revocation for crimes involving fraud, dishonest, misrepresentation, money laundering, or moral turpitude.
Employment / Licensing	<b>Real Estate, Property Services</b> - Residential Mortgage License	UT § 61-2c-203, UT § 61-2c-402,	Discretionary denial, suspension, or revocation of renewal applications upon the conviction of any misdemeanor or felony, or crimes involving fraud, dishonesty, misrepresentation, money laundering, or moral turpitude.

Category	Subcategory	Authority	Consequence
Employment / Licensing	<b>Real Estate, Property Services</b> - Mortgage Loan Originator or Lending Manager	R162-2c-204, R162-2c-202	Mandatory denial of license renewal for conviction for any felony conviction or a misdemeanor conviction involving fraud, misrepresentation, or deceit
Employment / Licensing	<b>Real Estate, Property Services</b> - Subdivider Registration / Uniform Land Sales	UT § 57-11-8 UT § 57-11-14	Discretionary denial, suspension, or revocation of licensure for the conviction of crimes involving fraud, dishonesty, misrepresentations, or money laundering. Mandatory ineligibility for registration licensure for the conviction of any crime involving fraud, dishonesty, misrepresentations, or money laundering.
Employment / Licensing	Research - Lab Analysis for Scheduled Controlled Substances	UT § 58-37-6	Discretionary denial, suspension, or revocation of license for the conviction of any felony or controlled substance offense
Employment / Licensing	<b>Scientific Professions</b> - Environmental Health Scientist	UT § 58-20a-401	Discretionary denial, suspension, or revocation for any misdemeanor or felony conviction.
Employment / Licensing	<b>Scientific Professions</b> - Geologist	UT § 58-76-401	Discretionary denial, suspension, or revocation of license for any misdemeanor or felony conviction.
Employment / Licensing	<b>Scientific Professions</b> - Genetic Counselors	UT § 58-75-401	Discretionary denial, suspension, or revocation of license for any misdemeanor or felony conviction.
Employment / Licensing	Veterinarians	UT § 58-28-401 UT § 4-31-114	Discretionary denial, suspension, or revocation of license for any misdemeanor or felony conviction  Failure to report vesicular disease is grounds for revocation of license
Employment / Licensing	Wildlife Fishing & Gaming - License Agent	R657-27-4, R657-40-4	License agent authorization may be denied or revoked for criminal offenses that bear a reasonably relationship to the individual's ability to perform the function of a license agent.
Employment	Department of Human Services	U.A.C. R495-885-5	Background screenings for employees that may result in termination for certain criminal offenses.
Employment & Volunteering	<b>Public Office</b>	UT § 59-1-403, UT § 59-1-404	Tax law violations can include mandatory dismissal from holding public office for 5 years
Employment	<b>Public Office</b> - Municipal Officers and Employees	UT § 10-3-1310 UT § 10-3-826	Certain Ethics Acts violations and other misconduct will result in removal from public office
Employment	<b>Public Office</b> - County Officers and Employees	UT § 17-16a-10 UT § 17-33-14	Violation of the County Officers and Employees Disclosure Act or County Professional Manager Act will result in removal from office
Employment	<b>Public Office</b> - State Officers and Employees	UT § 67-16-12	Violation of the Public Officers' And Employees' Ethics Act will result in removal from office

Category	Subcategory	Authority	Consequence
Employment	<b>State Employees</b> - Forfeiture of Retirement Benefits	UT § 49-11-1401	An employee will forfeit retirement benefits, to include service credit and employer contributions to a retirement plan, if convicted of an employment related offense.
Employment	<b>State Employee</b> - Controlled Substance Violations	Utah Code Ann. § 63A-17-1005	State employees convicted of Controlled Substance Violations will be subject to authorized discipline potentially including termination.
Employment	<b>State Employee</b> - Driving Privileges	U.A.C. R37-1-8	Conviction for DUI will result in ineligibility to drive fleet vehicles
Family Law	Divorce	UT § 30-3-1	The conviction of any felony can be used to establish grounds for a divorce
Family Law	Foster Parents, Guardians	UT § 62A-2-120	The conviction of any misdemeanor, sex offense, crime of violence or person offense will result in discretionary ineligibility for access to children and/or vulnerable adults
Family Law	Inmate Visitation	U.A.C. R251-706-7	Convicted sex offenders may be restricted from visits with minors.
Family Law	Parental Rights	UT § 80-4-302 UT § 80-4-303	Parental rights may be terminated upon a conviction for felony assault or abuse that results in serious physical injury to a child of that parent or the other parent of the child  The deviation may also consider termination of rights in the case of a conviction of a felony resulting in a sentence of such length that a child will be deprived of a home for over a year.
Financial Transaction Restrictions	Banking, Lending, and Securities - Exemptions - Accredited Investor Exemption	U.A.C. R164-14-25v	Conviction of any criminal offense in connection with the offer, purchase, or sale of any security, or any offense involving fraud or deceit, will result in disqualification from this exemption
Financial Transaction Restrictions	Banking, Lending, and Securities - Exemptions - Safe Harbor	U.A.C. R164-14-2n	Safe Harbor Exemptions can be denied if there has been a conviction in the last 5 years of any felony or misdemeanor involving the purchase or sell of any security, or any felony involving fraud or deceit
Financial Transaction Restrictions	Banking, Lending, and Securities - Exemptions - Compensatory Benefit Plan Exemption	U.A.C. R164-14-27v	Conviction of any criminal offense in connection with the offer, purchase, or sale of any security, or any offense involving fraud or deceit, will result in disqualification from this exemption.
Financial Transaction Restrictions	Banking, Lending, and Securities - Cashing Checks or Deferred Deposit Lending	UT § 7-23-201	Convictions involving an act of fraud, dishonesty, breach of trust, or money laundering requires disclosure to work in a business of cashing checks or deferred deposit lending.

Category	Subcategory	Authority	Consequence
Financial Transaction Restrictions	Banking, Lending, and Securities - Title Loan Business	UT § 7-24-201	Conviction of any crime involving dishonesty, breach of trust or money laundering with respect to that person or any officer, director, manager, operator, or principal of that person can result in denial to operate/work in a title loan business
Financial Transaction Restrictions	Business Opportunity Sales - Disclosure Statement	UT § 13-15-202	An applicant for proof of disclosure must submit a report of any prior crimes involving fraud, dishonesty, misrepresentation or money-laundering before they can act as a licensed seller
Firearms / Weapons Possession	Restricted Persons	UT § 76-10-503	Convictions for felony offenses and domestic violence assault or aggravated assault result in mandatory restriction from possessing, purchasing, transferring, and owning firearms or other dangerous weapons. Possession of Controlled Substance offenses also carry the restriction during the probation period.
Government Contracting	Prequalification of Transportation Contractors	U.A.C. R916-2-3	Prequalification may be denied if now or in the past the contractor employed a convicted felon, or if the contractor has been convicted of any crime involving deceptive or collusive activity in a procurement process
Government Contracting	Debarment of Transportation Contractors	U.A.C. R907-67-1	An individual may be denied contracts if they were involved in an offense related to contract bids, violated state or federal antitrust laws, or affiliate with someone who has been debarred by a state or the federal government.
Government Contracting	Debarment of Capitol Preservation Contracts	U.A.C. R131-4-804; UT § 63G-6a-904	The ability to receive contracts may be revoked for up to 3 years for an offense involving private or public contracts, embezzlement, theft, forgery, bribery, falsification or destruction of records, receiving stolen property, or any other offense indicating a lack of business integrity.  The ability to receive contracts may be suspended up to 3 months on suspicion of above violations, only to be extended pending the outcome of a trial.
Government Program Participation	Participation in General Predator Control Program	U.A.C. R657-64-4	Conviction of any crime involving dishonesty in the last 5 years or any other crime that calls to question an individual's ability to accurately report when and where predators were killed can lead to denial of program participation

Category	Subcategory	Authority	Consequence
Housing	Housing Benefits and Programs	U.A.C. R460-5-3	<p>Eligibility of Utah Housing Corporation (UHC) participants other than mortgage lenders may be revoked if they are convicted for fraud, forgery, destroying or falsifying records, obstruction of justice, or any offense demonstrating a lack of business integrity</p> <p>The eligibility of an affiliate or organizational element of an ineligible participant may be terminated solely based on its affiliation. Ineligibility generally shouldn't exceed 3 years but can be more as circumstances dictate.</p> <p>Designated UHC officers can temporarily suspend a participant for the reasons above until an investigation can be completed. Temporary suspension will not exceed 12 months</p>
Housing	Background checks	UT § 53-10-108	Background checks conducted as part of a landlord/tenant agreement may reveal misdemeanor or felony convictions and lead to denial of housing opportunities
Political Involvement	Courtroom Participation	U.A.C. R597-3-3, UT § 78B-1-105	The conviction of any felony will result in mandatory ineligibility to be a juror or courtroom observer.
Political Involvement	Community Corrections Center Sponsor	U.A.C. R251-306-4	The conviction of any felony or misdemeanor will result in discretionary ineligibility to be a sponsor in a community corrections center
Political Involvement	Dine Advisory Committee	UT § 51-10-206	The conviction of any felony will result in mandatory ineligibility to serve as a member of the Dine Advisory Committee.
Political Involvement	Poll Worker	UT § 20A-5-603	The conviction of any felony or election-related offense will result in mandatory ineligibility to serve as a poll worker.
Political Involvement	Utah Horse Racing Commission	UT § 4-38-3	The conviction of any felony or election-related offense will result in mandatory ineligibility for appointment to this commission
Property / Forfeiture	Liquor Warehouse Licensee	UT § 32B-12-206	The conviction of a manager, director, or officer of any felony, controlled substance offense, motor vehicle offense, crime of moral turpitude, or crimes involving fraud, dishonesty, misrepresentation, or money-laundering will result in the forfeiture of the licensee's cash or surety bond.
Property / Forfeiture	Personal and Real Property	UT § 24-4-102	<p>Permits the forfeiture of personal and real property used to facilitate the commission of an offense.</p> <p>See <b>Criminal Asset Forfeiture</b> Section</p>

Category	Subcategory	Authority	Consequence
Public Assistance	Unemployment Benefits	UT § 35A-4-405, U.A.C. R994-405-210	The conviction of a felony or a class A misdemeanor will result in 1 year (52 weeks) of mandatory ineligibility for unemployment benefits.
Public Assistance	Child Care Assistance Subsidy	U.A.C. R986-700-751	The conviction of a child care provider of any felony, controlled substance offense, motor vehicle offense, weapons offense, sex offense, crime of violence or person offense will result in mandatory ineligibility for this subsidy.
Registration	Sex and Kidnap Offense Registry	UT § 77-41-101 et. seq.	<p>Convictions for sex and kidnapping offenses trigger registration requirements. The registration period may be for ten years or life depending on the offense of conviction.</p> <p>There is a petition process for removal from the registry after five, ten, or twenty years depending on the offense of conviction and behavior during the registry period.</p> <p>See special chapter on <b>Sex and Kidnap Offender Registry Consequences</b> section.</p>
Registration	White Collar Offense Registry	UT § 77-42-101 et. seq.	<p>Convictions at the 2nd Degree Felony level for the following “white collar” offenses trigger registration requirements:</p> <ol style="list-style-type: none"> <li>(1) Section 61-1-1 or Section 61-1-2, securities fraud;</li> <li>(2) Section 76-6-405, theft by deception;</li> <li>(3) Section 76-6-513, unlawful dealing of property by fiduciary;</li> <li>(4) Section 76-6-521, fraudulent insurance;</li> <li>(5) Section 76-6-1203, mortgage fraud;</li> <li>(6) Section 76-10-1801, communications fraud;</li> <li>(7) Section 76-10-1903, money laundering; and</li> <li>(8) Section 76-10-1603, pattern of unlawful activity, if at least one of the unlawful activities is listed in subsections (1) - (7).</li> </ol> <p>A first offense carries a ten-year registration obligation; a second offense carries a second ten-year registration obligation; and a third offense carries a lifetime registration obligation.</p> <p>Registration is not required if the offender pays all restitution by the time of sentencing and has committed no new offenses.</p>





## III. SPECIAL CATEGORIES OF COLLATERAL CONSEQUENCES

### A. Sex and Kidnap Offender Registry Consequences

*By Amanda Montague and Daniel Strong*

#### WHAT IS THE SEX AND KIDNAP OFFENDER REGISTRY?

Utah Code § 77-41 creates a registry for individuals convicted of certain sex and kidnapping offenses. Individuals convicted of any of these offenses must register with the state, maintain current information on the registry, and pay certain fines and fees associated with registration. Registrants appear on a public database for community notification purposes. Additionally, some registrants are subject to additional travel and movement restrictions that may impact housing and employment.

#### WHO MUST REGISTER ON THE SEX AND KIDNAP OFFENDER REGISTRY?

Anyone convicted of a sex or kidnapping offense must register. Registration is not part of the criminal sentence, but a collateral obligation that arises from the conviction. This means that registration cannot be imposed, changed, or waived by the sentencing court. Instead, it attaches based on the offense(s) of conviction.

Utah has a two-tiered registry system, meaning there are two main types of convictions that lead to different registry obligations.

The first tier carries a ten-year registration requirement. Offenses of conviction in this tier include kidnapping, voyeurism, unlawful sexual activity with a minor, unlawful sexual conduct with a 16 or 17 year old, forcible sexual abuse, incest, four convictions of lewdness, four convictions for sexual battery, lewdness involving a child, custodial relations if victim was under 18 years old, sexual exploitation of a vulnerable adult, and sexual abuse of a minor.

The second tier carries a lifetime registry obligation. Eligible crimes include child kidnapping, aggravated kidnapping, enticing a minor over the internet, rape, rape of a child, object rape, object rape of a child, forcible sodomy, sodomy on a child, sexual abuse of a child, aggravated sexual assault, sexual exploitation of a minor, and aggravated exploitation of prostitution.

#### WHAT ARE THE COLLATERAL CONSEQUENCES OF REGISTRATION?

##### Registration Requirements

Registrants must provide the registry the following information: all names and aliases, primary and secondary addresses, a physical description, a current photograph, vehicle information, fingerprints, a DNA specimen, telephone numbers, internet identifiers, a copy of a passport, all professional licenses, information about an educational institution attended or by or employing the registrant, employer information, and social security number. (Utah Code Ann. 77-41-105(7))

Registrants must register twice annually--during the month of their birth and the month six months after their month of birth. They also must register within three business days after a change in residence, place of employment, vehicle information, or educational information. (Utah Code Ann. 77-41-105(3)).



Failure to register in accordance with these rules may result in a Third Degree Felony charge for Failure to Register.

## Fines and Fees

Registrants must pay an annual fee of \$100 to the Department of Corrections. Additionally, the local agency or police department where the person must register may collect an additional fee of \$25 per year.

Registrants are also required to update their address information with the Utah Driver's License Division whenever they change place of residence, which may result in additional driver's license fees.

## Travel/Moving Restrictions

If a registrant stays more than ten nights during a one-year period away from their primary residence, they must list the other location where they stay as a secondary residence and may be required to register in the state or country of that secondary residence. (Utah Code Ann. 77-41-102(16)).

Although nothing in United States law prohibits registrants from obtaining a passport or traveling internationally, some countries place their own restrictions on visitation/entry from registrants. Additionally, when traveling out of the country, registrants are required to provide information about their travel plans and itinerary to the Registry so it can be provided to the National Registry and INTERPOL (see <https://smart.ojp.gov/sorna/notice-international-travel>).

If a registrant moves to or travels to another state or country, they are required to register in accordance with that jurisdiction's registration requirements, including all requirements regarding housing location, employment, etc.

## Location/Behavior Restrictions

There are no location restrictions that apply to all registrants. However, registrants convicted of certain types of offenses are restricted from certain locations and behaviors related.

If the crime of conviction involved a **victim younger than 18**, the registrant cannot enter certain "protected areas" where children are commonly present. These include day care or preschool facilities, swimming pools, schools, parks, playgrounds, or an area that is less than 1,000 feet from the residence of a victim of the registrant. A violation of this rule may result in a Class A Misdemeanor charge. (Utah Code Ann. 77-27-21.7).

If the crime of conviction involved a **victim younger than 14**, the registrant cannot request, invite, or solicit a child to accompany the registrant, unless the registrant obtains express and informed permission from the child's guardian. (Utah Code Ann. 77-27-21.8) A violation of this rule will result in a new Class A Misdemeanor charge and an additional five years of registration. There is an exception for emergency rescues in life-threatening situations.

If an registrant is on **supervision** resulting from the conviction, they will likely be subject to additional restrictions and conditions. Those may vary based on the circumstances of the case, but they will generally prohibit all contact with minors.

Although none of these location restrictions place specific restrictions on where a registrant may live (as is the case in some states), they may nonetheless limit registrants from some housing situations, such as residences where minors are present.

## Ineligibility for Certain Criminal Remedies

Registrants are ineligible to seek a "402 reduction" of their charge of conviction during their registration period. (Utah Code

Ann. 76-3-402). Registrants are also ineligible to seek judicial expungements of the conviction giving rise to their registration requirements, although they may seek a pardon and expungement from the Board of Pardons and Parole. Finally, registrants who receive a conviction to a reduced charge under Section 77-2-2.3 must still register as though the conviction were for the original level of offense.

## HOW CAN A PERSON BE REMOVED FROM THE SEX AND KIDNAP OFFENDER REGISTRY?

Registrants may be eligible to petition for removal from the registry after a specified length of time has passed and other requirements are met. Some offenses are eligible for petition after **five years**, others after **ten years**, and others after **twenty years**.

The following table shows which offenses fall in which eligibility period:

Eligibility Period	Offense of Conviction
<b>Five year eligibility:</b>	<ul style="list-style-type: none"> <li>• 76-4-401, enticing a minor, if the offense is a class A misdemeanor;</li> <li>• 76-5-301, kidnapping;</li> <li>• 76-5-304, unlawful detention, if the conviction of violating Section 76-5-304 is the only conviction for which the offender is required to register;</li> <li>• 76-5-401, 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;</li> <li>• 76-5-401.1, sexual abuse of a minor, if, at the time of the offense, the offender is not more than 10 years older than the victim;</li> <li>• 76-5-401.2, 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; or</li> <li>• 76-9-702.7, voyeurism, if the offense is a class A misdemeanor.</li> </ul>
<b>Ten year eligibility:</b>	All other sex and kidnap offenses except those listed below. (See 77-41-102(9) and (17))
<b>Twenty year eligibility:</b>	<ul style="list-style-type: none"> <li>• 76-5-301.1, child kidnapping, except if the offender is a natural parent of the victim;</li> <li>• 76-5-402, rape;</li> <li>• 76-5-402.1, rape of a child;</li> <li>• 76-5-402.2, object rape;</li> <li>• 76-5-402.3, object rape of a child;</li> <li>• 76-5-403.1, sodomy on a child;</li> <li>• 76-5-404.3, aggravated sexual abuse of a child; or</li> <li>• 76-5-405, aggravated sexual assault;</li> <li>• 76-5-308.1, human trafficking for sexual exploitation;</li> <li>• 76-5-308.5, human trafficking of a child for sexual exploitation;</li> <li>• 76-5-310, aggravated human trafficking for sexual exploitation;</li> <li>• 76-5-311, human trafficking of a vulnerable adult for sexual exploitation;</li> <li>• 76-4-401, a felony violation of enticing a minor over the Internet;</li> <li>• 76-5-302, aggravated kidnapping, except if the offender is a natural parent of the victim;</li> <li>• 76-5-403, forcible sodomy;</li> <li>• 76-5-404.1, sexual abuse of a child;</li> <li>• 76-5b-201, sexual exploitation of a minor;</li> <li>• 76-5b-201.1, aggravated sexual exploitation of a minor;</li> <li>• 76-5b-204(2)(b) aggravated sexual extortion; or</li> <li>• 76-10-1306, aggravated exploitation of prostitution, on or after May 10, 2011.</li> </ul>

For offenses eligible for petition after five years, the petition “clock” starts counting from the termination of the sentence—meaning when all criminal supervision ended. For offenses eligible for petition after ten or twenty years, the petition “clocks” start counting from the day the registrant re-entered the community (through probation, parole, termination of the sentence without parole, entering a residential program, etc). (Utah Code. Ann. 77-41-112).

In addition to the passage of the requisite time period, petitioners must show the have:

- No new criminal convictions since the petition “clock” began
- Successfully completed all treatment ordered by the court or the Board of Pardons and Parole
- Paid all restitution ordered by the court or the Board of Pardons and Parole
- Additionally, twenty-year petitioners must submit an evidence-based risk assessment with the petition.



## B. COLLATERAL CONSEQUENCES FOR JUVENILES

### WHAT IS A JUVENILE ADJUDICATION?

Juvenile court and adult court are different judicial systems with different philosophical underpinnings. The full breadth of the differences in these two systems is beyond the scope of this guide, but one key distinction between the two systems is that findings of “guilt”--or culpability for criminal conduct--in juvenile court are not criminal *convictions*. Instead, a finding of culpability in juvenile court is an *adjudication*.<sup>1</sup> Additionally, many offenses subject to jurisdiction of juvenile court can be resolved through a *nonjudicial adjustment*, which also does not amount to a criminal conviction. (Utah Code Ann. 80-6-304)

According to Utah’s juvenile court, adjudications in juvenile court “may not be considered convictions of a crime, except in cases involving traffic violations.” An adjudication may not “impose any civil disabilities upon the minor” or “disqualify the minor for any civil service or military service or appointment.” (Utah Code Ann. 80-6-601(2))

These provisions serve to limit many of the collateral consequences of criminal *convictions* described above from applying to juveniles. However, juvenile adjudications still carry some collateral impacts, including some that are unique to juveniles.

### WHICH ADULT COLLATERAL CONSEQUENCES ALSO APPLY TO JUVENILE ADJUDICATIONS?

Although the general rule in the juvenile code is that juvenile adjudications should not impose any “civil disabilities” upon the minor, there are some specific carve-outs to this rule in other areas of the criminal code. Some examples include:

#### Firearms and Dangerous Weapon Restrictions

Convictions for felony offenses and domestic violence assault make adults “restricted persons,” prohibited from possessing, owning, transferring, or purchasing firearms and other dangerous weapons. These restrictions also apply to juvenile adjudications for violent felonies adjudicated within the last ten years, or other felonies and domestic violence assault adjudicated within the last seven years. (Utah Code Ann. 76-10-503)

#### DUI Enhancements

Juvenile adjudications may not be used to enhance charges for a subsequent offense unless “specifically provided” in Utah code. (Utah Code Ann. 80-6-601(4)(b)). One area where such enhancements are specifically provided is in Driving Under the Influence cases. A first offense for Driving Under the Influence is a Class B Misdemeanor, but a second offense within ten years can be enhanced to a Class A Misdemeanor, and a third can be enhanced to a Third Degree Felony. (Utah Code 41-6a-501). In these cases, a prior juvenile adjudication is treated the same as a prior adult conviction for purposes of enhancement, even if the charge was subsequently dismissed (such as in a nonjudicial adjustment). (Utah Code 41-6a-501(2)(c)).

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<sup>1</sup> Juveniles may still be convicted in adult court for certain offenses in some circumstances. See Utah Code Ann. 78A-6-103.5.

## Sentencing Guidelines Criminal History Scoring

The Utah Sentencing, Release, and Supervision Guidelines are used by adult courts and the Board of Pardons and Parole to determine sentencing outcomes for adult offenses. Prior juvenile adjudications are considered as part of the criminal history scoring calculation in these guidelines. Specifically, points are added to the criminal history score for prior juvenile adjudications within ten years and all prior adjudications for person, sex, or firearm offenses.

## WHAT COLLATERAL CONSEQUENCES ARE SPECIFIC TO JUVENILES?

Some collateral consequences apply specifically to juveniles or have a more direct impact on juveniles. Some examples include:

### School Notification, Discipline, Suspension, or Expulsion

Criminal conduct committed by juveniles may carry significant impacts on the juvenile's education. The Utah Juvenile Code includes **notification requirements** mandating that school officials be notified regarding any juveniles taken into temporary custody, detained, or adjudicated for weapons offenses of violent offenses. (Utah Code Ann. 80-6-103; 53G-8-401 et. seq.). There are also mandatory notification requirements for educators and school officials to notify school district officials and law enforcement of weapons possession or controlled substance offenses. (Utah Code Ann. 53G-8-506, 510).

State law also empowers the school board and local school authorities to impose **disciplinary action** for a wide range of disruptive behavior, including criminal conduct. State law directs **mandatory suspension or expulsion** for some criminal conduct, including acts involving the use of force or threatened use of force which would be felony or Class A misdemeanors if committed by an adult, serious violations involving the use of weapons, and sale or distribution of controlled substances. State law also directs **discretionary suspension or expulsion** for destruction of property, alcohol offenses, possession or use of pornography, and other disruptive behaviors. (Utah Code Ann. 53G-8-205).

Students may also be **prohibited from participation in extracurricular activities** based on suspected gang-affiliation, drug or alcohol offenses, hazing, or other disruptive behavior (Utah Code Ann. 53G-8-209; 53E-3-509)

The state school board, county school boards, district superintendents, or school officials may be empowered to issue other disciplinary sanctions, including suspension or expulsion, based on policies or authority not specifically listed here.

### College Acceptance and Student Loans

Although these processes are not governed by state law, the Higher Education Act and associated regulations prohibit students who are incarcerated in a state or federal penal institution from receiving federal Pell Grant funding. (Section 401(b) (6) of the Higher Education Act; 34 CFR §668.32(c)(2)(ii)). Other student loan or scholarships may require background checks or otherwise request disclosure of juvenile criminal conduct.

Colleges and Universities may also require background checks or otherwise request disclosure of juvenile criminal conduct that may impact admissions decisions.

## Driver's License Suspension

Juveniles are subject to specific driver's license sanctions, including suspension, that are different from those applicable to adults.

Juvenile courts may suspend and take possession of a juvenile's driver's license as part of the adjudication for offenses committed while the juvenile was driving a vehicle. (Utah Code Ann. 80-6-707).

The Driver's License Division (DLD) may also suspend a juvenile's driver's license based on the accumulation of "points" from various traffic offenses. Drivers under 21 may face this penalty at 70 points, while drivers older than 21 do not face the penalty unless 200 points are accumulated during a three-year period. (Utah Admin. R708-3.)

## Civil Fines / Liability

As with adult convictions, juveniles may be liable for damages and restitution resulting from criminal conduct. There are two provisions unique to juveniles, however. First, unlike adult debt in this arena, juvenile debt cannot be transferred to the Office of State Debt Collection (Utah Code Ann. 80-6-709(8)(b)). Second, a juvenile's parent or guardian may be liable for damages for certain offenses, up to \$5,000. (Utah Code Ann.80-6-610).

## Military Service

Utah's juvenile code specifically states that juvenile adjudications should not bar someone from military service. (Utah Code Ann. 80-6-701.) Utah code also creates an option for service in the National Guard in lieu of other juvenile court sanctions. (Utah Code Ann. 80-6-708.)

There are federal provisions that may limit military service options based on certain types of juvenile adjudications, however. Under federal law, felony, drug, domestic violence, and sex offenses may preclude military service, subject to the discretion of the military branch and administrative exemption procedures. (32 CFR § 66.6)

## HOW DOES JUVENILE EXPUNGEMENT WORK?

As with adult offenses, juveniles may petition to expunge the record related to a juvenile offense. If an expungement order is entered, "the petitioner's case is considered never to have occurred" and "the petitioner may reply to an inquiry on the matter as though" it never occurred. (Utah Code Ann. 80-6-1006.)

For **juvenile adjudications**, an individual can petition for expungement after turning 18 and after one year has passed since the termination of juvenile court jurisdiction or unconditional release from juvenile care. After the petition is received, a hearing will be set. The prosecuting entity and the victim will receive notice and an opportunity to be heard. If the court determines that the petitioner has been sufficiently rehabilitated, an expungement order will be entered. (Utah Code 80-6-1004.)

For **nonjudicial adjustments**, an individual can petition for expungement after turning 18 and completing all terms of the nonjudicial adjustment. The court shall grant these petitions without a hearing if the requirements are met. (Utah Code 80-6-1005.)

Although there are still some limited circumstances where expunged records may be viewable, an expungement is one of the best ways to limit the collateral consequences of conviction.



## C. CRIMINAL ASSET FORFEITURE

By Staci Visser

### WHAT IS CRIMINAL ASSET FORFEITURE?

As part of the criminal case, the State may seek forfeiture of seized property used to facilitate the criminal offense or proceeds from the criminal offense. Governmental agencies in Utah may seize and seek forfeiture of property “used to facilitate the commission of an offense that is a violation of federal or state law,” as well as proceeds of criminal activity. (Utah Code Ann. § 24-4-102 (2022)).

This means that the State may seek ownership of property involved in the criminal offense. For example, the State may seek forfeiture of a vehicle of an individual convicted of certain driving offenses, or the State may seek forfeiture of real property if it was used for criminal activity or purchased with proceeds of a criminal activity.

### HOW DOES CRIMINAL ASSET FORFEITURE WORK?

Forfeiture may be initiated by the prosecution in one of two ways: (1) filing a civil complaint for forfeiture (Utah Code Ann § 24-4-104); or (2) filing a criminal information that states the prosecuting attorney is seeking forfeiture of the defendant’s interest in already seized property (Utah Code § 24-4-105 (2022)). These processes for civil forfeiture and criminal forfeiture are different, but in both processes, the right to trial by a jury applies and the prevailing party is entitled to an award of their legal costs and fees, with some limitations. (Utah Code § 24-4-106, 110.)

If the prosecutor seeks forfeiture of the defendant’s interest in seized property through the criminal case, instead of filing a separate civil complaint, this is criminal forfeiture.

### WHEN CAN THE STATE SEIZE PROPERTY?

Utah law allows peace officers to seize property and contraband under the following circumstances:

1. Upon a search warrant or administrative warrant;
2. Incident to arrest;
3. If the property is subject to a prior judgment in favor of the state in a criminal injunction or forfeiture;  
OR
4. If a peace officer has probable cause to believe the property meets one of the following:
  - a. Is directly or indirectly dangerous to health or safety;
  - b. Is evidence of an offense;
  - c. Has been used or was intended to be used to commit an offense; or
  - d. Is proceeds of an offense.

(Utah Code § 24-2-102 (2021))

### WHAT HAPPENS AFTER THE PROPERTY IS SEIZED?

There are ways to get seized property back in some cases. Individuals may assert an interest in seized property. When

property is seized, the governmental agency involved must provide a receipt for the property with specific information and provide information on property forfeiture. (Utah Code § 24-2-103.) The agency is required to hold the property in safe keeping and maintain a record of the property. If the government seizes cash, they must deposit it into a separate account solely for the purpose of safekeeping the funds “no later than 30 days” after seizure. (Utah Code § 24-2-104.)

In some cases, a state agency may transfer or release the seized property to a federal agency or other governmental agency not “created or subject to the laws” of Utah. Such a transfer must be authorized by the Utah state district court and the district court must make specific finding before that may be done. One requirement prior to transfer is the mailing of notice to potential claimants so they may be heard regarding the transfer. If a claimant requests a hearing, the district court must schedule a hearing. (Utah Code § 24-2-105.)

A property claimant may seek the release of property if certain conditions are met. (Utah Code § 24-2-107.) For example, a claimant may seek release of the property if seizure will cause them a substantial hardship such as preventing them from working or leaving them homeless. Also, an innocent owner may recover seized property by providing sufficient evidence of their ownership. (Utah Code § 24-2-108.) Individuals may not claim an interest in contraband seized by law enforcement. For example, a defendant may not claim illegal substances or a computer used to download child pornography. (Utah Code § 24-1-102(9).)

## **WHAT HAPPENS IF THE STATE SEEKS FORFEITURE OF SEIZED PROPERTY?**

After property is seized, the seizing agency must also serve notice to any known claiming within 30 days of when the property was seized. After serving notice, the agency must submit a written request to the prosecuting attorney where the property was seized, requesting forfeiture within 45 days of the seizure. Id. The prosecutor has 75 days from the date of the seizure to initiate the forfeiture. (Utah Code § 24-4-103.)

If the State files a criminal information seeking forfeiture of seized property, the criminal information must state the grounds justifying the forfeiture. (Utah Code § 24-4-105(3).) While the criminal case is pending, the court can make orders to preserve the property that may be subject to forfeiture. For example, the court can that property not be sold while the case is pending. Those who have an interest in the property are entitled to a hearing before these orders enter. (Utah Code § 24-4-105(4).)

If the defendant is convicted of the offense making the property subject to forfeiture, the prosecutor must establish beyond a reasonable doubt to a judge or jury that: (1) the defendant committed the offense; (2) knew of the offense and allow the property to be used in the offense; or (3) acquired the property at the time of the offense or a reasonable time after. If the prosecutor proves one of these beyond a reasonable doubt, the judge will enter a judgment and order the property forfeited. (Utah Code § 24-4-105(5).)

If the defendant is acquitted of the criminal offense, the property or the market value of the property if already disposed of, must be returned. (Utah Code § 24-4-105(8))

## **WHAT HAPPENS TO FORFEITED PROPERTY?**

Depending on what the forfeited property is, it may be transferred to the State, sold, or destroyed. Funds that have been forfeited go into a specific account and used in the State Asset Forfeiture Grant Program. (Utah Code § 24-4-117.)





## D. IMMIGRATION CONSEQUENCES

Perhaps no group of individuals faces more potentially impactful collateral consequences of a criminal conviction or adjudication than those facing immigration consequences. A criminal conviction or adjudication may have significant and irreversible impacts on an individual's immigration status, up to and including deportation or permanent removal.

The immigration system is largely based in federal law, which is beyond the purview of this guide and the expertise of its authors. Additionally, the specifics of how the federal immigration system is enforced and how its provisions interact with state law can change frequently based on federal policy decisions, court rulings, and immigration court practices. To attempt to quickly summarize this complex body of law as part of this guide would be foolhardy. Even if these provisions could be summarized, it would be inadvisable for anyone facing immigration consequences to rely on a summary document when the stakes of an error are so high.

Instead, non-citizens considering the impact of a criminal case on their immigration status **should contact an attorney with expertise in both immigration and criminal law.**

The United States Supreme Court, in *Padilla v. Kentucky* (559 U.S. 456) held that criminal defense attorneys must advise noncitizen clients about the deportation risks of a guilty plea. Noncitizens facing criminal charges should ask their attorneys about these consequences, or ask the court to appoint an attorney if they do not have one. An attorney's failure to notify clients about potential immigration consequences may result in a finding of ineffective assistance of counsel and post-conviction relief. (See Utah Code Ann. 78B-9-101 et. seq.)

Defense attorneys seeking help in advising their clients on these matters may wish to consult the following resources:

Ishola, Hakeem (2022). Immigration Consequences of Criminal Convictions in Utah, Utah Sentencing Commission, <http://justice.utah.gov/sentencing/research>

List of Attorneys with Immigration Experience, Utah Association of Criminal Defense Attorneys, <http://justice.utah.gov/sentencing>



## ADDENDUM A: OTHER RESOURCES

- **National Inventory of Collateral Consequences of Conviction** - A searchable database cataloguing thousands of collateral consequences in every state. Available at <https://niccc.nationalreentryresourcecenter.org/consequences>
- Brame, Tracey. (2019). *Collateral Consequences of a Criminal Conviction*, Institute of Continuing Legal Education, available at <https://www.icle.org/modules/store/books>
- **Collateral Consequences Resource Center** - An non-profit organization promoting public engagement on collateral consequences and restoration of rights and providing resources to assist individuals with criminal records. Accessible through <https://ccresourcecenter.org>