

Effective 5/3/2023

Effective until 5/1/2024

77-41-102 Definitions.

As used in this chapter:

- (1) "Bureau" means the Bureau of Criminal Identification of the Department of Public Safety established in section 53-10-201.
- (2) "Business day" means a day on which state offices are open for regular business.
- (3) "Certificate of eligibility" means a document issued by the Bureau of Criminal Identification showing that the offender has met the requirements of Section 77-41-112.
- (4)
 - (a) "Convicted" means a plea or conviction of:
 - (i) guilty;
 - (ii) guilty with a mental condition; or
 - (iii) no contest.
 - (b) "Convicted" includes, unless otherwise specified, the period a plea is held in abeyance pursuant to a plea in abeyance agreement as defined in Section 77-2a-1.
 - (c) "Convicted" does not include:
 - (i) a withdrawn or dismissed plea in abeyance;
 - (ii) a diversion agreement; or
 - (iii) an adjudication of a minor for an offense under Section 80-6-701.
- (5) "Department" means the Department of Corrections.
- (6) "Division" means the Division of Juvenile Justice Services.
- (7) "Employed" or "carries on a vocation" includes employment that is full time or part time, whether financially compensated, volunteered, or for the purpose of government or educational benefit.
- (8) "Indian Country" means:
 - (a) all land within the limits of any Indian reservation under the jurisdiction of the United States government, regardless of the issuance of any patent, and includes rights-of-way running through the reservation;
 - (b) all dependent Indian communities within the borders of the United States whether within the original or subsequently acquired territory, and whether or not within the limits of a state; and
 - (c) all Indian allotments, including the Indian allotments to which the Indian titles have not been extinguished, including rights-of-way running through the allotments.
- (9) "Jurisdiction" means any state, Indian Country, United States Territory, or any property under the jurisdiction of the United States military, Canada, the United Kingdom, Australia, or New Zealand.
- (10) "Kidnap offender" means any individual, other than a natural parent of the victim:
 - (a) who has been convicted in this state of a violation of:
 - (i) Subsection 76-5-301(2)(c) or (d), kidnapping;
 - (ii) Section 76-5-301.1, child kidnapping;
 - (iii) Section 76-5-302, aggravated kidnapping;
 - (iv) Section 76-5-308, human trafficking for labor;
 - (v) Section 76-5-308.3, human smuggling;
 - (vi) Section 76-5-308, human smuggling, when the individual smuggled is under 18 years old;
 - (vii) Section 76-5-308.5, human trafficking of a child for labor;
 - (viii) Section 76-5-310, aggravated human trafficking;
 - (ix) Section 76-5-310.1, aggravated human smuggling;
 - (x) Section 76-5-311, human trafficking of a vulnerable adult for labor; or

- (xi) attempting, soliciting, or conspiring to commit any felony offense listed in Subsections (10)(a)(i) through (x);
- (b)
 - (i) who has been convicted of any crime, or an attempt, solicitation, or conspiracy to commit a crime in another jurisdiction, including any state, federal, or military court that is substantially equivalent to the offenses listed in Subsection (10)(a); and
 - (ii) who is:
 - (A) a Utah resident; or
 - (B) not a Utah resident, but who, in any 12-month period, is in this state for a total of 10 or more days, regardless of whether or not the offender intends to permanently reside in this state;
- (c)
 - (i)
 - (A) who is required to register as a kidnap offender in any other jurisdiction of original conviction;
 - (B) who is required to register as a kidnap offender by any state, federal, or military court; or
 - (C) who would be required to register as a kidnap offender if residing in the jurisdiction of the conviction regardless of the date of the conviction or any previous registration requirements; and
 - (ii) in any 12-month period, who is in this state for a total of 10 or more days, regardless of whether or not the offender intends to permanently reside in this state;
- (d)
 - (i)
 - (A) who is a nonresident regularly employed or working in this state; or
 - (B) who is a student in this state; and
 - (ii)
 - (A) who was convicted of one or more offenses listed in Subsection (10), or any substantially equivalent offense in another jurisdiction; or
 - (B) as a result of the conviction, who is required to register in the individual's state of residence;
- (e) who is found not guilty by reason of insanity in this state or in any other jurisdiction of one or more offenses listed in Subsection (10); or
- (f)
 - (i) who is adjudicated under Section 80-6-701 for one or more offenses listed in Subsection (10)(a); and
 - (ii) who has been committed to the division for secure care, as defined in Section 80-1-102, for that offense if:
 - (A) the individual remains in the division's custody until 30 days before the individual's 21st birthday;
 - (B) the juvenile court extended the juvenile court's jurisdiction over the individual under Section 80-6-605 and the individual remains in the division's custody until 30 days before the individual's 25th birthday; or
 - (C) the individual is moved from the division's custody to the custody of the department before expiration of the division's jurisdiction over the individual.
- (11) "Natural parent" means a minor's biological or adoptive parent, and includes the minor's noncustodial parent.
- (12) "Offender" means a kidnap offender as defined in Subsection (10) or a sex offender as defined in Subsection (18).

- (13) "Online identifier" or "Internet identifier":
- (a) means any electronic mail, chat, instant messenger, social networking, or similar name used for Internet communication; and
 - (b) does not include date of birth, social security number, PIN number, or Internet passwords.
- (14) "Primary residence" means the location where the offender regularly resides, even if the offender intends to move to another location or return to another location at any future date.
- (15) "Register" means to comply with the requirements of this chapter and administrative rules of the department made under this chapter.
- (16) "Registration website" means the Sex and Kidnap Offender Notification and Registration website described in Section 77-41-110 and the information on the website.
- (17) "Secondary residence" means any real property that the offender owns or has a financial interest in, or any location where, in any 12-month period, the offender stays overnight a total of 10 or more nights when not staying at the offender's primary residence.
- (18) "Sex offender" means any individual:
- (a) convicted in this state of:
 - (i) a felony or class A misdemeanor violation of Section 76-4-401, enticing a minor;
 - (ii) Section 76-5b-202, sexual exploitation of a vulnerable adult;
 - (iii) Section 76-5-308.1, human trafficking for sexual exploitation;
 - (iv) Section 76-5-308.5, human trafficking of a child for sexual exploitation;
 - (v) Section 76-5-310, aggravated human trafficking for sexual exploitation;
 - (vi) Section 76-5-311, human trafficking of a vulnerable adult for sexual exploitation;
 - (vii) Section 76-5-401, unlawful sexual activity with a minor, except as provided in Subsection 76-5-401(3)(b) or (c);
 - (viii) Section 76-5-401.1, sexual abuse of a minor, except as provided in Subsection 76-5-401.1(3);
 - (ix) Section 76-5-401.2, unlawful sexual conduct with a 16 or 17 year old;
 - (x) Section 76-5-402, rape;
 - (xi) Section 76-5-402.1, rape of a child;
 - (xii) Section 76-5-402.2, object rape;
 - (xiii) Section 76-5-402.3, object rape of a child;
 - (xiv) a felony violation of Section 76-5-403, forcible sodomy;
 - (xv) Section 76-5-403.1, sodomy on a child;
 - (xvi) Section 76-5-404, forcible sexual abuse;
 - (xvii) Section 76-5-404.1, sexual abuse of a child, or Section 76-5-404.3, aggravated sexual abuse of a child;
 - (xviii) Section 76-5-405, aggravated sexual assault;
 - (xix) Section 76-5-412, custodial sexual relations, when the individual in custody is younger than 18 years old, if the offense is committed on or after May 10, 2011;
 - (xx) Section 76-5b-201, sexual exploitation of a minor;
 - (xxi) Section 76-5b-201.1, aggravated sexual exploitation of a minor;
 - (xxii) Section 76-5b-204, sexual extortion or aggravated sexual extortion;
 - (xxiii) Section 76-7-102, incest;
 - (xxiv) Section 76-9-702, lewdness, if the individual has been convicted of the offense four or more times;
 - (xxv) Section 76-9-702.1, sexual battery, if the individual has been convicted of the offense four or more times;
 - (xxvi) any combination of convictions of Section 76-9-702, lewdness, and of Section 76-9-702.1, sexual battery, that total four or more convictions;

- (xxvii) Section 76-9-702.5, lewdness involving a child;
 - (xxviii) a felony or class A misdemeanor violation of Section 76-9-702.7, voyeurism;
 - (xxix) Section 76-10-1306, aggravated exploitation of prostitution; or
 - (xxx) attempting, soliciting, or conspiring to commit any felony offense listed in this Subsection (18)(a);
- (b)
- (i) who has been convicted of any crime, or an attempt, solicitation, or conspiracy to commit a crime in another jurisdiction, including any state, federal, or military court that is substantially equivalent to the offenses listed in Subsection (18)(a); and
 - (ii) who is:
 - (A) a Utah resident; or
 - (B) not a Utah resident, but who, in any 12-month period, is in this state for a total of 10 or more days, regardless of whether the offender intends to permanently reside in this state;
- (c)
- (i)
 - (A) who is required to register as a sex offender in any other jurisdiction of original conviction;
 - (B) who is required to register as a sex offender by any state, federal, or military court; or
 - (C) who would be required to register as a sex offender if residing in the jurisdiction of the original conviction regardless of the date of the conviction or any previous registration requirements; and
 - (ii) who, in any 12-month period, is in the state for a total of 10 or more days, regardless of whether or not the offender intends to permanently reside in this state;
- (d)
- (i)
 - (A) who is a nonresident regularly employed or working in this state; or
 - (B) who is a student in this state; and
 - (ii)
 - (A) who was convicted of one or more offenses listed in Subsection (18)(a), or any substantially equivalent offense in any jurisdiction; or
 - (B) who is, as a result of the conviction, required to register in the individual's jurisdiction of residence;
- (e) who is found not guilty by reason of insanity in this state, or in any other jurisdiction of one or more offenses listed in Subsection (18)(a); or
- (f)
- (i) who is adjudicated under Section 80-6-701 for one or more offenses listed in Subsection (18)(a); and
 - (ii) who has been committed to the division for secure care, as defined in Section 80-1-102, for that offense if:
 - (A) the individual remains in the division's custody until 30 days before the individual's 21st birthday;
 - (B) the juvenile court extended the juvenile court's jurisdiction over the individual under Section 80-6-605 and the individual remains in the division's custody until 30 days before the individual's 25th birthday; or
 - (C) the individual is moved from the division's custody to the custody of the department before expiration of the division's jurisdiction over the individual.
- (19) "Traffic offense" does not include a violation of Title 41, Chapter 6a, Part 5, Driving Under the Influence and Reckless Driving.

(20) "Vehicle" means any motor vehicle, aircraft, or watercraft subject to registration in any jurisdiction.