

SEX OFFENDER PUBLIC RECORDS

1998 GENERAL SESSION

STATE OF UTAH

Sponsor: Brian R. Allen

AN ACT RELATING TO THE CODE OF CRIMINAL PROCEDURE; MAKING THE SEX OFFENDER REGISTRY INFORMATION AVAILABLE TO THE GENERAL PUBLIC UNDER CONDITIONS SET BY THE DEPARTMENT OF CORRECTIONS; ELIMINATING PETITION REQUIREMENTS; MAKING TECHNICAL CORRECTIONS; AND PROVIDING AN EFFECTIVE DATE.

This act affects sections of Utah Code Annotated 1953 as follows:

AMENDS:

77-27-21.5, as last amended by Chapter 220, Laws of Utah 1997

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

Section 1. Section **77-27-21.5** is amended to read:

77-27-21.5. Sex offender registration -- Information system -- Law enforcement and courts to report -- Registration -- Penalty -- Temporary releases -- Effect of expungement.

(1) As used in this section:

(a) "Department" means the Department of Corrections.

(b) "Notification" means a person's~~[-as authorized in Subsection (13)(a), or a petitioner's]~~ acquisition of information from the department about a sex offender, including his place of habitation, physical description, and methodology of the offense, and other information as provided in Subsections (10) and (11)~~[- obtainable upon the request of a person or a petitioner].~~

~~[(c) "Petitioner" means a natural person who requests in writing for information about a sex offender from the department. The petitioner shall be a victim of a sexual offense or a resident in a location where a sex offender is suspected to reside.]~~

~~[(d)]~~ (c) "Register" means to comply with the rules of the department made under this section.

1 ~~[(e)]~~ (d) "Sex offender" means any person convicted by this state or who enters a plea in
2 abeyance for violating Section 76-7-102, 76-9-702.5, 76-5a-3, 76-10-1306, or 76-5-301.1 or of
3 committing or attempting, soliciting, or conspiring to commit a felony, under Title 76, Chapter 5,
4 Part 4, Sexual Offenses, and any person convicted by any other state or the United States
5 government of an offense which if committed or attempted in this state would be punishable as
6 one or more of these offenses. "Sex offender" also means all persons committed to a state mental
7 hospital by reason of their mental incapacity and their commission or alleged commission of one
8 or more offenses listed in this subsection.

9 (2) The department, to assist in investigating sex-related crimes and in apprehending
10 offenders, shall:

11 (a) develop and operate a system to collect, analyze, maintain, and disseminate information
12 on sex offenders and sex offenses; and

13 (b) make information collected and developed under this section available to [~~law~~
14 enforcement agencies in this state, petitioners, the State Office of Education; and] the public.

15 ~~[(c) establish security systems to ensure that only authorized personnel and petitioners may
16 gain access to information gathered under this section.]~~

17 (3) Any law enforcement agency shall, in the manner prescribed by the department, inform
18 the department of:

19 (a) the receipt of a report or complaint of an offense listed in Subsection (1)~~[(e)]~~(d), within
20 three working days; and

21 (b) the arrest of a person suspected of [~~violating~~] any of the offenses listed in Subsection
22 (1)~~[(e)]~~(d), within five working days.

23 (4) Upon convicting a person of any of the offenses listed in Subsection (1)~~[(e)]~~(d), or any
24 lesser included offense, the convicting court shall within three working days forward a copy of the
25 judgment and sentence to the department.

26 (5) A sex offender in the custody of the department shall be registered by agents of the
27 department upon:

28 (a) being placed on probation;

29 (b) commitment to a secure correctional facility operated by or under contract to the
30 department;

31 (c) release from confinement to parole status, termination or expiration of sentence, or

1 escape;

2 (d) entrance to and release from any community-based residential program operated by
3 or under contract to the department; or

4 (e) termination of probation or parole.

5 (6) A sex offender not in the custody of the department who is confined in a correctional
6 facility not operated by or under contract to the department shall, upon release from confinement,
7 be registered with the department by the sheriff of the county in which the offender is confined.

8 (7) A sex offender confined in a state mental hospital shall be registered with the
9 department by the hospital. A sex offender committed to a state mental hospital shall be registered
10 with the department by the hospital upon admission and upon discharge.

11 (8) A sex offender shall, for ten years after termination of sentence, register annually and
12 again within ten days of every change of his place of habitation.

13 (9) An agency that registers a sex offender on parole shall inform him of his duty to
14 comply with the continuing registration requirements of this section, including:

15 (a) notification to an out-of-state agency of moving across state lines;

16 (b) notification to the state agencies in the states where the registrant presently resides and
17 plans to reside when moving across state lines; and

18 (c) verification of address at least every 60 days pursuant to a parole agreement for lifetime
19 parolees.

20 (10) A sex offender shall provide the department with the following information:

21 (a) all names or aliases the sex offender is or has been known by;

22 (b) the sex offender's name and address;

23 (c) a physical description, including the sex offender's age, height, weight, eye and hair
24 color;

25 (d) the type of vehicle or vehicles the sex offender drives;

26 (e) any conditions or restrictions, upon the sex offender's probation, parole, postprison
27 supervision, or conditional release;

28 (f) a current photograph of the sex offender; and

29 (g) the name or telephone number of the sex offender's parole and probation officer.

30 (11) The department shall provide the following additional information:

31 (a) the crimes the sex offender was charged with and convicted of;

1 (b) a description of the sex offender's primary and secondary targets; and

2 (c) a description of the sex offender's method of offense.

3 (12) (a) A sex offender who knowingly fails to register under this section is guilty of a
4 class A misdemeanor and shall be sentenced to serve a term of incarceration for not fewer than 90
5 days and also at least one year of probation.

6 (b) Neither the court nor the Board of Pardons and Parole may release a person who
7 violates this section from serving a term of at least 90 days and of completing probation of at least
8 one year. This subsection supersedes any other provision of the law contrary to this section.

9 (13) ~~[(a) Information]~~ Notwithstanding Title 63, Chapter 2, Government Records Access
10 and Management Act, information collected and released under this section is ~~[classified as~~
11 ~~private, controlled, or protected under Title 63, Chapter 2, Government Records Access and~~
12 ~~Management Act, and is available to the following:]~~ public information.

13 ~~[(i) in the performance of their duties only:]~~

14 ~~[(A) law enforcement agencies;]~~

15 ~~[(B) the State Office of Education; and]~~

16 ~~[(C) the department; and]~~

17 ~~[(ii) a petitioner pursuant to a petition approved by the department.]~~

18 ~~[(b) Any person permitted access pursuant to Subsection (a)(i) is not required to petition~~
19 ~~the department for access.]~~

20 (14) (a) If a sex offender is to be temporarily sent outside a secure facility in which he is
21 confined on any assignment, including, without limitation, firefighting or disaster control, the
22 official who has custody of the offender shall, within a reasonable time prior to removal from the
23 secure facility, notify the local law enforcement agencies where the assignment is to be filled.

24 (b) This Subsection (14) does not apply to any person temporarily released under guard
25 from the institution in which he is confined.

26 (15) Notwithstanding Sections 77-18-9 through 77-18-14 regarding expungement, a person
27 convicted of any offense listed in Subsection (1)~~[(e)]~~(d) is not relieved from the responsibility to
28 register under this section.

29 (16) Notwithstanding Section 42-1-1, a sex offender may not change his name while under
30 the jurisdiction of the department and until the registration requirements of this statute have
31 expired.

1 ~~[(17) (a) As provided in Subsection (13)(a)(ii), a petitioner may petition the department~~
2 ~~to receive information about a sex offender. The petition shall be in writing with a return address~~
3 ~~and telephone number. If the petitioner changes his residence, it is the petitioner's obligation to~~
4 ~~file another petition with a current return address and telephone number.]~~

5 ~~[(b) The department shall determine if the petition is approved, and if approved, provide~~
6 ~~notification to the petitioner of the information as provided in Subsections (10) and (11).]~~

7 ~~[(c) If the department determines to deny a petition, it shall respond in writing to the~~
8 ~~petitioner, stating its reasons for denial of the petition.]~~

9 ~~[(18)] (17) The department may make rules necessary to implement this section, including:~~

10 ~~[(a) criteria for approval of a petition as provided in Subsection (17);]~~

11 ~~[(b)] (a) the method for dissemination of the information; and~~

12 ~~[(c)] (b) instructions to the [petitioner] public regarding the use of the information.~~

13 ~~[(19) The notification provisions in this section shall not be retroactive.]~~

14 ~~[(20)] (18) Any information regarding the identity or location of a victim shall be redacted~~
15 ~~by the department from information provided under Subsections (10) and (11).~~

16 ~~[(21)] (19) Nothing in this section shall be construed to create or impose any duty on [a~~
17 ~~petitioner or] any [other] person to [petition the department for] request or obtain information~~
18 ~~regarding any sex offender from the department.~~

19 Section 2. **Effective date.**

20 This act takes effect on July 1, 1998.

Legislative Review Note
as of 2-3-98 3:46 PM

A limited legal review of this bill raises no obvious constitutional or statutory concerns.

Office of Legislative Research and General Counsel