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SEX OFFENDER REGISTRY

2001 GENERAL SESSION

STATE OF UTAH

Sponsor: DeMar Bud Bowman

This act modifies the Criminal Code by amending the provisions regarding sex offender registration. The act modifies the definition of sex offender, the registration of sex offenders living in the state but convicted in another state, and offenders in a state mental hospital.

The act also clarifies certain procedures of registration.

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

AMENDS:

77-27-21.5, as last amended by Chapter 201, Laws of Utah 2000

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 -- Effect of expungement.

(1) As used in this section:

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

(b) "Notification" means a person'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)~~] (11) and [~~(11)~~] (12).

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

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

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28 hospital by reason of their mental incapacity and their commission or alleged commission of one
29 or more offenses listed in this Subsection (1)(d).];

30 (i) convicted by this state of:

31 (A) Section 76-5-301.1, kidnapping of a child;

32 (B) a felony violation of Section 76-5-401, unlawful sexual activity with a minor;

33 (C) Section 76-5-401.1, sexual abuse of a minor;

34 (D) Section 76-5-401.2, unlawful sexual conduct with a 16 or 17 year old;

35 (E) Section 76-5-402, rape;

36 (F) Section 76-5-402.1, rape of a child;

37 (G) Section 76-5-402.2, object rape;

38 (H) Section 76-5-402.3, object rape of a child;

39 (I) a felony violation of Section 76-5-403, forcible sodomy;

40 (J) Section 76-5-403.1, sodomy on a child;

41 (K) Section 76-5-404, forcible sexual abuse;

42 (L) Section 76-5-404.1, sexual abuse of a child or aggravated sexual abuse of a child;

43 (M) Section 76-5-405, aggravated sexual assault;

44 (N) Section 76-5a-3, sexual exploitation of a minor;

45 (O) Section 76-7-102, incest;

46 (P) Section 76-9-702.5, lewdness involving a child;

47 (Q) Section 76-10-1306, aggravated exploitation of prostitution; or

48 (R) attempting, soliciting, or conspiring to commit any offense listed in Subsections

49 (A),(B), (D) through (O), or (Q);

50 (ii) convicted by any other state or the United States government of an offense which if

51 committed in this state would be punishable as one or more of the offenses listed in Subsection

52 (1)(d)(i) and who is:

53 (A) a Utah resident; or

54 (B) not a Utah resident, but who is in the state for a period exceeding 14 consecutive days,

55 or for an aggregate period exceeding 30 days, during any calendar year; or

56 (iii) committed to a state mental hospital by reason of mental incapacity and the

57 commission or alleged commission of one or more offenses listed in Subsection (1)(d)(i).

58 (2) The department, to assist in investigating sex-related crimes and in apprehending

59 offenders, shall:

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

62 (b) make information collected and developed under this section available to the public.

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

65 (a) the receipt of a report or complaint of an offense listed in Subsection (1)(d), within
66 three working days; and

67 (b) the arrest of a person suspected of any of the offenses listed in Subsection (1)(d),
68 within five working days.

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

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

74 (a) being placed on probation;

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

77 (c) release from confinement to parole status, termination or expiration of sentence, or
78 escape;

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

81 (e) termination of probation or parole.

82 (6) A sex offender not in the custody of the department and who is confined in a
83 correctional facility not operated by or under contract to the department shall[~~, upon release from~~
84 ~~confinement;~~] be registered with the department by the sheriff of the county in which the offender
85 is confined[-] upon:

86 (a) commitment to the correctional facility; and

87 (b) release from confinement.

88 (7) [~~A sex offender confined in a state mental hospital shall be registered with the~~
89 ~~department by the hospital.] A sex offender committed to a state mental hospital shall be~~

90 registered with the department by the hospital upon admission and upon discharge.

91 (8) A sex offender convicted by any other state or by the United States government is
92 required to register under Subsection (1)(d)(ii) and shall register with the department within ten
93 days after entering the state.

94 [~~(8)~~] (9) (a) A sex offender shall, for the duration of the sentence and for ten years after
95 termination of sentence, register annually and again within ten days of every change of his place
96 of habitation.

97 (b) Notwithstanding Subsection (9)(a), a sex offender who is confined in a secure facility
98 or in a state mental hospital is not required to register annually.

99 [~~(9)~~] (10) An agency in the state that registers a sex offender on [~~parole~~] probation, a sex
100 offender who has been released from confinement to parole status or termination, or a sex offender
101 whose sentence has expired shall inform [~~him~~] the offender of [~~his~~] the duty to comply with the
102 continuing registration requirements of this section during the period of registration required in
103 Subsection (9), including:

104 [~~(a)~~] notification to an out-of-state agency of moving across state lines;

105 [~~(b)~~] (a) notification to the state agencies in the states where the registrant presently resides
106 and plans to reside when moving across state lines; [~~and~~]

107 [~~(c)~~] (b) verification of address at least every 60 days pursuant to a parole agreement for
108 lifetime parolees[-]; and

109 (c) notification to the out-of-state agency where the offender is living, whether or not the
110 offender is a resident of that state.

111 [~~(10)~~] (11) A sex offender shall provide the department with the following information:

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

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

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

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

117 (e) a current photograph of the sex offender.

118 [~~(11)~~] (12) The department shall provide the following additional information when
119 available:

120 (a) the crimes the sex offender was [~~charged with and~~] convicted of; and

121 (b) a description of the sex offender's primary and secondary targets~~;~~ and].

122 [~~(c) a description of the sex offender's method of offense.~~]

123 [~~(12)~~] (13) (a) A sex offender who knowingly fails to register under this section is guilty
124 of a class A misdemeanor and shall be sentenced to serve a term of incarceration for not fewer than
125 90 days and also at least one year of probation.

126 (b) Neither the court nor the Board of Pardons and Parole may release a person who
127 violates this section from serving a term of at least 90 days and of completing probation of at least
128 one year. This Subsection [~~(12)~~] (13)(b) supersedes any other provision of the law contrary to this
129 section.

130 [~~(13)~~] (14) Notwithstanding Title 63, Chapter 2, Government Records Access and
131 Management Act, information in Subsections [~~(10)~~] (11) and [~~(11)~~] (12) collected and released
132 under this section is public information.

133 [~~(14)~~] (15) (a) If a sex offender is to be temporarily sent outside a secure facility in which
134 he is confined on any assignment, including, without limitation, firefighting or disaster control, the
135 official who has custody of the offender shall, within a reasonable time prior to removal from the
136 secure facility, notify the local law enforcement agencies where the assignment is to be filled.

137 (b) This Subsection [~~(14)~~] (15) does not apply to any person temporarily released under
138 guard from the institution in which he is confined.

139 [~~(15)~~] (16) Notwithstanding Sections 77-18-9 through 77-18-14 regarding expungement,
140 a person convicted of any offense listed in Subsection (1)(d) is not relieved from the responsibility
141 to register under this section.

142 [~~(16)~~] (17) Notwithstanding Section 42-1-1, a sex offender may not change his name;

143 (a) while under the jurisdiction of the department; and

144 (b) until the registration requirements of this statute have expired.

145 [~~(17)~~] (18) The department may make rules necessary to implement this section, including:

146 (a) the method for dissemination of the information; and

147 (b) instructions to the public regarding the use of the information.

148 [~~(18)~~] (19) Any information regarding the identity or location of a victim shall be redacted
149 by the department from information provided under Subsections [~~(10)~~] (11) and [~~(11)~~] (12).

150 [~~(19)~~] (20) Nothing in this section shall be construed to create or impose any duty on any
151 person to request or obtain information regarding any sex offender from the department.

152 [~~(20)~~] (21) If the department chooses to post registry information on the Internet, the
153 website shall contain a disclaimer informing the public of the following:

154 (a) the information contained on the site is obtained from sex offenders and the department
155 does not guarantee its accuracy;

156 (b) members of the public are not allowed to publicize the information or use it to harass
157 or threaten sex offenders or members of their families; and

158 (c) harassment, stalking, or threats against sex offenders or their families are prohibited
159 and doing so may violate Utah criminal laws.

160 [~~(21)~~] (22) The department shall construct the website so that users, before accessing
161 registry information, must indicate that they have read the disclaimer, understand it, and agree to
162 comply with its terms.

163 [~~(22)~~] (23) The department, its personnel, and any individual or entity acting at the request
164 or upon the direction of the department are immune from civil liability for damages for good faith
165 compliance with this section and will be presumed to have acted in good faith by reporting
166 information.

167 [~~(23)~~] (24) The department shall redact information that, if disclosed, could reasonably
168 identify a victim.

169 [~~(24)~~—The website may also include information about sex offenders ordered to accept
170 notification of their registry information as part of a condition of probation or parole.]

Legislative Review Note
as of 1-5-01 12:17 PM

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

Office of Legislative Research and General Counsel