

SEX OFFENDER AMENDMENTS

2006 GENERAL SESSION

STATE OF UTAH

Chief Sponsor: Brad L. Dee

Senate Sponsor: _____

LONG TITLE

General Description:

This bill modifies the Uniform Driver License Act and the Code of Criminal Procedure by amending provisions related to sex offenders.

Highlighted Provisions:

This bill:

- ▶ provides that a driver license or identification card expires on the birth date of the applicant in the first year following the date that the driver license or identification card was issued if the person is required to register as a sex offender;
- ▶ provides that an applicant for a driver license or identification card shall indicate on the application whether the applicant is required to register as a sex offender;
- ▶ provides that if a person is currently required to register as a sex offender and the person has applied for and received a driver license or identification card:
 - the person's driver license or identification card expires on the person's next birth date beginning on July 1, 2006;
 - the person shall surrender the person's driver license or identification card on or before the person's next birth date beginning on July 1, 2006; and
 - the person may apply for a driver license or identification card with a one-year expiration date;
- ▶ provides that if a person is convicted of a registerable sex offense after the person has applied for a driver license or identification card, the person:



28 • shall surrender the person's driver license or identification card on the person's
29 next birth date following conviction; and

30 • may apply for a driver license or identification card with a one-year expiration
31 date;

32 ▶ requires the Driver License Division to keep on its computerized records the
33 applicant's indication whether the applicant is required to register as a sex offender;

34 ▶ provides that it is a class A misdemeanor if a person knowingly fails to comply with
35 the driver license or identification card indication or license surrender provisions for
36 registered sex offenders;

37 ▶ prohibits the Driver License Division from granting an extension for a license
38 certificate issued with a one-year expiration date to someone required to register as
39 a sex offender;

40 ▶ provides that a sex offender convicted in any other state or by the United States
41 government shall register with the Department of Corrections within five days after
42 entering the state;

43 ▶ provides that a sex offender shall register with the Department of Corrections within
44 five days of every change of the sex offender's place of habitation;

45 ▶ requires an agency in the state that registers certain sex offenders to notify the
46 offender of the duty to comply with the driver license or identification surrender and
47 application provisions;

48 ▶ repeals a provision that prohibits members of the public from publicizing the sex
49 offender registry information; and

50 ▶ makes technical changes.

51 **Monies Appropriated in this Bill:**

52 None

53 **Other Special Clauses:**

54 This bill takes effect on July 1, 2006.

55 **Utah Code Sections Affected:**

56 AMENDS:

57 **53-3-205**, as last amended by Chapters 20 and 34, Laws of Utah 2005

58 **53-3-214**, as last amended by Chapters 2 and 34, Laws of Utah 2005

59 **53-3-216**, as last amended by Chapters 54 and 85, Laws of Utah 2001
60 **53-3-804**, as last amended by Chapters 20 and 34, Laws of Utah 2005
61 **53-3-807**, as last amended by Chapters 20 and 34, Laws of Utah 2005
62 **77-27-21.5**, as last amended by Chapter 48, Laws of Utah 2002



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

65 Section 1. Section **53-3-205** is amended to read:

66 **53-3-205. Application for license or endorsement -- Fee required -- Tests --**
67 **Expiration dates of licenses and endorsements -- Information required -- Previous**
68 **licenses surrendered -- Driving record transferred from other states -- Reinstatement --**
69 **Fee required -- License agreement.**

70 (1) An application for any original license, provisional license, or endorsement shall
71 be:

- 72 (a) made upon a form furnished by the division; and
- 73 (b) accompanied by a nonrefundable fee set under Section 53-3-105.

74 (2) An application and fee for an original provisional class D license or an original
75 class D license entitle the applicant to:

- 76 (a) not more than three attempts to pass both the knowledge and skills tests for a class
77 D license within six months of the date of the application;
- 78 (b) a learner permit if needed after the knowledge test is passed; and
- 79 (c) an original class D license and license certificate after all tests are passed.

80 (3) An application and fee for an original class M license entitle the applicant to:

- 81 (a) not more than three attempts to pass both the knowledge and skills tests for a class
82 M license within six months of the date of the application;
- 83 (b) a learner permit if needed after the knowledge test is passed; and
- 84 (c) an original class M license and license certificate after all tests are passed.

85 (4) An application and fee for a motorcycle or taxicab endorsement entitle the
86 applicant to:

- 87 (a) not more than three attempts to pass both the knowledge and skills tests within six
88 months of the date of the application;
- 89 (b) a motorcycle learner permit if needed after the motorcycle knowledge test is

90 passed; and

91 (c) a motorcycle or taxicab endorsement when all tests are passed.

92 (5) An application and fees for a commercial class A, B, or C license entitle the
93 applicant to:

94 (a) not more than two attempts to pass a knowledge test and not more than two
95 attempts to pass a skills test within six months of the date of the application;

96 (b) a commercial driver instruction permit if needed after the knowledge test is passed;
97 and

98 (c) an original commercial class A, B, or C license and license certificate when all
99 applicable tests are passed.

100 (6) An application and fee for a CDL endorsement entitle the applicant to:

101 (a) not more than two attempts to pass a knowledge test and not more than two
102 attempts to pass a skills test within six months of the date of the application; and

103 (b) a CDL endorsement when all tests are passed.

104 (7) If a CDL applicant does not pass a knowledge test, skills test, or an endorsement
105 test within the number of attempts provided in Subsection (5) or (6), each test may be taken
106 two additional times within the six months for the fee provided in Section 53-3-105.

107 (8) (a) Except as provided under Subsections (8)(f) [~~and~~], (g), and (h), an original
108 license expires on the birth date of the applicant in the fifth year following the year the license
109 certificate was issued.

110 (b) Except as provided under Subsections (8)(f) [~~and~~], (g), and (h) a renewal or an
111 extension to a license expires on the birth date of the licensee in the fifth year following the
112 expiration date of the license certificate renewed or extended.

113 (c) Except as provided under Subsections (8)(f) and (g), a duplicate license expires on
114 the same date as the last license certificate issued.

115 (d) An endorsement to a license expires on the same date as the license certificate
116 regardless of the date the endorsement was granted.

117 (e) A license and any endorsement to the license held by a person ordered to active
118 duty and stationed outside Utah in any of the armed forces of the United States, which expires
119 during the time period the person is stationed outside of the state, is valid until 90 days after the
120 person has been discharged or has left the service, unless the license is suspended, disqualified,

121 denied, or has been cancelled or revoked by the division, or the licensee updates the
122 information or photograph on the license certificate.

123 (f) An original license or a renewal to an original license obtained using proof under
124 Subsection (9)(a)(i)(E)(III) expires on the date of the expiration of the applicant's foreign visa,
125 permit, or other document granting legal presence in the United States or on the date provided
126 under this Subsection (8), whichever is sooner.

127 (g) (i) An original license or a renewal or a duplicate to an original license expires on
128 the next birth date of the applicant or licensee beginning on July 1, 2005 if:

129 (A) the license was obtained without using a Social Security number as required under
130 Subsection (9); and

131 (B) the license certificate or driving privilege card is not clearly distinguished as
132 required under Subsection 53-3-207(6).

133 (ii) A driving privilege card issued or renewed under Section 53-3-207 expires on the
134 birth date of the applicant in the first year following the year that the driving privilege card was
135 issued or renewed.

136 (iii) The expiration dates provided under Subsections (8)(g)(i) and (ii) do not apply to
137 an original license or driving privilege card or to the renewal of an original license or driving
138 privilege card with an expiration date provided under Subsection (8)(f).

139 (h) An original license or a renewal to an original license expires on the birth date of
140 the applicant in the first year following the year that the license was issued if the applicant is
141 required to register as a sex offender under Section 77-27-21.5.

142 (9) (a) In addition to the information required by Title 63, Chapter 46b, Administrative
143 Procedures Act, for requests for agency action, each applicant shall have a Utah residence
144 address and each applicant shall:

145 (i) provide the applicant's:

146 (A) full legal name;

147 (B) birth date;

148 (C) gender;

149 (D) between July 1, 2002 and July 1, 2007, race in accordance with the categories
150 established by the United States Census Bureau;

151 (E) (I) Social Security number;

152 (II) temporary identification number (ITIN) issued by the Internal Revenue Service for
153 a person who does not qualify for a Social Security number; or

154 (III) (Aa) proof that the applicant is a citizen of a country other than the United States;

155 (Bb) proof that the applicant does not qualify for a Social Security number; and

156 (Cc) proof of legal presence in the United States, as authorized under federal law; and

157 (F) Utah residence address as documented by a form acceptable under rules made by
158 the division under Section 53-3-104;

159 (ii) provide a description of the applicant;

160 (iii) state whether the applicant has previously been licensed to drive a motor vehicle
161 and, if so, when and by what state or country;

162 (iv) state whether the applicant has ever had any license suspended, cancelled, revoked,
163 disqualified, or denied in the last six years, or whether the applicant has ever had any license
164 application refused, and if so, the date of and reason for the suspension, cancellation,
165 revocation, disqualification, denial, or refusal;

166 (v) state whether the applicant intends to make an anatomical gift under Title 26,
167 Chapter 28, Uniform Anatomical Gift Act, in compliance with Subsection (16);

168 (vi) state whether the applicant is required to register as a sex offender under Section
169 77-27-21.5;

170 [~~vi~~] (vii) provide all other information the division requires; and

171 [~~vii~~] (viii) sign the application which signature may include an electronic signature as
172 defined in Section 46-4-102.

173 (b) The division shall maintain on its computerized records an applicant's:

174 (i) (A) Social Security number;

175 [~~ii~~] (B) temporary identification number (ITIN); or

176 [~~iii~~] (C) other number assigned by the division if Subsection (9)(a)(i)(E)(III)
177 applies[-]; and

178 (ii) indication whether the applicant is required to register as a sex offender under
179 Section 77-27-21.5.

180 (c) An applicant may not be denied a license for refusing to provide race information
181 required under Subsection (9)(a)(i)(D).

182 (10) The division shall require proof of every applicant's name, birthdate, and

183 birthplace by at least one of the following means:

184 (a) current license certificate;

185 (b) birth certificate;

186 (c) Selective Service registration; or

187 (d) other proof, including church records, family Bible notations, school records, or
188 other evidence considered acceptable by the division.

189 (11) When an applicant receives a license in another class, all previous license
190 certificates shall be surrendered and canceled. However, a disqualified commercial license may
191 not be canceled unless it expires before the new license certificate is issued.

192 (12) (a) When an application is received from a person previously licensed in another
193 state to drive a motor vehicle, the division shall request a copy of the driver's record from the
194 other state.

195 (b) When received, the driver's record becomes part of the driver's record in this state
196 with the same effect as though entered originally on the driver's record in this state.

197 (13) An application for reinstatement of a license after the suspension, cancellation,
198 disqualification, denial, or revocation of a previous license shall be accompanied by the
199 additional fee or fees specified in Section 53-3-105.

200 (14) A person who has an appointment with the division for testing and fails to keep
201 the appointment or to cancel at least 48 hours in advance of the appointment shall pay the fee
202 under Section 53-3-105.

203 (15) A person who applies for an original license or renewal of a license agrees that the
204 person's license is subject to any suspension or revocation authorized under this title or Title
205 41, Motor Vehicles.

206 (16) (a) The indication of intent under Subsection (9)(a)(v) shall be authenticated by
207 the licensee in accordance with division rule.

208 (b) (i) Notwithstanding Title 63, Chapter 2, Government Records Access and
209 Management Act, the division may, upon request, release to an organ procurement
210 organization, as defined in Section 26-28-2, the names and addresses of all persons who under
211 Subsection (9)(a)(v) indicate that they intend to make an anatomical gift.

212 (ii) An organ procurement organization may use released information only to:

213 (A) obtain additional information for an anatomical gift registry; and

214 (B) inform licensees of anatomical gift options, procedures, and benefits.

215 (17) The division and its employees are not liable, as a result of false or inaccurate
216 information provided under Subsection (9)(a)(v), for direct or indirect:

217 (a) loss;

218 (b) detriment; or

219 (c) injury.

220 (18) A person who knowingly fails to provide the information required under
221 Subsection (9)(a)(vi) is guilty of a class A misdemeanor.

222 Section 2. Section **53-3-214** is amended to read:

223 **53-3-214. Renewal -- Fees required -- Extension without examination.**

224 (1) (a) The holder of a valid license may renew his license and any endorsement to the
225 license by applying:

226 (i) at any time within six months before the license expires; or

227 (ii) more than six months prior to the expiration date if the applicant furnishes proof
228 that he will be absent from the state during the six-month period prior to the expiration of the
229 license.

230 (b) The application for a renewal of, extension of, or any endorsement to a license shall
231 be accompanied by a fee under Section 53-3-105.

232 (2) (a) Except as provided under Subsections (2)(b) and (3), upon application for
233 renewal of a license, provisional license, and any endorsement to a license, the division shall
234 reexamine each applicant as if for an original license and endorsement to the license, if
235 applicable.

236 (b) The division may waive any or all portions of the test designed to demonstrate the
237 applicant's ability to exercise ordinary and reasonable control driving a motor vehicle.

238 (3) (a) Except as provided under Subsection (3)(b), the division shall extend a license,
239 any endorsement to the license, a provisional license, and any endorsement to a provisional
240 license for five years without examination for licensees whose driving records for the five years
241 immediately preceding the determination of eligibility for extension show:

242 (i) no suspensions;

243 (ii) no revocations;

244 (iii) no conviction for reckless driving under Section 41-6a-528; and

- 245 (iv) no more than four reportable violations in the preceding five years.
- 246 (b) (i) After the expiration of a license, a new license certificate and any endorsement
247 to a license certificate may not be issued until the person has again passed the tests under
248 Section 53-3-206 and paid the required fee.
- 249 (ii) A person 65 years of age or older shall take and pass the eye examination specified
250 in Section 53-3-206.
- 251 (iii) An extension may not be granted to any person:
- 252 (A) who is identified by the division as having a medical impairment that may
253 represent a hazard to public safety;
- 254 (B) holding a CDL issued under Part 4 [~~of this chapter; or~~], Uniform Commercial
255 Driver License Act;
- 256 (C) whose original license was obtained using proof under Subsection
257 53-3-205(9)(a)(i)(E)(III)[-]; or
- 258 (D) whose original license was issued with an expiration date under Subsection
259 53-3-205(8)(h).
- 260 (c) The division shall allow extensions:
- 261 (i) by mail at the appropriate extension fee rate under Section 53-3-105;
- 262 (ii) only if the applicant qualifies under this section; and
- 263 (iii) for only one extension.
- 264 Section 3. Section **53-3-216** is amended to read:
- 265 **53-3-216. Change of address -- Duty of licensee to notify division within ten days**
266 **-- Change of name -- Proof necessary -- Method of giving notice by division.**
- 267 (1) If a person, after applying for or receiving a license, moves from the address named
268 in the application or in the license certificate issued to him, the person shall within ten days of
269 moving, notify the division in a manner specified by the division of his new address and the
270 number of any license certificate held by him.
- 271 (2) If a person requests to change the surname on the applicant's license, the division
272 shall issue a substitute license with the new name upon receiving an application and fee for a
273 duplicate license and any of the following proofs of the applicant's full legal name:
- 274 (a) an original or certified copy of the applicant's marriage certificate;
- 275 (b) a certified copy of a court order under Title 42, Chapter 1, Change of Name,

276 showing the name change;

277 (c) an original or certified copy of a birth certificate issued by a government agency;

278 (d) a certified copy of a divorce decree or annulment granted the applicant that

279 specifies the name change requested; or

280 (e) a certified copy of a divorce decree that does not specify the name change requested

281 together with:

282 (i) an original or certified copy of the applicant's birth certificate;

283 (ii) the applicant's marriage license;

284 (iii) a driver license record showing use of a maiden name; or

285 (iv) other documentation the division finds acceptable.

286 (3) (a) If a person has applied for and received a license certificate and is currently
287 required to register as a sex offender under Section 77-27-21.5:

288 (i) the person's original license or renewal to an original license expires on the next
289 birth date of the licensee beginning on July 1, 2006;

290 (ii) the person shall surrender the person's license to the division on or before the
291 licensee's next birth date beginning on July 1, 2006; and

292 (iii) the person may apply for a license certificate with an expiration date identified in
293 Subsection 53-3-205(8)(h) by:

294 (A) furnishing proper documentation to the division as provided in Section 53-3-205;
295 and

296 (B) paying the fee for a license required under Section 53-3-105.

297 (b) (i) Except as provided in Subsection (3)(b)(ii), if a person has applied for and
298 received a license certificate and is subsequently convicted of any offense listed in Subsection
299 77-27-21.5(1)(e), the person shall surrender the license certificate to the division on the
300 person's next birth date following the conviction and may apply for a license certificate with an
301 expiration date identified in Subsection 53-3-205(8)(h) by:

302 (A) furnishing proper documentation to the division as provided in Section 53-3-205;
303 and

304 (B) paying the fee for a license required under Section 53-3-105.

305 (ii) A person who is unable to comply with the provisions of Subsection (3)(a) or
306 (3)(b)(i) because the person is in the custody of the Department of Corrections or the Division

307 of Juvenile Justice Services, confined in a correctional facility not operated by or under
 308 contract with the Department of Corrections, or committed to a state mental facility, shall
 309 comply with the provisions of Subsection (3)(a) or (3)(b)(i) within ten days of being released
 310 from confinement.

311 ~~[(3)]~~ (4) (a) If the division is authorized or required to give any notice under this
 312 chapter or other law regulating the operation of vehicles, the notice shall, unless otherwise
 313 prescribed, be given by:

314 (i) personal delivery to the person to be notified; or

315 (ii) deposit in the United States mail with postage prepaid, addressed to the person at
 316 his address as shown by the records of the division.

317 (b) The giving of notice by mail is complete upon the expiration of four days after the
 318 deposit of the notice.

319 (c) Proof of the giving of notice in either manner may be made by the certificate of any
 320 officer or employee of the division or affidavit of any person older than 18 years of age,
 321 naming the person to whom the notice was given and specifying the time, place, and manner of
 322 giving the notice.

323 ~~[(4)]~~ (5) The division may use state mailing or United States Postal Service
 324 information to:

325 (a) verify an address on an application or on records of the division; and

326 (b) correct mailing addresses in the division's records.

327 ~~[(5)]~~ (6) (a) A violation of the provisions of Subsection (1) is an infraction.

328 (b) A person who knowingly fails to surrender a license certificate under Subsection
 329 (3) is guilty of a class A misdemeanor.

330 Section 4. Section **53-3-804** is amended to read:

331 **53-3-804. Application for identification card -- Required information -- Release**
 332 **of anatomical gift information.**

333 (1) To apply for an identification card, the applicant shall:

334 (a) be a Utah resident;

335 (b) have a Utah residence address; and

336 (c) appear in person at any license examining station.

337 (2) The applicant shall provide the following information to the division:

- 338 (a) true and full legal name and Utah residence address;
- 339 (b) date of birth as set forth in a certified copy of the applicant's birth certificate, or
- 340 other satisfactory evidence of birth, which shall be attached to the application;
- 341 (c) Social Security number;
- 342 (d) place of birth;
- 343 (e) height and weight;
- 344 (f) color of eyes and hair;
- 345 (g) between July 1, 2002 and July 1, 2007, race in accordance with the categories

346 established by the United States Census Bureau;

347 (h) signature;

348 (i) photograph; [~~and~~]

349 (j) an indication whether the applicant intends to make an anatomical gift under Title
350 26, Chapter 28, Uniform Anatomical Gift Act[-]; and

351 (k) an indication whether the applicant is required to register as a sex offender under
352 Section 77-27-21.5.

353 (3) The requirements of Section 53-3-234 apply to this section for each person, age 16
354 and older, applying for an identification card. Refusal to consent to the release of information
355 shall result in the denial of the identification card.

356 (4) An applicant may not be denied an identification card for refusing to provide race
357 information required under Subsection (2)(g).

358 (5) A person who knowingly fails to provide the information required under Subsection
359 (2)(k) is guilty of a class A misdemeanor.

360 Section 5. Section **53-3-807** is amended to read:

361 **53-3-807. Expiration -- Address and name change -- Extension for disabled.**

362 (1) The identification card expires on the birth date of the applicant in the tenth year
363 following the issuance of the identification card, except as provided under Subsection [~~(6)~~] (7).

364 (2) If a person has applied for and received an identification card and subsequently
365 moves from the address shown on the application or on the card, the person shall within ten
366 days notify the division in a manner specified by the division of his new address.

367 (3) If a person has applied for and received an identification card and subsequently
368 changes [~~his~~] the person's name under Title 42, Chapter 1, Change of Name, [~~he~~] the person:

- 369 (a) shall surrender the card to the division; and
- 370 (b) may apply for a new card in ~~his~~ the person's new name by:
- 371 (i) furnishing proper documentation to the division as provided in Section 53-3-804;
- 372 and
- 373 (ii) paying the fee required under Section 53-3-105.
- 374 (4) (a) If a person has applied for and received an identification card and is currently
- 375 required to register as a sex offender under Section 77-27-21.5:
- 376 (i) the person's identification card expires on the next birth date of the cardholder
- 377 beginning on July 1, 2006;
- 378 (ii) the person shall surrender the person's identification card to the division on or
- 379 before the cardholder's next birth date beginning on July 1, 2006; and
- 380 (iii) the person may apply for an identification card with an expiration date identified in
- 381 Subsection (8)(b) by:
- 382 (A) furnishing proper documentation to the division as provided in Section 53-3-804;
- 383 and
- 384 (B) paying the fee for a license required under Section 53-3-105.
- 385 (b) (i) Except as provided in Subsection (4)(b)(ii), if a person has applied for and
- 386 received an identification card and is subsequently convicted of any offense listed in
- 387 Subsection 77-27-21.5(1)(e), the person shall surrender the card to the division on the person's
- 388 next birth date following the conviction and may apply for a new card with an expiration date
- 389 identified in Subsection (8)(b) by:
- 390 (A) furnishing proper documentation to the division as provided in Section 53-3-804;
- 391 and
- 392 (B) paying the fee required under Section 53-3-105.
- 393 (ii) A person who is unable to comply with the provisions of Subsection (4)(a) or
- 394 (4)(b)(i) because the person is in the custody of the Department of Corrections or Division of
- 395 Juvenile Justice Services, confined in a correctional facility not operated by or under contract
- 396 with the Department of Corrections, or committed to a state mental facility, shall comply with
- 397 the provisions of Subsection (4)(a) or (4)(b)(i) within ten days of being released from
- 398 confinement.
- 399 ~~(4)~~ (5) A person older than 21 years of age with a disability, as defined under the

400 Americans with Disabilities Act of 1990, Pub. L. 101-336, may extend the expiration date on
401 an identification card for ten years if the person with a disability or an agent of the person with
402 a disability:

403 (a) requests that the division send the application form to obtain the extension or
404 requests an application form in person at the division's offices;

405 (b) completes the application;

406 (c) certifies that the extension is for a person 21 years of age or older with a disability;

407 and

408 (d) returns the application to the division together with the identification card fee
409 required under Section 53-3-105.

410 ~~[(5)]~~ (6) (a) An identification card may only be extended once.

411 (b) After an extension an application for an identification card must be applied for in
412 person at the division's offices.

413 ~~[(6)]~~ (7) An identification card issued to a person 65 years of age or older does not
414 expire, but continues in effect until the death of that person.

415 ~~[(7)]~~ (8) Notwithstanding the provisions of this section[;]:

416 (a) an identification card that was obtained without using a Social Security number as
417 required under Subsection 53-3-804(2) expires on July 1, 2005[-]; and

418 (b) an identification card expires on the birth date of the applicant in the first year
419 following the year that the identification card was issued if the applicant is required to register
420 as a sex offender under Section 77-27-21.5.

421 (9) A person who knowingly fails to surrender an identification card under Subsection
422 (4) is guilty of a class A misdemeanor.

423 Section 6. Section **77-27-21.5** is amended to read:

424 **77-27-21.5. Sex offender registration -- Information system -- Law enforcement**
425 **and courts to report -- Registration -- Penalty -- Effect of expungement.**

426 (1) As used in this section:

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

428 (b) "Employed" or "carries on a vocation" includes employment that is full time or part
429 time for a period of time exceeding 14 days or for an aggregate period of time exceeding 30
430 days during any calendar year, whether financially compensated, volunteered, or for the

431 purpose of government or educational benefit.

432 (c) "Notification" means a person's acquisition of information from the department
433 about a sex offender, including his place of habitation, physical description, and other
434 information as provided in Subsections (11) and (12).

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

437 (e) "Sex offender" means any person:

438 (i) convicted by this state of:

439 (A) a felony or class A misdemeanor violation of Section 76-4-401, enticing a minor
440 over the Internet;

441 (B) Section 76-5-301.1, kidnapping of a child;

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

443 (D) Section 76-5-401.1, sexual abuse of a minor;

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

445 (F) Section 76-5-402, rape;

446 (G) Section 76-5-402.1, rape of a child;

447 (H) Section 76-5-402.2, object rape;

448 (I) Section 76-5-402.3, object rape of a child;

449 (J) a felony violation of Section 76-5-403, forcible sodomy;

450 (K) Section 76-5-403.1, sodomy on a child;

451 (L) Section 76-5-404, forcible sexual abuse;

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

453 (N) Section 76-5-405, aggravated sexual assault;

454 (O) Section 76-5a-3, sexual exploitation of a minor;

455 (P) Section 76-7-102, incest;

456 (Q) Section 76-9-702.5, lewdness involving a child;

457 (R) Section 76-10-1306, aggravated exploitation of prostitution; or

458 (S) attempting, soliciting, or conspiring to commit any felony offense listed in

459 Subsection (1)(e)(i);

460 (ii) convicted by any other state or the United States government of an offense which if
461 committed in this state would be punishable as one or more of the offenses listed in Subsection

462 (1) (e)(i) and who is:

463 (A) a Utah resident; or

464 (B) not a Utah resident, but who is in the state for a period exceeding 14 consecutive
465 days, or for an aggregate period exceeding 30 days, during any calendar year; or

466 (iii) who is found not guilty by reason of insanity of one or more offenses listed in
467 Subsection (1)(e)(i).

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

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

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

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

476 (a) the receipt of a report or complaint of an offense listed in Subsection (1)(e), within
477 three working days; and

478 (b) the arrest of a person suspected of any of the offenses listed in Subsection (1)(e),
479 within five working days.

480 (4) Upon convicting a person of any of the offenses listed in Subsection (1)(e), the
481 convicting court shall within three working days forward a copy of the judgment and sentence
482 to the department.

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

485 (a) being placed on probation;

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

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

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

492 (e) termination of probation or parole.

493 (6) A sex offender not in the custody of the department and who is confined in a
494 correctional facility not operated by or under contract to the department shall be registered with
495 the department by the sheriff of the county in which the offender is confined upon:

496 (a) commitment to the correctional facility; and

497 (b) release from confinement.

498 (7) A sex offender committed to a state mental hospital shall be registered with the
499 department by the hospital upon admission and upon discharge.

500 (8) A sex offender convicted by any other state or by the United States government is
501 required to register under Subsection (1)(e)(ii) and shall register with the department within
502 [~~ten~~] five days after entering the state.

503 (9) (a) Except as provided in Subsections (9)(b) and (c), a sex offender shall, for the
504 duration of the sentence and for ten years after termination of sentence, register annually and
505 again within [~~ten~~] five days of every change of his place of habitation.

506 (b) (i) A sex offender convicted of any of the offenses listed in Subsection (9)(b)(ii)
507 shall, for the offender's lifetime, register annually and again within [~~ten~~] five days of every
508 change of the offender's place of habitation. This registration requirement is not subject to
509 exemptions and may not be terminated or altered during the offender's lifetime.

510 (ii) Offenses referred to in Subsection (9)(b)(i) are:

511 (A) any offense listed in Subsection (1)(e) if the offender has previously been
512 convicted of an offense listed in Subsection (1)(e);

513 (B) Section 76-5-402.1, rape of a child;

514 (C) Section 76-5-402.3, object rape of a child;

515 (D) Section 76-5-403, forcible sodomy;

516 (E) Section 76-5-403.1, sodomy on a child; and

517 (F) Section 76-5-405, aggravated sexual assault.

518 (c) Notwithstanding Subsections (9)(a) and (b), a sex offender who is confined in a
519 secure facility or in a state mental hospital is not required to register annually.

520 (d) A sex offender that is required to register annually under this Subsection (9) shall
521 surrender the sex offender's license certificate or identification card as required under
522 Subsection 53-3-216(3) or 53-3-807(4) and may apply for a license certificate or identification
523 card as provided under Subsection 53-3-205(3) or Section 53-3-804.

524 (10) An agency in the state that registers a sex offender on probation, a sex offender
525 who has been released from confinement to parole status or termination, or a sex offender
526 whose sentence has expired shall inform the offender of the duty to comply with:

527 (a) the continuing registration requirements of this section during the period of
528 registration required in Subsection (9), including:

529 ~~(a)~~ (i) notification to the state agencies in the states where the registrant presently
530 resides and plans to reside when moving across state lines;

531 ~~(b)~~ (ii) verification of address at least every 60 days pursuant to a parole agreement
532 for lifetime parolees; and

533 ~~(c)~~ (iii) notification to the out-of-state agency where the offender is living, whether or
534 not the offender is a resident of that state[-]; and

535 (b) the driver license certificate or identification card surrender requirement under
536 Subsection 53-3-216(3) or 53-3-807(4) and application provisions under Subsection
537 53-3-205(3) or Section 53-3-804.

538 (11) A sex offender shall provide the department with the following information:

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

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

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

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

544 (e) a current photograph of the sex offender; and

545 (f) each institution of higher education in Utah at which the sex offender is employed,
546 carries on a vocation, or is a student, and any change of enrollment or employment status of the
547 sex offender at any institution of higher education.

548 (12) The department shall:

549 (a) provide the following additional information when available:

550 (i) the crimes the sex offender was convicted of; and

551 (ii) a description of the sex offender's primary and secondary targets; and

552 (b) ensure that the registration information collected regarding a sex offender's
553 enrollment or employment at an institution of higher education is:

554 (i) promptly made available to any law enforcement agency that has jurisdiction where

555 the institution is located; and

556 (ii) entered into the appropriate state records or data system.

557 (13) (a) A sex offender who knowingly fails to register under this section is guilty of a
558 class A misdemeanor and shall be sentenced to serve a term of incarceration for not fewer than
559 90 days and also at least one year of probation.

560 (b) Neither the court nor the Board of Pardons and Parole may release a person who
561 violates this section from serving a term of at least 90 days and of completing probation of at
562 least one year. This Subsection (13)(b) supersedes any other provision of the law contrary to
563 this section.

564 (14) Notwithstanding Title 63, Chapter 2, Government Records Access and
565 Management Act, information in Subsections (11) and (12) collected and released under this
566 section is public information.

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

572 (b) This Subsection (15) does not apply to any person temporarily released under guard
573 from the institution in which he is confined.

574 (16) Notwithstanding Sections 77-18-9 through 77-18-14 regarding expungement, a
575 person convicted of any offense listed in Subsection (1)(e) is not relieved from the
576 responsibility to register as required under this section.

577 (17) Notwithstanding Section 42-1-1, a sex offender:

578 (a) may not change his name:

579 (i) while under the jurisdiction of the department; and

580 (ii) until the registration requirements of this statute have expired; or

581 (b) may not change his name at any time, if registration is under Subsection (9)(b).

582 (18) The department may make rules necessary to implement this section, including:

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

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

585 (19) Any information regarding the identity or location of a victim shall be redacted by

586 the department from information provided under Subsections (11) and (12).

587 (20) Nothing in this section shall be construed to create or impose any duty on any
588 person to request or obtain information regarding any sex offender from the department.

589 (21) If the department chooses to post registry information on the Internet, the website
590 shall contain a disclaimer informing the public of the following:

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

593 (b) members of the public are not allowed to [~~publicize the information or~~] use [it] the
594 information to harass or threaten sex offenders or members of their families; and

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

597 (22) The department shall construct the website so that users, before accessing registry
598 information, must indicate that they have read the disclaimer, understand it, and agree to
599 comply with its terms.

600 (23) The department, its personnel, and any individual or entity acting at the request or
601 upon the direction of the department are immune from civil liability for damages for good faith
602 compliance with this section and will be presumed to have acted in good faith by reporting
603 information.

604 (24) The department shall redact information that, if disclosed, could reasonably
605 identify a victim.

606 Section 7. **Effective date.**

607 This bill takes effect on July 1, 2006.

Legislative Review Note
as of 1-25-06 4:04 PM

Based on a limited legal review, this legislation has not been determined to have a high probability of being held unconstitutional.

Office of Legislative Research and General Counsel

State Impact

It is estimated that provisions of this bill will increase revenues to the state by \$134,000 annually. The Department of Public Safety will require an ongoing appropriation from the Transportation Fund Department of Public Safety Restricted Account of \$93,700 and one additional FTE beginning FY 2007 to implement provisions of this bill.

	<u>FY 2007</u> <u>Approp.</u>	<u>FY 2008</u> <u>Approp.</u>	<u>FY 2007</u> <u>Revenue</u>	<u>FY 2008</u> <u>Revenue</u>
Transportation Fund Restr	\$93,700	\$93,700	\$134,000	\$134,000
TOTAL	\$93,700	\$93,700	\$134,000	\$134,000

Individual and Business Impact

Sex offenders will have to renew their licenses annually and pay the \$20 fee.
