

SEX OFFENDER REGISTRATION REVISIONS

2006 GENERAL SESSION

STATE OF UTAH

Chief Sponsor: David Clark

Senate Sponsor: _____

LONG TITLE

General Description:

This bill makes changes to sex offender registration requirements.

Highlighted Provisions:

This bill:

- ▶ requires a sex offender from outside Utah to register within 12 hours of entering Utah, regardless of his length of stay;
- ▶ requires a sex offender who is moving to register a change of address ten days before moving;
- ▶ extends the registration requirements for certain offenses from ten years to lifetime;
- ▶ extends notification requirements to offenders working in all educational institutions;
- ▶ increases the penalty for failure to register from a misdemeanor to a third degree felony and requires mandatory incarceration; and
- ▶ requires the state to maintain the registry on the Internet and index it by surname and postal codes.

Monies Appropriated in this Bill:

None

Other Special Clauses:

None

Utah Code Sections Affected:



AMENDS:

77-27-21.5, as last amended by Chapter 48, Laws of Utah 2002

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) "Employed" or "carries on a vocation" includes employment that is full time or part time for a period of time exceeding 14 days or for an aggregate period of time exceeding 30 days during any calendar year, whether financially compensated, volunteered, or for the purpose of government or educational benefit.

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

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

(e) "Sex offender" means any person:

(i) convicted by this state of:

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

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

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

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

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

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

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

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

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

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

(K) Section 76-5-403.1, sodomy on a child;
(L) Section 76-5-404, forcible sexual abuse;
(M) Section 76-5-404.1, sexual abuse of a child or aggravated sexual abuse of a child;
(N) Section 76-5-405, aggravated sexual assault;
(O) Section 76-5a-3, sexual exploitation of a minor;
(P) Section 76-7-102, incest;
(Q) Section 76-9-702.5, lewdness involving a child;
(R) Section 76-10-1306, aggravated exploitation of prostitution; or
(S) attempting, soliciting, or conspiring to commit any felony offense listed in Subsection (1)(e)(i);
(ii) convicted by any other state or the United States government of an offense which if committed in this state would be punishable as one or more of the offenses listed in Subsection (1) (e)(i) and who is:
(A) a Utah resident; or
(B) not a Utah resident, but who is in the state for [~~a period exceeding 14 consecutive days, or for an aggregate period exceeding 30 days, during any calendar year~~] 12 hours, regardless of whether or not the offender intends to permanently reside in this state; or
(iii) who is found not guilty by reason of insanity of one or more offenses listed in Subsection (1)(e)(i).
(2) The department, to assist in investigating sex-related crimes and in apprehending offenders, shall:
(a) develop and operate a system to collect, analyze, maintain, and disseminate information on sex offenders and sex offenses; and
(b) make information collected and developed under this section available to the public.
(3) Any law enforcement agency shall, in the manner prescribed by the department, inform the department of:
(a) the receipt of a report or complaint of an offense listed in Subsection (1)(e), within three working days; and
(b) the arrest of a person suspected of any of the offenses listed in Subsection (1)(e), within five working days.

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

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

(a) being placed on probation;

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

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

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

(e) termination of probation or parole.

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

(a) commitment to the correctional facility; and

(b) release from confinement.

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

(8) A sex offender convicted by any other state or by the United States government is required to register under Subsection (1)(e)(ii) and shall register with the department within ~~ten days~~ 12 hours after entering the state.

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

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

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

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

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

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

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

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

(F) Section 76-5-405, aggravated sexual assault[-];

(G) Section 76-5-301.1, kidnaping of a child;

(H) Section 76-5-401, unlawful sexual activity with a minor;

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

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

(K) Section 76-7-102, incest; and

(L) Section 76-9-702.5, lewdness with a child.

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

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

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

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

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

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

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

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

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

(d) the type of vehicle or vehicles the sex offender drives;
(e) a current photograph of the sex offender; and
(f) each educational institution [~~of higher education~~] in Utah at which the sex offender is employed, carries on a vocation, or is a student, and any change of enrollment or employment status of the sex offender at any educational institution [~~of higher education~~].

(12) The department shall:

(a) provide the following additional information when available:

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

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

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

(i) promptly made available to any law enforcement agency that has jurisdiction where the institution is located; and

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

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

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

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

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

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

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

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

(a) may not change his name:

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

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

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

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

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

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

(19) Any information regarding the identity or location of a victim shall be redacted by the department from information provided under Subsections (11) and (12).

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

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

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

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

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

(22) The website shall be indexed by both the surname of the offender and by postal codes.

~~[(22)]~~ (23) The department shall construct the website so that users, before accessing registry information, must indicate that they have read the disclaimer, understand it, and agree to comply with its terms.

~~[(23)]~~ (24) The department, its personnel, and any individual or entity acting at the request or upon the direction of the department are immune from civil liability for damages for good faith compliance with this section and will be presumed to have acted in good faith by

214 reporting information.
215 ~~[(24)]~~ (25) The department shall redact information that, if disclosed, could reasonably
216 identify a victim.

Legislative Review Note
as of 1-24-06 7:22 AM

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

Fiscal Note
Bill Number HB0318

Sex Offender Registration Revisions*17-Feb-06**10:03 AM*

State Impact

Enhancements will result in additional incarcerations which will cost the Department of Corrections \$638,400 and \$692,900 in FY07 and FY08 respectively.

	<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>
General Fund	\$638,400	\$692,900	\$0	\$0
TOTAL	<u>\$638,400</u>	<u>\$692,900</u>	<u>\$0</u>	<u>\$0</u>

Individual and Business Impact

No fiscal impact to law-abiding citizens.

Office of the Legislative Fiscal Analyst