

Senator Howard A. Stephenson proposes the following substitute bill:

CHILD PROTECTION REGISTRY

AMENDMENTS

2006 GENERAL SESSION

STATE OF UTAH

Chief Sponsor: Mike Dmitrich

House Sponsor: John Dougall

LONG TITLE

General Description:

This bill makes changes to the Child Protection Registry.

Highlighted Provisions:

This bill:

- ▶ allows a mobile telephone number to be designated as a contact point;
- ▶ allows a person to send a communication to a contact point on the Child Protection Registry if the person receives written consent from an adult to receive communications covered by the registry;
- ▶ allows registration of a contact point if used in a household in which a minor is present;
- ▶ addresses fees charged for use of the registry;
- ▶ exempts records from disclosure;
- ▶ addresses awareness campaigns; and
- ▶ makes technical changes.

Monies Appropriated in this Bill:

None

Other Special Clauses:



26 None

27 **Utah Code Sections Affected:**

28 AMENDS:

29 **13-39-102**, as enacted by Chapter 338, Laws of Utah 2004

30 **13-39-201**, as enacted by Chapter 338, Laws of Utah 2004

31 **13-39-202**, as enacted by Chapter 338, Laws of Utah 2004

32 **13-39-203**, as enacted by Chapter 338, Laws of Utah 2004

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

35 Section 1. Section **13-39-102** is amended to read:

36 **13-39-102. Definitions.**

37 As used in this chapter:

38 (1) "Contact point" means an electronic identification to which a communication may
39 be sent, including:

40 (a) an email address; or

41 (b) subject to Subsection 13-39-201(2):

42 (i) an instant message identity, subject to rules made by the division under Subsection
43 13-39-203(1);

44 (ii) a mobile telephone number;

45 (iii) a facsimile number; or

46 (iv) an electronic address:

47 (A) similar to a contact point listed in this Subsection (1); and

48 (B) defined as a contact point by rule made by the division under Subsection
49 13-39-203(1).

50 (2) "Division" means the Division of Consumer Protection in the Department of
51 Commerce.

52 (3) "Registry" means the child protection registry established in Section 13-39-201.

53 Section 2. Section **13-39-201** is amended to read:

54 **13-39-201. Establishment of child protection registry.**

55 (1) The division shall:

56 (a) establish and operate a child protection registry to compile and secure a list of

57 contact points the division has received pursuant to this section; or

58 (b) contract with a third party to establish and secure the registry described in
59 Subsection (1)(a).

60 (2) (a) The division shall implement the registry described in this section with respect
61 to email addresses beginning on July 1, 2005.

62 (b) The division shall implement the registry described in this section with respect to
63 instant message identities [~~after~~].

64 [~~(i) the division has determined to the satisfaction of the division the security of the~~
65 ~~registry described in this section with respect to email addresses; and]~~

66 [~~(ii) the division has reported to the Public Utilities and Technology Interim~~
67 ~~Committee the intention of the division to implement the registry described in this section with~~
68 ~~respect to instant message identities.~~]

69 (c) The division shall implement the registry described in this section with respect to
70 mobile telephone numbers[, ~~facsimile numbers, and electronic addresses described in~~
71 ~~Subsection 13-39-102(1)(b)(iv) after~~].

72 [~~(i) the division has determined to the satisfaction of the division the security of the~~
73 ~~registry described in this section with respect to instant message identities; and]~~

74 [~~(ii) the division has reported to the Public Utilities and Technology Interim~~
75 ~~Committee the intention of the division to implement the registry described in this section with~~
76 ~~respect to telephone numbers, facsimile numbers, and electronic addresses described in~~
77 ~~Subsection 13-39-102(1)(b)(iv).~~]

78 (3) (a) A person may register a contact point with the division pursuant to rules
79 established by the division under Subsection 13-39-203(1) if:

80 (i) the contact point belongs to a minor; [~~or~~]

81 (ii) a minor has access to the contact point[~~;~~ or]

82 (iii) the contact point is used in a household in which a minor is present.

83 (b) A school or other institution that primarily serves minors may register its domain
84 name with the division pursuant to rules made by the division under Subsection 13-39-203(1).

85 (c) The division shall provide a disclosure in a confirmation message sent to a person
86 who registers a contact point under this section that reads: "No solution is completely secure.
87 The most effective way to protect children on the Internet is to supervise use and review all

88 email messages and other correspondence. Under law, theft of a contact point from the Child
 89 Protection Registry is a ~~[class-B]~~ second degree felony. While every attempt will be made to
 90 secure the Child Protection Registry, registrants and their guardians should be aware that their
 91 contact points may be at a greater risk of being misappropriated by marketers who choose to
 92 disobey the law."

93 (4) A person desiring to send a communication described in Subsection 13-39-202(1)
 94 to a contact point or domain shall:

95 (a) use a mechanism established by rule made by the division under Subsection
 96 13-39-203(2); and

97 (b) (i) pay a fee for use of the mechanism described in Subsection (4)(a) determined by
 98 the division in accordance with Section 63-38-3.2, which shall be established so that there is a
 99 fee charged based on both the number of contact points from the registry found on the person's
 100 list of contacts and the total number of contact points in the registry.

101 (ii) The fees charged under Subsection (4)(b)(i) shall be established so that the fee for
 102 each contact from a person's list that is found on the registry is up to an amount 100 times
 103 greater than the fee for each of ~~§~~ [a person's contacts checked against] ~~←§~~ the contact points in the
 104 registry.

105 (5) The division may implement a program to offer discounted compliance fees to
 106 senders who meet enhanced security conditions established and verified by the division.

107 (6) The contents of the registry, and any complaint filed about a sender who violates
 108 this chapter, are not subject to public disclosure under Title 63, Chapter 2, Government
 109 Records Access and Management Act.

110 (7) The state shall promote the registry on the state's official Internet website.

111 Section 3. Section **13-39-202** is amended to read:

112 **13-39-202. Prohibition of sending certain materials to a registered contact point**
 113 **-- Exception for consent.**

114 (1) A person may not send, cause to be sent, or conspire with a third party to send a
 115 communication to a contact point or domain that has been registered for more than 30 calendar
 116 days with the division under Section 13-39-201 if the communication:

117 (a) ~~[advertises]~~ has the primary purpose of advertising or promoting a product or
 118 service that a minor is prohibited by law from purchasing; or

119 (b) contains or ~~[advertises]~~ has the primary purpose of advertising or promoting
120 material that is harmful to minors, as defined in Section 76-10-1201.

121 (2) ~~[The]~~ Except as provided in Subsection (4), consent of a minor is not a defense to a
122 violation of this section.

123 (3) An Internet service provider does not violate this section for solely transmitting a
124 message across the network of the Internet service provider.

125 (4) (a) Notwithstanding Subsection (1), a person may send a communication to a
126 contact point if, before sending the communication, the person sending the communication
127 receives consent from an adult who controls the contact point.

128 (b) Any person who proposes to send a communication under Subsection (4)(a) shall:

129 (i) verify the age of the adult who controls the contact point by inspecting the adult's
130 government-issued identification card in a face-to-face transaction;

131 (ii) obtain a written record indicating the adult's consent that is signed by the adult;

132 (iii) include in each communication:

133 (A) a notice that the adult may rescind the consent; and

134 (B) information that allows the adult to opt out of receiving future communications;

135 and

136 (iv) notify the division that the person intends to send communications under this
137 Subsection (4).

138 (c) The division shall implement rules to verify that a person providing notification
139 under Subsection (4)(b)(iv) complies with this Subsection (4).

140 (5) If a person uses the mechanism established by the division under this chapter and
141 determines that one of the person's contacts is not a contact point on the registry, the person
142 need not use the mechanism to verify that the contact is not a registered contact point for a
143 period of 90 days after the previous use of the mechanism for that contact.

144 Section 4. Section **13-39-203** is amended to read:

145 **13-39-203. Rulemaking authority.**

146 In accordance with Title 63, Chapter 46a, Utah Administrative Rulemaking Act, the
147 division shall make rules to establish procedures under which:

148 (1) (a) a person may register a contact point with the division under Section 13-39-201,
149 including:

- 150 (i) the information necessary to register an instant message identity; and
151 (ii) for purposes of Subsection 13-39-102(1)(b)(iv), an electronic address that is similar
152 to a contact point listed in Subsection 13-39-102(1); and
153 (b) a school or other institution that primarily serves minors may register its domain
154 name with the division under Section 13-39-201; ~~and~~
155 (2) the division shall:
156 (a) provide a mechanism under which a person described in Subsection 13-39-201(4)
157 may verify compliance with the registry to remove registered contact points from the person's
158 communications; and
159 (b) establish the mechanism described in Subsection (2)(a) in a manner that protects
160 the privacy and security of a contact point registered with the division under Section
161 13-39-201~~[-];~~ and
162 (3) the division may:
163 (a) implement a program offering discounted fees to a sender who meets enhanced
164 security conditions established and verified by the division, the third party registry provider, or
165 a designee; and
166 (b) allow the third party registry provider to assist in any public or industry awareness
167 campaign promoting the registry.

Fiscal Note
Bill Number SB0206S02

Child Protection Registry Amendments

20-Feb-06

10:54 AM

State Impact

No fiscal impact because fees under the old structure would be comparable to the fees under the new structure.

Individual and Business Impact

No fiscal impact because fees under the old structure would be comparable to the fees under the new structure.

Office of the Legislative Fiscal Analyst