

Representative John Dougall 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 This bill coordinates with H.B. 417, Amendments to Child Protection Registry, by
27 providing substantive changes.

28 **Utah Code Sections Affected:**

29 AMENDS:

- 30 **13-39-102**, as enacted by Chapter 338, Laws of Utah 2004
- 31 **13-39-201**, as enacted by Chapter 338, Laws of Utah 2004
- 32 **13-39-202**, as enacted by Chapter 338, Laws of Utah 2004
- 33 **13-39-203**, as enacted by Chapter 338, Laws of Utah 2004



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

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

37 **13-39-102. Definitions.**

38 As used in this chapter:

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

- 41 (a) an email address; or
- 42 (b) subject to Subsection 13-39-201(2):
 - 43 (i) an instant message identity, subject to rules made by the division under Subsection
 - 44 13-39-203(1);
 - 45 (ii) a mobile telephone number;
 - 46 (iii) a facsimile number; or
 - 47 (iv) an electronic address:
 - 48 (A) similar to a contact point listed in this Subsection (1); and
 - 49 (B) defined as a contact point by rule made by the division under Subsection

50 13-39-203(1).

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

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

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

55 **13-39-201. Establishment of child protection registry.**

56 (1) The division shall:

57 (a) establish and operate a child protection registry to compile and secure a list of
58 contact points the division has received pursuant to this section; or

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

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

63 (b) The division shall implement the registry described in this section with respect to
64 instant message identities after:

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

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

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

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

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

79 (d) The Public Utilities and Technology Interim Committee and the Utah Technology
80 Commission may, upon receiving reports under this Subsection (2):

81 (i) recommend that the division not implement the registry with respect to instant
82 message identities or mobile telephone numbers; or

83 (ii) recommend that the division implement the registry with respect to instant message
84 identities or mobile telephone numbers.

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

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

88 (ii) a minor has access to the contact point[-]; or

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

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

92 (c) The division shall provide a disclosure in a confirmation message sent to a person
93 who registers a contact point under this section that reads: "No solution is completely secure.
94 The most effective way to protect children on the Internet is to supervise use and review all
95 email messages and other correspondence. Under law, theft of a contact point from the Child
96 Protection Registry is a class B [~~felony~~] misdemeanor. While every attempt will be made to
97 secure the Child Protection Registry, registrants and their guardians should be aware that their
98 contact points may be at a greater risk of being misappropriated by marketers who choose to
99 disobey the law."

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

102 (a) use a mechanism established by rule made by the division under Subsection
103 13-39-203(2); and

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

108 (ii) The fees charged under Subsection (4)(b)(i) shall be established so that the fee for
109 each contact from a person's list that is found on the registry is up to an amount 100 times
110 greater than the fee for each of the contact points in the registry.

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

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

116 (7) The third party under Subsection (1)(b) shall notify the division, the public, and
117 each contact point of any breach of the third party's security that could result in disclosure of
118 information concerning a contact point in the registry or a person associated with a contact

119 point in the registry.

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

121 **13-39-202. Prohibition of sending certain materials to a registered contact point**

122 **-- Exception for consent.**

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

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

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

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

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

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

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

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

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

141 (iii) include in each communication:

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

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

144 and

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

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

149 (5) If a person uses the mechanism established by the division under this chapter and

150 determines that one of the person's contacts is not a contact point on the registry, the person
151 need not use the mechanism to verify that the contact is not a registered contact point for a
152 period of 90 days after the previous use of the mechanism for that contact.

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

154 **13-39-203. Rulemaking authority.**

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

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

159 (i) the information necessary to register an instant message identity; and

160 (ii) for purposes of Subsection 13-39-102(1)(b)(iv), an electronic address that is similar
161 to a contact point listed in Subsection 13-39-102(1); and

162 (b) a school or other institution that primarily serves minors may register its domain
163 name with the division under Section 13-39-201; ~~and~~

164 (2) the division shall:

165 (a) provide a mechanism under which a person described in Subsection 13-39-201(4)
166 may verify compliance with the registry to remove registered contact points from the person's
167 communications; and

168 (b) establish the mechanism described in Subsection (2)(a) in a manner that protects
169 the privacy and security of a contact point registered with the division under Section
170 13-39-201~~[-]; and~~

171 (3) the division may implement a program offering discounted fees to a sender who
172 meets enhanced security conditions established and verified by the division, the third party
173 registry provider, or a designee.

174 Section 5. **Coordinating S.B. 206 with HB. 417.**

175 If this S.B. 206 and H.B. 417, Amendments to Child Protection Registry, both pass, it is
176 the intent of the Legislature that the changes to Subsection 13-39-201(2) in S.B. 206 supercede
177 the changes to Subsection 13-39-201(2) in H.B. 417.