

1 EMAIL INFORMATION REQUIRED OF
2 REGISTERED SEX OFFENDERS

3 2008 GENERAL SESSION
4 STATE OF UTAH

5 Chief Sponsor: Jim Bird

6 Senate Sponsor: _____



8 LONG TITLE

9 Committee Note:

10 The Public Utilities and Technology Interim Committee recommended this bill.

11 General Description:

12 This bill requires that sex offenders required to register also provide online names and
13 email addresses.

14 Highlighted Provisions:

15 This bill:

- 16 defines "online identifier";
17 requires that a sex offender also provide online identifiers when registering as
18 required by law;
19 requires that sex offenders provide websites on which they are registered with
20 online identifiers; and
21 requires the sex offender to provide passwords to the department for certain
22 electronic sites, but prohibits the passwords from being provided to the public.

23 Monies Appropriated in this Bill:

24 None

25 Other Special Clauses:

26 None

27 Utah Code Sections Affected:



28 AMENDS:

29 77-27-21.5, as last amended by Laws of Utah 2007, Chapter 337



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

32 Section 1. Section 77-27-21.5 is amended to read:

33 **77-27-21.5. Sex offender registration -- Information system -- Law enforcement**
34 **and courts to report -- Registration -- Penalty -- Effect of expungement.**

35 (1) As used in this section:

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

37 (b) "Division" means the Division of Juvenile Justice Services.

38 (c) "Employed" or "carries on a vocation" includes employment that is full time or part
39 time, whether financially compensated, volunteered, or for the purpose of government or
40 educational benefit.

41 (d) "Notification" means a person's acquisition of information from the department
42 about a sex offender, including his place of habitation, physical description, and other
43 information as provided in Subsections (12) and (13).

44 (e) "Online identifier" means any electronic mail, chat, instant messenger, social
45 networking, or similar name used for Internet communication. It does not include date of birth,
46 Social Security number, or PIN number.

47 [~~e~~] (f) "Register" means to comply with the rules of the department made under this
48 section.

49 [~~f~~] (g) "Sex offender" means any person:

50 (i) convicted by this state of:

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

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

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

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

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

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

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

- 59 (H) Section 76-5-402.2, object rape;
- 60 (I) Section 76-5-402.3, object rape of a child;
- 61 (J) a felony violation of Section 76-5-403, forcible sodomy;
- 62 (K) Section 76-5-403.1, sodomy on a child;
- 63 (L) Section 76-5-404, forcible sexual abuse;
- 64 (M) Section 76-5-404.1, sexual abuse of a child or aggravated sexual abuse of a child;
- 65 (N) Section 76-5-405, aggravated sexual assault;
- 66 (O) Section 76-5a-3, sexual exploitation of a minor;
- 67 (P) Section 76-7-102, incest;
- 68 (Q) Section 76-9-702.5, lewdness involving a child;
- 69 (R) Section 76-10-1306, aggravated exploitation of prostitution; or
- 70 (S) attempting, soliciting, or conspiring to commit any felony offense listed in
- 71 Subsection (1)~~(f)~~ (g)(i);
- 72 (ii) who has been convicted of any crime, or an attempt, solicitation, or conspiracy to
- 73 commit a crime in another state or by the United States government that is substantially
- 74 equivalent to the offenses listed in Subsection (1)~~(f)~~ (g)(i) and who is:
- 75 (A) a Utah resident; or
- 76 (B) not a Utah resident, but who is in the state for ten days, regardless of whether or
- 77 not the offender intends to permanently reside in this state;
- 78 (iii) who is required to register as a sex offender in any other state or United States
- 79 territory, is not a Utah resident, but who is in the state for ten days, regardless of whether or not
- 80 the offender intends to permanently reside in this state;
- 81 (iv) who is a nonresident regularly employed, working, or a student in this state and
- 82 was convicted of one or more offenses listed in Subsection (1)~~(f)~~ (g)(i), or any substantially
- 83 equivalent offense in another state or by the United States government, and as a result of the
- 84 conviction, is required to register in the person's state of residence;
- 85 (v) who is found not guilty by reason of insanity in this state, any other state, or by the
- 86 United States government of one or more offenses listed in Subsection (1)~~(f)~~ (g)(i); or
- 87 (vi) who is adjudicated delinquent based on one or more offenses listed in Subsection
- 88 (1)~~(f)~~ (g)(i) and who has been committed to the division for secure confinement and remains
- 89 in the division's custody 30 days prior to the person's 21st birthday.

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

92 (a) develop and operate a system to collect, analyze, maintain, and disseminate
93 information on sex offenders and sex offenses; ~~and~~

94 (b) make information collected and developed under this section available to the
95 public~~[-]; and~~

96 (c) require that a sex offender provide to the department any password required for use
97 with an online identifier. Passwords provided to the department may not be disclosed to the
98 public.

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

101 (a) the receipt of a report or complaint of an offense listed in Subsection (1)~~(f)~~ (g),
102 within three working days; and

103 (b) the arrest of a person suspected of any of the offenses listed in Subsection (1)~~(f)~~
104 (g), within five working days.

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

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

110 (a) being placed on probation;

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

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

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

117 (e) termination of probation or parole.

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

121 (a) commitment to the correctional facility; and

122 (b) release from confinement.

123 (7) A sex offender in the custody of the division shall be registered with the department
124 by the division prior to release from custody.

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

127 (9) A sex offender convicted by any other state or by the United States government is
128 required to register under Subsection (1)[~~(f)~~] (g)(ii) and shall register with the department
129 within ten days of entering the state, regardless of the length of stay.

130 (10) (a) Except as provided in Subsections (10)(b), (c), and (d), a sex offender shall, for
131 the duration of the sentence and for ten years after termination of sentence or custody of the
132 division, register annually during the month of the offender's birth and again within five days of
133 every change of his place of habitation, vehicle information, or educational information
134 required to be submitted under Subsection (12).

135 (b) Except as provided Subsections (10)(c) and (d), a sex offender who is convicted of
136 an offense listed in Subsection (1)[~~(f)~~] (g)(i) by another state shall register for the time period
137 required by the state where the offender was convicted if the state's registration period for the
138 offense that the offender was convicted of is in excess of the ten years from completion of the
139 sentence registration period that is required under Subsection (10)(a).

140 (c) (i) A sex offender convicted as an adult of any of the offenses listed in Subsection
141 (10)(c)(ii) shall, for the offender's lifetime, register annually during the month of the offender's
142 birth and again within five days of every change of the offender's place of habitation, vehicle
143 information, or educational information required to be submitted under Subsection (12). This
144 registration requirement is not subject to exemptions and may not be terminated or altered
145 during the offender's lifetime.

146 (ii) Offenses referred to in Subsection (10)(c)(i) are:

147 (A) any offense listed in Subsection (1)[~~(f)~~] (g) if, at the time of the conviction, the
148 offender has previously been convicted of an offense listed in Subsection (1)[~~(f)~~] (g) or has
149 previously been required to register as a sex offender for an offense committed as a juvenile;

150 (B) Section 76-4-401, enticing a minor over the Internet, if the offense is a class A or
151 felony violation;

- 152 (C) Section 76-5-301.1, child kidnapping;
 - 153 (D) Section 76-5-402, rape;
 - 154 (E) Section 76-5-402.1, rape of a child;
 - 155 (F) Section 76-5-402.2, object rape;
 - 156 (G) Section 76-5-402.3, object rape of a child;
 - 157 (H) Section 76-5-403, forcible sodomy;
 - 158 (I) Section 76-5-403.1, sodomy on a child;
 - 159 (J) Section 76-5-404.1, sexual abuse of a child;
 - 160 (K) Subsection 76-5-404.1(4), aggravated sexual abuse of a child;
 - 161 (L) Section 76-5-405, aggravated sexual assault;
 - 162 (M) Section 76-5a-3, sexual exploitation of a minor; or
 - 163 (N) Section 76-7-102, incest.
- 164 (d) Notwithstanding Subsections (10)(a), (b), and (c), a sex offender who is confined in
165 a secure facility or in a state mental hospital is not required to register annually.
- 166 (e) A sex offender [~~that is~~] required to register annually under this Subsection (10)
167 shall surrender the sex offender's license certificate or identification card as required under
168 Subsection 53-3-216(3) or 53-3-807(4) and may apply for a license certificate or identification
169 card as provided under Section 53-3-205 or 53-3-804.
- 170 (11) An agency in the state that registers a sex offender on probation, a sex offender
171 who has been released from confinement to parole status or termination, or a sex offender
172 whose sentence has expired shall inform the offender of the duty to comply with:
- 173 (a) the continuing registration requirements of this section during the period of
174 registration required in Subsection (10), including:
 - 175 (i) notification to the state agencies in the states where the registrant presently resides
176 and plans to reside when moving across state lines;
 - 177 (ii) verification of address at least every 60 days pursuant to a parole agreement for
178 lifetime parolees; and
 - 179 (iii) notification to the out-of-state agency where the offender is living, whether or not
180 the offender is a resident of that state; and
 - 181 (b) the driver license certificate or identification card surrender requirement under
182 Subsection 53-3-216(3) or 53-3-807(4) and application provisions under Section 53-3-205 or

183 53-3-804.

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

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

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

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

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

190 (e) a current photograph of the sex offender; [~~and~~]

191 (f) each educational institution in Utah at which the sex offender is employed, carries
192 on a vocation, or is a student, and any change of enrollment or employment status of the sex
193 offender at any educational institution[-]; and

194 (g) the name and Internet address of all websites on which the sex offender is
195 registered using an online identifier, including all online identifiers and passwords used to
196 access those websites.

197 (13) The department shall:

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

199 (i) the crimes the sex offender was convicted of or adjudicated delinquent for; and

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

201 (b) ensure that the registration information collected regarding a sex offender's
202 enrollment or employment at an educational institution is:

203 (i) (A) promptly made available to any law enforcement agency that has jurisdiction
204 where the institution is located if the educational institution is an institution of higher
205 education; or

206 (B) promptly made available to the district superintendent of the school district where
207 the offender is enrolled if the educational institution is an institution of primary education; and

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

209 (14) (a) A sex offender who knowingly fails to register or provides false or incomplete
210 information under this section is guilty of:

211 (i) a third degree felony and shall be sentenced to serve a term of incarceration for not
212 less than 90 days and also at least one year of probation if:

213 (A) the sex offender is required to register for a felony conviction of an offense listed

214 in Subsection (1)[~~(f)~~] (g)(i); or

215 (B) the sex offender is required to register for the offender's lifetime under Subsection
216 (10)(c); or

217 (ii) a class A misdemeanor and shall be sentenced to serve a term of incarceration for
218 not fewer than 90 days and also at least one year of probation if the sex offender is required to
219 register for a misdemeanor conviction of an offense listed in Subsection (1)[~~(f)~~] (g)(i).

220 (b) Neither the court nor the Board of Pardons and Parole may release a person who
221 violates this section from serving the term required under Subsection (14)(a). This Subsection
222 (14)(b) supersedes any other provision of the law contrary to this section.

223 (15) Notwithstanding Title 63, Chapter 2, Government Records Access and
224 Management Act, information in Subsections (12) and (13) collected and released under this
225 section is public information.

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

231 (b) This Subsection (16) does not apply to any person temporarily released under guard
232 from the institution in which he is confined.

233 (17) Notwithstanding Sections 77-18-9 through 77-18-14 regarding expungement, a
234 person convicted of any offense listed in Subsection (1)[~~(f)~~] (g) is not relieved from the
235 responsibility to register as required under this section.

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

237 (a) may not change his name:

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

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

240 (b) may not change his name at any time, if registration is under Subsection (10)(c).

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

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

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

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

245 the department from information provided under Subsections (12) and (13).

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

248 (22) The department shall post registry information on the Internet, and the website
249 shall contain a disclaimer informing the public of the following:

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

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

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

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

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

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

265 (26) The department shall redact information that, if disclosed, could reasonably
266 identify a victim.

267 (27) (a) Each sex offender required to register under Subsection (10), who is not
268 currently under the jurisdiction of the Department of Corrections, shall pay to the department
269 an annual fee of \$75 each year the sex offender is subject to the registration requirements.

270 (b) The department shall deposit fees under this Subsection (27) in the General Fund as
271 a dedicated credit, to be used by the department for maintaining the sex offender registry under
272 this section and monitoring sex offender registration compliance, including the costs of:

273 (i) data entry;

274 (ii) processing registration packets;

275 (iii) updating registry information;

276 (iv) ensuring sex offender compliance with registration requirements under this
277 section; and
278 (v) apprehending offenders who are in violation of the sex offender registration
279 requirements under this section.

Legislative Review Note
as of 11-13-07 1:37 PM

Office of Legislative Research and General Counsel

H.B. 34 - Email Information Required of Registered Sex Offenders

Fiscal Note

2008 General Session

State of Utah

State Impact

Enactment of this bill will not require additional appropriations.

Individual, Business and/or Local Impact

Enactment of this bill likely will not result in direct, measurable costs and/or benefits for individuals, businesses, or local governments.
