

**Senator D. Chris Buttars** proposes the following substitute bill:

**SEX OFFENDER DEFINITION AMENDMENTS**

2009 GENERAL SESSION

STATE OF UTAH

**Chief Sponsor: Paul Ray**

Senate Sponsor: D. Chris Buttars

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**LONG TITLE**

**General Description:**

This bill modifies the Code of Criminal Procedure regarding the definition of a sex offender.

**Highlighted Provisions:**

This bill:

- ▶ adds lewdness and sexual battery as offenses for which a convicted person must register as a sex offender, if the person is convicted of either offense four or more times;
- ▶ provides that if a person is convicted a total of four times of the offenses lewdness and sexual battery, the person must register as a sex offender;
- ▶ increases the penalty for lewdness from a class B misdemeanor to a class A misdemeanor if the offender has been convicted two times before of lewdness or lewdness involving a child;
- ▶ increases the penalty for lewdness from a class A misdemeanor to a third degree felony if the offender has been convicted three times before of lewdness or lewdness involving a child; and
- ▶ increases the penalty for lewdness involving a child if the offender has been convicted once before of lewdness involving a child.



26 **Monies Appropriated in this Bill:**

27 None

28 **Other Special Clauses:**

29 None

30 **Utah Code Sections Affected:**

31 AMENDS:

32 **76-9-702**, as last amended by Laws of Utah 2007, Chapter 350

33 **76-9-702.5**, as last amended by Laws of Utah 2007, Chapter 350

34 **77-27-21.5**, as last amended by Laws of Utah 2008, Chapters 133, 342, 355, and 382



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

37 Section 1. Section **76-9-702** is amended to read:

38 **76-9-702. Lewdness -- Sexual battery -- Public urination.**

39 (1) A person is guilty of lewdness if the person under circumstances not amounting to  
40 rape, object rape, forcible sodomy, forcible sexual abuse, aggravated sexual assault, or an  
41 attempt to commit any of these offenses, performs any of the following acts in a public place or  
42 under circumstances which the person should know will likely cause affront or alarm to, on, or  
43 in the presence of another who is 14 years of age or older:

- 44 (a) an act of sexual intercourse or sodomy;
- 45 (b) exposes his or her genitals, the female breast below the top of the areola, the  
46 buttocks, the anus, or the pubic area;
- 47 (c) masturbates; or
- 48 (d) any other act of lewdness.

49 [~~(2)(a) Lewdness is a class B misdemeanor.~~]

50 [~~(b) Lewdness is a class A misdemeanor if the person is a sex offender as defined in  
51 Section 77-27-21.7.~~]

52 (2) (a) Except under Subsection (2)(b), a person convicted of a violation of Subsection

53 (1):

54 (i) the first or second time is guilty of a class B misdemeanor; and

55 (ii) the third time is guilty of a class A misdemeanor.

56 (b) A person convicted of a violation of Subsection (1) is guilty of a third degree felony

57 if at the time of the violation:

58 (i) the person is a sex offender as defined in Section 77-27-21.7;

59 (ii) the person has been previously convicted three or more times of violating

60 Subsection (1); or

61 (iii) the person has previously been convicted of a violation of Subsection (1) and has  
62 also previously been convicted of a violation of Section 76-9-702.5.

63 (3) A person is guilty of sexual battery if the person under circumstances not  
64 amounting to rape, rape of a child, object rape, object rape of a child, forcible sodomy, sodomy  
65 upon a child, forcible sexual abuse, sexual abuse of a child, aggravated sexual abuse of a child,  
66 aggravated sexual assault, or an attempt to commit any of these offenses intentionally touches,  
67 whether or not through clothing, the anus, buttocks, or any part of the genitals of another  
68 person, or the breast of a female, and the actor's conduct is under circumstances the actor  
69 knows or should know will likely cause affront or alarm to the person touched.

70 (4) Sexual battery is a class A misdemeanor.

71 (5) A person is guilty of public urination if the person urinates or defecates:

72 (a) in a public place, other than a public rest room; and

73 (b) under circumstances which the person should know will likely cause affront or  
74 alarm to another.

75 (6) Public urination is a class C misdemeanor.

76 (7) A woman's breast feeding, including breast feeding in any location where the  
77 woman otherwise may rightfully be, does not under any circumstance constitute a lewd [~~or~~  
78 ~~grossly lewd~~] act, irrespective of whether or not the breast is covered during or incidental to  
79 feeding.

80 Section 2. Section **76-9-702.5** is amended to read:

81 **76-9-702.5. Lewdness involving a child.**

82 (1) A person is guilty of lewdness involving a child if the person under circumstances  
83 not amounting to rape of a child, object rape of a child, sodomy upon a child, sexual abuse of a  
84 child, aggravated sexual abuse of a child, or an attempt to commit any of those offenses,  
85 intentionally or knowingly does any of the following to, or in the presence of a child who is  
86 under 14 years of age:

87 (a) performs an act of sexual intercourse or sodomy;

- 88 (b) exposes his or her genitals, the female breast below the top of the areola, the
- 89 buttocks, the anus, or the pubic area:
- 90 (i) in a public place; or
- 91 (ii) in a private place:
- 92 (A) under circumstances the person should know will likely cause affront or alarm; or
- 93 (B) with the intent to arouse or gratify the sexual desire of the actor or the child;
- 94 (c) masturbates;
- 95 (d) under circumstances not amounting to sexual exploitation of a child under Section
- 96 76-5a-3, causes a child under the age of 14 years to expose his or her genitals, anus, or breast,
- 97 if female, to the actor, with the intent to arouse or gratify the sexual desire of the actor or the
- 98 child; or
- 99 (e) performs any other act of lewdness.

100 (2) (a) Lewdness involving a child is a class A misdemeanor, except under Subsection

101 (2)(b).

102 (b) Lewdness involving a child is a third degree felony if at the time of the violation:

103 (i) the person is a sex offender as defined in Section 77-27-21.7[-]; or

104 (ii) the person has previously been convicted of a violation of this section.

105 Section 3. Section **77-27-21.5** is amended to read:

106 **77-27-21.5. Sex and kidnap offenders -- Registration -- Information system --**

107 **Law enforcement and courts to report -- Registration -- Penalty -- Effect of expungement.**

108 (1) As used in this section:

109 (a) "Business day" means a day on which state offices are open for regular business.

110 (b) "Department" means the Department of Corrections.

111 (c) "Division" means the Division of Juvenile Justice Services.

112 (d) "Employed" or "carries on a vocation" includes employment that is full time or part

113 time, whether financially compensated, volunteered, or for the purpose of government or

114 educational benefit.

115 (e) "Indian Country" means:

116 (i) all land within the limits of any Indian reservation under the jurisdiction of the

117 United States government, regardless of the issuance of any patent, and includes rights-of-way

118 running through the reservation;

119 (ii) all dependent Indian communities within the borders of the United States whether  
120 within the original or subsequently acquired territory, and whether or not within the limits of a  
121 state; and

122 (iii) all Indian allotments, including the Indian allotments to which the Indian titles to  
123 have not been extinguished, including rights-of-way running through the allotments.

124 (f) "Jurisdiction" means any state, Indian County, or United States Territory.

125 (g) "Kidnap offender" means any person other than a natural parent of the victim who:

126 (i) has been convicted in this state of a violation of:

127 (A) Section 76-5-301, kidnapping;

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

129 (C) Section 76-5-302, aggravated kidnapping;

130 (D) Section 76-5-304, unlawful detention; or

131 (E) attempting, soliciting, or conspiring to commit any felony offense listed in

132 Subsections (1)(g)(i)(A) through ~~(G)~~ (D);

133 (ii) has been convicted of any crime, or an attempt, solicitation, or conspiracy to  
134 commit a crime in another jurisdiction that is substantially equivalent to the offenses listed in  
135 Subsection (1)(g)(i) and who is:

136 (A) a Utah resident; or

137 (B) not a Utah resident, but who, in any 12 month period, is in this state for a total of  
138 ten or more days, regardless of whether or not the offender intends to permanently reside in this  
139 state;

140 (iii) is required to register as an offender in any other jurisdiction, and who, in any 12  
141 month period, is in this state for a total of ten or more days, regardless of whether or not the  
142 offender intends to permanently reside in this state;

143 (iv) is a nonresident regularly employed or working in this state, or who is a student in  
144 this state, and was convicted of one or more offenses listed in Subsection (1)(g) or (1)(n), or  
145 any substantially equivalent offense in another jurisdiction, or as a result of the conviction, is  
146 required to register in the person's state of residence;

147 (v) is found not guilty by reason of insanity in this state or in any other jurisdiction of  
148 one or more offenses listed in Subsection (1)(g); or

149 (vi) is adjudicated delinquent based on one or more offenses listed in Subsection

150 (1)(g)(i) and who has been committed to the division for secure confinement and remains in the  
151 division's custody 30 days prior to the person's 21st birthday.

152 (h) "Natural parent" means a minor's biological or adoptive parent, and includes the  
153 minor's noncustodial parent.

154 (i) "Offender" means a kidnap offender as defined in Subsection (1)(g) or a sex  
155 offender as defined in Subsection (1)(n).

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

159 (k) "Primary residence" means the location where the offender regularly resides, even  
160 if the offender intends to move to another location or return to another location at any future  
161 date.

162 (l) "Register" means to comply with the requirements of this section and administrative  
163 rules of the department made under this section.

164 (m) "Secondary residence" means any real property that the offender owns or has a  
165 financial interest in, and any location where, in any 12 month period, the offender stays  
166 overnight a total of ten or more nights when not staying at the offender's primary residence.

167 (n) "Sex offender" means any person:

168 (i) convicted in this state of:

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

170 (B) a felony or class A misdemeanor violation of Section 76-9-702.7, voyeurism;

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

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

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

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

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

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

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

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

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

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

- 181 (M) Section 76-5-404.1, sexual abuse of a child or aggravated sexual abuse of a child;
- 182 (N) Section 76-5-405, aggravated sexual assault;
- 183 (O) Section 76-5a-3, sexual exploitation of a minor;
- 184 (P) Section 76-7-102, incest;
- 185 (Q) Subsection 76-9-702(1), lewdness, if the person has been convicted of the offense
- 186 three or more times;
- 187 (R) Subsection 76-9-702(3), sexual battery, if the person has been convicted of the
- 188 offense four or more times;
- 189 (S) any combination of convictions of Subsection 76-9-702(1), lewdness, and of
- 190 Subsection 76-9-702(3), sexual battery that total four or more convictions;
- 191 [~~(Q)~~] (T) Section 76-9-702.5, lewdness involving a child;
- 192 [~~(R)~~] (U) Section 76-10-1306, aggravated exploitation of prostitution; or
- 193 [~~(S)~~] (V) attempting, soliciting, or conspiring to commit any felony offense listed in
- 194 Subsection (1)(n)(i);
- 195 (ii) who has been convicted of any crime, or an attempt, solicitation, or conspiracy to
- 196 commit a crime in another jurisdiction that is substantially equivalent to the offenses listed in
- 197 Subsection (1)(n)(i) and who is:
- 198 (A) a Utah resident; or
- 199 (B) not a Utah resident, but who, in any 12 month period, is in this state for a total of
- 200 ten or more days, regardless of whether the offender intends to permanently reside in this state;
- 201 (iii) who is required to register as an offender in any other jurisdiction, and who, in any
- 202 12 month period, is in the state for a total of ten or more days, regardless of whether or not the
- 203 offender intends to permanently reside in this state;
- 204 (iv) who is a nonresident regularly employed or working in this state or who is a
- 205 student in this state and was convicted of one or more offenses listed in Subsection (1)(n)(i), or
- 206 any substantially equivalent offense in any jurisdiction, or as a result of the conviction, is
- 207 required to register in the person's jurisdiction of residence;
- 208 (v) who is found not guilty by reason of insanity in this state, or in any other
- 209 jurisdiction of one or more offenses listed in Subsection (1)(n)(i); or
- 210 (vi) who is adjudicated delinquent based on one or more offenses listed in Subsection
- 211 (1)(n)(i) and who has been committed to the division for secure confinement and remains in the

212 division's custody 30 days prior to the person's 21st birthday.

213 (o) "Vehicle" means any motor vehicle, aircraft, or watercraft subject to registration in  
214 any jurisdiction.

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

217 (a) develop and operate a system to collect, analyze, maintain, and disseminate  
218 information on offenders and sex and kidnap offenses;

219 (b) make information listed in Subsection (25) available to the public; and

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

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

225 (a) the receipt of a report or complaint of an offense listed in Subsection (1)(g) or (n),  
226 within three business days; and

227 (b) the arrest of a person suspected of any of the offenses listed in Subsection (1)(g) or  
228 (n), within five business days.

229 (4) Upon convicting a person of any of the offenses listed in Subsection (1)(g) or (n),  
230 the convicting court shall within three business days forward a copy of the judgment and  
231 sentence to the department.

232 (5) An offender in the custody of the department shall be registered by agents of the  
233 department upon:

234 (a) placement on probation;

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

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

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

241 (e) termination of probation or parole.

242 (6) An offender who is not in the custody of the department and who is confined in a



243 correctional facility not operated by or under contract to the department shall be registered with  
244 the department by the sheriff of the county in which the offender is confined, upon:

- 245 (a) commitment to the correctional facility; and
- 246 (b) release from confinement.

247 (7) An offender in the custody of the division shall be registered with the department by  
248 the division prior to release from custody.

249 (8) An offender committed to a state mental hospital shall be registered with the  
250 department by the hospital upon admission and upon discharge.

251 (9) An offender convicted by any other jurisdiction is required to register under  
252 Subsection (1)(g) or (n) and Subsection (10) and shall register with the department within ten  
253 days of entering the state, regardless of the offender's length of stay.

254 (10) (a) Except as provided in Subsections (10)(b), (c), and (d), an offender shall, for  
255 the duration of the sentence and for ten years after termination of sentence or custody of the  
256 division, register every year during the month of the offender's birth, during the month that is  
257 the sixth month after the offender's birth month, and also within three business days of every  
258 change of the offender's primary residence, any secondary residences, place of employment,  
259 vehicle information, or educational information required to be submitted under Subsection  
260 (12).

261 (b) Except as provided Subsections (10)(c) and (d), an offender who is convicted in  
262 another jurisdiction of an offense listed in Subsection (1)(g)(i) or (n)(i), a substantially similar  
263 offense, or any other offense that requires registration in the jurisdiction of conviction, shall:

264 (i) register for the time period, and in the frequency, required by the jurisdiction where  
265 the offender was convicted if that jurisdiction's registration period or registration frequency  
266 requirement for the offense that the offender was convicted of is greater than the ten years from  
267 completion of the sentence registration period that is required under Subsection (10)(a), or is  
268 more frequent than every six months; or

269 (ii) register in accordance with the requirements of Subsection (10)(a), if the  
270 jurisdiction's registration period or frequency requirement for the offense that the offender was  
271 convicted of is less than the registration period required under Subsection (10)(a), or is less  
272 frequent than every six months.

273 (c) (i) (A) An offender convicted as an adult of any of the offenses listed in Subsection

274 (10)(c)(ii) shall, for the offender's lifetime, register every year during the month of the  
275 offender's birth, during the month that is the sixth month after the offender's birth month, and  
276 also within three business days of every change of the offender's primary residence, any  
277 secondary residences, place of employment, vehicle information, or educational information  
278 required to be submitted under Subsection (12).

279 (B) This registration requirement is not subject to exemptions and may not be  
280 terminated or altered during the offender's lifetime.

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

282 (A) any offense listed in Subsection (1)(g) or (n) if, at the time of the conviction, the  
283 offender has previously been convicted of an offense listed in Subsection (1)(g) or (n) or has  
284 previously been required to register as a sex offender for an offense committed as a juvenile;

285 (B) a conviction for any of the following offenses, including attempting, soliciting, or  
286 conspiring to commit any felony of:

287 (I) Section 76-5-301.1, child kidnapping, except if the offender is a natural parent of  
288 the victim;

289 (II) Section 76-5-402, rape;

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

291 (IV) Section 76-5-402.2, object rape;

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

293 (VI) Section 76-5-403.1, sodomy on a child;

294 (VII) Subsection 76-5-404.1(4), aggravated sexual abuse of a child; or

295 (VIII) Section 76-5-405, aggravated sexual assault;

296 (C) Section 76-4-401, a felony violation of enticing a minor over the Internet;

297 (D) Section 76-5-302, aggravated kidnapping, except if the offender is a natural parent  
298 of the victim;

299 (E) Section 76-5-403, forcible sodomy;

300 (F) Section 76-5-404.1, sexual abuse of a child; or

301 (G) Section 76-5a-3, sexual exploitation of a minor.

302 (d) Notwithstanding Subsections (10)(a), (b), and (c), an offender who is confined in a  
303 secure facility or in a state mental hospital is not required to register during the period of  
304 confinement.

305 (e) An offender who is required to register under this Subsection (10) shall surrender  
306 the offender's license, certificate, or identification card as required under Subsection  
307 53-3-216(3) or 53-3-807(4) and may apply for a license certificate or identification card as  
308 provided under Section 53-3-205 or 53-3-804.

309 (11) An agency in the state that registers an offender on probation, an offender who has  
310 been released from confinement to parole status or termination, or an offender whose sentence  
311 has expired shall inform the offender of the duty to comply with:

312 (a) the continuing registration requirements of this section during the period of  
313 registration required in Subsection (10), including:

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

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

318 (iii) notification to the out-of-state agency where the offender is living, whether or not  
319 the offender is a resident of that state; and

320 (b) the driver license certificate or identification card surrender requirement under  
321 Subsection 53-3-216(3) or 53-3-807(4) and application provisions under Section 53-3-205 or  
322 53-3-804.

323 (12) An offender shall provide the department or the registering entity with the  
324 following information:

325 (a) all names and aliases by which the offender is or has been known;

326 (b) the addresses of the offender's primary and secondary residences;

327 (c) a physical description, including the offender's date of birth, height, weight, eye and  
328 hair color;

329 (d) the make, model, color, year, plate number, and vehicle identification number of  
330 any vehicle or vehicles the offender owns or regularly drives;

331 (e) a current photograph of the offender;

332 (f) a set of fingerprints, if one has not already been provided;

333 (g) a DNA specimen, taken in accordance with Section 53-10-404, if one has not  
334 already been provided;

335 (h) telephone numbers and any other designations used by the offender for routing or

336 self-identification in telephonic communications from fixed locations or cellular telephones;

337 (i) Internet identifiers and the addresses the offender uses for routing or

338 self-identification in Internet communications or postings;

339 (j) the name and Internet address of all websites on which the sex offender is registered

340 using an online identifier, including all online identifiers and passwords used to access those

341 websites;

342 (k) a copy of the offender's passport, if a passport has been issued to the offender;

343 (l) if the offender is an alien, all documents establishing the offender's immigration

344 status;

345 (m) all professional licenses that authorize the offender to engage in an occupation or

346 carry out a trade or business, including any identifiers, such as numbers;

347 (n) each educational institution in Utah at which the offender is employed, carries on a

348 vocation, or is a student, and any change of enrollment or employment status of the offender at

349 any educational institution;

350 (o) the name and the address of any place where the offender is employed or will be

351 employed;

352 (p) the name and the address of any place where the offender works as a volunteer or

353 will work as a volunteer; and

354 (q) the offender's Social Security number.

355 (13) The department shall:

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

357 (i) the crimes the offender has been convicted of or adjudicated delinquent for;

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

359 (iii) any other relevant identifying information as determined by the department;

360 (b) maintain the Sex Offender Notification and Registration website; and

361 (c) ensure that the registration information collected regarding an offender's enrollment

362 or employment at an educational institution is:

363 (i) (A) promptly made available to any law enforcement agency that has jurisdiction

364 where the institution is located if the educational institution is an institution of higher

365 education; or

366 (B) promptly made available to the district superintendent of the school district where

367 the offender is enrolled if the educational institution is an institution of primary education; and  
368 (ii) entered into the appropriate state records or data system.

369 (14) (a) An offender who knowingly fails to register under this section or provides false  
370 or incomplete information is guilty of:

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

373 (A) the offender is required to register for a felony conviction or adjudicated delinquent  
374 for what would be a felony if the juvenile were an adult of an offense listed in Subsection

375 (1)(g)(i) or (n)(i); or

376 (B) the offender is required to register for the offender's lifetime under Subsection  
377 (10)(c); or

378 (ii) a class A misdemeanor and shall be sentenced to serve a term of incarceration for  
379 not fewer than 90 days and also at least one year of probation if the offender is required to  
380 register for a misdemeanor conviction or is adjudicated delinquent for what would be a  
381 misdemeanor if the juvenile were an adult of an offense listed in Subsection (1)(g)(i) or (n)(i).

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

385 (c) The offender shall register for an additional year for every year in which the  
386 offender does not comply with the registration requirements of this section.

387 (15) Notwithstanding Title 63G, Chapter 2, Government Records Access and  
388 Management Act, information in Subsection (13) collected and released under Subsection (25)  
389 is public information.

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

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

397 (17) Notwithstanding Sections 77-18-9 through 77-18-14 regarding expungement, a

398 person convicted of any offense listed in Subsection (1)(g) or (n) is not relieved from the  
399 responsibility to register as required under this section.

400 (18) Notwithstanding Section 42-1-1, an offender:

401 (a) may not change the offender's name:

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

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

404 (b) may not change the offender's name at any time, if registration is for life under  
405 Subsection (10)(c).

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

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

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

410 (20) Any information regarding the identity or location of a victim shall be redacted by  
411 the department from information provided under Subsections (12) and (13).

412 (21) This section does not create or impose any duty on any person to request or obtain  
413 information regarding any sex offender from the department.

414 (22) The department shall maintain a Sex Offender Notification and Registration  
415 website on the Internet, which shall contain a disclaimer informing the public:

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

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

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

422 (23) The Sex Offender Notification and Registration website shall be indexed by both  
423 the surname of the offender and by postal codes.

424 (24) The department shall construct the Sex Offender Notification and Registration  
425 website so that users, before accessing registry information, must indicate that they have read  
426 the disclaimer, understand it, and agree to comply with its terms.

427 (25) The Sex Offender Notification and Registration website shall include the  
428 following registry information:

- 429 (a) all names and aliases by which the offender is or has been known;
  - 430 (b) the addresses of the offender's primary, secondary, and temporary residences;
  - 431 (c) a physical description, including the offender's date of birth, height, weight, and eye  
432 and hair color;
  - 433 (d) the make, model, color, year, and plate number of any vehicle or vehicles the  
434 offender owns or regularly drives;
  - 435 (e) a current photograph of the offender;
  - 436 (f) a list of all professional licenses that authorize the offender to engage in an  
437 occupation or carry out a trade or business;
  - 438 (g) each educational institution in Utah at which the offender is employed, carries on a  
439 vocation, or is a student;
  - 440 (h) a list of places where the offender works as a volunteer;
  - 441 (i) the crimes listed in Subsections (1)(g) and (1)(n) that the offender has been  
442 convicted of or for which the offender has been adjudicated delinquent in juvenile court; and
  - 443 (j) a description of the offender's primary and secondary targets.
- 444 (26) The department, its personnel, and any individual or entity acting at the request or  
445 upon the direction of the department are immune from civil liability for damages for good faith  
446 compliance with this section and will be presumed to have acted in good faith by reporting  
447 information.
- 448 (27) The department shall redact information that, if disclosed, could reasonably  
449 identify a victim.
- 450 (28) (a) Each offender required to register under Subsection (10) shall, in the month of  
451 the offender's birth, pay to the department an annual fee of \$100 each year the offender is  
452 subject to the registration requirements of this section.
- 453 (b) Notwithstanding Subsection (28)(a), an offender who is confined in a secure facility  
454 or in a state mental hospital is not required to pay the annual fee.
- 455 (c) The department shall deposit fees under this Subsection (28) in the General Fund as  
456 a dedicated credit, to be used by the department for maintaining the offender registry under this  
457 section and monitoring offender registration compliance, including the costs of:
- 458 (i) data entry;
  - 459 (ii) processing registration packets;

460 (iii) updating registry information;  
461 (iv) ensuring offender compliance with registration requirements under this section;

462 and

463 (v) apprehending offenders who are in violation of the offender registration  
464 requirements under this section.

465 (29) Notwithstanding Subsections (2)(c) and (12)(i) and (j), a sex offender is not  
466 required to provide the department with:

467 (a) the offender's online identifier and password used exclusively for the offender's  
468 employment on equipment provided by an employer and used to access the employer's private  
469 network; or

470 (b) online identifiers for the offender's financial accounts, including any bank,  
471 retirement, or investment accounts.



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**H.B. 136 1st Sub. (Buff) - Sex Offender Definition Amendments**

**Fiscal Note**

2009 General Session  
State of Utah

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**State Impact**

Enactment of this bill will increase state revenues by \$6,800 beginning FY 2010. The Courts will require an ongoing General Fund appropriation of \$18,200 beginning FY 2010 for workload increases.

	<u>2009</u> <u>Approp.</u>	<u>2010</u> <u>Approp.</u>	<u>2011</u> <u>Approp.</u>	<u>2009</u> <u>Revenue</u>	<u>2010</u> <u>Revenue</u>	<u>2011</u> <u>Revenue</u>
General Fund	\$0	\$18,200	\$18,200	\$0	\$6,800	\$6,800
<b>Total</b>	<b>\$0</b>	<b>\$18,200</b>	<b>\$18,200</b>	<b>\$0</b>	<b>\$6,800</b>	<b>\$6,800</b>

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**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. Local governments will be impacted by additional incarceration costs.