

**SEX OFFENDER AND KIDNAPPING AMENDMENTS**

2011 GENERAL SESSION

STATE OF UTAH

**Chief Sponsor: Fred C. Cox**

Senate Sponsor: Karen Mayne

---

**LONG TITLE**

**General Description:**

This bill modifies the Code of Criminal Procedure regarding information on the Sex Offender and Kidnap Offender Notification and Registration website.

**Highlighted Provisions:**

This bill:

~~H→ [→ provides that the registration information required of a defendant convicted of a specified registrable kidnap offense is not to be placed on the registry website H→ [if the conviction occurred between May 5, 2008 and May 11, 2010.] unless the victim was younger than 18 years of age at the time of the offense. ←H]~~

▶ provides a judicial process by which a kidnap offender may petition the court for removal from the registry if the victim was 18 years of age or older. ←H

**Money Appropriated in this Bill:**

None

**Other Special Clauses:**

None

**Utah Code Sections Affected:**

AMENDS:

**77-27-21.5**, as last amended by Laws of Utah 2010, Chapters 55, 120, 144, 283, and 328

---

*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 and kidnap offenders -- Registration -- Information system --**

H.B. 281



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

29 (1) As used in this section:

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

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

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

33 (d) "Employed" or "carries on a vocation" includes employment that is full time or part  
 34 time, whether financially compensated, volunteered, or for the purpose of government or  
 35 educational benefit.

36 (e) "Indian Country" means:

37 (i) all land within the limits of any Indian reservation under the jurisdiction of the  
 38 United States government, regardless of the issuance of any patent, and includes rights-of-way  
 39 running through the reservation;

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

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

45 (f) "Jurisdiction" means any state, Indian Country, United States Territory, or any  
 46 property under the jurisdiction of the United States military.

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

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

49 (A) Section 76-5-301, Subsection (1) ~~H→~~ [f] (c) or [f] ~~←H~~ (d), kidnapping ~~H→~~ [~~of a~~

49a1 ~~minor 14~~

49a ~~years of age or older]~~ ~~←H~~ ;

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

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

52 (D) attempting, soliciting, or conspiring to commit any felony offense listed in  
 53 Subsections (1)(g)(i)(A) through (C);

54 (ii) has been convicted of any crime, or an attempt, solicitation, or conspiracy to  
 55 commit a crime in another jurisdiction, including any state, federal, or military court that is  
 56 substantially equivalent to the offenses listed in Subsection (1)(g)(i) and who is:

57 (A) a Utah resident; or

58 (B) not a Utah resident, but who, in any 12 month period, is in this state for a total of

369 (24) The department shall maintain a Sex Offender and Kidnap Offender Notification  
370 and Registration website on the Internet, which shall contain a disclaimer informing the public:

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

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

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

377 (25) The Sex Offender and Kidnap Offender Notification and Registration website  
378 shall be indexed by both the surname of the offender and by postal codes.

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

382 (27) The Sex Offender and Kidnap Offender Notification and Registration website  
383 shall include the following registry information, except as provided in Subsection (28):

384 (a) all names and aliases by which the offender is or has been known, but not including  
385 any online or Internet identifiers;

386 (b) the addresses of the offender's primary, secondary, and temporary residences;

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

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

391 (e) a current photograph of the offender;

392 (f) a list of all professional licenses that authorize the offender to engage in an  
393 occupation or carry out a trade or business;

394 (g) each educational institution in Utah at which the offender is employed, carries on a  
395 vocation, or is a student;

396 (h) a list of places where the offender works as a volunteer; and

397 (i) the crimes listed in Subsections (1)(g) and(n) that the offender has been convicted of  
398 or for which the offender has been adjudicated delinquent in juvenile court.

399 ~~H→ [(28) H→ (a) ←H~~ The information required under Subsection (27) may not be  
399a included in the Sex

400 ~~Offender and Kidnap Offender Notification and Registration website regarding offenders~~  
 401 ~~convicted~~ ~~of kidnapping~~ ~~under~~ ~~[Subsection] Section 76-5-301~~ ~~[(a), (b), or~~  
 401a ~~(c) if]~~;

401b ~~(b) The exemption under Subsection (1)(a) does not apply if~~ ~~the~~ ~~[conviction occurred~~  
 401c ~~on or after May~~

402 ~~5, 2008, and prior to May 12, 2010.] victim was younger than 18 years of age at the time the~~  
 402a ~~offense was committed.~~

403 [F] (28) [F] ~~[(29)]~~ ~~The~~ department, its personnel, and any individual or entity  
 403a acting at the  
 404 request or upon the direction of the department are immune from civil liability for damages for  
 405 good faith compliance with this section and will be presumed to have acted in good faith by  
 406 reporting information.

407 ~~H~~ [F] (29) [F] ~~[(30)]~~ ~~The~~ department shall redact information that, if disclosed,  
 407a could reasonably  
 408 identify a victim.

409 ~~H~~ [F] (30) [F] ~~[(31)]~~ ~~(a)~~ Each offender required to register under Subsection (12)  
 409a shall, in the  
 410 month of the offender's birth:

411 (i) pay to the department an annual fee of \$100 each year the offender is subject to the  
 412 registration requirements of this section; and

413 (ii) pay to the registering agency, if it is an agency other than the Department of  
 414 Corrections, an annual fee of not more than \$25, which may be assessed by that agency for  
 415 providing registration.

416 (b) Notwithstanding Subsection ~~[(30)]~~ (31)(a), an offender who is confined in a secure  
 417 facility or in a state mental hospital is not required to pay the annual fee.

418 (c) The department shall deposit fees under this Subsection ~~[(30)]~~ (31) in the General  
 419 Fund as a dedicated credit, to be used by the department for maintaining the offender registry  
 420 under this section and monitoring offender registration compliance, including the costs of:

421 (i) data entry;  
 422 (ii) processing registration packets;  
 423 (iii) updating registry information;  
 424 (iv) ensuring offender compliance with registration requirements under this section;

425 and

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

428 ~~H~~ [F] (31) [F] ~~[(32)]~~ ~~Notwithstanding~~ Subsections (2)(c) and (14)(i) and (j), an  
 428a offender is not  
 429 required to provide the department with:

430 (a) the offender's online identifier and password used exclusively for the offender's

431 employment on equipment provided by an employer and used to access the employer's private  
432 network; or

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

434a **H→ (32) An offender may petition the court where the offender was convicted of the offense**  
434b **requiring registration for an order requiring that the offender be removed from the Sex**  
434c **Offender and Kidnap Offender Registry if:**

434d **(a) the offender was convicted of Section 76-5-301 and the conviction occurred on or**  
434e **after May 5, 2008, and prior to May 12, 2010:**

434f **(b) the victim of the offense requiring registration was not younger than 18 years of**  
434g **age;**

434h **(c) the conviction of 76-5-301 is the only conviction for which the offender is required**  
434i **to register;**

434j **(d) the offender has successfully completed all court-ordered treatment;**

434k **(e) the offender has not been convicted of any other crime, excluding traffic offenses;**

434l **(f) the offender has complied with all the registration requirements at all times as**  
434m **required in this section; and**

434n **(g) the office of the prosecutor that prosecuted the offender, and the victim, are notified**  
434o **and provided with an opportunity to respond in accordance with Subsection (33).**

434p **(33) (a) The offender shall deliver a copy of the petition to the office of the prosecuting**  
434q **attorney.**

434r **(b)(i) Upon receipt of a petition for removal from the Sex Offender and Kidnap**  
434s **Offender**

434t **Registry, the prosecuting attorney shall provide notice of the petition by first-class mail to the**  
434u **victim at the victim's most recent address on file.**

434v **(ii) The notice shall include a copy of the petition, state that the victim has a right to**  
434w **object to the removal from the registry, and provide instructions for submitting an objection to**  
434x **the court.**

434y **(c) The prosecuting attorney, and the victim if applicable, may respond to the petition**  
434z **by filing a recommendation or objection regarding the offender's removal from the registry**  
434aa **with the court within 30 days after the victim's receipt of the**  
434ab **petition.**

434ac **(34)(a) The court shall review the petition and all documents submitted regarding the**  
434ad **petition and may hold a hearing.**

434ae **(b) If the court determines that it is in the interest of justice, it may grant the**  
434af **petition and order removal of the offender from the registry. If the court grants the petition, it**  
434ag **shall forward a copy of the order to the department directing the removal of the offender from**  
434ah **the registry. ←H**

Legislative Review Note

as of 2-7-11 4:23 PM