

**SEX OFFENDER REGISTRY AMENDMENTS**

2015 GENERAL SESSION

STATE OF UTAH

**Chief Sponsor: Jack R. Draxler**

Senate Sponsor: Lyle W. Hillyard

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**LONG TITLE**

**General Description:**

This bill modifies the Sex and Kidnap Offender Registry regarding reporting requirements.

**Highlighted Provisions:**

This bill:

- ▶ provides detail regarding reporting for a sex or kidnap offense committed outside of Utah;
- ▶ requires that the offender provide the phone number for any places where the offender is employed or volunteering; and
- ▶ includes citation cross references.

**Money Appropriated in this Bill:**

None

**Other Special Clauses:**

None

**Utah Code Sections Affected:**

AMENDS:

**53-3-216**, as last amended by Laws of Utah 2012, Chapter 145

**53-3-807**, as last amended by Laws of Utah 2014, Chapter 252

**62A-7-104**, as last amended by Laws of Utah 2012, Chapter 145

**76-9-702**, as last amended by Laws of Utah 2013, Chapter 278



28            **76-9-702.1**, as last amended by Laws of Utah 2013, Chapter 278  
 29            **77-41-102**, as enacted by Laws of Utah 2012, Chapter 145 and last amended by  
 30 Coordination Clause, Laws of Utah 2012, Chapter 247  
 31            **77-41-103**, as last amended by Laws of Utah 2013, Chapter 278  
 32            **77-41-105**, as last amended by Laws of Utah 2014, Chapter 105  
 33            **77-41-106**, as enacted by Laws of Utah 2012, Chapter 145  
 34            **77-41-107**, as enacted by Laws of Utah 2012, Chapter 145  
 35            **77-41-109**, as enacted by Laws of Utah 2012, Chapter 145 and last amended by  
 36 Coordination Clause, Laws of Utah 2012, Chapter 247  
 37            **78B-8-302**, as last amended by Laws of Utah 2014, Chapter 378

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

40            Section 1. Section **53-3-216** is amended to read:

41            **53-3-216. Change of address -- Duty of licensee to notify division within 10 days**  
 42 **-- Change of name -- Proof necessary -- Method of giving notice by division.**

43            (1) If a person, after applying for or receiving a license, moves from the address named  
 44 in the application or in the license certificate issued to him, the person shall within 10 days of  
 45 moving, notify the division in a manner specified by the division of his new address and the  
 46 number of any license certificate held by him.

47            (2) If a person requests to change the surname on the applicant's license, the division  
 48 shall issue a substitute license with the new name upon receiving an application and fee for a  
 49 duplicate license and any of the following proofs of the applicant's full legal name:

50            (a) an original or certified copy of the applicant's marriage certificate;

51            (b) a certified copy of a court order under Title 42, Chapter 1, Change of Name,  
 52 showing the name change;

53            (c) an original or certified copy of a birth certificate issued by a government agency;

54            (d) a certified copy of a divorce decree or annulment granted the applicant that  
 55 specifies the name change requested; or

56            (e) a certified copy of a divorce decree that does not specify the name change requested  
 57 together with:

58            (i) an original or certified copy of the applicant's birth certificate;

59 (ii) the applicant's marriage license;

60 (iii) a driver license record showing use of a maiden name; or

61 (iv) other documentation the division finds acceptable.

62 (3) (a) Except as provided in Subsection (3)(c), if a person has applied for and received

63 a license certificate and is currently required to register as a sex offender in accordance with

64 Title 77, Chapter 41, Sex and Kidnap Offender Registry:

65 (i) the person's original license or renewal to an original license expires on the next

66 birth date of the licensee beginning on July 1, 2006;

67 (ii) the person shall surrender the person's license to the division on or before the

68 licensee's next birth date beginning on July 1, 2006; and

69 (iii) the person may apply for a license certificate with an expiration date identified in

70 Subsection 53-3-205(7)(h) by:

71 (A) furnishing proper documentation to the division as provided in Section 53-3-205;

72 and

73 (B) paying the fee for a license required under Section 53-3-105.

74 (b) Except as provided in Subsection (3)(c), if a person has applied for and received a

75 license certificate and is subsequently convicted of any offense listed in Subsection

76 77-41-102~~(16)~~(17), the person shall surrender the license certificate to the division on the

77 person's next birth date following the conviction and may apply for a license certificate with an

78 expiration date identified in Subsection 53-3-205(7)(h) by:

79 (i) furnishing proper documentation to the division as provided in Section 53-3-205;

80 and

81 (ii) paying the fee for a license required under Section 53-3-105.

82 (c) A person who is unable to comply with the provisions of Subsection (3)(a) or (3)(b)

83 because the person is in the custody of the Department of Corrections or the Division of

84 Juvenile Justice Services, confined in a correctional facility not operated by or under contract

85 with the Department of Corrections, or committed to a state mental facility, shall comply with

86 the provisions of Subsection (3)(a) or (b) within 10 days of being released from confinement.

87 (4) (a) If the division is authorized or required to give any notice under this chapter or

88 other law regulating the operation of vehicles, the notice shall, unless otherwise prescribed, be

89 given by:

90 (i) personal delivery to the person to be notified; or  
91 (ii) deposit in the United States mail with postage prepaid, addressed to the person at  
92 his address as shown by the records of the division.

93 (b) The giving of notice by mail is complete upon the expiration of four days after the  
94 deposit of the notice.

95 (c) Proof of the giving of notice in either manner may be made by the certificate of any  
96 officer or employee of the division or affidavit of any person older than 18 years of age,  
97 naming the person to whom the notice was given and specifying the time, place, and manner of  
98 giving the notice.

99 (5) The division may use state mailing or United States Postal Service information to:

100 (a) verify an address on an application or on records of the division; and

101 (b) correct mailing addresses in the division's records.

102 (6) (a) A violation of the provisions of Subsection (1) is an infraction.

103 (b) A person who knowingly fails to surrender a license certificate under Subsection  
104 (3) is guilty of a class A misdemeanor.

105 Section 2. Section **53-3-807** is amended to read:

106 **53-3-807. Expiration -- Address and name change -- Extension.**

107 (1) (a) A regular identification card issued on or after July 1, 2006, expires on the birth  
108 date of the applicant in the fifth year following the issuance of the regular identification card.

109 (b) A limited-term identification card expires on:

110 (i) the expiration date of the period of time of the individual's authorized stay in the  
111 United States or on the birth date of the applicant in the fifth year following the issuance of the  
112 limited-term identification card, whichever is sooner; or

113 (ii) on the date of issuance in the first year following the year that the limited-term  
114 identification card was issued if there is no definite end to the individual's period of authorized  
115 stay.

116 (2) If a person has applied for and received an identification card and subsequently  
117 moves from the address shown on the application or on the card, the person shall within 10  
118 days notify the division in a manner specified by the division of the person's new address.

119 (3) If a person has applied for and received an identification card and subsequently  
120 changes the person's name under Title 42, Chapter 1, Change of Name, the person:

- 121 (a) shall surrender the card to the division; and
- 122 (b) may apply for a new card in the person's new name by:
  - 123 (i) furnishing proper documentation to the division as provided in Section 53-3-804;
  - 124 and
  - 125 (ii) paying the fee required under Section 53-3-105.
- 126 (4) (a) Except as provided in Subsection (4)(c), if a person has applied for and received
- 127 an identification card and is currently required to register as a sex offender in accordance with
- 128 Title 77, Chapter 41, Sex and Kidnap Offender Registry:
  - 129 (i) the person's identification card expires annually on the next birth date of the
  - 130 cardholder, on and after July 1, 2006;
  - 131 (ii) the person shall surrender the person's identification card to the division on or
  - 132 before the cardholder's next birth date beginning on July 1, 2006; and
  - 133 (iii) the person may apply for an identification card with an expiration date identified in
  - 134 Subsection (8) by:
    - 135 (A) furnishing proper documentation to the division as provided in Section 53-3-804;
    - 136 and
    - 137 (B) paying the fee for an identification card required under Section 53-3-105.
- 138 (b) Except as provided in Subsection (4)(c), if a person has applied for and received an
- 139 identification card and is subsequently convicted of any offense listed in Subsection
- 140 77-41-102~~(16)~~(17), the person shall surrender the card to the division on the person's next
- 141 birth date following the conviction and may apply for a new card with an expiration date
- 142 identified in Subsection (8) by:
  - 143 (i) furnishing proper documentation to the division as provided in Section 53-3-804;
  - 144 and
  - 145 (ii) paying the fee required under Section 53-3-105.
- 146 (c) A person who is unable to comply with the provisions of Subsection (4)(a) or (4)(b)
- 147 because the person is in the custody of the Department of Corrections or Division of Juvenile
- 148 Justice Services, confined in a correctional facility not operated by or under contract with the
- 149 Department of Corrections, or committed to a state mental facility, shall comply with the
- 150 provisions of Subsection (4)(a) or (b) within 10 days of being released from confinement.
- 151 (5) A person older than 21 years of age with a disability, as defined under the

152 Americans with Disabilities Act of 1990, Pub. L. 101-336, may extend the expiration date on  
153 an identification card for five years if the person with a disability or an agent of the person with  
154 a disability:

155 (a) requests that the division send the application form to obtain the extension or  
156 requests an application form in person at the division's offices;

157 (b) completes the application;

158 (c) certifies that the extension is for a person 21 years of age or older with a disability;

159 and

160 (d) returns the application to the division together with the identification card fee  
161 required under Section 53-3-105.

162 (6) The division may extend a valid regular identification card for five years:

163 (a) (i) at any time within six months before the identification card expires; and

164 (ii) if the identification card was issued after January 1, 2010.

165 (b) The application for an extension of a regular identification card shall be  
166 accompanied by a fee under Section 53-3-105.

167 (c) The division shall allow extensions:

168 (i) by mail, electronic means, or other means as determined by the division at the  
169 appropriate extension fee rate under Section 53-3-105; and

170 (ii) only if the applicant qualifies under this section.

171 (7) (a) (i) Except as prohibited under Subsection (7)(b), a regular identification card  
172 may only be extended once under Subsections (5) and (6).

173 (ii) After an extension an application for an identification card must be applied for in  
174 person at the division's offices.

175 (b) An identification card issued to a person required to register as a sex offender in  
176 accordance with Title 77, Chapter 41, Sex and Kidnap Offender Registry, may not be extended.

177 (8) An identification card issued prior to July 1, 2006 to a person 65 years of age or  
178 older expires on December 1, 2017.

179 (9) Notwithstanding the provisions of this section, an identification card expires on the  
180 birth date of the applicant in the first year following the year that the identification card was  
181 issued if the applicant is required to register as a sex offender in accordance with Title 77,  
182 Chapter 41, Sex and Kidnap Offender Registry.

183 (10) A person who knowingly fails to surrender an identification card under Subsection  
184 (4) is guilty of a class A misdemeanor.

185 Section 3. Section **62A-7-104** is amended to read:

186 **62A-7-104. Division responsibilities.**

187 (1) The division is responsible for all youth offenders committed to it by juvenile  
188 courts for secure confinement or supervision and treatment in the community.

189 (2) The division shall:

190 (a) establish and administer a continuum of community, secure, and nonsecure  
191 programs for all youth offenders committed to the division;

192 (b) establish and maintain all detention and secure facilities and set minimum standards  
193 for those facilities;

194 (c) establish and operate prevention and early intervention youth services programs for  
195 nonadjudicated youth placed with the division; and

196 (d) establish observation and assessment programs necessary to serve youth offenders  
197 committed by the juvenile court for short-term observation under Subsection [78A-6-117\(2\)\(e\)](#),  
198 and whenever possible, conduct the programs in settings separate and distinct from secure  
199 facilities for youth offenders.

200 (3) The division shall place youth offenders committed to it in the most appropriate  
201 program for supervision and treatment.

202 (4) In any order committing a youth offender to the division, the juvenile court shall  
203 specify whether the youth offender is being committed for secure confinement or placement in  
204 a community-based program. The division shall place the youth offender in the most  
205 appropriate program within the category specified by the court.

206 (5) The division shall employ staff necessary to:

207 (a) supervise and control youth offenders in secure facilities or in the community;

208 (b) supervise and coordinate treatment of youth offenders committed to the division for  
209 placement in community-based programs; and

210 (c) control and supervise nonadjudicated youth placed with the division for temporary  
211 services in receiving centers, youth services, and other programs established by the division.

212 (6) Youth in the custody or temporary custody of the division are controlled or detained  
213 in a manner consistent with public safety and rules promulgated by the division. In the event of

214 an unauthorized leave from a secure facility, detention center, community-based program,  
215 receiving center, home, or any other designated placement, division employees have the  
216 authority and duty to locate and apprehend the youth, or to initiate action with local law  
217 enforcement agencies for assistance.

218 (7) The division shall establish and operate compensatory-service work programs for  
219 youth offenders committed to the division by the juvenile court. The compensatory-service  
220 work program shall:

221 (a) provide labor to help in the operation, repair, and maintenance of public facilities,  
222 parks, highways, and other programs designated by the division;

223 (b) provide educational and prevocational programs in cooperation with the State  
224 Board of Education for youth offenders placed in the program; and

225 (c) provide counseling to youth offenders.

226 (8) The division shall establish minimum standards for the operation of all private  
227 residential and nonresidential rehabilitation facilities which provide services to juveniles who  
228 have committed a delinquent act, in this state or in any other state.

229 (9) In accordance with policies established by the board, the division shall provide  
230 regular training for staff of secure facilities, detention staff, case management staff, and staff of  
231 the community-based programs.

232 (10) (a) The division is authorized to employ special function officers, as defined in  
233 Section [53-13-105](#), to locate and apprehend minors who have absconded from division  
234 custody, transport minors taken into custody pursuant to division policy, investigate cases, and  
235 carry out other duties as assigned by the division.

236 (b) Special function officers may be employed through contract with the Department of  
237 Public Safety, any P.O.S.T. certified law enforcement agency, or directly hired by the division.

238 (11) The division shall designate employees to obtain the saliva DNA specimens  
239 required under Section [53-10-403](#). The division shall ensure that the designated employees  
240 receive appropriate training and that the specimens are obtained in accordance with accepted  
241 protocol.

242 (12) The division shall register with the Department of Corrections any person who:

243 (a) has been adjudicated delinquent based on an offense listed in Subsection

244 [77-41-102](#)~~(16)~~(17)(a);



245 (b) has been committed to the division for secure confinement; and  
246 (c) remains in the division's custody 30 days prior to the person's 21st birthday.

247 Section 4. Section **76-9-702** is amended to read:

248 **76-9-702. Lewdness.**

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

- 254 (a) an act of sexual intercourse or sodomy;
- 255 (b) exposes his or her genitals, the female breast below the top of the areola, the  
256 buttocks, the anus, or the pubic area;
- 257 (c) masturbates; or
- 258 (d) any other act of lewdness.

259 (2) (a) A person convicted the first or second time of a violation of Subsection (1) is  
260 guilty of a class B misdemeanor, except under Subsection (2)(b).

261 (b) A person convicted of a violation of Subsection (1) is guilty of a third degree felony  
262 if at the time of the violation:

- 263 (i) the person is a sex offender as defined in Section [77-27-21.7](#);
- 264 (ii) the person has been previously convicted two or more times of violating Subsection  
265 (1); or
- 266 (iii) the person has previously been convicted of a violation of Subsection (1) and has  
267 also previously been convicted of a violation of Section [76-9-702.5](#).

268 (c) (i) For purposes of this Subsection (2) and Subsection [77-41-102](#)~~(16)~~(17), a plea  
269 of guilty or nolo contendere to a charge under this section that is held in abeyance under Title  
270 77, Chapter 2a, Pleas in Abeyance, is the equivalent of a conviction.

271 (ii) This Subsection (2)(c) also applies if the charge under this Subsection (2) has been  
272 subsequently reduced or dismissed in accordance with the plea in abeyance agreement.

273 (3) A woman's breast feeding, including breast feeding in any location where the  
274 woman otherwise may rightfully be, does not under any circumstance constitute a lewd act,  
275 irrespective of whether or not the breast is covered during or incidental to feeding.

276 Section 5. Section **76-9-702.1** is amended to read:

277 **76-9-702.1. Sexual battery.**

278 (1) A person is guilty of sexual battery if the person, under circumstances not  
279 amounting to an offense under Subsection (2), intentionally touches, whether or not through  
280 clothing, the anus, buttocks, or any part of the genitals of another person, or the breast of a  
281 female person, and the actor's conduct is under circumstances the actor knows or should know  
282 will likely cause affront or alarm to the person touched.

283 (2) Offenses referred to in Subsection (1) are:

- 284 (a) rape, Section [76-5-402](#);
- 285 (b) rape of a child, Section [76-5-402.1](#);
- 286 (c) object rape, Section [76-5-402.2](#);
- 287 (d) object rape of a child, Section [76-5-402.3](#);
- 288 (e) forcible sodomy, Subsection [76-5-403\(2\)](#);
- 289 (f) sodomy on a child, Section [76-5-403.1](#);
- 290 (g) forcible sexual abuse, Section [76-5-404](#);
- 291 (h) sexual abuse of a child, Subsection [76-5-404.1\(2\)](#);
- 292 (i) aggravated sexual abuse of a child, Subsection [76-5-404.1\(4\)](#);
- 293 (j) aggravated sexual assault, Section [76-5-405](#); and
- 294 (k) an attempt to commit any offense under this Subsection (2).

295 (3) Sexual battery is a class A misdemeanor.

296 (4) For purposes of Subsection [77-41-102](#)~~(16)~~(17) only, a plea of guilty or nolo  
297 contendere to a charge under this section that is held in abeyance under Title 77, Chapter 2a,  
298 Pleas in Abeyance, is the equivalent of a conviction. This Subsection (4) also applies if the  
299 charge under this section has been subsequently reduced or dismissed in accordance with the  
300 plea in abeyance agreement.

301 Section 6. Section **77-41-102** is amended to read:

302 **77-41-102. Definitions.**

303 As used in this chapter:

304 (1) "Bureau" means the bureau of Criminal Identification of the Department of Public  
305 Safety established in section [53-10-201](#).

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

307 (3) "Certificate of eligibility" means a document issued by the Bureau of Criminal  
308 Identification showing that the offender has met the requirements of Section 77-41-112.

309 (4) "Department" means the Department of Corrections.

310 (5) "Division" means the Division of Juvenile Justice Services.

311 (6) "Employed" or "carries on a vocation" includes employment that is full time or part  
312 time, whether financially compensated, volunteered, or for the purpose of government or  
313 educational benefit.

314 (7) "Indian Country" means:

315 (a) all land within the limits of any Indian reservation under the jurisdiction of the  
316 United States government, regardless of the issuance of any patent, and includes rights-of-way  
317 running through the reservation;

318 (b) all dependent Indian communities within the borders of the United States whether  
319 within the original or subsequently acquired territory, and whether or not within the limits of a  
320 state; and

321 (c) all Indian allotments, including the Indian allotments to which the Indian titles have  
322 not been extinguished, including rights-of-way running through the allotments.

323 (8) "Jurisdiction" means any state, Indian Country, United States Territory, or any  
324 property under the jurisdiction of the United States military, Canada, the United Kingdom,  
325 Australia, or New Zealand.

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

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

328 (i) Subsection 76-5-301(1)(c) or (d), kidnapping;

329 (ii) Section 76-5-301.1, child kidnapping;

330 (iii) Section 76-5-302, aggravated kidnapping;

331 (iv) Section 76-5-310, aggravated human trafficking, on or after May 10, 2011; or

332 (v) attempting, soliciting, or conspiring to commit any felony offense listed in

333 Subsections (9)(a)(i) through (iv);

334 (b) has been convicted of any crime, or an attempt, solicitation, or conspiracy to  
335 commit a crime in another jurisdiction, including any state, federal, or military court that is  
336 substantially equivalent to the offenses listed in Subsection (9)(a) and who is:

337 (i) a Utah resident; or

338 (ii) not a Utah resident, but who, in any 12 month period, is in this state for a total of  
339 10 or more days, regardless of whether or not the offender intends to permanently reside in this  
340 state;

341 (c) (i) is required to register as ~~[an]~~ a kidnap offender in any other jurisdiction~~[, or]~~ of  
342 original conviction, who is required to register as ~~[an]~~ a kidnap offender by any state, federal,  
343 or military court, or who would be required to register as a kidnap offender if residing in the  
344 jurisdiction of the conviction regardless of the date of the conviction or any previous  
345 registration requirements; and

346 (ii) in any 12 month period, is in this state for a total of 10 or more days, regardless of  
347 whether or not the offender intends to permanently reside in this state;

348 (d) is a nonresident regularly employed or working in this state, or who is a student in  
349 this state, and was convicted of one or more offenses listed in Subsection (9), or any  
350 substantially equivalent offense in another jurisdiction, or as a result of the conviction, is  
351 required to register in the person's state of residence;

352 (e) is found not guilty by reason of insanity in this state or in any other jurisdiction of  
353 one or more offenses listed in Subsection (9); or

354 (f) is adjudicated delinquent based on one or more offenses listed in Subsection (9)(a)  
355 and who has been committed to the division for secure confinement for that offense and  
356 remains in the division's custody 30 days prior to the person's 21st birthday.

357 (10) "Natural parent" means a minor's biological or adoptive parent, and includes the  
358 minor's noncustodial parent.

359 (11) "Offender" means a kidnap offender as defined in Subsection (9) or a sex offender  
360 as defined in Subsection ~~[(16)]~~ (17).

361 (12) "Online identifier" or "Internet identifier":

362 (a) means any electronic mail, chat, instant messenger, social networking, or similar  
363 name used for Internet communication; and

364 (b) does not include date of birth, Social Security number, PIN number, or Internet  
365 passwords.

366 (13) "Primary residence" means the location where the offender regularly resides, even  
367 if the offender intends to move to another location or return to another location at any future  
368 date.

369 (14) "Register" means to comply with the requirements of this chapter and  
370 administrative rules of the department made under this chapter.

371 (15) "Registration website" means the Sex and Kidnap Offender Notification and  
372 Registration website described in Section 77-41-110 and the information on the website.

373 ~~[(15)]~~ (16) "Secondary residence" means any real property that the offender owns or  
374 has a financial interest in, or any location where, in any 12 month period, the offender stays  
375 overnight a total of 10 or more nights when not staying at the offender's primary residence.

376 ~~[(16)]~~ (17) "Sex offender" means any person:

377 (a) convicted in this state of:

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

379 (ii) Section 76-5b-202, sexual exploitation of a vulnerable adult, on or after May 10,  
380 2011;

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

382 (iv) Section 76-5-401.1, sexual abuse of a minor;

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

384 (vi) Section 76-5-402, rape;

385 (vii) Section 76-5-402.1, rape of a child;

386 (viii) Section 76-5-402.2, object rape;

387 (ix) Section 76-5-402.3, object rape of a child;

388 (x) a felony violation of Section 76-5-403, forcible sodomy;

389 (xi) Section 76-5-403.1, sodomy on a child;

390 (xii) Section 76-5-404, forcible sexual abuse;

391 (xiii) Section 76-5-404.1, sexual abuse of a child or aggravated sexual abuse of a child;

392 (xiv) Section 76-5-405, aggravated sexual assault;

393 (xv) Section 76-5-412, custodial sexual relations, when the person in custody is  
394 younger than 18 years of age, if the offense is committed on or after May 10, 2011;

395 (xvi) Section 76-5b-201, sexual exploitation of a minor;

396 (xvii) Section 76-7-102, incest;

397 (xviii) Section 76-9-702, lewdness, if the person has been convicted of the offense four  
398 or more times;

399 (xix) Section 76-9-702.1, sexual battery, if the person has been convicted of the

400 offense four or more times;

401 (xx) any combination of convictions of Section 76-9-702, lewdness, and of Section  
402 76-9-702.1, sexual battery, that total four or more convictions;

403 (xxi) Section 76-9-702.5, lewdness involving a child;

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

405 (xxiii) Section 76-10-1306, aggravated exploitation of prostitution; or

406 (xxiv) attempting, soliciting, or conspiring to commit any felony offense listed in  
407 Subsection [(16)] (17)(a);

408 (b) who has been convicted of any crime, or an attempt, solicitation, or conspiracy to  
409 commit a crime in another jurisdiction, including any state, federal, or military court that is  
410 substantially equivalent to the offenses listed in Subsection [(16)] (17)(a) and who is:

411 (i) a Utah resident; or

412 (ii) not a Utah resident, but who, in any 12 month period, is in this state for a total of  
413 10 or more days, regardless of whether the offender intends to permanently reside in this state;

414 (c) (i) who is required to register as ~~an~~ a sex offender in any other jurisdiction~~, or~~ of  
415 original conviction, who is required to register as ~~an~~ a sex offender by any state, federal, or  
416 military court, or who would be required to register as a sex offender if residing in the  
417 jurisdiction of the original conviction regardless of the date of the conviction or any previous  
418 registration requirements; and

419 (ii) who, in any 12 month period, is in the state for a total of 10 or more days,  
420 regardless of whether or not the offender intends to permanently reside in this state;

421 (d) who is a nonresident regularly employed or working in this state or who is a student  
422 in this state and was convicted of one or more offenses listed in Subsection [(16)] (17)(a), or  
423 any substantially equivalent offense in any jurisdiction, or as a result of the conviction, is  
424 required to register in the person's jurisdiction of residence;

425 (e) who is found not guilty by reason of insanity in this state, or in any other  
426 jurisdiction of one or more offenses listed in Subsection [(16)] (17)(a); or

427 (f) who is adjudicated delinquent based on one or more offenses listed in Subsection  
428 [(16)] (17)(a) and who has been committed to the division for secure confinement for that  
429 offense and remains in the division's custody 30 days prior to the person's 21st birthday.

430 [(17)] (18) "Traffic offense" does not include a violation of Title 41, Chapter 6a, Part 5,

431 Driving Under the Influence and Reckless Driving.

432 ~~[(+8)]~~ (19) "Vehicle" means any motor vehicle, aircraft, or watercraft subject to  
433 registration in any jurisdiction.

434 Section 7. Section **77-41-103** is amended to read:

435 **77-41-103. Department duties.**

436 (1) The department, to assist in investigating kidnapping and sex-related crimes, and in  
437 apprehending offenders, shall:

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

440 (b) make information listed in Subsection 77-41-110(4) available to the public; and

441 (c) share information provided by an offender under this chapter that may not be made  
442 available to the public under Subsection 77-41-110(4), but only:

443 (i) for the purposes under this chapter; or

444 (ii) in accordance with Section 63G-2-206.

445 (2) Any law enforcement agency shall, in the manner prescribed by the department,  
446 inform the department of:

447 (a) the receipt of a report or complaint of an offense listed in Subsection 77-41-102(9)  
448 or ~~[(+6)]~~ (17), within three business days; and

449 (b) the arrest of a person suspected of any of the offenses listed in Subsection  
450 77-41-102(9) or ~~[(+6)]~~ (17), within five business days.

451 (3) Upon convicting a person of any of the offenses listed in Subsection 77-41-102(9)  
452 or ~~[(+6)]~~ (17), the convicting court shall within three business days forward a signed copy of  
453 the judgment and sentence to the ~~[department]~~ Sex and Kidnap Offender Registry office within  
454 the Department of Corrections.

455 (4) The department shall:

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

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

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

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

460 (b) maintain the Sex Offender and Kidnap Offender Notification and Registration  
461 website; and

462 (c) ensure that the registration information collected regarding an offender's enrollment  
463 or employment at an educational institution is:

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

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

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

470 Section 8. Section 77-41-105 is amended to read:

471 **77-41-105. Registration of offenders -- Offender responsibilities.**

472 (1) An offender convicted by any other jurisdiction is required to register under  
473 Subsection (3) and Subsection 77-41-102(9) or [~~(16)~~] (17). The offender shall register with the  
474 department within 10 days of entering the state, regardless of the offender's length of stay.

475 (2) (a) An offender required to register under Subsection 77-41-102(9) or [~~(16)~~] (17)  
476 who is under supervision by the department shall register in person with Division of Adult  
477 Probation and Parole.

478 (b) An offender required to register under Subsection 77-41-102(9) or [~~(16)~~] (17) who  
479 is no longer under supervision by the department shall register in person with the police  
480 department or sheriff's office that has jurisdiction over the area where the offender resides.

481 (3) (a) Except as provided in Subsections (3)(b), (c), and (4), and Section 77-41-106,  
482 an offender shall, for the duration of the sentence and for 10 years after termination of sentence  
483 or custody of the division, register every year during the month of the offender's date of birth,  
484 during the month that is the sixth month after the offender's birth month, and also within three  
485 business days of every change of the offender's primary residence, any secondary residences,  
486 place of employment, vehicle information, or educational information required to be submitted  
487 under Subsection (8).

488 (b) Except as provided in Subsections (4) and (5), and Section 77-41-106, an offender  
489 who is convicted in another jurisdiction of an offense listed in Subsection 77-41-102(9)(a) or  
490 [~~(16)~~] (17)(a), a substantially similar offense, or any other offense that requires registration in  
491 the jurisdiction of conviction, shall:

492 (i) register for the time period, and in the frequency, required by the jurisdiction where



493 the offender was convicted if that jurisdiction's registration period or registration frequency  
494 requirement for the offense that the offender was convicted of is greater than the 10 years from  
495 completion of the sentence registration period that is required under Subsection (3)(a), or is  
496 more frequent than every six months; or

497 (ii) register in accordance with the requirements of Subsection (3)(a), if the  
498 jurisdiction's registration period or frequency requirement for the offense that the offender was  
499 convicted of is less than the registration period required under Subsection (3)(a), or is less  
500 frequent than every six months.

501 (c) (i) An offender convicted as an adult of any of the offenses listed in Section  
502 77-41-106 shall, for the offender's lifetime, register every year during the month of the  
503 offender's birth, during the month that is the sixth month after the offender's birth month, and  
504 also within three business days of every change of the offender's primary residence, any  
505 secondary residences, place of employment, vehicle information, or educational information  
506 required to be submitted under Subsection (8).

507 (ii) This registration requirement is not subject to exemptions and may not be  
508 terminated or altered during the offender's lifetime.

509 (d) For the purpose of establishing venue for a violation of this Subsection (3), the  
510 violation is considered to be committed:

511 (i) at the most recent registered primary residence of the offender or at the location of  
512 the offender, if the actual location of the offender at the time of the violation is not known; or

513 (ii) at the location of the offender at the time the offender is apprehended.

514 (4) Notwithstanding Subsection (3) and Section 77-41-106, an offender who is  
515 confined in a secure facility or in a state mental hospital is not required to register during the  
516 period of confinement.

517 (5) In the case of an offender adjudicated in another jurisdiction as a juvenile and  
518 required to register under this chapter, the offender shall register in the time period and in the  
519 frequency consistent with the requirements of this Subsection (5). However, if the jurisdiction  
520 of the offender's adjudication does not publish the offender's information on a public website,  
521 the department shall maintain, but not publish the offender's information on the Sex Offender  
522 and Kidnap Offender Registration website.

523 (6) An offender who is required to register under Subsection (3) shall surrender the

524 offender's license, certificate, or identification card as required under Subsection 53-3-216(3)  
525 or 53-3-807(4) and may apply for a license certificate or identification card as provided under  
526 Section 53-3-205 or 53-3-804.

527 (7) A sex offender who violates Section 77-27-21.8 regarding being in the presence of  
528 a child while required to register under this chapter shall register for an additional five years  
529 subsequent to the registration period otherwise required under this chapter.

530 (8) An offender shall provide the department or the registering entity with the  
531 following information:

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

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

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

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

538 (e) a current photograph of the offender;

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

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

542 (h) telephone numbers and any other designations used by the offender for routing or  
543 self-identification in telephonic communications from fixed locations or cellular telephones;

544 (i) Internet identifiers and the addresses the offender uses for routing or  
545 self-identification in Internet communications or postings;

546 (j) the name and Internet address of all websites on which the offender is registered  
547 using an online identifier, including all online identifiers used to access those websites;

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

549 (l) if the offender is an alien, all documents establishing the offender's immigration  
550 status;

551 (m) all professional licenses that authorize the offender to engage in an occupation or  
552 carry out a trade or business, including any identifiers, such as numbers;

553 (n) each educational institution in Utah at which the offender is employed, carries on a  
554 vocation, or is a student, and any change of enrollment or employment status of the offender at

555 any educational institution;

556 (o) the name, the telephone number, and the address of any place where the offender is  
557 employed or will be employed;

558 (p) the name, the telephone number, and the address of any place where the offender  
559 works as a volunteer or will work as a volunteer; and

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

561 (9) Notwithstanding Section 42-1-1, an offender:

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

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

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

565 (b) may not change the offender's name at any time, if registration is for life under  
566 Subsection 77-41-105(3)(c).

567 (10) Notwithstanding Subsections (8)(i) and (j) and 77-41-103(1)(c), an offender is not  
568 required to provide the department with:

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

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

574 Section 9. Section 77-41-106 is amended to read:

575 **77-41-106. Registerable offenses.**

576 Offenses referred to in Subsection 77-41-105(3)(c)(i) are:

577 (1) any offense listed in Subsection 77-41-102(9) or [~~(16)~~] (17) if, at the time of the  
578 conviction, the offender has previously been convicted of an offense listed in Subsection  
579 77-41-102(9) or [~~(16)~~] (17) or has previously been required to register as a sex offender for an  
580 offense committed as a juvenile;

581 (2) a conviction for any of the following offenses, including attempting, soliciting, or  
582 conspiring to commit any felony of:

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

585 (b) Section 76-5-402, rape;

- 586 (c) Section 76-5-402.1, rape of a child;
- 587 (d) Section 76-5-402.2, object rape;
- 588 (e) Section 76-5-402.3, object rape of a child;
- 589 (f) Section 76-5-403.1, sodomy on a child;
- 590 (g) Subsection 76-5-404.1(4), aggravated sexual abuse of a child; or
- 591 (h) Section 76-5-405, aggravated sexual assault;
- 592 (3) Section 76-4-401, a felony violation of enticing a minor over the Internet;
- 593 (4) Section 76-5-302, aggravated kidnapping, except if the offender is a natural parent
- 594 of the victim;
- 595 (5) Section 76-5-403, forcible sodomy;
- 596 (6) Section 76-5-404.1, sexual abuse of a child;
- 597 (7) Section 76-5b-201, sexual exploitation of a minor; or
- 598 (8) Section 76-10-1306, aggravated exploitation of prostitution, on or after May 10,
- 599 2011.

600 Section 10. Section 77-41-107 is amended to read:

601 **77-41-107. Penalties.**

602 (1) An offender who knowingly fails to register under this chapter or provides false or  
603 incomplete information is guilty of:

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

606 (i) the offender is required to register for a felony conviction or adjudicated delinquent  
607 for what would be a felony if the juvenile were an adult of an offense listed in Subsection  
608 77-41-102(9)(a) or [~~(16)~~] (17)(a); or

609 (ii) the offender is required to register for the offender's lifetime under Subsection  
610 77-41-105(3)(c); or

611 (b) a class A misdemeanor and shall be sentenced to serve a term of incarceration for  
612 not fewer than 90 days and also at least one year of probation if the offender is required to  
613 register for a misdemeanor conviction or is adjudicated delinquent for what would be a  
614 misdemeanor if the juvenile were an adult of an offense listed in Subsection 77-41-102(9)(a) or  
615 [~~(16)~~] (17)(a).

616 (2) Neither the court nor the Board of Pardons and Parole may release a person who

617 violates this chapter from serving the term required under Subsection (1). This Subsection (2)  
618 supersedes any other provision of the law contrary to this chapter.

619 (3) The offender shall register for an additional year for every year in which the  
620 offender does not comply with the registration requirements of this chapter.

621 Section 11. Section **77-41-109** is amended to read:

622 **77-41-109. Miscellaneous provisions.**

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

628 (b) This Subsection (1) does not apply to any person temporarily released under guard  
629 from the institution in which the person is confined.

630 (2) Notwithstanding Title 77, Chapter 40, Utah Expungement Act, a person convicted  
631 of any offense listed in Subsection **77-41-102**(9) or [~~16~~] (17) is not relieved from the  
632 responsibility to register as required under this section, unless the offender is removed from the  
633 registry under Section **77-41-112**.

634 Section 12. Section **78B-8-302** is amended to read:

635 **78B-8-302. Process servers.**

636 (1) Complaints, summonses, and subpoenas may be served by a person who is:

637 (a) 18 years of age or older at the time of service; and

638 (b) not a party to the action or a party's attorney.

639 (2) Except as provided in Subsection (5), the following may serve all process issued by  
640 the courts of this state:

641 (a) a peace officer employed by a political subdivision of the state acting within the  
642 scope and jurisdiction of the peace officer's employment;

643 (b) a sheriff or appointed deputy sheriff employed by a county of the state;

644 (c) a constable, or the constable's deputy, serving in compliance with applicable law;

645 (d) an investigator employed by the state and authorized by law to serve civil process;

646 and

647 (e) a private investigator licensed in accordance with Title 53, Chapter 9, Private

648 Investigator Regulation Act.

649 (3) A private investigator licensed in accordance with Title 53, Chapter 9, Private  
650 Investigator Regulation Act, may not make an arrest pursuant to a bench warrant.

651 (4) While serving process, a private investigator shall:

652 (a) have on the investigator's person a visible form of credentials and identification  
653 identifying:

654 (i) the investigator's name;

655 (ii) that the investigator is a licensed private investigator; and

656 (iii) the name and address of the agency employing the investigator or, if the  
657 investigator is self-employed, the address of the investigator's place of business;

658 (b) verbally communicate to the person being served that the investigator is acting as a  
659 process server; and

660 (c) print on the first page of each document served:

661 (i) the investigator's name and identification number as a private investigator; and

662 (ii) the address and phone number for the investigator's place of business.

663 (5) Any service under this section when the use of force is authorized on the face of the  
664 document, or when a breach of the peace is imminent or likely under the totality of the  
665 circumstances, may only be served by:

666 (a) a law enforcement officer, as defined in Section [53-13-103](#); or

667 (b) a constable, as defined in Subsection [53-13-105\(1\)\(b\)\(ii\)](#).

668 (6) The following may not serve process issued by a court:

669 (a) a person convicted of a felony violation of an offense listed in Subsection

670 [77-41-102\[\(16\)\]\(17\)](#); or

671 (b) a person who is a respondent in a proceeding described in Title 78B, Chapter 7,  
672 Protective Orders, in which a court has granted the petitioner a protective order.

673 (7) A person serving process shall:

674 (a) legibly document the date and time of service on the front page of the document  
675 being served;

676 (b) legibly print the process server's name, address, and telephone number on the return  
677 of service;

678 (c) sign the return of service in substantial compliance with Section [78B-5-705](#);

679 (d) if the process server is a peace officer, sheriff, or deputy sheriff, legibly print the  
680 badge number of the process server on the return of service; and

681 (e) if the process server is a private investigator, legibly print the private investigator's  
682 identification number on the return of service.

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**Legislative Review Note**  
**as of 1-28-15 12:35 PM**

**Office of Legislative Research and General Counsel**