

30 (1) A person convicted of an offense may apply to the bureau for a certificate of
31 eligibility to expunge the record of conviction as provided in this section.

32 (2) A petitioner is not eligible to receive a certificate of eligibility from the bureau if:

33 (a) the conviction for which expungement is sought is:

34 (i) a capital felony;

35 (ii) a first degree felony;

36 (iii) a violent felony as defined in Subsection 76-3-203.5(1)(c)(i);

37 (iv) felony automobile homicide;

38 (v) a felony violation of Subsection 41-6a-501(2); or

39 (vi) a registerable sex offense as defined in Subsection 77-41-102~~(16)~~(17);

40 (b) a criminal proceeding is pending against the petitioner; or

41 (c) the petitioner intentionally or knowingly provides false or misleading information
42 on the application for a certificate of eligibility.

43 (3) A petitioner seeking to obtain expungement for a record of conviction is not
44 eligible to receive a certificate of eligibility from the bureau until all of the following have
45 occurred:

46 (a) all fines and interest ordered by the court have been paid in full;

47 (b) all restitution ordered by the court pursuant to Section 77-38a-302, or by the Board
48 of Pardons and Parole pursuant to Section 77-27-6, has been paid in full; and

49 (c) the following time periods have elapsed from the date the petitioner was convicted
50 or released from incarceration, parole, or probation, whichever occurred last, for each
51 conviction the petitioner seeks to expunge:

52 (i) 10 years in the case of a misdemeanor conviction of Subsection 41-6a-501(2) or a
53 felony conviction of Subsection 58-37-8(2)(g);

54 (ii) seven years in the case of a felony;

55 (iii) five years in the case of any class A misdemeanor or a felony drug possession
56 offense;

57 (iv) four years in the case of a class B misdemeanor; or

58 (v) three years in the case of any other misdemeanor or infraction.

59 (4) The bureau may not issue a certificate of eligibility if, at the time the petitioner
60 seeks a certificate of eligibility, the bureau determines that the petitioner's criminal history,
61 including previously expunged convictions, contains any of the following:

62 (a) two or more felony convictions other than for drug possession offenses, each of
63 which is contained in a separate criminal episode;

64 (b) any combination of three or more convictions other than for drug possession
65 offenses that include two class A misdemeanor convictions, each of which is contained in a
66 separate criminal episode;

67 (c) any combination of four or more convictions other than for drug possession
68 offenses that include three class B misdemeanor convictions, each of which is contained in a
69 separate criminal episode; or

70 (d) five or more convictions other than for drug possession offenses of any degree
71 whether misdemeanor or felony, excluding infractions and any traffic offenses, each of which
72 is contained in a separate criminal episode.

73 (5) The bureau may not issue a certificate of eligibility if, at the time the petitioner
74 seeks a certificate of eligibility, the bureau determines that the petitioner's criminal history,
75 including previously expunged convictions, contains any of the following:

76 (a) three or more felony convictions for drug possession offenses, each of which is
77 contained in a separate criminal episode; or

78 (b) any combination of five or more convictions for drug possession offenses, each of
79 which is contained in a separate criminal episode.

80 (6) If the petitioner's criminal history contains convictions for both a drug possession
81 offense and a non drug possession offense arising from the same criminal episode, that criminal
82 episode shall be counted as provided in Subsection (4) if any non drug possession offense in
83 that episode:

84 (a) is a felony or class A misdemeanor; or

85 (b) has the same or a longer waiting period under Subsection (3) than any drug

86 possession offense in that episode.

87 (7) If, prior to May 14, 2013, the petitioner has received a pardon from the Utah Board
88 of Pardons and Parole, the petitioner is entitled to an expungement order for all pardoned
89 crimes pursuant to Section 77-27-5.1.

90 Section 2. Section 77-41-105 is amended to read:

91 **77-41-105. Registration of offenders -- Offender responsibilities.**

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

95 (2) (a) An offender required to register under Subsection 77-41-102(9) or (17) who is
96 under supervision by the department shall register in person with Division of Adult Probation
97 and Parole.

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

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

108 (b) Except as provided in Subsections (4) and (5), and Section 77-41-106, an offender
109 who is convicted in another jurisdiction of an offense listed in Subsection 77-41-102(9)(a) or
110 (17)(a), a substantially similar offense, or any other offense that requires registration in the
111 jurisdiction of conviction, shall:

112 (i) register for the time period, and in the frequency, required by the jurisdiction where
113 the offender was convicted if that jurisdiction's registration period or registration frequency

114 requirement for the offense that the offender was convicted of is greater than the 10 years from
115 completion of the sentence registration period that is required under Subsection (3)(a), or is
116 more frequent than every six months; or

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

121 (c) (i) An offender convicted as an adult of any of the offenses listed in Section
122 [77-41-106](#) shall, for the offender's lifetime, register every year during the month of the
123 offender's birth, during the month that is the sixth month after the offender's birth month, and
124 also within three business days of every change of the offender's primary residence, any
125 secondary residences, place of employment, vehicle information, or educational information
126 required to be submitted under Subsection (8).

127 (ii) This registration requirement is not subject to exemptions and may not be
128 terminated or altered during the offender's lifetime, unless a petition is granted under Section
129 [77-41-112](#).

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

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

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

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

138 (5) In the case of an offender adjudicated in another jurisdiction as a juvenile and
139 required to register under this chapter, the offender shall register in the time period and in the
140 frequency consistent with the requirements of this Subsection (5). However, if the jurisdiction
141 of the offender's adjudication does not publish the offender's information on a public website,

142 the department shall maintain, but not publish the offender's information on the Sex Offender
143 and Kidnap Offender Registration website.

144 (6) An offender who is required to register under Subsection (3) shall surrender the
145 offender's license, certificate, or identification card as required under Subsection 53-3-216(3)
146 or 53-3-807(4) and may apply for a license certificate or identification card as provided under
147 Section 53-3-205 or 53-3-804.

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

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

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

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

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

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

159 (e) a current photograph of the offender;

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

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

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

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

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

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

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

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

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

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

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

181 (q) the offender's social security number.

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

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

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

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

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

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

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

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

195 Section 3. Section 77-41-112 is amended to read:

196 **77-41-112. Removal from registry -- Requirements -- Procedure.**

197 (1) An offender may petition the court where the offender was convicted of the offense

198 requiring registration for an order removing the offender from the Sex Offender and Kidnap
199 Offender Registry if:

200 (a) the offender was convicted of ~~[violating]~~ an offense under Subsection (2);
201 (b) at least five years have passed since the completion of the offender's sentence for
202 the offense;

203 (c) the offense is the only conviction for which the offender is required to register; and

204 (d) the offender has not been convicted, subsequently to the offense for which the
205 offender was placed on the registry, of a violation listed in:

206 (i) Subsection 77-41-102(9), which defines a kidnap offender; or

207 (ii) Subsection 77-41-102(17), which defines a sex offender.

208 (2) The offenses referred to in Subsection (1)(a) are:

209 (a) Section 76-4-401, Enticing a minor, if the offense is a class A misdemeanor;

210 ~~[(i)]~~ (b) Section 76-5-301, Kidnapping, and the conviction of violating Section
211 76-5-301 [is the only conviction for which the offender is required to register];

212 ~~[(ii)]~~ (c) Section 76-5-304, Unlawful detention, and the conviction of violating Section
213 76-5-304 is the only conviction for which the offender is required to register;

214 ~~[(iii)]~~ (d) Section 76-5-401, Unlawful sexual activity with a minor and, at the time of
215 the offense, was not more than 10 years older than the victim; ~~[or]~~

216 ~~[(iv)]~~ (e) Section 76-5-401.2, Unlawful sexual conduct with a 16 or 17 year old, and at
217 the time of the offense, was not more than 15 years older than the victim; or

218 (f) Section 76-9-702.7, Voyeurism, if the offense is a class A misdemeanor.

219 ~~[(b) five years have passed since the completion of the offender's sentence;]~~

220 (3) An offender who meets the requirements under Subsection (1) shall also complete
221 all of the following requirements:

222 ~~[(c)]~~ (a) the offender has successfully completed all treatment ordered by the court or
223 the Board of Pardons and Parole relating to the conviction;

224 ~~[(d)]~~ (b) (i) the offender has not been convicted of any other crime, excluding traffic
225 offenses, as evidenced by a certificate of eligibility issued by the bureau; and

226 (ii) as used in this section, "traffic offense" does not include a violation of Title 41,
227 Chapter 6a, Part 5, Driving Under the Influence and Reckless Driving;

228 [~~(e)~~] (c) the offender has paid all restitution ordered by the court;

229 [~~(f)~~] (d) the offender has complied with all the registration requirements at all times as
230 required in this chapter, as evidenced by a document obtained by the offender from the Utah
231 Department of Corrections, which confirms compliance; and

232 [~~(g)~~] (e) the office that prosecuted the offender, and the victim, or if the victim is still a
233 minor, the victim's parent, are notified and provided with an opportunity to respond in
234 accordance with Subsection [~~(3)~~] (6)(a).

235 [~~(2)~~] (4) (a) (i) An offender seeking removal from the Sex Offender or Kidnap
236 Offender Registry shall apply for a certificate of eligibility from the bureau.

237 (ii) An offender who intentionally or knowingly provides any false or misleading
238 information to the bureau when applying for a certificate of eligibility is guilty of a class B
239 misdemeanor and subject to prosecution under Section 76-8-504.6.

240 (iii) Regardless of whether the offender is prosecuted, the bureau may deny a certificate
241 of eligibility to anyone providing false information on an application.

242 (b) (i) The bureau shall perform a check of records of governmental agencies,
243 including national criminal databases, to determine whether an offender is eligible to receive a
244 certificate of eligibility under this section.

245 (ii) If the offender meets all of the criteria under Subsections [~~(1)(b) and (d)~~] (1), (2),
246 and (3), the bureau shall issue a certificate of eligibility to the offender, which shall be valid for
247 a period of 90 days from the date the certificate is issued.

248 [~~(e)~~] (5) (a) (i) The bureau shall charge application and issuance fees for a certificate of
249 eligibility in accordance with the process in Section 63J-1-504.

250 (ii) The application fee shall be paid at the time the offender submits an application for
251 a certificate of eligibility to the bureau.

252 (iii) If the bureau determines that the issuance of a certificate of eligibility is
253 appropriate, the offender will be charged an additional fee for the issuance of a certificate of

254 eligibility.

255 ~~[(4)]~~ (b) Funds generated under ~~[this]~~ Subsection ~~[(2)]~~ (5) shall be deposited in the
256 General Fund as a dedicated credit by the department to cover the costs incurred in determining
257 eligibility.

258 ~~[(3)]~~ (6) (a) The offender shall file the petition, original information, and court docket
259 with the court, and deliver a copy of the petition to the office of the prosecutor.

260 (i) Upon receipt of a petition for removal from the Sex Offender and Kidnap Offender
261 Registry, the office of the prosecutor shall provide notice of the petition:

262 (A) by first-class mail to the victim at the most recent address of record on file or, if
263 the victim is still a minor, to the parent or guardian of the victim~~[-];~~ and

264 (B) to the Sex and Kidnap Offender Registry office in the Department of Corrections.

265 (ii) The notice shall include a copy of the petition, state that the victim has a right to
266 object to the removal of the offender from the registry, and provide instructions for registering
267 an objection with the court.

268 (b) The office of the prosecutor shall provide the following, if available, to the court
269 within 30 days after receiving the petition:

270 (i) presentencing report;

271 (ii) any evaluation done as part of sentencing; and

272 (iii) any other information the office of the prosecutor feels the court should consider.

273 (c) The victim, or the victim's parent or guardian if the victim is a minor, may respond
274 to the petition by filing a recommendation or objection with the court within 45 days after the
275 mailing of the petition to the victim.

276 ~~[(4)]~~ (7) (a) The court shall:

277 (i) review the petition and all documents submitted with the petition; and

278 (ii) hold a hearing if requested by the prosecutor or the victim.

279 (b) The court shall consider whether the offender has paid all restitution ordered by the
280 court or the Board of Pardons.

281 (c) If the court determines that it is not contrary to the interests of the public to do so, it

282 may grant the petition and order removal of the offender from the registry.

283 (d) If the court grants the petition, it shall forward a copy of the order directing removal
284 of the offender from the registry to the department and the office of the prosecutor.

285 (e) If the court denies the petition, the offender may not submit another petition for
286 three years.

287 [~~5~~] (8) The office of the prosecutor shall notify the victim and the Sex and Kidnap
288 Offender Registry office in the Department of Corrections of the court's decision in the same
289 manner as notification was provided in Subsection [~~3~~] (6)(a).