

**CHILD ABUSE OFFENDER REGISTRY**

2017 GENERAL SESSION

STATE OF UTAH

**Chief Sponsor: Derrin R. Owens**

Senate Sponsor: \_\_\_\_\_

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**LONG TITLE**

**General Description:**

This bill adds felony offenses to the previously named "Sex and Kidnap Offender Registry."

**Highlighted Provisions:**

This bill:

- ▶ changes the name of the "Sex and Kidnap Offender Registry" to the "Sex, Kidnap, and Child Abuse Offender Registry";
- ▶ adds felony offenses of child abuse and human trafficking of a child to the Sex, Kidnap, and Child Abuse Offender Registry; and
- ▶ makes technical and conforming changes.

**Money Appropriated in this Bill:**

None

**Other Special Clauses:**

None

**Utah Code Sections Affected:**

AMENDS:

- 13-51-107**, as enacted by Laws of Utah 2015, Chapter 461
- 41-3-205.5**, as last amended by Laws of Utah 2012, Chapter 145
- 41-3-209**, as last amended by Laws of Utah 2012, Chapter 145
- 53-3-205**, as last amended by Laws of Utah 2016, Chapter 175



- 28            **53-3-216**, as last amended by Laws of Utah 2015, Chapter 210
- 29            **53-3-413**, as last amended by Laws of Utah 2012, Chapter 145
- 30            **53-3-804**, as last amended by Laws of Utah 2014, Chapters 85 and 252
- 31            **53-3-806.5**, as last amended by Laws of Utah 2012, Chapter 145
- 32            **53-3-807**, as last amended by Laws of Utah 2015, Chapter 210
- 33            **53-10-403**, as last amended by Laws of Utah 2015, Chapter 386
- 34            **53-10-404**, as last amended by Laws of Utah 2014, Chapter 331
- 35            **62A-7-104**, as last amended by Laws of Utah 2015, Chapter 210
- 36            **63G-2-302**, as last amended by Laws of Utah 2016, Chapter 410
- 37            **76-1-201**, as last amended by Laws of Utah 2014, Chapter 105
- 38            **76-1-202**, as last amended by Laws of Utah 2014, Chapter 105
- 39            **76-3-402**, as last amended by Laws of Utah 2012, Chapter 145
- 40            **76-5-401**, as last amended by Laws of Utah 2016, Chapter 372
- 41            **76-5-401.1**, as last amended by Laws of Utah 2016, Chapter 372
- 42            **76-9-702**, as last amended by Laws of Utah 2015, Chapter 210
- 43            **76-9-702.1**, as last amended by Laws of Utah 2015, Chapter 210
- 44            **76-9-702.5**, as last amended by Laws of Utah 2013, Chapter 278
- 45            **77-27-21.7**, as last amended by Laws of Utah 2012, Chapter 145
- 46            **77-27-21.8**, as last amended by Laws of Utah 2015, Chapter 258
- 47            **77-27-21.9**, as enacted by Laws of Utah 2008, Chapter 309
- 48            **77-40-105**, as last amended by Laws of Utah 2016, Chapter 185
- 49            **77-41-101**, as enacted by Laws of Utah 2012, Chapter 145
- 50            **77-41-102**, as last amended by Laws of Utah 2016, Chapter 372
- 51            **77-41-103**, as last amended by Laws of Utah 2015, Chapter 210
- 52            **77-41-105**, as last amended by Laws of Utah 2016, Chapter 185
- 53            **77-41-106**, as last amended by Laws of Utah 2015, Chapter 210
- 54            **77-41-107**, as last amended by Laws of Utah 2015, Chapter 210
- 55            **77-41-109**, as last amended by Laws of Utah 2015, Chapter 210
- 56            **77-41-110**, as enacted by Laws of Utah 2012, Chapter 145 and last amended by
- 57            Coordination Clause, Laws of Utah 2012, Chapter 382
- 58            **77-41-112**, as last amended by Laws of Utah 2016, Chapter 185

59 **78A-2-301**, as last amended by Laws of Utah 2015, Chapters 99 and 313

60 **78B-8-302**, as last amended by Laws of Utah 2015, Chapter 210

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

63 Section 1. Section **13-51-107** is amended to read:

64 **13-51-107. Driver requirements.**

65 (1) Before a transportation network company allows an individual to use the  
66 transportation network company's software application as a transportation network driver, the  
67 transportation network company shall:

68 (a) require the individual to submit to the transportation network company:

69 (i) the individual's name, address, and age;

70 (ii) a copy of the individual's driver license, including the driver license number; and

71 (iii) proof that the vehicle that the individual will use to provide transportation network  
72 services is registered with the Division of Motor Vehicles;

73 (b) require the individual to consent to a criminal background check of the individual  
74 by the transportation network company or the transportation network company's designee; and

75 (c) obtain and review a report that lists the individual's driving history.

76 (2) A transportation company may not allow an individual to provide transportation  
77 network services as a transportation network driver if the individual:

78 (a) has committed more than three moving violations in the three years before the day  
79 on which the individual applies to become a transportation network driver;

80 (b) has been convicted, in the seven years before the day on which the individual  
81 applies to become a transportation network driver, of:

82 (i) driving under the influence of alcohol or drugs;

83 (ii) fraud;

84 (iii) a sexual offense;

85 (iv) a felony involving a motor vehicle;

86 (v) a crime involving property damage;

87 (vi) a crime involving theft;

88 (vii) a crime of violence; or

89 (viii) an act of terror;

90 (c) is required to register as ~~a sex~~ an offender in accordance with Title 77, Chapter  
91 41, Sex ~~[and]~~, Kidnap, and Child Abuse Offender Registry;

92 (d) does not have a valid Utah driver license; or

93 (e) is not at least 19 years of age.

94 (3) A transportation network company shall prohibit a transportation network driver  
95 from accepting a request for a prearranged ride if the motor vehicle that the transportation  
96 network driver uses to provide transportation network services fails to comply with:

97 (a) safety and inspection requirements described in Section 53-8-205;

98 (b) equipment standards described in Section 41-6a-1601; and

99 (c) emission requirements adopted by a county under Section 41-6a-1642.

100 (4) A transportation network driver, while providing transportation network services,  
101 shall carry proof, in physical or electronic form, that the transportation network driver is  
102 covered by insurance that satisfies the requirements of Section 13-51-108.

103 Section 2. Section 41-3-205.5 is amended to read:

104 **41-3-205.5. Licenses -- Criminal background check required on salesperson's**  
105 **licenses -- Payment of cost.**

106 (1) (a) Every applicant for a salesperson's license shall submit fingerprints with a  
107 completed application to the division.

108 (b) A person required to renew a salesperson license on or before June 30, 2010, shall  
109 submit fingerprints to the division on or before November 30, 2010.

110 (2) The division shall submit fingerprints for each applicant described in Subsection  
111 (1) to the Bureau of Criminal Identification established in Section 53-10-201.

112 (3) The Bureau of Criminal Identification shall:

113 (a) check the information submitted by the division for an applicant under Subsection  
114 (2) against the applicable state and regional criminal records databases; and

115 (b) release to the division all information obtained under Subsection (3)(a) relating to  
116 the applicant.

117 (4) (a) The Bureau of Criminal Identification shall maintain a separate file of  
118 fingerprints submitted under Subsection (2) and notify the division when a new entry is made  
119 in the applicable state and regional database against a person whose fingerprints are held in the  
120 file regarding any matter involving an arrest under state law involving:

- 121 (i) motor vehicles;
- 122 (ii) controlled substances;
- 123 (iii) fraud; or
- 124 (iv) a registerable ~~[sex]~~ offense under Section 77-41-106.
- 125 (b) Upon request by the division, the Bureau of Criminal Identification shall inform the
- 126 division whether a person whose arrest was reported to the division under Subsection (4)(a)
- 127 was subsequently convicted of the charge for which the person was arrested.
- 128 (5) In addition to any fees imposed under this chapter, the division shall:
- 129 (a) impose on individuals submitting fingerprints in accordance with this section the
- 130 fees that the Bureau of Criminal Identification is authorized to collect for the services the
- 131 Bureau of Criminal Identification provides under Subsections (3) and (4); and
- 132 (b) remit the fees collected under Subsection (5)(a) to the Bureau of Criminal
- 133 Identification.
- 134 (6) The division shall use information received from the Bureau of Criminal
- 135 Identification under this section to determine whether a license should be denied, suspended, or
- 136 revoked under Section 41-3-209.
- 137 Section 3. Section 41-3-209 is amended to read:
- 138 **41-3-209. Administrator's findings -- Suspension and revocation of license.**
- 139 (1) If the administrator finds that an applicant is not qualified to receive a license, a
- 140 license may not be granted.
- 141 (2) (a) On December 1, 2010, the administrator shall suspend the license of a
- 142 salesperson who fails to submit to the division fingerprints as required under Subsection
- 143 41-3-205.5(1)(b) on or before November 30, 2010.
- 144 (b) If the administrator finds that there is reasonable cause to deny, suspend, or revoke
- 145 a license issued under this chapter, the administrator shall deny, suspend, or revoke the license.
- 146 (c) Reasonable cause for denial, suspension, or revocation of a license includes, in
- 147 relation to the applicant or license holder or any of its partners, officers, or directors:
- 148 (i) lack of a principal place of business;
- 149 (ii) lack of a sales tax license required under Title 59, Chapter 12, Sales and Use Tax
- 150 Act;
- 151 (iii) lack of a bond in effect as required by this chapter;

152 (iv) current revocation or suspension of a dealer, dismantler, auction, or salesperson  
153 license issued in another state;

154 (v) nonpayment of required fees;

155 (vi) making a false statement on any application for a license under this chapter or for  
156 special license plates;

157 (vii) a violation of any state or federal law involving motor vehicles;

158 (viii) a violation of any state or federal law involving controlled substances;

159 (ix) charges filed with any county attorney, district attorney, or U.S. attorney in any  
160 court of competent jurisdiction for a violation of any state or federal law involving motor  
161 vehicles;

162 (x) a violation of any state or federal law involving fraud;

163 (xi) a violation of any state or federal law involving a registerable [~~sex~~] offense under  
164 Section 77-41-106; or

165 (xii) having had a license issued under this chapter revoked within five years from the  
166 date of application.

167 (d) Any action taken by the administrator under Subsection (2)(c)(ix) shall remain in  
168 effect until a final resolution is reached by the court involved or the charges are dropped.

169 (3) If the administrator finds that an applicant is not qualified to receive a license under  
170 this section, the administrator shall provide the applicant written notice of the reason for the  
171 denial.

172 (4) If the administrator finds that the license holder has been convicted by a court of  
173 competent jurisdiction of violating any of the provisions of this chapter or any rules made by  
174 the administrator, or finds other reasonable cause, the administrator may, by complying with  
175 the emergency procedures of Title 63G, Chapter 4, Administrative Procedures Act:

176 (a) suspend the license on terms and for a period of time the administrator finds  
177 reasonable; or

178 (b) revoke the license.

179 (5) (a) After suspending or revoking a license, the administrator may take reasonable  
180 action to:

181 (i) notify the public that the licensee is no longer in business; and

182 (ii) prevent the former licensee from violating the law by conducting business without

183 a license.

184 (b) Action under Subsection (5)(a) may include signs, banners, barriers, locks,  
185 bulletins, and notices.

186 (c) Any business being conducted incidental to the business for which the former  
187 licensee was licensed may continue to operate subject to the preventive action taken under this  
188 subsection.

189 Section 4. Section **53-3-205** is amended to read:

190 **53-3-205. Application for license or endorsement -- Fee required -- Tests --**  
191 **Expiration dates of licenses and endorsements -- Information required -- Previous**  
192 **licenses surrendered -- Driving record transferred from other states -- Reinstatement --**  
193 **Fee required -- License agreement.**

194 (1) An application for any original license, provisional license, or endorsement shall  
195 be:

- 196 (a) made upon a form furnished by the division; and
- 197 (b) accompanied by a nonrefundable fee set under Section [53-3-105](#).

198 (2) An application and fee for an original provisional class D license or an original  
199 class D license entitle the applicant to:

- 200 (a) not more than three attempts to pass both the knowledge and the skills tests for a  
201 class D license within six months of the date of the application;
- 202 (b) a learner permit if needed pending completion of the application and testing  
203 process; and
- 204 (c) an original class D license and license certificate after all tests are passed and  
205 requirements are completed.

206 (3) An application and fee for a motorcycle or taxicab endorsement entitle the  
207 applicant to:

- 208 (a) not more than three attempts to pass both the knowledge and skills tests within six  
209 months of the date of the application;
- 210 (b) a motorcycle learner permit after the motorcycle knowledge test is passed; and
- 211 (c) a motorcycle or taxicab endorsement when all tests are passed.

212 (4) An application and fees for a commercial class A, B, or C license entitle the  
213 applicant to:

214 (a) not more than two attempts to pass a knowledge test and not more than two  
215 attempts to pass a skills test within six months of the date of the application;

216 (b) both a commercial driver instruction permit and a temporary license permit for the  
217 license class held before the applicant submits the application if needed after the knowledge  
218 test is passed; and

219 (c) an original commercial class A, B, or C license and license certificate when all  
220 applicable tests are passed.

221 (5) An application and fee for a CDL endorsement entitle the applicant to:

222 (a) not more than two attempts to pass a knowledge test and not more than two  
223 attempts to pass a skills test within six months of the date of the application; and

224 (b) a CDL endorsement when all tests are passed.

225 (6) (a) If a CDL applicant does not pass a knowledge test, skills test, or an endorsement  
226 test within the number of attempts provided in Subsection (4) or (5), each test may be taken  
227 two additional times within the six months for the fee provided in Section 53-3-105.

228 (b) (i) Beginning July 1, 2015, an out-of-state resident who holds a valid CDIP issued  
229 by a state or jurisdiction that is compliant with 49 C.F.R. Part 383 may take a skills test  
230 administered by the division if the out-of-state resident pays the fee provided in Subsection  
231 53-3-105(20)(b).

232 (ii) The division shall:

233 (A) electronically transmit skills test results for an out-of-state resident to the licensing  
234 agency in the state or jurisdiction in which the person has obtained a valid CDIP; and

235 (B) provide the out-of-state resident with documentary evidence upon successful  
236 completion of the skills test.

237 (7) (a) Except as provided under Subsections (7)(f), (g), and (h), an original license  
238 expires on the birth date of the applicant in the fifth year following the year the license  
239 certificate was issued.

240 (b) Except as provided under Subsections (7)(f), (g), and (h), a renewal or an extension  
241 to a license expires on the birth date of the licensee in the fifth year following the expiration  
242 date of the license certificate renewed or extended.

243 (c) Except as provided under Subsections (7)(f) and (g), a duplicate license expires on  
244 the same date as the last license certificate issued.



245 (d) An endorsement to a license expires on the same date as the license certificate  
246 regardless of the date the endorsement was granted.

247 (e) (i) A regular license certificate and any endorsement to the regular license  
248 certificate held by a person described in Subsection (7)(e)(ii), which expires during the time  
249 period the person is stationed outside of the state, is valid until 90 days after the person's orders  
250 have been terminated, the person has been discharged, or the person's assignment has been  
251 changed or terminated, unless:

252 (A) the license is suspended, disqualified, denied, or has been cancelled or revoked by  
253 the division; or

254 (B) the licensee updates the information or photograph on the license certificate.

255 (ii) The provisions in Subsection (7)(e)(i) apply to a person:

256 (A) ordered to active duty and stationed outside of Utah in any of the armed forces of  
257 the United States;

258 (B) who is an immediate family member or dependent of a person described in  
259 Subsection (7)(e)(ii)(A) and is residing outside of Utah;

260 (C) who is a civilian employee of the United States State Department or United States  
261 Department of Defense and is stationed outside of the United States; or

262 (D) who is an immediate family member or dependent of a person described in  
263 Subsection (7)(e)(ii)(C) and is residing outside of the United States.

264 (f) (i) Except as provided in Subsection (7)(f)(ii), a limited-term license certificate or a  
265 renewal to a limited-term license certificate expires:

266 (A) on the expiration date of the period of time of the individual's authorized stay in  
267 the United States or on the date provided under this Subsection (7), whichever is sooner; or

268 (B) on the date of issuance in the first year following the year that the limited-term  
269 license certificate was issued if there is no definite end to the individual's period of authorized  
270 stay.

271 (ii) A limited-term license certificate or a renewal to a limited-term license certificate  
272 issued to an approved asylee or a refugee expires on the birth date of the applicant in the fourth  
273 year following the year that the limited-term license certificate was issued.

274 (g) A driving privilege card issued or renewed under Section [53-3-207](#) expires on the  
275 birth date of the applicant in the first year following the year that the driving privilege card was

276 issued or renewed.

277 (h) An original license or a renewal to an original license expires on the birth date of  
278 the applicant in the first year following the year that the license was issued if the applicant is  
279 required to register as ~~a sex~~ an offender in accordance with Title 77, Chapter 41, Sex ~~[and]~~,  
280 Kidnap, and Child Abuse Offender Registry.

281 (8) (a) In addition to the information required by Title 63G, Chapter 4, Administrative  
282 Procedures Act, for requests for agency action, each applicant shall:

283 (i) provide:

284 (A) the applicant's full legal name;

285 (B) the applicant's birth date;

286 (C) the applicant's gender;

287 (D) (I) documentary evidence of the applicant's valid social security number;

288 (II) written proof that the applicant is ineligible to receive a social security number;

289 (III) the applicant's temporary identification number (ITIN) issued by the Internal

290 Revenue Service for a person who:

291 (Aa) does not qualify for a social security number; and

292 (Bb) is applying for a driving privilege card; or

293 (IV) other documentary evidence approved by the division;

294 (E) the applicant's Utah residence address as documented by a form or forms

295 acceptable under rules made by the division under Section 53-3-104, unless the application is

296 for a temporary CDL issued under Subsection 53-3-407(2)(b); and

297 (F) fingerprints and a photograph in accordance with Section 53-3-205.5 if the person

298 is applying for a driving privilege card;

299 (ii) provide evidence of the applicant's lawful presence in the United States by

300 providing documentary evidence:

301 (A) that a person is:

302 (I) a United States citizen;

303 (II) a United States national; or

304 (III) a legal permanent resident alien; or

305 (B) of the applicant's:

306 (I) unexpired immigrant or nonimmigrant visa status for admission into the United

- 307 States;
- 308 (II) pending or approved application for asylum in the United States;
- 309 (III) admission into the United States as a refugee;
- 310 (IV) pending or approved application for temporary protected status in the United
- 311 States;
- 312 (V) approved deferred action status;
- 313 (VI) pending application for adjustment of status to legal permanent resident or
- 314 conditional resident; or
- 315 (VII) conditional permanent resident alien status;
- 316 (iii) provide a description of the applicant;
- 317 (iv) state whether the applicant has previously been licensed to drive a motor vehicle
- 318 and, if so, when and by what state or country;
- 319 (v) state whether the applicant has ever had any license suspended, cancelled, revoked,
- 320 disqualified, or denied in the last 10 years, or whether the applicant has ever had any license
- 321 application refused, and if so, the date of and reason for the suspension, cancellation,
- 322 revocation, disqualification, denial, or refusal;
- 323 (vi) state whether the applicant intends to make an anatomical gift under Title 26,
- 324 Chapter 28, Revised Uniform Anatomical Gift Act, in compliance with Subsection (15);
- 325 (vii) state whether the applicant is required to register as [~~a sex~~] an offender in
- 326 accordance with Title 77, Chapter 41, Sex [~~and~~], Kidnap, and Child Abuse Offender Registry;
- 327 (viii) state whether the applicant is a veteran of the United States military, provide
- 328 verification that the applicant was granted an honorable or general discharge from the United
- 329 States Armed Forces, and state whether the applicant does or does not authorize sharing the
- 330 information with the state Department of Veterans' and Military Affairs;
- 331 (ix) provide all other information the division requires; and
- 332 (x) sign the application which signature may include an electronic signature as defined
- 333 in Section [46-4-102](#).
- 334 (b) Each applicant shall have a Utah residence address, unless the application is for a
- 335 temporary CDL issued under Subsection [53-3-407\(2\)\(b\)](#).
- 336 (c) Each applicant shall provide evidence of lawful presence in the United States in
- 337 accordance with Subsection (8)(a)(ii), unless the application is for a driving privilege card.

338 (d) The division shall maintain on its computerized records an applicant's:  
339 (i) (A) social security number;  
340 (B) temporary identification number (ITIN); or  
341 (C) other number assigned by the division if Subsection (8)(a)(i)(D)(IV) applies; and  
342 (ii) indication whether the applicant is required to register as [~~a sex~~] an offender in  
343 accordance with Title 77, Chapter 41, Sex [~~and~~], Kidnap, and Child Abuse Offender Registry.  
344 (9) The division shall require proof of every applicant's name, birthdate, and birthplace  
345 by at least one of the following means:  
346 (a) current license certificate;  
347 (b) birth certificate;  
348 (c) Selective Service registration; or  
349 (d) other proof, including church records, family Bible notations, school records, or  
350 other evidence considered acceptable by the division.  
351 (10) (a) Except as provided in Subsection (10)(c), if an applicant receives a license in a  
352 higher class than what the applicant originally was issued:  
353 (i) the license application shall be treated as an original application; and  
354 (ii) license and endorsement fees shall be assessed under Section 53-3-105.  
355 (b) An applicant that receives a downgraded license in a lower license class during an  
356 existing license cycle that has not expired:  
357 (i) may be issued a duplicate license with a lower license classification for the  
358 remainder of the existing license cycle; and  
359 (ii) shall be assessed a duplicate license fee under Subsection 53-3-105(22) if a  
360 duplicate license is issued under Subsection (10)(b)(i).  
361 (c) An applicant who has received a downgraded license in a lower license class under  
362 Subsection (10)(b):  
363 (i) may, when eligible, receive a duplicate license in the highest class previously issued  
364 during a license cycle that has not expired for the remainder of the existing license cycle; and  
365 (ii) shall be assessed a duplicate license fee under Subsection 53-3-105(22) if a  
366 duplicate license is issued under Subsection (10)(c)(i).  
367 (11) (a) When an application is received from a person previously licensed in another  
368 state to drive a motor vehicle, the division shall request a copy of the driver's record from the

369 other state.

370 (b) When received, the driver's record becomes part of the driver's record in this state  
371 with the same effect as though entered originally on the driver's record in this state.

372 (12) An application for reinstatement of a license after the suspension, cancellation,  
373 disqualification, denial, or revocation of a previous license shall be accompanied by the  
374 additional fee or fees specified in Section 53-3-105.

375 (13) A person who has an appointment with the division for testing and fails to keep  
376 the appointment or to cancel at least 48 hours in advance of the appointment shall pay the fee  
377 under Section 53-3-105.

378 (14) A person who applies for an original license or renewal of a license agrees that the  
379 person's license is subject to any suspension or revocation authorized under this title or Title  
380 41, Motor Vehicles.

381 (15) (a) The indication of intent under Subsection (8)(a)(vi) shall be authenticated by  
382 the licensee in accordance with division rule.

383 (b) (i) Notwithstanding Title 63G, Chapter 2, Government Records Access and  
384 Management Act, the division may, upon request, release to an organ procurement  
385 organization, as defined in Section 26-28-102, the names and addresses of all persons who  
386 under Subsection (8)(a)(vi) indicate that they intend to make an anatomical gift.

387 (ii) An organ procurement organization may use released information only to:

388 (A) obtain additional information for an anatomical gift registry; and

389 (B) inform licensees of anatomical gift options, procedures, and benefits.

390 (16) Notwithstanding Title 63G, Chapter 2, Government Records Access and  
391 Management Act, the division may release to the Department of Veterans' and Military Affairs  
392 the names and addresses of all persons who indicate their status as a veteran under Subsection  
393 (8)(a)(viii).

394 (17) The division and its employees are not liable, as a result of false or inaccurate  
395 information provided under Subsection (8)(a)(vi) or (viii), for direct or indirect:

396 (a) loss;

397 (b) detriment; or

398 (c) injury.

399 (18) A person who knowingly fails to provide the information required under

400 Subsection (8)(a)(vii) is guilty of a class A misdemeanor.

401           (19) (a) Until December 1, 2014, a person born on or after December 1, 1964, may  
402 hold both an unexpired Utah license certificate and an unexpired Utah identification card.

403           (b) On or after December 1, 2014, a person born on or after December 1, 1964:

404           (i) may not hold both an unexpired Utah license certificate and an unexpired  
405 identification card; and

406           (ii) if the person has both an unexpired Utah license certificate and an unexpired Utah  
407 identification card in the person's possession, shall be required to surrender either the unexpired  
408 Utah license certificate or the unexpired Utah identification card.

409           (c) If a person has not surrendered either the Utah license certificate or the Utah  
410 identification card as required under this Subsection (19), the division shall cancel the Utah  
411 identification card on December 1, 2014.

412           (20) (a) Until December 1, 2017, a person born prior to December 1, 1964, may hold  
413 both an unexpired Utah license certificate and an unexpired Utah identification card.

414           (b) On or after December 1, 2017, a person born prior to December 1, 1964:

415           (i) may not hold both an unexpired Utah license certificate and an unexpired  
416 identification card; and

417           (ii) if the person has both an unexpired Utah license certificate and an unexpired Utah  
418 identification card in the person's possession, shall be required to surrender either the unexpired  
419 Utah license certificate or the unexpired Utah identification card.

420           (c) If a person has not surrendered either the Utah license certificate or the Utah  
421 identification card as required under this Subsection (20), the division shall cancel the Utah  
422 identification card on December 1, 2017.

423           (21) (a) A person who applies for an original motorcycle endorsement to a regular  
424 license certificate is exempt from the requirement to pass the knowledge and skills test to be  
425 eligible for the motorcycle endorsement if the person:

426           (i) is a resident of the state of Utah;

427           (ii) (A) is ordered to active duty and stationed outside of Utah in any of the armed  
428 forces of the United States; or

429           (B) is an immediate family member or dependent of a person described in Subsection  
430 (21)(a)(ii)(A) and is residing outside of Utah;

- 431 (iii) has a digitized driver license photo on file with the division;
- 432 (iv) provides proof to the division of the successful completion of a certified  
433 Motorcycle Safety Foundation rider training course; and
- 434 (v) provides the necessary information and documentary evidence required under  
435 Subsection (8).
- 436 (b) In accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, the  
437 division shall make rules:
- 438 (i) establishing the procedures for a person to obtain a motorcycle endorsement under  
439 this Subsection (21); and
- 440 (ii) identifying the applicable restrictions for a motorcycle endorsement issued under  
441 this Subsection (21).
- 442 Section 5. Section **53-3-216** is amended to read:
- 443 **53-3-216. Change of address -- Duty of licensee to notify division within 10 days**  
444 **-- Change of name -- Proof necessary -- Method of giving notice by division.**
- 445 (1) If a person, after applying for or receiving a license, moves from the address named  
446 in the application or in the license certificate issued to him, the person shall within 10 days of  
447 moving, notify the division in a manner specified by the division of his new address and the  
448 number of any license certificate held by him.
- 449 (2) If a person requests to change the surname on the applicant's license, the division  
450 shall issue a substitute license with the new name upon receiving an application and fee for a  
451 duplicate license and any of the following proofs of the applicant's full legal name:
- 452 (a) an original or certified copy of the applicant's marriage certificate;
- 453 (b) a certified copy of a court order under Title 42, Chapter 1, Change of Name,  
454 showing the name change;
- 455 (c) an original or certified copy of a birth certificate issued by a government agency;
- 456 (d) a certified copy of a divorce decree or annulment granted the applicant that  
457 specifies the name change requested; or
- 458 (e) a certified copy of a divorce decree that does not specify the name change requested  
459 together with:
- 460 (i) an original or certified copy of the applicant's birth certificate;
- 461 (ii) the applicant's marriage license;

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

463 (iv) other documentation the division finds acceptable.

464 (3) (a) Except as provided in Subsection (3)(c), if a person has applied for and received  
465 a license certificate and is currently required to register as ~~[a sex]~~ an offender in accordance  
466 with Title 77, Chapter 41, Sex ~~[and]~~, Kidnap, and Child Abuse Offender Registry:

467 (i) the person's original license or renewal to an original license expires on the next  
468 birth date of the licensee beginning on July 1, 2006;

469 (ii) the person shall surrender the person's license to the division on or before the  
470 licensee's next birth date beginning on July 1, 2006; and

471 (iii) the person may apply for a license certificate with an expiration date identified in  
472 Subsection 53-3-205(7)(h) by:

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

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

476 (b) Except as provided in Subsection (3)(c), if a person has applied for and received a  
477 license certificate and is subsequently convicted of any offense listed in Subsection  
478 77-41-102~~[(17)]~~(4), (10), or (18), the person shall surrender the license certificate to the  
479 division on the person's next birth date following the conviction and may apply for a license  
480 certificate with an expiration date identified in Subsection 53-3-205(7)(h) by:

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

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

484 (c) A person who is unable to comply with the provisions of Subsection (3)(a) or (3)(b)  
485 because the person is in the custody of the Department of Corrections or the Division of  
486 Juvenile Justice Services, confined in a correctional facility not operated by or under contract  
487 with the Department of Corrections, or committed to a state mental facility, shall comply with  
488 the provisions of Subsection (3)(a) or (b) within 10 days of being released from confinement.

489 (4) (a) If the division is authorized or required to give any notice under this chapter or  
490 other law regulating the operation of vehicles, the notice shall, unless otherwise prescribed, be  
491 given by:

492 (i) personal delivery to the person to be notified; or



493 (ii) deposit in the United States mail with postage prepaid, addressed to the person at  
494 his address as shown by the records of the division.

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

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

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

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

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

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

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

507 Section 6. Section **53-3-413** is amended to read:

508 **53-3-413. Issuance of CDL by division -- Driving record -- Expiration date --**

509 **Renewal -- Hazardous materials provision.**

510 (1) Before the division may grant a CDL, the division shall obtain the driving record  
511 information regarding the applicant through the CDLIS, the NDR, and from each state where  
512 the applicant has been licensed.

513 (2) The division shall notify the CDLIS and provide all information required to ensure  
514 identification of the CDL holder within 10 days after:

515 (a) issuing a CDL following application for an original, renewal, transfer, or upgrade of  
516 the CDL; or

517 (b) any change is made to the identifying information of a CDL holder.

518 (3) (a) The expiration date for a CDL is the birth date of the holder in the fifth year  
519 following the year of issuance of the CDL.

520 (b) A limited-term CDL expires on:

521 (i) the expiration date of the period of time of the individual's authorized stay in the  
522 United States or on the date provided in Subsection (3)(a), whichever is sooner; or

523 (ii) on the birth date of the applicant in the first year following the year that the

524 limited-term CDL was issued if there is no definite end to the individual's period of authorized  
525 stay.

526 (c) An original CDL or a renewal to an original CDL expires on the birth date of the  
527 applicant in the first year following the year that the license was issued if the applicant is  
528 required to register as ~~a sex~~ an offender in accordance with Title 77, Chapter 41, Sex ~~and~~,  
529 Kidnap, and Child Abuse Offender Registry.

530 (d) A CDL held by a person ordered to active duty and stationed outside Utah in any of  
531 the armed forces of the United States, which expires during the time period the person is  
532 stationed outside of the state, is valid until 90 days after the person has been discharged or has  
533 left the service, unless:

534 (i) the license is suspended, disqualified, denied, or has been cancelled or revoked by  
535 the division; or

536 (ii) the licensee updates the information or photograph on the license certificate.

537 (4) (a) The applicant for a renewal of a CDL shall complete the application form  
538 required by Section [53-3-410](#) and provide updated information and required certification.

539 (b) In addition to the requirements under Subsection (4)(a), the applicant for a renewal  
540 of a limited-term CDL shall present documentary evidence that the status by which the  
541 individual originally qualified for the limited-term CDL has been extended by the United States  
542 Citizenship and Immigration Services or other authorized agency of the United States  
543 Department of Homeland Security.

544 (5) The division shall distinguish a limited-term CDL by clearly indicating on the  
545 document:

546 (a) that it is temporary; and

547 (b) its expiration date.

548 (6) (a) The division may not issue a hazardous materials endorsement on a CDL unless  
549 the applicant meets the security threat assessment standards of the federal Transportation  
550 Security Administration.

551 (b) The division shall revoke the hazardous materials endorsement on a CDL upon  
552 receiving notice from the federal Transportation Security Administration that the person  
553 holding a hazardous materials endorsement does not meet Transportation Security  
554 Administration security threat assessment standards.

555 (c) To obtain an original hazardous materials endorsement or retain a hazardous  
556 materials endorsement upon CDL renewal or transfer, the applicant must take and pass the  
557 knowledge test for hazardous materials endorsement in addition to any other testing required  
558 by the division.

559 (7) Unless otherwise provided, the provisions, requirements, classes, endorsements,  
560 fees, restrictions, and sanctions under this code apply to a limited-term CDL in the same way as  
561 a CDL issued under this chapter.

562 Section 7. Section **53-3-804** is amended to read:

563 **53-3-804. Application for identification card -- Required information -- Release**  
564 **of anatomical gift information -- Cancellation of identification card.**

565 (1) To apply for a regular identification card or limited-term identification card, the  
566 applicant shall:

567 (a) be a Utah resident;

568 (b) have a Utah residence address; and

569 (c) appear in person at any license examining station.

570 (2) The applicant shall provide the following information to the division:

571 (a) true and full legal name and Utah residence address;

572 (b) date of birth as set forth in a certified copy of the applicant's birth certificate, or  
573 other satisfactory evidence of birth, which shall be attached to the application;

574 (c) (i) social security number; or

575 (ii) written proof that the applicant is ineligible to receive a Social Security number;

576 (d) place of birth;

577 (e) height and weight;

578 (f) color of eyes and hair;

579 (g) signature;

580 (h) photograph;

581 (i) evidence of the applicant's lawful presence in the United States by providing  
582 documentary evidence:

583 (i) that a person is:

584 (A) a United States citizen;

585 (B) a United States national; or

- 586 (C) a legal permanent resident alien; or  
587 (ii) of the applicant's:  
588 (A) unexpired immigrant or nonimmigrant visa status for admission into the United  
589 States;  
590 (B) pending or approved application for asylum in the United States;  
591 (C) admission into the United States as a refugee;  
592 (D) pending or approved application for temporary protected status in the United  
593 States;  
594 (E) approved deferred action status;  
595 (F) pending application for adjustment of status to legal permanent resident or  
596 conditional resident; or  
597 (G) conditional permanent resident alien status;  
598 (j) an indication whether the applicant intends to make an anatomical gift under Title  
599 26, Chapter 28, Revised Uniform Anatomical Gift Act;  
600 (k) an indication whether the applicant is required to register as ~~a sex~~ an offender in  
601 accordance with Title 77, Chapter 41, Sex ~~[and]~~, Kidnap, and Child Abuse Offender Registry;  
602 and  
603 (l) an indication whether the applicant is a veteran of the United States Armed Forces,  
604 verification that the applicant has received an honorable or general discharge from the United  
605 States Armed Forces, and an indication whether the applicant does or does not authorize  
606 sharing the information with the state Department of Veterans' and Military Affairs.  
607 (3) The requirements of Section [53-3-234](#) apply to this section for each person, age 16  
608 and older, applying for an identification card. Refusal to consent to the release of information  
609 shall result in the denial of the identification card.  
610 (4) A person who knowingly fails to provide the information required under Subsection  
611 (2)(k) is guilty of a class A misdemeanor.  
612 (5) (a) Until December 1, 2014, a person born on or after December 1, 1964, may hold  
613 both an unexpired Utah license certificate and an unexpired Utah identification card.  
614 (b) On or after December 1, 2014, a person born on or after December 1, 1964:  
615 (i) may not hold both an unexpired Utah license certificate and an unexpired  
616 identification card; and

617 (ii) if the person has both an unexpired Utah license certificate and an unexpired Utah  
618 identification card in the person's possession, shall be required to surrender either the unexpired  
619 Utah license certificate or the unexpired Utah identification card.

620 (c) If a person has not surrendered either the Utah license certificate or the Utah  
621 identification card as required under this Subsection (5), the division shall cancel the Utah  
622 identification card on December 1, 2014.

623 (6) (a) Until December 1, 2017, a person born prior to December 1, 1964, may hold  
624 both an unexpired Utah license certificate and an unexpired Utah identification card.

625 (b) On or after December 1, 2017, a person born prior to December 1, 1964:

626 (i) may not hold both an unexpired Utah license certificate and an unexpired  
627 identification card; and

628 (ii) if the person has both an unexpired Utah license certificate and an unexpired Utah  
629 identification card in the person's possession, shall be required to surrender either the unexpired  
630 Utah license certificate or the unexpired Utah identification card.

631 (c) If a person has not surrendered either the Utah license certificate or the Utah  
632 identification card as required under this Subsection (6), the division shall cancel the Utah  
633 identification card on December 1, 2017.

634 Section 8. Section **53-3-806.5** is amended to read:

635 **53-3-806.5. Identification card required if offender does not have driver license.**

636 (1) (a) If a person is required to register as [~~a sex~~] an offender in accordance with Title  
637 77, Chapter 41, Sex [~~and~~], Kidnap, and Child Abuse Offender Registry, and the person does  
638 not hold a current driver license in compliance with Section **53-3-205**, the person shall obtain  
639 an identification card.

640 (b) The person shall maintain a current identification card during any time the person is  
641 required to register as [~~a sex~~] an offender and the person does not hold a valid driver license.

642 (2) Failure to maintain a current identification card as required under Subsection (1) on  
643 and after April 30, 2007 is a class A misdemeanor for each month of violation of Subsection  
644 (1).

645 Section 9. Section **53-3-807** is amended to read:

646 **53-3-807. Expiration -- Address and name change -- Extension.**

647 (1) (a) A regular identification card issued on or after July 1, 2006, expires on the birth

648 date of the applicant in the fifth year following the issuance of the regular identification card.

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

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

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

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

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

661 (a) shall surrender the card to the division; and

662 (b) may apply for a new card in the person's new name by:

663 (i) furnishing proper documentation to the division as provided in Section 53-3-804;

664 and

665 (ii) paying the fee required under Section 53-3-105.

666 (4) (a) Except as provided in Subsection (4)(c), if a person has applied for and received  
667 an identification card and is currently required to register as ~~a sex~~ an offender in accordance  
668 with Title 77, Chapter 41, Sex ~~[and]~~, Kidnap, and Child Abuse Offender Registry:

669 (i) the person's identification card expires annually on the next birth date of the  
670 cardholder, on and after July 1, 2006;

671 (ii) the person shall surrender the person's identification card to the division on or  
672 before the cardholder's next birth date beginning on July 1, 2006; and

673 (iii) the person may apply for an identification card with an expiration date identified in  
674 Subsection (8) by:

675 (A) furnishing proper documentation to the division as provided in Section 53-3-804;

676 and

677 (B) paying the fee for an identification card required under Section 53-3-105.

678 (b) Except as provided in Subsection (4)(c), if a person has applied for and received an

679 identification card and is subsequently convicted of any offense listed in Subsection  
680 [77-41-102](#)~~[(17)]~~(4), (10), or (18), the person shall surrender the card to the division on the  
681 person's next birth date following the conviction and may apply for a new card with an  
682 expiration date identified in Subsection (8) by:

683 (i) furnishing proper documentation to the division as provided in Section [53-3-804](#);  
684 and

685 (ii) paying the fee required under Section [53-3-105](#).

686 (c) A person who is unable to comply with the provisions of Subsection (4)(a) or (4)(b)  
687 because the person is in the custody of the Department of Corrections or Division of Juvenile  
688 Justice Services, confined in a correctional facility not operated by or under contract with the  
689 Department of Corrections, or committed to a state mental facility, shall comply with the  
690 provisions of Subsection (4)(a) or (b) within 10 days of being released from confinement.

691 (5) A person older than 21 years of age with a disability, as defined under the  
692 Americans with Disabilities Act of 1990, Pub. L. 101-336, may extend the expiration date on  
693 an identification card for five years if the person with a disability or an agent of the person with  
694 a disability:

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

697 (b) completes the application;

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

699 and

700 (d) returns the application to the division together with the identification card fee  
701 required under Section [53-3-105](#).

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

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

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

705 (b) The application for an extension of a regular identification card shall be  
706 accompanied by a fee under Section [53-3-105](#).

707 (c) The division shall allow extensions:

708 (i) by mail, electronic means, or other means as determined by the division at the  
709 appropriate extension fee rate under Section [53-3-105](#); and

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

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

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

715 (b) An identification card issued to a person required to register as [~~a sex~~] an offender  
716 in accordance with Title 77, Chapter 41, Sex [~~and~~], Kidnap, and Child Abuse Offender  
717 Registry, may not be extended.

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

720 (9) Notwithstanding the provisions of this section, an identification card expires on the  
721 birth date of the applicant in the first year following the year that the identification card was  
722 issued if the applicant is required to register as [~~a sex~~] an offender in accordance with Title 77,  
723 Chapter 41, Sex [~~and~~], Kidnap, and Child Abuse Offender Registry.

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

726 Section 10. Section **53-10-403** is amended to read:

727 **53-10-403. DNA specimen analysis -- Application to offenders, including minors.**

728 (1) Sections [53-10-404](#), [53-10-404.5](#), [53-10-405](#), and [53-10-406](#) apply to any person  
729 who:

730 (a) has pled guilty to or has been convicted of any of the offenses under Subsection  
731 (2)(a) or (b) on or after July 1, 2002;

732 (b) has pled guilty to or has been convicted by any other state or by the United States  
733 government of an offense which if committed in this state would be punishable as one or more  
734 of the offenses listed in Subsection (2)(a) or (b) on or after July 1, 2003;

735 (c) has been booked on or after January 1, 2011, through December 31, 2014, for any  
736 offense under Subsection (2)(c);

737 (d) has been booked:

738 (i) by a law enforcement agency that is obtaining a DNA specimen on or after May 13,  
739 2014, through December 31, 2014, under Subsection [53-10-404\(4\)\(b\)](#) for any felony offense; or

740 (ii) on or after January 1, 2015, for any felony offense; or



- 741 (e) is a minor under Subsection (3).
- 742 (2) Offenses referred to in Subsection (1) are:
- 743 (a) any felony or class A misdemeanor under the Utah Code;
- 744 (b) any offense under Subsection (2)(a):
- 745 (i) for which the court enters a judgment for conviction to a lower degree of offense
- 746 under Section 76-3-402; or
- 747 (ii) regarding which the court allows the defendant to enter a plea in abeyance as
- 748 defined in Section 77-2a-1; or
- 749 (c) (i) any violent felony as defined in Section 53-10-403.5;
- 750 (ii) sale or use of body parts, Section 26-28-116;
- 751 (iii) failure to stop at an accident that resulted in death, Section 41-6a-401.5;
- 752 (iv) driving with any amount of a controlled substance in a person's body and causing
- 753 serious bodily injury or death, Subsection 58-37-8(2)(g);
- 754 (v) a felony violation of enticing a minor over the Internet, Section 76-4-401;
- 755 (vi) a felony violation of propelling a substance or object at a correctional officer, a
- 756 peace officer, or an employee or a volunteer, including health care providers, Section
- 757 76-5-102.6;
- 758 (vii) aggravated human trafficking and aggravated human smuggling, Section
- 759 76-5-310;
- 760 (viii) a felony violation of unlawful sexual activity with a minor, Section 76-5-401;
- 761 (ix) a felony violation of sexual abuse of a minor, Section 76-5-401.1;
- 762 (x) unlawful sexual contact with a 16 or 17-year old, Section 76-5-401.2;
- 763 (xi) sale of a child, Section 76-7-203;
- 764 (xii) aggravated escape, Subsection 76-8-309(2);
- 765 (xiii) a felony violation of assault on an elected official, Section 76-8-315;
- 766 (xiv) influencing, impeding, or retaliating against a judge or member of the Board of
- 767 Pardons and Parole, Section 76-8-316;
- 768 (xv) advocating criminal syndicalism or sabotage, Section 76-8-902;
- 769 (xvi) assembly for advocating criminal syndicalism or sabotage, Section 76-8-903;
- 770 (xvii) a felony violation of sexual battery, Section 76-9-702.1;
- 771 (xviii) a felony violation of lewdness involving a child, Section 76-9-702.5;

772 (xix) a felony violation of abuse or desecration of a dead human body, Section  
773 76-9-704;  
774 (xx) manufacture, possession, sale, or use of a weapon of mass destruction, Section  
775 76-10-402;  
776 (xxi) manufacture, possession, sale, or use of a hoax weapon of mass destruction,  
777 Section 76-10-403;  
778 (xxii) possession of a concealed firearm in the commission of a violent felony,  
779 Subsection 76-10-504(4);  
780 (xxiii) assault with the intent to commit bus hijacking with a dangerous weapon,  
781 Subsection 76-10-1504(3);  
782 (xxiv) commercial obstruction, Subsection 76-10-2402(2);  
783 (xxv) a felony violation of failure to register as [~~a sex or kidnap~~] an offender, Section  
784 77-41-107;  
785 (xxvi) repeat violation of a protective order, Subsection 77-36-1.1(2)(c); or  
786 (xxvii) violation of condition for release after arrest for domestic violence, Section  
787 77-36-2.5.

788 (3) A minor under Subsection (1) is a minor 14 years of age or older whom a Utah  
789 court has adjudicated to be within the jurisdiction of the juvenile court due to the commission  
790 of any offense described in Subsection (2), and who is:

791 (a) within the jurisdiction of the juvenile court on or after July 1, 2002 for an offense  
792 under Subsection (2); or  
793 (b) in the legal custody of the Division of Juvenile Justice Services on or after July 1,  
794 2002 for an offense under Subsection (2).

795 Section 11. Section **53-10-404** is amended to read:

796 **53-10-404. DNA specimen analysis -- Requirement to obtain the specimen.**

797 (1) As used in this section, "person" refers to any person as described under Section  
798 53-10-403.

799 (2) (a) A person under Section 53-10-403 or any person added to the [~~sex offender~~  
800 ~~register as defined in Section 77-41-102~~] registry in Title 77, Chapter 41, Sex, Kidnap, and  
801 Child Abuse Offender Registry, shall provide a DNA specimen and shall reimburse the agency  
802 responsible for obtaining the DNA specimen \$150 for the cost of obtaining the DNA specimen

803 unless:

804 (i) the person was booked under Section 53-10-403 and is not required to reimburse the  
805 agency under Section 53-10-404.5; or

806 (ii) the agency determines the person lacks the ability to pay.

807 (b) (i) (A) The responsible agencies shall establish guidelines and procedures for  
808 determining if the person is able to pay the fee.

809 (B) An agency's implementation of Subsection (2)(b)(i) meets an agency's obligation to  
810 determine an inmate's ability to pay.

811 (ii) An agency's guidelines and procedures may provide for the assessment of \$150 on  
812 the inmate's county trust fund account and may allow a negative balance in the account until  
813 the \$150 is paid in full.

814 (3) (a) (i) All fees collected under Subsection (2) shall be deposited in the DNA  
815 Specimen Restricted Account created in Section 53-10-407, except that the agency collecting  
816 the fee may retain not more than \$25 per individual specimen for the costs of obtaining the  
817 saliva DNA specimen.

818 (ii) The agency collecting the \$150 fee may not retain from each separate fee more than  
819 \$25, and no amount of the \$150 fee may be credited to any other fee or agency obligation.

820 (b) The responsible agency shall determine the method of collecting the DNA  
821 specimen. Unless the responsible agency determines there are substantial reasons for using a  
822 different method of collection or the person refuses to cooperate with the collection, the  
823 preferred method of collection shall be obtaining a saliva specimen.

824 (c) The responsible agency may use reasonable force, as established by its guidelines  
825 and procedures, to collect the DNA sample if the person refuses to cooperate with the  
826 collection.

827 (d) If the judgment places the person on probation, the person shall submit to the  
828 obtaining of a DNA specimen as a condition of the probation.

829 (e) (i) Under this section a person is required to provide one DNA specimen and pay  
830 the collection fee as required under this section.

831 (ii) The person shall provide an additional DNA specimen only if the DNA specimen  
832 previously provided is not adequate for analysis.

833 (iii) The collection fee is not imposed for a second or subsequent DNA specimen

834 collected under this section.

835 (f) Any agency that is authorized to obtain a DNA specimen under this part may collect  
836 any outstanding amount of a fee due under this section from any person who owes any portion  
837 of the fee and deposit the amount in the DNA Specimen Restricted Account created in Section  
838 53-10-407.

839 (4) (a) The responsible agency shall cause a DNA specimen to be obtained as soon as  
840 possible and transferred to the Department of Public Safety:

841 (i) after a conviction or a finding of jurisdiction by the juvenile court;

842 (ii) on and after January 1, 2011, through December 31, 2014, after the booking of a  
843 person for any offense under Subsection 53-10-403(1)(c); and

844 (iii) on and after January 1, 2015, after the booking of a person for any felony offense,  
845 as provided under Subsection 53-10-403(1)(d)(ii).

846 (b) On and after May 13, 2014, through December 31, 2014, the responsible agency  
847 may cause a DNA specimen to be obtained and transferred to the Department of Public Safety  
848 after the booking of a person for any felony offense, as provided under Subsection  
849 53-10-403(1)(d)(i).

850 (c) If notified by the Department of Public Safety that a DNA specimen is not adequate  
851 for analysis, the agency shall, as soon as possible:

852 (i) obtain and transmit an additional DNA specimen; or

853 (ii) request that another agency that has direct access to the person and that is  
854 authorized to collect DNA specimens under this section collect the necessary second DNA  
855 specimen and transmit it to the Department of Public Safety.

856 (d) Each agency that is responsible for collecting DNA specimens under this section  
857 shall establish:

858 (i) a tracking procedure to record the handling and transfer of each DNA specimen it  
859 obtains; and

860 (ii) a procedure to account for the management of all fees it collects under this section.

861 (5) (a) The Department of Corrections is the responsible agency whenever the person is  
862 committed to the custody of or is under the supervision of the Department of Corrections.

863 (b) The juvenile court is the responsible agency regarding a minor under Subsection  
864 53-10-403(3), but if the minor has been committed to the legal custody of the Division of

865 Juvenile Justice Services, that division is the responsible agency if a DNA specimen of the  
866 minor has not previously been obtained by the juvenile court under Section 78A-6-117.

867 (c) The sheriff operating a county jail is the responsible agency regarding the collection  
868 of DNA specimens from persons who:

869 (i) have pled guilty to or have been convicted of an offense listed under Subsection  
870 53-10-403(2) but who have not been committed to the custody of or are not under the  
871 supervision of the Department of Corrections;

872 (ii) are incarcerated in the county jail:

873 (A) as a condition of probation for a felony offense; or

874 (B) for a misdemeanor offense for which collection of a DNA specimen is required;

875 (iii) on and after January 1, 2011, through May 12, 2014, are booked at the county jail  
876 for any offense under Subsection 53-10-403(1)(c).; and

877 (iv) are booked at the county jail:

878 (A) by a law enforcement agency that is obtaining a DNA specimen for any felony  
879 offense on or after May 13, 2014, through December 31, 2014, under Subsection

880 53-10-404(4)(b); or

881 (B) on or after January 1, 2015, for any felony offense.

882 (d) Each agency required to collect a DNA specimen under this section shall:

883 (i) designate employees to obtain the saliva DNA specimens required under this  
884 section; and

885 (ii) ensure that employees designated to collect the DNA specimens receive appropriate  
886 training and that the specimens are obtained in accordance with generally accepted protocol.

887 (6) (a) As used in this Subsection (6), "department" means the Department of  
888 Corrections.

889 (b) Priority of obtaining DNA specimens by the department is:

890 (i) first, to obtain DNA specimens of persons who as of July 1, 2002, are in the custody  
891 of or under the supervision of the department before these persons are released from  
892 incarceration, parole, or probation, if their release date is prior to that of persons under  
893 Subsections (6)(b)(ii), but in no case later than July 1, 2004; and

894 (ii) second, the department shall obtain DNA specimens from persons who are  
895 committed to the custody of the department or who are placed under the supervision of the

896 department after July 1, 2002, within 120 days after the commitment, if possible, but not later  
897 than prior to release from incarceration if the person is imprisoned, or prior to the termination  
898 of probation if the person is placed on probation.

899 (c) The priority for obtaining DNA specimens from persons under Subsection (6)(b)(ii)  
900 is:

901 (i) first, persons on probation;

902 (ii) second, persons on parole; and

903 (iii) third, incarcerated persons.

904 (d) Implementation of the schedule of priority under Subsection (6)(c) is subject to the  
905 priority of Subsection (6)(b)(i), to ensure that the Department of Corrections obtains DNA  
906 specimens from persons in the custody of or under the supervision of the Department of  
907 Corrections as of July 1, 2002, prior to their release.

908 (7) (a) As used in this Subsection (7):

909 (i) "Court" means the juvenile court.

910 (ii) "Division" means the Division of Juvenile Justice Services.

911 (b) Priority of obtaining DNA specimens by the court from minors under Section  
912 53-10-403 who are under the jurisdiction of the court but who are not in the legal custody of  
913 the division shall be:

914 (i) first, to obtain specimens from minors who as of July 1, 2002, are within the court's  
915 jurisdiction, prior to termination of the court's jurisdiction over these minors; and

916 (ii) second, to obtain specimens from minors who are found to be within the court's  
917 jurisdiction after July 1, 2002, within 120 days of the minor's being found to be within the  
918 court's jurisdiction, if possible, but not later than prior to termination of the court's jurisdiction  
919 over the minor.

920 (c) Priority of obtaining DNA specimens by the division from minors under Section  
921 53-10-403 who are committed to the legal custody of the division shall be:

922 (i) first, to obtain specimens from minors who as of July 1, 2002, are within the  
923 division's legal custody and who have not previously provided a DNA specimen under this  
924 section, prior to termination of the division's legal custody of these minors; and

925 (ii) second, to obtain specimens from minors who are placed in the legal custody of the  
926 division after July 1, 2002, within 120 days of the minor's being placed in the custody of the

927 division, if possible, but not later than prior to termination of the court's jurisdiction over the  
928 minor.

929 (8) (a) The Department of Corrections, the juvenile court, the Division of Juvenile  
930 Justice Services, and all law enforcement agencies in the state shall by policy establish  
931 procedures for obtaining saliva DNA specimens, and shall provide training for employees  
932 designated to collect saliva DNA specimens.

933 (b) (i) The department may designate correctional officers, including those employed  
934 by the adult probation and parole section of the department, to obtain the saliva DNA  
935 specimens required under this section.

936 (ii) The department shall ensure that the designated employees receive appropriate  
937 training and that the specimens are obtained in accordance with accepted protocol.

938 (c) Blood DNA specimens shall be obtained in accordance with Section [53-10-405](#).

939 Section 12. Section **62A-7-104** is amended to read:

940 **62A-7-104. Division responsibilities.**

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

943 (2) The division shall:

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

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

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

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

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

956 (4) In any order committing a youth offender to the division, the juvenile court shall  
957 specify whether the youth offender is being committed for secure confinement or placement in

958 a community-based program. The division shall place the youth offender in the most  
959 appropriate program within the category specified by the court.

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

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

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

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

966 (6) Youth in the custody or temporary custody of the division are controlled or detained  
967 in a manner consistent with public safety and rules promulgated by the division. In the event of  
968 an unauthorized leave from a secure facility, detention center, community-based program,  
969 receiving center, home, or any other designated placement, division employees have the  
970 authority and duty to locate and apprehend the youth, or to initiate action with local law  
971 enforcement agencies for assistance.

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

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

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

979 (c) provide counseling to youth offenders.

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

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

986 (10) (a) The division is authorized to employ special function officers, as defined in  
987 Section [53-13-105](#), to locate and apprehend minors who have absconded from division  
988 custody, transport minors taken into custody pursuant to division policy, investigate cases, and



989 carry out other duties as assigned by the division.

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

992 (11) The division shall designate employees to obtain the saliva DNA specimens  
993 required under Section 53-10-403. The division shall ensure that the designated employees  
994 receive appropriate training and that the specimens are obtained in accordance with accepted  
995 protocol.

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

997 (a) has been adjudicated delinquent based on an offense listed in Subsection  
998 77-41-102[(17)(a)](4), (10), or (18);

999 (b) has been committed to the division for secure confinement; and

1000 (c) remains in the division's custody 30 days prior to the person's 21st birthday.

1001 Section 13. Section 63G-2-302 is amended to read:

1002 **63G-2-302. Private records.**

1003 (1) The following records are private:

1004 (a) records concerning an individual's eligibility for unemployment insurance benefits,  
1005 social services, welfare benefits, or the determination of benefit levels;

1006 (b) records containing data on individuals describing medical history, diagnosis,  
1007 condition, treatment, evaluation, or similar medical data;

1008 (c) records of publicly funded libraries that when examined alone or with other records  
1009 identify a patron;

1010 (d) records received by or generated by or for:

1011 (i) the Independent Legislative Ethics Commission, except for:

1012 (A) the commission's summary data report that is required under legislative rule; and

1013 (B) any other document that is classified as public under legislative rule; or

1014 (ii) a Senate or House Ethics Committee in relation to the review of ethics complaints,  
1015 unless the record is classified as public under legislative rule;

1016 (e) records received by, or generated by or for, the Independent Executive Branch  
1017 Ethics Commission, except as otherwise expressly provided in Title 63A, Chapter 14, Review  
1018 of Executive Branch Ethics Complaints;

1019 (f) records received or generated for a Senate confirmation committee concerning

1020 character, professional competence, or physical or mental health of an individual:

1021           (i) if, prior to the meeting, the chair of the committee determines release of the records:

1022           (A) reasonably could be expected to interfere with the investigation undertaken by the

1023 committee; or

1024           (B) would create a danger of depriving a person of a right to a fair proceeding or

1025 impartial hearing; and

1026           (ii) after the meeting, if the meeting was closed to the public;

1027           (g) employment records concerning a current or former employee of, or applicant for

1028 employment with, a governmental entity that would disclose that individual's home address,

1029 home telephone number, social security number, insurance coverage, marital status, or payroll

1030 deductions;

1031           (h) records or parts of records under Section [63G-2-303](#) that a current or former

1032 employee identifies as private according to the requirements of that section;

1033           (i) that part of a record indicating a person's social security number or federal employer

1034 identification number if provided under Section [31A-23a-104](#), [31A-25-202](#), [31A-26-202](#),

1035 [58-1-301](#), [58-55-302](#), [61-1-4](#), or [61-2f-203](#);

1036           (j) that part of a voter registration record identifying a voter's:

1037           (i) driver license or identification card number;

1038           (ii) social security number, or last four digits of the social security number;

1039           (iii) email address; or

1040           (iv) date of birth;

1041           (k) a voter registration record that is classified as a private record by the lieutenant

1042 governor or a county clerk under Subsection [20A-2-104\(4\)\(f\)](#) or [20A-2-101.1\(5\)\(a\)](#);

1043           (l) a record that:

1044           (i) contains information about an individual;

1045           (ii) is voluntarily provided by the individual; and

1046           (iii) goes into an electronic database that:

1047           (A) is designated by and administered under the authority of the Chief Information

1048 Officer; and

1049           (B) acts as a repository of information about the individual that can be electronically

1050 retrieved and used to facilitate the individual's online interaction with a state agency;

- 1051 (m) information provided to the Commissioner of Insurance under:
- 1052 (i) Subsection [31A-23a-115\(2\)\(a\)](#);
- 1053 (ii) Subsection [31A-23a-302\(3\)](#); or
- 1054 (iii) Subsection [31A-26-210\(3\)](#);
- 1055 (n) information obtained through a criminal background check under Title 11, Chapter
- 1056 40, Criminal Background Checks by Political Subdivisions Operating Water Systems;
- 1057 (o) information provided by an offender that is:
- 1058 (i) required by the registration requirements of Title 77, Chapter 41, Sex [~~and~~], Kidnap,
- 1059 and Child Abuse Offender Registry; and
- 1060 (ii) not required to be made available to the public under Subsection [77-41-110\(4\)](#);
- 1061 (p) a statement and any supporting documentation filed with the attorney general in
- 1062 accordance with Section [34-45-107](#), if the federal law or action supporting the filing involves
- 1063 homeland security;
- 1064 (q) electronic toll collection customer account information received or collected under
- 1065 Section [72-6-118](#) and customer information described in Section [17B-2a-815](#) received or
- 1066 collected by a public transit district, including contact and payment information and customer
- 1067 travel data;
- 1068 (r) an email address provided by a military or overseas voter under Section
- 1069 [20A-16-501](#);
- 1070 (s) a completed military-overseas ballot that is electronically transmitted under Title
- 1071 20A, Chapter 16, Uniform Military and Overseas Voters Act;
- 1072 (t) records received by or generated by or for the Political Subdivisions Ethics Review
- 1073 Commission established in Section [11-49-201](#), except for:
- 1074 (i) the commission's summary data report that is required in Section [11-49-202](#); and
- 1075 (ii) any other document that is classified as public in accordance with Title 11, Chapter
- 1076 49, Political Subdivisions Ethics Review Commission;
- 1077 (u) a record described in Subsection [53A-11a-203\(3\)](#) that verifies that a parent was
- 1078 notified of an incident or threat; and
- 1079 (v) a criminal background check or credit history report conducted in accordance with
- 1080 Section [63A-3-201](#).
- 1081 (2) The following records are private if properly classified by a governmental entity:

- 1082 (a) records concerning a current or former employee of, or applicant for employment  
1083 with a governmental entity, including performance evaluations and personal status information  
1084 such as race, religion, or disabilities, but not including records that are public under Subsection  
1085 [63G-2-301\(2\)\(b\)](#) or [63G-2-301\(3\)\(o\)](#) or private under Subsection (1)(b);
- 1086 (b) records describing an individual's finances, except that the following are public:
- 1087 (i) records described in Subsection [63G-2-301\(2\)](#);
- 1088 (ii) information provided to the governmental entity for the purpose of complying with  
1089 a financial assurance requirement; or
- 1090 (iii) records that must be disclosed in accordance with another statute;
- 1091 (c) records of independent state agencies if the disclosure of those records would  
1092 conflict with the fiduciary obligations of the agency;
- 1093 (d) other records containing data on individuals the disclosure of which constitutes a  
1094 clearly unwarranted invasion of personal privacy;
- 1095 (e) records provided by the United States or by a government entity outside the state  
1096 that are given with the requirement that the records be managed as private records, if the  
1097 providing entity states in writing that the record would not be subject to public disclosure if  
1098 retained by it;
- 1099 (f) any portion of a record in the custody of the Division of Aging and Adult Services,  
1100 created in Section [62A-3-102](#), that may disclose, or lead to the discovery of, the identity of a  
1101 person who made a report of alleged abuse, neglect, or exploitation of a vulnerable adult; and
- 1102 (g) audio and video recordings created by a body-worn camera, as defined in Section  
1103 [77-7a-103](#), that record sound or images inside a home or residence except for recordings that:
- 1104 (i) depict the commission of an alleged crime;
- 1105 (ii) record any encounter between a law enforcement officer and a person that results in  
1106 death or bodily injury, or includes an instance when an officer fires a weapon;
- 1107 (iii) record any encounter that is the subject of a complaint or a legal proceeding  
1108 against a law enforcement officer or law enforcement agency;
- 1109 (iv) contain an officer involved critical incident as defined in Section [76-2-408\(1\)\(d\)](#);
- 1110 or
- 1111 (v) have been requested for reclassification as a public record by a subject or  
1112 authorized agent of a subject featured in the recording.

1113 (3) (a) As used in this Subsection (3), "medical records" means medical reports,  
1114 records, statements, history, diagnosis, condition, treatment, and evaluation.

1115 (b) Medical records in the possession of the University of Utah Hospital, its clinics,  
1116 doctors, or affiliated entities are not private records or controlled records under Section  
1117 [63G-2-304](#) when the records are sought:

1118 (i) in connection with any legal or administrative proceeding in which the patient's  
1119 physical, mental, or emotional condition is an element of any claim or defense; or

1120 (ii) after a patient's death, in any legal or administrative proceeding in which any party  
1121 relies upon the condition as an element of the claim or defense.

1122 (c) Medical records are subject to production in a legal or administrative proceeding  
1123 according to state or federal statutes or rules of procedure and evidence as if the medical  
1124 records were in the possession of a nongovernmental medical care provider.

1125 Section 14. Section **76-1-201** is amended to read:

1126 **76-1-201. Jurisdiction of offenses.**

1127 (1) A person is subject to prosecution in this state for an offense which he commits,  
1128 while either within or outside the state, by his own conduct or that of another for which he is  
1129 legally accountable, if:

1130 (a) the offense is committed either wholly or partly within the state;

1131 (b) the conduct outside the state constitutes an attempt to commit an offense within the  
1132 state;

1133 (c) the conduct outside the state constitutes a conspiracy to commit an offense within  
1134 the state and an act in furtherance of the conspiracy occurs in the state; or

1135 (d) the conduct within the state constitutes an attempt, solicitation, or conspiracy to  
1136 commit in another jurisdiction an offense under the laws of both this state and the other  
1137 jurisdiction.

1138 (2) An offense is committed partly within this state if either the conduct which is any  
1139 element of the offense, or the result which is an element, occurs within this state.

1140 (3) In homicide offenses, the "result" is either the physical contact which causes death  
1141 or the death itself.

1142 (a) If the body of a homicide victim is found within the state, the death shall be  
1143 presumed to have occurred within the state.

1144 (b) If jurisdiction is based on this presumption, this state retains jurisdiction unless the  
1145 defendant proves by clear and convincing evidence that:

1146 (i) the result of the homicide did not occur in this state; and

1147 (ii) the defendant did not engage in any conduct in this state which is any element of  
1148 the offense.

1149 (4) (a) An offense which is based on an omission to perform a duty imposed by the law  
1150 of this state is committed within the state regardless of the location of the offender at the time  
1151 of the omission.

1152 (b) For the purpose of establishing venue for a violation of Subsection 77-41-105(3)  
1153 concerning [sex] offender registration, the offense is considered to be committed:

1154 (i) at the most recent registered primary residence of the offender, if the actual location  
1155 of the offender at the time of the violation is not known; or

1156 (ii) at the location of the offender at the time the offender is apprehended.

1157 (5) (a) If no jurisdictional issue is raised, the pleadings are sufficient to establish  
1158 jurisdiction.

1159 (b) The defendant may challenge jurisdiction by filing a motion before trial stating  
1160 which facts exist that deprive the state of jurisdiction.

1161 (c) The burden is upon the state to initially establish jurisdiction over the offense by a  
1162 preponderance of the evidence by showing under the provisions of Subsections (1) through (4)  
1163 that the offense was committed either wholly or partly within the borders of the state.

1164 (d) If after the prosecution has met its burden of proof under Subsection (5)(c) the  
1165 defendant claims that the state is deprived of jurisdiction or may not exercise jurisdiction, the  
1166 burden is upon the defendant to prove by a preponderance of the evidence:

1167 (i) any facts claimed; and

1168 (ii) why those facts deprive the state of jurisdiction.

1169 (6) Facts that deprive the state of jurisdiction or prohibit the state from exercising  
1170 jurisdiction include the fact that the:

1171 (a) defendant is serving in a position that is entitled to diplomatic immunity from  
1172 prosecution and that the defendant's country has not waived that diplomatic immunity;

1173 (b) defendant is a member of the armed forces of another country and that the crime  
1174 that he is alleged to have committed is one that due to an international agreement, such as a

1175 status of forces agreement between his country and the United States, cedes the exercise of  
1176 jurisdiction over him for that offense to his country;

1177 (c) defendant is an enrolled member of an Indian tribe, as defined in Section 9-9-101,  
1178 and that the Indian tribe has a legal status with the United States or the state that vests  
1179 jurisdiction in either tribal or federal courts for certain offenses committed within the exterior  
1180 boundaries of a tribal reservation, and that the facts establish that the crime is one that vests  
1181 jurisdiction in tribal or federal court; or

1182 (d) offense occurred on land that is exclusively within federal jurisdiction.

1183 (7) (a) The Legislature finds that identity fraud under Chapter 6, Part 11, Identity Fraud  
1184 Act, involves the use of personal identifying information which is uniquely personal to the  
1185 consumer or business victim of that identity fraud and which information is considered to be in  
1186 lawful possession of the consumer or business victim wherever the consumer or business  
1187 victim currently resides or is found.

1188 (b) For purposes of Subsection (1)(a), an offense which is based on a violation of  
1189 Chapter 6, Part 11, Identity Fraud Act, is committed partly within this state, regardless of the  
1190 location of the offender at the time of the offense, if the victim of the identity fraud resides or is  
1191 found in this state.

1192 (8) The judge shall determine jurisdiction.

1193 Section 15. Section **76-1-202** is amended to read:

1194 **76-1-202. Venue of actions.**

1195 (1) Criminal actions shall be tried in the county, district, or precinct where the offense  
1196 is alleged to have been committed. In determining the proper place of trial, the following  
1197 provisions shall apply:

1198 (a) If the commission of an offense commenced outside the state is consummated  
1199 within this state, the offender shall be tried in the county where the offense is consummated.

1200 (b) When conduct constituting elements of an offense or results that constitute  
1201 elements, whether the conduct or result constituting elements is in itself unlawful, shall occur  
1202 in two or more counties, trial of the offense may be held in any of the counties concerned.

1203 (c) If a person committing an offense upon the person of another is located in one  
1204 county and his victim is located in another county at the time of the commission of the offense,  
1205 trial may be held in either county.

1206 (d) If a cause of death is inflicted in one county and death ensues in another county, the  
1207 offender may be tried in either county.

1208 (e) A person who commits an inchoate offense may be tried in any county in which any  
1209 act that is an element of the offense, including the agreement in conspiracy, is committed.

1210 (f) Where a person in one county solicits, aids, abets, agrees, or attempts to aid another  
1211 in the planning or commission of an offense in another county, he may be tried for the offense  
1212 in either county.

1213 (g) When an offense is committed within this state and it cannot be readily determined  
1214 in which county or district the offense occurred, the following provisions shall be applicable:

1215 (i) When an offense is committed upon any railroad car, vehicle, watercraft, or aircraft  
1216 passing within this state, the offender may be tried in any county through which such railroad  
1217 car, vehicle, watercraft, or aircraft has passed.

1218 (ii) When an offense is committed on any body of water bordering on or within this  
1219 state, the offender may be tried in any county adjacent to such body of water. The words "body  
1220 of water" shall include but not be limited to any stream, river, lake, or reservoir, whether  
1221 natural or man-made.

1222 (iii) A person who commits theft may be tried in any county in which he exerts control  
1223 over the property affected.

1224 (iv) If an offense is committed on or near the boundary of two or more counties, trial of  
1225 the offense may be held in any of such counties.

1226 (v) For any other offense, trial may be held in the county in which the defendant  
1227 resides, or, if he has no fixed residence, in the county in which he is apprehended or to which  
1228 he is extradited.

1229 (h) A person who commits an offense based on Chapter 6, Part 11, Identity Fraud Act,  
1230 may be tried in the county:

1231 (i) where the victim's personal identifying information was obtained;

1232 (ii) where the defendant used or attempted to use the personally identifying  
1233 information;

1234 (iii) where the victim of the identity fraud resides or is found; or

1235 (iv) if multiple offenses of identity fraud occur in multiple jurisdictions, in any county  
1236 where the victim's identity was used or obtained, or where the victim resides or is found.



1237 (i) For the purpose of establishing venue for a violation of Subsection 77-41-105(3)  
1238 concerning [sex] offender registration, the offense is considered to be committed:

1239 (i) at the most recent registered primary residence of the offender, if the actual location  
1240 of the offender at the time of the violation is not known; or

1241 (ii) at the location of the offender at the time the offender is apprehended.

1242 (2) All objections of improper place of trial are waived by a defendant unless made  
1243 before trial.

1244 Section 16. Section 76-3-402 is amended to read:

1245 **76-3-402. Conviction of lower degree of offense -- Procedure and limitations.**

1246 (1) If at the time of sentencing the court, having regard to the nature and circumstances  
1247 of the offense of which the defendant was found guilty and to the history and character of the  
1248 defendant, and after having given any victims present at the sentencing and the prosecuting  
1249 attorney an opportunity to be heard, concludes it would be unduly harsh to record the  
1250 conviction as being for that degree of offense established by statute, the court may enter a  
1251 judgment of conviction for the next lower degree of offense and impose sentence accordingly.

1252 (2) If the court suspends the execution of the sentence and places the defendant on  
1253 probation, whether or not the defendant is committed to jail as a condition of probation, the  
1254 court may enter a judgment of conviction for the next lower degree of offense:

1255 (a) after the defendant has been successfully discharged from probation;

1256 (b) upon motion and notice to the prosecuting attorney;

1257 (c) after reasonable effort has been made by the prosecuting attorney to provide notice  
1258 to any victims;

1259 (d) after a hearing if requested by either party under Subsection (2)(c); and

1260 (e) if the court finds entering a judgment of conviction for the next lower degree of  
1261 offense is in the interest of justice.

1262 (3) (a) An offense may be reduced only one degree under this section, whether the  
1263 reduction is entered under Subsection (1) or (2), unless the prosecutor specifically agrees in  
1264 writing or on the court record that the offense may be reduced two degrees.

1265 (b) In no case may an offense be reduced under this section by more than two degrees.

1266 (4) This section does not preclude any person from obtaining or being granted an  
1267 expungement of his record as provided by law.

1268 (5) The court may not enter judgment for a conviction for a lower degree of offense if:  
 1269 (a) the reduction is specifically precluded by law; or  
 1270 (b) if any unpaid balance remains on court ordered restitution for the offense for which  
 1271 the reduction is sought.

1272 (6) When the court enters judgment for a lower degree of offense under this section,  
 1273 the actual title of the offense for which the reduction is made may not be altered.

1274 (7) (a) A person may not obtain a reduction under this section of a conviction that  
 1275 requires the person to register as [~~a-sex~~] an offender until the registration requirements under  
 1276 Title 77, Chapter 41, Sex [~~and~~], Kidnap, and Child Abuse Offender Registry, have expired.

1277 (b) A person required to register as [~~a-sex~~] an offender for the person's lifetime under  
 1278 Subsection 77-41-105(3)(c) may not be granted a reduction of the conviction for the offense or  
 1279 offenses that require the person to register as [~~a-sex~~] an offender.

1280 (8) As used in this section, "next lower degree of offense" includes an offense  
 1281 regarding which:

1282 (a) a statutory enhancement is charged in the information or indictment that would  
 1283 increase either the maximum or the minimum sentence; and

1284 (b) the court removes the statutory enhancement pursuant to this section.

1285 Section 17. Section 76-5-401 is amended to read:

1286 **76-5-401. Unlawful sexual activity with a minor -- Elements -- Penalties --**  
 1287 **Evidence of age raised by defendant.**

1288 (1) For purposes of this section "minor" is a person who is 14 years of age or older, but  
 1289 younger than 16 years of age, at the time the sexual activity described in this section occurred.

1290 (2) A person commits unlawful sexual activity with a minor if, under circumstances  
 1291 not amounting to rape, in violation of Section 76-5-402, object rape, in violation of Section  
 1292 76-5-402.2, forcible sodomy, in violation of Section 76-5-403, or aggravated sexual assault, in  
 1293 violation of Section 76-5-405, the actor:

1294 (a) has sexual intercourse with the minor;

1295 (b) engages in any sexual act with the minor involving the genitals of one person and  
 1296 the mouth or anus of another person, regardless of the sex of either participant; or

1297 (c) causes the penetration, however slight, of the genital or anal opening of the minor  
 1298 by any foreign object, substance, instrument, or device, including a part of the human body,

1299 with the intent to cause substantial emotional or bodily pain to any person or with the intent to  
1300 arouse or gratify the sexual desire of any person, regardless of the sex of any participant.

1301 (3) (a) Except under Subsection (3)(b), a violation of Subsection (2) is a third degree  
1302 felony.

1303 (b) If the defendant establishes by a preponderance of the evidence the mitigating  
1304 factor that the defendant is less than four years older than the minor at the time the sexual  
1305 activity occurred, the offense is a class B misdemeanor. An offense under this Subsection  
1306 (3)(b) is not subject to registration under Subsection 77-41-102[(17)](18)(a)(iii).

1307 Section 18. Section 76-5-401.1 is amended to read:

1308 **76-5-401.1. Sexual abuse of a minor.**

1309 (1) For purposes of this section "minor" is a person who is 14 years of age or older, but  
1310 younger than 16 years of age, at the time the sexual activity described in this section occurred.

1311 (2) A person commits sexual abuse of a minor if the person is four years or more older  
1312 than the minor or holds a relationship of special trust as an adult teacher, employee, or  
1313 volunteer, as described in Subsection 76-5-404.1(1)(c)(xix) and, under circumstances not  
1314 amounting to rape, in violation of Section 76-5-402, object rape, in violation of Section  
1315 76-5-402.2, forcible sodomy, in violation of Section 76-5-403, aggravated sexual assault, in  
1316 violation of Section 76-5-405, unlawful sexual activity with a minor, in violation of Section  
1317 76-5-401, or an attempt to commit any of those offenses, the person touches the anus, buttocks,  
1318 or any part of the genitals of the minor, or touches the breast of a female minor, or otherwise  
1319 takes indecent liberties with the minor, or causes a minor to take indecent liberties with the  
1320 actor or another person, with the intent to cause substantial emotional or bodily pain to any  
1321 person or with the intent to arouse or gratify the sexual desire of any person regardless of the  
1322 sex of any participant.

1323 (3) (a) Except under Subsection (3)(b), a violation of this section is a class A  
1324 misdemeanor and is not subject to registration under Subsection 77-41-102[(17)](18)(a)(iv) on  
1325 a first offense if the offender was younger than 21 years of age at the time of the offense.

1326 (b) A violation of this section is a third degree felony if the actor at the time of the  
1327 commission of the offense:

1328 (i) is 18 years of age or older;

1329 (ii) held a position of special trust as a teacher or a volunteer at a school, as that

1330 position is defined in Subsection 76-5-404.1(1)(c)(xix); and

1331 (iii) committed the offense against an individual who at the time of the offense was  
1332 enrolled as a student at the school where the actor was employed or was acting as a volunteer.

1333 Section 19. Section 76-9-702 is amended to read:

1334 **76-9-702. Lewdness.**

1335 (1) A person is guilty of lewdness if the person under circumstances not amounting to  
1336 rape, object rape, forcible sodomy, forcible sexual abuse, aggravated sexual assault, or an  
1337 attempt to commit any of these offenses, performs any of the following acts in a public place or  
1338 under circumstances which the person should know will likely cause affront or alarm to, on, or  
1339 in the presence of another who is 14 years of age or older:

1340 (a) an act of sexual intercourse or sodomy;

1341 (b) exposes his or her genitals, the female breast below the top of the areola, the  
1342 buttocks, the anus, or the pubic area;

1343 (c) masturbates; or

1344 (d) any other act of lewdness.

1345 (2) (a) A person convicted the first or second time of a violation of Subsection (1) is  
1346 guilty of a class B misdemeanor, except under Subsection (2)(b).

1347 (b) A person convicted of a violation of Subsection (1) is guilty of a third degree felony  
1348 if at the time of the violation:

1349 (i) the person is [~~a sex~~] an offender as defined in Section 77-27-21.7;

1350 (ii) the person has been previously convicted two or more times of violating Subsection  
1351 (1); or

1352 (iii) the person has previously been convicted of a violation of Subsection (1) and has  
1353 also previously been convicted of a violation of Section 76-9-702.5.

1354 (c) (i) For purposes of this Subsection (2) and Subsection 77-41-102[~~(17)~~](18), a plea  
1355 of guilty or nolo contendere to a charge under this section that is held in abeyance under Title  
1356 77, Chapter 2a, Pleas in Abeyance, is the equivalent of a conviction.

1357 (ii) This Subsection (2)(c) also applies if the charge under this Subsection (2) has been  
1358 subsequently reduced or dismissed in accordance with the plea in abeyance agreement.

1359 (3) A woman's breast feeding, including breast feeding in any location where the  
1360 woman otherwise may rightfully be, does not under any circumstance constitute a lewd act,

1361 irrespective of whether or not the breast is covered during or incidental to feeding.

1362 Section 20. Section **76-9-702.1** is amended to read:

1363 **76-9-702.1. Sexual battery.**

1364 (1) A person is guilty of sexual battery if the person, under circumstances not  
1365 amounting to an offense under Subsection (2), intentionally touches, whether or not through  
1366 clothing, the anus, buttocks, or any part of the genitals of another person, or the breast of a  
1367 female person, and the actor's conduct is under circumstances the actor knows or should know  
1368 will likely cause affront or alarm to the person touched.

1369 (2) Offenses referred to in Subsection (1) are:

1370 (a) rape, Section [76-5-402](#);

1371 (b) rape of a child, Section [76-5-402.1](#);

1372 (c) object rape, Section [76-5-402.2](#);

1373 (d) object rape of a child, Section [76-5-402.3](#);

1374 (e) forcible sodomy, Subsection [76-5-403\(2\)](#);

1375 (f) sodomy on a child, Section [76-5-403.1](#);

1376 (g) forcible sexual abuse, Section [76-5-404](#);

1377 (h) sexual abuse of a child, Subsection [76-5-404.1\(2\)](#);

1378 (i) aggravated sexual abuse of a child, Subsection [76-5-404.1\(4\)](#);

1379 (j) aggravated sexual assault, Section [76-5-405](#); and

1380 (k) an attempt to commit any offense under this Subsection (2).

1381 (3) Sexual battery is a class A misdemeanor.

1382 (4) For purposes of Subsection [77-41-102\[\(17\)\]\(18\)](#) only, a plea of guilty or nolo  
1383 contendere to a charge under this section that is held in abeyance under Title 77, Chapter 2a,  
1384 Pleas in Abeyance, is the equivalent of a conviction. This Subsection (4) also applies if the  
1385 charge under this section has been subsequently reduced or dismissed in accordance with the  
1386 plea in abeyance agreement.

1387 Section 21. Section **76-9-702.5** is amended to read:

1388 **76-9-702.5. Lewdness involving a child.**

1389 (1) A person is guilty of lewdness involving a child if the person under circumstances  
1390 not amounting to rape of a child, object rape of a child, sodomy upon a child, sexual abuse of a  
1391 child, aggravated sexual abuse of a child, or an attempt to commit any of those offenses,

1392 intentionally or knowingly does any of the following to, or in the presence of, a child who is  
1393 under 14 years of age:

- 1394 (a) performs an act of sexual intercourse or sodomy;
- 1395 (b) exposes his or her genitals, the female breast below the top of the areola, the  
1396 buttocks, the anus, or the pubic area:
  - 1397 (i) in a public place; or
  - 1398 (ii) in a private place:
    - 1399 (A) under circumstances the person should know will likely cause affront or alarm; or
    - 1400 (B) with the intent to arouse or gratify the sexual desire of the actor or the child;
- 1401 (c) masturbates;
- 1402 (d) under circumstances not amounting to sexual exploitation of a child under Section  
1403 76-5b-201, causes a child under the age of 14 years to expose his or her genitals, anus, or  
1404 breast, if female, to the actor, with the intent to arouse or gratify the sexual desire of the actor  
1405 or the child; or
- 1406 (e) performs any other act of lewdness.

1407 (2) (a) Lewdness involving a child is a class A misdemeanor, except under Subsection  
1408 (2)(b).

- 1409 (b) Lewdness involving a child is a third degree felony if at the time of the violation:
  - 1410 (i) the person is [~~a-sex~~] an offender as defined in Section 77-27-21.7; or
  - 1411 (ii) the person has previously been convicted of a violation of this section.

1412 Section 22. Section 77-27-21.7 is amended to read:

1413 **77-27-21.7. Sex, kidnap, and child abuse offender restrictions.**

1414 (1) As used in this section:

1415 (a) "Offender" means an adult or juvenile who is required to register in accordance  
1416 with Title 77, Chapter 41, Sex, Kidnap, and Child Abuse Offender Registry, due to a  
1417 conviction for any offense that is committed against a person younger than 18 years of age.

1418 [~~(a)~~] (b) "Protected area" means the premises occupied by:

- 1419 (i) any licensed day care or preschool facility;
- 1420 (ii) a swimming pool that is open to the public;
- 1421 (iii) a public or private primary or secondary school that is not on the grounds of a  
1422 correctional facility;

1423 (iv) a community park that is open to the public; and

1424 (v) a playground that is open to the public, including those areas designed to provide  
1425 children space, recreational equipment, or other amenities intended to allow children to engage  
1426 in physical activity.

1427 ~~(b)~~ (c) (i) Except under Subsection (1)~~(b)~~(c)(ii), "protected area" also includes any  
1428 area that is 1,000 feet or less from the residence of a victim of the [sex] offender's offense  
1429 under Subsection (1)~~(c)~~(a) if:

1430 (A) the [sex] offender is on probation or parole for an offense under Subsection  
1431 (1)~~(c)~~(a);

1432 (B) the victim or the victim's parent or guardian has advised the Department of  
1433 Corrections that the victim desires that the [sex] offender be restricted from the area under this  
1434 Subsection (1)~~(b)~~(c)(i) and authorizes the Department of Corrections to advise the [sex]  
1435 offender of the area where the victim resides for purposes of this Subsection (1)~~(b)~~(c); and

1436 (C) the Department of Corrections has notified the [sex] offender in writing that the  
1437 [sex] offender is prohibited from being in the protected area under Subsection (1)~~(b)~~(c)(i) and  
1438 has also provided a description of the location of the protected area to the [sex] offender.

1439 (ii) "Protected area" under Subsection (1)~~(b)~~(c)(i) does not apply to the residence and  
1440 area surrounding the residence of a victim if:

1441 (A) the victim is a member of the immediate family of the [sex] offender; and

1442 (B) the terms of the [sex] offender's agreement of probation or parole allow the [sex]  
1443 offender to reside in the same residence as the victim.

1444 ~~[(c) "Sex offender" means an adult or juvenile who is required to register in accordance  
1445 with Title 77, Chapter 41, Sex and Kidnap Offender Registry, due to a conviction for any  
1446 offense that is committed against a person younger than 18 years of age.]~~

1447 (2) It is a class A misdemeanor for any [sex] offender to be in any protected area on  
1448 foot or in or on any vehicle, including vehicles that are not motorized, except for:

1449 (a) those specific periods of time when the [sex] offender must be present within a  
1450 protected area in order to carry out necessary parental responsibilities;

1451 (b) when the protected area is a school building:

1452 (i) under Subsection (1)~~(a)~~(b)(iii);

1453 (ii) being opened for or being used for a public activity; and

1454 (iii) not being used for any school-related function that involves persons younger than  
1455 18 years of age; or

1456 (c) when the protected area is a licensed day care or preschool facility:

1457 (i) under Subsection (1)~~(a)~~(b)(i); and

1458 (ii) located within a building that is open to the public for purposes, services, or  
1459 functions that are operated separately from the day care or preschool facility located in the  
1460 building, except that the [sex] offender may not be in any part of the building occupied by the  
1461 day care or preschool facility.

1462 Section 23. Section 77-27-21.8 is amended to read:

1463 **77-27-21.8. Sex, kidnap, and child abuse offender in presence of a child --**

1464 **Definitions -- Penalties.**

1465 (1) As used in this section:

1466 (a) "Accompany" means:

1467 (i) to be in the presence of an individual; and

1468 (ii) to move or travel with that individual from one location to another, whether  
1469 outdoors, indoors, or in or on any type of vehicle.

1470 (b) "Child" means an individual younger than 14 years of age.

1471 (2) ~~[A sex]~~ An offender subject to registration in accordance with Title 77, Chapter 41,  
1472 Sex ~~[and]~~, Kidnap, and Child Abuse Offender Registry, for an offense committed or attempted  
1473 to be committed against a child younger than 14 years of age is guilty of a class A  
1474 misdemeanor if the [sex] offender requests, invites, or solicits a child to accompany the [sex]  
1475 offender, under circumstances that do not constitute an attempt to violate Section 76-5-301.1,  
1476 child kidnapping, unless:

1477 (a) (i) the [sex] offender, prior to accompanying the child:

1478 (A) verbally advises the child's parent or legal guardian that the [sex] offender is on the  
1479 ~~[state sex offender registry]~~ state's Sex, Kidnap, and Child Abuse Offender Registry and is  
1480 required by state law to obtain written permission in order for the [sex] offender to accompany  
1481 the child; and

1482 (B) requests that the child's parent or legal guardian provide written authorization for  
1483 the [sex] offender to accompany the child, including the specific dates and locations;

1484 (ii) the child's parent or legal guardian has provided to the [sex] offender written



1485 authorization, including the specific dates and locations, for the [sex] offender to accompany  
1486 the child; and

1487 (iii) the [sex] offender has possession of the written authorization and is accompanying  
1488 the child only at the dates and locations specified in the authorization;

1489 (b) the child's parent or guardian has verbally authorized the [sex] offender to  
1490 accompany the child either in the child's residence or on property appurtenant to the child's  
1491 residence, but in no other locations; or

1492 (c) the child is the natural child of the [sex] offender, and the offender is not prohibited  
1493 by any court order, or probation or parole provision, from contact with the child.

1494 (3) (a) [~~A sex~~] An offender convicted of a violation of Subsection (2) is subject to  
1495 registration in accordance with Title 77, Chapter 41, Sex [~~and~~], Kidnap, and Child Abuse  
1496 Offender Registry, for an additional five years subsequent to the required registration under  
1497 Section 77-41-105.

1498 (b) The period of additional registration imposed under Subsection (3)(a) is also in  
1499 addition to any period of registration imposed under Subsection 77-41-107(3) for failure to  
1500 comply with registration requirements.

1501 (4) It is not a defense to a prosecution under this section that the defendant mistakenly  
1502 believed the individual to be 14 years of age or older at the time of the offense or was unaware  
1503 of the individual's true age.

1504 (5) This section does not apply if [~~a sex~~] an offender is acting to rescue a child who is  
1505 in an emergency and life-threatening situation.

1506 Section 24. Section 77-27-21.9 is amended to read:

1507 **77-27-21.9. Sex, kidnap, and child abuse offender assessment.**

1508 (1) As used in this section:

1509 (a) "Dynamic factors" means a person's individual characteristics, issues, resources, or  
1510 circumstances that:

1511 (i) can change or be influenced; and

1512 (ii) affect the risk of recidivism or the risk of violating conditions of probation or  
1513 parole.

1514 (b) "Multi-domain assessment" means an evaluation process or tool which reports in  
1515 quantitative and qualitative terms an offender's condition, stability, needs, resources, and

1516 dynamic factors affecting the offender's transition into the community and compliance with  
1517 conditions of probation or parole, such as the following:

- 1518 (i) alcohol and other drug use;
- 1519 (ii) mental health status;
- 1520 (iii) physical health;
- 1521 (iv) criminal behavior;
- 1522 (v) education;
- 1523 (vi) emotional health and barriers;
- 1524 (vii) employment;
- 1525 (viii) family dynamics;
- 1526 (ix) housing;
- 1527 (x) physical health and nutrition;
- 1528 (xi) spirituality;
- 1529 (xii) social support systems;
- 1530 (xiii) special population needs, including:
  - 1531 (A) co-existing disorders;
  - 1532 (B) domestic violence;
  - 1533 (C) drug of choice;
  - 1534 (D) gender, ethnic, and cultural considerations;
  - 1535 (E) other health issues;
  - 1536 (F) sexual abuse; and
  - 1537 (G) sexual orientation;
  - 1538 (xiv) transportation; and
  - 1539 (xv) treatment involvement.

1540 (c) "Qualitative terms" means written summaries used to describe meaning, enrich, or  
1541 explain significant quantitative indicators or benchmarks within the areas defined in Subsection  
1542 (1)(b).

1543 (d) "Quantitative terms" means numerical distinctions or benchmarks used to describe  
1544 conditions within the areas defined in Subsection (1)(b).

1545 (2) The department shall issue a request for proposals to provide a periodic  
1546 multi-domain assessment tool, as defined in Subsection (1)(b) and implement the tool for a

1547 three-year trial period in the management of [sex] offenders being supervised in the community  
1548 in the department's Region 3.

1549 (3) The request for proposals shall include a requirement that the multi-domain  
1550 assessment tool be designed to be administered:

1551 (a) every 16 weeks during the first year [~~a sex~~] an offender is supervised in the  
1552 community; and

1553 (b) every 12 to 26 weeks during the second and subsequent years [~~a sex~~] an offender is  
1554 supervised in the community, as determined appropriate by the department's supervisory  
1555 personnel and the [sex] offender's treatment team.

1556 (4) The department shall promptly make results of the multi-domain assessment  
1557 available to:

1558 (a) the [sex] offender's treatment team; and

1559 (b) the corrections personnel responsible for supervising the offender.

1560 (5) The department shall provide to the legislative Law Enforcement and Criminal  
1561 Justice Interim Committee at the conclusion of the trial period a written report of the results of  
1562 the use of the multi-domain assessments, including:

1563 (a) the impact on recidivism;

1564 (b) other indicators of the effect of the use of the assessments;

1565 (c) the number of assessments administered annually;

1566 (d) the number of individuals who were assessed during the year; and

1567 (e) any recommended legislative or policy changes.

1568 Section 25. Section **77-40-105** is amended to read:

1569 **77-40-105. Eligibility for expungement of conviction -- Requirements.**

1570 (1) A person convicted of an offense may apply to the bureau for a certificate of  
1571 eligibility to expunge the record of conviction as provided in this section.

1572 (2) A petitioner is not eligible to receive a certificate of eligibility from the bureau if:

1573 (a) the conviction for which expungement is sought is:

1574 (i) a capital felony;

1575 (ii) a first degree felony;

1576 (iii) a violent felony as defined in Subsection [76-3-203.5\(1\)\(c\)\(i\)](#);

1577 (iv) felony automobile homicide;

1578 (v) a felony violation of Subsection 41-6a-501(2); or  
1579 (vi) a registerable [~~sex~~] offense as defined in Subsection 77-41-102~~[(17)]~~(4), (10), or  
1580 (18);

1581 (b) a criminal proceeding is pending against the petitioner; or  
1582 (c) the petitioner intentionally or knowingly provides false or misleading information  
1583 on the application for a certificate of eligibility.

1584 (3) A petitioner seeking to obtain expungement for a record of conviction is not  
1585 eligible to receive a certificate of eligibility from the bureau until all of the following have  
1586 occurred:

1587 (a) all fines and interest ordered by the court have been paid in full;  
1588 (b) all restitution ordered by the court pursuant to Section 77-38a-302, or by the Board  
1589 of Pardons and Parole pursuant to Section 77-27-6, has been paid in full; and

1590 (c) the following time periods have elapsed from the date the petitioner was convicted  
1591 or released from incarceration, parole, or probation, whichever occurred last, for each  
1592 conviction the petitioner seeks to expunge:

1593 (i) 10 years in the case of a misdemeanor conviction of Subsection 41-6a-501(2) or a  
1594 felony conviction of Subsection 58-37-8(2)(g);

1595 (ii) seven years in the case of a felony;

1596 (iii) five years in the case of any class A misdemeanor or a felony drug possession  
1597 offense;

1598 (iv) four years in the case of a class B misdemeanor; or

1599 (v) three years in the case of any other misdemeanor or infraction.

1600 (4) The bureau may not issue a certificate of eligibility if, at the time the petitioner  
1601 seeks a certificate of eligibility, the bureau determines that the petitioner's criminal history,  
1602 including previously expunged convictions, contains any of the following:

1603 (a) two or more felony convictions other than for drug possession offenses, each of  
1604 which is contained in a separate criminal episode;

1605 (b) any combination of three or more convictions other than for drug possession  
1606 offenses that include two class A misdemeanor convictions, each of which is contained in a  
1607 separate criminal episode;

1608 (c) any combination of four or more convictions other than for drug possession

1609 offenses that include three class B misdemeanor convictions, each of which is contained in a  
1610 separate criminal episode; or

1611 (d) five or more convictions other than for drug possession offenses of any degree  
1612 whether misdemeanor or felony, excluding infractions and any traffic offenses, each of which  
1613 is contained in a separate criminal episode.

1614 (5) The bureau may not issue a certificate of eligibility if, at the time the petitioner  
1615 seeks a certificate of eligibility, the bureau determines that the petitioner's criminal history,  
1616 including previously expunged convictions, contains any of the following:

1617 (a) three or more felony convictions for drug possession offenses, each of which is  
1618 contained in a separate criminal episode; or

1619 (b) any combination of five or more convictions for drug possession offenses, each of  
1620 which is contained in a separate criminal episode.

1621 (6) If the petitioner's criminal history contains convictions for both a drug possession  
1622 offense and a non drug possession offense arising from the same criminal episode, that criminal  
1623 episode shall be counted as provided in Subsection (4) if any non drug possession offense in  
1624 that episode:

1625 (a) is a felony or class A misdemeanor; or

1626 (b) has the same or a longer waiting period under Subsection (3) than any drug  
1627 possession offense in that episode.

1628 (7) If, prior to May 14, 2013, the petitioner has received a pardon from the Utah Board  
1629 of Pardons and Parole, the petitioner is entitled to an expungement order for all pardoned  
1630 crimes pursuant to Section [77-27-5.1](#).

1631 Section 26. Section **77-41-101** is amended to read:

1632 **CHAPTER 41. SEX, KIDNAP, AND CHILD ABUSE OFFENDER REGISTRY**

1633 **77-41-101. Title.**

1634 This chapter is known as the "Sex [~~and~~], Kidnap, and Child Abuse Offender Registry."

1635 Section 27. Section **77-41-102** is amended to read:

1636 **77-41-102. Definitions.**

1637 As used in this chapter:

1638 (1) "Bureau" means the bureau of Criminal Identification of the Department of Public  
1639 Safety established in section [53-10-201](#).

- 1640 (2) "Business day" means a day on which state offices are open for regular business.
- 1641 (3) "Certificate of eligibility" means a document issued by the Bureau of Criminal  
1642 Identification showing that the offender has met the requirements of Section [77-41-112](#).
- 1643 (4) "Child abuse offender" means any person who:
- 1644 (a) has been convicted in this state of a felony violation of:
- 1645 (i) Subsection [76-5-109](#)(2)(a) or (b), child abuse;
- 1646 (ii) Section [76-5-112.5](#), child endangerment;
- 1647 (iii) Section [76-5-308.5](#), human trafficking of a child; or
- 1648 (iv) attempting, soliciting, or conspiring to commit any felony offense listed in  
1649 Subsections (4)(a)(i) through (iv);
- 1650 (b) has been convicted of any crime, or an attempt, solicitation, or conspiracy to  
1651 commit a crime in another jurisdiction, including any state, federal, or military court, that is  
1652 substantially equivalent to the offenses listed in Subsection (4)(a) and who is:
- 1653 (i) a Utah resident; or
- 1654 (ii) not a Utah resident, but who, in any 12-month period, is in this state for a total of  
1655 10 or more days, regardless of whether the offender intends to permanently reside in this state;
- 1656 (c) (i) is required to register as a child abuse offender in any other jurisdiction of  
1657 original conviction, who is required to register as a child abuse offender by any state, federal,  
1658 or military court, or who would be required to register as a child abuse offender if residing in  
1659 the jurisdiction of the conviction regardless of the date of the conviction or any previous  
1660 registration requirements; and
- 1661 (ii) in any 12-month period, is in this state for a total of 10 or more days, regardless of  
1662 whether the offender intends to permanently reside in this state;
- 1663 (d) is a nonresident regularly employed or working in this state, or who is a student in  
1664 this state, and was convicted of one or more offenses listed in Subsection (4), or any  
1665 substantially equivalent offense in another jurisdiction, or who, as a result of the conviction, is  
1666 required to register in the person's state of residence;
- 1667 (e) is found not guilty by reason of insanity in this state or in any other jurisdiction of  
1668 one or more offenses listed in Subsection (4); or
- 1669 (f) is adjudicated delinquent based on one or more offenses listed in Subsection (4)(a)  
1670 and who has been committed to the division for secure confinement for that offense and

1671 remains in the division's custody 30 days before the person's 21st birthday.

1672 [~~4~~] (5) "Department" means the Department of Corrections.

1673 [~~5~~] (6) "Division" means the Division of Juvenile Justice Services.

1674 [~~6~~] (7) "Employed" or "carries on a vocation" includes employment that is full time  
1675 or part time, whether financially compensated, volunteered, or for the purpose of government  
1676 or educational benefit.

1677 [~~7~~] (8) "Indian Country" means:

1678 (a) all land within the limits of any Indian reservation under the jurisdiction of the  
1679 United States government, regardless of the issuance of any patent, and includes rights-of-way  
1680 running through the reservation;

1681 (b) all dependent Indian communities within the borders of the United States whether  
1682 within the original or subsequently acquired territory, and whether or not within the limits of a  
1683 state; and

1684 (c) all Indian allotments, including the Indian allotments to which the Indian titles have  
1685 not been extinguished, including rights-of-way running through the allotments.

1686 [~~8~~] (9) "Jurisdiction" means any state, Indian Country, United States Territory, or any  
1687 property under the jurisdiction of the United States military, Canada, the United Kingdom,  
1688 Australia, or New Zealand.

1689 [~~9~~] (10) "Kidnap offender" means any person other than a natural parent of the victim  
1690 who:

1691 (a) has been convicted in this state of a violation of:

1692 (i) Subsection 76-5-301(1)(c) or (d), kidnapping;

1693 (ii) Section 76-5-301.1, child kidnapping;

1694 (iii) Section 76-5-302, aggravated kidnapping;

1695 (iv) Section 76-5-310, aggravated human trafficking, on or after May 10, 2011; or

1696 (v) attempting, soliciting, or conspiring to commit any felony offense listed in

1697 Subsections [~~9~~] (10)(a)(i) through (iv);

1698 (b) has been convicted of any crime, or an attempt, solicitation, or conspiracy to  
1699 commit a crime in another jurisdiction, including any state, federal, or military court that is  
1700 substantially equivalent to the offenses listed in Subsection [~~9~~] (10)(a) and who is:

1701 (i) a Utah resident; or

1702 (ii) not a Utah resident, but who, in any 12-month period, is in this state for a total of  
1703 10 or more days, regardless of whether or not the offender intends to permanently reside in this  
1704 state;

1705 (c) (i) is required to register as a kidnap offender in any other jurisdiction of original  
1706 conviction, who is required to register as a kidnap offender by any state, federal, or military  
1707 court, or who would be required to register as a kidnap offender if residing in the jurisdiction of  
1708 the conviction regardless of the date of the conviction or any previous registration  
1709 requirements; and

1710 (ii) in any 12-month period, is in this state for a total of 10 or more days, regardless of  
1711 whether or not the offender intends to permanently reside in this state;

1712 (d) is a nonresident regularly employed or working in this state, or who is a student in  
1713 this state, and was convicted of one or more offenses listed in Subsection [~~(9)~~] (10), or any  
1714 substantially equivalent offense in another jurisdiction, or as a result of the conviction, is  
1715 required to register in the person's state of residence;

1716 (e) is found not guilty by reason of insanity in this state or in any other jurisdiction of  
1717 one or more offenses listed in Subsection [~~(9)~~] (10); or

1718 (f) is adjudicated delinquent based on one or more offenses listed in Subsection [~~(9)~~]  
1719 (10)(a) and who has been committed to the division for secure confinement for that offense and  
1720 remains in the division's custody 30 days prior to the person's 21st birthday.

1721 [~~(10)~~] (11) "Natural parent" means a minor's biological or adoptive parent, and  
1722 includes the minor's noncustodial parent.

1723 [~~(11)~~] (12) "Offender" means a child abuse offender as defined in Subsection (4), a  
1724 kidnap offender as defined in Subsection [~~(9)~~] (10), or a sex offender as defined in Subsection  
1725 [~~(17)~~] (18).

1726 [~~(12)~~] (13) "Online identifier" or "Internet identifier":

1727 (a) means any electronic mail, chat, instant messenger, social networking, or similar  
1728 name used for Internet communication; and

1729 (b) does not include date of birth, social security number, PIN number, or Internet  
1730 passwords.

1731 [~~(13)~~] (14) "Primary residence" means the location where the offender regularly  
1732 resides, even if the offender intends to move to another location or return to another location at



1733 any future date.

1734           ~~[(14)]~~ (15) "Register" means to comply with the requirements of this chapter and  
1735 administrative rules of the department made under this chapter.

1736           ~~[(15)]~~ (16) "Registration website" means the Sex ~~[and]~~, Kidnap, and Child Abuse  
1737 Offender Notification and Registration website described in Section 77-41-110 and the  
1738 information on the website.

1739           ~~[(16)]~~ (17) "Secondary residence" means any real property that the offender owns or  
1740 has a financial interest in, or any location where, in any 12-month period, the offender stays  
1741 overnight a total of 10 or more nights when not staying at the offender's primary residence.

1742           ~~[(17)]~~ (18) "Sex offender" means any person:

1743           (a) convicted in this state of:

1744           (i) a felony or class A misdemeanor violation of Section 76-4-401, enticing a minor;

1745           (ii) Section 76-5b-202, sexual exploitation of a vulnerable adult, on or after May 10,  
1746 2011;

1747           (iii) a felony violation of Section 76-5-401, unlawful sexual activity with a minor;

1748           (iv) Section 76-5-401.1, sexual abuse of a minor, except under Subsection

1749 76-5-401.1(3)(a);

1750           (v) Section 76-5-401.2, unlawful sexual conduct with a 16 or 17 year old;

1751           (vi) Section 76-5-402, rape;

1752           (vii) Section 76-5-402.1, rape of a child;

1753           (viii) Section 76-5-402.2, object rape;

1754           (ix) Section 76-5-402.3, object rape of a child;

1755           (x) a felony violation of Section 76-5-403, forcible sodomy;

1756           (xi) Section 76-5-403.1, sodomy on a child;

1757           (xii) Section 76-5-404, forcible sexual abuse;

1758           (xiii) Section 76-5-404.1, sexual abuse of a child or aggravated sexual abuse of a child;

1759           (xiv) Section 76-5-405, aggravated sexual assault;

1760           (xv) Section 76-5-412, custodial sexual relations, when the person in custody is

1761 younger than 18 years of age, if the offense is committed on or after May 10, 2011;

1762           (xvi) Section 76-5b-201, sexual exploitation of a minor;

1763           (xvii) Section 76-7-102, incest;

1764 (xviii) Section 76-9-702, lewdness, if the person has been convicted of the offense four  
1765 or more times;

1766 (xix) Section 76-9-702.1, sexual battery, if the person has been convicted of the  
1767 offense four or more times;

1768 (xx) any combination of convictions of Section 76-9-702, lewdness, and of Section  
1769 76-9-702.1, sexual battery, that total four or more convictions;

1770 (xxi) Section 76-9-702.5, lewdness involving a child;

1771 (xxii) a felony or class A misdemeanor violation of Section 76-9-702.7, voyeurism;

1772 (xxiii) Section 76-10-1306, aggravated exploitation of prostitution; or

1773 (xxiv) attempting, soliciting, or conspiring to commit any felony offense listed in  
1774 Subsection ~~[(17)]~~ (18)(a);

1775 (b) who has been convicted of any crime, or an attempt, solicitation, or conspiracy to  
1776 commit a crime in another jurisdiction, including any state, federal, or military court that is  
1777 substantially equivalent to the offenses listed in Subsection ~~[(17)]~~ (18)(a) and who is:

1778 (i) a Utah resident; or

1779 (ii) not a Utah resident, but who, in any 12-month period, is in this state for a total of  
1780 10 or more days, regardless of whether the offender intends to permanently reside in this state;

1781 (c) (i) who is required to register as a sex offender in any other jurisdiction of original  
1782 conviction, who is required to register as a sex offender by any state, federal, or military court,  
1783 or who would be required to register as a sex offender if residing in the jurisdiction of the  
1784 original conviction regardless of the date of the conviction or any previous registration  
1785 requirements; and

1786 (ii) who, in any 12-month period, is in the state for a total of 10 or more days,  
1787 regardless of whether or not the offender intends to permanently reside in this state;

1788 (d) who is a nonresident regularly employed or working in this state or who is a student  
1789 in this state and was convicted of one or more offenses listed in Subsection ~~[(17)]~~ (18)(a), or  
1790 any substantially equivalent offense in any jurisdiction, or as a result of the conviction, is  
1791 required to register in the person's jurisdiction of residence;

1792 (e) who is found not guilty by reason of insanity in this state, or in any other  
1793 jurisdiction of one or more offenses listed in Subsection ~~[(17)]~~ (18)(a); or

1794 (f) who is adjudicated delinquent based on one or more offenses listed in Subsection

1795 [~~(17)~~] (18)(a) and who has been committed to the division for secure confinement for that  
 1796 offense and remains in the division's custody 30 days prior to the person's 21st birthday.

1797 [~~(18)~~] (19) "Traffic offense" does not include a violation of Title 41, Chapter 6a, Part 5,  
 1798 Driving Under the Influence and Reckless Driving.

1799 [~~(19)~~] (20) "Vehicle" means any motor vehicle, aircraft, or watercraft subject to  
 1800 registration in any jurisdiction.

1801 Section 28. Section 77-41-103 is amended to read:

1802 **77-41-103. Department duties.**

1803 (1) The department, to assist in investigating kidnapping and sex-related crimes, and in  
 1804 apprehending offenders, shall:

1805 (a) develop and operate a system to collect, analyze, maintain, and disseminate  
 1806 information on offenders and sex and kidnap offenses;

1807 (b) make information listed in Subsection 77-41-110(4) available to the public; and

1808 (c) share information provided by an offender under this chapter that may not be made  
 1809 available to the public under Subsection 77-41-110(4), but only:

1810 (i) for the purposes under this chapter; or

1811 (ii) in accordance with Section 63G-2-206.

1812 (2) Any law enforcement agency shall, in the manner prescribed by the department,  
 1813 inform the department of:

1814 (a) the receipt of a report or complaint of an offense listed in Subsection 77-41-102[~~(9)~~]  
 1815 ~~or~~ (17)](4), (10), or (18), within three business days; and

1816 (b) the arrest of a person suspected of any of the offenses listed in Subsection  
 1817 77-41-102[~~(9)~~ or (17)](4), (10), or (18), within five business days.

1818 (3) Upon convicting a person of any of the offenses listed in Subsection 77-41-102[~~(9)~~  
 1819 ~~or~~ (17)](4), (10), or (18), the convicting court shall within three business days forward a signed  
 1820 copy of the judgment and sentence to the Sex [~~and~~], Kidnap, and Child Abuse Offender  
 1821 Registry office within the Department of Corrections.

1822 (4) The department shall:

1823 (a) provide the following additional information when available:

1824 (i) the crimes the offender has been convicted of or adjudicated delinquent for;

1825 (ii) a description of the offender's primary and secondary targets; and

1826 (iii) any other relevant identifying information as determined by the department;

1827 (b) maintain the Sex [~~Offender and~~], Kidnap, and Child Abuse Offender Notification  
1828 and Registration website; and

1829 (c) ensure that the registration information collected regarding an offender's enrollment  
1830 or employment at an educational institution is:

1831 (i) (A) promptly made available to any law enforcement agency that has jurisdiction  
1832 where the institution is located if the educational institution is an institution of higher  
1833 education; or

1834 (B) promptly made available to the district superintendent of the school district where  
1835 the offender is enrolled if the educational institution is an institution of primary education; and

1836 (ii) entered into the appropriate state records or data system.

1837 Section 29. Section **77-41-105** is amended to read:

1838 **77-41-105. Registration of offenders -- Offender responsibilities.**

1839 (1) An offender convicted by any other jurisdiction is required to register under  
1840 Subsection (3) and Subsection ~~77-41-102[(9) or (17)](4), (10), or (18)~~. The offender shall  
1841 register with the department within 10 days of entering the state, regardless of the offender's  
1842 length of stay.

1843 (2) (a) An offender required to register under Subsection ~~77-41-102[(9) or (17)](4),~~  
1844 ~~(10), or (18)~~ who is under supervision by the department shall register in person with Division  
1845 of Adult Probation and Parole.

1846 (b) An offender required to register under Subsection ~~77-41-102[(9) or (17)](4), (10),~~  
1847 ~~or (18)~~ who is no longer under supervision by the department shall register in person with the  
1848 police department or sheriff's office that has jurisdiction over the area where the offender  
1849 resides.

1850 (3) (a) Except as provided in Subsections (3)(b), (c), and (4), and Section ~~77-41-106,~~  
1851 an offender shall, for the duration of the sentence and for 10 years after termination of sentence  
1852 or custody of the division, register every year during the month of the offender's date of birth,  
1853 during the month that is the sixth month after the offender's birth month, and also within three  
1854 business days of every change of the offender's primary residence, any secondary residences,  
1855 place of employment, vehicle information, or educational information required to be submitted  
1856 under Subsection (8).

1857 (b) Except as provided in Subsections (4) and (5), and Section 77-41-106, an offender  
1858 who is convicted in another jurisdiction of an offense listed in Subsection 77-41-102~~(9)(a) or~~  
1859 ~~(17)(a)](4)(a), (10)(a), or (18)(a), a substantially similar offense, or any other offense that~~  
1860 requires registration in the jurisdiction of conviction, shall:

1861 (i) register for the time period, and in the frequency, required by the jurisdiction where  
1862 the offender was convicted if that jurisdiction's registration period or registration frequency  
1863 requirement for the offense that the offender was convicted of is greater than the 10 years from  
1864 completion of the sentence registration period that is required under Subsection (3)(a), or is  
1865 more frequent than every six months; or

1866 (ii) register in accordance with the requirements of Subsection (3)(a), if the  
1867 jurisdiction's registration period or frequency requirement for the offense that the offender was  
1868 convicted of is less than the registration period required under Subsection (3)(a), or is less  
1869 frequent than every six months.

1870 (c) (i) An offender convicted as an adult of any of the offenses listed in Section  
1871 77-41-106 shall, for the offender's lifetime, register every year during the month of the  
1872 offender's birth, during the month that is the sixth month after the offender's birth month, and  
1873 also within three business days of every change of the offender's primary residence, any  
1874 secondary residences, place of employment, vehicle information, or educational information  
1875 required to be submitted under Subsection (8).

1876 (ii) This registration requirement is not subject to exemptions and may not be  
1877 terminated or altered during the offender's lifetime, unless a petition is granted under Section  
1878 77-41-112.

1879 (d) For the purpose of establishing venue for a violation of this Subsection (3), the  
1880 violation is considered to be committed:

1881 (i) at the most recent registered primary residence of the offender or at the location of  
1882 the offender, if the actual location of the offender at the time of the violation is not known; or

1883 (ii) at the location of the offender at the time the offender is apprehended.

1884 (4) Notwithstanding Subsection (3) and Section 77-41-106, an offender who is  
1885 confined in a secure facility or in a state mental hospital is not required to register during the  
1886 period of confinement.

1887 (5) In the case of an offender adjudicated in another jurisdiction as a juvenile and

1888 required to register under this chapter, the offender shall register in the time period and in the  
1889 frequency consistent with the requirements of this Subsection (5). However, if the jurisdiction  
1890 of the offender's adjudication does not publish the offender's information on a public website,  
1891 the department shall maintain, but not publish the offender's information on the Sex [~~Offender~~  
1892 ~~and~~], Kidnap, and Child Abuse Offender Notification and Registration website.

1893 (6) An offender who is required to register under Subsection (3) shall surrender the  
1894 offender's license, certificate, or identification card as required under Subsection [53-3-216\(3\)](#)  
1895 or [53-3-807\(4\)](#) and may apply for a license certificate or identification card as provided under  
1896 Section [53-3-205](#) or [53-3-804](#).

1897 (7) [~~A sex~~] An offender who violates Section [77-27-21.8](#) regarding being in the  
1898 presence of a child while required to register under this chapter shall register for an additional  
1899 five years subsequent to the registration period otherwise required under this chapter.

1900 (8) An offender shall provide the department or the registering entity with the  
1901 following information:

1902 (a) all names and aliases by which the offender is or has been known;

1903 (b) the addresses of the offender's primary and secondary residences;

1904 (c) a physical description, including the offender's date of birth, height, weight, eye and  
1905 hair color;

1906 (d) the make, model, color, year, plate number, and vehicle identification number of  
1907 any vehicle or vehicles the offender owns or regularly drives;

1908 (e) a current photograph of the offender;

1909 (f) a set of fingerprints, if one has not already been provided;

1910 (g) a DNA specimen, taken in accordance with Section [53-10-404](#), if one has not  
1911 already been provided;

1912 (h) telephone numbers and any other designations used by the offender for routing or  
1913 self-identification in telephonic communications from fixed locations or cellular telephones;

1914 (i) Internet identifiers and the addresses the offender uses for routing or  
1915 self-identification in Internet communications or postings;

1916 (j) the name and Internet address of all websites on which the offender is registered  
1917 using an online identifier, including all online identifiers used to access those websites;

1918 (k) a copy of the offender's passport, if a passport has been issued to the offender;

- 1919 (l) if the offender is an alien, all documents establishing the offender's immigration  
 1920 status;
- 1921 (m) all professional licenses that authorize the offender to engage in an occupation or  
 1922 carry out a trade or business, including any identifiers, such as numbers;
- 1923 (n) each educational institution in Utah at which the offender is employed, carries on a  
 1924 vocation, or is a student, and any change of enrollment or employment status of the offender at  
 1925 any educational institution;
- 1926 (o) the name, the telephone number, and the address of any place where the offender is  
 1927 employed or will be employed;
- 1928 (p) the name, the telephone number, and the address of any place where the offender  
 1929 works as a volunteer or will work as a volunteer; and
- 1930 (q) the offender's social security number.
- 1931 (9) Notwithstanding Section 42-1-1, an offender:
- 1932 (a) may not change the offender's name:
- 1933 (i) while under the jurisdiction of the department; and
- 1934 (ii) until the registration requirements of this statute have expired; and
- 1935 (b) may not change the offender's name at any time, if registration is for life under  
 1936 Subsection [77-41-105](3)(c).
- 1937 (10) Notwithstanding Subsections (8)(i) and (j) and 77-41-103(1)(c), an offender is not  
 1938 required to provide the department with:
- 1939 (a) the offender's online identifier and password used exclusively for the offender's  
 1940 employment on equipment provided by an employer and used to access the employer's private  
 1941 network; or
- 1942 (b) online identifiers for the offender's financial accounts, including any bank,  
 1943 retirement, or investment accounts.
- 1944 Section 30. Section 77-41-106 is amended to read:
- 1945 **77-41-106. Registerable offenses.**
- 1946 Offenses referred to in Subsection 77-41-105(3)(c)(i) are:
- 1947 (1) any offense listed in Subsection 77-41-102[(9) or (17)](10) or (18) if, at the time of  
 1948 the conviction, the offender has previously been convicted of an offense listed in Subsection  
 1949 77-41-102[(9) or (17)](10) or (18) or has previously been required to register as [a-sex] an

1950 offender for an offense committed as a juvenile;  
1951 (2) any first degree felony offense listed in Subsection 77-41-102(4) if the person is  
1952 convicted of the first degree felony offense;

1953 [~~2~~] (3) a conviction for any of the following offenses, including attempting,  
1954 soliciting, or conspiring to commit any felony of:

1955 (a) Section 76-5-301.1, child kidnapping, except if the offender is a natural parent of  
1956 the victim;

1957 (b) Section 76-5-402, rape;

1958 (c) Section 76-5-402.1, rape of a child;

1959 (d) Section 76-5-402.2, object rape;

1960 (e) Section 76-5-402.3, object rape of a child;

1961 (f) Section 76-5-403.1, sodomy on a child;

1962 (g) Subsection 76-5-404.1(4), aggravated sexual abuse of a child; or

1963 (h) Section 76-5-405, aggravated sexual assault;

1964 [~~3~~] (4) Section 76-4-401, a felony violation of enticing a minor over the Internet;

1965 [~~4~~] (5) Section 76-5-302, aggravated kidnapping, except if the offender is a natural  
1966 parent of the victim;

1967 [~~5~~] (6) Section 76-5-403, forcible sodomy;

1968 [~~6~~] (7) Section 76-5-404.1, sexual abuse of a child;

1969 [~~7~~] (8) Section 76-5b-201, sexual exploitation of a minor; or

1970 [~~8~~] (9) Section 76-10-1306, aggravated exploitation of prostitution, on or after May  
1971 10, 2011.

1972 Section 31. Section **77-41-107** is amended to read:

1973 **77-41-107. Penalties.**

1974 (1) An offender who knowingly fails to register under this chapter or provides false or  
1975 incomplete information is guilty of:

1976 (a) a third degree felony and shall be sentenced to serve a term of incarceration for not  
1977 less than 90 days and also at least one year of probation if:

1978 (i) the offender is required to register for a felony conviction or adjudicated delinquent  
1979 for what would be a felony if the juvenile were an adult of an offense listed in Subsection

1980 77-41-102[~~(9)(a) or (17)(a)~~](4)(a), (10)(a), or (18)(a); or



1981 (ii) the offender is required to register for the offender's lifetime under Subsection  
1982 77-41-105(3)(c); or

1983 (b) a class A misdemeanor and shall be sentenced to serve a term of incarceration for  
1984 not fewer than 90 days and also at least one year of probation if the offender is required to  
1985 register for a misdemeanor conviction or is adjudicated delinquent for what would be a  
1986 misdemeanor if the juvenile were an adult of an offense listed in Subsection  
1987 77-41-102[(9)](10)(a) or [(17)] (18)(a).

1988 (2) Neither the court nor the Board of Pardons and Parole may release a person who  
1989 violates this chapter from serving the term required under Subsection (1). This Subsection (2)  
1990 supersedes any other provision of the law contrary to this chapter.

1991 (3) The offender shall register for an additional year for every year in which the  
1992 offender does not comply with the registration requirements of this chapter.

1993 Section 32. Section 77-41-109 is amended to read:

1994 **77-41-109. Miscellaneous provisions.**

1995 (1) (a) If an offender is to be temporarily sent on any assignment outside a secure  
1996 facility in which the offender is confined on any assignment, including, without limitation,  
1997 firefighting or disaster control, the official who has custody of the offender shall, within a  
1998 reasonable time prior to removal from the secure facility, notify the local law enforcement  
1999 agencies where the assignment is to be filled.

2000 (b) This Subsection (1) does not apply to any person temporarily released under guard  
2001 from the institution in which the person is confined.

2002 (2) Notwithstanding Title 77, Chapter 40, Utah Expungement Act, a person convicted  
2003 of any offense listed in Subsection 77-41-102[(9) or (17)](10) or (18) is not relieved from the  
2004 responsibility to register as required under this section, unless the offender is removed from the  
2005 registry under Section 77-41-112.

2006 Section 33. Section 77-41-110 is amended to read:

2007 **77-41-110. Sex, Kidnap, and Child Abuse Offender Registry -- Department to**  
2008 **maintain.**

2009 (1) The department shall maintain a Sex [~~Offender and~~], Kidnap, and Child Abuse  
2010 Offender Notification and Registration website on the Internet, which shall contain a disclaimer  
2011 informing the public:

2012 (a) the information contained on the site is obtained from offenders and the department  
2013 does not guarantee its accuracy or completeness;

2014 (b) members of the public are not allowed to use the information to harass or threaten  
2015 offenders or members of their families; and

2016 (c) harassment, stalking, or threats against offenders or their families are prohibited and  
2017 doing so may violate Utah criminal laws.

2018 (2) The Sex [~~Offender and~~], Kidnap, and Child Abuse Offender Notification and  
2019 Registration website shall be indexed by both the surname of the offender and by postal codes.

2020 (3) The department shall construct the Sex, Kidnap, and Child Abuse Offender  
2021 Notification and Registration website so that users, before accessing registry information, must  
2022 indicate that they have read the disclaimer, understand it, and agree to comply with its terms.

2023 (4) Except as provided in Subsection (5), the Sex [~~Offender and~~], Kidnap, and Child  
2024 Abuse Offender Notification and Registration website shall include the following registry  
2025 information:

2026 (a) all names and aliases by which the offender is or has been known, but not including  
2027 any online or Internet identifiers;

2028 (b) the addresses of the offender's primary, secondary, and temporary residences;

2029 (c) a physical description, including the offender's date of birth, height, weight, and eye  
2030 and hair color;

2031 (d) the make, model, color, year, and plate number of any vehicle or vehicles the  
2032 offender owns or regularly drives;

2033 (e) a current photograph of the offender;

2034 (f) a list of all professional licenses that authorize the offender to engage in an  
2035 occupation or carry out a trade or business;

2036 (g) each educational institution in Utah at which the offender is employed, carries on a  
2037 vocation, or is a student;

2038 (h) a list of places where the offender works as a volunteer; and

2039 (i) the crimes listed in Subsections 77-41-102~~[(9) and (16)]~~(10) and (18) that the  
2040 offender has been convicted of or for which the offender has been adjudicated delinquent in  
2041 juvenile court.

2042 (5) The department, its personnel, and any individual or entity acting at the request or

2043 upon the direction of the department are immune from civil liability for damages for good faith  
 2044 compliance with this chapter and will be presumed to have acted in good faith by reporting  
 2045 information.

2046 (6) The department shall redact information that, if disclosed, could reasonably identify  
 2047 a victim.

2048 Section 34. Section **77-41-112** is amended to read:

2049 **77-41-112. Removal from registry -- Requirements -- Procedure.**

2050 (1) An offender may petition the court where the offender was convicted of the offense  
 2051 requiring registration for an order removing the offender from the Sex [~~Offender and~~], Kidnap<sub>2</sub>  
 2052 and Child Abuse Offender Registry if:

2053 (a) the offender was convicted of an offense under Subsection (2);

2054 (b) at least five years have passed since the completion of the offender's sentence for  
 2055 the offense;

2056 (c) the offense is the only conviction for which the offender is required to register; and

2057 (d) the offender has not been convicted, subsequently to the offense for which the  
 2058 offender was placed on the registry, of a violation listed in:

2059 (i) Subsection 77-41-102(4), which defines a child abuse offender;

2060 [~~(i)~~] (ii) Subsection 77-41-102[~~(9)~~](10), which defines a kidnap offender; or

2061 [~~(ii)~~] (iii) Subsection 77-41-102[~~(17)~~](18), which defines a sex offender.

2062 (2) The offenses referred to in Subsection (1)(a) are:

2063 (a) Section 76-4-401, Enticing a minor, if the offense is a class A misdemeanor;

2064 (b) Section 76-5-301, Kidnapping, and the conviction of violating Section 76-5-301;

2065 (c) Section 76-5-304, Unlawful detention, and the conviction of violating Section  
 2066 76-5-304 is the only conviction for which the offender is required to register;

2067 (d) Section 76-5-401, Unlawful sexual activity with a minor and, at the time of the  
 2068 offense, was not more than 10 years older than the victim;

2069 (e) Section 76-5-401.2, Unlawful sexual conduct with a 16 or 17 year old, and at the  
 2070 time of the offense, was not more than 15 years older than the victim; or

2071 (f) Section 76-9-702.7, Voyeurism, if the offense is a class A misdemeanor.

2072 (3) An offender who meets the requirements under Subsection (1) shall also complete  
 2073 all of the following requirements:

2074 (a) the offender has successfully completed all treatment ordered by the court or the  
2075 Board of Pardons and Parole relating to the conviction;

2076 (b) (i) the offender has not been convicted of any other crime, excluding traffic  
2077 offenses, as evidenced by a certificate of eligibility issued by the bureau; and

2078 (ii) as used in this section, "traffic offense" does not include a violation of Title 41,  
2079 Chapter 6a, Part 5, Driving Under the Influence and Reckless Driving;

2080 (c) the offender has paid all restitution ordered by the court;

2081 (d) the offender has complied with all the registration requirements at all times as  
2082 required in this chapter, as evidenced by a document obtained by the offender from the Utah  
2083 Department of Corrections, which confirms compliance; and

2084 (e) the office that prosecuted the offender, and the victim, or if the victim is still a  
2085 minor, the victim's parent, are notified and provided with an opportunity to respond in  
2086 accordance with Subsection (6)(a).

2087 (4) (a) (i) An offender seeking removal from the Sex [~~Offender or~~], Kidnap, and Child  
2088 Abuse Offender Registry shall apply for a certificate of eligibility from the bureau.

2089 (ii) An offender who intentionally or knowingly provides any false or misleading  
2090 information to the bureau when applying for a certificate of eligibility is guilty of a class B  
2091 misdemeanor and subject to prosecution under Section 76-8-504.6.

2092 (iii) Regardless of whether the offender is prosecuted, the bureau may deny a certificate  
2093 of eligibility to anyone providing false information on an application.

2094 (b) (i) The bureau shall perform a check of records of governmental agencies,  
2095 including national criminal databases, to determine whether an offender is eligible to receive a  
2096 certificate of eligibility under this section.

2097 (ii) If the offender meets all of the criteria under Subsections (1), (2), and (3), the  
2098 bureau shall issue a certificate of eligibility to the offender, which shall be valid for a period of  
2099 90 days from the date the certificate is issued.

2100 (5) (a) (i) The bureau shall charge application and issuance fees for a certificate of  
2101 eligibility in accordance with the process in Section 63J-1-504.

2102 (ii) The application fee shall be paid at the time the offender submits an application for  
2103 a certificate of eligibility to the bureau.

2104 (iii) If the bureau determines that the issuance of a certificate of eligibility is

2105 appropriate, the offender will be charged an additional fee for the issuance of a certificate of  
2106 eligibility.

2107 (b) Funds generated under Subsection (5) shall be deposited in the General Fund as a  
2108 dedicated credit by the department to cover the costs incurred in determining eligibility.

2109 (6) (a) The offender shall file the petition, original information, and court docket with  
2110 the court, and deliver a copy of the petition to the office of the prosecutor.

2111 (i) Upon receipt of a petition for removal from the Sex [~~Offender and~~], Kidnap, and  
2112 Child Abuse Offender Registry, the office of the prosecutor shall provide notice of the petition:

2113 (A) by first-class mail to the victim at the most recent address of record on file or, if  
2114 the victim is still a minor, to the parent or guardian of the victim; and

2115 (B) to the Sex [~~and~~], Kidnap, and Child Abuse Offender Registry office in the  
2116 Department of Corrections.

2117 (ii) The notice shall include a copy of the petition, state that the victim has a right to  
2118 object to the removal of the offender from the registry, and provide instructions for registering  
2119 an objection with the court.

2120 (b) The office of the prosecutor shall provide the following, if available, to the court  
2121 within 30 days after receiving the petition:

2122 (i) presentencing report;

2123 (ii) any evaluation done as part of sentencing; and

2124 (iii) any other information the office of the prosecutor feels the court should consider.

2125 (c) The victim, or the victim's parent or guardian if the victim is a minor, may respond  
2126 to the petition by filing a recommendation or objection with the court within 45 days after the  
2127 mailing of the petition to the victim.

2128 (7) (a) The court shall:

2129 (i) review the petition and all documents submitted with the petition; and

2130 (ii) hold a hearing if requested by the prosecutor or the victim.

2131 (b) The court shall consider whether the offender has paid all restitution ordered by the  
2132 court or the Board of Pardons.

2133 (c) If the court determines that it is not contrary to the interests of the public to do so, it  
2134 may grant the petition and order removal of the offender from the registry.

2135 (d) If the court grants the petition, it shall forward a copy of the order directing removal

2136 of the offender from the registry to the department and the office of the prosecutor.

2137 (e) If the court denies the petition, the offender may not submit another petition for  
2138 three years.

2139 (8) The office of the prosecutor shall notify the victim and the Sex [~~and~~], Kidnap, and  
2140 Child Abuse Offender Registry office in the Department of Corrections of the court's decision  
2141 in the same manner as notification was provided in Subsection (6)(a).

2142 Section 35. Section **78A-2-301** is amended to read:

2143 **78A-2-301. Civil fees of the courts of record -- Courts complex design.**

2144 (1) (a) The fee for filing any civil complaint or petition invoking the jurisdiction of a  
2145 court of record not governed by another subsection is \$360.

2146 (b) The fee for filing a complaint or petition is:

2147 (i) \$75 if the claim for damages or amount in interpleader exclusive of court costs,  
2148 interest, and attorney fees is \$2,000 or less;

2149 (ii) \$185 if the claim for damages or amount in interpleader exclusive of court costs,  
2150 interest, and attorney fees is greater than \$2,000 and less than \$10,000;

2151 (iii) \$360 if the claim for damages or amount in interpleader is \$10,000 or more;

2152 (iv) \$310 if the petition is filed under Title 30, Chapter 3, Divorce, or Title 30, Chapter  
2153 4, Separate Maintenance;

2154 (v) \$35 for a motion for temporary separation order filed under Section [30-3-4.5](#);

2155 (vi) \$125 if the petition is for removal from the Sex [~~Offender and~~], Kidnap, and Child  
2156 Abuse Offender Registry under Section [77-41-112](#); and

2157 (vii) \$35 if the petition is for guardianship and the prospective ward is the biological or  
2158 adoptive child of the petitioner.

2159 (c) The fee for filing a small claims affidavit is:

2160 (i) \$60 if the claim for damages or amount in interpleader exclusive of court costs,  
2161 interest, and attorney fees is \$2,000 or less;

2162 (ii) \$100 if the claim for damages or amount in interpleader exclusive of court costs,  
2163 interest, and attorney fees is greater than \$2,000, but less than \$7,500; and

2164 (iii) \$185 if the claim for damages or amount in interpleader exclusive of court costs,  
2165 interest, and attorney fees is \$7,500 or more.

2166 (d) The fee for filing a counter claim, cross claim, complaint in intervention, third party

2167 complaint, or other claim for relief against an existing or joined party other than the original  
2168 complaint or petition is:

2169 (i) \$55 if the claim for relief exclusive of court costs, interest, and attorney fees is  
2170 \$2,000 or less;

2171 (ii) \$150 if the claim for relief exclusive of court costs, interest, and attorney fees is  
2172 greater than \$2,000 and less than \$10,000;

2173 (iii) \$155 if the original petition is filed under Subsection (1)(a), the claim for relief is  
2174 \$10,000 or more, or the party seeks relief other than monetary damages; and

2175 (iv) \$115 if the original petition is filed under Title 30, Chapter 3, Divorce, or Title 30,  
2176 Chapter 4, Separate Maintenance.

2177 (e) The fee for filing a small claims counter affidavit is:

2178 (i) \$50 if the claim for relief exclusive of court costs, interest, and attorney fees is  
2179 \$2,000 or less;

2180 (ii) \$70 if the claim for relief exclusive of court costs, interest, and attorney fees is  
2181 greater than \$2,000, but less than \$7,500; and

2182 (iii) \$120 if the claim for relief exclusive of court costs, interest, and attorney fees is  
2183 \$7,500 or more.

2184 (f) The fee for depositing funds under Section 57-1-29 when not associated with an  
2185 action already before the court is determined under Subsection (1)(b) based on the amount  
2186 deposited.

2187 (g) The fee for filing a petition is:

2188 (i) \$225 for trial de novo of an adjudication of the justice court or of the small claims  
2189 department; and

2190 (ii) \$65 for an appeal of a municipal administrative determination in accordance with  
2191 Section 10-3-703.7.

2192 (h) The fee for filing a notice of appeal, petition for appeal of an interlocutory order, or  
2193 petition for writ of certiorari is \$225.

2194 (i) The fee for filing a petition for expungement is \$135.

2195 (j) (i) Fifteen dollars of the fees established by Subsections (1)(a) through (i) shall be  
2196 allocated to and between the Judges' Contributory Retirement Trust Fund and the Judges'  
2197 Noncontributory Retirement Trust Fund, as provided in Title 49, Chapter 17, Judges'

2198 Contributory Retirement Act, and Title 49, Chapter 18, Judges' Noncontributory Retirement  
2199 Act.

2200 (ii) Four dollars of the fees established by Subsections (1)(a) through (i) shall be  
2201 allocated by the state treasurer to be deposited in the restricted account, Children's Legal  
2202 Defense Account, as provided in Section [51-9-408](#).

2203 (iii) Three dollars of the fees established under Subsections (1)(a) through (e), (1)(g),  
2204 and (1)(s) shall be allocated to and deposited with the Dispute Resolution Account as provided  
2205 in Section [78B-6-209](#).

2206 (iv) Fifteen dollars of the fees established by Subsections (1)(a), (1)(b)(iii) and (iv),  
2207 (1)(d)(iii) and (iv), (1)(g)(ii), (1)(h), and (1)(i) shall be allocated by the state treasurer to be  
2208 deposited in the restricted account, Court Security Account, as provided in Section [78A-2-602](#).

2209 (v) Five dollars of the fees established by Subsections (1)(b)(i) and (ii), (1)(d)(ii) and  
2210 (1)(g)(i) shall be allocated by the state treasurer to be deposited in the restricted account, Court  
2211 Security Account, as provided in Section [78A-2-602](#).

2212 (k) The fee for filing a judgment, order, or decree of a court of another state or of the  
2213 United States is \$35.

2214 (l) The fee for filing a renewal of judgment in accordance with Section [78B-6-1801](#) is  
2215 50% of the fee for filing an original action seeking the same relief.

2216 (m) The fee for filing probate or child custody documents from another state is \$35.

2217 (n) (i) The fee for filing an abstract or transcript of judgment, order, or decree of the  
2218 Utah State Tax Commission is \$30.

2219 (ii) The fee for filing an abstract or transcript of judgment of a court of law of this state  
2220 or a judgment, order, or decree of an administrative agency, commission, board, council, or  
2221 hearing officer of this state or of its political subdivisions other than the Utah State Tax  
2222 Commission, is \$50.

2223 (o) The fee for filing a judgment by confession without action under Section  
2224 [78B-5-205](#) is \$35.

2225 (p) The fee for filing an award of arbitration for confirmation, modification, or  
2226 vacation under Title 78B, Chapter 11, Utah Uniform Arbitration Act, that is not part of an  
2227 action before the court is \$35.

2228 (q) The fee for filing a petition or counter-petition to modify a domestic relations order



- 2229 other than a protective order or stalking injunction is \$100.
- 2230 (r) The fee for filing any accounting required by law is:
- 2231 (i) \$15 for an estate valued at \$50,000 or less;
- 2232 (ii) \$30 for an estate valued at \$75,000 or less but more than \$50,000;
- 2233 (iii) \$50 for an estate valued at \$112,000 or less but more than \$75,000;
- 2234 (iv) \$90 for an estate valued at \$168,000 or less but more than \$112,000; and
- 2235 (v) \$175 for an estate valued at more than \$168,000.
- 2236 (s) The fee for filing a demand for a civil jury is \$250.
- 2237 (t) The fee for filing a notice of deposition in this state concerning an action pending in
- 2238 another state under Utah Rules of Civil Procedure, Rule 30 is \$35.
- 2239 (u) The fee for filing documents that require judicial approval but are not part of an
- 2240 action before the court is \$35.
- 2241 (v) The fee for a petition to open a sealed record is \$35.
- 2242 (w) The fee for a writ of replevin, attachment, execution, or garnishment is \$50 in
- 2243 addition to any fee for a complaint or petition.
- 2244 (x) (i) The fee for a petition for authorization for a minor to marry required by Section
- 2245 [30-1-9](#) is \$5.
- 2246 (ii) The fee for a petition for emancipation of a minor provided in Title 78A, Chapter 6,
- 2247 Part 8, Emancipation, is \$50.
- 2248 (y) The fee for a certificate issued under Section [26-2-25](#) is \$8.
- 2249 (z) The fee for a certified copy of a document is \$4 per document plus 50 cents per
- 2250 page.
- 2251 (aa) The fee for an exemplified copy of a document is \$6 per document plus 50 cents
- 2252 per page.
- 2253 (bb) The Judicial Council shall by rule establish a schedule of fees for copies of
- 2254 documents and forms and for the search and retrieval of records under Title 63G, Chapter 2,
- 2255 Government Records Access and Management Act. Fees under this Subsection (1)(bb) shall
- 2256 be credited to the court as a reimbursement of expenditures.
- 2257 (cc) There is no fee for services or the filing of documents not listed in this section or
- 2258 otherwise provided by law.
- 2259 (dd) Except as provided in this section, all fees collected under this section are paid to

2260 the General Fund. Except as provided in this section, all fees shall be paid at the time the clerk  
2261 accepts the pleading for filing or performs the requested service.

2262 (ee) The filing fees under this section may not be charged to the state, its agencies, or  
2263 political subdivisions filing or defending any action. In judgments awarded in favor of the  
2264 state, its agencies, or political subdivisions, except the Office of Recovery Services, the court  
2265 shall order the filing fees and collection costs to be paid by the judgment debtor. The sums  
2266 collected under this Subsection (1)(ee) shall be applied to the fees after credit to the judgment,  
2267 order, fine, tax, lien, or other penalty and costs permitted by law.

2268 (2) (a) (i) From March 17, 1994 until June 30, 1998, the administrator of the courts  
2269 shall transfer all revenues representing the difference between the fees in effect after May 2,  
2270 1994, and the fees in effect before February 1, 1994, as dedicated credits to the Division of  
2271 Facilities Construction and Management Capital Projects Fund.

2272 (ii) (A) Except as provided in Subsection (2)(a)(ii)(B), the Division of Facilities  
2273 Construction and Management shall use up to \$3,750,000 of the revenue deposited in the  
2274 Capital Projects Fund under this Subsection (2)(a) to design and take other actions necessary to  
2275 initiate the development of a courts complex in Salt Lake City.

2276 (B) If the Legislature approves funding for construction of a courts complex in Salt  
2277 Lake City in the 1995 Annual General Session, the Division of Facilities Construction and  
2278 Management shall use the revenue deposited in the Capital Projects Fund under this Subsection  
2279 (2)(a)(ii) to construct a courts complex in Salt Lake City.

2280 (C) After the courts complex is completed and all bills connected with its construction  
2281 have been paid, the Division of Facilities Construction and Management shall use any money  
2282 remaining in the Capital Projects Fund under this Subsection (2)(a)(ii) to fund the Vernal  
2283 District Court building.

2284 (iii) The Division of Facilities Construction and Management may enter into  
2285 agreements and make expenditures related to this project before the receipt of revenues  
2286 provided for under this Subsection (2)(a)(iii).

2287 (iv) The Division of Facilities Construction and Management shall:

2288 (A) make those expenditures from unexpended and unencumbered building funds  
2289 already appropriated to the Capital Projects Fund; and

2290 (B) reimburse the Capital Projects Fund upon receipt of the revenues provided for

2291 under this Subsection (2).

2292 (b) After June 30, 1998, the administrator of the courts shall ensure that all revenues  
2293 representing the difference between the fees in effect after May 2, 1994, and the fees in effect  
2294 before February 1, 1994, are transferred to the Division of Finance for deposit in the restricted  
2295 account.

2296 (c) The Division of Finance shall deposit all revenues received from the court  
2297 administrator into the restricted account created by this section.

2298 (d) (i) From May 1, 1995, until June 30, 1998, the administrator of the courts shall  
2299 transfer \$7 of the amount of a fine or bail forfeiture paid for a violation of Title 41, Motor  
2300 Vehicles, in a court of record to the Division of Facilities Construction and Management  
2301 Capital Projects Fund. The division of money pursuant to Section 78A-5-110 shall be  
2302 calculated on the balance of the fine or bail forfeiture paid.

2303 (ii) After June 30, 1998, the administrator of the courts or a municipality shall transfer  
2304 \$7 of the amount of a fine or bail forfeiture paid for a violation of Title 41, Motor Vehicles, in  
2305 a court of record to the Division of Finance for deposit in the restricted account created by this  
2306 section. The division of money pursuant to Section 78A-5-110 shall be calculated on the  
2307 balance of the fine or bail forfeiture paid.

2308 (3) (a) There is created within the General Fund a restricted account known as the State  
2309 Courts Complex Account.

2310 (b) The Legislature may appropriate money from the restricted account to the  
2311 administrator of the courts for the following purposes only:

2312 (i) to repay costs associated with the construction of the court complex that were  
2313 funded from sources other than revenues provided for under this Subsection (3)(b)(i); and

2314 (ii) to cover operations and maintenance costs on the court complex.

2315 Section 36. Section **78B-8-302** is amended to read:

2316 **78B-8-302. Process servers.**

2317 (1) Complaints, summonses, and subpoenas may be served by a person who is:

2318 (a) 18 years of age or older at the time of service; and

2319 (b) not a party to the action or a party's attorney.

2320 (2) Except as provided in Subsection (5), the following may serve all process issued by  
2321 the courts of this state:

- 2322 (a) a peace officer employed by a political subdivision of the state acting within the  
2323 scope and jurisdiction of the peace officer's employment;
- 2324 (b) a sheriff or appointed deputy sheriff employed by a county of the state;
- 2325 (c) a constable, or the constable's deputy, serving in compliance with applicable law;
- 2326 (d) an investigator employed by the state and authorized by law to serve civil process;
- 2327 and
- 2328 (e) a private investigator licensed in accordance with Title 53, Chapter 9, Private  
2329 Investigator Regulation Act.
- 2330 (3) A private investigator licensed in accordance with Title 53, Chapter 9, Private  
2331 Investigator Regulation Act, may not make an arrest pursuant to a bench warrant.
- 2332 (4) While serving process, a private investigator shall:
- 2333 (a) have on the investigator's person a visible form of credentials and identification  
2334 identifying:
- 2335 (i) the investigator's name;
- 2336 (ii) that the investigator is a licensed private investigator; and
- 2337 (iii) the name and address of the agency employing the investigator or, if the  
2338 investigator is self-employed, the address of the investigator's place of business;
- 2339 (b) verbally communicate to the person being served that the investigator is acting as a  
2340 process server; and
- 2341 (c) print on the first page of each document served:
- 2342 (i) the investigator's name and identification number as a private investigator; and
- 2343 (ii) the address and phone number for the investigator's place of business.
- 2344 (5) Any service under this section when the use of force is authorized on the face of the  
2345 document, or when a breach of the peace is imminent or likely under the totality of the  
2346 circumstances, may only be served by:
- 2347 (a) a law enforcement officer, as defined in Section [53-13-103](#); or
- 2348 (b) a constable, as defined in Subsection [53-13-105\(1\)\(b\)\(ii\)](#).
- 2349 (6) The following may not serve process issued by a court:
- 2350 (a) a person convicted of a felony violation of an offense listed in Subsection  
2351 [77-41-102](#)~~(+7)~~(4), (10), or (18); or
- 2352 (b) a person who is a respondent in a proceeding described in Title 78B, Chapter 7,

2353 Protective Orders, in which a court has granted the petitioner a protective order.  
2354 (7) A person serving process shall:  
2355 (a) legibly document the date and time of service on the front page of the document  
2356 being served;  
2357 (b) legibly print the process server's name, address, and telephone number on the return  
2358 of service;  
2359 (c) sign the return of service in substantial compliance with Section [78B-5-705](#);  
2360 (d) if the process server is a peace officer, sheriff, or deputy sheriff, legibly print the  
2361 badge number of the process server on the return of service; and  
2362 (e) if the process server is a private investigator, legibly print the private investigator's  
2363 identification number on the return of service.

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**Legislative Review Note**  
**Office of Legislative Research and General Counsel**