

**SEX OFFENDER REGISTRY AMENDMENTS**

2019 GENERAL SESSION

STATE OF UTAH

**Chief Sponsor: Ken Ivory**

Senate Sponsor: Luz Escamilla

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**LONG TITLE**

**General Description:**

This bill clarifies when an individual convicted of the offense of unlawful sexual activity with a minor is required to register as a sex offender.

**Highlighted Provisions:**

This bill:

- ▶ clarifies that an individual convicted of the offense of unlawful sexual activity with a minor is required to register as a sex offender unless the individual was less than four years older than the minor at the time of the offense; and
- ▶ makes technical changes.

**Money Appropriated in this Bill:**

None

**Other Special Clauses:**

None

**Utah Code Sections Affected:**

AMENDS:

**77-41-102**, as last amended by Laws of Utah 2017, Chapter 434

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

Section 1. Section **77-41-102** is amended to read:

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



28 As used in this chapter:

29 (1) "Bureau" means the Bureau of Criminal Identification of the Department of Public  
30 Safety established in section 53-10-201.

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

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

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

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

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

39 (7) "Indian Country" means:

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

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

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

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

51 (9) "Kidnap offender" means any [~~person~~] individual other than a natural parent of the  
52 victim who:

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

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

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

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

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

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

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

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

63 (i) a Utah resident; or

64 (ii) not a Utah resident, but who, in any 12-month period, is in this state for a total of  
65 10 or more days, regardless of whether or not the offender intends to permanently reside in this  
66 state;

67 (c) (i) is required to register as a kidnap offender in any other jurisdiction of original  
68 conviction, who is required to register as a kidnap offender by any state, federal, or military  
69 court, or who would be required to register as a kidnap offender if residing in the jurisdiction of  
70 the conviction regardless of the date of the conviction or any previous registration  
71 requirements; and

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

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

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

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

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

85 (11) "Offender" means a kidnap offender as defined in Subsection (9) or a sex offender  
86 as defined in Subsection (17).

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

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

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

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

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

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

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

102 (17) "Sex offender" means any ~~[person]~~ individual:

103 (a) convicted in this state of:

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

105 (ii) Section 76-5b-202, sexual exploitation of a vulnerable adult, on or after May 10,  
106 2011;

107 (iii) ~~[a felony violation of]~~ Section 76-5-401, unlawful sexual activity with a minor,  
108 except as provided in Subsection 76-5-401(3)(b);

109 (iv) Section 76-5-401.1, sexual abuse of a minor, except ~~[under]~~ as provided in  
110 Subsection 76-5-401.1(3)(a);

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

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

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

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

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

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

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

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

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

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

- 121 (xv) Section 76-5-412, custodial sexual relations, when the [person] individual in  
122 custody is younger than 18 years of age, if the offense is committed on or after May 10, 2011;
- 123 (xvi) Section 76-5b-201, sexual exploitation of a minor;
- 124 (xvii) Section 76-5b-204, sexual extortion or aggravated sexual extortion;
- 125 (xviii) Section 76-7-102, incest;
- 126 (xix) Section 76-9-702, lewdness, if the [person] individual has been convicted of the  
127 offense four or more times;
- 128 (xx) Section 76-9-702.1, sexual battery, if the [person] individual has been convicted  
129 of the offense four or more times;
- 130 (xxi) any combination of convictions of Section 76-9-702, lewdness, and of Section  
131 76-9-702.1, sexual battery, that total four or more convictions;
- 132 (xxii) Section 76-9-702.5, lewdness involving a child;
- 133 (xxiii) a felony or class A misdemeanor violation of Section 76-9-702.7, voyeurism;
- 134 (xxiv) Section 76-10-1306, aggravated exploitation of prostitution; or
- 135 (xxv) attempting, soliciting, or conspiring to commit any felony offense listed in this  
136 Subsection (17)(a);
- 137 (b) who has been convicted of any crime, or an attempt, solicitation, or conspiracy to  
138 commit a crime in another jurisdiction, including any state, federal, or military court that is  
139 substantially equivalent to the offenses listed in Subsection (17)(a) and who is:
- 140 (i) a Utah resident; or
- 141 (ii) not a Utah resident, but who, in any 12-month period, is in this state for a total of  
142 10 or more days, regardless of whether the offender intends to permanently reside in this state;
- 143 (c) (i) who is required to register as a sex offender in any other jurisdiction of original  
144 conviction, who is required to register as a sex offender by any state, federal, or military court,  
145 or who would be required to register as a sex offender if residing in the jurisdiction of the  
146 original conviction regardless of the date of the conviction or any previous registration  
147 requirements; and
- 148 (ii) who, in any 12-month period, is in the state for a total of 10 or more days,  
149 regardless of whether or not the offender intends to permanently reside in this state;
- 150 (d) who is a nonresident regularly employed or working in this state or who is a student  
151 in this state and was convicted of one or more offenses listed in Subsection (17)(a), or any

152 substantially equivalent offense in any jurisdiction, or as a result of the conviction, is required  
153 to register in the [~~person's~~] individual's jurisdiction of residence;

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

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

159 (18) "Traffic offense" does not include a violation of Title 41, Chapter 6a, Part 5,  
160 Driving Under the Influence and Reckless Driving.

161 (19) "Vehicle" means any motor vehicle, aircraft, or watercraft subject to registration in  
162 any jurisdiction.