

HB0291S01 compared with HB0291

~~deleted text~~ shows text that was in HB0291 but was deleted in HB0291S01.

inserted text shows text that was not in HB0291 but was inserted into HB0291S01.

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Representative Angela Romero proposes the following substitute bill:

HUMAN TRAFFICKING AMENDMENTS

2020 GENERAL SESSION

STATE OF UTAH

Chief Sponsor: Angela Romero

Senate Sponsor: _____

LONG TITLE

General Description:

This bill amends provisions related to human trafficking.

Highlighted Provisions:

This bill:

- ▶ amends provisions and definitions related to human trafficking;
- ▶ makes human trafficking an offense subject to registration as a sex offender;
- ▶ provides for human trafficking training for law enforcement officers;
- ▶ amends and enacts provisions related to a safe harbor for children engaged in commercial sex or sexual solicitation;
- ▶ provides certain procedures for law enforcement when there is suspicion that a child may be involved in human trafficking;
- ▶ amends provisions related to vacatur of adjudication as related to a juvenile's court

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records; and

- ▶ makes technical changes.

Money Appropriated in this Bill:

None

Other Special Clauses:

None

Utah Code Sections Affected:

AMENDS:

- 53-10-404**, as last amended by Laws of Utah 2014, Chapter 331
- 62A-4a-105**, as last amended by Laws of Utah 2018, Chapter 281
- 76-5-308**, as last amended by Laws of Utah 2017, Chapter 447
- 76-5-308.5**, as last amended by Laws of Utah 2016, Chapter 231
- 76-5-309**, as last amended by Laws of Utah 2019, Chapter 26
- 76-5-310**, as last amended by Laws of Utah 2015, Chapter 160
- 76-5-311**, as enacted by Laws of Utah 2019, Chapter 26
- 76-5-401**, as last amended by Laws of Utah 2019, Chapter 364
- 76-5-401.1**, as last amended by Laws of Utah 2018, Chapters 192 and 394
- 76-5-608**, as last amended by Laws of Utah 2018, Chapter 57
- 76-9-1003**, as last amended by Laws of Utah 2013, Chapter 196
- 76-10-1302**, as last amended by Laws of Utah 2019, Chapters 26, 189, and 200
- 76-10-1313**, as last amended by Laws of Utah 2019, Chapters 189 and 200
- 77-41-102**, as last amended by Laws of Utah 2019, Chapters 136 and 364
- 77-41-105**, as last amended by Laws of Utah 2019, Chapter 382
- 77-41-106**, as last amended by Laws of Utah 2017, Chapter 434
- 78A-6-1114**, as enacted by Laws of Utah 2019, Chapter 200
- 78B-7-502**, as enacted by Laws of Utah 2019, Chapter 365

ENACTS:

- 76-10-1315**, Utah Code Annotated 1953

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

Section 1. Section **53-10-404** is amended to read:

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

(iii) The collection fee is not imposed for a second or subsequent DNA specimen collected under this section.

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

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

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

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

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

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

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

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

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

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

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

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

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

(b) The juvenile court is the responsible agency regarding a minor under Subsection 53-10-403(3), but if the minor has been committed to the legal custody of the Division of Juvenile Justice Services, that division is the responsible agency if a DNA specimen of the minor has not previously been obtained by the juvenile court under Section 78A-6-117.

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

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

(ii) are incarcerated in the county jail:

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

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

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

(iv) are booked at the county jail:

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

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

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

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

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

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

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

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

(ii) second, the department shall obtain DNA specimens from persons who are committed to the custody of the department or who are placed under the supervision of the department after July 1, 2002, within 120 days after the commitment, if possible, but not later than prior to release from incarceration if the person is imprisoned, or prior to the termination of probation if the person is placed on probation.

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

(i) first, persons on probation;

(ii) second, persons on parole; and

(iii) third, incarcerated persons.

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

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

(i) "Court" means the juvenile court.

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

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

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

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

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

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

(ii) second, to obtain specimens from minors who are placed in the legal custody of the division after July 1, 2002, within 120 days of the minor's being placed in the custody of the division, if possible, but not later than prior to termination of the court's jurisdiction over the minor.

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

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

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

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

Section 2. Section **62A-4a-105** is amended to read:

62A-4a-105. Division responsibilities.

(1) The division shall:

(a) administer services to minors and families, including:

(i) child welfare services;

(ii) domestic violence services; and

(iii) all other responsibilities that the Legislature or the executive director may assign to the division;

(b) provide the following services:

(i) financial and other assistance to an individual adopting a child with special needs under Part 9, Adoption Assistance, not to exceed the amount the division would provide for the child as a legal ward of the state;

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- (ii) non-custodial and in-home services, including:
 - (A) services designed to prevent family break-up; and
 - (B) family preservation services;
- (iii) reunification services to families whose children are in substitute care in accordance with the requirements of this chapter and Title 78A, Chapter 6, Juvenile Court Act;
- (iv) protective supervision of a family, upon court order, in an effort to eliminate abuse or neglect of a child in that family;
- (v) shelter care in accordance with the requirements of this chapter and Title 78A, Chapter 6, Juvenile Court Act;
- (vi) domestic violence services, in accordance with the requirements of federal law;
- (vii) protective services to victims of domestic violence, as defined in Section 77-36-1, and their children, in accordance with the provisions of this chapter and Title 78A, Chapter 6, Part 3, Abuse, Neglect, and Dependency Proceedings;
- (viii) substitute care for dependent, abused, neglected, and delinquent children;
- (ix) services for minors who are victims of human trafficking or human smuggling as described in Sections 76-5-308 through 76-5-310 or who have engaged in prostitution or sexual solicitation as defined in [~~Section 76-10-1302~~] Sections 76-10-1302 and 76-10-1313; and
- (x) training for staff and providers involved in the administration and delivery of services offered by the division in accordance with this chapter;
- (c) establish standards for all:
 - (i) contract providers of out-of-home care for minors and families;
 - (ii) facilities that provide substitute care for dependent, abused, neglected, and delinquent children placed in the custody of the division; and
 - (iii) direct or contract providers of domestic violence services described in Subsection (1)(b)(vi);
- (d) have authority to:
 - (i) contract with a private, nonprofit organization to recruit and train foster care families and child welfare volunteers in accordance with Section 62A-4a-107.5; and
 - (ii) approve facilities that meet the standards established under Subsection (1)(c) to provide substitute care for dependent, abused, neglected, and delinquent children placed in the custody of the division;

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(e) cooperate with the federal government in the administration of child welfare and domestic violence programs and other human service activities assigned by the department;

(f) if there is a privacy agreement with an Indian tribe to protect the confidentiality of division records to the same extent that the division is required to protect division records, cooperate with and share all appropriate information in the division's possession regarding an Indian child, the Indian child's parent or guardian, or a proposed placement for the Indian child with the Indian tribe that is affiliated with the Indian child;

(g) in accordance with Subsection (2)(a), promote and enforce state and federal laws enacted for the protection of abused, neglected, dependent, delinquent, ungovernable, and runaway children, and status offenders, in accordance with the requirements of this chapter, unless administration is expressly vested in another division or department of the state;

(h) cooperate with the Workforce Development Division in the Department of Workforce Services in meeting the social and economic needs of an individual who is eligible for public assistance;

(i) compile relevant information, statistics, and reports on child and family service matters in the state;

(j) prepare and submit to the department, the governor, and the Legislature reports of the operation and administration of the division in accordance with the requirements of Sections 62A-4a-117 and 62A-4a-118;

(k) provide social studies and reports for the juvenile court in accordance with Section 78A-6-605;

(l) within appropriations from the Legislature, provide or contract for a variety of domestic violence services and treatment methods;

(m) ensure regular, periodic publication, including electronic publication, regarding the number of children in the custody of the division who:

(i) have a permanency goal of adoption; or

(ii) have a final plan of termination of parental rights, pursuant to Section 78A-6-314, and promote adoption of those children;

(n) subject to Subsection (2)(b), refer an individual receiving services from the division to the local substance abuse authority or other private or public resource for a court-ordered drug screening test; and

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(o) perform other duties and functions required by law.

(2) (a) In carrying out the requirements of Subsection (1)(g), the division shall:

(i) cooperate with the juvenile courts, the Division of Juvenile Justice Services, and with all public and private licensed child welfare agencies and institutions to develop and administer a broad range of services and support;

(ii) take the initiative in all matters involving the protection of abused or neglected children, if adequate provisions have not been made or are not likely to be made; and

(iii) make expenditures necessary for the care and protection of the children described in this Subsection (2)(a), within the division's budget.

(b) When an individual is referred to a local substance abuse authority or other private or public resource for court-ordered drug screening under Subsection (1)(n), the court shall order the individual to pay all costs of the tests unless:

(i) the cost of the drug screening is specifically funded or provided for by other federal or state programs;

(ii) the individual is a participant in a drug court; or

(iii) the court finds that the individual is impecunious.

(3) Except to the extent provided by rule, the division is not responsible for investigating domestic violence in the presence of a child, as described in Section 76-5-109.1.

(4) The division may not require a parent who has a child in the custody of the division to pay for some or all of the cost of any drug testing the parent is required to undergo.

Section 3. Section **76-5-308** is amended to read:

76-5-308. Human trafficking -- Human smuggling.

(1) An actor commits human trafficking for [~~forced~~] labor or [~~forced~~] sexual exploitation if the actor recruits, harbors, transports, obtains, patronizes, or solicits a person through the use of force, fraud, or coercion, which may include:

(a) threatening serious harm to, or physical restraint against, that person or a third person;

(b) destroying, concealing, removing, confiscating, or possessing any passport, immigration document, or other government-issued identification document;

(c) abusing or threatening abuse of the law or legal process against the person or a third person;

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(d) using a condition of a person being a debtor due to a pledge of the debtor's personal services or the personal services of a person under the control of the debtor as a security for debt where the reasonable value of the services is not applied toward the liquidation of the debt or the length and nature of those services are not respectively limited and defined;

(e) using a condition of servitude by means of any scheme, plan, or pattern intended to cause a person to believe that if the person did not enter into or continue in a condition of servitude, that person or a third person would suffer serious harm or physical restraint, or would be threatened with abuse of legal process; or

(f) creating or exploiting a relationship where the person is dependent on the actor.

(2) (a) Human trafficking for [~~forced~~] labor includes [~~forced labor in industrial facilities, sweatshops, households, agricultural enterprises, and any other workplace~~] any labor obtained through force, fraud, or coercion as described in Subsection (1).

(b) Human trafficking for [~~forced~~] sexual exploitation includes all forms of [~~forced~~] commercial sexual activity, which may include the following conduct when the person acts under force, fraud, or coercion as described in Subsection (1):

(i) sexually explicit performance;

(ii) prostitution;

(iii) participation in the production of pornography;

(iv) performance in strip clubs; and

(v) exotic dancing or display.

(3) A person commits human smuggling by transporting or procuring the transportation for one or more persons for a commercial purpose, knowing or having reason to know that the person or persons transported or to be transported are not:

(a) citizens of the United States;

(b) permanent resident aliens; or

(c) otherwise lawfully in this state or entitled to be in this state.

Section 4. Section **76-5-308.5** is amended to read:

76-5-308.5. Human trafficking of a child -- Penalties.

(1) "Commercial sexual activity with a child" means any sexual act with a child, on account of which anything of value is given to or received by any person.

(2) An actor commits human trafficking of a child if the actor recruits, harbors,

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transports, obtains, patronizes, or solicits a child for sexual exploitation or forced labor.

(3) (a) Human trafficking of a child for [forced] labor includes [~~labor in industrial facilities, sweatshops, households, agricultural enterprises, or any other workplace~~] any labor obtained through force, fraud, and coercion as described in Section 7-5-308.

(b) Human trafficking of a child for sexual exploitation includes all forms of commercial sexual activity with a child, including sexually explicit performance, prostitution, participation in the production of pornography, performance in a strip club, and exotic dancing or display.

(4) Human trafficking of a child in violation of this section is a first degree felony.

Section 5. Section **76-5-309** is amended to read:

76-5-309. Human trafficking and human smuggling -- Penalties.

(1) Human trafficking for [forced] labor and human trafficking for [forced] sexual exploitation are each a second degree felony, except under Section 76-5-310.

(2) Human smuggling under Section 76-5-308 of one or more persons is a third degree felony, except under Section 76-5-310.

(3) Human trafficking for [forced] labor or for [forced] sexual exploitation, human trafficking of a child, and human smuggling are each a separate offense from any other crime committed in relationship to the commission of either of these offenses.

(4) Under circumstances not amounting to aggravated sexual abuse of a child, a violation of Subsection 76-5-404.1(4)(h), a person who benefits, receives, or exchanges anything of value from knowing participation in:

(a) human trafficking for [forced] labor or for [forced] sexual exploitation in violation of Section 76-5-308 is guilty of a second degree felony;

(b) human smuggling is guilty of a third degree felony; and

(c) human trafficking of a child is guilty of a first degree felony.

(5) A person commits a separate offense of human trafficking, human trafficking of a child, or human smuggling for each person who is smuggled or trafficked under Section 76-5-308, 76-5-308.5, or 76-5-310.

Section 6. Section **76-5-310** is amended to read:

76-5-310. Aggravated human trafficking and aggravated human smuggling -- Penalties.

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(1) An actor commits aggravated human trafficking for [~~forced~~] labor or [~~forced~~] sexual exploitation or aggravated human smuggling if, in the course of committing [~~a human trafficking for forced labor or for forced sexual exploitation, a violation of Section 76-5-308, or human smuggling offense~~] an offense under Section 76-5-308, the offense:

- (a) results in the death of the trafficked or smuggled person;
- (b) results in serious bodily injury of the trafficked or smuggled person;
- (c) involves:
 - (i) rape under Section 76-5-402;
 - (ii) rape of a child under Section 76-5-402.1;
 - (iii) object rape under Section 76-5-402.2;
 - (iv) object rape of a child under Section 76-5-402.3;
 - (v) forcible sodomy under Section 76-5-403;
 - (vi) sodomy on a child under Section 76-5-403.1;
 - (vii) aggravated sexual abuse of a child under Section 76-5-404.1; or
 - (viii) aggravated sexual assault under 76-5-405;
- (d) involves 10 or more victims in a single episode of human trafficking or human

smuggling; or

(e) involves a victim [~~who is held against the victim's will~~] trafficked for longer than 30 consecutive days.

(2) An actor commits aggravated human smuggling if the actor commits human smuggling under Section 76-5-308 and any human being whom the person engages in smuggling is:

- (a) a child; and
- (b) not accompanied by a family member who is 18 years of age or older.

(3) (a) Aggravated human trafficking is a first degree felony.

(b) Aggravated human smuggling is a second degree felony.

(c) Aggravated human trafficking and aggravated human smuggling are each a separate offense from any other crime committed in relationship to the commission of either of these offenses.

Section 7. Section **76-5-311** is amended to read:

76-5-311. Human trafficking of a vulnerable adult -- Penalties.

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(1) As used in this section:

(a) "Commercial sexual activity with a vulnerable adult" means any sexual act with a vulnerable adult for which anything of value is given to or received by any individual.

(b) "Vulnerable adult" means the same as that term is defined in Subsection 76-5-111(1).

(2) An actor commits human trafficking of a vulnerable adult if the actor:

(a) recruits, harbors, transports, or obtains a vulnerable adult for sexual exploitation or forced labor; or

(b) patronizes or solicits a vulnerable adult for sexual exploitation or forced labor when the actor knew or should have known of the victim's vulnerability.

(3) (a) Human trafficking of a vulnerable adult for [~~forced~~] labor includes [~~forced labor in:~~] any labor obtained through force, fraud, or coercion as described in Section 76-5-308.

~~[(i) industrial facilities;]~~

~~[(ii) sweatshops;]~~

~~[(iii) households;]~~

~~[(iv) agricultural enterprises; or]~~

~~[(v) any other workplace.]~~

(b) Human trafficking of a vulnerable adult for sexual exploitation includes all forms of commercial sexual activity with a vulnerable adult involving:

(i) sexually explicit performances;

(ii) prostitution;

(iii) participation in the production of pornography;

(iv) performance in a strip club; or

(v) exotic dancing or display.

(4) Human trafficking of a vulnerable adult in violation of this section is a first degree felony.

Section 8. Section **76-5-401** is amended to read:

76-5-401. Unlawful sexual activity with a minor -- Elements -- Penalties --

Evidence of age raised by defendant.

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

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(2) A person 18 years old or older commits unlawful sexual activity with a minor if, under circumstances not amounting to rape, in violation of Section 76-5-402, object rape, in violation of Section 76-5-402.2, forcible sodomy, in violation of Section 76-5-403, or aggravated sexual assault, in violation of Section 76-5-405, the actor:

(a) has sexual intercourse with the minor;

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

(c) causes the penetration, however slight, of the genital or anal opening of the minor by any foreign object, substance, instrument, or device, including a part of the human body, with the intent to cause substantial emotional or bodily pain to any person or with the intent to arouse or gratify the sexual desire of any person, regardless of the sex of any participant.

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

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

(c) If the defendant establishes by a preponderance of the evidence the mitigating factor that the defendant was younger than 21 years old at the time the sexual activity occurred, the offense is a class A misdemeanor. An offense under this Subsection (3)(c) is not subject to registration under Subsection [~~77-41-102(17)(a)(iii)~~] 77-41-102(17)(a)(vii).

Section 9. Section **76-5-401.1** is amended to read:

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

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

(2) An individual commits sexual abuse of a minor if the individual is four years or more older than the minor and, under circumstances not amounting to rape, in violation of Section 76-5-402, object rape, in violation of Section 76-5-402.2, forcible sodomy, in violation of Section 76-5-403, aggravated sexual assault, in violation of Section 76-5-405, unlawful

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sexual activity with a minor, in violation of Section 76-5-401, or an attempt to commit any of those offenses, the individual touches the anus, buttocks, pubic area, or any part of the genitals of the minor, or touches the breast of a female minor, or otherwise takes indecent liberties with the minor, with the intent to cause substantial emotional or bodily pain to any individual or with the intent to arouse or gratify the sexual desire of any individual regardless of the sex of any participant.

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

Section 10. Section **76-5-608** is amended to read:

76-5-608. Law enforcement -- Training -- Sexual assault~~{ and }~~, sexual abuse, and human trafficking.

(1) The department and the Utah Prosecution Council shall develop training in trauma-informed responses and investigations of sexual assault ~~{ }~~and ~~{ }~~ sexual abuse, ~~{ and }~~ human trafficking, which include, but are not limited to, the following:

- (a) recognizing the symptoms of trauma;
- (b) understanding the impact of trauma on a victim;
- (c) responding to the needs and concerns of a victim of sexual assault ~~{ }~~or ~~{ }~~ sexual abuse ~~{, or human trafficking}~~;
- (d) delivering services to victims of sexual assault ~~{ }~~or ~~{ }~~ sexual abuse ~~{, or human trafficking}~~ in a compassionate, sensitive, and nonjudgmental manner;
- (e) understanding cultural perceptions and common myths of sexual assault ~~{ }~~and ~~{ }~~ sexual abuse ~~{, and human trafficking}~~; and
- (f) techniques of writing reports in accordance with Subsection (5).

(2) (a) The department and the Utah Prosecution Council shall offer the training in Subsection (1) to all certified law enforcement officers in the state ~~[of Utah by July 1,~~ ~~{ }~~2018~~]~~ { 2020}.

(b) The training for all law enforcement officers may be offered through an online course, developed by the department and the Utah Prosecution Council.

(3) The training listed in Subsection (1) shall be offered by the Peace Officer Standards and Training division to all persons seeking certification as a peace officer ~~[, beginning July 1,~~

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~~{}~~2018] ~~{}~~2020}.

(4) (a) The department and the Utah Prosecution Council shall develop and offer an advanced training course [by July 1, ~~{}~~2018,] ~~{}~~2020,} for officers who investigate cases of sexual assault ~~{}~~ or ~~{}~~ sexual abuse ~~{, or human trafficking}~~.

(b) The advanced training course shall include:

(i) all criteria listed in Subsection (1); and

(ii) interviewing techniques in accordance with the curriculum standards in Subsection

(5).

(5) The department shall consult with the Utah Prosecution Council to develop the specific training requirements of this section, including curriculum standards for report writing and response to sexual assault ~~{}~~ and ~~{}~~ sexual abuse, ~~{ or human trafficking}~~ including trauma-informed and victim-centered interview techniques, which have been demonstrated to minimize retraumatizing victims.

(6) The Office of the Attorney General shall develop and offer training for law enforcement officers in investigating human trafficking offenses.

(7) The training described in Subsection (6) shall be offered to all law enforcement officers in the state by July 1, 2020.

(8) The training described in Subsection (6) shall be offered by the Peace Officer Standards and Training division to all persons seeking certification as a peace officer, in conjunction with the training described in Subsection (1), beginning July 1, 2021.

(9) The Office of the Attorney General, the department, and the Utah Prosecution Council shall consult with one another to provide the training described in Subsection (6) jointly with the training described in Subsection (1) as reasonably practicable.

Section 11. Section **76-9-1003** is amended to read:

76-9-1003. Detention or arrest -- Determination of immigration status.

(1) (a) Except as provided in Subsection (1)(b), (c), or (d), any law enforcement officer who, acting in the enforcement of any state law or local ordinance, conducts any lawful stop, detention, or arrest of a person as specified in Subsection (1)(a)(i) or (ii), and the person is unable to provide to the law enforcement officer a document listed in Subsection 76-9-1004(1) and the officer is otherwise unable to verify the identity of the person, the officer:

(i) shall request verification of the citizenship or the immigration status of the person

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under 8 U.S.C. Sec. 1373(c), except as allowed under Subsection (1)(b), (c), or (d), if the person is arrested for an alleged offense that is a class A misdemeanor or a felony; and

(ii) may attempt to verify the immigration status of the person, except as exempted under Subsection (1)(b), (c), or (d), if the alleged offense is a class B or C misdemeanor, except that if the person is arrested and booked for a class B or C misdemeanor, the arresting law enforcement officer or the law enforcement agency booking the person shall attempt to verify the immigration status of the person.

(b) In individual cases, the law enforcement officer may forego the verification of immigration status under Subsection (1)(a) if the determination could hinder or obstruct a criminal investigation.

(c) Subsection (1)(a) does not apply to a law enforcement officer who is acting as a school resource officer for any elementary or secondary school.

(d) Subsection (1)(a) does not apply to a county or municipality when it has only one law enforcement officer on duty and response support from another law enforcement agency is not available.

(2) When a law enforcement officer makes a lawful stop, detention, or arrest under Subsection (1) of the operator of a vehicle, and while investigating or processing the primary offense, the officer makes observations that give the officer reasonable suspicion that the operator or any of the passengers in the vehicle are violating Section 76-5-308, 76-5-310, or 76-10-2901, which concern smuggling, human trafficking, and transporting illegal aliens, the officer shall, to the extent possible within a reasonable period of time:

- (a) detain the occupants of the vehicle to investigate the suspected violations; and
- (b) inquire regarding the immigration status of the occupants of the vehicle.

(3) When a person under Subsection (1) is arrested or booked into a jail, juvenile detention facility, or correctional facility, the arresting officer or the booking officer shall ensure that a request for verification of immigration status of the arrested or booked person is submitted as promptly as is reasonably possible.

(4) The law enforcement agency that has custody of a person verified to be an illegal alien shall request that the United States Department of Homeland Security issue a detainer requesting transfer of the illegal alien into federal custody.

(5) A law enforcement officer may not consider race, color, or national origin in

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implementing this section, except to the extent permitted by the constitutions of the United States and this state.

Section 12. Section **76-10-1302** is amended to read:

76-10-1302. Prostitution.

(1) An individual except for a child under Section 76-10-1315 is guilty of prostitution when the individual:

(a) engages, offers, or agrees to engage in any sexual activity with another individual for a fee, or the functional equivalent of a fee;

(b) takes steps in arranging a meeting through any form of advertising, agreeing to meet, and meeting at an arranged place for the purpose of sexual activity in exchange for a fee or the functional equivalent of a fee; or

(c) loiters in or within view of any public place for the purpose of being hired to engage in sexual activity.

(2) (a) Except as provided in Subsection (2)(b) and Section 76-10-1309, prostitution is a class B misdemeanor.

(b) Except as provided in Section 76-10-1309, an individual who is convicted a second time, and on all subsequent convictions, of a subsequent offense of prostitution under this section or under a local ordinance adopted in compliance with Section 76-10-1307, is guilty of a class A misdemeanor.

~~[(3)(a) As used in this Subsection (3):]~~

~~[(i) "Child" means the same as that term is defined in Section 76-10-1301.]~~

~~[(ii) "Child engaged in commercial sex" means a child who engages in conduct described in Subsection (1):]~~

~~[(iii) "Child engaged in sexual solicitation" means a child who offers or agrees to commit or engage in any sexual activity with another person for a fee or the functional equivalent of a fee under Subsection 76-10-1313(1)(a) or (c):]~~

~~[(iv) "Division" means the Division of Child and Family Services created in Section 62A-4a-103.]~~

~~[(v) "Receiving center" means the same as that term is defined in Section 62A-7-101.]~~

~~[(b) Upon encountering a child engaged in commercial sex or sexual solicitation, a law enforcement officer shall:]~~

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~~[(i) conduct an investigation regarding possible human trafficking of the child pursuant to Sections 76-5-308 and 76-5-308.5;]~~

~~[(ii) refer the child to the division;]~~

~~[(iii) bring the child to a receiving center, if available; and]~~

~~[(iv) contact the child's parent or guardian, if practicable.]~~

~~[(c) When law enforcement refers a child to the division under Subsection (3)(b)(ii) the division shall provide services to the child under Title 62A, Chapter 4a, Child and Family Services.]~~

~~[(4) A child may not be subjected to delinquency proceedings under Title 62A, Chapter 7, Juvenile Justice Services, and Section 78A-6-601 through Section 78A-6-704.]~~

~~[(5)]~~ (3) A prosecutor may not prosecute an individual for a violation of Subsection (1) if the individual engages in a violation of Subsection (1) at or near the time the individual witnesses or is a victim of any of the following offenses, or an attempt to commit any of the following offenses, and the individual reports the offense or attempt to law enforcement in good faith:

(a) assault, Section 76-5-102;

(b) aggravated assault, Section 76-5-103;

(c) mayhem, Section 76-5-105;

(d) aggravated murder, murder, manslaughter, negligent homicide, child abuse homicide, or homicide by assault under Title 76, Chapter 5, Part 2, Criminal Homicide;

(e) kidnapping, child kidnapping, aggravated kidnapping, human trafficking or aggravated human trafficking, human smuggling or aggravated human smuggling, or human trafficking of a child under Title 76, Chapter 5, Part 3, Kidnapping, Trafficking, and Smuggling;

(f) rape, Section 76-5-402;

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

(h) object rape, Section 76-5-402.2;

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

(j) forcible sodomy, Section 76-5-403;

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

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

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- (m) aggravated sexual abuse of a child or sexual abuse of a child, Section 76-5-404.1;
- (n) aggravated sexual assault, Section 76-5-405;
- (o) sexual exploitation of a minor, Section 76-5b-201;
- (p) sexual exploitation of a vulnerable adult, Section 76-5b-202;
- (q) aggravated burglary or burglary of a dwelling under Title 76, Chapter 6, Part 2,

Burglary and Criminal Trespass;

- (r) aggravated robbery or robbery under Title 76, Chapter 6, Part 3, Robbery; or
- (s) theft by extortion under Subsection 76-6-406(2)(a) or (b).

Section 13. Section **76-10-1313** is amended to read:

76-10-1313. Sexual solicitation -- Penalty.

(1) An individual except for a child under Section 76-10-1315 is guilty of sexual solicitation when the individual:

(a) offers or agrees to commit any sexual activity with another individual for a fee, or the functional equivalent of a fee;

(b) pays or offers or agrees to pay a fee or the functional equivalent of a fee to another individual to commit any sexual activity; or

(c) with intent to engage in sexual activity for a fee or the functional equivalent of a fee or to pay another individual to commit any sexual activity for a fee or the functional equivalent of a fee engages in, offers or agrees to engage in, or requests or directs another to engage in any of the following acts:

(i) exposure of an individual's genitals, the buttocks, the anus, the pubic area, or the female breast below the top of the areola;

(ii) masturbation;

(iii) touching of an individual's genitals, the buttocks, the anus, the pubic area, or the female breast; or

(iv) any act of lewdness.

(2) An intent to engage in sexual activity for a fee may be inferred from an individual's engaging in, offering or agreeing to engage in, or requesting or directing another to engage in any of the acts described in Subsection (1)(c) under the totality of the existing circumstances.

(3) Except as provided in Section 76-10-1309 and Subsections (4) and (5), an individual who is convicted of sexual solicitation under this section or under a local ordinance

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adopted in compliance with Section 76-10-1307 is guilty of a class A misdemeanor.

(4) An individual who is convicted a third time under this section or a local ordinance adopted in compliance with Section 76-10-1307 is guilty of a third degree felony.

(5) If an individual commits an act of sexual solicitation and the individual solicited is a child, the offense is a third degree felony if the solicitation does not amount to:

(a) a violation of Section 76-5-308, human trafficking or human smuggling; or

(b) a violation of Section 76-5-310, aggravated human trafficking or aggravated human smuggling.

(6) (a) Upon encountering a child engaged in commercial sex or sexual solicitation, a law enforcement officer shall follow the procedure described in Subsection [~~76-10-1302(3)(b)~~] 76-10-1315(2).

(b) A child engaged in commercial sex or sexual solicitation shall be referred to the Division of Child and Family Services for services and may not be subjected to delinquency proceedings.

(7) A prosecutor may not prosecute an individual for a violation of Subsection (1) if the individual engages in a violation of Subsection (1) at or near the time the individual witnesses or is a victim of any of the offenses or an attempt to commit any of the offenses described in Subsection [~~76-10-1302(5)~~] 76-10-1302(3), and the individual reports the offense or attempt to law enforcement in good faith.

Section 14. Section **76-10-1315** is enacted to read:

76-10-1315. Safe harbor for children as victims in commercial sex or sexual solicitation.

(1) As used in this section:

(a) "Child engaged in commercial sex" means a child who:

(i) engages, offers, or agrees to engage in any sexual activity with another individual for a fee, or the functional equivalent of a fee;

(ii) takes steps in arranging a meeting through any form of advertising, agreeing to meet, and meeting at an arranged place for the purpose of sexual activity in exchange for a fee or the functional equivalent of a fee; or

(iii) loiters in or within view of any public place for the purpose of being hired to engage in sexual activity.

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(b) "Child engaged in sexual solicitation" means a child who offers or agrees to commit or engage in any sexual activity with another person for a fee or the functional equivalent of a fee under Subsection 76-10-1313(1)(a) or (c).

(c) "Division" means the Division of Child and Family Services created in Section 62A-4a-103.

(d) "Receiving center" means the same as that term is defined in Section 62A-7-101.

(2) Upon encountering a child engaged in commercial sex or sexual solicitation, a law enforcement officer shall:

(a) conduct an investigation regarding possible human trafficking of the child pursuant to Sections 76-5-308 and 76-5-308.5;

(b) refer the child to the division;

(c) bring the child to a receiving center, if available; and

(d) contact the child's parent or guardian, if practicable.

(3) When law enforcement refers a child to the division under Subsection (2)(b) the division shall provide services to the child under Title 62A, Chapter 4a, Child and Family Services.

(4) A child may not be subjected to delinquency proceedings for prostitution under Section 76-10-1302, or sex solicitation under Section 76-10-1313.

Section 15. Section **77-41-102** is amended to read:

77-41-102. Definitions.

As used in this chapter:

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

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

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

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

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

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

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(7) "Indian Country" means:

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

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

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

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

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

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

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

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

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

(iv) Section 76-5-308, human trafficking for labor and human smuggling;

(v) Section 76-5-308, human smuggling, when the individual smuggled is under 18 years of age;

(vi) Section 76-5-308.5, human trafficking of a child for labor;

~~(iv)~~ (vii) Section 76-5-310, aggravated human trafficking and aggravated human smuggling, on or after May 10, 2011; [or]

(viii) Section 76-5-311, human trafficking of a vulnerable adult for labor; or

~~(v)~~ (ix) attempting, soliciting, or conspiring to commit any felony offense listed in Subsections (9)(a)(i) through ~~(iv)~~ (iii);

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

(i) a Utah resident; or

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

(17) "Sex offender" means any individual:

(a) convicted in this state of:

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

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

(iii) Section 76-5-308, human trafficking for sexual exploitation;

(iv) Section 76-5-308.5, human trafficking of a child for sexual exploitation;

(v) Section 76-5-310, aggravated human trafficking for sexual exploitation;

(vi) Section 76-5-311, human trafficking of a vulnerable adult for sexual exploitation;

~~(vii)~~ (vii) Section 76-5-401, unlawful sexual activity with a minor, except as provided in Subsection 76-5-401(3)(b) or (c);

~~(viii)~~ (viii) Section 76-5-401.1, sexual abuse of a minor, except as provided in Subsection 76-5-401.1(3);

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

~~(vi)~~ (x) Section 76-5-402, rape;

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

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

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

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

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

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

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

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

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

~~[(xvi)]~~ (xx) Section 76-5b-201, sexual exploitation of a minor;

~~[(xvii)]~~ (xxi) Section 76-5b-204, sexual extortion or aggravated sexual extortion;

~~[(xviii)]~~ (xxii) Section 76-7-102, incest;

~~[(xix)]~~ (xxiii) Section 76-9-702, lewdness, if the individual has been convicted of the offense four or more times;

~~[(xx)]~~ (xxiv) Section 76-9-702.1, sexual battery, if the individual has been convicted of the offense four or more times;

~~[(xxi)]~~ (xxv) any combination of convictions of Section 76-9-702, lewdness, and of Section 76-9-702.1, sexual battery, that total four or more convictions;

~~[(xxii)]~~ (xxvi) Section 76-9-702.5, lewdness involving a child;

~~[(xxiii)]~~ (xxvii) a felony or class A misdemeanor violation of Section 76-9-702.7, voyeurism;

~~[(xxiv)]~~ (xxviii) Section 76-10-1306, aggravated exploitation of prostitution; or

~~[(xxv)]~~ (xxix) attempting, soliciting, or conspiring to commit any felony offense listed in this Subsection (17)(a);

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

(i) a Utah resident; or

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

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

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

(d) who is a nonresident regularly employed or working in this state or who is a student

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in this state and was convicted of one or more offenses listed in Subsection (17)(a), or any substantially equivalent offense in any jurisdiction, or as a result of the conviction, is required to register in the individual's jurisdiction of residence;

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

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

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

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

Section 16. Section **77-41-105** is amended to read:

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

(1) (a) An offender who enters this state from another jurisdiction is required to register under Subsection (3) and Subsection 77-41-102(9) or (17).

(b) The offender shall register with the department within 10 days after the day on which the offender enters the state, regardless of the offender's length of stay.

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

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

(3) (a) Except as provided in Subsections (3)(b), (c), and (4), [~~and Section 77-41-106,~~] an offender shall, for the duration of the sentence and for 10 years after termination of sentence or custody of the division, register each year during the month of the offender's date of birth, during the month that is the sixth month after the offender's birth month, and within three business days after the day on which there is a change of the offender's primary residence, any secondary residences, place of employment, vehicle information, or educational information required to be submitted under Subsection (7).

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(b) Except as provided in Subsections (3)(c)(iii), (4), and (5), [~~and Section 77-41-106,~~] an offender who is convicted in another jurisdiction of an offense listed in Subsection 77-41-102(9)(a) or (17)(a), a substantially similar offense, another offense that requires registration in the jurisdiction of conviction, or an offender who is ordered by a court of another jurisdiction to register as an offender shall:

(i) register for the time period, and in the frequency, required by the jurisdiction where the offender was convicted or ordered to register if:

(A) that jurisdiction's registration period or registration frequency requirement for the offense that the offender was convicted of is greater than the registration period required under Subsection (3)(a), or is more frequent than every six months; or

(B) that jurisdiction's court order requires registration for greater than the registration period required under Subsection (3)(a) or more frequently than every six months; or

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

(c) (i) An offender convicted as an adult of an offense listed in Section 77-41-106 shall, for the offender's lifetime, register each year during the month of the offender's birth, during the month that is the sixth month after the offender's birth month, and also within three business days after the day on which there is a change of the offender's primary residence, any secondary residences, place of employment, vehicle information, or educational information required to be submitted under Subsection (7).

(ii) Except as provided in Subsection (3)(c)(iii), the registration requirement described in Subsection (3)(c)(i) is not subject to exemptions and may not be terminated or altered during the offender's lifetime, unless a petition is granted under Section 77-41-112.

(iii) If the sentencing court determines that the offense does not involve force or coercion, lifetime registration under Subsection (3)(c)(i) does not apply to an offender who commits the offense when the offender is under 21 years of age. For an offense listed in Section 77-41-106, an offender who commits the offense when the offender is under 21 years of age shall register for the registration period required under Subsection (3)(a), unless a petition is granted under Section 77-41-112.

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

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

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

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

(5) (a) Except as provided in Subsection (5)(b), in the case of an offender adjudicated in another jurisdiction as a juvenile and required to register under this chapter, the offender shall register in the time period and in the frequency consistent with the requirements of Subsection (3).

(b) If the jurisdiction of the offender's adjudication does not publish the offender's information on a public website, the department shall maintain, but not publish the offender's information on the registration website.

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

(7) An offender shall provide the department or the registering entity with the following information:

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

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

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

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

(e) a current photograph of the offender;

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

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

(h) telephone numbers and any other designations used by the offender for routing or

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self-identification in telephonic communications from fixed locations or cellular telephones;

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

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

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

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

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

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

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

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

(q) the offender's social security number.

(8) (a) An offender may change the offender's name in accordance with Title 42, Chapter 1, Change of Name, if the name change is not contrary to the interests of the public.

(b) Notwithstanding Section 42-1-2, an offender shall provide notice to the department at least 30 days before the day on which the hearing for the name change is held.

(c) The court shall provide a copy of the order granting the offender's name change to the department within 10 days after the day on which the court issues the order.

(d) If the court orders an offender's name changed, the department shall publish on the registration website the offender's former name, and the offender's changed name as an alias.

(9) Notwithstanding Subsections (7)(i) and (j) and 77-41-103(1)(c), an offender is not required to provide the department with:

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

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(b) online identifiers for the offender's financial accounts, including a bank, retirement, or investment account.

Section 17. Section **77-41-106** is amended to read:

77-41-106. Registerable offenses.

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

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

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

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

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

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

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

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

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

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

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

(3) Section 76-5-308, human trafficking for sexual exploitation;

(4) Section 76-5-308.5, human trafficking of a child for sexual exploitation;

(5) Section 76-5-310, aggravated human trafficking for sexual exploitation;

(6) Section 76-5-311, human trafficking of a vulnerable adult for sexual exploitation;

~~(3)~~ (7) Section 76-4-401, a felony violation of enticing a minor over the Internet;

~~(4)~~ (8) Section 76-5-302, aggravated kidnapping, except if the offender is a natural parent of the victim;

~~(5)~~ (9) Section 76-5-403, forcible sodomy;

~~(6)~~ (10) Section 76-5-404.1, sexual abuse of a child;

~~(7)~~ (11) Section 76-5b-201, sexual exploitation of a minor;

~~(8)~~ (12) Subsection 76-5b-204(4), aggravated sexual extortion; or

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~~[(9)]~~ (13) Section 76-10-1306, aggravated exploitation of prostitution, on or after May 10, 2011.

Section 18. Section **78A-6-1114** is amended to read:

78A-6-1114. Vacatur of adjudications.

(1) (a) A person who has been adjudicated under this chapter may petition the court for vacatur of the person's juvenile court ~~[record]~~ records and any related records in the custody of ~~[the]~~ a state agency if the record relates to:

(i) ~~[the petitioner was adjudicated]~~ a delinquency adjudication under Section 76-10-1302, prostitution, Section 76-10-1304, aiding prostitution, or Section 76-10-1313, sex solicitation; or

(ii) ~~[the]~~ an adjudication that was based on delinquent conduct the petitioner engaged in while subject to force, fraud, or coercion, as defined in Section 76-5-308.

(b) The petitioner shall include in the petition the relevant juvenile court incident number and any agencies known or alleged to have any documents related to the offense for which vacatur is being sought.

(c) The petitioner shall include with the petition the original criminal history report obtained from the Bureau of Criminal Identification in accordance with the provisions of Section 53-10-108.

(d) The petitioner shall send a copy of the petition to the county attorney or, if within a prosecution district, the district attorney.

(e) (i) Upon the filing of a petition, the court shall:

(A) set a date for a hearing;

(B) notify the county attorney or district attorney and the agency with custody of the records at least 30 days prior to the hearing of the pendency of the petition; and

(C) notify the county attorney or district attorney and the agency with records the petitioner is asking the court to vacate of the date of the hearing.

(ii) The court shall provide a victim with the opportunity to request notice of a petition for vacatur. A victim shall receive notice of a petition for vacatur at least 30 days prior to the hearing if, prior to the entry of a vacatur order, the victim or, in the case of a child or a person who is incapacitated or deceased, the victim's next of kin or authorized representative, submits a written and signed request for notice to the court in the judicial district in which the crime

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occurred or judgment was entered. The notice shall include a copy of the petition and statutes and rules applicable to the petition.

(2) (a) At the hearing the petitioner, the county attorney or district attorney, a victim, and any other person who may have relevant information about the petitioner may testify.

(b) (i) In deciding whether to grant a petition for vacatur, the court shall consider whether the petitioner acted subject to force, fraud, or coercion, as defined in Section 76-5-308, at the time of the conduct giving rise to the adjudication.

(ii) If the court finds by a preponderance of the evidence that the petitioner was subject to force, fraud, or coercion, as defined in Section 76-5-308 at the time of the conduct giving rise to the adjudication, the court shall grant vacatur. If the court does not find sufficient evidence, the court shall deny vacatur.

(iii) If the petition is for vacatur of any adjudication under Section 76-10-1302, prostitution, Section 76-10-1304, aiding prostitution, or Section 76-10-1313, sex solicitation, the court shall presumptively grant vacatur unless the petitioner acted as a purchaser of any sexual activity.

(c) If vacatur is granted, the court shall order sealed all of the petitioner's records under the control of the juvenile court and any of the petitioner's records under the control of any other agency or official pertaining to the [~~petitioner's adjudicated juvenile court cases~~] incident identified in the petition, including relevant related records contained in the Management Information System created by Section 62A-4a-1003 and the Licensing Information System created by Section 62A-4a-1005.

(3) (a) The petitioner shall be responsible for service of the order of vacatur to all affected state, county, and local entities, agencies, and officials.

(b) To avoid destruction or sealing of the records in whole or in part, the agency or entity receiving the vacatur order shall only vacate all references to the petitioner's name in the records pertaining to the [~~petitioner's~~] relevant adjudicated juvenile court [~~cases~~] incident.

(4) Upon the entry of the order granting vacatur, the proceedings in the [~~petitioner's case~~] incident identified in the petition shall be considered never to have occurred and the petitioner may properly reply accordingly upon any inquiry in the matter. Inspection of the records may thereafter only be permitted by the court upon petition by the person who is the subject of the records, and only to persons named in the petition.

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(5) The court may not vacate a juvenile court record if the record contains an adjudication of:

- (a) Section 76-5-202, aggravated murder; or
- (b) Section 76-5-203, murder.

Section 19. Section **78B-7-502** is amended to read:

78B-7-502. Definitions.

As used in this part:

- (1) "Cohabitant" means the same as that term is defined in Section 78B-7-102.
- (2) "Dating partner" means the same as that term is defined in Section 78B-7-402.
- (3) "Ex parte sexual violence protective order" means an order issued without notice to the respondent in accordance with the requirements of this part.

(4) "Protective order" means:

- (a) a sexual violence protective order; or
- (b) an ex parte sexual violence protective order.

(5) "Sexual violence" means the commission or the attempt to commit:

(a) any sexual offense described in Title 76, Chapter 5, Part 4, Sexual Offenses, or Title 76, Chapter 5b, Part 2, Sexual Exploitation;

(b) human trafficking for [~~forced~~] sexual exploitation under Section 76-5-308; or

(c) aggravated human trafficking for forced sexual exploitation under Section 76-5-310.

(6) "Sexual violence protective order" means an order issued after notice and a hearing in accordance with the requirements of this part.