

**SEX OFFENDER REGISTRY AMENDMENTS**

2023 GENERAL SESSION

STATE OF UTAH

**Chief Sponsor: Marsha Judkins**

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

**LONG TITLE**

**General Description:**

This bill amends provisions related to individuals required to register for the sex offender registry.

**Highlighted Provisions:**

This bill:

- ▶ defines terms;
- ▶ clarifies that juveniles committing qualifying offenses are still required to comply with registry requirements;
- ▶ adds attempt, solicitation, and conspiracy to commit certain human trafficking offenses to the offenses that qualify for the sex offender registry;
- ▶ clarifies that for purposes of determining a lifetime registration requirement for an offender under 21 years old, a sentencing court may determine at any time after a conviction that the offense did not involve force or coercion;
- ▶ enacts provisions related to juveniles transferred from the custody of the Division of Juvenile Justice Services to the Department of Corrections;
- ▶ specifies the number of days an offender may drive a particular car before that car's information must be reported;
- ▶ requires the Department of Corrections to maintain, but not publish, information on individuals who were under 18 years old when they committed a qualifying offense, unless the offender committed an offense requiring lifetime registration; and



28           ▶ makes technical and conforming changes.

29 **Money Appropriated in this Bill:**

30           None

31 **Other Special Clauses:**

32           None

33 **Utah Code Sections Affected:**

34 AMENDS:

35           **76-3-209**, as last amended by Laws of Utah 2021, Chapter 206

36           **76-5-401**, as last amended by Laws of Utah 2022, Chapter 181

37           **76-5-401.1**, as last amended by Laws of Utah 2022, Chapter 181

38           **76-5-401.3**, as last amended by Laws of Utah 2022, Chapter 181

39           **76-9-702**, as last amended by Laws of Utah 2022, Chapter 181

40           **76-9-702.1**, as last amended by Laws of Utah 2022, Chapter 181

41           **77-41-102**, as last amended by Laws of Utah 2022, Chapters 185, 430

42           **77-41-103**, as last amended by Laws of Utah 2018, Chapter 281

43           **77-41-105**, as last amended by Laws of Utah 2020, Chapter 108

44           **77-41-106**, as last amended by Laws of Utah 2022, Chapters 185, 430

45           **77-41-107**, as last amended by Laws of Utah 2019, Chapter 189

46           **77-41-109**, as last amended by Laws of Utah 2020, Chapter 237

47           **77-41-110**, as enacted by Laws of Utah 2012, Chapter 145 and last amended by

48 Coordination Clause, Laws of Utah 2012, Chapter 382

49           **77-41-113**, as last amended by Laws of Utah 2021, Chapters 206, 334 and 410 and last

50 amended by Coordination Clause, Laws of Utah 2021, Chapter 410

51           **78B-8-302**, as last amended by Laws of Utah 2018, Chapter 298

52           **80-5-201**, as last amended by Laws of Utah 2022, Chapter 155

53 ENACTS:

54           **77-41-114**, Utah Code Annotated 1953



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

57           Section 1. Section **76-3-209** is amended to read:

58           **76-3-209. Limitation on sentencing for crimes committed by juveniles.**

- 59 (1) As used in this section, "qualifying sexual offense" means:
- 60 (a) an offense described in Chapter 5, Part 4, Sexual Offenses;
- 61 (b) Section 76-9-702, lewdness;
- 62 (c) Section 76-9-702.1, sexual battery; or
- 63 (d) Section 76-9-702.5, lewdness involving a child.
- 64 (2) (a) This Subsection (2) only applies prospectively to an individual sentenced on or
- 65 after May 10, 2016.
- 66 (b) Notwithstanding any provision of law, an individual may not be sentenced to life
- 67 without parole if:
- 68 (i) the individual is convicted of a crime punishable by life without parole; and
- 69 (ii) at the time the individual committed the crime, the individual was less than 18
- 70 years old.
- 71 (c) The maximum punishment that may be imposed on an individual described in
- 72 Subsection (2)(b) is an indeterminate prison term of not less than 25 years and that may be for
- 73 life.
- 74 (3) Except as provided in Subsection (4), if an individual is convicted in district court
- 75 of a qualifying sexual offense and, at the time of the offense, the individual was at least 14
- 76 years old, but under 18 years old:
- 77 [~~(a)~~ the individual is not, based on the conviction, subject to the registration
- 78 requirements described in Title 77, Chapter 41, Sex and Kidnap Offender Registry;]
- 79 [~~(b)~~] (a) the district court shall impose a sentence consistent with the disposition that
- 80 would have been made in juvenile court; and
- 81 [~~(c)~~] (b) the district court may not impose incarceration unless the court enters specific
- 82 written findings that incarceration is warranted based on a totality of the circumstances, taking
- 83 into account:
- 84 (i) the time that elapsed after the individual committed the offense;
- 85 (ii) the age of the individual at the time of the offense;
- 86 (iii) the age of the victim at the time of the offense;
- 87 (iv) the criminal history of the individual after the individual committed the offense;
- 88 (v) any treatment assessments or validated risk tools; and
- 89 (vi) public safety concerns.

90 (4) Subsection (3) does not apply if:

91 (a) before the individual described in Subsection (3) is convicted of the qualifying  
92 sexual offense, the individual is convicted of a qualifying sexual offense that the individual  
93 committed when the individual was 18 years old or older; or

94 (b) the individual is convicted in district court, before the victim is 18 years old, of a  
95 violation of Section 76-5-405, aggravated sexual assault.

96 (5) If the district court imposes incarceration under Subsection [~~(3)(c)~~] (3)(b), the term  
97 of incarceration may not exceed:

98 (a) seven years for a violation of Section 76-5-405, aggravated sexual assault;

99 (b) except as provided in Subsection (5)(a), four years for a felony violation of Chapter  
100 5, Part 4, Sexual Offenses; or

101 (c) the maximum sentence described in Section 76-3-204 for:

102 (i) a misdemeanor violation of Chapter 5, Part 4, Sexual Offenses;

103 (ii) a violation of Section 76-9-702, lewdness;

104 (iii) a violation of Section 76-9-702.1, sexual battery; or

105 (iv) a violation of Section 76-9-702.5, lewdness involving a child.

106 Section 2. Section 76-5-401 is amended to read:

107 **76-5-401. Unlawful sexual activity with a minor -- Penalties -- Evidence of age**  
108 **raised by defendant -- Limitations.**

109 (1) (a) As used in this section, "minor" means an individual who is 14 years old or  
110 older, but younger than 16 years old, at the time the sexual activity described in Subsection (2)  
111 occurred.

112 (b) Terms defined in Section 76-1-101.5 apply to this section.

113 (2) (a) Under circumstances not amounting to an offense listed in Subsection (4), an  
114 actor 18 years old or older commits unlawful sexual activity with a minor if the actor:

115 (i) has sexual intercourse with the minor;

116 (ii) engages in any sexual act with the minor involving the genitals of an individual and  
117 the mouth or anus of another individual; or

118 (iii) causes the penetration, however slight, of the genital or anal opening of the minor  
119 by a foreign object, substance, instrument, or device, including a part of the human body, with  
120 the intent to cause substantial emotional or bodily pain to any individual or with the intent to

121 arouse or gratify the sexual desire of any individual.

122 (b) Any touching, however slight, is sufficient to constitute the relevant element of a  
123 violation of Subsection (2)(a)(ii).

124 (3) (a) A violation of Subsection (2) is a third degree felony.

125 (b) (i) Notwithstanding Subsection (3)(a) or (c), if the defendant establishes by a  
126 preponderance of the evidence the mitigating factor that the defendant is less than four years  
127 older than the minor at the time the sexual activity occurred, the offense is a class B  
128 misdemeanor.

129 (ii) An offense under Subsection (3)(b)(i) is not subject to registration under  
130 Subsection [~~77-41-102(17)(a)(vii).~~] 77-41-102(18)(a)(vii).

131 (c) (i) Notwithstanding Subsection (3)(a), if the defendant establishes by a  
132 preponderance of the evidence the mitigating factor that the defendant was younger than 21  
133 years old at the time the sexual activity occurred, the offense is a class A misdemeanor.

134 (ii) An offense under Subsection (3)(c)(i) is not subject to registration under  
135 Subsection [~~77-41-102(17)(a)(vii).~~] 77-41-102(18)(a)(vii).

136 (4) The offenses referred to in Subsection (2)(a) are:

137 (a) rape, in violation of Section 76-5-402;

138 (b) object rape, in violation of Section 76-5-402.2;

139 (c) forcible sodomy, in violation of Section 76-5-403;

140 (d) aggravated sexual assault, in violation of Section 76-5-405; or

141 (e) an attempt to commit an offense listed in Subsections (4)(a) through (4)(d).

142 Section 3. Section **76-5-401.1** is amended to read:

143 **76-5-401.1. Sexual abuse of a minor -- Penalties -- Limitations.**

144 (1) (a) As used in this section:

145 (i) "Indecent liberties" means:

146 (A) the actor touching another individual's genitals, anus, buttocks, pubic area, or  
147 female breast;

148 (B) causing any part of an individual's body to touch the actor's or another's genitals,  
149 pubic area, anus, buttocks, or female breast;

150 (C) simulating or pretending to engage in sexual intercourse with another individual,  
151 including genital-genital, oral-genital, anal-genital, or oral-anal intercourse; or

152 (D) causing an individual to simulate or pretend to engage in sexual intercourse with  
153 the actor or another, including genital-genital, oral-genital, anal-genital, or oral-anal  
154 intercourse.

155 (ii) "Minor" means an individual who is 14 years old or older, but younger than 16  
156 years old, at the time the sexual activity described in Subsection (2) occurred.

157 (b) Terms defined in Section 76-1-101.5 apply to this section.

158 (2) (a) Under circumstances not amounting to an offense listed in Subsection (4), an  
159 actor commits sexual abuse of a minor if the actor:

160 (i) is four years or more older than the minor; and

161 (ii) with the intent to cause substantial emotional or bodily pain to any individual, or  
162 with the intent to arouse or gratify the sexual desire of any individual:

163 (A) touches the anus, buttocks, pubic area, or any part of the genitals of the minor;

164 (B) touches the breast of a female minor; or

165 (C) otherwise takes indecent liberties with the minor.

166 (b) Any touching, even if accomplished through clothing, is sufficient to constitute the  
167 relevant element of a violation of Subsection (2)(a).

168 (3) A violation of Subsection (2)(a) is:

169 (a) a class A misdemeanor; and

170 (b) not subject to registration under Subsection [~~77-41-102(17)(a)(viii)~~]

171 77-41-102(18)(a)(viii) on a first offense if the offender was younger than 21 years old at the  
172 time of the offense.

173 (4) The offenses referred to in Subsection (2)(a) are:

174 (a) unlawful sexual activity with a minor, in violation of Section 76-5-401;

175 (b) rape, in violation of Section 76-5-402;

176 (c) object rape, in violation of Section 76-5-402.2;

177 (d) forcible sodomy, in violation of Section 76-5-403;

178 (e) aggravated sexual assault, in violation of Section 76-5-405; or

179 (f) an attempt to commit an offense listed in Subsections (4)(a) through (e).

180 Section 4. Section 76-5-401.3 is amended to read:

181 **76-5-401.3. Unlawful adolescent sexual activity -- Penalties -- Limitations.**

182 (1) (a) As used in this section, "adolescent" means an individual in the transitional

183 phase of human physical and psychological growth and development between childhood and  
184 adulthood who is 12 years old or older, but younger than 18 years old.

185 (b) Terms defined in Section 76-1-101.5 apply to this section.

186 (2) Under circumstances not amounting to an offense listed in Subsection (4), an actor  
187 commits unlawful sexual activity if the actor:

188 (a) is an adolescent; and

189 (b) has sexual activity with another adolescent.

190 (3) A violation of Subsection (2) is a:

191 (a) third degree felony if an actor who is 17 years old engages in unlawful adolescent  
192 sexual activity with an adolescent who is 12 or 13 years old;

193 (b) third degree felony if an actor who is 16 years old engages in unlawful adolescent  
194 sexual activity with an adolescent who is 12 years old;

195 (c) class A misdemeanor if an actor who is 16 years old engages in unlawful adolescent  
196 sexual activity with an adolescent who is 13 years old;

197 (d) class A misdemeanor if an actor who is 14 or 15 years old engages in unlawful  
198 adolescent sexual activity with an adolescent who is 12 years old;

199 (e) class B misdemeanor if an actor who is 17 years old engages in unlawful adolescent  
200 sexual activity with an adolescent who is 14 years old;

201 (f) class B misdemeanor if an actor who is 15 years old engages in unlawful adolescent  
202 sexual activity with an adolescent who is 13 years old;

203 (g) class C misdemeanor if an actor who is 12 or 13 years old engages in unlawful  
204 adolescent sexual activity with an adolescent who is 12 or 13 years old; and

205 (h) class C misdemeanor if an actor who is 14 years old engages in unlawful adolescent  
206 sexual activity with an adolescent who is 13 years old.

207 (4) The offenses referred to in Subsection (2) are:

208 (a) rape, in violation of Section 76-5-402;

209 (b) rape of a child, in violation of Section 76-5-402.1;

210 (c) object rape, in violation of Section 76-5-402.2;

211 (d) object rape of a child, in violation of Section 76-5-402.3;

212 (e) forcible sodomy, in violation of Section 76-5-403;

213 (f) sodomy on a child, in violation of Section 76-5-403.1;

- 214 (g) sexual abuse of a child, in violation of Section 76-5-404;
- 215 (h) aggravated sexual assault, in violation of Section 76-5-405;
- 216 (i) incest, in violation of Section 76-7-102; or
- 217 (j) an attempt to commit any offense listed in Subsections (4)(a) through (4)(i).
- 218 (5) An offense under this section is not eligible for a nonjudicial adjustment under
- 219 Section 80-6-304 or a referral to a youth court under Section 80-6-902.
- 220 (6) Except for an offense that is transferred to a district court by the juvenile court in
- 221 accordance with Section 80-6-504, the district court may enter any sentence or combination of
- 222 sentences that would have been available in juvenile court but for the delayed reporting or
- 223 delayed filing of the information in the district court.
- 224 (7) An offense under this section is not subject to registration under Subsection
- 225 ~~77-41-102(17)~~ 77-41-102(18).
- 226 Section 5. Section 76-9-702 is amended to read:
- 227 **76-9-702. Lewdness.**
- 228 (1) A person is guilty of lewdness if the person under circumstances not amounting to
- 229 rape, object rape, forcible sodomy, forcible sexual abuse, aggravated sexual assault, sexual
- 230 abuse of a minor, unlawful sexual conduct with a 16- or 17-year-old, custodial sexual relations
- 231 under Section 76-5-412, custodial sexual misconduct under Section 76-5-412.2, custodial
- 232 sexual relations with youth receiving state services under Section 76-5-413, custodial sexual
- 233 misconduct with youth receiving state services under Section 76-5-413.2, or an attempt to
- 234 commit any of these offenses, performs any of the following acts in a public place or under
- 235 circumstances which the person should know will likely cause affront or alarm to, on, or in the
- 236 presence of another who is 14 years old or older:
  - 237 (a) an act of sexual intercourse or sodomy;
  - 238 (b) exposes his or her genitals, the female breast below the top of the areola, the
  - 239 buttocks, the anus, or the pubic area;
  - 240 (c) masturbates; or
  - 241 (d) any other act of lewdness.
- 242 (2) (a) A person convicted the first or second time of a violation of Subsection (1) is
- 243 guilty of a class B misdemeanor, except under Subsection (2)(b).
- 244 (b) A person convicted of a violation of Subsection (1) is guilty of a third degree felony



245 if at the time of the violation:

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

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

249 (iii) the person has previously been convicted of a violation of Subsection (1) and has  
250 also previously been convicted of a violation of Section [76-9-702.5](#).

251 (c) (i) For purposes of this Subsection (2) and Subsection [~~77-41-102(17)~~]  
252 [77-41-102\(18\)](#), a plea of guilty or nolo contendere to a charge under this section that is held in  
253 abeyance under Title 77, Chapter 2a, Pleas in Abeyance, is the equivalent of a conviction.

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

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

259 Section 6. Section **76-9-702.1** is amended to read:

260 **76-9-702.1. Sexual battery.**

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

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

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

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

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

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

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

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

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

274 (h) sexual abuse of a child, Section [76-5-404.1](#);

275 (i) aggravated sexual abuse of a child, Section [76-5-404.3](#);

276 (j) aggravated sexual assault, Section [76-5-405](#); and  
 277 (k) an attempt to commit any offense under this Subsection (2).  
 278 (3) Sexual battery is a class A misdemeanor.  
 279 (4) (a) For purposes of Subsection [~~77-41-102(17)~~] [77-41-102\(18\)](#) only, a plea of guilty  
 280 or nolo contendere to a charge under this section that is held in abeyance under Title 77,  
 281 Chapter 2a, Pleas in Abeyance, is the equivalent of a conviction.

282 (b) This Subsection (4) also applies if the charge under this section has been  
 283 subsequently reduced or dismissed in accordance with the plea in abeyance agreement.

284 Section 7. Section **77-41-102** is amended to read:

285 **77-41-102. Definitions.**

286 As used in this chapter:

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

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

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

292 (4) (a) "Convicted" means a plea or conviction of:

293 (i) guilty;

294 (ii) guilty with a mental illness; or

295 (iii) no contest.

296 (b) "Convicted" includes, unless otherwise specified, the period a plea is held in  
 297 abeyance pursuant to a plea in abeyance agreement as defined in Section [77-2a-1](#).

298 (c) "Convicted" does not include:

299 (i) a withdrawn or dismissed plea in abeyance;

300 (ii) a diversion agreement; or

301 (iii) an adjudication of a minor for an offense under Section [80-6-701](#).

302 [~~4~~] (5) "Department" means the Department of Corrections.

303 [~~5~~] (6) "Division" means the Division of Juvenile Justice Services.

304 [~~6~~] (7) "Employed" or "carries on a vocation" includes employment that is full time  
 305 or part time, whether financially compensated, volunteered, or for the purpose of government  
 306 or educational benefit.

307           ~~[(7)]~~ (8) "Indian Country" means:

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

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

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

316           ~~[(8)]~~ (9) "Jurisdiction" means any state, Indian Country, United States Territory, or any  
317 property under the jurisdiction of the United States military, Canada, the United Kingdom,  
318 Australia, or New Zealand.

319           ~~[(9)]~~ (10) "Kidnap offender" means any individual, other than a natural parent of the  
320 victim:

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

322           (i) Subsection 76-5-301(2)(c) or (d), kidnapping;

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

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

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

326           (v) Section 76-5-308.3, human smuggling;

327           (vi) Section 76-5-308, human smuggling, when the individual smuggled is under 18  
328 years old;

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

330           (viii) Section 76-5-310, aggravated human trafficking;

331           (ix) Section 76-5-310.1, aggravated human smuggling;

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

333           (xi) attempting, soliciting, or conspiring to commit any felony offense listed in

334 Subsections ~~[(9)(a)(i)]~~ (10)(a)(i) through ~~[(iii);]~~ (x);

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

338 (ii) who is:  
339 (A) a Utah resident; or  
340 (B) not a Utah resident, but who, in any 12-month period, is in this state for a total of  
341 10 or more days, regardless of whether or not the offender intends to permanently reside in this  
342 state;  
343 (c) (i) (A) who is required to register as a kidnap offender in any other jurisdiction of  
344 original conviction;  
345 (B) who is required to register as a kidnap offender by any state, federal, or military  
346 court; or  
347 (C) who would be required to register as a kidnap offender if residing in the  
348 jurisdiction of the conviction regardless of the date of the conviction or any previous  
349 registration requirements; and  
350 (ii) in any 12-month period, who is in this state for a total of 10 or more days,  
351 regardless of whether or not the offender intends to permanently reside in this state;  
352 (d) (i) (A) who is a nonresident regularly employed or working in this state; or  
353 (B) who is a student in this state; and  
354 (ii) (A) who was convicted of one or more offenses listed in Subsection [~~(9)~~] (10), or  
355 any substantially equivalent offense in another jurisdiction; or  
356 (B) as a result of the conviction, who is required to register in the individual's state of  
357 residence;  
358 (e) who is found not guilty by reason of insanity in this state or in any other jurisdiction  
359 of one or more offenses listed in Subsection [~~(9)~~] (10); or  
360 (f) (i) who is adjudicated under Section 80-6-701 for one or more offenses listed in  
361 Subsection [~~(9)(a)~~] (10)(a); and  
362 (ii) who has been committed to the division for secure care, as defined in Section  
363 80-1-102, for that offense [~~and~~] if:  
364 (A) the individual remains in the division's custody until 30 days before the individual's  
365 21st birthday; [~~or~~]  
366 (B) [if] the juvenile court extended the juvenile court's jurisdiction over the individual  
367 under Section 80-6-605[;] and the individual remains in the division's custody until 30 days  
368 before the individual's 25th birthday; or

369 (C) the individual is moved from the division's custody to the custody of the  
370 department before expiration of the division's jurisdiction over the individual.

371 ~~[(10)]~~ (11) "Natural parent" means a minor's biological or adoptive parent, and  
372 includes the minor's noncustodial parent.

373 ~~[(11)]~~ (12) "Offender" means a kidnap offender as defined in Subsection ~~[(9)]~~ (10) or a  
374 sex offender as defined in Subsection ~~[(17)]~~ (18).

375 ~~[(12)]~~ (13) "Online identifier" or "Internet identifier":

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

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

380 ~~[(13)]~~ (14) "Primary residence" means the location where the offender regularly  
381 resides, even if the offender intends to move to another location or return to another location at  
382 any future date.

383 ~~[(14)]~~ (15) "Register" means to comply with the requirements of this chapter and  
384 administrative rules of the department made under this chapter.

385 ~~[(15)]~~ (16) "Registration website" means the Sex and Kidnap Offender Notification  
386 and Registration website described in Section 77-41-110 and the information on the website.

387 ~~[(16)]~~ (17) "Secondary residence" means any real property that the offender owns or  
388 has a financial interest in, or any location where, in any 12-month period, the offender stays  
389 overnight a total of 10 or more nights when not staying at the offender's primary residence.

390 ~~[(17)]~~ (18) "Sex offender" means any individual:

391 (a) convicted in this state of:

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

393 (ii) Section 76-5b-202, sexual exploitation of a vulnerable adult;

394 (iii) Section 76-5-308.1, human trafficking for sexual exploitation;

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

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

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

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

- 400 (viii) Section 76-5-401.1, sexual abuse of a minor, except as provided in Subsection
- 401 76-5-401.1(3);
- 402 (ix) Section 76-5-401.2, unlawful sexual conduct with a 16 or 17 year old;
- 403 (x) Section 76-5-402, rape;
- 404 (xi) Section 76-5-402.1, rape of a child;
- 405 (xii) Section 76-5-402.2, object rape;
- 406 (xiii) Section 76-5-402.3, object rape of a child;
- 407 (xiv) a felony violation of Section 76-5-403, forcible sodomy;
- 408 (xv) Section 76-5-403.1, sodomy on a child;
- 409 (xvi) Section 76-5-404, forcible sexual abuse;
- 410 (xvii) Section 76-5-404.1, sexual abuse of a child, or Section 76-5-404.3, aggravated
- 411 sexual abuse of a child;
- 412 (xviii) Section 76-5-405, aggravated sexual assault;
- 413 (xix) Section 76-5-412, custodial sexual relations, when the individual in custody is
- 414 younger than 18 years old, if the offense is committed on or after May 10, 2011;
- 415 (xx) Section 76-5b-201, sexual exploitation of a minor;
- 416 (xxi) Section 76-5b-201.1, aggravated sexual exploitation of a minor;
- 417 (xxii) Section 76-5b-204, sexual extortion or aggravated sexual extortion;
- 418 (xxiii) Section 76-7-102, incest;
- 419 (xxiv) Section 76-9-702, lewdness, if the individual has been convicted of the offense
- 420 four or more times;
- 421 (xxv) Section 76-9-702.1, sexual battery, if the individual has been convicted of the
- 422 offense four or more times;
- 423 (xxvi) any combination of convictions of Section 76-9-702, lewdness, and of Section
- 424 76-9-702.1, sexual battery, that total four or more convictions;
- 425 (xxvii) Section 76-9-702.5, lewdness involving a child;
- 426 (xxviii) a felony or class A misdemeanor violation of Section 76-9-702.7, voyeurism;
- 427 (xxix) Section 76-10-1306, aggravated exploitation of prostitution; or
- 428 (xxx) attempting, soliciting, or conspiring to commit any felony offense listed in this
- 429 Subsection [~~(17)~~(a)] (18)(a);
- 430 (b) (i) who has been convicted of any crime, or an attempt, solicitation, or conspiracy

431 to commit a crime in another jurisdiction, including any state, federal, or military court that is  
432 substantially equivalent to the offenses listed in Subsection [~~(17)(a)~~;] (18)(a); and  
433 (ii) who is:  
434 (A) a Utah resident; or  
435 (B) not a Utah resident, but who, in any 12-month period, is in this state for a total of  
436 10 or more days, regardless of whether the offender intends to permanently reside in this state;  
437 (c) (i) (A) who is required to register as a sex offender in any other jurisdiction of  
438 original conviction;  
439 (B) who is required to register as a sex offender by any state, federal, or military court;  
440 or  
441 (C) who would be required to register as a sex offender if residing in the jurisdiction of  
442 the original conviction regardless of the date of the conviction or any previous registration  
443 requirements; and  
444 (ii) who, in any 12-month period, is in the state for a total of 10 or more days,  
445 regardless of whether or not the offender intends to permanently reside in this state;  
446 (d) (i) (A) who is a nonresident regularly employed or working in this state; or  
447 (B) who is a student in this state; and  
448 (ii) (A) who was convicted of one or more offenses listed in Subsection [~~(17)(a)~~]  
449 (18)(a), or any substantially equivalent offense in any jurisdiction; or  
450 (B) who is, as a result of the conviction, required to register in the individual's  
451 jurisdiction of residence;  
452 (e) who is found not guilty by reason of insanity in this state, or in any other  
453 jurisdiction of one or more offenses listed in Subsection [~~(17)(a)~~;] (18)(a); or  
454 (f) (i) who is adjudicated under Section 80-6-701 for one or more offenses listed in  
455 Subsection [~~(17)(a)~~;] (18)(a); and  
456 (ii) who has been committed to the division for secure care, as defined in Section  
457 80-1-102, for that offense [~~and~~] if:  
458 (A) the individual remains in the division's custody until 30 days before the individual's  
459 21st birthday; [~~or~~]  
460 (B) [~~if~~] the juvenile court extended the juvenile court's jurisdiction over the individual  
461 under Section 80-6-605[;] and the individual remains in the division's custody until 30 days

462 before the individual's 25th birthday[-]; or

463 (C) the individual is moved from the division's custody to the custody of the  
464 department before expiration of the division's jurisdiction over the individual.

465 [~~(18)~~] (19) "Traffic offense" does not include a violation of Title 41, Chapter 6a, Part 5,  
466 Driving Under the Influence and Reckless Driving.

467 [~~(19)~~] (20) "Vehicle" means any motor vehicle, aircraft, or watercraft subject to  
468 registration in any jurisdiction.

469 Section 8. Section 77-41-103 is amended to read:

470 **77-41-103. Department duties.**

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

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

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

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

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

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

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

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

484 (b) the arrest of a person suspected of any of the offenses listed in Subsection  
485 [~~77-41-102(9) or (17)~~] 77-41-102(10) or (18), within five business days.

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

490 (4) Upon modifying, withdrawing, setting aside, vacating, or otherwise altering a  
491 conviction for any offense listed in Subsection [~~77-41-102(9) or (17)~~] 77-41-102(10) or (18),  
492 the court shall, within three business days, forward a signed copy of the order to the Sex and



493 Kidnap Offender Registry office within the Department of Corrections.

494 (5) The department may intervene in any matter, including a criminal action, where the  
495 matter purports to affect a person's lawfully entered registration requirement.

496 (6) The department shall:

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

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

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

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

501 (b) maintain the Sex Offender and Kidnap Offender Notification and Registration  
502 website; and

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

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

508 (B) promptly made available to the district superintendent of the school district where  
509 the offender is employed if the educational institution is an institution of primary education;  
510 and

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

512 Section 9. Section **77-41-105** is amended to read:

513 **77-41-105. Registration of offenders -- Offender responsibilities.**

514 (1) (a) An offender who enters this state from another jurisdiction is required to register  
515 under Subsection (3) and Subsection [~~77-41-102(9) or (17)~~] 77-41-102(10) or (18).

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

518 (2) (a) An offender required to register under Subsection [~~77-41-102(9) or (17)~~]  
519 77-41-102(10) or (18) who is under supervision by the department shall register in person with  
520 Division of Adult Probation and Parole.

521 (b) An offender required to register under Subsection [~~77-41-102(9) or (17)~~]  
522 77-41-102(10) or (18) who is no longer under supervision by the department shall register in  
523 person with the police department or sheriff's office that has jurisdiction over the area where

524 the offender resides.

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

532 (b) Except as provided in Subsections (3)(c)(iii), (4), and (5), an offender who is  
533 convicted in another jurisdiction of an offense listed in Subsection [~~77-41-102(9)(a) or (17)(a)~~]  
534 77-41-102(10)(a) or (18)(a), a substantially similar offense, another offense that requires  
535 registration in the jurisdiction of conviction, or an offender who is ordered by a court of  
536 another jurisdiction to register as an offender shall:

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

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

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

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

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

554 (ii) Except as provided in Subsection (3)(c)(iii), the registration requirement described

555 in Subsection (3)(c)(i) is not subject to exemptions and may not be terminated or altered during  
556 the offender's lifetime, unless a petition is granted under Section 77-41-112.

557 (iii) (A) If the sentencing court at any time after conviction determines that the offense  
558 does not involve force or coercion, lifetime registration under Subsection (3)(c)(i) does not  
559 apply to an offender who commits the offense when the offender is under 21 years of age.

560 (B) For an offense listed in Section 77-41-106, an offender who commits the offense  
561 when the offender is under 21 years of age shall register for the registration period required  
562 under Subsection (3)(a), unless a petition is granted under Section 77-41-112.

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

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

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

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

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

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

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

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

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

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

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

- 586 hair color;
- 587 (d) the make, model, color, year, plate number, and vehicle identification number of a
- 588 vehicle or vehicles the offender owns or [~~regularly~~] drives more than 12 times per year;
- 589 (e) a current photograph of the offender;
- 590 (f) a set of fingerprints, if one has not already been provided;
- 591 (g) a DNA specimen, taken in accordance with Section 53-10-404, if one has not
- 592 already been provided;
- 593 (h) telephone numbers and any other designations used by the offender for routing or
- 594 self-identification in telephonic communications from fixed locations or cellular telephones;
- 595 (i) Internet identifiers and the addresses the offender uses for routing or
- 596 self-identification in Internet communications or postings;
- 597 (j) the name and Internet address of all websites on which the offender is registered
- 598 using an online identifier, including all online identifiers used to access those websites;
- 599 (k) a copy of the offender's passport, if a passport has been issued to the offender;
- 600 (l) if the offender is an alien, all documents establishing the offender's immigration
- 601 status;
- 602 (m) all professional licenses that authorize the offender to engage in an occupation or
- 603 carry out a trade or business, including any identifiers, such as numbers;
- 604 (n) each educational institution in Utah at which the offender is employed, carries on a
- 605 vocation, or is a student, and a change of enrollment or employment status of the offender at an
- 606 educational institution;
- 607 (o) the name, the telephone number, and the address of a place where the offender is
- 608 employed or will be employed;
- 609 (p) the name, the telephone number, and the address of a place where the offender
- 610 works as a volunteer or will work as a volunteer; and
- 611 (q) the offender's social security number.
- 612 (8) (a) An offender may change the offender's name in accordance with Title 42,
- 613 Chapter 1, Change of Name, if the name change is not contrary to the interests of the public.
- 614 (b) Notwithstanding Section 42-1-2, an offender shall provide notice to the department
- 615 at least 30 days before the day on which the hearing for the name change is held.
- 616 (c) The court shall provide a copy of the order granting the offender's name change to

617 the department within 10 days after the day on which the court issues the order.

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

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

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

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

627 Section 10. Section [77-41-106](#) is amended to read:

628 **[77-41-106. Offenses requiring lifetime registration.](#)**

629 Offenses referred to in Subsection [77-41-105\(3\)\(c\)\(i\)](#) are:

630 (1) any offense listed in Subsection [~~[77-41-102\(9\)](#)~~ or ~~(17)~~] [77-41-102\(10\)](#) or (18) if, at  
631 the time of the conviction, the offender has previously been convicted of an offense listed in  
632 Subsection [~~[77-41-102\(9\)](#)~~ or ~~(17)~~] [77-41-102\(10\)](#) or (18) or has previously been required to  
633 register as a sex offender for an offense committed as a juvenile;

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

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

638 (b) Section [76-5-402](#), rape;

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

640 (d) Section [76-5-402.2](#), object rape;

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

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

643 (g) Section [76-5-404.3](#), aggravated sexual abuse of a child; or

644 (h) Section [76-5-405](#), aggravated sexual assault;

645 (3) Section [76-5-308.1](#), human trafficking for sexual exploitation;

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

647 (5) Section [76-5-310](#), aggravated human trafficking for sexual exploitation;

- 648 (6) Section 76-5-311, human trafficking of a vulnerable adult for sexual exploitation;
- 649 (7) Section 76-4-401, a felony violation of enticing a minor over the Internet;
- 650 (8) Section 76-5-302, aggravated kidnapping, except if the offender is a natural parent
- 651 of the victim;
- 652 (9) Section 76-5-403, forcible sodomy;
- 653 (10) Section 76-5-404.1, sexual abuse of a child;
- 654 (11) Section 76-5b-201, sexual exploitation of a minor;
- 655 (12) Section 76-5b-201.1, aggravated sexual exploitation of a minor;
- 656 (13) Subsection 76-5b-204(2)(b), aggravated sexual extortion; or
- 657 (14) Section 76-10-1306, aggravated exploitation of prostitution, on or after May 10,
- 658 2011.

659 Section 11. Section 77-41-107 is amended to read:

660 **77-41-107. Penalties.**

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

663 (a) a third degree felony and shall be sentenced to serve a term of incarceration for not  
664 less than 30 days and also at least one year of probation if:

665 (i) the offender is required to register for a felony conviction or adjudicated delinquent  
666 for what would be a felony if the juvenile were an adult of an offense listed in Subsection  
667 [~~77-41-102(9)(a) or (17)(a)~~] 77-41-102(10)(a) or (18)(a); or

668 (ii) the offender is required to register for the offender's lifetime under Subsection  
669 77-41-105(3)(c); or

670 (b) a class A misdemeanor and shall be sentenced to serve a term of incarceration for  
671 not fewer than 30 days and also at least one year of probation if the offender is required to  
672 register for a misdemeanor conviction or is adjudicated delinquent for what would be a  
673 misdemeanor if the juvenile were an adult of an offense listed in Subsection [~~77-41-102(9)(a)~~  
674 ~~or (17)(a)~~] 77-41-102(10)(a) or (18)(a).

675 (2) (a) Neither the court nor the Board of Pardons and Parole may release an individual  
676 who violates this chapter from serving the term required under Subsection (1).

677 (b) This Subsection (2) supersedes any other provision of the law contrary to this  
678 chapter.

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

681 Section 12. Section **77-41-109** is amended to read:

682 **77-41-109. Miscellaneous provisions.**

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

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

690 (2) Notwithstanding Title 77, Chapter 40a, Expungement, a person convicted of any  
691 offense listed in Subsection [~~77-41-102(9) or (17)~~] 77-41-102(10) or (18) is not relieved from  
692 the responsibility to register as required under this section, unless the offender is removed from  
693 the registry under Section 77-41-112 or Section 77-41-113.

694 Section 13. Section **77-41-110** is amended to read:

695 **77-41-110. Sex offender and kidnap offender registry -- Department to maintain.**

696 (1) The department shall maintain a Sex Offender and Kidnap Offender Notification  
697 and Registration website on the Internet, which shall contain a disclaimer informing the public:

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

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

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

704 (2) The Sex Offender and Kidnap Offender Notification and Registration website shall  
705 be indexed by both the surname of the offender and by postal codes.

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

709 (4) Except as provided in Subsection (5), the Sex Offender and Kidnap Offender

710 Notification and Registration website shall include the following registry information:

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

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

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

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

718 (e) a current photograph of the offender;

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

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

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

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

727 (5) The department, its personnel, and any individual or entity acting at the request or  
728 upon the direction of the department are immune from civil liability for damages for good faith  
729 compliance with this chapter and will be presumed to have acted in good faith by reporting  
730 information.

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

733 Section 14. Section **77-41-113** is amended to read:

734 **77-41-113. Removal for offenses or convictions for which registration is no longer**  
735 **required.**

736 (1) The department shall automatically remove an individual who is currently on the  
737 Sex and Kidnap Offender Registry because of a conviction if:

738 (a) the only offense or offenses for which the individual is on the registry are listed in  
739 Subsection (2); or

740 (b) the department receives a formal notification or order from the court or the Board



741 of Pardons and Parole that the conviction for the offense or offenses for which the individual is  
742 on the registry have been reversed, vacated, or pardoned.

743 (2) The offenses described in Subsection (1)(a) are:

744 (a) a class B or class C misdemeanor for enticing a minor, Section 76-4-401;

745 (b) kidnapping, based upon Subsection 76-5-301(2)(a) or (b);

746 (c) child kidnapping, Section 76-5-301.1, if the offender was the natural parent of the  
747 child victim;

748 (d) unlawful detention, Section 76-5-304;

749 (e) a third degree felony for unlawful sexual intercourse before 1986, or a class B  
750 misdemeanor for unlawful sexual intercourse, Section 76-5-401; or

751 (f) sodomy, but not forcible sodomy, Section 76-5-403[; or].

752 [~~g) unless the offender is an individual described in Subsection 77-41-102(9)(f) or~~  
753 ~~(17)(f), an offense committed in Utah before the offender is 18 years old.]~~

754 (3) (a) The department shall notify an individual who has been removed from the  
755 registry in accordance with Subsection (1).

756 (b) The notice described in Subsection (3)(a) shall include a statement that the  
757 individual is no longer required to register as a sex offender.

758 (4) An individual who is currently on the Sex and Kidnap Offender Registry may  
759 submit a request to the department to be removed from the registry if the individual believes  
760 that the individual qualifies for removal under this section.

761 (5) The department, upon receipt of a request for removal from the registry shall:

762 (a) check the registry for the individual's current status;

763 (b) determine whether the individual qualifies for removal based upon this section; and

764 (c) notify the individual in writing of the department's determination and whether the  
765 individual:

766 (i) qualifies for removal from the registry; or

767 (ii) does not qualify for removal.

768 (6) If the department determines that the individual qualifies for removal from the  
769 registry, the department shall remove the offender from the registry.

770 (7) If the department determines that the individual does not qualify for removal from  
771 the registry, the department shall provide an explanation in writing for the department's

772 determination. The department's determination is final and not subject to administrative review.

773 (8) Neither the department nor any employee may be civilly liable for a determination  
774 made in good faith in accordance with this section.

775 (9) The department shall provide a response to a request for removal within 30 days of  
776 receipt of the request. If the response cannot be provided within 30 days, the department shall  
777 notify the individual that the response may be delayed up to 30 additional days.

778 Section 15. Section **77-41-114** is enacted to read:

779 **77-41-114. Registration for individuals under 18 years old at the time of the**  
780 **offense.**

781 (1) Except for an offender who is subject to lifetime registration under Subsection  
782 77-41-106(1), the department shall, if the offender was under 18 years old at the time of the  
783 offense, maintain, but not publish, the offender's information on the registration website for an  
784 offense listed in Subsection 77-41-102(10)(a), (e), or (f) or 77-41-102(18)(a), (e), or (f).

785 (2) (a) If, based on the information provided to the department by the sentencing court,  
786 prosecuting entity, offender, or offender's counsel, the department cannot determine if the  
787 offender is eligible for an exemption to publication on the registration website as described in  
788 Subsection (1), the department shall continue to publish the offender's information on the  
789 registration website.

790 (b) Information may be provided to the department at any time in order to clarify the  
791 offender's age at the time of the offense.

792 (c) This section does not prohibit the department from seeking or receiving information  
793 from individuals or entities other than those identified in Subsection (2)(a).

794 (3) This section applies to offenders with a registration requirement on or after May 3,  
795 2023, regardless of when the offender was first required to register.

796 Section 16. Section **78B-8-302** is amended to read:

797 **78B-8-302. Process servers.**

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

799 (a) 18 years [~~of age~~] old or older at the time of service; and

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

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

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

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

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

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

808 and

809 (e) a private investigator licensed in accordance with Title 53, Chapter 9, Private  
810 Investigator Regulation Act.

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

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

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

816 (i) the investigator's name;

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

818 (iii) the name and address of the agency employing the investigator or, if the

819 investigator is self-employed, the address of the investigator's place of business;

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

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

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

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

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

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

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

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

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

832 ~~[77-41-102\(17\)](#)~~ [77-41-102\(18\)](#); or

833 (b) a person who is a respondent in a proceeding described in Title 78B, Chapter 7,

834 Protective Orders and Stalking Injunctions, in which a court has granted the petitioner a  
835 protective order.

836 (7) A person serving process shall:

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

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

841 (c) sign the return of service in substantial compliance with Title 78B, Chapter 18a,  
842 Uniform Unsworn Declarations Act;

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

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

847 Section 17. Section **80-5-201** is amended to read:

848 **80-5-201. Division responsibilities.**

849 (1) The division is responsible for all minors committed to the division by juvenile  
850 courts under Sections [80-6-703](#) and [80-6-705](#).

851 (2) The division shall:

852 (a) establish and administer a continuum of community, secure, and nonsecure  
853 programs for all minors committed to the division;

854 (b) establish and maintain all detention and secure care facilities and set minimum  
855 standards for all detention and secure care facilities;

856 (c) establish and operate prevention and early intervention youth services programs for  
857 nonadjudicated minors placed with the division;

858 (d) establish observation and assessment programs necessary to serve minors in a  
859 nonresidential setting under Subsection [80-6-706\(1\)](#);

860 (e) place minors committed to the division under Section [80-6-703](#) in the most  
861 appropriate program for supervision and treatment;

862 (f) employ staff necessary to:

863 (i) supervise and control minors committed to the division for secure care or placement  
864 in the community;

- 865 (ii) supervise and coordinate treatment of minors committed to the division for  
866 placement in community-based programs; and
- 867 (iii) control and supervise adjudicated and nonadjudicated minors placed with the  
868 division for temporary services in juvenile receiving centers, youth services, and other  
869 programs established by the division;
- 870 (g) control or detain a minor committed to the division, or in the temporary custody of  
871 the division, in a manner that is consistent with public safety and rules made by the division;
- 872 (h) establish and operate work programs for minors committed to the division by the  
873 juvenile court that:
- 874 (i) are not residential;
- 875 (ii) provide labor to help in the operation, repair, and maintenance of public facilities,  
876 parks, highways, and other programs designated by the division;
- 877 (iii) provide educational and prevocational programs in cooperation with the State  
878 Board of Education for minors placed in the program; and
- 879 (iv) provide counseling to minors;
- 880 (i) establish minimum standards for the operation of all private residential and  
881 nonresidential rehabilitation facilities that provide services to minors who have committed an  
882 offense in this state or in any other state;
- 883 (j) provide regular training for secure care staff, detention staff, case management staff,  
884 and staff of the community-based programs;
- 885 (k) designate employees to obtain the saliva DNA specimens required under Section  
886 [53-10-403](#);
- 887 (l) ensure that the designated employees receive appropriate training and that the  
888 specimens are obtained in accordance with accepted protocol;
- 889 (m) register an individual with the Department of Corrections who:
- 890 (i) is adjudicated for an offense listed in Subsection [~~77-41-102(17)(a)~~]  
891 [77-41-102\(18\)\(a\)](#) or [77-43-102\(2\)](#);
- 892 (ii) is committed to the division for secure care; and
- 893 (iii) (A) if the individual is a youth offender, remains in the division's custody 30 days  
894 before the individual's 21st birthday; or
- 895 (B) if the individual is a serious youth offender, remains in the division's custody 30

896 days before the individual's 25th birthday; and

897 (n) ensure that a program delivered to a minor under this section is an evidence-based  
898 program in accordance with Section [63M-7-208](#).

899 (3) (a) The division is authorized to employ special function officers, as defined in  
900 Section [53-13-105](#), to:

901 (i) locate and apprehend minors who have absconded from division custody;

902 (ii) transport minors taken into custody in accordance with division policy;

903 (iii) investigate cases; and

904 (iv) carry out other duties as assigned by the division.

905 (b) A special function officer may be:

906 (i) employed through a contract with the Department of Public Safety, or any law  
907 enforcement agency certified by the Peace Officer Standards and Training Division; or

908 (ii) directly hired by the division.

909 (4) In the event of an unauthorized leave from secure care, detention, a  
910 community-based program, a juvenile receiving center, a home, or any other designated  
911 placement of a minor, a division employee has the authority and duty to locate and apprehend  
912 the minor, or to initiate action with a local law enforcement agency for assistance.

913 (5) The division may proceed with an initial medical screening or assessment of a child  
914 admitted to a detention facility to ensure the safety of the child and others in the detention  
915 facility if the division makes a good faith effort to obtain consent for the screening or  
916 assessment from the child's parent or guardian.