

# HB0122S01 compared with HB0122

~~text~~ shows text that was in HB0122 but was deleted in HB0122S01.

text shows text that was not in HB0122 but was inserted into HB0122S01.

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Representative Marsha Judkins proposes the following substitute bill:

## SEX OFFENDER REGISTRY AMENDMENTS

2023 GENERAL SESSION

STATE OF UTAH

**Chief Sponsor: Marsha Judkins**

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

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### 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

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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
- ▶ makes technical and conforming changes.

### **Money Appropriated in this Bill:**

None

### **Other Special Clauses:**

None

### **Utah Code Sections Affected:**

AMENDS:

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

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

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

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

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

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

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

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

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

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

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

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

**77-41-110**, as enacted by Laws of Utah 2012, Chapter 145 and last amended by  
Coordination Clause, Laws of Utah 2012, Chapter 382

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

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

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

ENACTS:

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

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

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

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

(1) As used in this section, "qualifying sexual offense" means:

- (a) an offense described in Chapter 5, Part 4, Sexual Offenses;
- (b) Section 76-9-702, lewdness;
- (c) Section 76-9-702.1, sexual battery; or
- (d) Section 76-9-702.5, lewdness involving a child.

(2) (a) This Subsection (2) only applies prospectively to an individual sentenced on or after May 10, 2016.

(b) Notwithstanding any provision of law, an individual may not be sentenced to life without parole if:

- (i) the individual is convicted of a crime punishable by life without parole; and
- (ii) at the time the individual committed the crime, the individual was less than 18

years old.

(c) The maximum punishment that may be imposed on an individual described in Subsection (2)(b) is an indeterminate prison term of not less than 25 years and that may be for life.

(3) Except as provided in Subsection (4), if an individual is convicted in district court of a qualifying sexual offense and, at the time of the offense, the individual was at least 14 years old, but under 18 years old:

~~[(a) the individual is not, based on the conviction, subject to the registration requirements described in Title 77, Chapter 41, Sex and Kidnap Offender Registry;]~~

~~[(b)]~~ (a) the district court shall impose a sentence consistent with the disposition that would have been made in juvenile court; and

~~[(c)]~~ (b) the district court may not impose incarceration unless the court enters specific

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written findings that incarceration is warranted based on a totality of the circumstances, taking into account:

- (i) the time that elapsed after the individual committed the offense;
- (ii) the age of the individual at the time of the offense;
- (iii) the age of the victim at the time of the offense;
- (iv) the criminal history of the individual after the individual committed the offense;
- (v) any treatment assessments or validated risk tools; and
- (vi) public safety concerns.

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

(i) has sexual intercourse with the minor;

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

(iii) causes the penetration, however slight, of the genital or anal opening of the minor by a 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 individual or with the intent to arouse or gratify the sexual desire of any individual.

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

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

(b) (i) Notwithstanding Subsection (3)(a) or (c), 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.

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

(c) (i) Notwithstanding Subsection (3)(a), 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.

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

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

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

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

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

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

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

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

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

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

(i) "Indecent liberties" means:

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

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

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

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

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

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

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

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

(ii) 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:

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

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

(C) otherwise takes indecent liberties with the minor.

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

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

(a) a class A misdemeanor; and

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

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

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

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

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- (b) rape, in violation of Section 76-5-402;
- (c) object rape, in violation of Section 76-5-402.2;
- (d) forcible sodomy, in violation of Section 76-5-403;
- (e) aggravated sexual assault, in violation of Section 76-5-405; or
- (f) an attempt to commit an offense listed in Subsections (4)(a) through (e).

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

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

(1) (a) As used in this section, "adolescent" means an individual in the transitional phase of human physical and psychological growth and development between childhood and adulthood who is 12 years old or older, but younger than 18 years old.

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

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

(a) is an adolescent; and

(b) has sexual activity with another adolescent.

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

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

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

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

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

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

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

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

(h) class C misdemeanor if an actor who is 14 years old engages in unlawful adolescent

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sexual activity with an adolescent who is 13 years old.

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

- (a) rape, in violation of Section 76-5-402;
- (b) rape of a child, in violation of Section 76-5-402.1;
- (c) object rape, in violation of Section 76-5-402.2;
- (d) object rape of a child, in violation of Section 76-5-402.3;
- (e) forcible sodomy, in violation of Section 76-5-403;
- (f) sodomy on a child, in violation of Section 76-5-403.1;
- (g) sexual abuse of a child, in violation of Section 76-5-404;
- (h) aggravated sexual assault, in violation of Section 76-5-405;
- (i) incest, in violation of Section 76-7-102; or
- (j) an attempt to commit any offense listed in Subsections (4)(a) through (4)(i).

(5) An offense under this section is not eligible for a nonjudicial adjustment under Section 80-6-304 or a referral to a youth court under Section 80-6-902.

(6) Except for an offense that is transferred to a district court by the juvenile court in accordance with Section 80-6-504, the district court may enter any sentence or combination of sentences that would have been available in juvenile court but for the delayed reporting or delayed filing of the information in the district court.

(7) An offense under this section is not subject to registration under Subsection ~~[77-41-102(17)]~~ 77-41-102(18).

Section 5. Section **76-9-702** is amended to read:

### **76-9-702. Lewdness.**

(1) A person is guilty of lewdness if the person under circumstances not amounting to rape, object rape, forcible sodomy, forcible sexual abuse, aggravated sexual assault, sexual abuse of a minor, unlawful sexual conduct with a 16- or 17-year-old, custodial sexual relations under Section 76-5-412, custodial sexual misconduct under Section 76-5-412.2, custodial sexual relations with youth receiving state services under Section 76-5-413, custodial sexual misconduct with youth receiving state services under Section 76-5-413.2, or an attempt to commit any of these offenses, performs any of the following acts in a public place or under circumstances which the person should know will likely cause affront or alarm to, on, or in the presence of another who is 14 years old or older:

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- (a) an act of sexual intercourse or sodomy;
- (b) exposes his or her genitals, the female breast below the top of the areola, the buttocks, the anus, or the pubic area;
- (c) masturbates; or
- (d) any other act of lewdness.

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

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

- (i) the person is a sex offender as defined in Section 77-27-21.7;
- (ii) the person has been previously convicted two or more times of violating Subsection (1); or
- (iii) the person has previously been convicted of a violation of Subsection (1) and has also previously been convicted of a violation of Section 76-9-702.5.

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

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

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

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

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

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

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

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

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- (b) rape of a child, Section 76-5-402.1;
  - (c) object rape, Section 76-5-402.2;
  - (d) object rape of a child, Section 76-5-402.3;
  - (e) forcible sodomy, Subsection 76-5-403(2);
  - (f) sodomy on a child, Section 76-5-403.1;
  - (g) forcible sexual abuse, Section 76-5-404;
  - (h) sexual abuse of a child, Section 76-5-404.1;
  - (i) aggravated sexual abuse of a child, Section 76-5-404.3;
  - (j) aggravated sexual assault, Section 76-5-405; and
  - (k) an attempt to commit any offense under this Subsection (2).
- (3) Sexual battery is a class A misdemeanor.

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

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

Section 7. 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) (a) "Convicted" means a plea or conviction of:

(i) guilty;

(ii) guilty with a mental illness; or

(iii) no contest.

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

(c) "Convicted" does not include:

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(i) a withdrawn or dismissed plea in abeyance;

(ii) a diversion agreement; or

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

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

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

~~[(6)]~~ (7) "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.

~~[(7)]~~ (8) "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)]~~ (9) "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)]~~ (10) "Kidnap offender" means any individual, other than a natural parent of the victim:

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

(i) Subsection 76-5-301(2)(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;

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

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

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

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

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

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

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

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

(b) (i) 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 [~~(9)(a);~~] (10)(a); and

(ii) who is:

(A) a Utah resident; or

(B) 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) (A) who is required to register as a kidnap offender in any other jurisdiction of original conviction;

(B) who is required to register as a kidnap offender by any state, federal, or military court; or

(C) 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, who 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) (i) (A) who is a nonresident regularly employed or working in this state; or

(B) who is a student in this state; and

(ii) (A) who was convicted of one or more offenses listed in Subsection [~~(9);~~] (10), or any substantially equivalent offense in another jurisdiction; or

(B) as a result of the conviction, who is required to register in the individual's state 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 [~~(9);~~] (10); or

(f) (i) who is adjudicated under Section 80-6-701 for one or more offenses listed in

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Subsection ~~[(9)(a)]~~ (10)(a); and

(ii) who has been committed to the division for secure care, as defined in Section 80-1-102, for that offense ~~[and]~~ if:

(A) the individual remains in the division's custody until 30 days before the individual's 21st birthday; ~~[or]~~

(B) ~~[if]~~ the juvenile court extended the juvenile court's jurisdiction over the individual under Section 80-6-605~~;~~ and the individual remains in the division's custody until 30 days before the individual's 25th birthday; or

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

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

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

~~[(12)]~~ (13) "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)]~~ (14) "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.

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

~~[(15)]~~ (16) "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)]~~ (17) "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)]~~ (18) "Sex offender" means any individual:

(a) convicted in this state of:

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- (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;
- (iii) Section 76-5-308.1, 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) Section 76-5-401, unlawful sexual activity with a minor, except as provided in Subsection 76-5-401(3)(b) or (c);
- (viii) Section 76-5-401.1, sexual abuse of a minor, except as provided in Subsection 76-5-401.1(3);
- (ix) Section 76-5-401.2, unlawful sexual conduct with a 16 or 17 year old;
- (x) Section 76-5-402, rape;
- (xi) Section 76-5-402.1, rape of a child;
- (xii) Section 76-5-402.2, object rape;
- (xiii) Section 76-5-402.3, object rape of a child;
- (xiv) a felony violation of Section 76-5-403, forcible sodomy;
- (xv) Section 76-5-403.1, sodomy on a child;
- (xvi) Section 76-5-404, forcible sexual abuse;
- (xvii) Section 76-5-404.1, sexual abuse of a child, or Section 76-5-404.3, aggravated sexual abuse of a child;
- (xviii) Section 76-5-405, aggravated sexual assault;
- (xix) Section 76-5-412, custodial sexual relations, when the individual in custody is younger than 18 years old, if the offense is committed on or after May 10, 2011;
- (xx) Section 76-5b-201, sexual exploitation of a minor;
- (xxi) Section 76-5b-201.1, aggravated sexual exploitation of a minor;
- (xxii) Section 76-5b-204, sexual extortion or aggravated sexual extortion;
- (xxiii) Section 76-7-102, incest;
- (xxiv) Section 76-9-702, lewdness, if the individual has been convicted of the offense four or more times;
- (xxv) Section 76-9-702.1, sexual battery, if the individual has been convicted of the offense four or more times;

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(xxvi) 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;

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

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

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

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

(b) (i) 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)~~] (18)(a); and

(ii) who is:

(A) a Utah resident; or

(B) 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) (A) who is required to register as a sex offender in any other jurisdiction of original conviction;

(B) who is required to register as a sex offender by any state, federal, or military court;

or

(C) 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) (i) (A) who is a nonresident regularly employed or working in this state; or

(B) who is a student in this state; and

(ii) (A) who was convicted of one or more offenses listed in Subsection [~~(17)(a)~~] (18)(a), or any substantially equivalent offense in any jurisdiction; or

(B) who is, as a result of the conviction, 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)~~] (18)(a); or

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(f) (i) who is adjudicated under Section 80-6-701 for one or more offenses listed in Subsection ~~[(17)(a);~~ (18)(a); and

(ii) who has been committed to the division for secure care, as defined in Section 80-1-102, for that offense ~~[and]~~ if:

(A) the individual remains in the division's custody until 30 days before the individual's 21st birthday; ~~[or]~~

(B) ~~[if]~~ the juvenile court extended the juvenile court's jurisdiction over the individual under Section 80-6-605~~[-]~~ and the individual remains in the division's custody until 30 days before the individual's 25th birthday~~[-];~~ or

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

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

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

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

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

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

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

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

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

(i) for the purposes under this chapter; or

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

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

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

(b) the arrest of a person suspected of any of the offenses listed in Subsection

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[~~77-41-102(9) or (17)~~] 77-41-102(10) or (18), within five business days.

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

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

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

(6) The department shall:

(a) provide the following additional information when available:

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

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

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

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

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

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

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

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

Section 9. 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)~~] 77-41-102(10) or (18).

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(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)~~] 77-41-102(10) or (18) 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)~~] 77-41-102(10) or (18) 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), 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).

(b) Except as provided in Subsections (3)(c)(iii), (4), and (5), an offender who is convicted in another jurisdiction of an offense listed in Subsection [~~77-41-102(9)(a) or (17)(a)~~] 77-41-102(10)(a) or (18)(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

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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) (A) If the sentencing court at any time after conviction 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.

(B) 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.

(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.

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(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 more than 12 times per year;
- (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 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;

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(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

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

Section 10. Section **77-41-106** is amended to read:

### **77-41-106. Offenses requiring lifetime registration.**

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

(1) any offense listed in Subsection [~~77-41-102(9) or (17)~~] 77-41-102(10) or (18) 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)~~] 77-41-102(10) or (18) 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;

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- (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) Section 76-5-404.3, aggravated sexual abuse of a child; or
- (h) Section 76-5-405, aggravated sexual assault;
- (3) Section 76-5-308.1, 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;
- (7) Section 76-4-401, a felony violation of enticing a minor over the Internet;
- (8) Section 76-5-302, aggravated kidnapping, except if the offender is a natural parent of the victim;
- (9) Section 76-5-403, forcible sodomy;
- (10) Section 76-5-404.1, sexual abuse of a child;
- (11) Section 76-5b-201, sexual exploitation of a minor;
- (12) Section 76-5b-201.1, aggravated sexual exploitation of a minor;
- (13) Subsection 76-5b-204(2)(b), aggravated sexual extortion; or
- (14) Section 76-10-1306, aggravated exploitation of prostitution, on or after May 10, 2011.

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

### **77-41-107. Penalties.**

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

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

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

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

(b) a class A misdemeanor and shall be sentenced to serve a term of incarceration for

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

(4) Except as provided in Subsection (5), the Sex Offender and Kidnap Offender Notification and Registration website shall include the following registry information:

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

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

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

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

(e) a current photograph of the offender;

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

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

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

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

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

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

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

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

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

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

(b) the department receives a formal notification or order from the court or the Board of Pardons and Parole that the conviction for the offense or offenses for which the individual is on the registry have been reversed, vacated, or pardoned.

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

- (i) qualifies for removal from the registry; or
- (ii) does not qualify for removal.

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

(7) If the department determines that the individual does not qualify for removal from the registry, the department shall provide an explanation in writing for the department's determination. The department's determination is final and not subject to administrative review.

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

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

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

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

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

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

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

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

(3) This section applies to offenders with a registration requirement on or after May 3,

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2023, regardless of when the offender was first required to register.

(4) An offender convicted after May 3, 2023, of an offense committed when the individual was under 18 years old, is not subject to registration requirements under this chapter unless the offender:

(a) is charged by criminal information in juvenile court under Section 80-6-503;

(b) is bound over to district court in accordance with Section 80-6-504; and

(c) is convicted of a qualifying offense described in Subsection 77-41-102(10)(a) or 77-41-102(18)(a).

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

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

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

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

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

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

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

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

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

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

and

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

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

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

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

(i) the investigator's name;

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

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

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

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

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

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

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

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

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

(b) a constable, as listed in Subsection 53-13-105(1)(b)(ii).

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

(a) a person convicted of a felony violation of an offense listed in Subsection ~~[77-41-102(17)]~~ 77-41-102(18); or

(b) a person who is a respondent in a proceeding described in Title 78B, Chapter 7, Protective Orders and Stalking Injunctions, in which a court has granted the petitioner a protective order.

(7) A person serving process shall:

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

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

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

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

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

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

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

(1) The division is responsible for all minors committed to the division by juvenile

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courts under Sections 80-6-703 and 80-6-705.

(2) The division shall:

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

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

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

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

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

(f) employ staff necessary to:

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

(ii) supervise and coordinate treatment of minors committed to the division for placement in community-based programs; and

(iii) control and supervise adjudicated and nonadjudicated minors placed with the division for temporary services in juvenile receiving centers, youth services, and other programs established by the division;

(g) control or detain a minor committed to the division, or in the temporary custody of the division, in a manner that is consistent with public safety and rules made by the division;

(h) establish and operate work programs for minors committed to the division by the juvenile court that:

(i) are not residential;

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

(iii) provide educational and prevocational programs in cooperation with the State Board of Education for minors placed in the program; and

(iv) provide counseling to minors;

(i) establish minimum standards for the operation of all private residential and

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nonresidential rehabilitation facilities that provide services to minors who have committed an offense in this state or in any other state;

(j) provide regular training for secure care staff, detention staff, case management staff, and staff of the community-based programs;

(k) designate employees to obtain the saliva DNA specimens required under Section 53-10-403;

(l) ensure that the designated employees receive appropriate training and that the specimens are obtained in accordance with accepted protocol;

(m) register an individual with the Department of Corrections who:

(i) is adjudicated for an offense listed in Subsection [~~77-41-102(17)(a)~~] 77-41-102(18)(a) or 77-43-102(2);

(ii) is committed to the division for secure care; and

(iii) (A) if the individual is a youth offender, remains in the division's custody 30 days before the individual's 21st birthday; or

(B) if the individual is a serious youth offender, remains in the division's custody 30 days before the individual's 25th birthday; and

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

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

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

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

(iii) investigate cases; and

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

(b) A special function officer may be:

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

(ii) directly hired by the division.

(4) In the event of an unauthorized leave from secure care, detention, a community-based program, a juvenile receiving center, a home, or any other designated placement of a minor, a division employee has the authority and duty to locate and apprehend

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the minor, or to initiate action with a local law enforcement agency for assistance.

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