

HB0146S03 compared with HB0146S01

~~text~~ shows text that was in HB0146S01 but was deleted in HB0146S03.

text shows text that was not in HB0146S01 but was inserted into HB0146S03.

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Representative A. Cory Maloy proposes the following substitute bill:

SEX OFFENDER RESTRICTED AREA AMENDMENTS

2023 GENERAL SESSION

STATE OF UTAH

Chief Sponsor: A. Cory Maloy

Senate Sponsor: Jacob L. Anderegg

LONG TITLE

General Description:

This bill amends the restrictions placed on an offender who is on the sex and kidnap offender registry.

Highlighted Provisions:

This bill:

- ▶ restricts an offender on the sex and kidnap offender registry from entering a private or homeowners' association swimming pool, park, or playground; and
- ▶ makes technical changes.

Money Appropriated in this Bill:

None

Other Special Clauses:

This bill provides a special effective date.

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Utah Code Sections Affected:

AMENDS:

77-27-21.7, as last amended by Laws of Utah 2020, Chapter 206

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

Section 1. Section 77-27-21.7 is amended to read:

77-27-21.7. Sex offender restrictions.

(1) As used in this section:

(a) "Minor" means an individual who is less than 18 years old;

(b) (i) "Protected area" means the premises occupied by:

(A) ~~[any]~~ a licensed day care or preschool facility;

(B) a public swimming pool [that is open to the public] or a swimming pool maintained, operated, or owned by a homeowners' association or other private entity;

(C) a public or private primary or secondary school that is not on the grounds of a correctional facility;

(D) a ~~{}~~community park that is open to the public~~{} {public park}~~ or a park maintained, operated, or owned by a homeowners' association or other private entity;

(E) a ~~[playground that is open to the public]~~ public playground or a playground maintained, operated, or owned by a homeowners' association or other private entity, including those areas designed to provide ~~[children] minors with~~ space, recreational equipment, or other amenities intended to allow ~~[children] minors~~ to engage in physical activity; and

(F) except as provided in Subsection (1)(b)(ii), an area that is 1,000 feet or less from the residence of a victim of the sex offender if the sex offender is subject to a victim requested restriction.

(ii) "Protected area" does not include:

~~(A)~~ the area described in Subsection (1)(b)(i)(F) if~~;~~

~~(A)~~ the victim is a member of the immediate family of the sex offender~~;~~ and

~~(B)~~ the terms of the sex offender's agreement of probation or parole allow the sex offender to reside in the same residence as the victim~~{};~~

(B) a park, playground, or swimming pool located on the property of a residential home;

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(C) a park or swimming pool that prohibits minors at all times from using the park or swimming pool; or

(D) a park or swimming pool maintained, operated, or owned by a homeowners' association established for residents 55 years old or older if no minors are present at the park or swimming pool at the time the sex offender is present at the park or swimming pool.

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

(2) For purposes of Subsection (1)(b)(i)(F), a sex offender is subject to a victim requested restriction if:

(a) the sex offender is on probation or parole for an offense that requires the offender to register in accordance with Title 77, Chapter 41, Sex and Kidnap Offender Registry;

(b) the victim or the victim's parent or guardian advises the Department of Corrections that the victim elects to restrict the sex offender from the area and authorizes the Department of Corrections to advise the sex offender of the area where the victim resides; and

(c) the Department of Corrections notifies the sex offender in writing that the sex offender is prohibited from being in the area described in Subsection (1)(b)(i)(F) and provides a description of the location of the protected area to the sex offender.

(3) A sex offender may not:

(a) be in a protected area except:

(i) when the sex offender must be in a protected area to perform the sex offender's parental responsibilities;

(ii) (A) when the protected area is a public or private primary or secondary school; and

(B) the school is open and being used for a public activity other than a school-related function that involves a minor; or

(iii) (A) if the protected area is a licensed day care or preschool facility located within a building that is open to the public for purposes other than the operation of the day care or preschool facility; and

(B) the sex offender does not enter a part of the building that is occupied by the day care or preschool facility; or

(b) serve as an athletic coach, manager, or trainer for ~~[any]~~ a sports team of which a

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minor who is less than 18 years old is a member.

(4) A sex offender who violates this section is guilty of a class A misdemeanor.

Section 2. **Effective date.**

If approved by two-thirds of all the members elected to each house, this bill takes effect upon approval by the governor, or the day following the constitutional time limit of Utah Constitution, Article VII, Section 8, without the governor's signature, or in the case of a veto, the date of veto override.