

**SEX AND KIDNAP OFFENDER REGISTRY AND CHILD  
ABUSE OFFENDER REGISTRY ADMINISTRATION  
AMENDMENTS**

2023 GENERAL SESSION

STATE OF UTAH

**Chief Sponsor: Andrew Stoddard**

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

**LONG TITLE**

**General Description:**

This bill addresses the administration of the Sex and Kidnap Offender Registry and the Child Abuse Offender Registry.

**Highlighted Provisions:**

This bill:

► moves the administration of the Sex and Kidnap Registry and the Child Abuse Offender Registry from the Department of Corrections to the Department of Public Safety.

**Money Appropriated in this Bill:**

None

**Other Special Clauses:**

None

**Utah Code Sections Affected:**

AMENDS:

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

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

**77-41-111**, as enacted by Laws of Utah 2012, Chapter 145

**77-43-102**, as last amended by Laws of Utah 2022, Chapter 430



28 [77-43-109](#), as enacted by Laws of Utah 2017, Chapter 282



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

31 Section 1. Section [77-41-102](#) is amended to read:

32 **[77-41-102. Definitions.](#)**

33 As used in this chapter:

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

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

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

39 (4) "Department" means the Department of [~~Corrections~~] Public Safety.

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

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

44 (7) "Indian Country" means:

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

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

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

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

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

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

58 (i) Subsection [76-5-301\(2\)\(c\)](#) or (d), kidnapping;

- 59 (ii) Section 76-5-301.1, child kidnapping;
- 60 (iii) Section 76-5-302, aggravated kidnapping;
- 61 (iv) Section 76-5-308, human trafficking for labor;
- 62 (v) Section 76-5-308.3, human smuggling;
- 63 (vi) Section 76-5-308, human smuggling, when the individual smuggled is under 18
- 64 years old;
- 65 (vii) Section 76-5-308.5, human trafficking of a child for labor;
- 66 (viii) Section 76-5-310, aggravated human trafficking;
- 67 (ix) Section 76-5-310.1, aggravated human smuggling;
- 68 (x) Section 76-5-311, human trafficking of a vulnerable adult for labor; or
- 69 (xi) attempting, soliciting, or conspiring to commit any felony offense listed in
- 70 Subsections (9)(a)(i) through (iii);
- 71 (b) (i) who has been convicted of any crime, or an attempt, solicitation, or conspiracy
- 72 to commit a crime in another jurisdiction, including any state, federal, or military court that is
- 73 substantially equivalent to the offenses listed in Subsection (9)(a); and
- 74 (ii) who is:
- 75 (A) a Utah resident; or
- 76 (B) not a Utah resident, but who, in any 12-month period, is in this state for a total of
- 77 10 or more days, regardless of whether or not the offender intends to permanently reside in this
- 78 state;
- 79 (c) (i) (A) who is required to register as a kidnap offender in any other jurisdiction of
- 80 original conviction;
- 81 (B) who is required to register as a kidnap offender by any state, federal, or military
- 82 court; or
- 83 (C) who would be required to register as a kidnap offender if residing in the
- 84 jurisdiction of the conviction regardless of the date of the conviction or any previous
- 85 registration requirements; and
- 86 (ii) in any 12-month period, who is in this state for a total of 10 or more days,
- 87 regardless of whether or not the offender intends to permanently reside in this state;
- 88 (d) (i) (A) who is a nonresident regularly employed or working in this state; or
- 89 (B) who is a student in this state; and

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

92 (B) as a result of the conviction, who is required to register in the individual's state of  
93 residence;

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

96 (f) (i) who is adjudicated under Section 80-6-701 for one or more offenses listed in  
97 Subsection (9)(a); and

98 (ii) who has been committed to the division for secure care, as defined in Section  
99 80-1-102, for that offense and:

100 (A) the individual remains in the division's custody until 30 days before the individual's  
101 21st birthday; or

102 (B) if the juvenile court extended the juvenile court's jurisdiction over the individual  
103 under Section 80-6-605, the individual remains in the division's custody until 30 days before  
104 the individual's 25th birthday.

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

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

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

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

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

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

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

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

- 121 (16) "Secondary residence" means any real property that the offender owns or has a  
122 financial interest in, or any location where, in any 12-month period, the offender stays  
123 overnight a total of 10 or more nights when not staying at the offender's primary residence.
- 124 (17) "Sex offender" means any individual:
- 125 (a) convicted in this state of:
- 126 (i) a felony or class A misdemeanor violation of Section 76-4-401, enticing a minor;
- 127 (ii) Section 76-5b-202, sexual exploitation of a vulnerable adult;
- 128 (iii) Section 76-5-308.1, human trafficking for sexual exploitation;
- 129 (iv) Section 76-5-308.5, human trafficking of a child for sexual exploitation;
- 130 (v) Section 76-5-310, aggravated human trafficking for sexual exploitation;
- 131 (vi) Section 76-5-311, human trafficking of a vulnerable adult for sexual exploitation;
- 132 (vii) Section 76-5-401, unlawful sexual activity with a minor, except as provided in  
133 Subsection 76-5-401(3)(b) or (c);
- 134 (viii) Section 76-5-401.1, sexual abuse of a minor, except as provided in Subsection  
135 76-5-401.1(3);
- 136 (ix) Section 76-5-401.2, unlawful sexual conduct with a 16 or 17 year old;
- 137 (x) Section 76-5-402, rape;
- 138 (xi) Section 76-5-402.1, rape of a child;
- 139 (xii) Section 76-5-402.2, object rape;
- 140 (xiii) Section 76-5-402.3, object rape of a child;
- 141 (xiv) a felony violation of Section 76-5-403, forcible sodomy;
- 142 (xv) Section 76-5-403.1, sodomy on a child;
- 143 (xvi) Section 76-5-404, forcible sexual abuse;
- 144 (xvii) Section 76-5-404.1, sexual abuse of a child, or Section 76-5-404.3, aggravated  
145 sexual abuse of a child;
- 146 (xviii) Section 76-5-405, aggravated sexual assault;
- 147 (xix) Section 76-5-412, custodial sexual relations, when the individual in custody is  
148 younger than 18 years old, if the offense is committed on or after May 10, 2011;
- 149 (xx) Section 76-5b-201, sexual exploitation of a minor;
- 150 (xxi) Section 76-5b-201.1, aggravated sexual exploitation of a minor;
- 151 (xxii) Section 76-5b-204, sexual extortion or aggravated sexual extortion;

- 152 (xxiii) Section 76-7-102, incest;
- 153 (xxiv) Section 76-9-702, lewdness, if the individual has been convicted of the offense
- 154 four or more times;
- 155 (xxv) Section 76-9-702.1, sexual battery, if the individual has been convicted of the
- 156 offense four or more times;
- 157 (xxvi) any combination of convictions of Section 76-9-702, lewdness, and of Section
- 158 76-9-702.1, sexual battery, that total four or more convictions;
- 159 (xxvii) Section 76-9-702.5, lewdness involving a child;
- 160 (xxviii) a felony or class A misdemeanor violation of Section 76-9-702.7, voyeurism;
- 161 (xxix) Section 76-10-1306, aggravated exploitation of prostitution; or
- 162 (xxx) attempting, soliciting, or conspiring to commit any felony offense listed in this
- 163 Subsection (17)(a);
- 164 (b) (i) who has been convicted of any crime, or an attempt, solicitation, or conspiracy
- 165 to commit a crime in another jurisdiction, including any state, federal, or military court that is
- 166 substantially equivalent to the offenses listed in Subsection (17)(a); and
- 167 (ii) who is:
- 168 (A) a Utah resident; or
- 169 (B) not a Utah resident, but who, in any 12-month period, is in this state for a total of
- 170 10 or more days, regardless of whether the offender intends to permanently reside in this state;
- 171 (c) (i) (A) who is required to register as a sex offender in any other jurisdiction of
- 172 original conviction;
- 173 (B) who is required to register as a sex offender by any state, federal, or military court;
- 174 or
- 175 (C) who would be required to register as a sex offender if residing in the jurisdiction of
- 176 the original conviction regardless of the date of the conviction or any previous registration
- 177 requirements; and
- 178 (ii) who, in any 12-month period, is in the state for a total of 10 or more days,
- 179 regardless of whether or not the offender intends to permanently reside in this state;
- 180 (d) (i) (A) who is a nonresident regularly employed or working in this state; or
- 181 (B) who is a student in this state; and
- 182 (ii) (A) who was convicted of one or more offenses listed in Subsection (17)(a), or any

183 substantially equivalent offense in any jurisdiction; or

184 (B) who is, as a result of the conviction, required to register in the individual's  
185 jurisdiction of residence;

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

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

190 (ii) who has been committed to the division for secure care, as defined in Section  
191 80-1-102, for that offense and:

192 (A) the individual remains in the division's custody until 30 days before the individual's  
193 21st birthday; or

194 (B) if the juvenile court extended the juvenile court's jurisdiction over the individual  
195 under Section 80-6-605, the individual remains in the division's custody until 30 days before  
196 the individual's 25th birthday.

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

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

201 Section 2. Section 77-41-103 is amended to read:

202 **77-41-103. Department duties.**

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

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

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

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

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

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

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

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

216 (b) the arrest of a person suspected of any of the offenses listed in Subsection  
217 77-41-102(9) or (17), within five business days.

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

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

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

228 (6) The department shall:

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

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

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

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

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

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

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

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

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

244 Section 3. Section 77-41-111 is amended to read:



245 **77-41-111. Fees.**

246 (1) Each offender required to register under Section 77-41-105 shall, in the month of  
247 the offender's birth:

248 (a) pay to the department an annual fee of \$100 each year the offender is subject to the  
249 registration requirements of this chapter; and

250 (b) pay to the registering agency, if it is an agency other than the [~~Department of~~  
251 ~~Corrections~~] department, an annual fee of not more than \$25, which may be assessed by that  
252 agency for providing registration.

253 (2) Notwithstanding Subsection (1), an offender who is confined in a secure facility or  
254 in a state mental hospital is not required to pay the annual fee.

255 (3) The department shall deposit fees collected in accordance with this chapter in the  
256 General Fund as a dedicated credit, to be used by the department for maintaining the offender  
257 registry under this chapter and monitoring offender registration compliance, including the costs  
258 of:

- 259 (a) data entry;
- 260 (b) processing registration packets;
- 261 (c) updating registry information;
- 262 (d) ensuring offender compliance with registration requirements under this chapter; and
- 263 (e) apprehending offenders who are in violation of the offender registration  
264 requirements under this chapter.

265 Section 4. Section 77-43-102 is amended to read:

266 **77-43-102. Definitions.**

267 As used in this chapter:

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

269 (2) "Child abuse offender" means any person who:

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

271 (i) Subsection 76-5-109.2(3)(a) or (b), aggravated child abuse;

272 (ii) Section 76-5-308.5, human trafficking of a child; or

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

274 [~~Subsections~~] Subsection (2)(a)(i) or (ii);

275 (b) has been convicted of any crime, or an attempt, solicitation, or conspiracy to

276 commit a crime in another jurisdiction, including any state, federal, or military court, that is  
277 substantially equivalent to the offenses listed in Subsection (2)(a) and who is:

278 (i) a Utah resident; or  
279 (ii) not a Utah resident, but who, in any 12-month period, is in this state for a total of  
280 10 or more days, regardless of whether the offender intends to permanently reside in this state;

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

286 (ii) in any 12-month period, is in this state for a total of 10 or more days, regardless of  
287 whether the offender intends to permanently reside in this state;

288 (d) is a nonresident regularly employed or working in this state, or who is a student in  
289 this state, and was convicted of one or more offenses listed in Subsection (2)(a), or any  
290 substantially equivalent offense in another jurisdiction, or who, as a result of the conviction, is  
291 required to register in the person's state of residence;

292 (e) is found not guilty by reason of insanity in this state or in any other jurisdiction of  
293 one or more offenses listed in Subsection (2)(a); or

294 (f) is adjudicated delinquent based on one or more offenses listed in Subsection (2)(a)  
295 and who has been committed to the division for secure confinement for that offense and  
296 remains in the division's custody 30 days before the person's 21st birthday.

297 (3) "Correctional facility" means the same as that term is defined in Section 64-13-1.

298 (4) "Department" means the Department of [~~Corrections~~] Public Safety.

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

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

303 (7) "Indian Country" means:

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

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

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

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

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

317 (10) "Offender" means a child abuse offender as defined in Subsection (2).

318 (11) "Online identifier" or "Internet identifier":

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

321 (b) does not include date of birth, Social Security number, PIN number, or Internet  
322 passwords.

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

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

328 (14) "Registration website" means the Child Abuse Offender Notification and  
329 Registration website described in Section 77-43-108 and the information on the website.

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

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

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

337 Section 5. Section 77-43-109 is amended to read:

338           **77-43-109. Fees.**

339           (1) Each offender required to register under Section 77-43-105 shall, in the month of  
340 the offender's birth:

341           (a) pay to the department an annual fee of \$100 each year the offender is subject to the  
342 registration requirements of this chapter; and

343           (b) pay to the registering agency, if it is an agency other than the [~~Department of~~  
344 ~~Corrections~~] department, an annual fee of not more than \$25, which may be assessed by that  
345 agency for providing registration.

346           (2) Notwithstanding Subsection (1), an offender who is confined in a secure facility or  
347 in a state mental hospital is not required to pay the annual fee.

348           (3) The department shall deposit fees collected in accordance with this chapter in the  
349 General Fund as a dedicated credit, to be used by the department for maintaining the offender  
350 registry under this chapter and monitoring offender registration compliance, including the costs  
351 of:

352           (a) data entry;

353           (b) processing registration packets;

354           (c) updating registry information; and

355           (d) ensuring offender compliance with registration requirements under this chapter.