

Representative Andrew Stoddard proposes the following substitute bill:

**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:

This bill provides a special effective date.

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



- 26 [77-41-111](#), as enacted by Laws of Utah 2012, Chapter 145
- 27 [77-41-112](#), as last amended by Laws of Utah 2021, Chapters 262, 334 and 410 and last
- 28 amended by Coordination Clause, Laws of Utah 2021, Chapter 334
- 29 [77-43-102](#), as last amended by Laws of Utah 2022, Chapter 430
- 30 [77-43-109](#), as enacted by Laws of Utah 2017, Chapter 282



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

32 Section 1. Section **77-41-102** is amended to read:

33 **77-41-102. Definitions.**

34 As used in this chapter:

- 35 (1) "Bureau" means the Bureau of Criminal Identification of the Department of Public
- 36 Safety established in section [53-10-201](#).
- 37 (2) "Business day" means a day on which state offices are open for regular business.
- 38 (3) "Certificate of eligibility" means a document issued by the Bureau of Criminal
- 39 Identification showing that the offender has met the requirements of Section [77-41-112](#).
- 40 (4) "Department" means the Department of [~~Corrections~~] Public Safety.
- 41 (5) "Division" means the Division of Juvenile Justice Services.
- 42 (6) "Employed" or "carries on a vocation" includes employment that is full time or part
- 43 time, whether financially compensated, volunteered, or for the purpose of government or
- 44 educational benefit.
- 45 (7) "Indian Country" means:
- 46 (a) all land within the limits of any Indian reservation under the jurisdiction of the
- 47 United States government, regardless of the issuance of any patent, and includes rights-of-way
- 48 running through the reservation;
- 49 (b) all dependent Indian communities within the borders of the United States whether
- 50 within the original or subsequently acquired territory, and whether or not within the limits of a
- 51 state; and
- 52 (c) all Indian allotments, including the Indian allotments to which the Indian titles have
- 53 not been extinguished, including rights-of-way running through the allotments.
- 54 (8) "Jurisdiction" means any state, Indian Country, United States Territory, or any
- 55 property under the jurisdiction of the United States military, Canada, the United Kingdom,
- 56

57 Australia, or New Zealand.

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

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

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

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

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

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

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

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

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

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

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

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

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

72 Subsections (9)(a)(i) through (iii);

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

76 (ii) who is:

77 (A) a Utah resident; or

78 (B) not a Utah resident, but who, in any 12-month period, is in this state for a total of
79 10 or more days, regardless of whether or not the offender intends to permanently reside in this
80 state;

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

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

85 (C) who would be required to register as a kidnap offender if residing in the
86 jurisdiction of the conviction regardless of the date of the conviction or any previous
87 registration requirements; and

- 88 (ii) in any 12-month period, who is in this state for a total of 10 or more days,
89 regardless of whether or not the offender intends to permanently reside in this state;
- 90 (d) (i) (A) who is a nonresident regularly employed or working in this state; or
91 (B) who is a student in this state; and
- 92 (ii) (A) who was convicted of one or more offenses listed in Subsection (9), or any
93 substantially equivalent offense in another jurisdiction; or
94 (B) as a result of the conviction, who is required to register in the individual's state of
95 residence;
- 96 (e) who is found not guilty by reason of insanity in this state or in any other jurisdiction
97 of one or more offenses listed in Subsection (9); or
- 98 (f) (i) who is adjudicated under Section 80-6-701 for one or more offenses listed in
99 Subsection (9)(a); and
- 100 (ii) who has been committed to the division for secure care, as defined in Section
101 80-1-102, for that offense and:
- 102 (A) the individual remains in the division's custody until 30 days before the individual's
103 21st birthday; or
- 104 (B) if the juvenile court extended the juvenile court's jurisdiction over the individual
105 under Section 80-6-605, the individual remains in the division's custody until 30 days before
106 the individual's 25th birthday.
- 107 (10) "Natural parent" means a minor's biological or adoptive parent, and includes the
108 minor's noncustodial parent.
- 109 (11) "Offender" means a kidnap offender as defined in Subsection (9) or a sex offender
110 as defined in Subsection (17).
- 111 (12) "Online identifier" or "Internet identifier":
- 112 (a) means any electronic mail, chat, instant messenger, social networking, or similar
113 name used for Internet communication; and
- 114 (b) does not include date of birth, social security number, PIN number, or Internet
115 passwords.
- 116 (13) "Primary residence" means the location where the offender regularly resides, even
117 if the offender intends to move to another location or return to another location at any future
118 date.

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

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

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

126 (17) "Sex offender" means any individual:

127 (a) convicted in this state of:

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

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

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

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

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

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

134 (vii) Section 76-5-401, unlawful sexual activity with a minor, except as provided in

135 Subsection 76-5-401(3)(b) or (c);

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

137 76-5-401.1(3);

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

139 (x) Section 76-5-402, rape;

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

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

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

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

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

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

146 (xvii) Section 76-5-404.1, sexual abuse of a child, or Section 76-5-404.3, aggravated

147 sexual abuse of a child;

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

149 (xix) Section 76-5-412, custodial sexual relations, when the individual in custody is

- 150 younger than 18 years old, if the offense is committed on or after May 10, 2011;
- 151 (xx) Section 76-5b-201, sexual exploitation of a minor;
- 152 (xxi) Section 76-5b-201.1, aggravated sexual exploitation of a minor;
- 153 (xxii) Section 76-5b-204, sexual extortion or aggravated sexual extortion;
- 154 (xxiii) Section 76-7-102, incest;
- 155 (xxiv) Section 76-9-702, lewdness, if the individual has been convicted of the offense
- 156 four or more times;
- 157 (xxv) Section 76-9-702.1, sexual battery, if the individual has been convicted of the
- 158 offense four or more times;
- 159 (xxvi) any combination of convictions of Section 76-9-702, lewdness, and of Section
- 160 76-9-702.1, sexual battery, that total four or more convictions;
- 161 (xxvii) Section 76-9-702.5, lewdness involving a child;
- 162 (xxviii) a felony or class A misdemeanor violation of Section 76-9-702.7, voyeurism;
- 163 (xxix) Section 76-10-1306, aggravated exploitation of prostitution; or
- 164 (xxx) attempting, soliciting, or conspiring to commit any felony offense listed in this
- 165 Subsection (17)(a);
- 166 (b) (i) who has been convicted of any crime, or an attempt, solicitation, or conspiracy
- 167 to commit a crime in another jurisdiction, including any state, federal, or military court that is
- 168 substantially equivalent to the offenses listed in Subsection (17)(a); and
- 169 (ii) who is:
- 170 (A) a Utah resident; or
- 171 (B) not a Utah resident, but who, in any 12-month period, is in this state for a total of
- 172 10 or more days, regardless of whether the offender intends to permanently reside in this state;
- 173 (c) (i) (A) who is required to register as a sex offender in any other jurisdiction of
- 174 original conviction;
- 175 (B) who is required to register as a sex offender by any state, federal, or military court;
- 176 or
- 177 (C) who would be required to register as a sex offender if residing in the jurisdiction of
- 178 the original conviction regardless of the date of the conviction or any previous registration
- 179 requirements; and
- 180 (ii) who, in any 12-month period, is in the state for a total of 10 or more days,

181 regardless of whether or not the offender intends to permanently reside in this state;
182 (d) (i) (A) who is a nonresident regularly employed or working in this state; or
183 (B) who is a student in this state; and
184 (ii) (A) who was convicted of one or more offenses listed in Subsection (17)(a), or any
185 substantially equivalent offense in any jurisdiction; or
186 (B) who is, as a result of the conviction, required to register in the individual's
187 jurisdiction of residence;
188 (e) who is found not guilty by reason of insanity in this state, or in any other
189 jurisdiction of one or more offenses listed in Subsection (17)(a); or
190 (f) (i) who is adjudicated under Section 80-6-701 for one or more offenses listed in
191 Subsection (17)(a); and
192 (ii) who has been committed to the division for secure care, as defined in Section
193 80-1-102, for that offense and:
194 (A) the individual remains in the division's custody until 30 days before the individual's
195 21st birthday; or
196 (B) if the juvenile court extended the juvenile court's jurisdiction over the individual
197 under Section 80-6-605, the individual remains in the division's custody until 30 days before
198 the individual's 25th birthday.
199 (18) "Traffic offense" does not include a violation of Title 41, Chapter 6a, Part 5,
200 Driving Under the Influence and Reckless Driving.
201 (19) "Vehicle" means any motor vehicle, aircraft, or watercraft subject to registration in
202 any jurisdiction.
203 Section 2. Section 77-41-103 is amended to read:
204 **77-41-103. Department duties.**
205 (1) The department, to assist in investigating kidnapping and sex-related crimes, and in
206 apprehending offenders, shall:
207 (a) develop and operate a system to collect, analyze, maintain, and disseminate
208 information on offenders and sex and kidnap offenses;
209 (b) make information listed in Subsection 77-41-110(4) available to the public; and
210 (c) share information provided by an offender under this chapter that may not be made
211 available to the public under Subsection 77-41-110(4), but only:

- 212 (i) for the purposes under this chapter; or
213 (ii) in accordance with Section 63G-2-206.
- 214 (2) Any law enforcement agency shall, in the manner prescribed by the department,
215 inform the department of:
- 216 (a) the receipt of a report or complaint of an offense listed in Subsection 77-41-102(9)
217 or (17), within three business days; and
- 218 (b) the arrest of a person suspected of any of the offenses listed in Subsection
219 77-41-102(9) or (17), within five business days.
- 220 (3) Upon convicting a person of any of the offenses listed in Subsection 77-41-102(9)
221 or (17), the convicting court shall within three business days forward a signed copy of the
222 judgment and sentence to the Sex and Kidnap Offender Registry office within the [~~Department~~
223 ~~of Corrections~~] department.
- 224 (4) Upon modifying, withdrawing, setting aside, vacating, or otherwise altering a
225 conviction for any offense listed in Subsection 77-41-102(9) or (17), the court shall, within
226 three business days, forward a signed copy of the order to the Sex and Kidnap Offender
227 Registry office within the [~~Department of Corrections~~] department.
- 228 (5) The department may intervene in any matter, including a criminal action, where the
229 matter purports to affect a person's lawfully entered registration requirement.
- 230 (6) The department shall:
- 231 (a) provide the following additional information when available:
- 232 (i) the crimes the offender has been convicted of or adjudicated delinquent for;
233 (ii) a description of the offender's primary and secondary targets; and
234 (iii) any other relevant identifying information as determined by the department;
- 235 (b) maintain the Sex Offender and Kidnap Offender Notification and Registration
236 website; and
- 237 (c) ensure that the registration information collected regarding an offender's enrollment
238 or employment at an educational institution is:
- 239 (i) (A) promptly made available to any law enforcement agency that has jurisdiction
240 where the institution is located if the educational institution is an institution of higher
241 education; or
- 242 (B) promptly made available to the district superintendent of the school district where

243 the offender is employed if the educational institution is an institution of primary education;
244 and

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

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

247 **77-41-111. Fees.**

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

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

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

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

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

261 (a) data entry;

262 (b) processing registration packets;

263 (c) updating registry information;

264 (d) ensuring offender compliance with registration requirements under this chapter; and

265 (e) apprehending offenders who are in violation of the offender registration

266 requirements under this chapter.

267 Section 4. Section **77-41-112** is amended to read:

268 **77-41-112. Removal from registry -- Requirements -- Procedure.**

269 (1) An offender who is required to register with the Sex and Kidnap Offender Registry
270 may petition the court for an order removing the offender from the Sex and Kidnap Offender
271 Registry if:

272 (a) (i) the offender was convicted of an offense described in Subsection (2);

273 (ii) at least five years have passed after the day on which the offender's sentence for the

274 offense terminated;

275 (iii) the offense is the only offense for which the offender was required to register;

276 (iv) the offender has not been convicted of another offense, excluding a traffic offense,
277 since the day on which the offender was convicted of the offense for which the offender is
278 required to register, as evidenced by a certificate of eligibility issued by the bureau;

279 (v) the offender successfully completed all treatment ordered by the court or the Board
280 of Pardons and Parole relating to the offense; and

281 (vi) the offender has paid all restitution ordered by the court or the Board of Pardons
282 and Parole relating to the offense; or

283 (b) (i) if the offender is required to register in accordance with Subsection
284 77-41-105(3)(a);

285 (ii) at least 10 years have passed after the later of:

286 (A) the day on which the offender was placed on probation;

287 (B) the day on which the offender was released from incarceration to parole;

288 (C) the day on which the offender's sentence was terminated without parole;

289 (D) the day on which the offender entered a community-based residential program; or

290 (E) for a minor, as defined in Section 80-1-102, the day on which the division's custody
291 of the offender was terminated;

292 (iii) the offender has not been convicted of another offense that is a class A
293 misdemeanor, felony, or capital felony within the most recent 10-year period after the date
294 described in Subsection (1)(b)(ii), as evidenced by a certificate of eligibility issued by the
295 bureau;

296 (iv) the offender successfully completed all treatment ordered by the court or the Board
297 of Pardons and Parole relating to the offense; and

298 (v) the offender has paid all restitution ordered by the court or the Board of Pardons
299 and Parole relating to the offense; or

300 (c) (i) the offender is required to register in accordance with Subsection
301 77-41-105(3)(c);

302 (ii) at least 20 years have passed after the later of:

303 (A) the day on which the offender was placed on probation;

304 (B) the day on which the offender was released from incarceration to parole;

- 305 (C) the day on which the offender's sentence was terminated without parole;
- 306 (D) the day on which the offender entered a community-based residential program; or
- 307 (E) for a minor, as defined in Section 80-1-102, the day on which the division's custody
- 308 of the offender was terminated;
- 309 (iii) the offender has not been convicted of another offense that is a class A
- 310 misdemeanor, felony, or capital felony within the most recent 20-year period after the date
- 311 described in Subsection (1)(c)(ii), as evidenced by a certificate of eligibility issued by the
- 312 bureau;
- 313 (iv) the offender completed all treatment ordered by the court or the Board of Pardons
- 314 and Parole relating to the offense;
- 315 (v) the offender has paid all restitution ordered by the court or the Board of Pardons
- 316 and Parole relating to the offense; and
- 317 (vi) the offender submits to an evidence-based risk assessment to the court, with the
- 318 offender's petition, that:
 - 319 (A) meets the standards for the current risk assessment, score, and risk level required
 - 320 by the Board of Pardons and Parole for parole termination requests;
 - 321 (B) is completed within the six months before the date on which the petition is filed;
 - 322 and
 - 323 (C) describes the evidence-based risk assessment of the current level of risk to the
 - 324 safety of the public posed by the offender.
- 325 (2) The offenses referred to in Subsection (1)(a)(i) are:
 - 326 (a) Section 76-4-401, enticing a minor, if the offense is a class A misdemeanor;
 - 327 (b) Section 76-5-301, kidnapping;
 - 328 (c) Section 76-5-304, unlawful detention, if the conviction of violating Section
 - 329 76-5-304 is the only conviction for which the offender is required to register;
 - 330 (d) Section 76-5-401, unlawful sexual activity with a minor if, at the time of the
 - 331 offense, the offender is not more than 10 years older than the victim;
 - 332 (e) Section 76-5-401.1, sexual abuse of a minor, if, at the time of the offense, the
 - 333 offender is not more than 10 years older than the victim;
 - 334 (f) Section 76-5-401.2, unlawful sexual conduct with a 16 or 17 year old, and at the
 - 335 time of the offense, the offender is not more than 15 years older than the victim; or

336 (g) Section [76-9-702.7](#), voyeurism, if the offense is a class A misdemeanor.

337 (3) (a) (i) An offender seeking removal from the Sex and Kidnap Offender Registry
338 under this section shall apply for a certificate of eligibility from the bureau.

339 (ii) An offender who intentionally or knowingly provides false or misleading
340 information to the bureau when applying for a certificate of eligibility is guilty of a class B
341 misdemeanor and subject to prosecution under Section [76-8-504.6](#).

342 (iii) Regardless of whether the offender is prosecuted, the bureau may deny a certificate
343 of eligibility to an offender who provides false information on an application.

344 (b) (i) The bureau shall:

345 (A) perform a check of records of governmental agencies, including national criminal
346 databases, to determine whether an offender is eligible to receive a certificate of eligibility[-];
347 and

348 (B) request information from the Department of Corrections regarding whether the
349 offender meets the requirements described in Subsection (1)(a), (b), or (c).

350 (ii) Upon request from the bureau under Subsection (3)(b)(i)(B), the Department of
351 Corrections shall issue a document reflecting whether the offender meets the requirements
352 described in Subsection (1)(a), (b), or (c).

353 ~~[(†)] (iii)~~ (iii) If the offender meets the requirements described in Subsection (1)(a), (b), or
354 (c), the bureau shall issue a certificate of eligibility to the offender, which is valid for a period
355 of 90 days after the day on which the bureau issues the certificate.

356 ~~[(iii) The bureau shall request information from the department regarding whether the~~
357 ~~offender meets the requirements.]~~

358 ~~[(iv) (A) Upon request from the bureau under Subsection (3)(b)(iii), the department~~
359 ~~shall issue a document on whether the offender meets the requirements described in Subsection~~
360 ~~(1)(a), (b), or (c), which shall be used by the bureau to determine if a certificate of eligibility is~~
361 ~~appropriate.]~~

362 ~~[(B) The document from the department shall also include a statement regarding the~~
363 ~~offender's compliance with all registration requirements under this chapter.]~~

364 ~~[(v)]~~ (iv) The bureau shall provide a copy of the document provided to the bureau
365 under Subsection ~~[(3)(b)(iv)]~~ (3)(b)(ii) to the offender upon issuance of a certificate of
366 eligibility.

367 (4) (a) (i) The bureau shall charge application and issuance fees for a certificate of
368 eligibility in accordance with the process in Section 63J-1-504.

369 (ii) The application fee shall be paid at the time the offender submits an application for
370 a certificate of eligibility to the bureau.

371 (iii) If the bureau determines that the issuance of a certificate of eligibility is
372 appropriate, the offender will be charged an additional fee for the issuance of a certificate of
373 eligibility.

374 (b) Funds generated under this Subsection (4) shall be deposited into the General Fund
375 as a dedicated credit by the department to cover the costs incurred in determining eligibility.

376 (5) (a) The offender shall file the petition, including original information, the court
377 docket, the certificate of eligibility from the bureau, and the document from the department
378 described in Subsection (3)(b)(iv) with the court, and deliver a copy of the petition to the office
379 of the prosecutor.

380 (b) Upon receipt of a petition for removal from the Sex and Kidnap Offender Registry,
381 the office of the prosecutor shall provide notice of the petition by first-class mail to the victim
382 at the most recent address of record on file or, if the victim is still a minor under 18 years old,
383 to the parent or guardian of the victim.

384 (c) The notice described in Subsection (5)(b) shall include a copy of the petition, state
385 that the victim has a right to object to the removal of the offender from the registry, and
386 provide instructions for registering an objection with the court.

387 (d) The office of the prosecutor shall provide the following, if available, to the court
388 within 30 days after the day on which the office receives the petition:

389 (i) presentencing report;

390 (ii) an evaluation done as part of sentencing; and

391 (iii) any other information the office of the prosecutor feels the court should consider.

392 (e) The victim, or the victim's parent or guardian if the victim is a minor under 18 years
393 old, may respond to the petition by filing a recommendation or objection with the court within
394 45 days after the day on which the petition is mailed to the victim.

395 (6) (a) The court shall:

396 (i) review the petition and all documents submitted with the petition; and

397 (ii) hold a hearing if requested by the prosecutor or the victim.

398 (b) (i) Except as provided in Subsections (6)(b)(ii) and (iii), the court may grant the
399 petition and order removal of the offender from the registry if the court determines that the
400 offender has met the requirements described in Subsection (1)(a) or (b) and removal is not
401 contrary to the interests of the public.

402 (ii) When considering a petition filed under Subsection (1)(c), the court shall determine
403 whether the offender has demonstrated, by clear and convincing evidence, that the offender is
404 rehabilitated and does not pose a threat to the safety of the public.

405 (iii) In making the determination described in Subsection (6)(b)(ii), the court may
406 consider:

407 (A) the nature and degree of violence involved in the offense that requires registration;

408 (B) the age and number of victims of the offense that requires registration;

409 (C) the age of the offender at the time of the offense that requires registration;

410 (D) the offender's performance while on supervision for the offense that requires
411 registration;

412 (E) the offender's stability in employment and housing;

413 (F) the offender's community and personal support system;

414 (G) other criminal and relevant noncriminal behavior of the offender both before and
415 after the offense that requires registration;

416 (H) the level of risk posed by the offender as evidenced by the evidence-based risk
417 assessment described in Subsection (1)(c)(vi); and

418 (I) any other relevant factors.

419 (c) In determining whether removal is contrary to the interests of the public, the court
420 may not consider removal unless the offender has substantially complied with all registration
421 requirements under this chapter at all times.

422 (d) If the court grants the petition, the court shall forward a copy of the order directing
423 removal of the offender from the registry to the department and the office of the prosecutor.

424 (e) (i) Except as provided in Subsection (6)(e)(ii), if the court denies the petition, the
425 offender may not submit another petition for three years.

426 (ii) If the offender files a petition under Subsection (1)(c) and the court denies the
427 petition, the offender may not submit another petition for eight years.

428 (7) The court shall notify the victim and the Sex and Kidnap Offender Registry office

429 in the department of the court's decision within three days after the day on which the court
430 issues the court's decision in the same manner described in Subsection (5).

431 Section 5. Section **77-43-102** is amended to read:

432 **77-43-102. Definitions.**

433 As used in this chapter:

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

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

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

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

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

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

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

441 (b) has been convicted of any crime, or an attempt, solicitation, or conspiracy to
442 commit a crime in another jurisdiction, including any state, federal, or military court, that is
443 substantially equivalent to the offenses listed in Subsection (2)(a) and who is:

444 (i) a Utah resident; or

445 (ii) not a Utah resident, but who, in any 12-month period, is in this state for a total of
446 10 or more days, regardless of whether the offender intends to permanently reside in this state;

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

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

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

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

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

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

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

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

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

469 (7) "Indian Country" means:

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

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

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

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

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

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

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

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

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

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

491 date.

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

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

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

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

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

503 Section 6. Section 77-43-109 is amended to read:

504 **77-43-109. Fees.**

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

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

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

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

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

518 (a) data entry;

519 (b) processing registration packets;

520 (c) updating registry information; and

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

522 Section 7. **Effective date.**

523 This bill takes effect on July 1, 2023.