

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: Stephanie Pitcher

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; and
- ▶ makes technical and conforming changes.

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



- 26 [77-41-103](#), as last amended by Laws of Utah 2018, Chapter 281
- 27 [77-41-104](#), as last amended by Laws of Utah 2019, Chapter 382
- 28 [77-41-111](#), as enacted by Laws of Utah 2012, Chapter 145
- 29 [77-41-112](#), as last amended by Laws of Utah 2021, Chapters 262, 334 and 410 and last
- 30 amended by Coordination Clause, Laws of Utah 2021, Chapter 334
- 31 [77-43-102](#), as last amended by Laws of Utah 2022, Chapter 430
- 32 [77-43-104](#), as enacted by Laws of Utah 2017, Chapter 282
- 33 [77-43-109](#), as enacted by Laws of Utah 2017, Chapter 282

34

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

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

37 **77-41-102. Definitions.**

38 As used in this chapter:

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

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

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

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

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

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

49 (7) "Indian Country" means:

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

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

56 (c) all Indian allotments, including the Indian allotments to which the Indian titles have

57 not been extinguished, including rights-of-way running through the allotments.

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

79 (ii) who is:

80 (A) a Utah resident; or

81 (B) not a Utah resident, but who, in any 12-month period, is in this state for a total of
82 10 or more days, regardless of whether or not the offender intends to permanently reside in this
83 state;

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

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

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

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

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

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

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

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

130 (a) convicted in this state of:

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

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

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

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

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

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

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

139 (viii) Section 76-5-401.1, sexual abuse of a minor, except as provided in Subsection
140 76-5-401.1(3);

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

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

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

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

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

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

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

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

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

150 sexual abuse of a child;

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

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

153 younger than 18 years old, if the offense is committed on or after May 10, 2011;

154 (xx) Section 76-5b-201, sexual exploitation of a minor;

155 (xxi) Section 76-5b-201.1, aggravated sexual exploitation of a minor;

156 (xxii) Section 76-5b-204, sexual extortion or aggravated sexual extortion;

157 (xxiii) Section 76-7-102, incest;

158 (xxiv) Section 76-9-702, lewdness, if the individual has been convicted of the offense

159 four or more times;

160 (xxv) Section 76-9-702.1, sexual battery, if the individual has been convicted of the

161 offense four or more times;

162 (xxvi) any combination of convictions of Section 76-9-702, lewdness, and of Section

163 76-9-702.1, sexual battery, that total four or more convictions;

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

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

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

167 (xxx) attempting, soliciting, or conspiring to commit any felony offense listed in this

168 Subsection (17)(a);

169 (b) (i) who has been convicted of any crime, or an attempt, solicitation, or conspiracy

170 to commit a crime in another jurisdiction, including any state, federal, or military court that is

171 substantially equivalent to the offenses listed in Subsection (17)(a); and

172 (ii) who is:

173 (A) a Utah resident; or

174 (B) not a Utah resident, but who, in any 12-month period, is in this state for a total of

175 10 or more days, regardless of whether the offender intends to permanently reside in this state;

176 (c) (i) (A) who is required to register as a sex offender in any other jurisdiction of

177 original conviction;

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

179 or

180 (C) who would be required to register as a sex offender if residing in the jurisdiction of

181 the original conviction regardless of the date of the conviction or any previous registration
182 requirements; and

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

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

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

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

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

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

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

195 (ii) who has been committed to the division for secure care, as defined in Section
196 80-1-102, for that offense and:

197 (A) the individual remains in the division's custody until 30 days before the individual's
198 21st birthday; or

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

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

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

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

207 **77-41-103. Department duties.**

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

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

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

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

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

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

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

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

221 (b) the arrest of a person suspected of any of the offenses listed in Subsection
222 77-41-102(9) or (17), within five business days.

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

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

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

233 (6) The department shall:

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

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

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

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

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

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

242 (i) (A) promptly made available to any law enforcement agency that has jurisdiction

243 where the institution is located if the educational institution is an institution of higher
244 education; or

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

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

249 Section 3. Section **77-41-104** is amended to read:

250 **77-41-104. Registration of offenders -- Department and agency requirements.**

251 (1) The [~~department or an agent of the department~~] Department of Corrections shall
252 register an offender in the custody of the [~~department~~] Department of Corrections as required
253 under this chapter upon:

254 (a) placement on probation;

255 (b) commitment to a secure correctional facility operated by or under contract to the
256 [~~department~~] Department of Corrections;

257 (c) release from confinement to parole status, termination or expiration of sentence, or
258 escape;

259 (d) entrance to and release from any community-based residential program operated by
260 or under contract to the [~~department~~] Department of Corrections; or

261 (e) termination of probation or parole.

262 (2) The sheriff of the county in which an offender is confined shall register an offender
263 with the department, as required under this chapter, if the offender is not in the custody of the
264 [~~department~~] Department of Corrections and is confined in a correctional facility not operated
265 by or under contract to the [~~department~~] Department of Corrections upon:

266 (a) commitment to the correctional facility; and

267 (b) release from confinement.

268 (3) The division shall register an offender in the custody of the division with the
269 department, as required under this chapter, before the offender's release from custody of the
270 division.

271 (4) A state mental hospital shall register an offender committed to the state mental
272 hospital with the department, as required under this chapter, upon the offender's admission and
273 upon the offender's discharge.

274 (5) (a) (i) A municipal or county law enforcement agency shall register an offender
275 who resides within the agency's jurisdiction and is not under the supervision of the Division of
276 Adult Probation and Parole within the [~~department~~] Department of Corrections.

277 (ii) In order to conduct offender registration under this chapter, the agency shall ensure
278 the agency staff responsible for registration:

279 (A) has received initial training by the department and has been certified by the
280 department as qualified and authorized to conduct registrations and enter offender registration
281 information into the registry database; and

282 (B) certify annually with the department.

283 (b) (i) When the department receives offender registration information regarding a
284 change of an offender's primary residence location, the department shall within five days after
285 the day on which the department receives the information electronically notify the law
286 enforcement agencies that have jurisdiction over the area where:

287 (A) the residence that the offender is leaving is located; and

288 (B) the residence to which the offender is moving is located.

289 (ii) The department shall provide notification under this Subsection (5)(b) if the
290 offender's change of address is between law enforcement agency jurisdictions, or is within one
291 jurisdiction.

292 (c) The department shall make available to offenders required to register under this
293 chapter the name of the agency, whether the agency is a local law enforcement agency or the
294 department, that the offender should contact to register, the location for registering, and the
295 requirements of registration.

296 (6) An agency in the state that registers an offender on probation, an offender who has
297 been released from confinement to parole status or termination, or an offender whose sentence
298 has expired shall inform the offender of the duty to comply with the continuing registration
299 requirements of this chapter during the period of registration required in Subsection
300 [77-41-105\(3\)](#), including:

301 (a) notification to the state agencies in the states where the registrant presently resides
302 and plans to reside when moving across state lines;

303 (b) verification of address at least every 60 days pursuant to a parole agreement for
304 lifetime parolees; and

305 (c) notification to the out-of-state agency where the offender is living, regardless of
306 whether the offender is a resident of that state.

307 (7) The department may make administrative rules necessary to implement this
308 chapter, including:

309 (a) the method for dissemination of the information; and

310 (b) instructions to the public regarding the use of the information.

311 (8) The department shall redact information regarding the identity or location of a
312 victim from information provided under Subsections 77-41-103(4) and 77-41-105(7).

313 (9) This chapter does not create or impose any duty on any person to request or obtain
314 information regarding any offender from the department.

315 Section 4. Section 77-41-111 is amended to read:

316 **77-41-111. Fees.**

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

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

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

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

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

330 (a) data entry;

331 (b) processing registration packets;

332 (c) updating registry information; and

333 (d) ~~[ensuring offender compliance with registration requirements under this chapter;~~
334 ~~and]~~ reporting an offender not in compliance with registration requirements to a law
335 enforcement agency.

336 ~~[(e) apprehending offenders who are in violation of the offender registration~~
337 ~~requirements under this chapter.]~~

338 Section 5. Section **77-41-112** is amended to read:

339 **77-41-112. Removal from registry -- Requirements -- Procedure.**

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

- 343 (a) (i) the offender was convicted of an offense described in Subsection (2);
- 344 (ii) at least five years have passed after the day on which the offender's sentence for the
345 offense terminated;
- 346 (iii) the offense is the only offense for which the offender was required to register;
- 347 (iv) the offender has not been convicted of another offense, excluding a traffic offense,
348 since the day on which the offender was convicted of the offense for which the offender is
349 required to register, as evidenced by a certificate of eligibility issued by the bureau;
- 350 (v) the offender successfully completed all treatment ordered by the court or the Board
351 of Pardons and Parole relating to the offense; and
- 352 (vi) the offender has paid all restitution ordered by the court or the Board of Pardons
353 and Parole relating to the offense; or
- 354 (b) (i) if the offender is required to register in accordance with Subsection
355 **77-41-105(3)(a)**;
- 356 (ii) at least 10 years have passed after the later of:
 - 357 (A) the day on which the offender was placed on probation;
 - 358 (B) the day on which the offender was released from incarceration to parole;
 - 359 (C) the day on which the offender's sentence was terminated without parole;
 - 360 (D) the day on which the offender entered a community-based residential program; or
 - 361 (E) for a minor, as defined in Section **80-1-102**, the day on which the division's custody
362 of the offender was terminated;
- 363 (iii) the offender has not been convicted of another offense that is a class A
364 misdemeanor, felony, or capital felony within the most recent 10-year period after the date
365 described in Subsection (1)(b)(ii), as evidenced by a certificate of eligibility issued by the
366 bureau;

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

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

371 (c) (i) the offender is required to register in accordance with Subsection
372 77-41-105(3)(c);

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

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

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

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

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

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

380 (iii) the offender has not been convicted of another offense that is a class A
381 misdemeanor, felony, or capital felony within the most recent 20-year period after the date
382 described in Subsection (1)(c)(ii), as evidenced by a certificate of eligibility issued by the
383 bureau;

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

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

388 (vi) the offender submits to an evidence-based risk assessment to the court, with the
389 offender's petition, that:

390 (A) meets the standards for the current risk assessment, score, and risk level required
391 by the Board of Pardons and Parole for parole termination requests;

392 (B) is completed within the six months before the date on which the petition is filed;
393 and

394 (C) describes the evidence-based risk assessment of the current level of risk to the
395 safety of the public posed by the offender.

396 (2) The offenses referred to in Subsection (1)(a)(i) are:

397 (a) Section 76-4-401, enticing a minor, if the offense is a class A misdemeanor;

398 (b) Section 76-5-301, kidnapping;

399 (c) Section 76-5-304, unlawful detention, if the conviction of violating Section
400 76-5-304 is the only conviction for which the offender is required to register;

401 (d) Section 76-5-401, unlawful sexual activity with a minor if, at the time of the
402 offense, the offender is not more than 10 years older than the victim;

403 (e) Section 76-5-401.1, sexual abuse of a minor, if, at the time of the offense, the
404 offender is not more than 10 years older than the victim;

405 (f) Section 76-5-401.2, unlawful sexual conduct with a 16 or 17 year old, and at the
406 time of the offense, the offender is not more than 15 years older than the victim; or

407 (g) Section 76-9-702.7, voyeurism, if the offense is a class A misdemeanor.

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

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

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

415 (b) (i) The bureau shall:

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

419 (B) request information from the Department of Corrections regarding whether the
420 offender meets the requirements described in Subsection (1)(a)(ii), (a)(v), (a)(vi), (b)(ii),
421 (b)(iv), (b)(v), or (c)(ii), (c)(iv), (c)(v).

422 (ii) Upon request from the bureau under Subsection (3)(b)(i)(B), the Department of
423 Corrections shall issue a document reflecting whether the offender meets the requirements
424 described in Subsection (1)(a)(ii), (a)(v), (a)(vi), (b)(ii), (b)(iv), (b)(v), or (c)(ii), (c)(iv), (c)(v).

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

428 [~~(iii) The bureau shall request information from the department regarding whether the~~

429 offender meets the requirements.]

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

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

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

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

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

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

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

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

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

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

459 (d) The office of the prosecutor shall provide the following, if available, to the court

460 within 30 days after the day on which the office receives the petition:

461 (i) presentencing report;

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

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

464 (e) The victim, or the victim's parent or guardian if the victim is a minor under 18 years
465 old, may respond to the petition by filing a recommendation or objection with the court within
466 45 days after the day on which the petition is mailed to the victim.

467 (6) (a) The court shall:

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

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

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

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

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

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

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

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

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

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

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

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

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

490 (I) any other relevant factors.

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

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

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

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

500 (7) The court shall notify the victim and the Sex and Kidnap Offender Registry office
501 in the department of the court's decision within three days after the day on which the court
502 issues the court's decision in the same manner described in Subsection (5).

503 Section 6. Section **77-43-102** is amended to read:

504 **77-43-102. Definitions.**

505 As used in this chapter:

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

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

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

509 (i) Subsection [76-5-109.2\(3\)\(a\)](#) or (b), aggravated child abuse;

510 (ii) Section [76-5-308.5](#), human trafficking of a child; or

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

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

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

516 (i) a Utah resident; or

517 (ii) not a Utah resident, but who, in any 12-month period, is in this state for a total of
518 10 or more days, regardless of whether the offender intends to permanently reside in this state;

519 (c) (i) is required to register as a child abuse offender in any other jurisdiction of
520 original conviction, who is required to register as a child abuse offender by any state, federal,
521 or military court, or who would be required to register as a child abuse offender if residing in

522 the jurisdiction of the conviction regardless of the date of the conviction or any previous
523 registration requirements; and

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

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

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

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

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

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

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

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

541 (7) "Indian Country" means:

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

575 Section 7. Section 77-43-104 is amended to read:

576 **77-43-104. Registration of offenders -- Department and agency requirements.**

577 (1) An offender in the custody of the [~~department~~] Department of Corrections shall be
578 registered by [~~agents of~~] the [~~department~~] Department of Corrections upon:

579 (a) placement on probation;

580 (b) commitment to a secure correctional facility operated by or under contract to the
581 department;

582 (c) release from confinement to parole status, termination or expiration of sentence, or
583 escape;

584 (d) entrance to and release from any community-based residential program operated by
585 or under contract to the department; or

586 (e) termination of probation or parole.

587 (2) An offender who is not in the custody of the [~~department~~] Department of
588 Corrections and who is confined in a correctional facility not operated by or under contract to
589 the [~~department~~] Department of Corrections shall be registered with the department by the
590 sheriff of the county in which the offender is confined, upon:

591 (a) commitment to the correctional facility; and

592 (b) release from confinement.

593 (3) An offender in the custody of the division shall be registered with the department
594 by the division prior to release from custody.

595 (4) An offender committed to a state mental hospital shall be registered with the
596 department by the hospital upon admission and upon discharge.

597 (5) (a) (i) A municipal or county law enforcement agency shall register an offender
598 who resides within the agency's jurisdiction and is not under the supervision of the Division of
599 Adult Probation and Parole.

600 (ii) In order to conduct offender registration under this chapter, the agency shall ensure
601 the agency staff responsible for registration:

602 (A) has received initial training by the department and has been certified as qualified
603 and authorized to conduct registrations and enter offender registration information into the
604 registry database; and

605 (B) certify annually with the department.

606 (b) (i) When the department receives offender registration information regarding a
607 change of an offender's primary residence location, the department shall within five days
608 electronically notify the law enforcement agencies that have jurisdiction over the area where:

609 (A) the residence that the offender is leaving is located; and

610 (B) the residence to which the offender is moving is located.

611 (ii) The department shall provide notification under this Subsection (5)(b) if the
612 offender's change of address is between law enforcement agency jurisdictions, or is within one
613 jurisdiction.

614 (c) The department shall make available to offenders required to register under this

615 chapter the name of the agency, whether it is a local law enforcement agency or the department,
616 that the offender should contact to register, the location for registering, and the requirements of
617 registration.

618 (6) An agency in the state that registers an offender on probation, an offender who has
619 been released from confinement to parole status or termination, or an offender whose sentence
620 has expired shall inform the offender of the duty to comply with:

621 (a) the continuing registration requirements of this chapter during the period of
622 registration required in Subsection 77-43-105(3), including:

623 (i) notification to the state agencies in the states where the registrant presently resides
624 and plans to reside when moving across state lines;

625 (ii) verification of address at least every 60 days pursuant to a parole agreement for
626 lifetime parolees; and

627 (iii) notification to the out-of-state agency where the offender is living, whether or not
628 the offender is a resident of that state; and

629 (b) the identification card requirement under Section 53-3-806.5.

630 (7) The department may make administrative rules necessary to implement this
631 chapter, including:

632 (a) training requirements for agency staff responsible for conducting offender
633 registration;

634 (b) the method for dissemination of the information; and

635 (c) instructions to the public regarding the use of the information.

636 (8) Any information regarding the identity or location of a victim shall be redacted by
637 the department from information provided under Subsections 77-43-103(4) and 77-43-105(8).

638 (9) This chapter does not create or impose any duty on any person to request or obtain
639 information regarding any offender from the department.

640 Section 8. Section 77-43-109 is amended to read:

641 **77-43-109. Fees.**

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

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

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

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

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

655 (a) data entry;

656 (b) processing registration packets;

657 (c) updating registry information; and

658 (d) ~~[ensuring offender compliance with registration requirements under this chapter]~~
659 reporting an offender not in compliance with registration requirements to a law enforcement
660 agency.

661 **Section 9. Effective date.**

662 This bill takes effect on July 1, 2024.