

## HB0156S03 compared with HB0156

~~text~~ shows text that was in HB0156 but was deleted in HB0156S03.

text shows text that was not in HB0156 but was inserted into HB0156S03.

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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

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#### 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.

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### Money Appropriated in this Bill:

None

### Other Special Clauses:

~~{ None }~~ 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

77-41-104, as last amended by Laws of Utah 2019, Chapter 382

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

77-41-112, as last amended by Laws of Utah 2021, Chapters 262, 334 and 410 and last amended by Coordination Clause, Laws of Utah 2021, Chapter 334

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

77-43-104, as enacted by Laws of Utah 2017, Chapter 282

77-43-109, as enacted by Laws of Utah 2017, Chapter 282

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

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

#### **77-41-102. Definitions.**

As used in this chapter:

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

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

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

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

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

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

(7) "Indian Country" means:

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

(ii) who is:

(A) a Utah resident; or

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

(17) "Sex offender" means any individual:

(a) convicted in this state of:

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

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

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

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

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

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

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

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

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

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

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- (xi) Section 76-5-402.1, rape of a child;
  - (xii) Section 76-5-402.2, object rape;
  - (xiii) Section 76-5-402.3, object rape of a child;
  - (xiv) a felony violation of Section 76-5-403, forcible sodomy;
  - (xv) Section 76-5-403.1, sodomy on a child;
  - (xvi) Section 76-5-404, forcible sexual abuse;
  - (xvii) Section 76-5-404.1, sexual abuse of a child, or Section 76-5-404.3, aggravated sexual abuse of a child;
  - (xviii) Section 76-5-405, aggravated sexual assault;
  - (xix) Section 76-5-412, custodial sexual relations, when the individual in custody is younger than 18 years old, if the offense is committed on or after May 10, 2011;
  - (xx) Section 76-5b-201, sexual exploitation of a minor;
  - (xxi) Section 76-5b-201.1, aggravated sexual exploitation of a minor;
  - (xxii) Section 76-5b-204, sexual extortion or aggravated sexual extortion;
  - (xxiii) Section 76-7-102, incest;
  - (xxiv) Section 76-9-702, lewdness, if the individual has been convicted of the offense four or more times;
  - (xxv) Section 76-9-702.1, sexual battery, if the individual has been convicted of the offense four or more times;
  - (xxvi) any combination of convictions of Section 76-9-702, lewdness, and of Section 76-9-702.1, sexual battery, that total four or more convictions;
  - (xxvii) Section 76-9-702.5, lewdness involving a child;
  - (xxviii) a felony or class A misdemeanor violation of Section 76-9-702.7, voyeurism;
  - (xxix) Section 76-10-1306, aggravated exploitation of prostitution; or
  - (xxx) attempting, soliciting, or conspiring to commit any felony offense listed in this Subsection (17)(a);
- (b) (i) who has been convicted of any crime, or an attempt, solicitation, or conspiracy to commit a crime in another jurisdiction, including any state, federal, or military court that is substantially equivalent to the offenses listed in Subsection (17)(a); and
- (ii) who is:
    - (A) a Utah resident; or

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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any jurisdiction.

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

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

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

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

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

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

(i) for the purposes under this chapter; or

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

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

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

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

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

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

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

(6) The department shall:

(a) provide the following additional information when available:

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



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- (ii) a description of the offender's primary and secondary targets; and
- (iii) any other relevant identifying information as determined by the department;
- (b) maintain the Sex Offender and Kidnap Offender Notification and Registration

website; and

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

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

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

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

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

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

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

- (a) placement on probation;
- (b) commitment to a secure correctional facility operated by or under contract to the ~~[department]~~ Department of Corrections;

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

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

- (e) termination of probation or parole.

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

- (a) commitment to the correctional facility; and

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(b) release from confinement.

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

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

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

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

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

(B) certify annually with the department.

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

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

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

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

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

(6) An agency in the state that registers an offender on probation, an offender who has been released from confinement to parole status or termination, or an offender whose sentence

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has expired shall inform the offender of the duty to comply with the continuing registration requirements of this chapter during the period of registration required in Subsection 77-41-105(3), including:

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

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

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

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

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

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

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

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

Section ~~3~~4. Section 77-41-111 is amended to read:

### **77-41-111. Fees.**

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

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

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

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

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

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of:

- (a) data entry;
- (b) processing registration packets;
- (c) updating registry information; and
- (d) ~~ensuring offender compliance with registration requirements under this chapter;~~  
and reporting an offender not in compliance with registration requirements to a law enforcement agency.

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

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

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

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

- (a) (i) the offender was convicted of an offense described in Subsection (2);
  - (ii) at least five years have passed after the day on which the offender's sentence for the offense terminated;
  - (iii) the offense is the only offense for which the offender was required to register;
  - (iv) the offender has not been convicted of another offense, excluding a traffic offense, since the day on which the offender was convicted of the offense for which the offender is required to register, as evidenced by a certificate of eligibility issued by the bureau;
  - (v) the offender successfully completed all treatment ordered by the court or the Board of Pardons and Parole relating to the offense; and
  - (vi) the offender has paid all restitution ordered by the court or the Board of Pardons and Parole relating to the offense; or
- (b) (i) if the offender is required to register in accordance with Subsection 77-41-105(3)(a);
- (ii) at least 10 years have passed after the later of:
    - (A) the day on which the offender was placed on probation;
    - (B) the day on which the offender was released from incarceration to parole;
    - (C) the day on which the offender's sentence was terminated without parole;

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

(A) meets the standards for the current risk assessment, score, and risk level required

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by the Board of Pardons and Parole for parole termination requests;

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

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

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

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

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

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

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

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

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

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

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

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

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

(b) (i) The bureau shall:

(A) perform a check of records of governmental agencies, including national criminal databases, to determine whether an offender is eligible to receive a certificate of eligibility;

~~(ii); and~~

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

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

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

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

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

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

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

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

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

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

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

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

(b) Upon receipt of a petition for removal from the Sex and Kidnap Offender Registry,

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the office of the prosecutor shall provide notice of the petition by first-class mail to the victim at the most recent address of record on file or, if the victim is still a minor under 18 years old, to the parent or guardian of the victim.

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

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

- (i) presentencing report;
- (ii) an evaluation done as part of sentencing; and
- (iii) any other information the office of the prosecutor feels the court should consider.

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

(6) (a) The court shall:

- (i) review the petition and all documents submitted with the petition; and
- (ii) hold a hearing if requested by the prosecutor or the victim.

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

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

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

- (A) the nature and degree of violence involved in the offense that requires registration;
- (B) the age and number of victims of the offense that requires registration;
- (C) the age of the offender at the time of the offense that requires registration;
- (D) the offender's performance while on supervision for the offense that requires registration;



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

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

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

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

(I) any other relevant factors.

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

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

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

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

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

Section ~~44~~6. Section 77-43-102 is amended to read:

### **77-43-102. Definitions.**

As used in this chapter:

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

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

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

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

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

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

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

(b) has been convicted of any crime, or an attempt, solicitation, or conspiracy to commit a crime in another jurisdiction, including any state, federal, or military court, that is

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substantially equivalent to the offenses listed in Subsection (2)(a) and who is:

(i) a Utah resident; or

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

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

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

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

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

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

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

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

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

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

(7) "Indian Country" means:

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

(b) all dependent Indian communities within the borders of the United States whether

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within the original or subsequently acquired territory, and whether or not within the limits of a state; and

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

- (a) placement on probation;
- (b) commitment to a secure correctional facility operated by or under contract to the department;
- (c) release from confinement to parole status, termination or expiration of sentence, or escape;
- (d) entrance to and release from any community-based residential program operated by or under contract to the department; or
- (e) termination of probation or parole.

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

- (a) commitment to the correctional facility; and
  - (b) release from confinement.
- (3) An offender in the custody of the division shall be registered with the department by the division prior to release from custody.

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

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

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

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

(B) certify annually with the department.

(b) (i) When the department receives offender registration information regarding a change of an offender's primary residence location, the department shall within five days

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electronically notify the law enforcement agencies that have jurisdiction over the area where:

- (A) the residence that the offender is leaving is located; and
- (B) the residence to which the offender is moving is located.

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

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

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

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

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

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

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

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

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

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

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

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

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

(9) This chapter does not create or impose any duty on any person to request or obtain

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information regarding any offender from the department.

Section ~~{5}~~8. Section 77-43-109 is amended to read:

### **77-43-109. Fees.**

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

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

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

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

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

(a) data entry;

(b) processing registration packets;

(c) updating registry information; and

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

### Section 9. Effective date.

This bill takes effect on July 1, 2024.