

1 **SEX AND KIDNAP OFFENDER REGISTRY AMENDMENTS**

2 2024 GENERAL SESSION

3 STATE OF UTAH

4 **Chief Sponsor: Andrew Stoddard**

5 Senate Sponsor: Michael K. McKell

7 **LONG TITLE**

8 **General Description:**

9 This bill amends provisions related to the Sex and Kidnap Offender Registry.

10 **Highlighted Provisions:**

11 This bill:

12 ▶ changes references from the Department of Corrections to the Department of Public
13 Safety;

14 ▶ clarifies the purpose of the Department of Public Safety keeping certain information
15 for individuals on the Sex and Kidnap Offender Registry; and

16 ▶ clarifies the requirements the Bureau of Criminal Identification and the Department
17 of Corrections must check for when an individual petitions to be removed from the
18 registry.

19 **Money Appropriated in this Bill:**

20 None

21 **Other Special Clauses:**

22 This bill provides a special effective date.

23 **Utah Code Sections Affected:**

24 AMENDS:

25 **53-3-205**, as last amended by Laws of Utah 2023, Chapters 328, 454

26 **53-3-804**, as last amended by Laws of Utah 2023, Chapter 328

27 **77-27-5.2**, as enacted by Laws of Utah 2021, Chapter 410



28 [77-27-21.7](#), as last amended by Laws of Utah 2023, Chapters 18, 117
 29 [77-41-103](#), as last amended by Laws of Utah 2023, Chapters 123, 128
 30 [77-41-112](#), as last amended by Laws of Utah 2023, Chapters 124, 128
 31 [80-5-201](#), as last amended by Laws of Utah 2023, Chapter 123

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

34 Section 1. Section **53-3-205** is amended to read:

35 **53-3-205. Application for license or endorsement -- Fee required -- Tests --**
 36 **Expiration dates of licenses and endorsements -- Information required -- Previous**
 37 **licenses surrendered -- Driving record transferred from other states -- Reinstatement --**
 38 **Fee required -- License agreement.**

39 (1) An application for an original license, provisional license, or endorsement shall be:

- 40 (a) made upon a form furnished by the division; and
- 41 (b) accompanied by a nonrefundable fee set under Section [53-3-105](#).

42 (2) An application and fee for an original provisional class D license or an original
 43 class D license entitle the applicant to:

- 44 (a) not more than three attempts to pass both the knowledge and the skills tests for a
 45 class D license within six months after the date of the application;
- 46 (b) a learner permit if needed pending completion of the application and testing
 47 process; and
- 48 (c) an original class D license and license certificate after all tests are passed and
 49 requirements are completed.

50 (3) An application and fee for a motorcycle or taxicab endorsement entitle the
 51 applicant to:

- 52 (a) not more than three attempts to pass both the knowledge and skills tests within six
 53 months after the date of the application;
- 54 (b) a motorcycle learner permit after the motorcycle knowledge test is passed; and
- 55 (c) a motorcycle or taxicab endorsement when all tests are passed.

56 (4) An application for a commercial class A, B, or C license entitles the applicant to:

- 57 (a) not more than two attempts to pass a knowledge test when accompanied by the fee
 58 provided in Subsection [53-3-105\(18\)](#);

59 (b) not more than two attempts to pass a skills test when accompanied by a fee in
60 Subsection 53-3-105(19) within six months after the date of application;

61 (c) both a commercial driver instruction permit and a temporary license permit for the
62 license class held before the applicant submits the application if needed after the knowledge
63 test is passed; and

64 (d) an original commercial class A, B, or C license and license certificate when all
65 applicable tests are passed.

66 (5) An application and fee for a CDL endorsement entitle the applicant to:

67 (a) not more than two attempts to pass a knowledge test and not more than two
68 attempts to pass a skills test within six months after the date of the application; and

69 (b) a CDL endorsement when all tests are passed.

70 (6) (a) If a CDL applicant does not pass a knowledge test, skills test, or an endorsement
71 test within the number of attempts provided in Subsection (4) or (5), each test may be taken
72 two additional times within the six months for the fee provided in Section 53-3-105.

73 (b) (i) An out-of-state resident who holds a valid CDIP issued by a state or jurisdiction
74 that is compliant with 49 C.F.R. Part 383 may take a skills test administered by the division if
75 the out-of-state resident pays the fee provided in Subsection 53-3-105(19).

76 (ii) The division shall:

77 (A) electronically transmit skills test results for an out-of-state resident to the licensing
78 agency in the state or jurisdiction in which the out-of-state resident has obtained a valid CDIP;
79 and

80 (B) provide the out-of-state resident with documentary evidence upon successful
81 completion of the skills test.

82 (7) (a) (i) Except as provided under Subsections (7)(a)(ii), (f), and (g), an original class
83 D license expires on the birth date of the applicant in the eighth year after the year the license
84 certificate was issued.

85 (ii) An original provisional class D license expires on the birth date of the applicant in
86 the fifth year following the year the license certificate was issued.

87 (iii) Except as provided in Subsection (7)(f), a limited term class D license expires on
88 the birth date of the applicant in the fifth year the license certificate was issued.

89 (b) Except as provided under Subsections (7)(f) and (g), a renewal or an extension to a

90 license expires on the birth date of the licensee in the eighth year after the expiration date of the
91 license certificate renewed or extended.

92 (c) Except as provided under Subsections (7)(f) and (g), a duplicate license expires on
93 the same date as the last license certificate issued.

94 (d) An endorsement to a license expires on the same date as the license certificate
95 regardless of the date the endorsement was granted.

96 (e) (i) A regular license certificate and an endorsement to the regular license certificate
97 held by an individual described in Subsection (7)(e)(ii), that expires during the time period the
98 individual is stationed outside of the state, is valid until 90 days after the individual's orders are
99 terminated, the individual is discharged, or the individual's assignment is changed or
100 terminated, unless:

101 (A) the license is suspended, disqualified, denied, or has been cancelled or revoked by
102 the division; or

103 (B) the licensee updates the information or photograph on the license certificate.

104 (ii) The provisions in Subsection (7)(e)(i) apply to an individual:

105 (A) ordered to active duty and stationed outside of Utah in any of the armed forces of
106 the United States;

107 (B) who is an immediate family member or dependent of an individual described in
108 Subsection (7)(e)(ii)(A) and is residing outside of Utah;

109 (C) who is a civilian employee of the United States State Department or United States
110 Department of Defense and is stationed outside of the United States; or

111 (D) who is an immediate family member or dependent of an individual described in
112 Subsection (7)(e)(ii)(C) and is residing outside of the United States.

113 (f) (i) Except as provided in Subsection (7)(f)(ii), a limited-term license certificate or a
114 renewal to a limited-term license certificate expires:

115 (A) on the expiration date of the period of time of the individual's authorized stay in
116 the United States or on the date provided under this Subsection (7), whichever is sooner; or

117 (B) on the date of issuance in the first year following the year that the limited-term
118 license certificate was issued if there is no definite end to the individual's period of authorized
119 stay.

120 (ii) A limited-term license certificate or a renewal to a limited-term license certificate

121 issued to an approved asylee or a refugee expires on the birth date of the applicant in the fifth
122 year following the year that the limited-term license certificate was issued.

123 (g) A driving privilege card issued or renewed under Section 53-3-207 expires on the
124 birth date of the applicant in the first year following the year that the driving privilege card was
125 issued or renewed.

126 (8) (a) In addition to the information required by Title 63G, Chapter 4, Administrative
127 Procedures Act, for requests for agency action, an applicant shall:

128 (i) provide:

129 (A) the applicant's full legal name;

130 (B) the applicant's birth date;

131 (C) the applicant's sex;

132 (D) (I) documentary evidence of the applicant's valid social security number;

133 (II) written proof that the applicant is ineligible to receive a social security number;

134 (III) the applicant's temporary identification number (ITIN) issued by the Internal

135 Revenue Service for an individual who:

136 (Aa) does not qualify for a social security number; and

137 (Bb) is applying for a driving privilege card; or

138 (IV) other documentary evidence approved by the division;

139 (E) the applicant's Utah residence address as documented by a form or forms

140 acceptable under rules made by the division under Section 53-3-104, unless the application is

141 for a temporary CDL issued under Subsection 53-3-407(2)(b); and

142 (F) fingerprints, or a fingerprint confirmation form described in Subsection

143 53-3-205.5(1)(a)(ii), and a photograph in accordance with Section 53-3-205.5 if the applicant is

144 applying for a driving privilege card;

145 (ii) provide evidence of the applicant's lawful presence in the United States by
146 providing documentary evidence:

147 (A) that the applicant is:

148 (I) a United States citizen;

149 (II) a United States national; or

150 (III) a legal permanent resident alien; or

151 (B) of the applicant's:

- 152 (I) unexpired immigrant or nonimmigrant visa status for admission into the United
153 States;
- 154 (II) pending or approved application for asylum in the United States;
- 155 (III) admission into the United States as a refugee;
- 156 (IV) pending or approved application for temporary protected status in the United
157 States;
- 158 (V) approved deferred action status;
- 159 (VI) pending application for adjustment of status to legal permanent resident or
160 conditional resident; or
- 161 (VII) conditional permanent resident alien status;
- 162 (iii) provide a description of the applicant;
- 163 (iv) state whether the applicant has previously been licensed to drive a motor vehicle
164 and, if so, when and by what state or country;
- 165 (v) state whether the applicant has ever had a license suspended, cancelled, revoked,
166 disqualified, or denied in the last 10 years, or whether the applicant has ever had a license
167 application refused, and if so, the date of and reason for the suspension, cancellation,
168 revocation, disqualification, denial, or refusal;
- 169 (vi) state whether the applicant intends to make an anatomical gift under Title 26B,
170 Chapter 8, Part 3, Revised Uniform Anatomical Gift Act, in compliance with Subsection (15);
- 171 (vii) state whether the applicant is required to register as a sex offender in accordance
172 with Title 77, Chapter 41, Sex and Kidnap Offender Registry;
- 173 (viii) state whether the applicant is a veteran of the United States military, provide
174 verification that the applicant was granted an honorable or general discharge from the United
175 States Armed Forces, and state whether the applicant does or does not authorize sharing the
176 information with the Department of Veterans and Military Affairs;
- 177 (ix) provide all other information the division requires; and
- 178 (x) sign the application which signature may include an electronic signature as defined
179 in Section [46-4-102](#).
- 180 (b) Unless the applicant provides acceptable verification of homelessness as described
181 in rules made by the division, an applicant shall have a Utah residence address, unless the
182 application is for a temporary CDL issued under Subsection [53-3-407\(2\)\(b\)](#).

183 (c) An applicant shall provide evidence of lawful presence in the United States in
184 accordance with Subsection (8)(a)(ii), unless the application is for a driving privilege card.

185 (d) The division shall maintain on the division's computerized records an applicant's:

186 (i) (A) social security number;

187 (B) temporary identification number (ITIN); or

188 (C) other number assigned by the division if Subsection (8)(a)(i)(D)(IV) applies; and

189 (ii) indication whether the applicant is required to register as a sex offender in

190 accordance with Title 77, Chapter 41, Sex and Kidnap Offender Registry.

191 (9) The division shall require proof of an applicant's name, birth date, and birthplace by
192 at least one of the following means:

193 (a) current license certificate;

194 (b) birth certificate;

195 (c) Selective Service registration; or

196 (d) other proof, including church records, family Bible notations, school records, or

197 other evidence considered acceptable by the division.

198 (10) (a) Except as provided in Subsection (10)(c), if an applicant receives a license in a
199 higher class than what the applicant originally was issued:

200 (i) the license application is treated as an original application; and

201 (ii) license and endorsement fees is assessed under Section [53-3-105](#).

202 (b) An applicant that receives a downgraded license in a lower license class during an
203 existing license cycle that has not expired:

204 (i) may be issued a duplicate license with a lower license classification for the
205 remainder of the existing license cycle; and

206 (ii) shall be assessed a duplicate license fee under Subsection [53-3-105\(25\)](#) if a
207 duplicate license is issued under Subsection (10)(b)(i).

208 (c) An applicant who has received a downgraded license in a lower license class under
209 Subsection (10)(b):

210 (i) may, when eligible, receive a duplicate license in the highest class previously issued
211 during a license cycle that has not expired for the remainder of the existing license cycle; and

212 (ii) shall be assessed a duplicate license fee under Subsection [53-3-105\(25\)](#) if a
213 duplicate license is issued under Subsection (10)(c)(i).

214 (11) (a) When an application is received from an applicant previously licensed in
215 another state to drive a motor vehicle, the division shall request a copy of the driver's record
216 from the other state.

217 (b) When received, the driver's record becomes part of the driver's record in this state
218 with the same effect as though entered originally on the driver's record in this state.

219 (12) An application for reinstatement of a license after the suspension, cancellation,
220 disqualification, denial, or revocation of a previous license is accompanied by the additional
221 fee or fees specified in Section 53-3-105.

222 (13) An individual who has an appointment with the division for testing and fails to
223 keep the appointment or to cancel at least 48 hours in advance of the appointment shall pay the
224 fee under Section 53-3-105.

225 (14) An applicant who applies for an original license or renewal of a license agrees that
226 the individual's license is subject to a suspension or revocation authorized under this title or
227 Title 41, Motor Vehicles.

228 (15) (a) A licensee shall authenticate the indication of intent under Subsection
229 (8)(a)(vi) in accordance with division rule.

230 (b) (i) Notwithstanding Title 63G, Chapter 2, Government Records Access and
231 Management Act, the division may, upon request, release to an organ procurement
232 organization, as defined in Section 26B-8-301, the names and addresses of all applicants who,
233 under Subsection (8)(a)(vi), indicate that they intend to make an anatomical gift.

234 (ii) An organ procurement organization may use released information only to:

235 (A) obtain additional information for an anatomical gift registry; and

236 (B) inform licensees of anatomical gift options, procedures, and benefits.

237 (16) Notwithstanding Title 63G, Chapter 2, Government Records Access and
238 Management Act, the division may release to the Department of Veterans and Military Affairs
239 the names and addresses of all applicants who indicate their status as a veteran under
240 Subsection (8)(a)(viii).

241 (17) Notwithstanding Title 63G, Chapter 2, Government Records Access and
242 Management Act, the division shall, upon request, release to the Sex and Kidnap Offender
243 Registry office in the Department of [~~Corrections~~] Public Safety, the names and addresses of
244 all applicants who, under Subsection (8)(a)(vii), indicate they are required to register as a sex

245 offender in accordance with Title 77, Chapter 41, Sex and Kidnap Offender Registry.

246 (18) The division and its employees are not liable, as a result of false or inaccurate
247 information provided under Subsection (8)(a)(vi) or (viii), for direct or indirect:

248 (a) loss;

249 (b) detriment; or

250 (c) injury.

251 (19) An applicant who knowingly fails to provide the information required under
252 Subsection (8)(a)(vii) is guilty of a class A misdemeanor.

253 (20) A person may not hold both an unexpired Utah license certificate and an
254 unexpired identification card.

255 (21) (a) An applicant who applies for an original motorcycle endorsement to a regular
256 license certificate is exempt from the requirement to pass the knowledge and skills test to be
257 eligible for the motorcycle endorsement if the applicant:

258 (i) is a resident of the state of Utah;

259 (ii) (A) is ordered to active duty and stationed outside of Utah in any of the armed
260 forces of the United States; or

261 (B) is an immediate family member or dependent of an individual described in
262 Subsection (21)(a)(ii)(A) and is residing outside of Utah;

263 (iii) has a digitized driver license photo on file with the division;

264 (iv) provides proof to the division of the successful completion of a certified
265 Motorcycle Safety Foundation rider training course; and

266 (v) provides the necessary information and documentary evidence required under
267 Subsection (8).

268 (b) In accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, the
269 division shall make rules:

270 (i) establishing the procedures for an individual to obtain a motorcycle endorsement
271 under this Subsection (21); and

272 (ii) identifying the applicable restrictions for a motorcycle endorsement issued under
273 this Subsection (21).

274 Section 2. Section **53-3-804** is amended to read:

275 **53-3-804. Application for identification card -- Required information -- Release**

276 **of anatomical gift information -- Cancellation of identification card.**

277 (1) To apply for a regular identification card or limited-term identification card, an
278 applicant shall:

279 (a) be a Utah resident;

280 (b) have a Utah residence address; and

281 (c) appear in person at any license examining station.

282 (2) An applicant shall provide the following information to the division:

283 (a) true and full legal name and Utah residence address;

284 (b) date of birth as set forth in a certified copy of the applicant's birth certificate, or
285 other satisfactory evidence of birth, which shall be attached to the application;

286 (c) (i) social security number; or

287 (ii) written proof that the applicant is ineligible to receive a social security number;

288 (d) place of birth;

289 (e) height and weight;

290 (f) color of eyes and hair;

291 (g) signature;

292 (h) photograph;

293 (i) evidence of the applicant's lawful presence in the United States by providing
294 documentary evidence:

295 (i) that the applicant is:

296 (A) a United States citizen;

297 (B) a United States national; or

298 (C) a legal permanent resident alien; or

299 (ii) of the applicant's:

300 (A) unexpired immigrant or nonimmigrant visa status for admission into the United
301 States;

302 (B) pending or approved application for asylum in the United States;

303 (C) admission into the United States as a refugee;

304 (D) pending or approved application for temporary protected status in the United
305 States;

306 (E) approved deferred action status;

- 307 (F) pending application for adjustment of status to legal permanent resident or
308 conditional resident; or
- 309 (G) conditional permanent resident alien status;
- 310 (j) an indication whether the applicant intends to make an anatomical gift under Title
311 26B, Chapter 8, Part 3, Revised Uniform Anatomical Gift Act;
- 312 (k) an indication whether the applicant is required to register as a sex offender in
313 accordance with Title 77, Chapter 41, Sex and Kidnap Offender Registry; and
- 314 (l) an indication whether the applicant is a veteran of the United States Armed Forces,
315 verification that the applicant has received an honorable or general discharge from the United
316 States Armed Forces, and an indication whether the applicant does or does not authorize
317 sharing the information with the state Department of Veterans and Military Affairs.
- 318 (3) (a) The requirements of Section 53-3-234 apply to this section for each individual,
319 age 16 and older, applying for an identification card.
- 320 (b) Refusal to consent to the release of information under Section 53-3-234 shall result
321 in the denial of the identification card.
- 322 (4) An individual person who knowingly fails to provide the information required
323 under Subsection (2)(k) is guilty of a class A misdemeanor.
- 324 (5) (a) A person may not hold both an unexpired Utah license certificate and an
325 unexpired identification card.
- 326 (b) A person who holds a regular or limited term Utah driver license and chooses to
327 relinquish the person's driving privilege may apply for an identification card under this chapter,
328 provided:
- 329 (i) the driver:
- 330 (A) no longer qualifies for a driver license for failure to meet the requirement in
331 Section 53-3-304; or
- 332 (B) makes a personal decision to permanently discontinue driving; and
- 333 (ii) the driver:
- 334 (A) submits an application to the division on a form approved by the division in
335 person, through electronic means, or by mail;
- 336 (B) affirms their intention to permanently discontinue driving; and
- 337 (C) surrenders to the division the driver license certificate; and

338 (iii) the division possesses a digital photograph of the driver obtained within the
339 preceding 10 years.

340 (c) (i) The division shall waive the fee under Section 53-3-105 for an identification
341 card for an original identification card application under this Subsection (5).

342 (ii) The fee waiver described in Subsection (5)(c)(i) does not apply to a person whose
343 driving privilege is suspended or revoked.

344 (6) Notwithstanding Title 63G, Chapter 2, Government Records Access and
345 Management Act, the division shall, upon request, release to the Sex and Kidnap Offender
346 Registry office in the Department of ~~Corrections~~ Public Safety, the names and addresses of
347 all applicants who, under Subsection (2)(k), indicate they are required to register as a sex
348 offender in accordance with Title 77, Chapter 41, Sex and Kidnap Offender Registry.

349 Section 3. Section 77-27-5.2 is amended to read:

350 **77-27-5.2. Board authority to order removal from Sex and Kidnap Offender**
351 **Registry.**

352 (1) If the board grants a pardon for a conviction that is the basis for an individual's
353 registration on the Sex and Kidnap Offender Registry, the board shall issue an order directing
354 the Department of ~~Corrections~~ Public Safety to remove the individual's name and personal
355 information relating to the pardoned conviction from the Sex and Kidnap Offender Registry.

356 (2) An order described in Subsection (1), issued by the board, satisfies the notification
357 requirement described in Subsection 77-41-113(1)(b).

358 Section 4. Section 77-27-21.7 is amended to read:

359 **77-27-21.7. Sex offender restrictions.**

360 (1) As used in this section:

361 (a) "Condominium project" means the same as that term is defined in Section 57-8-3.

362 (b) "Minor" means an individual who is younger than 18 years old;

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

364 (A) a licensed day care or preschool facility;

365 (B) a public swimming pool or a swimming pool maintained, operated, or owned by a
366 homeowners' association, condominium project, or apartment complex;

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

369 (D) a community park that is open to the public or a park maintained, operated, or
370 owned by a homeowners' association, condominium project, or apartment complex;

371 (E) a public playground or a playground maintained, operated, or owned by a
372 homeowners' association, condominium project, or apartment complex, including those areas
373 designed to provide minors with space, recreational equipment, or other amenities intended to
374 allow minors to engage in physical activity; and

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

378 (ii) "Protected area" does not include:

379 (A) the area described in Subsection (1)(c)(i)(F) if the victim is a member of the
380 immediate family of the sex offender and the terms of the sex offender's agreement of
381 probation or parole allow the sex offender to reside in the same residence as the victim;

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

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

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

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

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

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

397 (b) the victim or the victim's parent or guardian advises the Department of
398 [~~Corrections~~] Public Safety that the victim elects to restrict the sex offender from the area and
399 authorizes the Department of [~~Corrections~~] Public Safety to advise the sex offender of the area

400 where the victim resides; and

401 (c) the Department of [~~Corrections~~] Public Safety notifies the sex offender in writing
402 that the sex offender is prohibited from being in the area described in Subsection (1)(c)(i)(F)
403 and provides a description of the location of the protected area to the sex offender.

404 (3) A sex offender may not:

405 (a) be in a protected area except:

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

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

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

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

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

416 (b) serve as an athletic coach, manager, or trainer for a sports team of which a minor
417 who is younger than 18 years old is a member.

418 (4) A sex offender who violates this section is guilty of:

419 (a) a class A misdemeanor; or

420 (b) if previously convicted of violating this section within the last ten years, a third
421 degree felony.

422 Section 5. Section **77-41-103** is amended to read:

423 **77-41-103. Department duties.**

424 (1) The department, to assist law enforcement in investigating kidnapping and
425 sex-related crimes and in apprehending offenders, shall:

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

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

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

- 431 (i) for the purposes under this chapter; or
432 (ii) in accordance with Section 63G-2-206.
- 433 (2) Any law enforcement agency shall, in the manner prescribed by the department,
434 inform the department of:
- 435 (a) the receipt of a report or complaint of an offense listed in Subsection 77-41-102(10)
436 or (18), within three business days; and
- 437 (b) the arrest of a person suspected of any of the offenses listed in Subsection
438 77-41-102(10) or (18), within five business days.
- 439 (3) Upon convicting a person of any of the offenses listed in Subsection 77-41-102(10)
440 or (18), the convicting court shall within three business days forward a signed copy of the
441 judgment and sentence to the Sex and Kidnap Offender Registry office within the department.
- 442 (4) Upon modifying, withdrawing, setting aside, vacating, or otherwise altering a
443 conviction for any offense listed in Subsection 77-41-102(10) or (18), the court shall, within
444 three business days, forward a signed copy of the order to the Sex and Kidnap Offender
445 Registry office within the department.
- 446 (5) The department may intervene in any matter, including a criminal action, where the
447 matter purports to affect a person's lawfully entered registration requirement.
- 448 (6) The department shall:
- 449 (a) provide the following additional information when available:
- 450 (i) the crimes the offender has been convicted of or adjudicated delinquent for;
451 (ii) a description of the offender's primary and secondary targets; and
452 (iii) any other relevant identifying information as determined by the department;
- 453 (b) maintain the Sex Offender and Kidnap Offender Notification and Registration
454 website; and
- 455 (c) ensure that the registration information collected regarding an offender's enrollment
456 or employment at an educational institution is:
- 457 (i) (A) promptly made available to any law enforcement agency that has jurisdiction
458 where the institution is located if the educational institution is an institution of higher
459 education; or
- 460 (B) promptly made available to the district superintendent of the school district where
461 the offender is employed if the educational institution is an institution of primary education;

462 and

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

464 Section 6. Section **77-41-112** is amended to read:

465 **77-41-112. Removal from registry -- Requirements -- Procedure.**

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

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

470 (ii) at least five years have passed after the day on which the offender's sentence for the
471 offense terminated;

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

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

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

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

480 (b) (i) if the offender is required to register in accordance with Subsection
481 **77-41-105(3)(a)**;

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

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

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

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

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

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

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

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

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

497 (c) (i) the offender is required to register in accordance with Subsection
498 77-41-105(3)(c);

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

525 (c) Section 76-5-304, unlawful detention, if the conviction of violating Section
526 76-5-304 is the only conviction for which the offender is required to register;

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

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

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

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

534 (h) an offense for which an individual is required to register under Subsection
535 77-41-102(10)(c) or 77-41-102(18)(c), if the offense is not substantially equivalent to an
536 offense described in Subsection 77-41-102(10)(a) or 77-41-102(18)(a).

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

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

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

544 (b) (i) The bureau shall:

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

547 (B) ~~Ĥ→ [request information from the Department of Corrections regarding] determine ←Ĥ~~
547a whether the
548 offender meets the requirements described in Subsection (1)(a)(ii), (a)(v), (a)(vi), (b)(ii),
549 (b)(iv), (b)(v), [or] (c)(ii), (c)(iv), or (c)(v).

550 ~~Ĥ→ [(ii) Upon request from the bureau under Subsection (3)(b)(i)(B), the Department of~~
551 ~~Corrections shall issue a document reflecting whether the offender meets the requirements~~
552 ~~described in Subsection (1)(a)(ii), (a)(v), (a)(vi), (b)(ii), (b)(iv), (b)(v), [or] (c)(ii), (c)(iv), or~~
553 ~~(c)(v).] ←Ĥ~~

554 ~~Ĥ→ [(iii) (ii) ←Ĥ~~ If the offender meets the requirements described in Subsection (1)(a), (b),
554a or (c),

555 the bureau shall issue a certificate of eligibility to the offender, which is valid for a period of 90
556 days after the day on which the bureau issues the certificate.

557 ~~Ĥ→ (iv) The bureau shall provide a copy of the document provided to the bureau under~~
558 ~~Subsection (3)(b)(ii) to the offender upon issuance of a certificate of eligibility.] ←Ĥ~~

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

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

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

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

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

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

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

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

581 (i) presentencing report;

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

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

584 (e) The victim, or the victim's parent or guardian if the victim is a minor under 18 years
585 old, may respond to the petition by filing a recommendation or objection with the court within

586 45 days after the day on which the petition is mailed to the victim.

587 (6) (a) The court shall:

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

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

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

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

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

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

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

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

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

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

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

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

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

610 (I) any other relevant factors.

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

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

616 (e) (i) Except as provided in Subsection (6)(e)(ii), if the court denies the petition, the

617 offender may not submit another petition for three years.

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

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

623 (8) Except as provided in Subsection (9), an offender required to register under
624 Subsection 77-41-105(3)(b) may petition for early removal from the registry under Subsection
625 (1)(b) if the offender:

626 (a) meets the requirements of Subsections (1)(b)(ii) through (v);

627 (b) has resided in this state for at least 183 days in a year for two consecutive years;

628 and

629 (c) intends to primarily reside in this state.

630 (9) An offender required to register under Subsection 77-41-105(3)(b) for life may
631 petition for early removal from the registry under Subsection (1)(c) if:

632 (a) the offense requiring the offender to register is substantially equivalent to an
633 offense listed in Section 77-41-106;

634 (b) the offender meets the requirements of Subsections (1)(c)(ii) through (vi);

635 (c) the offender has resided in this state for at least 183 days in a year for two
636 consecutive years; and

637 (d) the offender intends to primarily reside in this state.

638 Section 7. Section 80-5-201 is amended to read:

639 **80-5-201. Division responsibilities.**

640 (1) The division is responsible for all minors committed to the division by juvenile
641 courts under Sections 80-6-703 and 80-6-705.

642 (2) The division shall:

643 (a) establish and administer a continuum of community, secure, and nonsecure
644 programs for all minors committed to the division;

645 (b) establish and maintain all detention and secure care facilities and set minimum
646 standards for all detention and secure care facilities;

647 (c) establish and operate prevention and early intervention youth services programs for

648 nonadjudicated minors placed with the division;

649 (d) establish observation and assessment programs necessary to serve minors in a
650 nonresidential setting under Subsection 80-6-706(1);

651 (e) place minors committed to the division under Section 80-6-703 in the most
652 appropriate program for supervision and treatment;

653 (f) employ staff necessary to:

654 (i) supervise and control minors committed to the division for secure care or placement
655 in the community;

656 (ii) supervise and coordinate treatment of minors committed to the division for
657 placement in community-based programs; and

658 (iii) control and supervise adjudicated and nonadjudicated minors placed with the
659 division for temporary services in juvenile receiving centers, youth services, and other
660 programs established by the division;

661 (g) control or detain a minor committed to the division, or in the temporary custody of
662 the division, in a manner that is consistent with public safety and rules made by the division;

663 (h) establish and operate work programs for minors committed to the division by the
664 juvenile court that:

665 (i) are not residential;

666 (ii) provide labor to help in the operation, repair, and maintenance of public facilities,
667 parks, highways, and other programs designated by the division;

668 (iii) provide educational and prevocational programs in cooperation with the State
669 Board of Education for minors placed in the program; and

670 (iv) provide counseling to minors;

671 (i) establish minimum standards for the operation of all private residential and
672 nonresidential rehabilitation facilities that provide services to minors who have committed an
673 offense in this state or in any other state;

674 (j) provide regular training for secure care staff, detention staff, case management staff,
675 and staff of the community-based programs;

676 (k) designate employees to obtain the saliva DNA specimens required under Section
677 53-10-403;

678 (l) ensure that the designated employees receive appropriate training and that the

679 specimens are obtained in accordance with accepted protocol;

680 (m) register an individual with the Department of [~~Corrections~~] Public Safety who:

681 (i) is adjudicated for an offense listed in Subsection 77-41-102(18)(a) or 77-43-102(2);

682 (ii) is committed to the division for secure care; and

683 (iii) (A) if the individual is a youth offender, remains in the division's custody 30 days
684 before the individual's 21st birthday; or

685 (B) if the individual is a serious youth offender, remains in the division's custody 30
686 days before the individual's 25th birthday; and

687 (n) ensure that a program delivered to a minor under this section is an evidence-based
688 program in accordance with Section 63M-7-208.

689 (3) (a) The division is authorized to employ special function officers, as defined in
690 Section 53-13-105, to:

691 (i) locate and apprehend minors who have absconded from division custody;

692 (ii) transport minors taken into custody in accordance with division policy;

693 (iii) investigate cases; and

694 (iv) carry out other duties as assigned by the division.

695 (b) A special function officer may be:

696 (i) employed through a contract with the Department of Public Safety, or any law
697 enforcement agency certified by the Peace Officer Standards and Training Division; or

698 (ii) directly hired by the division.

699 (4) In the event of an unauthorized leave from secure care, detention, a
700 community-based program, a juvenile receiving center, a home, or any other designated
701 placement of a minor, a division employee has the authority and duty to locate and apprehend
702 the minor, or to initiate action with a local law enforcement agency for assistance.

703 (5) The division may proceed with an initial medical screening or assessment of a child
704 admitted to a detention facility to ensure the safety of the child and others in the detention
705 facility if the division makes a good faith effort to obtain consent for the screening or
706 assessment from the child's parent or guardian.

707 Section 8. **Effective date.**

708 This bill takes effect on July 1, 2024.