

SEX OFFENDER REGISTRY CHAPTER

2012 GENERAL SESSION

STATE OF UTAH

Chief Sponsor: Jack R. Draxler

Senate Sponsor: _____

LONG TITLE

Committee Note:

The Judiciary, Law Enforcement, and Criminal Justice Interim Committee recommended this bill.

General Description:

This bill creates the Sex and Kidnap Offender Registry chapter in Title 77.

Highlighted Provisions:

This bill:

- ▶ repeals Section 77-27-21.5; and
- ▶ creates a new chapter in Title 77, Code of Criminal Procedure, from its provisions.

Money Appropriated in this Bill:

None

Other Special Clauses:

None

Utah Code Sections Affected:

AMENDS:

- 41-3-205.5**, as enacted by Laws of Utah 2010, Chapter 291
- 41-3-209**, as last amended by Laws of Utah 2010, Chapters 291 and 342
- 53-3-205**, as last amended by Laws of Utah 2011, Chapters 152, 190, 415, and 428
- 53-3-216**, as last amended by Laws of Utah 2008, Chapters 304 and 355
- 53-3-413**, as last amended by Laws of Utah 2011, Chapter 190



- 28 **53-3-804**, as last amended by Laws of Utah 2011, Chapters 152 and 415
- 29 **53-3-806.5**, as enacted by Laws of Utah 2007, Chapter 294
- 30 **53-3-807**, as last amended by Laws of Utah 2011, Chapter 366
- 31 **53-10-404**, as last amended by Laws of Utah 2010, Chapter 405
- 32 **62A-7-104**, as last amended by Laws of Utah 2008, Chapters 3 and 355
- 33 **63G-2-302**, as last amended by Laws of Utah 2011, Chapters 85, 327, and 413
- 34 **76-3-402**, as last amended by Laws of Utah 2007, Chapter 103
- 35 **77-27-21.7**, as enacted by Laws of Utah 2007, Chapter 350
- 36 **77-27-21.8**, as enacted by Laws of Utah 2009, Chapter 249
- 37 **77-40-105**, as last amended by Laws of Utah 2011, Chapter 26

38 ENACTS:

- 39 **77-41-101**, Utah Code Annotated 1953
- 40 **77-41-102**, Utah Code Annotated 1953
- 41 **77-41-103**, Utah Code Annotated 1953
- 42 **77-41-104**, Utah Code Annotated 1953
- 43 **77-41-105**, Utah Code Annotated 1953
- 44 **77-41-106**, Utah Code Annotated 1953
- 45 **77-41-107**, Utah Code Annotated 1953
- 46 **77-41-108**, Utah Code Annotated 1953
- 47 **77-41-109**, Utah Code Annotated 1953
- 48 **77-41-110**, Utah Code Annotated 1953
- 49 **77-41-111**, Utah Code Annotated 1953

50 REPEALS:

- 51 **77-27-21.5**, as last amended by Laws of Utah 2011, Chapters 48, 320 and last amended
- 52 by Coordination Clause, Laws of Utah 2011, Chapter 48



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

55 Section 1. Section **41-3-205.5** is amended to read:

56 **41-3-205.5. Licenses -- Criminal background check required on salesperson's**
57 **licenses -- Payment of cost.**

58 (1) (a) Every applicant for a salesperson's license shall submit fingerprints with a

59 completed application to the division.

60 (b) A person required to renew a salesperson license on or before June 30, 2010, shall
61 submit fingerprints to the division on or before November 30, 2010.

62 (2) The division shall submit fingerprints for each applicant described in Subsection
63 (1) to the Bureau of Criminal Identification established in Section 53-10-201.

64 (3) The Bureau of Criminal Identification shall:

65 (a) check the information submitted by the division for an applicant under Subsection
66 (2) against the applicable state and regional criminal records databases; and

67 (b) release to the division all information obtained under Subsection (3)(a) relating to
68 the applicant.

69 (4) (a) The Bureau of Criminal Identification shall maintain a separate file of
70 fingerprints submitted under Subsection (2) and notify the division when a new entry is made
71 in the applicable state and regional database against a person whose fingerprints are held in the
72 file regarding any matter involving an arrest under state law involving:

73 (i) motor vehicles;

74 (ii) controlled substances;

75 (iii) fraud; or

76 (iv) a registerable sex offense under Section [~~77-27-21.5~~] 77-41-106.

77 (b) Upon request by the division, the Bureau of Criminal Identification shall inform the
78 division whether a person whose arrest was reported to the division under Subsection (4)(a)
79 was subsequently convicted of the charge for which the person was arrested.

80 (5) In addition to any fees imposed under this chapter, the division shall:

81 (a) impose on individuals submitting fingerprints in accordance with this section the
82 fees that the Bureau of Criminal Identification is authorized to collect for the services the
83 Bureau of Criminal Identification provides under Subsections (3) and (4); and

84 (b) remit the fees collected under Subsection (5)(a) to the Bureau of Criminal
85 Identification.

86 (6) The division shall use information received from the Bureau of Criminal
87 Identification under this section to determine whether a license should be denied, suspended, or
88 revoked under Section 41-3-209.

89 Section 2. Section **41-3-209** is amended to read:

90 **41-3-209. Administrator's findings -- Suspension and revocation of license.**

91 (1) If the administrator finds that an applicant is not qualified to receive a license, a
92 license may not be granted.

93 (2) (a) On December 1, 2010, the administrator shall suspend the license of a
94 salesperson who fails to submit to the division fingerprints as required under Subsection
95 41-3-205.5(1)(b) on or before November 30, 2010.

96 (b) If the administrator finds that there is reasonable cause to deny, suspend, or revoke
97 a license issued under this chapter, the administrator shall deny, suspend, or revoke the license.

98 (c) Reasonable cause for denial, suspension, or revocation of a license includes, in
99 relation to the applicant or license holder or any of its partners, officers, or directors:

100 (i) lack of a principal place of business;

101 (ii) lack of a sales tax license required under Title 59, Chapter 12, Sales and Use Tax
102 Act;

103 (iii) lack of a bond in effect as required by this chapter;

104 (iv) current revocation or suspension of a dealer, dismantler, auction, or salesperson
105 license issued in another state;

106 (v) nonpayment of required fees;

107 (vi) making a false statement on any application for a license under this chapter or for
108 special license plates;

109 (vii) a violation of any state or federal law involving motor vehicles;

110 (viii) a violation of any state or federal law involving controlled substances;

111 (ix) charges filed with any county attorney, district attorney, or U.S. attorney in any
112 court of competent jurisdiction for a violation of any state or federal law involving motor
113 vehicles;

114 (x) a violation of any state or federal law involving fraud;

115 (xi) a violation of any state or federal law involving a registerable sex offense under
116 Section ~~[77-27-21.5]~~ 77-41-106; or

117 (xii) having had a license issued under this chapter revoked within five years from the
118 date of application.

119 (d) Any action taken by the administrator under Subsection (2)(c)(ix) shall remain in
120 effect until a final resolution is reached by the court involved or the charges are dropped.

121 (3) If the administrator finds that an applicant is not qualified to receive a license under
122 this section, the administrator shall provide the applicant written notice of the reason for the
123 denial.

124 (4) If the administrator finds that the license holder has been convicted by a court of
125 competent jurisdiction of violating any of the provisions of this chapter or any rules made by
126 the administrator, or finds other reasonable cause, the administrator may, by complying with
127 the emergency procedures of Title 63G, Chapter 4, Administrative Procedures Act:

128 (a) suspend the license on terms and for a period of time the administrator finds
129 reasonable; or

130 (b) revoke the license.

131 (5) (a) After suspending or revoking a license, the administrator may take reasonable
132 action to:

133 (i) notify the public that the licensee is no longer in business; and

134 (ii) prevent the former licensee from violating the law by conducting business without
135 a license.

136 (b) Action under Subsection (5)(a) may include signs, banners, barriers, locks,
137 bulletins, and notices.

138 (c) Any business being conducted incidental to the business for which the former
139 licensee was licensed may continue to operate subject to the preventive action taken under this
140 subsection.

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

142 **53-3-205. Application for license or endorsement -- Fee required -- Tests --**
143 **Expiration dates of licenses and endorsements -- Information required -- Previous**
144 **licenses surrendered -- Driving record transferred from other states -- Reinstatement --**
145 **Fee required -- License agreement.**

146 (1) An application for any original license, provisional license, or endorsement shall
147 be:

148 (a) made upon a form furnished by the division; and

149 (b) accompanied by a nonrefundable fee set under Section 53-3-105.

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

152 (a) not more than three attempts to pass both the knowledge and the skills tests for a
153 class D license within six months of the date of the application;

154 (b) a learner permit if needed pending completion of the application and testing
155 process; and

156 (c) an original class D license and license certificate after all tests are passed.

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

159 (a) not more than three attempts to pass both the knowledge and skills tests within six
160 months of the date of the application;

161 (b) a motorcycle learner permit after the motorcycle knowledge test is passed; and

162 (c) a motorcycle or taxicab endorsement when all tests are passed.

163 (4) An application and fees for a commercial class A, B, or C license entitle the
164 applicant to:

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

167 (b) a commercial driver instruction permit if needed after the knowledge test is passed;
168 and

169 (c) an original commercial class A, B, or C license and license certificate when all
170 applicable tests are passed.

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

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

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

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

178 (7) (a) Except as provided under Subsections (7)(f), (g), and (h), an original license
179 expires on the birth date of the applicant in the fifth year following the year the license
180 certificate was issued.

181 (b) Except as provided under Subsections (7)(f), (g), and (h), a renewal or an extension
182 to a license expires on the birth date of the licensee in the fifth year following the expiration

183 date of the license certificate renewed or extended.

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

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

188 (e) A regular license certificate and any endorsement to the regular license certificate
189 held by a person ordered to active duty and stationed outside Utah in any of the armed forces of
190 the United States or by an immediate family member or dependent who is residing outside of
191 the state, which expires during the time period the person is stationed outside of the state, is
192 valid until 90 days after the person's orders have been terminated or the person has been
193 discharged, unless:

194 (i) the license is suspended, disqualified, denied, or has been cancelled or revoked by
195 the division; or

196 (ii) the licensee updates the information or photograph on the license certificate.

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

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

201 (B) on the birth date of the applicant in the first year following the year that the
202 limited-term license certificate was issued if there is no definite end to the individual's period
203 of authorized stay.

204 (ii) A limited-term license certificate or a renewal to a limited-term license certificate
205 issued to an approved asylee or a refugee expires on the birth date of the applicant in the fourth
206 year following the year that the limited-term license certificate was issued.

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

210 (h) An original license or a renewal to an original license expires on the birth date of
211 the applicant in the first year following the year that the license was issued if the applicant is
212 required to register as a sex offender [~~under Section 77-27-21.5~~] in accordance with Title 77,
213 Chapter 41, Sex and Kidnap Offender Registry.

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

216 (i) provide the applicant's:

217 (A) full legal name;

218 (B) birth date;

219 (C) gender;

220 (D) (I) documentary evidence of the applicant's valid Social Security number;

221 (II) written proof that the applicant is ineligible to receive a Social Security number;

222 (III) temporary identification number (ITIN) issued by the Internal Revenue Service for
223 a person who:

224 (Aa) does not qualify for a Social Security number; and

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

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

227 (E) Utah residence address as documented by a form or forms acceptable under rules
228 made by the division under Section 53-3-104, unless the application is for a temporary CDL
229 issued under Subsection 53-3-407(2)(b); and

230 (F) submit fingerprints and a photograph in accordance with Section 53-3-205.5 if the
231 person is applying for a driving privilege card;

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

234 (A) that a person is:

235 (I) a United States citizen;

236 (II) a United States national; or

237 (III) a legal permanent resident alien; or

238 (B) of the applicant's:

239 (I) unexpired immigrant or nonimmigrant visa status for admission into the United
240 States;

241 (II) pending or approved application for asylum in the United States;

242 (III) admission into the United States as a refugee;

243 (IV) pending or approved application for temporary protected status in the United
244 States;

- 245 (V) approved deferred action status;
- 246 (VI) pending application for adjustment of status to legal permanent resident or
247 conditional resident; or
- 248 (VII) conditional permanent resident alien status;
- 249 (iii) provide a description of the applicant;
- 250 (iv) state whether the applicant has previously been licensed to drive a motor vehicle
251 and, if so, when and by what state or country;
- 252 (v) state whether the applicant has ever had any license suspended, cancelled, revoked,
253 disqualified, or denied in the last 10 years, or whether the applicant has ever had any license
254 application refused, and if so, the date of and reason for the suspension, cancellation,
255 revocation, disqualification, denial, or refusal;
- 256 (vi) state whether the applicant intends to make an anatomical gift under Title 26,
257 Chapter 28, Revised Uniform Anatomical Gift Act, in compliance with Subsection (15);
- 258 (vii) state whether the applicant is required to register as a sex offender [~~under Section~~
259 ~~77-27-21.5~~] in accordance with Title 77, Chapter 41, Sex and Kidnap Offender Registry;
- 260 (viii) state whether the applicant is a veteran of the United States military, provide
261 verification that the applicant was honorably discharged from the United States military, and
262 state whether the applicant does or does not authorize sharing the information with the state
263 Department of Veterans' Affairs;
- 264 (ix) provide all other information the division requires; and
- 265 (x) sign the application which signature may include an electronic signature as defined
266 in Section 46-4-102.
- 267 (b) Each applicant shall have a Utah residence address, unless the application is for a
268 temporary CDL issued under Subsection 53-3-407(2)(b).
- 269 (c) Each applicant shall provide evidence of lawful presence in the United States in
270 accordance with Subsection (8)(a)(ii), unless the application is for a driving privilege card.
- 271 (d) The division shall maintain on its computerized records an applicant's:
- 272 (i) (A) Social Security number;
- 273 (B) temporary identification number (ITIN); or
- 274 (C) other number assigned by the division if Subsection (8)(a)(i)(D)(IV) applies; and
- 275 (ii) indication whether the applicant is required to register as a sex offender [~~under~~

276 ~~Section 77-27-21.5]~~ in accordance with Title 77, Chapter 41, Sex and Kidnap Offender
277 Registry.

278 (9) The division shall require proof of every applicant's name, birthdate, and birthplace
279 by at least one of the following means:

- 280 (a) current license certificate;
- 281 (b) birth certificate;
- 282 (c) Selective Service registration; or
- 283 (d) other proof, including church records, family Bible notations, school records, or
284 other evidence considered acceptable by the division.

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

- 287 (i) the license application shall be treated as an original application; and
- 288 (ii) license and endorsement fees shall be assessed under Section 53-3-105.

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

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

293 (ii) shall be assessed a duplicate license fee under Subsection 53-3-105(22) if a
294 duplicate license is issued under Subsection (10)(b)(i).

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

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

299 (ii) shall be assessed a duplicate license fee under Subsection 53-3-105(22) if a
300 duplicate license is issued under Subsection (10)(c)(i).

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

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

306 (12) An application for reinstatement of a license after the suspension, cancellation,

307 disqualification, denial, or revocation of a previous license shall be accompanied by the
308 additional fee or fees specified in Section 53-3-105.

309 (13) A person who has an appointment with the division for testing and fails to keep
310 the appointment or to cancel at least 48 hours in advance of the appointment shall pay the fee
311 under Section 53-3-105.

312 (14) A person who applies for an original license or renewal of a license agrees that the
313 person's license is subject to any suspension or revocation authorized under this title or Title
314 41, Motor Vehicles.

315 (15) (a) The indication of intent under Subsection (8)(a)(vi) shall be authenticated by
316 the licensee in accordance with division rule.

317 (b) (i) Notwithstanding Title 63G, Chapter 2, Government Records Access and
318 Management Act, the division may, upon request, release to an organ procurement
319 organization, as defined in Section 26-28-102, the names and addresses of all persons who
320 under Subsection (8)(a)(vi) indicate that they intend to make an anatomical gift.

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

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

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

324 (16) Notwithstanding Title 63G, Chapter 2, Government Records Access and
325 Management Act, the division may release to the Department of Veterans' Affairs the names
326 and addresses of all persons who indicate their status as a veteran under Subsection (8)(a)(viii).

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

329 (a) loss;

330 (b) detriment; or

331 (c) injury.

332 (18) A person who knowingly fails to provide the information required under
333 Subsection (8)(a)(vii) is guilty of a class A misdemeanor.

334 Section 4. Section **53-3-216** is amended to read:

335 **53-3-216. Change of address -- Duty of licensee to notify division within 10 days**
336 **-- Change of name -- Proof necessary -- Method of giving notice by division.**

337 (1) If a person, after applying for or receiving a license, moves from the address named

338 in the application or in the license certificate issued to him, the person shall within 10 days of
339 moving, notify the division in a manner specified by the division of his new address and the
340 number of any license certificate held by him.

341 (2) If a person requests to change the surname on the applicant's license, the division
342 shall issue a substitute license with the new name upon receiving an application and fee for a
343 duplicate license and any of the following proofs of the applicant's full legal name:

344 (a) an original or certified copy of the applicant's marriage certificate;

345 (b) a certified copy of a court order under Title 42, Chapter 1, Change of Name,
346 showing the name change;

347 (c) an original or certified copy of a birth certificate issued by a government agency;

348 (d) a certified copy of a divorce decree or annulment granted the applicant that
349 specifies the name change requested; or

350 (e) a certified copy of a divorce decree that does not specify the name change requested
351 together with:

352 (i) an original or certified copy of the applicant's birth certificate;

353 (ii) the applicant's marriage license;

354 (iii) a driver license record showing use of a maiden name; or

355 (iv) other documentation the division finds acceptable.

356 (3) (a) Except as provided in Subsection (3)(c), if a person has applied for and received
357 a license certificate and is currently required to register as a sex offender [~~under Section~~
358 77-27-21.5] in accordance with Title 77, Chapter 41, Sex and Kidnap Offender Registry:

359 (i) the person's original license or renewal to an original license expires on the next
360 birth date of the licensee beginning on July 1, 2006;

361 (ii) the person shall surrender the person's license to the division on or before the
362 licensee's next birth date beginning on July 1, 2006; and

363 (iii) the person may apply for a license certificate with an expiration date identified in
364 Subsection 53-3-205(7)(h) by:

365 (A) furnishing proper documentation to the division as provided in Section 53-3-205;

366 and

367 (B) paying the fee for a license required under Section 53-3-105.

368 (b) Except as provided in Subsection (3)(c), if a person has applied for and received a

369 license certificate and is subsequently convicted of any offense listed in Subsection
370 [~~77-27-21.5(1)(n)~~] 77-41-102(14), the person shall surrender the license certificate to the
371 division on the person's next birth date following the conviction and may apply for a license
372 certificate with an expiration date identified in Subsection 53-3-205(7)(h) by:

373 (i) furnishing proper documentation to the division as provided in Section 53-3-205;
374 and

375 (ii) paying the fee for a license required under Section 53-3-105.

376 (c) A person who is unable to comply with the provisions of Subsection (3)(a) or (3)(b)
377 because the person is in the custody of the Department of Corrections or the Division of
378 Juvenile Justice Services, confined in a correctional facility not operated by or under contract
379 with the Department of Corrections, or committed to a state mental facility, shall comply with
380 the provisions of Subsection (3)(a) or (b) within 10 days of being released from confinement.

381 (4) (a) If the division is authorized or required to give any notice under this chapter or
382 other law regulating the operation of vehicles, the notice shall, unless otherwise prescribed, be
383 given by:

384 (i) personal delivery to the person to be notified; or

385 (ii) deposit in the United States mail with postage prepaid, addressed to the person at
386 his address as shown by the records of the division.

387 (b) The giving of notice by mail is complete upon the expiration of four days after the
388 deposit of the notice.

389 (c) Proof of the giving of notice in either manner may be made by the certificate of any
390 officer or employee of the division or affidavit of any person older than 18 years of age,
391 naming the person to whom the notice was given and specifying the time, place, and manner of
392 giving the notice.

393 (5) The division may use state mailing or United States Postal Service information to:

394 (a) verify an address on an application or on records of the division; and

395 (b) correct mailing addresses in the division's records.

396 (6) (a) A violation of the provisions of Subsection (1) is an infraction.

397 (b) A person who knowingly fails to surrender a license certificate under Subsection
398 (3) is guilty of a class A misdemeanor.

399 Section 5. Section **53-3-413** is amended to read:

400 **53-3-413. Issuance of CDL by division -- Driving record -- Expiration date --**
401 **Renewal -- Hazardous materials provision.**

402 (1) Before the division may grant a CDL, the division shall obtain the driving record
403 information regarding the applicant through the CDLIS, the NDR, and from each state where
404 the applicant has been licensed.

405 (2) The division shall notify the CDLIS and provide all information required to ensure
406 identification of the CDL holder within 10 days after:

407 (a) issuing a CDL following application for an original, renewal, transfer, or upgrade of
408 the CDL; or

409 (b) any change is made to the identifying information of a CDL holder.

410 (3) (a) The expiration date for a CDL is the birth date of the holder in the fifth year
411 following the year of issuance of the CDL.

412 (b) A limited-term CDL expires on:

413 (i) the expiration date of the period of time of the individual's authorized stay in the
414 United States or on the date provided in Subsection (3)(a), whichever is sooner; or

415 (ii) on the birth date of the applicant in the first year following the year that the
416 limited-term CDL was issued if there is no definite end to the individual's period of authorized
417 stay.

418 (c) An original CDL or a renewal to an original CDL expires on the birth date of the
419 applicant in the first year following the year that the license was issued if the applicant is
420 required to register as a sex offender [~~under Section 77-27-21.5~~] in accordance with Title 77,
421 Chapter 41, Sex and Kidnap Offender Registry.

422 (d) A CDL held by a person ordered to active duty and stationed outside Utah in any of
423 the armed forces of the United States, which expires during the time period the person is
424 stationed outside of the state, is valid until 90 days after the person has been discharged or has
425 left the service, unless:

426 (i) the license is suspended, disqualified, denied, or has been cancelled or revoked by
427 the division; or

428 (ii) the licensee updates the information or photograph on the license certificate.

429 (4) (a) The applicant for a renewal of a CDL shall complete the application form
430 required by Section 53-3-410 and provide updated information and required certification.

431 (b) In addition to the requirements under Subsection (4)(a), the applicant for a renewal
432 of a limited-term CDL shall present documentary evidence that the status by which the
433 individual originally qualified for the limited-term CDL has been extended by the United States
434 Citizenship and Immigration Services or other authorized agency of the United States
435 Department of Homeland Security.

436 (5) The division shall distinguish a limited-term CDL by clearly indicating on the
437 document:

438 (a) that it is temporary; and

439 (b) its expiration date.

440 (6) (a) The division may not issue a hazardous materials endorsement on a CDL unless
441 the applicant meets the security threat assessment standards of the federal Transportation
442 Security Administration.

443 (b) The division shall revoke the hazardous materials endorsement on a CDL upon
444 receiving notice from the federal Transportation Security Administration that the person
445 holding a hazardous materials endorsement does not meet Transportation Security
446 Administration security threat assessment standards.

447 (c) To obtain an original hazardous materials endorsement or retain a hazardous
448 materials endorsement upon CDL renewal or transfer, the applicant must take and pass the
449 knowledge test for hazardous materials endorsement in addition to any other testing required
450 by the division.

451 (7) Unless otherwise provided, the provisions, requirements, classes, endorsements,
452 fees, restrictions, and sanctions under this code apply to a limited-term CDL in the same way as
453 a CDL issued under this chapter.

454 Section 6. Section **53-3-804** is amended to read:

455 **53-3-804. Application for identification card -- Required information -- Release**
456 **of anatomical gift information.**

457 (1) To apply for an identification card or limited-term identification card, the applicant
458 shall:

459 (a) be a Utah resident;

460 (b) have a Utah residence address; and

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

- 462 (2) The applicant shall provide the following information to the division:
- 463 (a) true and full legal name and Utah residence address;
- 464 (b) date of birth as set forth in a certified copy of the applicant's birth certificate, or
- 465 other satisfactory evidence of birth, which shall be attached to the application;
- 466 (c) (i) Social Security number; or
- 467 (ii) written proof that the applicant is ineligible to receive a Social Security number;
- 468 (d) place of birth;
- 469 (e) height and weight;
- 470 (f) color of eyes and hair;
- 471 (g) signature;
- 472 (h) photograph;
- 473 (i) evidence of the applicant's lawful presence in the United States by providing
- 474 documentary evidence:
 - 475 (i) that a person is:
 - 476 (A) a United States citizen;
 - 477 (B) a United States national; or
 - 478 (C) a legal permanent resident alien; or
 - 479 (ii) of the applicant's:
 - 480 (A) unexpired immigrant or nonimmigrant visa status for admission into the United
 - 481 States;
 - 482 (B) pending or approved application for asylum in the United States;
 - 483 (C) admission into the United States as a refugee;
 - 484 (D) pending or approved application for temporary protected status in the United
 - 485 States;
 - 486 (E) approved deferred action status;
 - 487 (F) pending application for adjustment of status to legal permanent resident or
 - 488 conditional resident; or
 - 489 (G) conditional permanent resident alien status;
 - 490 (j) an indication whether the applicant intends to make an anatomical gift under Title
 - 491 26, Chapter 28, Revised Uniform Anatomical Gift Act;
 - 492 (k) an indication whether the applicant is required to register as a sex offender [~~under~~

493 ~~Section 77-27-21.5]~~ in accordance with Title 77, Chapter 41, Sex and Kidnap Offender
494 Registry; and

495 (1) an indication whether the applicant is a veteran of the United States military,
496 verification that the applicant has been honorably discharged from the United States military,
497 and an indication whether the applicant does or does not authorize sharing the information with
498 the state Department of Veterans' Affairs.

499 (3) The requirements of Section 53-3-234 apply to this section for each person, age 16
500 and older, applying for an identification card. Refusal to consent to the release of information
501 shall result in the denial of the identification card.

502 (4) A person who knowingly fails to provide the information required under Subsection
503 (2)(k) is guilty of a class A misdemeanor.

504 Section 7. Section **53-3-806.5** is amended to read:

505 **53-3-806.5. Identification card required if sex offender does not have driver**
506 **license.**

507 (1) (a) If a person is required to register as a sex offender [~~under Section 77-27-21.5]~~ in
508 accordance with Title 77, Chapter 41, Sex and Kidnap Offender Registry, and the person does
509 not hold a current driver license in compliance with Section 53-3-205, the person shall obtain
510 an identification card.

511 (b) The person shall maintain a current identification card during any time the person is
512 required to register as a sex offender and the person does not hold a valid driver license.

513 (2) Failure to maintain a current identification card as required under Subsection (1) on
514 and after April 30, 2007 is a class A misdemeanor for each month of violation of Subsection
515 (1).

516 Section 8. Section **53-3-807** is amended to read:

517 **53-3-807. Expiration -- Address and name change -- Extension for a person with**
518 **a disability.**

519 (1) (a) An identification card issued on or after July 1, 2006, expires on the birth date
520 of the applicant in the fifth year following the issuance of the identification card.

521 (b) A limited-term identification card expires on:

522 (i) the expiration date of the period of time of the individual's authorized stay in the
523 United States or on the birth date of the applicant in the fifth year following the issuance of the

524 limited-term identification card, whichever is sooner; or

525 (ii) on the birth date of the applicant in the first year following the year that the
526 limited-term identification card was issued if there is no definite end to the individual's period
527 of authorized stay.

528 (2) If a person has applied for and received an identification card and subsequently
529 moves from the address shown on the application or on the card, the person shall within 10
530 days notify the division in a manner specified by the division of the person's new address.

531 (3) If a person has applied for and received an identification card and subsequently
532 changes the person's name under Title 42, Chapter 1, Change of Name, the person:

533 (a) shall surrender the card to the division; and

534 (b) may apply for a new card in the person's new name by:

535 (i) furnishing proper documentation to the division as provided in Section 53-3-804;

536 and

537 (ii) paying the fee required under Section 53-3-105.

538 (4) (a) Except as provided in Subsection (4)(c), if a person has applied for and received
539 an identification card and is currently required to register as a sex offender [~~under Section~~
540 ~~77-27-21.5~~] in accordance with Title 77, Chapter 41, Sex and Kidnap Offender Registry:

541 (i) the person's identification card expires annually on the next birth date of the
542 cardholder, on and after July 1, 2006;

543 (ii) the person shall surrender the person's identification card to the division on or
544 before the cardholder's next birth date beginning on July 1, 2006; and

545 (iii) the person may apply for an identification card with an expiration date identified in
546 Subsection (8) by:

547 (A) furnishing proper documentation to the division as provided in Section 53-3-804;

548 and

549 (B) paying the fee for an identification card required under Section 53-3-105.

550 (b) Except as provided in Subsection (4)(c), if a person has applied for and received an
551 identification card and is subsequently convicted of any offense listed in Subsection

552 [~~77-27-21.5(1)(n)~~] 77-41-102(14), the person shall surrender the card to the division on the
553 person's next birth date following the conviction and may apply for a new card with an

554 expiration date identified in Subsection (8) by:

555 (i) furnishing proper documentation to the division as provided in Section 53-3-804;
556 and

557 (ii) paying the fee required under Section 53-3-105.

558 (c) A person who is unable to comply with the provisions of Subsection (4)(a) or (4)(b)
559 because the person is in the custody of the Department of Corrections or Division of Juvenile
560 Justice Services, confined in a correctional facility not operated by or under contract with the
561 Department of Corrections, or committed to a state mental facility, shall comply with the
562 provisions of Subsection (4)(a) or (b) within 10 days of being released from confinement.

563 (5) A person older than 21 years of age with a disability, as defined under the
564 Americans with Disabilities Act of 1990, Pub. L. 101-336, may extend the expiration date on
565 an identification card for five years if the person with a disability or an agent of the person with
566 a disability:

567 (a) requests that the division send the application form to obtain the extension or
568 requests an application form in person at the division's offices;

569 (b) completes the application;

570 (c) certifies that the extension is for a person 21 years of age or older with a disability;

571 and

572 (d) returns the application to the division together with the identification card fee
573 required under Section 53-3-105.

574 (6) (a) (i) An identification card may only be extended once, except as prohibited under
575 Subsection (6)(b).

576 (ii) After an extension an application for an identification card must be applied for in
577 person at the division's offices.

578 (b) An identification card issued to a person required to register as a sex offender
579 ~~[under Section 77-27-21.5]~~ in accordance with Title 77, Chapter 41, Sex and Kidnap Offender
580 Registry, may not be extended.

581 (7) An identification card issued prior to July 1, 2006 to a person 65 years of age or
582 older does not expire, but continues in effect until the death of that person.

583 (8) Notwithstanding the provisions of this section, an identification card expires on the
584 birth date of the applicant in the first year following the year that the identification card was
585 issued if the applicant is required to register as a sex offender ~~[under Section 77-27-21.5]~~ in

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

587 (9) A person who knowingly fails to surrender an identification card under Subsection
588 (4) is guilty of a class A misdemeanor.

589 Section 9. Section **53-10-404** is amended to read:

590 **53-10-404. DNA specimen analysis -- Requirement to obtain the specimen.**

591 (1) As used in this section, "person" refers to any person as described under Section
592 53-10-403.

593 (2) (a) A person under Section 53-10-403 or any person added to the sex offender
594 register as defined in Section [~~77-27-21.5~~] 77-41-102 shall provide a DNA specimen and shall
595 reimburse the agency responsible for obtaining the DNA specimen \$150 for the cost of
596 obtaining the DNA specimen unless:

597 (i) the person was booked under Section 53-10-403 and is not required to reimburse the
598 agency under Section 53-10-404.5; or

599 (ii) the agency determines the person lacks the ability to pay.

600 (b) (i) (A) The responsible agencies shall establish guidelines and procedures for
601 determining if the person is able to pay the fee.

602 (B) An agency's implementation of Subsection (2)(b)(ii) meets an agency's obligation
603 to determine an inmate's ability to pay.

604 (ii) An agency's guidelines and procedures may provide for the assessment of \$150 on
605 the inmate's county trust fund account and may allow a negative balance in the account until
606 the \$150 is paid in full.

607 (3) (a) (i) All fees collected under Subsection (2) shall be deposited in the DNA
608 Specimen Restricted Account created in Section 53-10-407, except that the agency collecting
609 the fee may retain not more than \$25 per individual specimen for the costs of obtaining the
610 saliva DNA specimen.

611 (ii) The agency collecting the \$150 fee may not retain from each separate fee more than
612 \$25, and no amount of the \$150 fee may be credited to any other fee or agency obligation.

613 (b) The responsible agency shall determine the method of collecting the DNA
614 specimen. Unless the responsible agency determines there are substantial reasons for using a
615 different method of collection or the person refuses to cooperate with the collection, the
616 preferred method of collection shall be obtaining a saliva specimen.

617 (c) The responsible agency may use reasonable force, as established by its guidelines
618 and procedures, to collect the DNA sample if the person refuses to cooperate with the
619 collection.

620 (d) If the judgment places the person on probation, the person shall submit to the
621 obtaining of a DNA specimen as a condition of the probation.

622 (e) (i) Under this section a person is required to provide one DNA specimen and pay
623 the collection fee as required under this section.

624 (ii) The person shall provide an additional DNA specimen only if the DNA specimen
625 previously provided is not adequate for analysis.

626 (iii) The collection fee is not imposed for a second or subsequent DNA specimen
627 collected under this section.

628 (f) Any agency that is authorized to obtain a DNA specimen under this part may collect
629 any outstanding amount of a fee due under this section from any person who owes any portion
630 of the fee and deposit the amount in the DNA Specimen Restricted Account created in Section
631 53-10-407.

632 (4) (a) The responsible agency shall cause a DNA specimen to be obtained as soon as
633 possible and transferred to the Department of Public Safety:

634 (i) after a conviction or a finding of jurisdiction by the juvenile court; and

635 (ii) on and after January 1, 2011, after the booking of a person for any offense under
636 Subsection 53-10-403(1)(c).

637 (b) If notified by the Department of Public Safety that a DNA specimen is not adequate
638 for analysis, the agency shall, as soon as possible:

639 (i) obtain and transmit an additional DNA specimen; or

640 (ii) request that another agency that has direct access to the person and that is
641 authorized to collect DNA specimens under this section collect the necessary second DNA
642 specimen and transmit it to the Department of Public Safety.

643 (c) Each agency that is responsible for collecting DNA specimens under this section
644 shall establish:

645 (i) a tracking procedure to record the handling and transfer of each DNA specimen it
646 obtains; and

647 (ii) a procedure to account for the management of all fees it collects under this section.

648 (5) (a) The Department of Corrections is the responsible agency whenever the person is
649 committed to the custody of or is under the supervision of the Department of Corrections.

650 (b) The juvenile court is the responsible agency regarding a minor under Subsection
651 53-10-403(3), but if the minor has been committed to the legal custody of the Division of
652 Juvenile Justice Services, that division is the responsible agency if a DNA specimen of the
653 minor has not previously been obtained by the juvenile court under Section 78A-6-117.

654 (c) The sheriff operating a county jail is the responsible agency regarding the collection
655 of DNA specimens from persons who:

656 (i) have pled guilty to or have been convicted of an offense listed under Subsection
657 53-10-403(2) but who have not been committed to the custody of or are not under the
658 supervision of the Department of Corrections;

659 (ii) are incarcerated in the county jail:

660 (A) as a condition of probation for a felony offense; or

661 (B) for a misdemeanor offense for which collection of a DNA specimen is required;

662 and

663 (iii) on and after January 1, 2011, are booked at the county jail for any offense under
664 Subsection 53-10-403(1)(c).

665 (d) Each agency required to collect a DNA specimen under this section shall:

666 (i) designate employees to obtain the saliva DNA specimens required under this
667 section; and

668 (ii) ensure that employees designated to collect the DNA specimens receive appropriate
669 training and that the specimens are obtained in accordance with generally accepted protocol.

670 (6) (a) As used in this Subsection (6), "department" means the Department of
671 Corrections.

672 (b) Priority of obtaining DNA specimens by the department is:

673 (i) first, to obtain DNA specimens of persons who as of July 1, 2002, are in the custody
674 of or under the supervision of the department before these persons are released from
675 incarceration, parole, or probation, if their release date is prior to that of persons under
676 Subsections (6)(b)(ii), but in no case later than July 1, 2004; and

677 (ii) second, the department shall obtain DNA specimens from persons who are
678 committed to the custody of the department or who are placed under the supervision of the

679 department after July 1, 2002, within 120 days after the commitment, if possible, but not later
680 than prior to release from incarceration if the person is imprisoned, or prior to the termination
681 of probation if the person is placed on probation.

682 (c) The priority for obtaining DNA specimens from persons under Subsection (6)(b)(ii)
683 is:

- 684 (i) first, persons on probation;
- 685 (ii) second, persons on parole; and
- 686 (iii) third, incarcerated persons.

687 (d) Implementation of the schedule of priority under Subsection (6)(c) is subject to the
688 priority of Subsection (6)(b)(i), to ensure that the Department of Corrections obtains DNA
689 specimens from persons in the custody of or under the supervision of the Department of
690 Corrections as of July 1, 2002, prior to their release.

691 (7) (a) As used in this Subsection (7):

- 692 (i) "Court" means the juvenile court.
- 693 (ii) "Division" means the Division of Juvenile Justice Services.

694 (b) Priority of obtaining DNA specimens by the court from minors under Section
695 53-10-403 who are under the jurisdiction of the court but who are not in the legal custody of
696 the division shall be:

697 (i) first, to obtain specimens from minors who as of July 1, 2002, are within the court's
698 jurisdiction, prior to termination of the court's jurisdiction over these minors; and

699 (ii) second, to obtain specimens from minors who are found to be within the court's
700 jurisdiction after July 1, 2002, within 120 days of the minor's being found to be within the
701 court's jurisdiction, if possible, but not later than prior to termination of the court's jurisdiction
702 over the minor.

703 (c) Priority of obtaining DNA specimens by the division from minors under Section
704 53-10-403 who are committed to the legal custody of the division shall be:

705 (i) first, to obtain specimens from minors who as of July 1, 2002, are within the
706 division's legal custody and who have not previously provided a DNA specimen under this
707 section, prior to termination of the division's legal custody of these minors; and

708 (ii) second, to obtain specimens from minors who are placed in the legal custody of the
709 division after July 1, 2002, within 120 days of the minor's being placed in the custody of the

710 division, if possible, but not later than prior to termination of the court's jurisdiction over the
711 minor.

712 (8) (a) The Department of Corrections, the juvenile court, the Division of Juvenile
713 Justice Services, and all law enforcement agencies in the state shall by policy establish
714 procedures for obtaining saliva DNA specimens, and shall provide training for employees
715 designated to collect saliva DNA specimens.

716 (b) (i) The department may designate correctional officers, including those employed
717 by the adult probation and parole section of the department, to obtain the saliva DNA
718 specimens required under this section.

719 (ii) The department shall ensure that the designated employees receive appropriate
720 training and that the specimens are obtained in accordance with accepted protocol.

721 (c) Blood DNA specimens shall be obtained in accordance with Section 53-10-405.

722 Section 10. Section **62A-7-104** is amended to read:

723 **62A-7-104. Division responsibilities.**

724 (1) The division is responsible for all youth offenders committed to it by juvenile
725 courts for secure confinement or supervision and treatment in the community.

726 (2) The division shall:

727 (a) establish and administer a continuum of community, secure, and nonsecure
728 programs for all youth offenders committed to the division;

729 (b) establish and maintain all detention and secure facilities and set minimum standards
730 for those facilities;

731 (c) establish and operate prevention and early intervention youth services programs for
732 nonadjudicated youth placed with the division; and

733 (d) establish observation and assessment programs necessary to serve youth offenders
734 committed by the juvenile court for short-term observation under Subsection 78A-6-117(2)(e),
735 and whenever possible, conduct the programs in settings separate and distinct from secure
736 facilities for youth offenders.

737 (3) The division shall place youth offenders committed to it in the most appropriate
738 program for supervision and treatment.

739 (4) In any order committing a youth offender to the division, the juvenile court shall
740 specify whether the youth offender is being committed for secure confinement or placement in

741 a community-based program. The division shall place the youth offender in the most
742 appropriate program within the category specified by the court.

743 (5) The division shall employ staff necessary to:

744 (a) supervise and control youth offenders in secure facilities or in the community;

745 (b) supervise and coordinate treatment of youth offenders committed to the division for
746 placement in community-based programs; and

747 (c) control and supervise nonadjudicated youth placed with the division for temporary
748 services in receiving centers, youth services, and other programs established by the division.

749 (6) Youth in the custody or temporary custody of the division are controlled or detained
750 in a manner consistent with public safety and rules promulgated by the division. In the event of
751 an unauthorized leave from a secure facility, detention center, community-based program,
752 receiving center, home, or any other designated placement, division employees have the
753 authority and duty to locate and apprehend the youth, or to initiate action with local law
754 enforcement agencies for assistance.

755 (7) The division shall establish and operate compensatory-service work programs for
756 youth offenders committed to the division by the juvenile court. The compensatory-service
757 work program shall:

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

760 (b) provide educational and prevocational programs in cooperation with the State
761 Board of Education for youth offenders placed in the program; and

762 (c) provide counseling to youth offenders.

763 (8) The division shall establish minimum standards for the operation of all private
764 residential and nonresidential rehabilitation facilities which provide services to juveniles who
765 have committed a delinquent act, in this state or in any other state.

766 (9) In accordance with policies established by the board, the division shall provide
767 regular training for staff of secure facilities, detention staff, case management staff, and staff of
768 the community-based programs.

769 (10) (a) The division is authorized to employ special function officers, as defined in
770 Section 53-13-105, to locate and apprehend minors who have absconded from division
771 custody, transport minors taken into custody pursuant to division policy, investigate cases, and

772 carry out other duties as assigned by the division.

773 (b) Special function officers may be employed through contract with the Department of
774 Public Safety, any P.O.S.T. certified law enforcement agency, or directly hired by the division.

775 (11) The division shall designate employees to obtain the saliva DNA specimens
776 required under Section 53-10-403. The division shall ensure that the designated employees
777 receive appropriate training and that the specimens are obtained in accordance with accepted
778 protocol.

779 (12) The division shall register with the Department of Corrections any person who:

780 (a) has been adjudicated delinquent based on an offense listed in Subsection
781 ~~[77-27-21.5(1)(n)(i)]~~ 77-41-102(14)(a);

782 (b) has been committed to the division for secure confinement; and

783 (c) remains in the division's custody 30 days prior to the person's 21st birthday.

784 Section 11. Section **63G-2-302** is amended to read:

785 **63G-2-302. Private records.**

786 (1) The following records are private:

787 (a) records concerning an individual's eligibility for unemployment insurance benefits,
788 social services, welfare benefits, or the determination of benefit levels;

789 (b) records containing data on individuals describing medical history, diagnosis,
790 condition, treatment, evaluation, or similar medical data;

791 (c) records of publicly funded libraries that when examined alone or with other records
792 identify a patron;

793 (d) records received by or generated by or for:

794 (i) the Independent Legislative Ethics Commission, except for:

795 (A) the commission's summary data report that is required under legislative rule; and

796 (B) any other document that is classified as public under legislative rule; or

797 (ii) a Senate or House Ethics Committee in relation to the review of ethics complaints,
798 unless the record is classified as public under legislative rule;

799 (e) records received or generated for a Senate confirmation committee concerning
800 character, professional competence, or physical or mental health of an individual:

801 (i) if prior to the meeting, the chair of the committee determines release of the records:

802 (A) reasonably could be expected to interfere with the investigation undertaken by the

803 committee; or

804 (B) would create a danger of depriving a person of a right to a fair proceeding or
805 impartial hearing; and

806 (ii) after the meeting, if the meeting was closed to the public;

807 (f) employment records concerning a current or former employee of, or applicant for
808 employment with, a governmental entity that would disclose that individual's home address,
809 home telephone number, Social Security number, insurance coverage, marital status, or payroll
810 deductions;

811 (g) records or parts of records under Section 63G-2-303 that a current or former
812 employee identifies as private according to the requirements of that section;

813 (h) that part of a record indicating a person's Social Security number or federal
814 employer identification number if provided under Section 31A-23a-104, 31A-25-202,
815 31A-26-202, 58-1-301, 58-55-302, 61-1-4, or 61-2f-203;

816 (i) that part of a voter registration record identifying a voter's driver license or
817 identification card number, Social Security number, or last four digits of the Social Security
818 number;

819 (j) a record that:

820 (i) contains information about an individual;

821 (ii) is voluntarily provided by the individual; and

822 (iii) goes into an electronic database that:

823 (A) is designated by and administered under the authority of the Chief Information
824 Officer; and

825 (B) acts as a repository of information about the individual that can be electronically
826 retrieved and used to facilitate the individual's online interaction with a state agency;

827 (k) information provided to the Commissioner of Insurance under:

828 (i) Subsection 31A-23a-115(2)(a);

829 (ii) Subsection 31A-23a-302(3); or

830 (iii) Subsection 31A-26-210(3);

831 (l) information obtained through a criminal background check under Title 11, Chapter
832 40, Criminal Background Checks by Political Subdivisions Operating Water Systems;

833 (m) information provided by an offender that is:

834 (i) required by the registration requirements of [~~Section 77-27-21.5~~] Title 77, Chapter
835 41, Sex and Kidnap Offender Registry; and

836 (ii) not required to be made available to the public under Subsection [~~77-27-21.5(27)~~]
837 77-41-110(4);

838 (n) a statement and any supporting documentation filed with the attorney general in
839 accordance with Section 34-45-107, if the federal law or action supporting the filing involves
840 homeland security;

841 (o) electronic toll collection customer account information received or collected under
842 Section 72-6-118, including contact and payment information and customer travel data[-];

843 (p) an email address provided by a military or overseas voter under Section
844 20A-16-501; and

845 (q) a completed military-overseas ballot that is electronically transmitted under Title
846 20A, Chapter 16, Uniform Military and Overseas Voters Act.

847 (2) The following records are private if properly classified by a governmental entity:

848 (a) records concerning a current or former employee of, or applicant for employment
849 with a governmental entity, including performance evaluations and personal status information
850 such as race, religion, or disabilities, but not including records that are public under Subsection
851 63G-2-301(2)(b) or 63G-2-301(3)(o), or private under Subsection (1)(b);

852 (b) records describing an individual's finances, except that the following are public:

853 (i) records described in Subsection 63G-2-301(2);

854 (ii) information provided to the governmental entity for the purpose of complying with
855 a financial assurance requirement; or

856 (iii) records that must be disclosed in accordance with another statute;

857 (c) records of independent state agencies if the disclosure of those records would
858 conflict with the fiduciary obligations of the agency;

859 (d) other records containing data on individuals the disclosure of which constitutes a
860 clearly unwarranted invasion of personal privacy;

861 (e) records provided by the United States or by a government entity outside the state
862 that are given with the requirement that the records be managed as private records, if the
863 providing entity states in writing that the record would not be subject to public disclosure if
864 retained by it; and

865 (f) any portion of a record in the custody of the Division of Aging and Adult Services,
866 created in Section 62A-3-102, that may disclose, or lead to the discovery of, the identity of a
867 person who made a report of alleged abuse, neglect, or exploitation of a vulnerable adult.

868 (3) (a) As used in this Subsection (3), "medical records" means medical reports,
869 records, statements, history, diagnosis, condition, treatment, and evaluation.

870 (b) Medical records in the possession of the University of Utah Hospital, its clinics,
871 doctors, or affiliated entities are not private records or controlled records under Section
872 63G-2-304 when the records are sought:

873 (i) in connection with any legal or administrative proceeding in which the patient's
874 physical, mental, or emotional condition is an element of any claim or defense; or

875 (ii) after a patient's death, in any legal or administrative proceeding in which any party
876 relies upon the condition as an element of the claim or defense.

877 (c) Medical records are subject to production in a legal or administrative proceeding
878 according to state or federal statutes or rules of procedure and evidence as if the medical
879 records were in the possession of a nongovernmental medical care provider.

880 Section 12. Section **76-3-402** is amended to read:

881 **76-3-402. Conviction of lower degree of offense -- Procedure and limitations.**

882 (1) If at the time of sentencing the court, having regard to the nature and circumstances
883 of the offense of which the defendant was found guilty and to the history and character of the
884 defendant, and after having given any victims present at the sentencing and the prosecuting
885 attorney an opportunity to be heard, concludes it would be unduly harsh to record the
886 conviction as being for that degree of offense established by statute, the court may enter a
887 judgment of conviction for the next lower degree of offense and impose sentence accordingly.

888 (2) If the court suspends the execution of the sentence and places the defendant on
889 probation, whether or not the defendant is committed to jail as a condition of probation, the
890 court may enter a judgment of conviction for the next lower degree of offense:

891 (a) after the defendant has been successfully discharged from probation;

892 (b) upon motion and notice to the prosecuting attorney;

893 (c) after reasonable effort has been made by the prosecuting attorney to provide notice
894 to any victims;

895 (d) after a hearing if requested by either party under Subsection (2)(c); and

896 (e) if the court finds entering a judgment of conviction for the next lower degree of
897 offense is in the interest of justice.

898 (3) (a) An offense may be reduced only one degree under this section, whether the
899 reduction is entered under Subsection (1) or (2), unless the prosecutor specifically agrees in
900 writing or on the court record that the offense may be reduced two degrees.

901 (b) In no case may an offense be reduced under this section by more than two degrees.

902 (4) This section does not preclude any person from obtaining or being granted an
903 expungement of his record as provided by law.

904 (5) The court may not enter judgment for a conviction for a lower degree of offense if:

905 (a) the reduction is specifically precluded by law; or

906 (b) if any unpaid balance remains on court ordered restitution for the offense for which
907 the reduction is sought.

908 (6) When the court enters judgment for a lower degree of offense under this section,
909 the actual title of the offense for which the reduction is made may not be altered.

910 (7) (a) A person may not obtain a reduction under this section of a conviction that
911 requires the person to register as a sex offender until the registration requirements under
912 ~~[Section 77-27-21.5]~~ Title 77, Chapter 41, Sex and Kidnap Offender Registry, have expired.

913 (b) A person required to register as a sex offender for the person's lifetime under
914 Subsection ~~[77-27-21.5(12)(c)]~~ 77-41-105(3)(c) may not be granted a reduction of the
915 conviction for the offense or offenses that require the person to register as a sex offender.

916 (8) As used in this section, "next lower degree of offense" includes an offense
917 regarding which:

918 (a) a statutory enhancement is charged in the information or indictment that would
919 increase either the maximum or the minimum sentence; and

920 (b) the court removes the statutory enhancement pursuant to this section.

921 Section 13. Section **77-27-21.7** is amended to read:

922 **77-27-21.7. Sex offender restrictions.**

923 (1) As used in this section:

924 (a) "Protected area" means the premises occupied by:

925 (i) any licensed day care or preschool facility;

926 (ii) a swimming pool that is open to the public;

927 (iii) a public or private primary or secondary school that is not on the grounds of a
928 correctional facility;

929 (iv) a community park that is open to the public; and

930 (v) a playground that is open to the public, including those areas designed to provide
931 children space, recreational equipment, or other amenities intended to allow children to engage
932 in physical activity.

933 (b) (i) Except under Subsection (1)(b)(ii), "protected area" also includes any area that is
934 1,000 feet or less from the residence of a victim of the sex offender's offense under Subsection
935 (1)(c) if:

936 (A) the sex offender is on probation or parole for an offense under Subsection (1)(c);

937 (B) the victim or the victim's parent or guardian has advised the Department of
938 Corrections that the victim desires that the sex offender be restricted from the area under this
939 Subsection (1)(b)(i) and authorizes the Department of Corrections to advise the sex offender of
940 the area where the victim resides for purposes of this Subsection (1)(b); and

941 (C) the Department of Corrections has notified the sex offender in writing that the sex
942 offender is prohibited from being in the protected area under Subsection (1)(b)(i) and has also
943 provided a description of the location of the protected area to the sex offender.

944 (ii) "Protected area" under Subsection (1)(b)(i) does not apply to the residence and area
945 surrounding the residence of a victim if:

946 (A) the victim is a member of the immediate family of the sex offender; and

947 (B) the terms of the sex offender's agreement of probation or parole allow the sex
948 offender to reside in the same residence as the victim.

949 (c) "Sex offender" means an adult or juvenile who is required to register [~~under Section~~
950 77-27-21.5] in accordance with Title 77, Chapter 41, Sex and Kidnap Offender Registry, due to
951 a conviction for any offense that is committed against a person younger than 18 years of age.

952 (2) It is a class A misdemeanor for any sex offender to be in any protected area on foot
953 or in or on any vehicle, including vehicles that are not motorized, except for:

954 (a) those specific periods of time when the sex offender must be present within a
955 protected area in order to carry out necessary parental responsibilities;

956 (b) when the protected area is a school building:

957 (i) under Subsection (1)(a)(iii);

958 (ii) being opened for or being used for a public activity; and
 959 (iii) not being used for any school-related function that involves persons younger than
 960 18 years of age; or

961 (c) when the protected area is a licensed day care or preschool facility:

962 (i) under Subsection (1)(a)(i); and

963 (ii) located within a building that is open to the public for purposes, services, or
 964 functions that are operated separately from the day care or preschool facility located in the
 965 building, except that the sex offender may not be in any part of the building occupied by the
 966 day care or preschool facility.

967 Section 14. Section ~~77-27-21.8~~ is amended to read:

968 **77-27-21.8. Sex offender in presence of a child -- Definitions -- Penalties.**

969 (1) As used in this section:

970 (a) "Accompany" means:

971 (i) to be in the presence of an individual; and

972 (ii) to move or travel with that individual from one location to another, whether
 973 outdoors, indoors, or in or on any type of vehicle.

974 (b) "Child" means an individual younger than 14 years of age.

975 (2) A sex offender subject to registration [~~under Section 77-27-21.5~~] in accordance
 976 with Title 77, Chapter 41, Sex and Kidnap Offender Registry, for an offense committed or
 977 attempted to be committed against a child younger than 14 years of age is guilty of a class A
 978 misdemeanor if the sex offender requests, invites, or solicits a child to accompany the sex
 979 offender, under circumstances that do not constitute an attempt to violate Section 76-5-301.1,
 980 child kidnapping, unless:

981 (a) (i) the sex offender, prior to accompanying the child:

982 (A) verbally advises the child's parent or legal guardian that the sex offender is on the
 983 state sex offender registry and is required by state law to obtain written permission in order for
 984 the sex offender to accompany the child; and

985 (B) requests that the child's parent or legal guardian provide written authorization for
 986 the sex offender to accompany the child, including the specific dates and locations;

987 (ii) the child's parent or legal guardian has provided to the sex offender written
 988 authorization, including the specific dates and locations, for the sex offender to accompany the

989 child; and

990 (iii) the sex offender has possession of the written authorization and is accompanying
991 the child only at the dates and locations specified in the authorization;

992 (b) the child's parent or guardian has verbally authorized the sex offender to
993 accompany the child either in the child's residence or on property appurtenant to the child's
994 residence, but in no other locations; or

995 (c) the child is the natural child of the sex offender, and the offender is not prohibited
996 by any court order, or probation or parole provision, from contact with the child.

997 (3) (a) A sex offender convicted of a violation of Subsection (2) is subject to
998 registration [~~under Section 77-27-21.5~~] in accordance with Title 77, Chapter 41, Sex and
999 Kidnap Offender Registry, for an additional five years subsequent to the required registration
1000 under Section 77-27-21.5.

1001 (b) The period of additional registration imposed under Subsection (3)(a) is also in
1002 addition to any period of registration imposed under Subsection [~~77-27-21.5(16)(c)~~]
1003 77-41-107(3) for failure to comply with registration requirements.

1004 (4) It is not a defense to a prosecution under this section that the defendant mistakenly
1005 believed the individual to be 14 years of age or older at the time of the offense or was unaware
1006 of the individual's true age.

1007 (5) This section does not apply if a sex offender is acting to rescue a child who is in an
1008 emergency and life-threatening situation.

1009 Section 15. Section **77-40-105** is amended to read:

1010 **77-40-105. Eligibility for expungement of conviction -- Requirements.**

1011 (1) A person convicted of a crime may apply to the bureau for a certificate of eligibility
1012 to expunge the record of conviction as provided in this section.

1013 (2) A petitioner is not eligible to receive a certificate of eligibility from the bureau if:

1014 (a) the conviction for which expungement is sought is:

1015 (i) a capital felony;

1016 (ii) a first degree felony;

1017 (iii) a violent felony as defined in Subsection 76-3-203.5(1)(c)(i);

1018 (iv) automobile homicide;

1019 (v) a felony violation of Subsection 41-6a-501(2); or

- 1020 (vi) a registerable sex offense as defined in Subsection [~~77-27-21.5(1)(m)~~
1021 77-41-102(14);
- 1022 (b) a criminal proceeding is pending against the petitioner; or
- 1023 (c) the petitioner intentionally or knowingly provides false or misleading information
1024 on the application for a certificate of eligibility.
- 1025 (3) A petitioner seeking to obtain expungement for a criminal record is not eligible to
1026 receive a certificate of eligibility from the bureau until all of the following have occurred:
- 1027 (a) all fines and interest ordered by the court have been paid in full;
- 1028 (b) all restitution ordered by the court pursuant to Section 77-38a-302, or by the Board
1029 of Pardons and Parole pursuant to Section 77-27-6, has been paid in full; and
- 1030 (c) the following time periods have elapsed from the date the petitioner was convicted
1031 or released from incarceration, parole, or probation, whichever occurred last, for each
1032 conviction the petitioner seeks to expunge:
- 1033 (i) 10 years in the case of a misdemeanor conviction of Subsection 41-6a-501(2) or a
1034 felony violation of Subsection 58-37-8(2)(g);
- 1035 (ii) seven years in the case of a felony;
- 1036 (iii) five years in the case of a class A misdemeanor;
- 1037 (iv) four years in the case of a class B misdemeanor; or
- 1038 (v) three years in the case of any other misdemeanor or infraction.
- 1039 (4) The bureau may not issue a certificate of eligibility if, at the time the petitioner
1040 seeks a certificate of eligibility, the bureau determines that the petitioner's criminal history,
1041 including previously expunged convictions, contains any of the following:
- 1042 (a) two or more felony convictions, each of which is contained in a separate criminal
1043 episode;
- 1044 (b) any combination of three or more convictions that include two class A
1045 misdemeanor convictions, each of which is contained in a separate criminal episode;
- 1046 (c) any combination of four or more convictions that include three class B
1047 misdemeanor convictions, each of which is contained in a separate criminal episode; or
- 1048 (d) five or more convictions of any degree whether misdemeanor or felony, excluding
1049 infractions, each of which is contained in a separate criminal episode.
- 1050 (5) If the petitioner has received a pardon from the Utah Board of Pardons and Parole,

1051 the petitioner is entitled to a certificate of eligibility for all pardoned crimes.

1052 Section 16. Section **77-41-101** is enacted to read:

1053 **CHAPTER 41. SEX AND KIDNAP OFFENDER REGISTRY**

1054 **77-41-101. Title.**

1055 This chapter is known as the "Sex and Kidnap Offender Registry."

1056 Section 17. Section **77-41-102** is enacted to read:

1057 **77-41-102. Definitions.**

1058 As used in this chapter:

1059 (1) "Business day" means a day on which state offices are open for regular business.

1060 (2) "Department" means the Department of Corrections.

1061 (3) "Division" means the Division of Juvenile Justice Services.

1062 (4) "Employed" or "carries on a vocation" includes employment that is full time or part
1063 time, whether financially compensated, volunteered, or for the purpose of government or
1064 educational benefit.

1065 (5) "Indian Country" means:

1066 (a) all land within the limits of any Indian reservation under the jurisdiction of the
1067 United States government, regardless of the issuance of any patent, and includes rights-of-way
1068 running through the reservation;

1069 (b) all dependent Indian communities within the borders of the United States whether
1070 within the original or subsequently acquired territory, and whether or not within the limits of a
1071 state; and

1072 (c) all Indian allotments, including the Indian allotments to which the Indian titles have
1073 not been extinguished, including rights-of-way running through the allotments.

1074 (6) "Jurisdiction" means any state, Indian Country, United States Territory, or any
1075 property under the jurisdiction of the United States military, Canada, the United Kingdom,
1076 Australia, or New Zealand.

1077 (7) "Kidnap offender" means any person other than a natural parent of the victim who:

1078 (a) has been convicted in this state of a violation of:

1079 (i) Subsection 76-5-301(1)(c) or (d), kidnapping;

1080 (ii) Section 76-5-301.1, child kidnapping;

1081 (iii) Section 76-5-302, aggravated kidnapping;

1082 (iv) Section 76-5-310, aggravated human trafficking, on or after May 10, 2011; or

1083 (v) attempting, soliciting, or conspiring to commit any felony offense listed in

1084 Subsections (7)(a)(i) through (iv);

1085 (b) has been convicted of any crime, or an attempt, solicitation, or conspiracy to
1086 commit a crime in another jurisdiction, including any state, federal, or military court that is
1087 substantially equivalent to the offenses listed in Subsection (7)(a) and who is:

1088 (i) a Utah resident; or

1089 (ii) not a Utah resident, but who, in any 12 month period, is in this state for a total of
1090 10 or more days, regardless of whether or not the offender intends to permanently reside in this
1091 state;

1092 (c) (i) is required to register as an offender in any other jurisdiction, or who is required
1093 to register as an offender by any state, federal, or military court; and

1094 (ii) in any 12 month period, is in this state for a total of 10 or more days, regardless of
1095 whether or not the offender intends to permanently reside in this state;

1096 (d) is a nonresident regularly employed or working in this state, or who is a student in
1097 this state, and was convicted of one or more offenses listed in Subsection (7), or any
1098 substantially equivalent offense in another jurisdiction, or as a result of the conviction, is
1099 required to register in the person's state of residence;

1100 (e) is found not guilty by reason of insanity in this state or in any other jurisdiction of
1101 one or more offenses listed in Subsection (7); or

1102 (f) is adjudicated delinquent based on one or more offenses listed in Subsection (7)(a)
1103 and who has been committed to the division for secure confinement and remains in the
1104 division's custody 30 days prior to the person's 21st birthday.

1105 (8) "Natural parent" means a minor's biological or adoptive parent, and includes the
1106 minor's noncustodial parent.

1107 (9) "Offender" means a kidnap offender as defined in Subsection (7) or a sex offender
1108 as defined in Subsection (14).

1109 (10) "Online identifier" or "Internet identifier":

1110 (a) means any electronic mail, chat, instant messenger, social networking, or similar
1111 name used for Internet communication; and

1112 (b) does not include date of birth, Social Security number, PIN number, or Internet

1113 passwords.

1114 (11) "Primary residence" means the location where the offender regularly resides, even
1115 if the offender intends to move to another location or return to another location at any future
1116 date.

1117 (12) "Register" means to comply with the requirements of this section and
1118 administrative rules of the department made under this section.

1119 (13) "Secondary residence" means any real property that the offender owns or has a
1120 financial interest in, or any location where, in any 12 month period, the offender stays
1121 overnight a total of 10 or more nights when not staying at the offender's primary residence.

1122 (14) "Sex offender" means any person:

1123 (a) convicted in this state of:

1124 (i) a felony or class A misdemeanor violation of Section 76-4-401, enticing a minor;

1125 (ii) Section 76-5b-202, sexual exploitation of a vulnerable adult, on or after May 10,
1126 2011;

1127 (iii) a felony violation of Section 76-5-401, unlawful sexual activity with a minor;

1128 (iv) Section 76-5-401.1, sexual abuse of a minor;

1129 (v) Section 76-5-401.2, unlawful sexual conduct with a 16 or 17 year old;

1130 (vi) Section 76-5-402, rape;

1131 (vii) Section 76-5-402.1, rape of a child;

1132 (viii) Section 76-5-402.2, object rape;

1133 (ix) Section 76-5-402.3, object rape of a child;

1134 (x) a felony violation of Section 76-5-403, forcible sodomy;

1135 (xi) Section 76-5-403.1, sodomy on a child;

1136 (xii) Section 76-5-404, forcible sexual abuse;

1137 (xiii) Section 76-5-404.1, sexual abuse of a child or aggravated sexual abuse of a child;

1138 (xiv) Section 76-5-405, aggravated sexual assault;

1139 (xv) Section 76-5-412, custodial sexual relations, when the person in custody is
1140 younger than 18 years of age, if the offense is committed on or after May 10, 2011;

1141 (xvi) Section 76-5b-201, sexual exploitation of a minor;

1142 (xvii) Section 76-7-102, incest;

1143 (xviii) Subsection 76-9-702(1), lewdness, if the person has been convicted of the

1144 offense four or more times;
1145 (xix) Subsection 76-9-702(3), sexual battery, if the person has been convicted of the
1146 offense four or more times;
1147 (xx) any combination of convictions of Subsection 76-9-702(1), lewdness, and of
1148 Subsection 76-9-702(3), sexual battery, that total four or more convictions;
1149 (xxi) Section 76-9-702.5, lewdness involving a child;
1150 (xxii) a felony or class A misdemeanor violation of Section 76-9-702.7, voyeurism;
1151 (xxiii) Section 76-10-1306, aggravated exploitation of prostitution; or
1152 (xxiv) attempting, soliciting, or conspiring to commit any felony offense listed in
1153 Subsection (14)(a);
1154 (b) who has been convicted of any crime, or an attempt, solicitation, or conspiracy to
1155 commit a crime in another jurisdiction, including any state, federal, or military court that is
1156 substantially equivalent to the offenses listed in Subsection (14)(a) and who is:
1157 (i) a Utah resident; or
1158 (ii) not a Utah resident, but who, in any 12 month period, is in this state for a total of
1159 10 or more days, regardless of whether the offender intends to permanently reside in this state;
1160 (c) (i) who is required to register as an offender in any other jurisdiction, or who is
1161 required to register as an offender by any state, federal, or military court; and
1162 (ii) who, in any 12 month period, is in the state for a total of 10 or more days,
1163 regardless of whether or not the offender intends to permanently reside in this state;
1164 (d) who is a nonresident regularly employed or working in this state or who is a student
1165 in this state and was convicted of one or more offenses listed in Subsection (14)(a), or any
1166 substantially equivalent offense in any jurisdiction, or as a result of the conviction, is required
1167 to register in the person's jurisdiction of residence;
1168 (e) who is found not guilty by reason of insanity in this state, or in any other
1169 jurisdiction of one or more offenses listed in Subsection (14)(a); or
1170 (f) who is adjudicated delinquent based on one or more offenses listed in Subsection
1171 (14)(a) and who has been committed to the division for secure confinement and remains in the
1172 division's custody 30 days prior to the person's 21st birthday.
1173 (15) "Vehicle" means any motor vehicle, aircraft, or watercraft subject to registration in
1174 any jurisdiction.

1175 Section 18. Section **77-41-103** is enacted to read:

1176 **77-41-103. Department duties.**

1177 (1) The department, to assist in investigating kidnapping and sex-related crimes, and in
1178 apprehending offenders, shall:

1179 (a) develop and operate a system to collect, analyze, maintain, and disseminate
1180 information on offenders and sex and kidnap offenses;

1181 (b) make information listed in Subsection 77-41-110(4) available to the public; and

1182 (c) share information provided by an offender under this section that may not be made
1183 available to the public under Subsection 77-41-110(4), but only:

1184 (i) for the purposes under this section; or

1185 (ii) in accordance with Section 63G-2-206.

1186 (2) Any law enforcement agency shall, in the manner prescribed by the department,
1187 inform the department of:

1188 (a) the receipt of a report or complaint of an offense listed in Subsection 77-41-102(7)
1189 or (14), within three business days; and

1190 (b) the arrest of a person suspected of any of the offenses listed in Subsection
1191 77-41-102(7) or (14), within five business days.

1192 (3) Upon convicting a person of any of the offenses listed in Subsection 77-41-102(7)
1193 or (14), the convicting court shall within three business days forward a copy of the judgment
1194 and sentence to the department.

1195 (4) The department shall:

1196 (a) provide the following additional information when available:

1197 (i) the crimes the offender has been convicted of or adjudicated delinquent for;

1198 (ii) a description of the offender's primary and secondary targets; and

1199 (iii) any other relevant identifying information as determined by the department;

1200 (b) maintain the Sex Offender and Kidnap Offender Notification and Registration
1201 website; and

1202 (c) ensure that the registration information collected regarding an offender's enrollment
1203 or employment at an educational institution is:

1204 (i) (A) promptly made available to any law enforcement agency that has jurisdiction
1205 where the institution is located if the educational institution is an institution of higher

1206 education; or

1207 (B) promptly made available to the district superintendent of the school district where
1208 the offender is enrolled if the educational institution is an institution of primary education; and
1209 (ii) entered into the appropriate state records or data system.

1210 Section 19. Section **77-41-104** is enacted to read:

1211 **77-41-104. Registration of offenders -- Department and agency requirements.**

1212 (1) An offender in the custody of the department shall be registered by agents of the
1213 department upon:

1214 (a) placement on probation;

1215 (b) commitment to a secure correctional facility operated by or under contract to the
1216 department;

1217 (c) release from confinement to parole status, termination or expiration of sentence, or
1218 escape;

1219 (d) entrance to and release from any community-based residential program operated by
1220 or under contract to the department; or

1221 (e) termination of probation or parole.

1222 (2) An offender who is not in the custody of the department and who is confined in a
1223 correctional facility not operated by or under contract to the department shall be registered with
1224 the department by the sheriff of the county in which the offender is confined, upon:

1225 (a) commitment to the correctional facility; and

1226 (b) release from confinement.

1227 (3) An offender in the custody of the division shall be registered with the department
1228 by the division prior to release from custody.

1229 (4) An offender committed to a state mental hospital shall be registered with the
1230 department by the hospital upon admission and upon discharge.

1231 (5) (a) (i) A municipal or county law enforcement agency shall register an offender
1232 who resides within the agency's jurisdiction and is not under the supervision of the Division of
1233 Adult Probation and Parole within the department.

1234 (ii) In order to conduct offender registration under this section, the agency shall ensure
1235 the agency staff responsible for registration:

1236 (A) has received initial training by the department and has been certified by the

1237 department as qualified and authorized to conduct registrations and enter offender registration
1238 information into the registry database; and

1239 (B) certify annually with the department.

1240 (b) (i) When the department receives offender registration information regarding a
1241 change of an offender's primary residence location, the department shall within five days
1242 electronically notify the law enforcement agencies that have jurisdiction over the area where:

1243 (A) the residence that the offender is leaving is located; and

1244 (B) the residence to which the offender is moving is located.

1245 (ii) The department shall provide notification under this Subsection (5)(b) if the
1246 offender's change of address is between law enforcement agency jurisdictions, or is within one
1247 jurisdiction.

1248 (c) The department shall make available to offenders required to register under this
1249 section the name of the agency, whether it is a local law enforcement agency or the department,
1250 that the offender should contact to register, the location for registering, and the requirements of
1251 registration.

1252 (6) An agency in the state that registers an offender on probation, an offender who has
1253 been released from confinement to parole status or termination, or an offender whose sentence
1254 has expired shall inform the offender of the duty to comply with:

1255 (a) the continuing registration requirements of this section during the period of
1256 registration required in Subsection 77-41-105(3), including:

1257 (i) notification to the state agencies in the states where the registrant presently resides
1258 and plans to reside when moving across state lines;

1259 (ii) verification of address at least every 60 days pursuant to a parole agreement for
1260 lifetime parolees; and

1261 (iii) notification to the out-of-state agency where the offender is living, whether or not
1262 the offender is a resident of that state; and

1263 (b) the driver license certificate or identification card surrender requirement under
1264 Subsection 53-3-216(3) or 53-3-807(4) and application provisions under Section 53-3-205 or
1265 53-3-804.

1266 (7) The department may make administrative rules necessary to implement this section,
1267 including:

- 1268 (a) the method for dissemination of the information; and
- 1269 (b) instructions to the public regarding the use of the information.
- 1270 (8) Any information regarding the identity or location of a victim shall be redacted by
- 1271 the department from information provided under Subsections 77-41-103(4) and 77-41-105(7).
- 1272 (9) This section does not create or impose any duty on any person to request or obtain
- 1273 information regarding any offender from the department.

1274 Section 20. Section **77-41-105** is enacted to read:

1275 **77-41-105. Registration of offenders -- Offender responsibilities.**

1276 (1) An offender convicted by any other jurisdiction is required to register under

1277 Subsection (3) and Subsection 77-41-102(7) or (14). The offender shall register with the

1278 department within 10 days of entering the state, regardless of the offender's length of stay.

1279 (2) (a) An offender required to register under Subsection 77-41-102(7) or (14) who is

1280 under supervision by the department shall register with Division of Adult Probation and Parole.

1281 (b) An offender required to register under Subsection 77-41-102(7) or (14) who is no

1282 longer under supervision by the department shall register with the police department or sheriff's

1283 office that has jurisdiction over the area where the offender resides.

1284 (3) (a) Except as provided in Subsections (3)(b) and (c), Subsection 77-41-105(4), and

1285 Section 77-41-106, an offender shall, for the duration of the sentence and for 10 years after

1286 termination of sentence or custody of the division, register every year during the month of the

1287 offender's birth, during the month that is the sixth month after the offender's birth month, and

1288 also within three business days of every change of the offender's primary residence, any

1289 secondary residences, place of employment, vehicle information, or educational information

1290 required to be submitted under Subsection 77-41-105(7).

1291 (b) Except as provided in Subsection 77-41-105(4) and Section 77-41-106, an offender

1292 who is convicted in another jurisdiction of an offense listed in Subsection 77-41-102(7)(a) or

1293 (14)(a), a substantially similar offense, or any other offense that requires registration in the

1294 jurisdiction of conviction, shall:

1295 (i) register for the time period, and in the frequency, required by the jurisdiction where

1296 the offender was convicted if that jurisdiction's registration period or registration frequency

1297 requirement for the offense that the offender was convicted of is greater than the 10 years from

1298 completion of the sentence registration period that is required under Subsection (3)(a), or is

1299 more frequent than every six months; or

1300 (ii) register in accordance with the requirements of Subsection (3)(a), if the
1301 jurisdiction's registration period or frequency requirement for the offense that the offender was
1302 convicted of is less than the registration period required under Subsection (3)(a), or is less
1303 frequent than every six months.

1304 (c) (i) An offender convicted as an adult of any of the offenses listed in Section
1305 77-41-106 shall, for the offender's lifetime, register every year during the month of the
1306 offender's birth, during the month that is the sixth month after the offender's birth month, and
1307 also within three business days of every change of the offender's primary residence, any
1308 secondary residences, place of employment, vehicle information, or educational information
1309 required to be submitted under Subsection 77-41-105(7).

1310 (ii) This registration requirement is not subject to exemptions and may not be
1311 terminated or altered during the offender's lifetime.

1312 (4) Notwithstanding Subsection 77-41-105(3) and Section 77-41-106, an offender who
1313 is confined in a secure facility or in a state mental hospital is not required to register during the
1314 period of confinement.

1315 (5) An offender who is required to register under Subsection (3) shall surrender the
1316 offender's license, certificate, or identification card as required under Subsection 53-3-216(3)
1317 or 53-3-807(4) and may apply for a license certificate or identification card as provided under
1318 Section 53-3-205 or 53-3-804.

1319 (6) A sex offender who violates Section 77-27-21.8 while required to register under
1320 this section shall register for an additional five years subsequent to the registration period
1321 otherwise required under this section.

1322 (7) An offender shall provide the department or the registering entity with the
1323 following information:

1324 (a) all names and aliases by which the offender is or has been known;

1325 (b) the addresses of the offender's primary and secondary residences;

1326 (c) a physical description, including the offender's date of birth, height, weight, eye and
1327 hair color;

1328 (d) the make, model, color, year, plate number, and vehicle identification number of
1329 any vehicle or vehicles the offender owns or regularly drives;

- 1330 (e) a current photograph of the offender;
- 1331 (f) a set of fingerprints, if one has not already been provided;
- 1332 (g) a DNA specimen, taken in accordance with Section 53-10-404, if one has not
- 1333 already been provided;
- 1334 (h) telephone numbers and any other designations used by the offender for routing or
- 1335 self-identification in telephonic communications from fixed locations or cellular telephones;
- 1336 (i) Internet identifiers and the addresses the offender uses for routing or
- 1337 self-identification in Internet communications or postings;
- 1338 (j) the name and Internet address of all websites on which the offender is registered
- 1339 using an online identifier, including all online identifiers used to access those websites;
- 1340 (k) a copy of the offender's passport, if a passport has been issued to the offender;
- 1341 (l) if the offender is an alien, all documents establishing the offender's immigration
- 1342 status;
- 1343 (m) all professional licenses that authorize the offender to engage in an occupation or
- 1344 carry out a trade or business, including any identifiers, such as numbers;
- 1345 (n) each educational institution in Utah at which the offender is employed, carries on a
- 1346 vocation, or is a student, and any change of enrollment or employment status of the offender at
- 1347 any educational institution;
- 1348 (o) the name and the address of any place where the offender is employed or will be
- 1349 employed;
- 1350 (p) the name and the address of any place where the offender works as a volunteer or
- 1351 will work as a volunteer; and
- 1352 (q) the offender's Social Security number.
- 1353 (8) Notwithstanding Section 42-1-1, an offender:
- 1354 (a) may not change the offender's name:
- 1355 (i) while under the jurisdiction of the department; and
- 1356 (ii) until the registration requirements of this statute have expired; and
- 1357 (b) may not change the offender's name at any time, if registration is for life under
- 1358 Subsection 77-41-105(3)(c).
- 1359 (9) Notwithstanding Subsections 77-41-103(1)(c) and 77-41-105(7)(i) and (j), an
- 1360 offender is not required to provide the department with:

1361 (a) the offender's online identifier and password used exclusively for the offender's
1362 employment on equipment provided by an employer and used to access the employer's private
1363 network; or

1364 (b) online identifiers for the offender's financial accounts, including any bank,
1365 retirement, or investment accounts.

1366 Section 21. Section **77-41-106** is enacted to read:

1367 **77-41-106. Registerable offenses.**

1368 Offenses referred to in Subsection 77-41-105(3)(c)(i) are:

1369 (1) any offense listed in Subsection 77-41-102(7) or (14) if, at the time of the
1370 conviction, the offender has previously been convicted of an offense listed in Subsection
1371 77-41-1(7) or (14) or has previously been required to register as a sex offender for an offense
1372 committed as a juvenile;

1373 (2) a conviction for any of the following offenses, including attempting, soliciting, or
1374 conspiring to commit any felony of:

1375 (a) Section 76-5-301.1, child kidnapping, except if the offender is a natural parent of
1376 the victim;

1377 (b) Section 76-5-402, rape;

1378 (c) Section 76-5-402.1, rape of a child;

1379 (d) Section 76-5-402.2, object rape;

1380 (e) Section 76-5-402.3, object rape of a child;

1381 (f) Section 76-5-403.1, sodomy on a child;

1382 (g) Subsection 76-5-404.1(4), aggravated sexual abuse of a child; or

1383 (h) Section 76-5-405, aggravated sexual assault;

1384 (3) Section 76-4-401, a felony violation of enticing a minor over the Internet;

1385 (4) Section 76-5-302, aggravated kidnapping, except if the offender is a natural parent
1386 of the victim;

1387 (5) Section 76-5-403, forcible sodomy;

1388 (6) Section 76-5-404.1, sexual abuse of a child;

1389 (7) Section 76-5b-201, sexual exploitation of a minor; or

1390 (8) Section 76-10-1306, aggravated exploitation of prostitution, on or after May 10,

1391 2011.

1392 Section 22. Section **77-41-107** is enacted to read:

1393 **77-41-107. Penalties.**

1394 (1) An offender who knowingly fails to register under this section or provides false or
1395 incomplete information is guilty of:

1396 (a) a third degree felony and shall be sentenced to serve a term of incarceration for not
1397 less than 90 days and also at least one year of probation if:

1398 (i) the offender is required to register for a felony conviction or adjudicated delinquent
1399 for what would be a felony if the juvenile were an adult of an offense listed in Subsection
1400 77-41-102(7)(a) or (14)(a); or

1401 (ii) the offender is required to register for the offender's lifetime under Subsection
1402 77-41-105(3)(c); or

1403 (b) a class A misdemeanor and shall be sentenced to serve a term of incarceration for
1404 not fewer than 90 days and also at least one year of probation if the offender is required to
1405 register for a misdemeanor conviction or is adjudicated delinquent for what would be a
1406 misdemeanor if the juvenile were an adult of an offense listed in Subsection 77-41-102(7)(a) or
1407 (14)(a).

1408 (2) Neither the court nor the Board of Pardons and Parole may release a person who
1409 violates this section from serving the term required under Subsection (1). This Subsection (2)
1410 supersedes any other provision of the law contrary to this section.

1411 (3) The offender shall register for an additional year for every year in which the
1412 offender does not comply with the registration requirements of this section.

1413 Section 23. Section **77-41-108** is enacted to read:

1414 **77-41-108. Classification of information.**

1415 Notwithstanding Title 63G, Chapter 2, Government Records Access and Management
1416 Act, information under Subsection 77-41-103(4) that is collected and released under
1417 Subsection 77-41-110(4) is public information, unless otherwise restricted under Subsection
1418 77-41-103(1).

1419 Section 24. Section **77-41-109** is enacted to read:

1420 **77-41-109. Miscellaneous provisions.**

1421 (1) (a) If an offender is to be temporarily sent on any assignment outside a secure
1422 facility in which the offender is confined on any assignment, including, without limitation,

1423 firefighting or disaster control, the official who has custody of the offender shall, within a
1424 reasonable time prior to removal from the secure facility, notify the local law enforcement
1425 agencies where the assignment is to be filled.

1426 (b) This Subsection (1) does not apply to any person temporarily released under guard
1427 from the institution in which the person is confined.

1428 (2) Notwithstanding Title 77, Chapter 40, Utah Expungement Act, a person convicted
1429 of any offense listed in Subsection 77-41-102(7) or (14) is not relieved from the responsibility
1430 to register as required under this section.

1431 Section 25. Section **77-41-110** is enacted to read:

1432 **77-41-110. Sex offender and kidnap offender registry -- Department to maintain.**

1433 (1) The department shall maintain a Sex Offender and Kidnap Offender Notification
1434 and Registration website on the Internet, which shall contain a disclaimer informing the public:

1435 (a) the information contained on the site is obtained from offenders and the department
1436 does not guarantee its accuracy or completeness;

1437 (b) members of the public are not allowed to use the information to harass or threaten
1438 offenders or members of their families; and

1439 (c) harassment, stalking, or threats against offenders or their families are prohibited and
1440 doing so may violate Utah criminal laws.

1441 (2) The Sex Offender and Kidnap Offender Notification and Registration website shall
1442 be indexed by both the surname of the offender and by postal codes.

1443 (3) The department shall construct the Sex Offender Notification and Registration
1444 website so that users, before accessing registry information, must indicate that they have read
1445 the disclaimer, understand it, and agree to comply with its terms.

1446 (4) The Sex Offender and Kidnap Offender Notification and Registration website shall
1447 include the following registry information:

1448 (a) all names and aliases by which the offender is or has been known, but not including
1449 any online or Internet identifiers;

1450 (b) the addresses of the offender's primary, secondary, and temporary residences;

1451 (c) a physical description, including the offender's date of birth, height, weight, and eye
1452 and hair color;

1453 (d) the make, model, color, year, and plate number of any vehicle or vehicles the

1454 offender owns or regularly drives;

1455 (e) a current photograph of the offender;

1456 (f) a list of all professional licenses that authorize the offender to engage in an
1457 occupation or carry out a trade or business;

1458 (g) each educational institution in Utah at which the offender is employed, carries on a
1459 vocation, or is a student;

1460 (h) a list of places where the offender works as a volunteer; and

1461 (i) the crimes listed in Subsections 77-41-102(7) and (14) that the offender has been
1462 convicted of or for which the offender has been adjudicated delinquent in juvenile court.

1463 (5) The department, its personnel, and any individual or entity acting at the request or
1464 upon the direction of the department are immune from civil liability for damages for good faith
1465 compliance with this section and will be presumed to have acted in good faith by reporting
1466 information.

1467 (6) The department shall redact information that, if disclosed, could reasonably identify
1468 a victim.

1469 Section 26. Section **77-41-111** is enacted to read:

1470 **77-41-111. Fees.**

1471 (1) Each offender required to register under Section 77-41-105 shall, in the month of
1472 the offender's birth:

1473 (a) pay to the department an annual fee of \$100 each year the offender is subject to the
1474 registration requirements of this section; and

1475 (b) pay to the registering agency, if it is an agency other than the Department of
1476 Corrections, an annual fee of not more than \$25, which may be assessed by that agency for
1477 providing registration.

1478 (2) Notwithstanding Subsection (1), an offender who is confined in a secure facility or
1479 in a state mental hospital is not required to pay the annual fee.

1480 (3) The department shall deposit fees under this section in the General Fund as a
1481 dedicated credit, to be used by the department for maintaining the offender registry under this
1482 section and monitoring offender registration compliance, including the costs of:

1483 (a) data entry;

1484 (b) processing registration packets;

- 1485 (c) updating registry information;
1486 (d) ensuring offender compliance with registration requirements under this section; and
1487 (e) apprehending offenders who are in violation of the offender registration
1488 requirements under this section.
1489 Section 27. **Repealer.**
1490 This bill repeals:
1491 Section 77-27-21.5, **Sex and kidnap offenders -- Registration -- Information system**
1492 **-- Law enforcement and courts to report -- Penalty -- Effect of expungement.**
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Legislative Review Note
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Office of Legislative Research and General Counsel