

1 **SEX AND KIDNAP OFFENDER REGISTRY AND CHILD**
2 **ABUSE OFFENDER REGISTRY ADMINISTRATION**
3 **AMENDMENTS**

4 2023 GENERAL SESSION

5 STATE OF UTAH

6 **Chief Sponsor: Andrew Stoddard**

7 Senate Sponsor: Stephanie Pitcher

8 Cosponsor:

9 Ryan D. Wilcox

10
11 **LONG TITLE**

12 **General Description:**

13 This bill addresses the administration of the Sex and Kidnap Offender Registry and the
14 Child Abuse Offender Registry.

15 **Highlighted Provisions:**

16 This bill:

17 ▶ moves the administration of the Sex and Kidnap Registry and the Child Abuse
18 Offender Registry from the Department of Corrections to the Department of Public
19 Safety; and

20 ▶ makes technical and conforming changes.

21 **Money Appropriated in this Bill:**

22 None

23 **Other Special Clauses:**

24 This bill provides a special effective date.

25 **Utah Code Sections Affected:**

26 AMENDS:

27 **77-41-102**, as last amended by Laws of Utah 2022, Chapters 185, 430

- 28 **77-41-103**, as last amended by Laws of Utah 2018, Chapter 281
 - 29 **77-41-104**, as last amended by Laws of Utah 2019, Chapter 382
 - 30 **77-41-111**, as enacted by Laws of Utah 2012, Chapter 145
 - 31 **77-41-112**, as last amended by Laws of Utah 2021, Chapters 262, 334 and 410 and last
 - 32 amended by Coordination Clause, Laws of Utah 2021, Chapter 334
 - 33 **77-43-102**, as last amended by Laws of Utah 2022, Chapter 430
 - 34 **77-43-104**, as enacted by Laws of Utah 2017, Chapter 282
 - 35 **77-43-109**, as enacted by Laws of Utah 2017, Chapter 282
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37 *Be it enacted by the Legislature of the state of Utah:*

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

39 **77-41-102. Definitions.**

40 As used in this chapter:

- 41 (1) "Bureau" means the Bureau of Criminal Identification of the Department of Public
- 42 Safety established in section **53-10-201**.
- 43 (2) "Business day" means a day on which state offices are open for regular business.
- 44 (3) "Certificate of eligibility" means a document issued by the Bureau of Criminal
- 45 Identification showing that the offender has met the requirements of Section **77-41-112**.
- 46 (4) "Department" means the Department of [~~Corrections~~] Public Safety.
- 47 (5) "Division" means the Division of Juvenile Justice Services.
- 48 (6) "Employed" or "carries on a vocation" includes employment that is full time or part
- 49 time, whether financially compensated, volunteered, or for the purpose of government or
- 50 educational benefit.
- 51 (7) "Indian Country" means:
- 52 (a) all land within the limits of any Indian reservation under the jurisdiction of the
- 53 United States government, regardless of the issuance of any patent, and includes rights-of-way
- 54 running through the reservation;

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

76 (xi) attempting, soliciting, or conspiring to commit any felony offense listed in
77 Subsections (9)(a)(i) through (iii);

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

81 (ii) who is:

- 82 (A) a Utah resident; or
- 83 (B) not a Utah resident, but who, in any 12-month period, is in this state for a total of
- 84 10 or more days, regardless of whether or not the offender intends to permanently reside in this
- 85 state;
- 86 (c) (i) (A) who is required to register as a kidnap offender in any other jurisdiction of
- 87 original conviction;
- 88 (B) who is required to register as a kidnap offender by any state, federal, or military
- 89 court; or
- 90 (C) who would be required to register as a kidnap offender if residing in the
- 91 jurisdiction of the conviction regardless of the date of the conviction or any previous
- 92 registration requirements; and
- 93 (ii) in any 12-month period, who is in this state for a total of 10 or more days,
- 94 regardless of whether or not the offender intends to permanently reside in this state;
- 95 (d) (i) (A) who is a nonresident regularly employed or working in this state; or
- 96 (B) who is a student in this state; and
- 97 (ii) (A) who was convicted of one or more offenses listed in Subsection (9), or any
- 98 substantially equivalent offense in another jurisdiction; or
- 99 (B) as a result of the conviction, who is required to register in the individual's state of
- 100 residence;
- 101 (e) who is found not guilty by reason of insanity in this state or in any other jurisdiction
- 102 of one or more offenses listed in Subsection (9); or
- 103 (f) (i) who is adjudicated under Section 80-6-701 for one or more offenses listed in
- 104 Subsection (9)(a); and
- 105 (ii) who has been committed to the division for secure care, as defined in Section
- 106 80-1-102, for that offense and:
- 107 (A) the individual remains in the division's custody until 30 days before the individual's
- 108 21st birthday; or

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

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

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

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

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

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

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

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

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

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

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

132 (a) convicted in this state of:

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

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

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

- 136 (iv) Section 76-5-308.5, human trafficking of a child for sexual exploitation;
- 137 (v) Section 76-5-310, aggravated human trafficking for sexual exploitation;
- 138 (vi) Section 76-5-311, human trafficking of a vulnerable adult for sexual exploitation;
- 139 (vii) Section 76-5-401, unlawful sexual activity with a minor, except as provided in
- 140 Subsection 76-5-401(3)(b) or (c);
- 141 (viii) Section 76-5-401.1, sexual abuse of a minor, except as provided in Subsection
- 142 76-5-401.1(3);
- 143 (ix) Section 76-5-401.2, unlawful sexual conduct with a 16 or 17 year old;
- 144 (x) Section 76-5-402, rape;
- 145 (xi) Section 76-5-402.1, rape of a child;
- 146 (xii) Section 76-5-402.2, object rape;
- 147 (xiii) Section 76-5-402.3, object rape of a child;
- 148 (xiv) a felony violation of Section 76-5-403, forcible sodomy;
- 149 (xv) Section 76-5-403.1, sodomy on a child;
- 150 (xvi) Section 76-5-404, forcible sexual abuse;
- 151 (xvii) Section 76-5-404.1, sexual abuse of a child, or Section 76-5-404.3, aggravated
- 152 sexual abuse of a child;
- 153 (xviii) Section 76-5-405, aggravated sexual assault;
- 154 (xix) Section 76-5-412, custodial sexual relations, when the individual in custody is
- 155 younger than 18 years old, if the offense is committed on or after May 10, 2011;
- 156 (xx) Section 76-5b-201, sexual exploitation of a minor;
- 157 (xxi) Section 76-5b-201.1, aggravated sexual exploitation of a minor;
- 158 (xxii) Section 76-5b-204, sexual extortion or aggravated sexual extortion;
- 159 (xxiii) Section 76-7-102, incest;
- 160 (xxiv) Section 76-9-702, lewdness, if the individual has been convicted of the offense
- 161 four or more times;
- 162 (xxv) Section 76-9-702.1, sexual battery, if the individual has been convicted of the

163 offense four or more times;

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

165 76-9-702.1, sexual battery, that total four or more convictions;

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

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

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

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

170 Subsection (17)(a);

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

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

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

174 (ii) who is:

175 (A) a Utah resident; or

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

177 10 or more days, regardless of whether the offender intends to permanently reside in this state;

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

179 original conviction;

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

181 or

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

183 the original conviction regardless of the date of the conviction or any previous registration

184 requirements; and

185 (ii) who, in any 12-month period, is in the state for a total of 10 or more days,

186 regardless of whether or not the offender intends to permanently reside in this state;

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

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

189 (ii) (A) who was convicted of one or more offenses listed in Subsection (17)(a), or any

190 substantially equivalent offense in any jurisdiction; or

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

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

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

197 (ii) who has been committed to the division for secure care, as defined in Section
198 80-1-102, for that offense and:

199 (A) the individual remains in the division's custody until 30 days before the individual's
200 21st birthday; or

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

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

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

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

209 **77-41-103. Department duties.**

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

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

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

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

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

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

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

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

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

252 **77-41-104. Registration of offenders -- Department and agency requirements.**

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

256 (a) placement on probation;

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

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

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

263 (e) termination of probation or parole.

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

268 (a) commitment to the correctional facility; and

269 (b) release from confinement.

270 (3) The division shall register an offender in the custody of the division with the

271 department, as required under this chapter, before the offender's release from custody of the
272 division.

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

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

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

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

284 (B) certify annually with the department.

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

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

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

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

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

298 (6) An agency in the state that registers an offender on probation, an offender who has
299 been released from confinement to parole status or termination, or an offender whose sentence
300 has expired shall inform the offender of the duty to comply with the continuing registration
301 requirements of this chapter during the period of registration required in Subsection
302 77-41-105(3), including:

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

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

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

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

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

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

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

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

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

318 **77-41-111. Fees.**

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

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

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

325 agency for providing registration.

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

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

332 (a) data entry;

333 (b) processing registration packets;

334 (c) updating registry information; and

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

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

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

341 **77-41-112. Removal from registry -- Requirements -- Procedure.**

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

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

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

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

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

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

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

356 (b) (i) if the offender is required to register in accordance with Subsection
357 77-41-105(3)(a);

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

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

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

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

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

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

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

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

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

373 (c) (i) the offender is required to register in accordance with Subsection
374 77-41-105(3)(c);

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

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

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

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

379 (D) the day on which the offender entered a community-based residential program; or
380 (E) for a minor, as defined in Section 80-1-102, the day on which the division's custody
381 of the offender was terminated;

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

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

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

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

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

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

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

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

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

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

401 (c) Section 76-5-304, unlawful detention, if the conviction of violating Section
402 76-5-304 is the only conviction for which the offender is required to register;

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

405 (e) Section 76-5-401.1, sexual abuse of a minor, if, at the time of the offense, the

406 offender is not more than 10 years older than the victim;

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

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

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

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

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

417 (b) (i) The bureau shall:

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

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

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

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

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

432 ~~[(iv) (A) Upon request from the bureau under Subsection (3)(b)(iii), the department~~

433 shall issue a document on whether the offender meets the requirements described in Subsection
434 (1)(a), (b), or (c), which shall be used by the bureau to determine if a certificate of eligibility is
435 appropriate.]

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

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

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

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

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

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

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

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

458 (c) The notice described in Subsection (5)(b) shall include a copy of the petition, state
459 that the victim has a right to object to the removal of the offender from the registry, and

460 provide instructions for registering an objection with the court.

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

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

466 (e) The victim, or the victim's parent or guardian if the victim is a minor under 18 years
467 old, may respond to the petition by filing a recommendation or objection with the court within
468 45 days after the day on which the petition is mailed to the victim.

469 (6) (a) The court shall:

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

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

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

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

- 481 (A) the nature and degree of violence involved in the offense that requires registration;
- 482 (B) the age and number of victims of the offense that requires registration;
- 483 (C) the age of the offender at the time of the offense that requires registration;
- 484 (D) the offender's performance while on supervision for the offense that requires
485 registration;
- 486 (E) the offender's stability in employment and housing;

- 487 (F) the offender's community and personal support system;
- 488 (G) other criminal and relevant noncriminal behavior of the offender both before and
- 489 after the offense that requires registration;
- 490 (H) the level of risk posed by the offender as evidenced by the evidence-based risk
- 491 assessment described in Subsection (1)(c)(vi); and
- 492 (I) any other relevant factors.

493 (c) In determining whether removal is contrary to the interests of the public, the court

494 may not consider removal unless the offender has substantially complied with all registration

495 requirements under this chapter at all times.

496 (d) If the court grants the petition, the court shall forward a copy of the order directing

497 removal of the offender from the registry to the department and the office of the prosecutor.

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

499 offender may not submit another petition for three years.

500 (ii) If the offender files a petition under Subsection (1)(c) and the court denies the

501 petition, the offender may not submit another petition for eight years.

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

503 in the department of the court's decision within three days after the day on which the court

504 issues the court's decision in the same manner described in Subsection (5).

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

506 **77-43-102. Definitions.**

507 As used in this chapter:

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

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

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

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

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

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

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

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

518 (i) a Utah resident; or

519 (ii) not a Utah resident, but who, in any 12-month period, is in this state for a total of
520 10 or more days, regardless of whether the offender intends to permanently reside in this state;

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

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

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

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

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

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

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

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

540 (6) "Employed" or "carries on a vocation" includes employment that is full time or part

541 time, whether financially compensated, volunteered, or for the purpose of government or
542 educational benefit.

543 (7) "Indian Country" means:

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

578 **77-43-104. Registration of offenders -- Department and agency requirements.**

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

581 (a) placement on probation;

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

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

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

588 (e) termination of probation or parole.

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

593 (a) commitment to the correctional facility; and

594 (b) release from confinement.

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

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

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

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

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

607 (B) certify annually with the department.

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

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

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

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

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

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

622 has expired shall inform the offender of the duty to comply with:

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

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

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

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

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

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

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

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

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

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

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

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

643 **77-43-109. Fees.**

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

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

648 (b) pay to the registering agency, if it is an agency other than the [Department of

649 ~~Corrections]~~ department, an annual fee of not more than \$25, which may be assessed by that
650 agency for providing registration.

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

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

657 (a) data entry;

658 (b) processing registration packets;

659 (c) updating registry information; and

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

663 Section 9. **Effective date.**

664 This bill takes effect on July 1, 2024.