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OFFENDER REGISTRY AMENDMENTS

2019 GENERAL SESSION

STATE OF UTAH

Chief Sponsor: James A. Dunnigan

Senate Sponsor: _____

LONG TITLE

General Description:

This bill modifies provisions relating to certain sexual offenses and the Sex and Kidnap Offender Registry.

Highlighted Provisions:

This bill:

- ▶ modifies the definition of "sexual offense against a minor" as the term relates to a criminal investigation of an electronic communications record;
- ▶ deletes provisions requiring a sex offender to annually apply for a driver license or identification card;
- ▶ requires a sex offender to apply in person for an updated driver license or identification card within 30 days after the day on which the offender changes addresses;
- ▶ requires the Driver License Division to disclose to the Department of Corrections certain records relating to sex offenders upon request;
- ▶ modifies the offenses for which a petition for removal from the registry may be filed;
- ▶ modifies and enacts certain procedural requirements relating to a sex or kidnap offender's removal from the registry;
- ▶ provides that a sex or kidnap offender may change the offender's name if certain requirements are met;



- 28 ▶ modifies the penalty for the offense of dealing in material harmful to minors;
- 29 ▶ modifies the penalty and registry requirements for the offense of sexual exploitation
- 30 of a minor; and
- 31 ▶ makes technical changes.

32 **Money Appropriated in this Bill:**

33 None

34 **Other Special Clauses:**

35 None

36 **Utah Code Sections Affected:**

37 AMENDS:

- 38 **53-3-105**, as last amended by Laws of Utah 2018, Chapters 301 and 417
- 39 **53-3-205**, as last amended by Laws of Utah 2018, Chapters 39, 128, and 417
- 40 **53-3-216**, as last amended by Laws of Utah 2015, Chapter 210
- 41 **53-3-413**, as last amended by Laws of Utah 2012, Chapter 145
- 42 **53-3-804**, as last amended by Laws of Utah 2018, Chapter 39
- 43 **53-3-807**, as last amended by Laws of Utah 2015, Chapter 210
- 44 **76-5b-201**, as last amended by Laws of Utah 2018, Chapter 285
- 45 **76-10-1206**, as last amended by Laws of Utah 2009, Chapter 345
- 46 **77-22-2.5**, as last amended by Laws of Utah 2017, Chapter 447
- 47 **77-41-104**, as enacted by Laws of Utah 2012, Chapter 145
- 48 **77-41-105**, as last amended by Laws of Utah 2017, Chapter 290
- 49 **77-41-106**, as last amended by Laws of Utah 2017, Chapter 434
- 50 **77-41-112**, as last amended by Laws of Utah 2016, Chapter 185

51 ENACTS:

52 **77-41-113**, Utah Code Annotated 1953

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

55 Section 1. Section **53-3-105** is amended to read:

56 **53-3-105. Fees for licenses, renewals, extensions, reinstatements, rescheduling,**
57 **and identification cards.**

58 The following fees apply under this chapter:

- 59 (1) An original class D license application under Section 53-3-205 is \$32.
- 60 (2) An original provisional license application for a class D license under Section
61 53-3-205 is \$39.
- 62 (3) An original application for a motorcycle endorsement under Section 53-3-205 is
63 \$11.
- 64 (4) An original application for a taxicab endorsement under Section 53-3-205 is \$9.
- 65 (5) A learner permit application under Section 53-3-210.5 is \$19.
- 66 (6) A renewal of a class D license under Section 53-3-214 is \$32 unless Subsection
67 (10) applies.
- 68 (7) A renewal of a provisional license application for a class D license under Section
69 53-3-214 is \$32.
- 70 (8) A renewal of a motorcycle endorsement under Section 53-3-214 is \$11.
- 71 (9) A renewal of a taxicab endorsement under Section 53-3-214 is \$9.
- 72 (10) A renewal of a class D license for ~~a person~~ an individual 65 and older under
73 Section 53-3-214 is \$17.
- 74 (11) An extension of a class D license under Section 53-3-214 is \$26 unless Subsection
75 (15) applies.
- 76 (12) An extension of a provisional license application for a class D license under
77 Section 53-3-214 is \$26.
- 78 (13) An extension of a motorcycle endorsement under Section 53-3-214 is \$11.
- 79 (14) An extension of a taxicab endorsement under Section 53-3-214 is \$9.
- 80 (15) An extension of a class D license for ~~a person~~ an individual 65 and older under
81 Section 53-3-214 is \$14.
- 82 (16) An original or renewal application for a commercial class A, B, or C license or an
83 original or renewal of a provisional commercial class A or B license under Part 4, Uniform
84 Commercial Driver License Act, is \$52.
- 85 (17) A commercial class A, B, or C license skills test is \$78.
- 86 (18) Each original CDL endorsement for passengers, hazardous material, double or
87 triple trailers, or tankers is \$9.
- 88 (19) An original CDL endorsement for a school bus under Part 4, Uniform Commercial
89 Driver License Act, is \$9.

90 (20) A renewal of a CDL endorsement under Part 4, Uniform Commercial Driver
91 License Act, is \$9.

92 (21) (a) A retake of a CDL knowledge test provided for in Section 53-3-205 is \$26.

93 (b) A retake of a CDL skills test provided for in Section 53-3-205 is \$52.

94 (22) A retake of a CDL endorsement test provided for in Section 53-3-205 is \$9.

95 (23) A duplicate class A, B, C, or D license certificate under Section 53-3-215 is \$23.

96 (24) (a) A license reinstatement application under Section 53-3-205 is \$40.

97 (b) A license reinstatement application under Section 53-3-205 for an alcohol, drug, or
98 combination of alcohol and any drug-related offense is \$45 in addition to the fee under
99 Subsection (24)(a).

100 (25) (a) An administrative fee for license reinstatement after an alcohol, drug, or
101 combination of alcohol and any drug-related offense under Section 41-6a-520, 53-3-223, or
102 53-3-231 or an alcohol, drug, or combination of alcohol and any drug-related offense under
103 Part 4, Uniform Commercial Driver License Act, is \$255.

104 (b) This administrative fee is in addition to the fees under Subsection (24).

105 (26) (a) An administrative fee for providing the driving record of a driver under
106 Section 53-3-104 or 53-3-420 is \$8.

107 (b) The division may not charge for a report furnished under Section 53-3-104 to a
108 municipal, county, state, or federal agency.

109 (27) A rescheduling fee under Section 53-3-205 or 53-3-407 is \$25.

110 (28) (a) Except as provided under Subsections (28)(b) and (c), an identification card
111 application under Section 53-3-808 is \$23.

112 (b) An identification card application under Section 53-3-808 for a person with a
113 disability, as defined in 42 U.S.C. Sec. 12102, is \$17.

114 (c) A fee may not be charged for an identification card application if the individual
115 applying:

116 (i) (A) has not been issued a Utah driver license;

117 (B) is indigent; and

118 (C) is at least 18 years of age; or

119 (ii) submits written verification that the individual is homeless, as defined in Section
120 26-18-411, or a person who is homeless, as defined in Section 35A-5-302, from:

121 (A) a homeless shelter, as defined in Section 10-9a-526;

122 (B) a permanent housing, permanent, supportive, or transitional facility, as defined in
 123 Section 35A-5-302; or

124 (C) the Department of Workforce Services.

125 (29) (a) An extension of a regular identification card under Subsection
 126 53-3-807[(5)](4) for a person with a disability, as defined in 42 U.S.C. Sec. 12102, is \$17.

127 (b) The fee described in Subsection (29)(a) [~~shall be~~] is waived if the applicant submits
 128 written verification that the individual is homeless, as defined in Section 26-18-411, or a
 129 person who is homeless, as defined in Section 35A-5-302, from:

130 (i) a homeless shelter, as defined in Section 10-9a-526;

131 (ii) a permanent housing, permanent, supportive, or transitional facility, as defined in
 132 Section 35A-5-302; or

133 (iii) the Department of Workforce Services.

134 (30) (a) An extension of a regular identification card under Subsection
 135 53-3-807[(6)](5) is \$23.

136 (b) The fee described in Subsection (30)(a) [~~shall be~~] is waived if the applicant submits
 137 written verification that the individual is homeless, as defined in Section 26-18-411, or a
 138 person who is homeless, as defined in Section 35A-5-302, from:

139 (i) a homeless shelter, as defined in Section 10-9a-526;

140 (ii) a permanent housing, permanent, supportive, or transitional facility, as defined in
 141 Section 35A-5-302; or

142 (iii) the Department of Workforce Services.

143 (31) In addition to any license application fees collected under this chapter, the division
 144 shall impose on individuals submitting fingerprints in accordance with Section 53-3-205.5 the
 145 fees that the Bureau of Criminal Identification is authorized to collect for the services the
 146 Bureau of Criminal Identification provides under Section 53-3-205.5.

147 (32) An original mobility vehicle permit application under Section 41-6a-1118 is \$30.

148 (33) A renewal of a mobility vehicle permit under Section 41-6a-1118 is \$30.

149 (34) A duplicate mobility vehicle permit under Section 41-6a-1118 is \$12.

150 Section 2. Section 53-3-205 is amended to read:

151 **53-3-205. Application for license or endorsement -- Fee required -- Tests --**

152 **Expiration dates of licenses and endorsements -- Information required -- Previous**
153 **licenses surrendered -- Driving record transferred from other states -- Reinstatement --**
154 **Fee required -- License agreement.**

155 (1) An application for ~~any~~ an original license, provisional license, or endorsement
156 shall be:

- 157 (a) made upon a form furnished by the division; and
158 (b) accompanied by a nonrefundable fee set under Section 53-3-105.

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

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

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

165 (c) an original class D license and license certificate after all tests are passed and
166 requirements are completed.

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

169 (a) not more than three attempts to pass both the knowledge and skills tests within six
170 months ~~of~~ after the date of the application;

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

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

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

174 (a) not more than two attempts to pass a knowledge test when accompanied by the fee
175 provided in Subsection 53-3-105(16);

176 (b) not more than two attempts to pass a skills test when accompanied by a fee in
177 Subsection 53-3-105(17) within six months ~~of~~ after the date of application;

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

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

- 183 (5) An application and fee for a CDL endorsement entitle the applicant to:
- 184 (a) not more than two attempts to pass a knowledge test and not more than two
185 attempts to pass a skills test within six months [~~of~~] after the date of the application; and
- 186 (b) a CDL endorsement when all tests are passed.
- 187 (6) (a) If a CDL applicant does not pass a knowledge test, skills test, or an endorsement
188 test within the number of attempts provided in Subsection (4) or (5), each test may be taken
189 two additional times within the six months for the fee provided in Section [53-3-105](#).
- 190 (b) (i) Beginning July 1, 2015, an out-of-state resident who holds a valid CDIP issued
191 by a state or jurisdiction that is compliant with 49 C.F.R. Part 383 may take a skills test
192 administered by the division if the out-of-state resident pays the fee provided in Subsection
193 [53-3-105](#)(17).
- 194 (ii) The division shall:
- 195 (A) electronically transmit skills test results for an out-of-state resident to the licensing
196 agency in the state or jurisdiction in which the [~~person~~] out-of-state resident has obtained a
197 valid CDIP; and
- 198 (B) provide the out-of-state resident with documentary evidence upon successful
199 completion of the skills test.
- 200 (7) (a) Except as provided under Subsections (7)(f)[~~;~~] and (g), [~~and (h);~~] an original
201 license expires on the birth date of the applicant in the fifth year [~~following~~] after the year the
202 license certificate was issued.
- 203 (b) Except as provided under Subsections (7)(f)[~~;~~] and (g), [~~and (h);~~] a renewal or an
204 extension to a license expires on the birth date of the licensee in the fifth year [~~following~~] after
205 the expiration date of the license certificate renewed or extended.
- 206 (c) Except as provided under Subsections (7)(f) and (g), a duplicate license expires on
207 the same date as the last license certificate issued.
- 208 (d) An endorsement to a license expires on the same date as the license certificate
209 regardless of the date the endorsement was granted.
- 210 (e) (i) A regular license certificate and [~~any~~] an endorsement to the regular license
211 certificate held by [~~a person~~] an individual described in Subsection (7)(e)(ii), [~~which~~] that
212 expires during the time period the [~~person~~] individual is stationed outside of the state, is valid
213 until 90 days after the [~~person's orders have been~~] individual's orders are terminated, the

214 ~~[person has been]~~ individual is discharged, or the ~~[person's assignment has been]~~ individual's
215 assignment is changed or terminated, unless:

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

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

219 (ii) The provisions in Subsection (7)(e)(i) apply to ~~[a person]~~ an individual:

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

222 (B) who is an immediate family member or dependent of ~~[a person]~~ an individual
223 described in Subsection (7)(e)(ii)(A) and is residing outside of Utah;

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

226 (D) who is an immediate family member or dependent of ~~[a person]~~ an individual
227 described in Subsection (7)(e)(ii)(C) and is residing outside of the United States.

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

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

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

235 (ii) A limited-term license certificate or a renewal to a limited-term license certificate
236 issued to an approved asylee or a refugee expires on the birth date of the applicant in the fifth
237 year following the year that the limited-term license certificate was issued.

238 (g) A driving privilege card issued or renewed under Section [53-3-207](#) expires on the
239 birth date of the applicant in the first year following the year that the driving privilege card was
240 issued or renewed.

241 ~~[(h) An original license or a renewal to an original license expires on the birth date of~~
242 ~~the applicant in the first year following the year that the license was issued if the applicant is~~
243 ~~required to register as a sex offender in accordance with Title 77, Chapter 41, Sex and Kidnap~~
244 ~~Offender Registry.]~~

245 (8) (a) In addition to the information required by Title 63G, Chapter 4, Administrative
246 Procedures Act, for requests for agency action, [~~each~~] an applicant shall:

247 (i) provide:

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

249 (B) the applicant's birth date;

250 (C) the applicant's gender;

251 (D) (I) documentary evidence of the applicant's valid [~~Social Security~~] social security
252 number;

253 (II) written proof that the applicant is ineligible to receive a [~~Social Security~~] social
254 security number;

255 (III) the applicant's temporary identification number (ITIN) issued by the Internal
256 Revenue Service for [~~a person~~] an individual who:

257 (Aa) does not qualify for a [~~Social Security~~] social security number; and

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

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

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

263 (F) fingerprints and a photograph in accordance with Section 53-3-205.5 if the [~~person~~]
264 applicant is applying for a driving privilege card;

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

267 (A) that [~~a person~~] the applicant is:

268 (I) a United States citizen;

269 (II) a United States national; or

270 (III) a legal permanent resident alien; or

271 (B) of the applicant's:

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

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

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

- 276 (IV) pending or approved application for temporary protected status in the United
277 States;
- 278 (V) approved deferred action status;
- 279 (VI) pending application for adjustment of status to legal permanent resident or
280 conditional resident; or
- 281 (VII) conditional permanent resident alien status;
- 282 (iii) provide a description of the applicant;
- 283 (iv) state whether the applicant has previously been licensed to drive a motor vehicle
284 and, if so, when and by what state or country;
- 285 (v) state whether the applicant has ever had [~~any~~] a license suspended, cancelled,
286 revoked, disqualified, or denied in the last 10 years, or whether the applicant has ever had [~~any~~]
287 a license application refused, and if so, the date of and reason for the suspension, cancellation,
288 revocation, disqualification, denial, or refusal;
- 289 (vi) state whether the applicant intends to make an anatomical gift under Title 26,
290 Chapter 28, Revised Uniform Anatomical Gift Act, in compliance with Subsection (15);
- 291 (vii) state whether the applicant is required to register as a sex offender in accordance
292 with Title 77, Chapter 41, Sex and Kidnap Offender Registry;
- 293 (viii) state whether the applicant is a veteran of the United States military, provide
294 verification that the applicant was granted an honorable or general discharge from the United
295 States Armed Forces, and state whether the applicant does or does not authorize sharing the
296 information with the Department of Veterans and Military Affairs;
- 297 (ix) provide all other information the division requires; and
- 298 (x) sign the application which signature may include an electronic signature as defined
299 in Section [46-4-102](#).
- 300 (b) [~~Each~~] An applicant shall have a Utah residence address, unless the application is
301 for a temporary CDL issued under Subsection [53-3-407\(2\)\(b\)](#).
- 302 (c) [~~Each~~] An applicant shall provide evidence of lawful presence in the United States
303 in accordance with Subsection (8)(a)(ii), unless the application is for a driving privilege card.
- 304 (d) The division shall maintain on [~~its~~] the division's computerized records an
305 applicant's:
- 306 (i) (A) [~~Social Security~~] social security number;

- 307 (B) temporary identification number (ITIN); or
- 308 (C) other number assigned by the division if Subsection (8)(a)(i)(D)(IV) applies; and
- 309 (ii) indication whether the applicant is required to register as a sex offender in
- 310 accordance with Title 77, Chapter 41, Sex and Kidnap Offender Registry.
- 311 (9) The division shall require proof of [~~every~~] an applicant's name, [~~birthdate~~] birth
- 312 date, and birthplace by at least one of the following means:
- 313 (a) current license certificate;
- 314 (b) birth certificate;
- 315 (c) Selective Service registration; or
- 316 (d) other proof, including church records, family Bible notations, school records, or
- 317 other evidence considered acceptable by the division.
- 318 (10) (a) Except as provided in Subsection (10)(c), if an applicant receives a license in a
- 319 higher class than what the applicant originally was issued:
- 320 (i) the license application [~~shall be~~] is treated as an original application; and
- 321 (ii) license and endorsement fees [~~shall be~~] are assessed under Section 53-3-105.
- 322 (b) An applicant that receives a downgraded license in a lower license class during an
- 323 existing license cycle that has not expired:
- 324 (i) may be issued a duplicate license with a lower license classification for the
- 325 remainder of the existing license cycle; and
- 326 (ii) shall be assessed a duplicate license fee under Subsection 53-3-105(23) if a
- 327 duplicate license is issued under Subsection (10)(b)(i).
- 328 (c) An applicant who has received a downgraded license in a lower license class under
- 329 Subsection (10)(b):
- 330 (i) may, when eligible, receive a duplicate license in the highest class previously issued
- 331 during a license cycle that has not expired for the remainder of the existing license cycle; and
- 332 (ii) shall be assessed a duplicate license fee under Subsection 53-3-105(23) if a
- 333 duplicate license is issued under Subsection (10)(c)(i).
- 334 (11) (a) When an application is received from [~~a person~~] an applicant previously
- 335 licensed in another state to drive a motor vehicle, the division shall request a copy of the
- 336 driver's record from the other state.
- 337 (b) When received, the driver's record becomes part of the driver's record in this state

338 with the same effect as though entered originally on the driver's record in this state.

339 (12) An application for reinstatement of a license after the suspension, cancellation,
340 disqualification, denial, or revocation of a previous license ~~[shall be]~~ is accompanied by the
341 additional fee or fees specified in Section 53-3-105.

342 (13) ~~[A person]~~ An individual who has an appointment with the division for testing
343 and fails to keep the appointment or to cancel at least 48 hours in advance of the appointment
344 shall pay the fee under Section 53-3-105.

345 (14) ~~[A person]~~ An applicant who applies for an original license or renewal of a license
346 agrees that the ~~[person's]~~ individual's license is subject to ~~[any]~~ a suspension or revocation
347 authorized under this title or Title 41, Motor Vehicles.

348 (15) (a) ~~[The indication of intent]~~ A licensee shall authenticate the indication of intent
349 under Subsection (8)(a)(vi) [shall be authenticated by the licensee] in accordance with division
350 rule.

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

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

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

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

359 (16) Notwithstanding Title 63G, Chapter 2, Government Records Access and
360 Management Act, the division may release to the Department of Veterans and Military Affairs
361 the names and addresses of all ~~[persons]~~ applicants who indicate their status as a veteran under
362 Subsection (8)(a)(viii).

363 (17) Notwithstanding Title 63G, Chapter 2, Government Records Access and
364 Management Act, the division shall, upon request, release to the Sex and Kidnap Offender
365 Registry office in the Department of Corrections, the names and addresses of all applicants
366 who, under Subsection (8)(a)(vii), indicate they are required to register as a sex offender in
367 accordance with Title 77, Chapter 41, Sex and Kidnap Offender Registry.

368 ~~[(17)]~~ (18) The division and ~~[its]~~ the division's employees are not liable, as a result of

369 false or inaccurate information provided under Subsection (8)(a)(vi) or (viii), for direct or
370 indirect:

- 371 (a) loss;
- 372 (b) detriment; or
- 373 (c) injury.

374 ~~[(18)]~~ (19) ~~[A person]~~ An applicant who knowingly fails to provide the information
375 required under Subsection (8)(a)(vii) is guilty of a class A misdemeanor.

376 ~~[(19)]~~ (20) (a) Until December 1, 2014, ~~[a person]~~ an individual born on or after
377 December 1, 1964, may hold both an unexpired Utah license certificate and an unexpired Utah
378 identification card.

379 (b) On or after December 1, 2014, ~~[a person]~~ an individual born on or after December
380 1, 1964:

381 (i) may not hold both an unexpired Utah license certificate and an unexpired
382 identification card; and

383 (ii) if the ~~[person]~~ individual has both an unexpired Utah license certificate and an
384 unexpired Utah identification card in the ~~[person's possession, shall be]~~ individual's possession,
385 the individual is required to surrender either the unexpired Utah license certificate or the
386 unexpired Utah identification card.

387 (c) If ~~[a person]~~ an individual has not surrendered either the Utah license certificate or
388 the Utah identification card as required under this Subsection ~~[(19)]~~ (20), the division shall
389 cancel the Utah identification card on December 1, 2014.

390 ~~[(20)]~~ (21) (a) Until December 1, 2017, ~~[a person born prior to]~~ an individual born
391 before December 1, 1964, may hold both an unexpired Utah license certificate and an
392 unexpired Utah identification card.

393 (b) On or after December 1, 2017, ~~[a person born prior to]~~ an individual born before
394 December 1, 1964:

395 (i) may not hold both an unexpired Utah license certificate and an unexpired
396 identification card; and

397 (ii) if the ~~[person]~~ individual has both an unexpired Utah license certificate and an
398 unexpired Utah identification card in the ~~[person's possession, shall be required to]~~ individual's
399 possession, the individual shall surrender either the unexpired Utah license certificate or the

400 unexpired Utah identification card.

401 (c) If [~~a person~~] an individual has not surrendered either the Utah license certificate or
 402 the Utah identification card as required under this Subsection [~~(20)~~] (21), the division shall
 403 cancel the Utah identification card on December 1, 2017.

404 [~~(21)~~] (22) (a) [~~A person~~] An applicant who applies for an original motorcycle
 405 endorsement to a regular license certificate is exempt from the requirement to pass the
 406 knowledge and skills test to be eligible for the motorcycle endorsement if the [~~person~~]
 407 applicant:

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

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

411 (B) is an immediate family member or dependent of [~~a person~~] an individual described
 412 in Subsection [~~(21)~~] (22)(a)(ii)(A) and is residing outside of Utah;

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

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

416 (v) provides the necessary information and documentary evidence required under
 417 Subsection (8).

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

420 (i) establishing the procedures for [~~a person~~] an individual to obtain a motorcycle
 421 endorsement under this Subsection [~~(21)~~] (22); and

422 (ii) identifying the applicable restrictions for a motorcycle endorsement issued under
 423 this Subsection [~~(21)~~] (22).

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

425 **53-3-216. Change of address -- Duty of licensee to notify division within 10 days**
 426 **-- Change of name -- Proof necessary -- Method of giving notice by division.**

427 (1) (a) [~~If a person~~] Except as provided in Subsection (1)(b), if an individual, after
 428 applying for or receiving a license, moves from the address named in the application or in the
 429 license certificate issued to [~~him, the person~~] the individual, the individual shall, within 10 days
 430 [~~of moving~~] after the day on which the individual moves, notify the division in a manner

431 specified by the division of ~~[his]~~ the individual's new address and the number of any license
432 certificate held by ~~[him]~~ the individual.

433 (b) If an individual who is required to register as a sex offender under Title 77, Chapter
434 41, Sex and Kidnap Offender Registry, after applying for or receiving a license, moves from
435 the address named in the application or in the license certificate issued to the individual, the
436 individual shall, within 30 days after the day on which the individual moves, apply for an
437 updated license in-person at a division office.

438 (2) If ~~[a person]~~ an applicant requests to change the surname on the applicant's license,
439 the division shall issue a substitute license with the new name upon receiving an application
440 and fee for a duplicate license and any of the following proofs of the applicant's full legal
441 name:

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

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

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

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

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

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

451 (ii) the applicant's marriage license;

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

453 (iv) other documentation the division finds acceptable.

454 ~~[(3) (a) Except as provided in Subsection (3)(c), if a person has applied for and~~
455 ~~received a license certificate and is currently required to register as a sex offender in~~
456 ~~accordance with Title 77, Chapter 41, Sex and Kidnap Offender Registry:]~~

457 ~~[(i) the person's original license or renewal to an original license expires on the next~~
458 ~~birth date of the licensee beginning on July 1, 2006;]~~

459 ~~[(ii) the person shall surrender the person's license to the division on or before the~~
460 ~~licensee's next birth date beginning on July 1, 2006; and]~~

461 ~~[(iii) the person may apply for a license certificate with an expiration date identified in~~

462 Subsection ~~53-3-205~~(7)(h) by:]

463 [(A) ~~furnishing proper documentation to the division as provided in Section 53-3-205;~~
464 and]

465 [(B) ~~paying the fee for a license required under Section 53-3-105.~~]

466 [(b) ~~Except as provided in Subsection (3)(c), if a person has applied for and received a~~
467 ~~license certificate and is subsequently convicted of any offense listed in Subsection~~
468 ~~77-41-102(17), the person shall surrender the license certificate to the division on the person's~~
469 ~~next birth date following the conviction and may apply for a license certificate with an~~
470 ~~expiration date identified in Subsection 53-3-205(7)(h) by:]~~

471 [(i) ~~furnishing proper documentation to the division as provided in Section 53-3-205;~~
472 and]

473 [(ii) ~~paying the fee for a license required under Section 53-3-105.~~]

474 [(c) ~~A person who is unable to comply with the provisions of Subsection (3)(a) or~~
475 ~~(3)(b) because the person is in the custody of the Department of Corrections or the Division of~~
476 ~~Juvenile Justice Services, confined in a correctional facility not operated by or under contract~~
477 ~~with the Department of Corrections, or committed to a state mental facility, shall comply with~~
478 ~~the provisions of Subsection (3)(a) or (b) within 10 days of being released from confinement.]~~

479 [(4)] (3) (a) If the division is authorized or required to give ~~[any]~~ a notice under this
480 chapter or other law regulating the operation of vehicles, the notice shall, unless otherwise
481 prescribed, be given by:

482 (i) personal delivery to the ~~[person]~~ individual to be notified; or

483 (ii) deposit in the United States mail with postage prepaid, addressed to the ~~[person at~~
484 ~~his]~~ individual at the individual's address as shown by the records of the division.

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

487 (c) Proof of the giving of notice in either manner may be made by the certificate of
488 ~~[any]~~ an officer or employee of the division or affidavit of ~~[any person older than]~~ an individual
489 18 years of age or older, naming the ~~[person]~~ individual to whom the notice was given and
490 specifying the time, place, and manner of giving the notice.

491 [(5)] (4) The division may use state mailing or United States Postal Service
492 information to:

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

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

495 ~~[(6)(a)]~~ (5) A violation of the provisions of Subsection (1) is an infraction.

496 ~~[(b) A person who knowingly fails to surrender a license certificate under Subsection~~

497 ~~(3) is guilty of a class A misdemeanor.]~~

498 Section 4. Section **53-3-413** is amended to read:

499 **53-3-413. Issuance of CDL by division -- Driving record -- Expiration date --**

500 **Renewal -- Hazardous materials provision.**

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

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

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

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

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

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

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

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

517 ~~[(c) An original CDL or a renewal to an original CDL expires on the birth date of the~~
518 ~~applicant in the first year following the year that the license was issued if the applicant is~~
519 ~~required to register as a sex offender in accordance with Title 77, Chapter 41, Sex and Kidnap~~
520 ~~Offender Registry.]~~

521 ~~[(d)]~~ (c) A CDL held by ~~[a person]~~ an individual ordered to active duty and stationed
522 outside Utah in any of the armed forces of the United States, which expires during the time
523 period the ~~[person]~~ individual is stationed outside of the state, is valid until 90 days after the

524 [person] individual has been discharged or has left the service, unless:

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

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

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

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

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

537 (a) that it is temporary; and

538 (b) its expiration date.

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

542 (b) The division shall revoke the hazardous materials endorsement on a CDL upon
543 receiving notice from the federal Transportation Security Administration that the [person]
544 individual holding a hazardous materials endorsement does not meet Transportation Security
545 Administration security threat assessment standards.

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

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

553 Section 5. Section 53-3-804 is amended to read:

554 **53-3-804. Application for identification card -- Required information -- Release**

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

556 (1) To apply for a regular identification card or limited-term identification card, ~~[the]~~
557 an applicant shall:

558 (a) be a Utah resident;

559 (b) have a Utah residence address; and

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

561 (2) ~~[The]~~ An applicant shall provide the following information to the division:

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

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

565 (c) (i) ~~[Social Security]~~ social security number; or

566 (ii) written proof that the applicant is ineligible to receive a ~~[Social Security]~~ social
567 security number;

568 (d) place of birth;

569 (e) height and weight;

570 (f) color of eyes and hair;

571 (g) signature;

572 (h) photograph;

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

575 (i) that ~~[a person]~~ the applicant is:

576 (A) a United States citizen;

577 (B) a United States national; or

578 (C) a legal permanent resident alien; or

579 (ii) of the applicant's:

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

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

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

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

- 586 (E) approved deferred action status;
- 587 (F) pending application for adjustment of status to legal permanent resident or
588 conditional resident; or
- 589 (G) conditional permanent resident alien status;
- 590 (j) an indication whether the applicant intends to make an anatomical gift under Title
591 26, Chapter 28, Revised Uniform Anatomical Gift Act;
- 592 (k) an indication whether the applicant is required to register as a sex offender in
593 accordance with Title 77, Chapter 41, Sex and Kidnap Offender Registry; and
- 594 (l) an indication whether the applicant is a veteran of the United States Armed Forces,
595 verification that the applicant has received an honorable or general discharge from the United
596 States Armed Forces, and an indication whether the applicant does or does not authorize
597 sharing the information with the state Department of Veterans and Military Affairs.
- 598 (3) (a) The requirements of Section [53-3-234](#) apply to this section for each [~~person~~]
599 individual, age 16 and older, applying for an identification card.
- 600 (b) Refusal to consent to the release of information under Section [53-3-234](#) shall result
601 in the denial of the identification card.
- 602 (4) [~~A person~~] An individual who knowingly fails to provide the information required
603 under Subsection (2)(k) is guilty of a class A misdemeanor.
- 604 (5) (a) Until December 1, 2014, [~~a person~~] an individual born on or after December 1,
605 1964, may hold both an unexpired Utah license certificate and an unexpired Utah identification
606 card.
- 607 (b) On or after December 1, 2014, [~~a person~~] an individual born on or after December
608 1, 1964:
- 609 (i) may not hold both an unexpired Utah license certificate and an unexpired
610 identification card; and
- 611 (ii) if the [~~person~~] individual has both an unexpired Utah license certificate and an
612 unexpired Utah identification card in the [~~person's~~] individual's possession, the individual shall
613 be required to surrender either the unexpired Utah license certificate or the unexpired Utah
614 identification card.
- 615 (c) If [~~a person~~] an individual has not surrendered either the Utah license certificate or
616 the Utah identification card as required under this Subsection (5), the division shall cancel the

617 Utah identification card on December 1, 2014.

618 (6) (a) Until December 1, 2017, [~~a person~~] an individual born prior to December 1,
619 1964, may hold both an unexpired Utah license certificate and an unexpired Utah identification
620 card.

621 (b) On or after December 1, 2017, [~~a person~~] an individual born prior to December 1,
622 1964:

623 (i) may not hold both an unexpired Utah license certificate and an unexpired
624 identification card; and

625 (ii) if the [~~person~~] individual has both an unexpired Utah license certificate and an
626 unexpired Utah identification card in the [~~person's~~] individual's possession, the individual shall
627 [~~be required to~~] surrender either the unexpired Utah license certificate or the unexpired Utah
628 identification card.

629 (c) If [~~a person~~] an individual has not surrendered either the Utah license certificate or
630 the Utah identification card as required under this Subsection (6), the division shall cancel the
631 Utah identification card on December 1, 2017.

632 (7) Notwithstanding Title 63G, Chapter 2, Government Records Access and
633 Management Act, the division shall, upon request, release to the Sex and Kidnap Offender
634 Registry office in the Department of Corrections, the names and addresses of all applicants
635 who, under Subsection (2)(k), indicate they are required to register as a sex offender in
636 accordance with Title 77, Chapter 41, Sex and Kidnap Offender Registry.

637 Section 6. Section **53-3-807** is amended to read:

638 **53-3-807. Expiration -- Address and name change -- Extension.**

639 (1) (a) A regular identification card issued on or after July 1, 2006, expires on the birth
640 date of the applicant in the fifth year [~~following~~] after the issuance of the regular identification
641 card.

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

643 (i) the expiration date of the period of time of the individual's authorized stay in the
644 United States or on the birth date of the applicant in the fifth year [~~following~~] after the issuance
645 of the limited-term identification card, whichever is sooner; or

646 (ii) on the date of issuance in the first year [~~following~~] after the year that the
647 limited-term identification card was issued if there is no definite end to the individual's period

648 of authorized stay.

649 (2) (a) ~~[If a person]~~ Except as provided in Subsection (2)(b), if an individual has
650 applied for and received an identification card and subsequently moves from the address shown
651 on the application or on the card, the [person] individual shall, within 10 days after the day on
652 which the individual moves, notify the division in a manner specified by the division of the
653 [person's] individual's new address.

654 (b) If an individual who is required to register as a sex offender under Title 77, Chapter
655 41, Sex and Kidnap Offender Registry, has applied for and received an identification card and
656 subsequently moves from the address shown on the application or on the card, the individual
657 shall, within 30 days after the day on which the individual moves, apply for an updated
658 identification card in-person at a division office.

659 (3) If ~~[a person]~~ an individual has applied for and received an identification card and
660 subsequently changes the ~~[person's]~~ individual's name under Title 42, Chapter 1, Change of
661 Name, the ~~[person]~~ individual:

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

663 (b) may apply for a new card in the ~~[person's]~~ individual's new name by:

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

665 and

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

667 ~~[(4) (a) Except as provided in Subsection (4)(c), if a person has applied for and~~
668 ~~received an identification card and is currently required to register as a sex offender in~~
669 ~~accordance with Title 77, Chapter 41, Sex and Kidnap Offender Registry:]~~

670 ~~[(i) the person's identification card expires annually on the next birth date of the~~
671 ~~cardholder, on and after July 1, 2006;]~~

672 ~~[(ii) the person shall surrender the person's identification card to the division on or~~
673 ~~before the cardholder's next birth date beginning on July 1, 2006; and]~~

674 ~~[(iii) the person may apply for an identification card with an expiration date identified~~
675 ~~in Subsection (8) by:]~~

676 ~~[(A) furnishing proper documentation to the division as provided in Section 53-3-804;~~
677 ~~and]~~

678 ~~[(B) paying the fee for an identification card required under Section 53-3-105.]~~

679 ~~[(b) Except as provided in Subsection (4)(c), if a person has applied for and received~~
680 ~~an identification card and is subsequently convicted of any offense listed in Subsection~~
681 ~~77-41-102(17), the person shall surrender the card to the division on the person's next birth~~
682 ~~date following the conviction and may apply for a new card with an expiration date identified~~
683 ~~in Subsection (8) by:]~~

684 ~~[(i) furnishing proper documentation to the division as provided in Section 53-3-804;~~
685 ~~and]~~

686 ~~[(ii) paying the fee required under Section 53-3-105.]~~

687 ~~[(c) A person who is unable to comply with the provisions of Subsection (4)(a) or~~
688 ~~(4)(b) because the person is in the custody of the Department of Corrections or Division of~~
689 ~~Juvenile Justice Services, confined in a correctional facility not operated by or under contract~~
690 ~~with the Department of Corrections, or committed to a state mental facility, shall comply with~~
691 ~~the provisions of Subsection (4)(a) or (b) within 10 days of being released from confinement.]~~

692 ~~[(5)]~~ (4) A person ~~[older than]~~ 21 years of age or older with a disability, as defined
693 under the Americans with Disabilities Act of 1990, Pub. L. 101-336, may extend the expiration
694 date on an identification card for five years if the person with a disability or an agent of the
695 person with a disability:

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

698 (b) completes the application;

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

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

703 ~~[(6)]~~ (5) (a) The division may extend a valid regular identification card issued after
704 January 1, 2010, for five years~~[:(a)-(i)]~~ at any time within six months before the day on which
705 the identification card expires~~[:and]~~.

706 ~~[(ii) if the identification card was issued after January 1, 2010:]~~

707 (b) The application for an extension of a regular identification card ~~[shall be]~~ is
708 accompanied by a fee under Section 53-3-105.

709 (c) The division shall allow extensions:

710 (i) by mail, electronic means, or other means as determined by the division at the
711 appropriate extension fee rate under Section 53-3-105; and

712 (ii) only if the applicant qualifies under this section.

713 ~~[(7)]~~ (6) (a) ~~[(i) Except as prohibited under Subsection (7)(b), a]~~ A regular
714 identification card may only be extended once under Subsections ~~[(5) and (6)]~~ (4) and (5).

715 ~~[(ii)]~~ (b) After an extension an application for an identification card must be applied for
716 in person at the division's offices.

717 ~~[(b) An identification card issued to a person required to register as a sex offender in~~
718 ~~accordance with Title 77, Chapter 41, Sex and Kidnap Offender Registry, may not be~~
719 ~~extended.]~~

720 ~~[(8)]~~ (7) An identification card issued ~~[prior to]~~ before July 1, 2006, to ~~[a person]~~ an
721 individual 65 years of age or older expires on December 1, 2017.

722 ~~[(9) Notwithstanding the provisions of this section, an identification card expires on~~
723 ~~the birth date of the applicant in the first year following the year that the identification card was~~
724 ~~issued if the applicant is required to register as a sex offender in accordance with Title 77,~~
725 ~~Chapter 41, Sex and Kidnap Offender Registry.]~~

726 ~~[(10) A person who knowingly fails to surrender an identification card under~~
727 ~~Subsection (4) is guilty of a class A misdemeanor.]~~

728 Section 7. Section **76-5b-201** is amended to read:

729 **76-5b-201. Sexual exploitation of a minor -- Offenses.**

730 (1) A person is guilty of sexual exploitation of a minor:

731 (a) when the person:

732 (i) knowingly produces, possesses, or possesses with intent to distribute child
733 pornography; or

734 (ii) intentionally distributes or views child pornography; or

735 (b) if the person is a minor's parent or legal guardian and knowingly consents to or
736 permits the minor to be sexually exploited as described in Subsection (1)(a).

737 (2) (a) ~~[Sexual]~~ Except as provided in Subsection (2)(b), sexual exploitation of a minor
738 is a second degree felony.

739 (b) A violation of Subsection (1) for knowingly producing child pornography is a first
740 degree felony if the person produces original child pornography depicting a first degree felony

741 that involves:

742 (i) the person or another person engaging in conduct with the minor that is a violation

743 of:

744 (A) Section 76-5-402.1, rape of a child;

745 (B) Section 76-5-402.3, object rape of a child;

746 (C) Section 76-5-403.1, sodomy on a child; or

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

748 (ii) the minor being physically abused, as defined in Section 78A-6-105.

749 (3) It is a separate offense under this section:

750 (a) for each minor depicted in the child pornography; and

751 (b) for each time the same minor is depicted in different child pornography.

752 (4) It is an affirmative defense to a charge of violating this section that no [person
753 ~~under 18 years of age~~] minor was actually depicted in the visual depiction or used in producing
754 or advertising the visual depiction.

755 (5) In proving a violation of this section in relation to an identifiable minor, proof of
756 the actual identity of the identifiable minor is not required.

757 (6) This section may not be construed to impose criminal or civil liability on:

758 (a) an entity or an employee, director, officer, or agent of an entity when acting within
759 the scope of employment, for the good faith performance of:

760 (i) reporting or data preservation duties required under [~~any~~] federal or state law; or

761 (ii) implementing a policy of attempting to prevent the presence of child pornography
762 on [~~any~~] tangible or intangible property, or of detecting and reporting the presence of child
763 pornography on the property;

764 (b) a law enforcement officer acting within the scope of a criminal investigation;

765 (c) an employee of a court who may be required to view child pornography during the
766 course of and within the scope of the employee's employment;

767 (d) a juror who may be required to view child pornography during the course of the
768 individual's service as a juror;

769 (e) an attorney or employee of an attorney who is required to view child pornography
770 during the course of a judicial process and while acting within the scope of employment;

771 (f) an employee of the Department of Human Services who is required to view child

772 pornography within the scope of the employee's employment; or

773 (g) an attorney who is required to view child pornography within the scope of the
774 attorney's responsibility to represent the Department of Human Services, including the
775 divisions and offices within the Department of Human Services.

776 Section 8. Section **76-10-1206** is amended to read:

777 **76-10-1206. Dealing in material harmful to a minor -- Penalties -- Exemptions for**
778 **Internet service providers and hosting companies.**

779 (1) A person is guilty of dealing in material harmful to minors when, knowing or
780 believing that [~~a person~~] an individual is a minor, or having negligently failed to determine the
781 proper age of a minor, the person intentionally:

782 (a) distributes or offers to distribute, or exhibits or offers to exhibit, to a minor or [~~a~~
783 ~~person the actor~~] an individual whom the person believes to be a minor, any material harmful
784 to minors;

785 (b) produces, performs, or directs any performance, before a minor or [~~a person the~~
786 ~~actor~~] an individual whom the person believes to be a minor, that is harmful to minors; or

787 (c) participates in any performance, before a minor or [~~a person the actor~~] an individual
788 whom the person believes to be a minor, that is harmful to minors.

789 (2) (a) [~~Each~~] Except as provided in Subsection (3)(b), each separate offense under this
790 section committed by a person 18 years of age or older is a third degree felony punishable by:

791 (i) a minimum mandatory fine of not less than \$1,000, plus \$10 for each article
792 exhibited up to the maximum allowed by law; and

793 (ii) incarceration, without suspension of sentence, for a term of not less than 14 days.

794 (b) Each separate offense under this section committed by a person 18 years of age or
795 older against a minor 16 years of age or older, but younger than 18 years of age, is a class A
796 misdemeanor if the person is less than seven years older than the minor at the time of the
797 offense.

798 [~~(b)~~] (c) Each separate offense under this section committed by a person 16 or 17 years
799 of age is a class A misdemeanor.

800 [~~(c)~~] (d) Each separate offense under this section committed by a person younger than
801 16 years of age is a class B misdemeanor.

802 [~~(d)~~] (e) Subsection (2)(a) supersedes Section 77-18-1.

803 (3) (a) [Hf] Except for a defendant described in Subsection (3)(b), if a defendant 18
804 years of age or older has been previously convicted or adjudicated to be under the jurisdiction
805 of the juvenile court under this section, each separate subsequent offense is a second degree
806 felony punishable by:

807 (i) a minimum mandatory fine of not less than \$5,000, plus \$10 for each article
808 exhibited up to the maximum allowed by law; and

809 (ii) incarceration, without suspension of sentence, for a term of not less than one year.

810 (b) If a defendant described in Subsection (2)(b) or a defendant younger than 18 years
811 of age has been previously convicted or adjudicated to be under the jurisdiction of the juvenile
812 court under this section, each separate subsequent offense is a third degree felony.

813 (c) Subsection (3)(a) supersedes Section [77-18-1](#).

814 (d) (i) This section does not apply to an Internet service provider, as defined in Section
815 [76-10-1230](#), a provider of an electronic communications service as defined in 18 U.S.C. Sec.
816 2510, a telecommunications service, information service, or mobile service as defined in 47
817 U.S.C. Sec. 153, including a commercial mobile service as defined in 47 U.S.C. Sec. 332(d), or
818 a cable operator as defined in 47 U.S.C. Sec. 522, if:

819 (A) the distribution of pornographic material by the Internet service provider occurs
820 only incidentally through the provider's function of:

821 (I) transmitting or routing data from one person to another person; or

822 (II) providing a connection between one person and another person;

823 (B) the provider does not intentionally aid or abet in the distribution of the
824 pornographic material; and

825 (C) the provider does not knowingly receive from or through a person who distributes
826 the pornographic material a fee greater than the fee generally charged by the provider, as a
827 specific condition for permitting the person to distribute the pornographic material.

828 (ii) This section does not apply to a hosting company, as defined in Section
829 [76-10-1230](#), if:

830 (A) the distribution of pornographic material by the hosting company occurs only
831 incidentally through the hosting company's function of providing data storage space or data
832 caching to a person;

833 (B) the hosting company does not intentionally engage, aid, or abet in the distribution

834 of the pornographic material; and

835 (C) the hosting company does not knowingly receive from or through a person who
836 distributes the pornographic material a fee greater than the fee generally charged by the
837 provider, as a specific condition for permitting the person to distribute, store, or cache the
838 pornographic material.

839 (4) A service provider, as defined in Section 76-10-1230, is not negligent under this
840 section if ~~it~~ the service provider complies with Section 76-10-1231.

841 (5) A person 18 years of age or older who knowingly solicits, requests, commands,
842 encourages, or intentionally aids another person younger than 18 years of age to engage in
843 conduct in violation of Subsection (1) is guilty of a third degree felony and is subject to the
844 penalties under Subsection (2)(a).

845 Section 9. Section 77-22-2.5 is amended to read:

846 **77-22-2.5. Court orders for criminal investigations for records concerning an**
847 **electronic communications system or service or remote computing service -- Content --**
848 **Fee for providing information.**

849 (1) As used in this section:

850 (a) (i) "Electronic communication" means any transfer of signs, signals, writing,
851 images, sounds, data, or intelligence of any nature transmitted in whole or in part by a wire,
852 radio, electromagnetic, photoelectronic, or photooptical system.

853 (ii) "Electronic communication" does not include:

854 (A) ~~any~~ a wire or oral communication;

855 (B) ~~any~~ a communication made through a tone-only paging device;

856 (C) ~~any~~ a communication from a tracking device; or

857 (D) electronic funds transfer information stored by a financial institution in a
858 communications system used for the electronic storage and transfer of funds.

859 (b) "Electronic communications service" means ~~any~~ a service which provides for
860 users the ability to send or receive wire or electronic communications.

861 (c) "Electronic communications system" means ~~any~~ a wire, radio, electromagnetic,
862 photooptical, or photoelectronic facilities for the transmission of wire or electronic
863 communications, and ~~any~~ a computer facilities or related electronic equipment for the
864 electronic storage of the communication.

865 (d) "Internet service provider" [~~has the same definition as in~~] means the same as that
866 term is defined in Section 76-10-1230.

867 (e) "Prosecutor" [~~has the same definition as in~~] means the same as that term is defined
868 in Section 77-22-2.

869 (f) "Remote computing service" means the provision to the public of computer storage
870 or processing services by means of an electronic communications system.

871 (g) "Sexual offense against a minor" means:

872 (i) sexual exploitation of a minor [~~as defined in Section 76-5b-201~~] or attempted sexual
873 exploitation of a minor in violation of Section 76-5b-201;

874 (ii) a sexual offense or attempted sexual offense committed against a minor in violation
875 of Title 76, Chapter 5, Part 4, Sexual Offenses;

876 (iii) dealing in or attempting to deal in material harmful to a minor in violation of
877 Section 76-10-1206;

878 (iv) enticement of a minor or attempted enticement of a minor in violation of Section
879 76-4-401; [~~or~~]

880 (v) human trafficking of a child in violation of Section 76-5-308.5[~~;~~]; or

881 (vi) aggravated sexual extortion of a child in violation of Section 76-5b-204.

882 (2) When a law enforcement agency is investigating a sexual offense against a minor,
883 an offense of stalking under Section 76-5-106.5, or an offense of child kidnapping under
884 Section 76-5-301.1, and has reasonable suspicion that an electronic communications system or
885 service or remote computing service has been used in the commission of a criminal offense, a
886 law enforcement agent shall:

887 (a) articulate specific facts showing reasonable grounds to believe that the records or
888 other information sought, as designated in Subsections (2)(c)(i) through (v), are relevant and
889 material to an ongoing investigation;

890 (b) present the request to a prosecutor for review and authorization to proceed; and

891 (c) submit the request to a magistrate for a court order, consistent with 18 U.S.C. Sec.
892 2703 and 18 U.S.C. Sec. 2702, to the electronic communications system or service or remote
893 computing service provider that owns or controls the Internet protocol address, websites, email
894 address, or service to a specific telephone number, requiring the production of the following
895 information, if available, upon providing in the court order the Internet protocol address, email

896 address, telephone number, or other identifier, and the dates and times the address, telephone
897 number, or other identifier [~~was~~] is suspected of being used in the commission of the offense:

- 898 (i) names of subscribers, service customers, and users;
899 (ii) addresses of subscribers, service customers, and users;
900 (iii) records of session times and durations;
901 (iv) length of service, including the start date and types of service utilized; and
902 (v) telephone or other instrument subscriber numbers or other subscriber identifiers,
903 including [~~any~~] a temporarily assigned network address.

904 (3) A court order issued under this section shall state that the electronic
905 communications system or service or remote computing service provider shall produce [~~any~~
906 ~~records~~] a record under Subsections (2)(c)(i) through (v) that [~~are~~] is reasonably relevant to the
907 investigation of the suspected criminal activity or offense as described in the court order.

908 (4) (a) An electronic communications system or service or remote computing service
909 provider that provides information in response to a court order issued under this section may
910 charge a fee, not to exceed the actual cost, for providing the information.

911 (b) The law enforcement agency conducting the investigation shall pay the fee.

912 (5) The electronic communications system or service or remote computing service
913 provider served with or responding to the court order may not disclose the court order to the
914 account holder identified pursuant to the court order for a period of 90 days.

915 (6) If the electronic communications system or service or remote computing service
916 provider served with the court order does not own or control the Internet protocol address,
917 websites, or email address, or provide service for the telephone number that is the subject of
918 the court order, the provider shall notify the investigating law enforcement agency that [~~it~~] the
919 provider does not have the information.

920 (7) There is no cause of action against [~~any~~] a provider or wire or electronic
921 communication service, or [~~its~~] the provider or service's officers, employees, agents, or other
922 specified persons, for providing information, facilities, or assistance in accordance with the
923 terms of the court order issued under this section or statutory authorization.

924 (8) (a) A court order issued under this section is subject to the provisions of Title 77,
925 Chapter 23b, Access to Electronic Communications.

926 (b) Rights and remedies for providers and subscribers under Title 77, Chapter 23b,

927 Access to Electronic Communications, apply to providers and subscribers subject to a court
928 order issued under this section.

929 (9) ~~[Every]~~ A prosecutorial agency shall annually on or before February 15 report to
930 the Commission on Criminal and Juvenile Justice:

931 (a) the number of requests for court orders authorized by the prosecutorial agency;

932 (b) the number of orders issued by the court and the criminal offense, pursuant to
933 Subsection (2), each order was used to investigate; and

934 (c) if the court order led to criminal charges being filed, the type and number of
935 offenses charged.

936 Section 10. Section ~~77-41-104~~ is amended to read:

937 **77-41-104. Registration of offenders -- Department and agency requirements.**

938 (1) ~~[An]~~ The department or an agent of the department shall register an offender in the
939 custody of the department ~~[shall be registered by agents of the department]~~ as required under
940 this chapter upon:

941 (a) placement on probation;

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

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

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

948 (e) termination of probation or parole.

949 (2) ~~[An offender who]~~ The sheriff of the county in which an offender is confined shall
950 register an offender with the department, as required under this chapter, if the offender is not in
951 the custody of the department and ~~[who]~~ is confined in a correctional facility not operated by or
952 under contract to the department ~~[shall be registered with the department by the sheriff of the~~
953 ~~county in which the offender is confined,]~~ upon:

954 (a) commitment to the correctional facility; and

955 (b) release from confinement.

956 (3) ~~[An]~~ The division shall register an offender in the custody of the division ~~[shall be~~
957 ~~registered with the department by the division prior to]~~ with the department, as required under

958 this chapter, before the offender's release from custody of the division.

959 (4) ~~[Aa]~~ A state mental hospital shall register an offender committed to [a] the state
960 mental hospital [shall be registered with the department by the hospital] with the department,
961 as required under this chapter, upon the offender's admission and upon the offender's discharge.

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

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

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

970 (B) certify annually with the department.

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

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

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

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

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

984 (6) An agency in the state that registers an offender on probation, an offender who has
985 been released from confinement to parole status or termination, or an offender whose sentence
986 has expired shall inform the offender of the duty to comply with~~[(a)]~~ the continuing
987 registration requirements of this chapter during the period of registration required in Subsection
988 77-41-105(3), including:

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

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

993 [(iii)] (c) notification to the out-of-state agency where the offender is living, regardless
 994 of whether [~~or not~~] the offender is a resident of that state[~~; and~~].

995 [~~(b) the driver license certificate or identification card surrender requirement under~~
 996 ~~Subsection 53-3-216(3) or 53-3-807(4) and application provisions under Section 53-3-205 or~~
 997 ~~53-3-804.~~]

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

1000 (a) the method for dissemination of the information; and

1001 (b) instructions to the public regarding the use of the information.

1002 (8) [~~Any~~] The department shall redact information regarding the identity or location of
 1003 a victim [~~shall be redacted by the department~~] from information provided under Subsections
 1004 77-41-103(4) and 77-41-105[~~(8)~~](7).

1005 (9) This chapter does not create or impose any duty on any person to request or obtain
 1006 information regarding any offender from the department.

1007 Section 11. Section **77-41-105** is amended to read:

1008 **77-41-105. Registration of offenders -- Offender responsibilities.**

1009 (1) (a) An offender [~~convicted by any other~~] who enters this state from another
 1010 jurisdiction is required to register under Subsection (3) and Subsection 77-41-102(9) or (17).

1011 (b) The offender shall register with the department within 10 days [~~of entering~~] after
 1012 the day on which the offender enters the state, regardless of the offender's length of stay.

1013 (2) (a) An offender required to register under Subsection 77-41-102(9) or (17) who is
 1014 under supervision by the department shall register in person with Division of Adult Probation
 1015 and Parole.

1016 (b) An offender required to register under Subsection 77-41-102(9) or (17) who is no
 1017 longer under supervision by the department shall register in person with the police department
 1018 or sheriff's office that has jurisdiction over the area where the offender resides.

1019 (3) (a) Except as provided in Subsections (3)(b), (c), and (4), and Section 77-41-106,

1020 an offender shall, for the duration of the sentence and for 10 years after termination of sentence
1021 or custody of the division, register ~~[every]~~ each year during the month of the offender's date of
1022 birth, during the month that is the sixth month after the offender's birth month, and ~~[also]~~
1023 within three business days ~~[of every]~~ after the day on which there is a change of the offender's
1024 primary residence, any secondary residences, place of employment, vehicle information, or
1025 educational information required to be submitted under Subsection ~~[(8)]~~ (7).

1026 (b) Except as provided in Subsections (3)(c)(iii), (4), and (5), and Section 77-41-106,
1027 an offender who is convicted in another jurisdiction of an offense listed in Subsection
1028 77-41-102(9)(a) or (17)(a), a substantially similar offense, ~~[or any other]~~ another offense that
1029 requires registration in the jurisdiction of conviction, or an offender who is ordered by a court
1030 of another jurisdiction to register as an offender shall:

1031 (i) register for the time period, and in the frequency, required by the jurisdiction where
1032 the offender was convicted or ordered to register if:

1033 (A) that jurisdiction's registration period or registration frequency requirement for the
1034 offense that the offender was convicted of is greater than the ~~[10 years from completion of the~~
1035 ~~sentence]~~ registration period ~~[that is]~~ required under Subsection (3)(a), or is more frequent than
1036 every six months; or

1037 (B) that jurisdiction's court order requires registration for greater than the registration
1038 period required under Subsection (3)(a) or more frequently than every six months; or

1039 (ii) register in accordance with the requirements of Subsection (3)(a), if the
1040 jurisdiction's registration period or frequency requirement for the offense that the offender was
1041 convicted of is less than the registration period required under Subsection (3)(a), or is less
1042 frequent than every six months.

1043 (c) (i) An offender convicted as an adult of ~~[any of the offenses]~~ an offense listed in
1044 Section 77-41-106 shall, for the offender's lifetime, register ~~[every]~~ each year during the month
1045 of the offender's birth, during the month that is the sixth month after the offender's birth month,
1046 and also within three business days ~~[of every]~~ after the day on which there is a change of the
1047 offender's primary residence, any secondary residences, place of employment, vehicle
1048 information, or educational information required to be submitted under Subsection ~~[(8)]~~ (7).

1049 (ii) ~~[This]~~ Except as provided in Subsection (3)(c)(iii), the registration requirement
1050 described in Subsection (3)(c)(i) is not subject to exemptions and may not be terminated or

1051 altered during the offender's lifetime~~[, unless a petition is granted under Section 77-41-112].~~

1052 (iii) If the sentencing court determines that the offense does not involve force or
1053 coercion, lifetime registration under [this Subsection (3)(c)] Subsection (3)(c)(i) does not apply
1054 to an offender who commits the offense when the offender is under 21 years of age. For an
1055 offense listed in Section 77-41-106, an offender who commits the offense when the offender is
1056 under 21 years of age [is required to] shall register [in accordance with this chapter for 10 years
1057 after termination of sentence or custody of the division] for the registration period required
1058 under Subsection (3)(a), unless a petition is granted under Section 77-41-112.

1059 (d) For the purpose of establishing venue for a violation of this Subsection (3), the
1060 violation is considered to be committed:

1061 (i) at the most recent registered primary residence of the offender or at the location of
1062 the offender, if the actual location of the offender at the time of the violation is not known; or

1063 (ii) at the location of the offender at the time the offender is apprehended.

1064 (4) Notwithstanding Subsection (3) and Section 77-41-106, an offender who is
1065 confined in a secure facility or in a state mental hospital is not required to register during the
1066 period of confinement.

1067 (5) (a) ~~[In]~~ Except as provided in Subsection (5)(b), in the case of an offender
1068 adjudicated in another jurisdiction as a juvenile and required to register under this chapter, the
1069 offender shall register in the time period and in the frequency consistent with the requirements
1070 of [this Subsection (5). However, if] Subsection (3).

1071 (b) If the jurisdiction of the offender's adjudication does not publish the offender's
1072 information on a public website, the department shall maintain, but not publish the offender's
1073 information on the [Sex Offender and Kidnap Offender Registration] registration website.

1074 ~~[(6) An offender who is required to register under Subsection (3) shall surrender the~~
1075 ~~offender's license, certificate, or identification card as required under Subsection 53-3-216(3)~~
1076 ~~or 53-3-807(4) and may apply for a license certificate or identification card as provided under~~
1077 ~~Section 53-3-205 or 53-3-804.]~~

1078 ~~[(7)]~~ (6) A sex offender who violates Section 77-27-21.8 regarding being in the
1079 presence of a child while required to register under this chapter shall register for an additional
1080 five years subsequent to the registration period otherwise required under this chapter.

1081 ~~[(8)]~~ (7) An offender shall provide the department or the registering entity with the

1082 following information:

1083 (a) all names and aliases by which the offender is or has been known;

1084 (b) the addresses of the offender's primary and secondary residences;

1085 (c) a physical description, including the offender's date of birth, height, weight, eye and
1086 hair color;

1087 (d) the make, model, color, year, plate number, and vehicle identification number of
1088 ~~[any]~~ a vehicle or vehicles the offender owns or regularly drives;

1089 (e) a current photograph of the offender;

1090 (f) a set of fingerprints, if one has not already been provided;

1091 (g) a DNA specimen, taken in accordance with Section 53-10-404, if one has not
1092 already been provided;

1093 (h) telephone numbers and any other designations used by the offender for routing or
1094 self-identification in telephonic communications from fixed locations or cellular telephones;

1095 (i) Internet identifiers and the addresses the offender uses for routing or
1096 self-identification in Internet communications or postings;

1097 (j) the name and Internet address of all websites on which the offender is registered
1098 using an online identifier, including all online identifiers used to access those websites;

1099 (k) a copy of the offender's passport, if a passport has been issued to the offender;

1100 (l) if the offender is an alien, all documents establishing the offender's immigration
1101 status;

1102 (m) all professional licenses that authorize the offender to engage in an occupation or
1103 carry out a trade or business, including any identifiers, such as numbers;

1104 (n) each educational institution in Utah at which the offender is employed, carries on a
1105 vocation, or is a student, and ~~[any]~~ a change of enrollment or employment status of the offender
1106 at ~~[any]~~ an educational institution;

1107 (o) the name, the telephone number, and the address of ~~[any]~~ a place where the
1108 offender is employed or will be employed;

1109 (p) the name, the telephone number, and the address of ~~[any]~~ a place where the
1110 offender works as a volunteer or will work as a volunteer; and

1111 (q) the offender's social security number.

1112 ~~[(9) Notwithstanding Section 42-1-1, an offender:]~~

1113 ~~[(a) may not change the offender's name:]~~
 1114 ~~[(i) while under the jurisdiction of the department; and]~~
 1115 ~~[(ii) until the registration requirements of this statute have expired; and]~~
 1116 ~~[(b) may not change the offender's name at any time, if registration is for life under~~
 1117 ~~Subsection (3)(c).]~~
 1118 (8) (a) An offender may change the offender's name in accordance with Title 42,
 1119 Chapter 1, Change of Name, if the name change is not contrary to the interests of the public.
 1120 (b) Notwithstanding Section 42-1-2, an offender shall provide notice to the department
 1121 at least 30 days before the day on which the hearing for the name change is held.
 1122 (c) The court shall provide a copy of the order granting the offender's name change to
 1123 the department within 10 days after the day on which the court issues the order.
 1124 (d) If the court orders an offender's name changed, the department shall publish on the
 1125 registration website the offender's former name, and the offender's changed name as an alias.
 1126 ~~[(10)]~~ (9) Notwithstanding Subsections ~~[(8)]~~ (7)(i) and (j) and 77-41-103(1)(c), an
 1127 offender is not required to provide the department with:
 1128 (a) the offender's online identifier and password used exclusively for the offender's
 1129 employment on equipment provided by an employer and used to access the employer's private
 1130 network; or
 1131 (b) online identifiers for the offender's financial accounts, including ~~[any]~~ a bank,
 1132 retirement, or investment ~~[accounts]~~ account.
 1133 Section 12. Section **77-41-106** is amended to read:
 1134 **77-41-106. Lifetime registerable offenses.**
 1135 (1) Offenses referred to in Subsection 77-41-105(3)(c)(i) are:
 1136 ~~[(1)]~~ (a) ~~[any]~~ an offense listed in Subsection 77-41-102(9) or (17) if, at the time of the
 1137 conviction, the offender has previously been convicted of an offense listed in Subsection
 1138 77-41-102(9) or (17) or has previously been required to register as a sex offender for an offense
 1139 committed as a juvenile;
 1140 ~~[(2)]~~ (b) a conviction for any of the following offenses, including attempting,
 1141 soliciting, or conspiring to commit any felony of:
 1142 ~~[(a)]~~ (i) Section 76-5-301.1, child kidnapping, except if the offender is a natural parent
 1143 of the victim;

1144 ~~[(b)]~~ (ii) Section 76-5-402, rape;

1145 ~~[(c)]~~ (iii) Section 76-5-402.1, rape of a child;

1146 ~~[(d)]~~ (iv) Section 76-5-402.2, object rape;

1147 ~~[(e)]~~ (v) Section 76-5-402.3, object rape of a child;

1148 ~~[(f)]~~ (vi) Section 76-5-403.1, sodomy on a child;

1149 ~~[(g)]~~ (vii) Subsection 76-5-404.1(4), aggravated sexual abuse of a child; or

1150 ~~[(h)]~~ (viii) Section 76-5-405, aggravated sexual assault;

1151 ~~[(3)]~~ (c) Section 76-4-401, a felony violation of enticing a minor over the Internet;

1152 ~~[(4)]~~ (d) Section 76-5-302, aggravated kidnapping, except if the offender is a natural

1153 parent of the victim;

1154 ~~[(5)]~~ (e) Section 76-5-403, forcible sodomy;

1155 ~~[(6)]~~ (f) Section 76-5-404.1, sexual abuse of a child;

1156 ~~[(7)]~~ (g) Section 76-5b-201, sexual exploitation of a minor~~;~~, except if the conviction

1157 is for knowingly possessing child pornography or intentionally viewing child pornography;

1158 ~~[(8)]~~ (h) Subsection 76-5b-204(4), aggravated sexual extortion; or

1159 ~~[(9)]~~ (i) Section 76-10-1306, aggravated exploitation of prostitution, on or after May

1160 10, 2011.

1161 (2) The exception to the lifetime registration requirements described in Subsection

1162 (1)(g) applies retroactively regardless of the date on which the conviction is entered.

1163 Section 13. Section **77-41-112** is amended to read:

1164 **77-41-112. Removal from registry -- Requirements -- Procedure.**

1165 (1) An offender who is required to register with the Sex and Kidnap Offender Registry

1166 may petition the court [where the offender was convicted of the offense requiring registration]

1167 for an order removing the offender from the Sex [Offender] and Kidnap Offender Registry if:

1168 (a) (i) the offender ~~[was]~~ is convicted of an offense ~~[under]~~ described in Subsection

1169 (2);

1170 ~~[(b)]~~ (ii) at least five years have passed ~~[since the completion of]~~ after the day on which

1171 the offender's sentence for the offense terminates;

1172 ~~[(c)]~~ (iii) the offense is the only ~~[conviction]~~ offense for which the offender is required

1173 to register; [and]

1174 ~~[(d)]~~ the offender has not been convicted, subsequently to the offense for which the

1175 offender was placed on the registry, of a violation listed in:]
1176 ~~[(i) Subsection 77-41-102(9), which defines a kidnap offender; or]~~
1177 ~~[(ii) Subsection 77-41-102(17), which defines a sex offender.]~~
1178 (iv) the offender is not convicted of another offense, excluding a traffic offense, after
1179 the day on which the offender is convicted of the offense for which the offender is required to
1180 register, as evidenced by a certificate of eligibility issued by the bureau;
1181 (v) the offender successfully completes all treatment ordered by the court or the Board
1182 of Pardons and Parole relating to the offense;
1183 (vi) the offender pays all restitution ordered by the court or the Board of Pardons and
1184 Parole relating to the offense; and
1185 (vii) the offender complies with all registration requirements required under this
1186 chapter at all times; or
1187 (b) (i) the offender is convicted of an offense for which the offender is required to
1188 register for the registration period described in Subsection 77-41-105(3)(a);
1189 (ii) at least 10 years have passed after the later of:
1190 (A) the day on which the offender is placed on probation;
1191 (B) the day on which the offender is released from incarceration;
1192 (C) the day on which the offender enters a community-based residential program; or
1193 (D) for a minor, as defined in Section 78A-6-105, the day on which the division's
1194 custody of the offender is terminated;
1195 (iii) the offender is not convicted of another offense that is a class A misdemeanor,
1196 felony, or capital felony within the 10-year period described in Subsection (1)(b)(ii), as
1197 evidenced by a certificate of eligibility issued by the bureau;
1198 (iv) the offender successfully completes all treatment ordered by the court or the Board
1199 of Pardons and Parole relating to the offense;
1200 (v) the offender pays all restitution ordered by the court or the Board of Pardons and
1201 Parole relating to the offense; and
1202 (vi) the offender complies with all registration requirements required under this chapter
1203 at all times.
1204 (2) The offenses referred to in Subsection (1)(a)(i) are:
1205 (a) Section 76-4-401, ~~[Enticing]~~ enticing a minor, if the offense is a class A

1206 misdemeanor;

1207 (b) Section ~~76-5-301~~, [~~Kidnapping, and the conviction of violating Section 76-5-301~~]
1208 kidnapping;

1209 (c) Section ~~76-5-304~~, [~~Unlawful~~] unlawful detention, [~~and~~] if the conviction of
1210 violating Section ~~76-5-304~~ is the only conviction for which the offender is required to register;

1211 (d) Section ~~76-5-401~~, [~~Unlawful~~] unlawful sexual activity with a minor [~~and~~] if, at the
1212 time of the offense, [~~was~~] the offender is not more than 10 years older than the victim;

1213 (e) Section ~~76-5-401.1~~, sexual abuse of a minor, if, at the time of the offense, the
1214 offender is not more than 10 years older than the victim;

1215 [~~(e)~~] (f) Section ~~76-5-401.2~~, [~~Unlawful~~] unlawful sexual conduct with a 16 or 17 year
1216 old, and at the time of the offense, [~~was~~] the offender is not more than 15 years older than the
1217 victim; or

1218 [~~(f)~~] (g) Section ~~76-9-702.7~~, [~~Voyeurism~~] voyeurism, if the offense is a class A
1219 misdemeanor.

1220 [~~(3) An offender who meets the requirements under Subsection (1) shall also complete~~
1221 ~~all of the following requirements:~~]

1222 [~~(a) the offender has successfully completed all treatment ordered by the court or the~~
1223 ~~Board of Pardons and Parole relating to the conviction;~~]

1224 [~~(b) (i) the offender has not been convicted of any other crime, excluding traffic~~
1225 ~~offenses, as evidenced by a certificate of eligibility issued by the bureau; and]~~

1226 [~~(ii) as used in this section, "traffic offense" does not include a violation of Title 41,~~
1227 ~~Chapter 6a, Part 5, Driving Under the Influence and Reckless Driving;~~]

1228 [~~(c) the offender has paid all restitution ordered by the court;~~]

1229 [~~(d) the offender has complied with all the registration requirements at all times as~~
1230 ~~required in this chapter, as evidenced by a document obtained by the offender from the Utah~~
1231 ~~Department of Corrections, which confirms compliance; and]~~

1232 [~~(e) the office that prosecuted the offender, and the victim, or if the victim is still a~~
1233 ~~minor, the victim's parent, are notified and provided with an opportunity to respond in~~
1234 ~~accordance with Subsection (6)(a).]~~

1235 [~~(4)~~] (3) (a) (i) An offender seeking removal from the Sex [~~Offender or~~] and Kidnap
1236 Offender Registry under this section shall apply for a certificate of eligibility from the bureau.

1237 (ii) An offender who intentionally or knowingly provides [~~any~~] false or misleading
1238 information to the bureau when applying for a certificate of eligibility is guilty of a class B
1239 misdemeanor and subject to prosecution under Section [76-8-504.6](#).

1240 (iii) Regardless of whether the offender is prosecuted, the bureau may deny a certificate
1241 of eligibility to [~~anyone providing~~] an offender who provides false information on an
1242 application.

1243 (b) (i) The bureau shall perform a check of records of governmental agencies,
1244 including national criminal databases, to determine whether an offender is eligible to receive a
1245 certificate of eligibility [~~under this section~~].

1246 (ii) If the offender meets [~~all of the criteria under Subsections (1), (2), and (3)~~] the
1247 requirements described in Subsection (1)(a) or (b), the bureau shall issue a certificate of
1248 eligibility to the offender, which [~~shall be~~] is valid for a period of 90 days [~~from the date the~~
1249 ~~certificate is issued~~] after the day on which the bureau issues the certificate.

1250 (iii) If the bureau is unable to determine whether an offender meets the requirements
1251 described in Subsection (1)(a) or (b), the bureau shall request information from the department
1252 regarding whether the offender meets the requirements.

1253 (iv) Upon request from the bureau under Subsection (3)(b)(iii), the department shall
1254 issue a document that states whether the offender meets the requirements described in
1255 Subsection (1)(a) or (b), which may be used by the bureau to determine if a certificate of
1256 eligibility is appropriate.

1257 (v) The bureau shall provide a copy of the document provided to the bureau under
1258 Subsection (3)(b)(iv) to the offender upon issuance of a certificate of eligibility.

1259 [~~(5)~~] (4) (a) (i) The bureau shall charge application and issuance fees for a certificate of
1260 eligibility in accordance with the process in Section [63J-1-504](#).

1261 (ii) The application fee shall be paid at the time the offender submits an application for
1262 a certificate of eligibility to the bureau.

1263 (iii) If the bureau determines that the issuance of a certificate of eligibility is
1264 appropriate, the offender will be charged an additional fee for the issuance of a certificate of
1265 eligibility.

1266 (b) Funds generated under this Subsection [~~(5)~~] (4) shall be deposited [~~in~~] into the
1267 General Fund as a dedicated credit by the department to cover the costs incurred in determining

1268 eligibility.

1269 ~~[(6)]~~ (5) (a) The offender shall file the petition, including original information, [and]
 1270 the court docket, the certificate of eligibility from the bureau, and the document from the
 1271 department described in Subsection (3)(b)(iv) with the court, and deliver a copy of the petition
 1272 to the office of the prosecutor.

1273 ~~[(i)]~~ (b) Upon receipt of a petition for removal from the Sex ~~[Offender]~~ and Kidnap
 1274 Offender Registry, the office of the prosecutor shall provide notice of the petition~~[:(A)]~~ by
 1275 first-class mail to the victim at the most recent address of record on file or, if the victim is still
 1276 a minor under 18 years of age, to the parent or guardian of the victim~~[-and]~~.

1277 ~~[(B) to the Sex and Kidnap Offender Registry office in the Department of Corrections.]~~

1278 ~~[(i)]~~ (c) The notice described in Subsection (5)(b) shall include a copy of the petition,
 1279 state that the victim has a right to object to the removal of the offender from the registry, and
 1280 provide instructions for registering an objection with the court.

1281 ~~[(b)]~~ (d) The office of the prosecutor shall provide the following, if available, to the
 1282 court within 30 days after ~~[receiving]~~ the day on which the office receives the petition:

1283 (i) presentencing report;

1284 (ii) ~~[any]~~ an evaluation done as part of sentencing; and

1285 (iii) any other information the office of the prosecutor feels the court should consider.

1286 ~~[(c)]~~ (e) The victim, or the victim's parent or guardian if the victim is a minor under 18
 1287 years of age, may respond to the petition by filing a recommendation or objection with the
 1288 court within 45 days after the ~~[mailing of the petition]~~ day on which the petition is mailed to
 1289 the victim.

1290 ~~[(7)]~~ (6) (a) The court shall:

1291 (i) review the petition and all documents submitted with the petition; and

1292 (ii) hold a hearing if requested by the prosecutor or the victim.

1293 ~~[(b) The court shall consider whether the offender has paid all restitution ordered by~~
 1294 ~~the court or the Board of Pardons.]~~

1295 ~~[(c)]~~ (b) ~~[If the court]~~ The court may grant the petition and order removal of the
 1296 offender from the registry if the court determines that [it] the offender has met the requirements
 1297 described in Subsection (1)(a) or (b) and removal is not contrary to the interests of the public
 1298 ~~[to do so, it may grant the petition and order removal of the offender from the registry].~~

1299 ~~[(d)]~~ (c) If the court grants the petition, ~~[it]~~ the court shall forward a copy of the order
1300 directing removal of the offender from the registry to the department and the office of the
1301 prosecutor.

1302 ~~[(e)]~~ (d) If the court denies the petition, the offender may not submit another petition
1303 for three years.

1304 ~~[(8)]~~ (7) The ~~[office of the prosecutor]~~ court shall notify the victim and the Sex and
1305 Kidnap Offender Registry office in the ~~[Department of Corrections]~~ department of the court's
1306 decision within three days after the day on which the court issues the court's decision in the
1307 same manner ~~[as notification was provided]~~ described in Subsection ~~[(6)(a)]~~ (5).

1308 Section 14. Section ~~77-41-113~~ is enacted to read:

1309 **77-41-113. Removal from the registry for sexual exploitation of a minor --**
1310 **Requirements -- Procedure.**

1311 (1) An offender convicted of an offense described in Section ~~76-5b-201~~ may petition
1312 the court for an order determining that the offender was convicted of the offense of knowingly
1313 possessing child pornography or intentionally viewing child pornography.

1314 (2) (a) An offender who petitions the court under Subsection (1) shall provide notice by
1315 first-class mail to the office that prosecuted the offender.

1316 (b) The office that prosecuted the offender shall provide notice to the victim, or the
1317 victim's parent or guardian if the victim is under 18 years of age.

1318 (c) The notice described in Subsections (2)(a) and (b) shall include a copy of the
1319 petition, state that the victim has a right to object, and provide instructions for registering an
1320 objection with the court.

1321 (d) The victim, or the victim's parent or guardian if the victim is under 18 years of age,
1322 may respond to the petition by filing an objection with the court within 45 days after the day on
1323 which the petition is mailed to the victim.

1324 (3) The court shall:

1325 (a) review the petition and all documents submitted with the petition; and

1326 (b) hold a hearing if requested by the prosecutor or the victim.

1327 (4) The offender shall have the burden of proof to establish by clear and convincing
1328 evidence that the offender meets the requirements described under Subsection (1).

1329 (5) If the court finds the offender meets the requirements described under Subsection

1330 (1), the court shall make an order that the defendant is subject to the registration period
1331 described under Subsection [77-41-105\(3\)\(a\)](#).