

CHILD PROTECTION REGISTRY AMENDMENTS

2019 GENERAL SESSION

STATE OF UTAH

Chief Sponsor: Todd Weiler

House Sponsor: Susan Pulsipher

LONG TITLE

General Description:

This bill modifies provisions relating to the Child Protection Registry.

Highlighted Provisions:

This bill:

- ▶ defines terms;
- ▶ requires the Internet Crimes Against Children (ICAC) unit within the Office of the Attorney General to establish and operate the Child Protection Registry; and
- ▶ makes technical changes.

Money Appropriated in this Bill:

None

Other Special Clauses:

None

Utah Code Sections Affected:

AMENDS:

13-39-102, as last amended by Laws of Utah 2006, Chapter 336

13-39-201, as last amended by Laws of Utah 2009, Chapter 183

13-39-202, as last amended by Laws of Utah 2006, Chapter 336

13-39-203, as last amended by Laws of Utah 2008, Chapter 382

13-39-301, as enacted by Laws of Utah 2004, Chapter 338

13-39-303, as enacted by Laws of Utah 2004, Chapter 338

13-39-304, as enacted by Laws of Utah 2004, Chapter 338

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

31 Section 1. Section 13-39-102 is amended to read:

32 **13-39-102. Definitions.**

33 As used in this chapter:

34 (1) "Attorney general" means the same as that term is defined in Section [77-42-102](#).

35 ~~[(1)]~~ (2) "Contact point" means an electronic identification to which a communication
36 may be sent, including:

37 (a) an email address; ~~[or]~~

38 ~~[(b) subject to Subsection [13-39-201](#)(2):]~~

39 ~~[(i)]~~ (b) an instant message identity, subject to rules made by the ~~[division]~~ unit under
40 Subsection [13-39-203](#)(1);

41 ~~[(ii)]~~ (c) a mobile or other telephone number;

42 ~~[(iii)]~~ (d) a facsimile number; or

43 ~~[(iv)]~~ (e) an electronic address:

44 ~~[(A)]~~ (i) similar to a contact point listed in this Subsection ~~[(1)]~~ (2); and

45 ~~[(B)]~~ (ii) defined as a contact point by rule made by the ~~[division]~~ unit under
46 Subsection [13-39-203](#)(1).

47 ~~[(2) "Division" means the Division of Consumer Protection in the Department of
48 Commerce.]~~

49 (3) "Registry" means the child protection registry established in Section [13-39-201](#).

50 (4) "Unit" means the Internet Crimes Against Children unit within the Office of the
51 Attorney General created in Section [67-5-21](#).

52 Section 2. Section 13-39-201 is amended to read:

53 **13-39-201. Establishment of child protection registry.**

54 (1) The ~~[division]~~ unit shall:

55 (a) establish and operate a child protection registry to compile and secure a list of
56 contact points the ~~[division]~~ unit has received pursuant to this section; or

57 (b) contract with a third party to establish and secure the registry described in

58 Subsection (1)(a).

59 ~~[(2)(a) The division shall implement the registry described in this section with respect~~
60 ~~to email addresses beginning on July 1, 2005.]~~

61 ~~[(b) The division shall implement the registry described in this section with respect to~~
62 ~~instant message identities.]~~

63 ~~[(c) The division shall implement the registry described in this section with respect to~~
64 ~~mobile or other telephone numbers.]~~

65 ~~[(3)]~~ (2) (a) A person may register a contact point with the [division] unit pursuant to
66 rules established by the [division] unit under Subsection 13-39-203(1) if:

- 67 (i) the contact point belongs to a minor;
68 (ii) a minor has access to the contact point; or
69 (iii) the contact point is used in a household in which a minor is present.

70 (b) A school or other institution that primarily serves minors may register its domain
71 name with the [division] unit pursuant to rules made by the [division] unit under Subsection
72 13-39-203(1).

73 (c) The [division] unit shall provide a disclosure in a confirmation message sent to a
74 person who registers a contact point under this section that reads: "No solution is completely
75 secure. The most effective way to protect children on the Internet is to supervise use and
76 review all email messages and other correspondence. Under law, theft of a contact point from
77 the Child Protection Registry is a second degree felony. While every attempt will be made to
78 secure the Child Protection Registry, registrants and their guardians should be aware that their
79 contact points may be at a greater risk of being misappropriated by marketers who choose to
80 disobey the law."

81 ~~[(4)]~~ (3) A person desiring to send a communication described in Subsection
82 13-39-202(1) to a contact point or domain shall:

83 (a) use a mechanism established by rule made by the [division] unit under Subsection
84 13-39-203(2); and

85 (b) pay a fee for use of the mechanism described in Subsection ~~[(4)]~~ (3)(a) determined

86 by the [~~division~~] unit in accordance with Section 63J-1-504.

87 [~~(5)~~] (4) The [~~division~~] unit may implement a program to offer discounted compliance
88 fees to senders who meet enhanced security conditions established and verified by the division,
89 the third party registry provider, or a designee.

90 [~~(6)~~] (5) The contents of the registry, and any complaint filed about a sender who
91 violates this chapter, are not subject to public disclosure under Title 63G, Chapter 2,
92 Government Records Access and Management Act.

93 [~~(7)~~] (6) The state shall promote the registry on the state's official Internet website.

94 Section 3. Section 13-39-202 is amended to read:

95 **13-39-202. Prohibition of sending certain materials to a registered contact point**
96 **-- Exception for consent.**

97 (1) A person may not send, cause to be sent, or conspire with a third party to send a
98 communication to a contact point or domain that has been registered for more than 30 calendar
99 days with the [~~division~~] unit under Section 13-39-201 if the communication:

100 (a) has the primary purpose of advertising or promoting a product or service that a
101 minor is prohibited by law from purchasing; or

102 (b) contains or has the primary purpose of advertising or promoting material that is
103 harmful to minors, as defined in Section 76-10-1201.

104 (2) Except as provided in Subsection (4), consent of a minor is not a defense to a
105 violation of this section.

106 (3) An Internet service provider does not violate this section for solely transmitting a
107 message across the network of the Internet service provider.

108 (4) (a) Notwithstanding Subsection (1), a person may send a communication to a
109 contact point if, before sending the communication, the person sending the communication
110 receives consent from an adult who controls the contact point.

111 (b) Any person who proposes to send a communication under Subsection (4)(a) shall:

112 (i) verify the age of the adult who controls the contact point by inspecting the adult's
113 government-issued identification card in a face-to-face transaction;

114 (ii) obtain a written record indicating the adult's consent that is signed by the adult;

115 (iii) include in each communication:

116 (A) a notice that the adult may rescind the consent; and

117 (B) information that allows the adult to opt out of receiving future communications;

118 and

119 (iv) notify the [division] unit that the person intends to send communications under this

120 Subsection (4).

121 (c) The [division] unit shall implement rules to verify that a person providing

122 notification under Subsection (4)(b)(iv) complies with this Subsection (4).

123 Section 4. Section 13-39-203 is amended to read:

124 **13-39-203. Rulemaking authority.**

125 In accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, the

126 [division] unit shall make rules to establish procedures under which:

127 (1) (a) a person may register a contact point with the [division] unit under Section

128 13-39-201, including:

129 (i) the information necessary to register an instant message identity; and

130 (ii) for purposes of Subsection 13-39-102~~(1)~~(2)(b)(iv), an electronic address that is

131 similar to a contact point listed in Subsection 13-39-102~~(1)~~(2); and

132 (b) a school or other institution that primarily serves minors may register its domain

133 name with the [division] unit under Section 13-39-201;

134 (2) the [division] unit shall:

135 (a) provide a mechanism under which a person described in Subsection

136 13-39-201~~(4)~~(3) may verify compliance with the registry to remove registered contact points

137 from the person's communications; and

138 (b) establish the mechanism described in Subsection (2)(a) in a manner that protects

139 the privacy and security of a contact point registered with the [division] unit under Section

140 13-39-201; and

141 (3) the [division] unit may:

142 (a) implement a program offering discounted fees to a sender who meets enhanced
143 security conditions established and verified by the ~~[division]~~ unit, the third party registry
144 provider, or a designee; and

145 (b) allow the third party registry provider to assist in any public or industry awareness
146 campaign promoting the registry.

147 Section 5. Section **13-39-301** is amended to read:

148 **13-39-301. Criminal penalty.**

149 (1) A person who violates Section **13-39-202** commits a computer crime and is guilty
150 of a:

151 (a) ~~[is guilty of a]~~ class B misdemeanor for a first offense with respect to a contact
152 point registered with the ~~[division]~~ unit under Subsection **13-39-201**~~[(3)]~~(2)(a); and

153 (b) ~~[is guilty of a]~~ class A misdemeanor:

154 (i) for each subsequent violation with respect to a contact point registered with the
155 ~~[division]~~ unit under Subsection **13-39-201**~~[(3)]~~(2)(a); or

156 (ii) for each violation with respect to a domain name registered with the ~~[division]~~ unit
157 under Subsection **13-39-201**~~[(3)]~~(2)(b).

158 (2) A person commits a computer crime and is guilty of a second degree felony if the
159 person:

160 (a) uses information obtained from the ~~[division]~~ unit under this chapter to violate
161 Section **13-39-202**;

162 (b) improperly:

163 (i) obtains contact points from the registry; or

164 (ii) attempts to obtain contact points from the registry; or

165 (c) uses, or transfers to a third party to use, information from the registry to send a
166 solicitation.

167 (3) A criminal conviction or penalty under this section does not relieve a person from
168 civil liability in an action under Section **13-39-302**.

169 (4) Each communication sent in violation of Section **13-39-202** is a separate offense

170 under this section.

171 Section 6. Section 13-39-303 is amended to read:

172 **13-39-303. Administrative enforcement.**

173 (1) The ~~[division shall]~~ attorney general:

174 (a) shall investigate violations of this chapter; and

175 ~~[(b) assess cease and desist orders and administrative fines under this section for~~
176 ~~violations of this chapter.]~~

177 (b) may bring an action against a person who violates this chapter.

178 (2) A person who violates this chapter is subject to:

179 (a) a cease and desist order or other injunctive relief; and

180 (b) ~~[an administrative]~~ a fine of not more than \$2,500 for each separate communication
181 sent in violation of Section 13-39-202.

182 (3) (a) A person who intentionally violates this chapter is subject to ~~[an administrative]~~
183 a fine of not more than \$5,000 for each communication intentionally sent in violation of
184 Section 13-39-202.

185 (b) For purposes of this section, a person intentionally violates this chapter if the
186 violation occurs after the ~~[division,]~~ attorney general~~;~~ or a district or county attorney notifies
187 the person by certified mail that the person is in violation of this chapter.

188 ~~[(4) All administrative fines collected under this section shall be deposited in the~~
189 ~~Consumer Protection Education and Training Fund created in Section 13-2-8.]~~

190 Section 7. Section 13-39-304 is amended to read:

191 **13-39-304. Defenses.**

192 It is a defense to an action brought under this chapter that a person:

193 (1) reasonably relied on the mechanism established by the ~~[division]~~ unit under
194 Subsection 13-39-203(2); and

195 (2) took reasonable measures to comply with this chapter.