

OFFENDER REGISTRY REVIEW

2012 GENERAL SESSION

STATE OF UTAH

Chief Sponsor: Jack R. Draxler

Senate Sponsor: _____

LONG TITLE

Committee Note:

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

General Description:

This bill allows a person on the Sex Offender and Kidnap Offender Registry to petition the court for removal after five years for certain offenses.

Highlighted Provisions:

This bill:

▶ allows a person who has been convicted of the following to petition the court for removal from the Sex Offender and Kidnap Offender Registry after five years:

- unlawful sexual conduct with a 16 or 17 year old;
- unlawful sexual activity with a minor; or
- a misdemeanor violation of voyeurism;

▶ requires that the person have successfully completed any court-ordered treatment and not have any subsequent convictions;

▶ requires that a copy of the petition be delivered to the prosecutor and victim, or if the victim is still a minor, the victim's parents; and

▶ gives the court discretion to order the person removed if it determines that the person is no longer a risk to society.

Money Appropriated in this Bill:



28 None

29 **Other Special Clauses:**

30 None

31 **Utah Code Sections Affected:**

32 AMENDS:

33 **77-27-21.5**, as last amended by Laws of Utah 2011, Chapters 48, 320 and last amended
34 by Coordination Clause, Laws of Utah 2011, Chapter 48

35 **78A-2-301**, as last amended by Laws of Utah 2011, Chapter 22



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

38 Section 1. Section **77-27-21.5** is amended to read:

39 **77-27-21.5. Sex and kidnap offenders -- Registration -- Information system --**
40 **Law enforcement and courts to report -- Penalty -- Effect of expungement.**

41 (1) As used in this section:

42 (a) "Bureau" means the Bureau of Criminal Identification of the Department of Public
43 Safety established in Section 53-10-201.

44 ~~(a)~~ (b) "Business day" means a day on which state offices are open for regular
45 business.

46 (c) "Certificate of eligibility" means a document issued by the Bureau of Criminal
47 Identification showing that the offender has met the requirements of Subsection (32).

48 ~~(b)~~ (d) "Department" means the Department of Corrections.

49 ~~(c)~~ (e) "Division" means the Division of Juvenile Justice Services.

50 ~~(d)~~ (f) "Employed" or "carries on a vocation" includes employment that is full time or
51 part time, whether financially compensated, volunteered, or for the purpose of government or
52 educational benefit.

53 ~~(e)~~ (g) "Indian Country" means:

54 (i) all land within the limits of any Indian reservation under the jurisdiction of the
55 United States government, regardless of the issuance of any patent, and includes rights-of-way
56 running through the reservation;

57 (ii) all dependent Indian communities within the borders of the United States whether
58 within the original or subsequently acquired territory, and whether or not within the limits of a

59 state; and

60 (iii) all Indian allotments, including the Indian allotments to which the Indian titles to
61 have not been extinguished, including rights-of-way running through the allotments.

62 ~~[(f)]~~ (h) "Jurisdiction" means any state, Indian Country, United States Territory, or any
63 property under the jurisdiction of the United States military, Canada, the United Kingdom,
64 Australia, or New Zealand.

65 ~~[(g)]~~ (i) "Kidnap offender" means any person other than a natural parent of the victim
66 who:

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

68 (A) Section 76-5-301, Subsection (1)(c) or (d), kidnapping;

69 (B) Section 76-5-301.1, child kidnapping;

70 (C) Section 76-5-302, aggravated kidnapping;

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

72 (E) attempting, soliciting, or conspiring to commit any felony offense listed in

73 Subsections (1)~~[(g)]~~(i)(A) through (D);

74 (ii) has been convicted of any crime, or an attempt, solicitation, or conspiracy to
75 commit a crime in another jurisdiction, including any state, federal, or military court that is
76 substantially equivalent to the offenses listed in Subsection (1)~~[(g)]~~(i)(i) and who is:

77 (A) a Utah resident; or

78 (B) not a Utah resident, but who, in any 12 month period, is in this state for a total of
79 10 or more days, regardless of whether or not the offender intends to permanently reside in this
80 state;

81 (iii) (A) is required to register as an offender in any other jurisdiction, or who is
82 required to register as an offender by any state, federal, or military court; and

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

85 (iv) is a nonresident regularly employed or working in this state, or who is a student in
86 this state, and was convicted of one or more offenses listed in Subsection (1)~~[(g)]~~(i), or any
87 substantially equivalent offense in another jurisdiction, or as a result of the conviction, is
88 required to register in the person's state of residence;

89 (v) is found not guilty by reason of insanity in this state or in any other jurisdiction of

90 one or more offenses listed in Subsection (1)~~(g)~~(i); or

91 (vi) is adjudicated delinquent based on one or more offenses listed in Subsection
92 (1)~~(g)~~(i)(i) and who has been committed to the division for secure confinement and remains
93 in the division's custody 30 days prior to the person's 21st birthday.

94 ~~(h)~~ (j) "Natural parent" means a minor's biological or adoptive parent, and includes
95 the minor's noncustodial parent.

96 ~~(i)~~ (k) "Offender" means a kidnap offender as defined in Subsection (1)~~(g)~~(i) or a
97 sex offender as defined in Subsection (1)~~(n)~~(p).

98 ~~(j)~~ (l) "Online identifier" or "Internet identifier":

99 (i) means any electronic mail, chat, instant messenger, social networking, or similar
100 name used for Internet communication; and

101 (ii) does not include date of birth, Social Security number, PIN number, or Internet
102 passwords.

103 ~~(k)~~ (m) "Primary residence" means the location where the offender regularly resides,
104 even if the offender intends to move to another location or return to another location at any
105 future date.

106 ~~(l)~~ (n) "Register" means to comply with the requirements of this section and
107 administrative rules of the department made under this section.

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

111 ~~(n)~~ (p) "Sex offender" means any person:

112 (i) convicted in this state of:

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

114 (B) Section 76-5b-202, sexual exploitation of a vulnerable adult, on or after May 10,
115 2011;

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

117 (D) Section 76-5-401.1, sexual abuse of a minor;

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

119 (F) Section 76-5-402, rape;

120 (G) Section 76-5-402.1, rape of a child;

- 121 (H) Section 76-5-402.2, object rape;
- 122 (I) Section 76-5-402.3, object rape of a child;
- 123 (J) a felony violation of Section 76-5-403, forcible sodomy;
- 124 (K) Section 76-5-403.1, sodomy on a child;
- 125 (L) Section 76-5-404, forcible sexual abuse;
- 126 (M) Section 76-5-404.1, sexual abuse of a child or aggravated sexual abuse of a child;
- 127 (N) Section 76-5-405, aggravated sexual assault;
- 128 (O) Section 76-5-412, custodial sexual relations, when the person in custody is younger
129 than 18 years of age, if the offense is committed on or after May 10, 2011;
- 130 (P) Section 76-5b-201, sexual exploitation of a minor;
- 131 (Q) Section 76-7-102, incest;
- 132 (R) Subsection 76-9-702(1), lewdness, if the person has been convicted of the offense
133 four or more times;
- 134 (S) Subsection 76-9-702(3), sexual battery, if the person has been convicted of the
135 offense four or more times;
- 136 (T) any combination of convictions of Subsection 76-9-702(1), lewdness, and of
137 Subsection 76-9-702(3), sexual battery, that total four or more convictions;
- 138 (U) Section 76-9-702.5, lewdness involving a child;
- 139 (V) a felony or class A misdemeanor violation of Section 76-9-702.7, voyeurism;
- 140 (W) Section 76-10-1306, aggravated exploitation of prostitution; or
- 141 (X) attempting, soliciting, or conspiring to commit any felony offense listed in
142 Subsection (1)~~(n)~~(p)(i);
- 143 (ii) who has been convicted of any crime, or an attempt, solicitation, or conspiracy to
144 commit a crime in another jurisdiction, including any state, federal, or military court that is
145 substantially equivalent to the offenses listed in Subsection (1)~~(n)~~(p)(i) and who is:
- 146 (A) a Utah resident; or
- 147 (B) not a Utah resident, but who, in any 12 month period, is in this state for a total of
148 10 or more days, regardless of whether the offender intends to permanently reside in this state;
- 149 (iii) (A) who is required to register as an offender in any other jurisdiction, or who is
150 required to register as an offender by any state, federal, or military court; and
- 151 (B) who, in any 12 month period, is in the state for a total of 10 or more days,

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

153 (iv) who is a nonresident regularly employed or working in this state or who is a
154 student in this state and was convicted of one or more offenses listed in Subsection
155 (1)[(n)](p)(i), or any substantially equivalent offense in any jurisdiction, or as a result of the
156 conviction, is required to register in the person's jurisdiction of residence;

157 (v) who is found not guilty by reason of insanity in this state, or in any other
158 jurisdiction of one or more offenses listed in Subsection (1)[(n)](p)(i); or

159 (vi) who is adjudicated delinquent based on one or more offenses listed in Subsection
160 (1)[(n)](p)(i) and who has been committed to the division for secure confinement and remains
161 in the division's custody 30 days prior to the person's 21st birthday.

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

164 [(o)] (r) "Vehicle" means any motor vehicle, aircraft, or watercraft subject to
165 registration in any jurisdiction.

166 (2) The department, to assist in investigating kidnapping and sex-related crimes, and in
167 apprehending offenders, shall:

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

170 (b) make information listed in Subsection (27) available to the public; and

171 (c) share information provided by an offender under this section that may not be made
172 available to the public under Subsection (27), but only:

173 (i) for the purposes under this Subsection (2); or

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

175 (3) Any law enforcement agency shall, in the manner prescribed by the department,
176 inform the department of:

177 (a) the receipt of a report or complaint of an offense listed in Subsection (1)[(g)](i) or
178 [(n)] (p), within three business days; and

179 (b) the arrest of a person suspected of any of the offenses listed in Subsection
180 (1)[(g)](i) or [(n)] (p), within five business days.

181 (4) Upon convicting a person of any of the offenses listed in Subsection (1)[(g)](i) or
182 [(n)] (p), the convicting court shall within three business days forward a copy of the judgment

183 and sentence to the department.

184 (5) An offender in the custody of the department shall be registered by agents of the
185 department upon:

186 (a) placement on probation;

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

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

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

193 (e) termination of probation or parole.

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

197 (a) commitment to the correctional facility; and

198 (b) release from confinement.

199 (7) An offender in the custody of the division shall be registered with the department
200 by the division prior to release from custody.

201 (8) An offender committed to a state mental hospital shall be registered with the
202 department by the hospital upon admission and upon discharge.

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

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

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

211 (B) certify annually with the department.

212 (b) (i) When the department receives offender registration information regarding a
213 change of an offender's primary residence location, the department shall within five days

214 electronically notify the law enforcement agencies that have jurisdiction over the area where:

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

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

217 (ii) The department shall provide notification under this Subsection (9)(b) if the
218 offender's change of address is between law enforcement agency jurisdictions, or is within one
219 jurisdiction.

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

224 (10) An offender convicted by any other jurisdiction is required to register under
225 Subsection (1)(~~g~~)(i) or (~~n~~) (p) and Subsection (12) and shall register with the department
226 within 10 days of entering the state, regardless of the offender's length of stay.

227 (11) (a) An offender required to register under Subsection (1)(~~g~~)(i) or (~~n~~) (p) who is
228 under supervision by the department shall register with Division of Adult Probation and Parole.

229 (b) An offender required to register under Subsection (1)(~~g~~)(i) or (~~n~~) (p) who is no
230 longer under supervision by the department shall register with the police department or sheriff's
231 office that has jurisdiction over the area where the offender resides.

232 (12) (a) Except as provided in Subsections (12)(b), (c), and (d), an offender shall, for
233 the duration of the sentence and for 10 years after termination of sentence or custody of the
234 division, register every year during the month of the offender's birth, during the month that is
235 the sixth month after the offender's birth month, and also within three business days of every
236 change of the offender's primary residence, any secondary residences, place of employment,
237 vehicle information, or educational information required to be submitted under Subsection
238 (14).

239 (b) Except as provided Subsections (12)(c) and (d), an offender who is convicted in
240 another jurisdiction of an offense listed in Subsection (1)(g)(~~i~~)(i) or (~~n~~) (p)(i), a substantially
241 similar offense, or any other offense that requires registration in the jurisdiction of conviction,
242 shall:

243 (i) register for the time period, and in the frequency, required by the jurisdiction where
244 the offender was convicted if that jurisdiction's registration period or registration frequency

245 requirement for the offense that the offender was convicted of is greater than the 10 years from
246 completion of the sentence registration period that is required under Subsection (12)(a), or is
247 more frequent than every six months; or

248 (ii) register in accordance with the requirements of Subsection (12)(a), if the
249 jurisdiction's registration period or frequency requirement for the offense that the offender was
250 convicted of is less than the registration period required under Subsection (12)(a), or is less
251 frequent than every six months.

252 (c) (i) (A) An offender convicted as an adult of any of the offenses listed in Subsection
253 (12)(c)(ii) shall, for the offender's lifetime, register every year during the month of the
254 offender's birth, during the month that is the sixth month after the offender's birth month, and
255 also within three business days of every change of the offender's primary residence, any
256 secondary residences, place of employment, vehicle information, or educational information
257 required to be submitted under Subsection (14).

258 (B) This registration requirement is not subject to exemptions and may not be
259 terminated or altered during the offender's lifetime.

260 (ii) Offenses referred to in Subsection (12)(c)(i) are:

261 (A) any offense listed in Subsection (1)[~~(g)~~](i) or [~~(n)~~] (p) if, at the time of the
262 conviction, the offender has previously been convicted of an offense listed in Subsection
263 (1)[~~(g)~~](i) or [~~(n)~~] (p) or has previously been required to register as a sex offender for an
264 offense committed as a juvenile;

265 (B) a conviction for any of the following offenses, including attempting, soliciting, or
266 conspiring to commit any felony of:

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

269 (II) Section 76-5-402, rape;

270 (III) Section 76-5-402.1, rape of a child;

271 (IV) Section 76-5-402.2, object rape;

272 (V) Section 76-5-402.3, object rape of a child;

273 (VI) Section 76-5-403.1, sodomy on a child;

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

275 (VIII) Section 76-5-405, aggravated sexual assault;

- 276 (C) Section 76-4-401, a felony violation of enticing a minor over the Internet;
- 277 (D) Section 76-5-302, aggravated kidnapping, except if the offender is a natural parent
- 278 of the victim;
- 279 (E) Section 76-5-403, forcible sodomy;
- 280 (F) Section 76-5-404.1, sexual abuse of a child;
- 281 (G) Section 76-5b-201, sexual exploitation of a minor; or
- 282 (H) Section 76-10-1306, aggravated exploitation of prostitution, on or after May 10,
- 283 2011.

284 (d) Notwithstanding Subsections (12)(a), (b), and (c), an offender who is confined in a
285 secure facility or in a state mental hospital is not required to register during the period of
286 confinement.

287 (e) An offender who is required to register under this Subsection (12) shall surrender
288 the offender's license, certificate, or identification card as required under Subsection
289 53-3-216(3) or 53-3-807(4) and may apply for a license certificate or identification card as
290 provided under Section 53-3-205 or 53-3-804.

291 (f) A sex offender who violates Section 77-27-21.8 while required to register under this
292 section shall register for an additional five years subsequent to the registration period otherwise
293 required under this section.

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

297 (a) the continuing registration requirements of this section during the period of
298 registration required in Subsection (12), including:

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

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

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

305 (b) the driver license certificate or identification card surrender requirement under
306 Subsection 53-3-216(3) or 53-3-807(4) and application provisions under Section 53-3-205 or

307 53-3-804.

308 (14) An offender shall provide the department or the registering entity with the
309 following information:

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

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

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

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

316 (e) a current photograph of the offender;

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

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

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

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

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

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

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

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

331 (n) each educational institution in Utah at which the offender is employed, carries on a
332 vocation, or is a student, and any change of enrollment or employment status of the offender at
333 any educational institution;

334 (o) the name and the address of any place where the offender is employed or will be
335 employed;

336 (p) the name and the address of any place where the offender works as a volunteer or
337 will work as a volunteer; and

338 (q) the offender's Social Security number.
339 (15) The department shall:
340 (a) provide the following additional information when available:
341 (i) the crimes the offender has been convicted of or adjudicated delinquent for;
342 (ii) a description of the offender's primary and secondary targets; and
343 (iii) any other relevant identifying information as determined by the department;
344 (b) maintain the Sex Offender and Kidnap Offender Notification and Registration
345 website; and
346 (c) ensure that the registration information collected regarding an offender's enrollment
347 or employment at an educational institution is:
348 (i) (A) promptly made available to any law enforcement agency that has jurisdiction
349 where the institution is located if the educational institution is an institution of higher
350 education; or
351 (B) promptly made available to the district superintendent of the school district where
352 the offender is enrolled if the educational institution is an institution of primary education; and
353 (ii) entered into the appropriate state records or data system.
354 (16) (a) An offender who knowingly fails to register under this section or provides
355 false or incomplete information is guilty of:
356 (i) a third degree felony and shall be sentenced to serve a term of incarceration for not
357 less than 90 days and also at least one year of probation if:
358 (A) the offender is required to register for a felony conviction or adjudicated delinquent
359 for what would be a felony if the juvenile were an adult of an offense listed in Subsection
360 (1)[~~(g)~~](i)(i) or [~~(n)~~] (p)(i); or
361 (B) the offender is required to register for the offender's lifetime under Subsection
362 (12)(c); or
363 (ii) a class A misdemeanor and shall be sentenced to serve a term of incarceration for
364 not fewer than 90 days and also at least one year of probation if the offender is required to
365 register for a misdemeanor conviction or is adjudicated delinquent for what would be a
366 misdemeanor if the juvenile were an adult of an offense listed in Subsection (1)[~~(g)~~](i)(i) or
367 [~~(n)~~] (p)(i).
368 (b) Neither the court nor the Board of Pardons and Parole may release a person who

369 violates this section from serving the term required under Subsection (16)(a). This Subsection
370 (16)(b) supersedes any other provision of the law contrary to this section.

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

373 (17) Notwithstanding Title 63G, Chapter 2, Government Records Access and
374 Management Act, information under Subsection (15) that is collected and released under
375 Subsection (27) is public information, unless otherwise restricted under Subsection (2)(c).

376 (18) (a) If an offender is to be temporarily sent outside a secure facility in which the
377 offender is confined on any assignment, including, without limitation, firefighting or disaster
378 control, the official who has custody of the offender shall, within a reasonable time prior to
379 removal from the secure facility, notify the local law enforcement agencies where the
380 assignment is to be filled.

381 (b) This Subsection (18) does not apply to any person temporarily released under guard
382 from the institution in which the person is confined.

383 (19) Notwithstanding Title 77, Chapter 40, Utah Expungement Act, a person convicted
384 of any offense listed in Subsection (1)~~(g)~~(i) or ~~(n)~~ (p) is not relieved from the responsibility
385 to register as required under this section, unless removed from the registry in accordance with
386 Subsections (32) through (35).

387 (20) Notwithstanding Section 42-1-1, an offender:

388 (a) may not change the offender's name:

389 (i) while under the jurisdiction of the department; and

390 (ii) until the registration requirements of this statute have expired; and

391 (b) may not change the offender's name at any time, if registration is for life under
392 Subsection (12)(c).

393 (21) The department may make administrative rules necessary to implement this
394 section, including:

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

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

397 (22) Any information regarding the identity or location of a victim shall be redacted by
398 the department from information provided under Subsections (14) and (15).

399 (23) This section does not create or impose any duty on any person to request or obtain

400 information regarding any offender from the department.

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

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

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

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

409 (25) The Sex Offender and Kidnap Offender Notification and Registration website
410 shall be indexed by both the surname of the offender and by postal codes.

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

414 (27) The Sex Offender and Kidnap Offender Notification and Registration website
415 shall include the following registry information:

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

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

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

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

423 (e) a current photograph of the offender;

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

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

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

429 (i) the crimes listed in Subsections (1)[~~(g)~~](i) and [~~(n)~~](p) that the offender has been
430 convicted of or for which the offender has been adjudicated delinquent in juvenile court.

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

435 (29) The department shall redact information that, if disclosed, could reasonably
436 identify a victim.

437 (30) (a) Each offender required to register under Subsection (12) shall, in the month of
438 the offender's birth:

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

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

444 (b) Notwithstanding Subsection (30)(a), an offender who is confined in a secure facility
445 or in a state mental hospital is not required to pay the annual fee.

446 (c) The department shall deposit fees under this Subsection (30) in the General Fund as
447 a dedicated credit, to be used by the department for maintaining the offender registry under this
448 section and monitoring offender registration compliance, including the costs of:

449 (i) data entry;

450 (ii) processing registration packets;

451 (iii) updating registry information;

452 (iv) ensuring offender compliance with registration requirements under this section;

453 and

454 (v) apprehending offenders who are in violation of the offender registration
455 requirements under this section.

456 (31) Notwithstanding Subsections (2)(c) and (14)(i) and (j), an offender is not required
457 to provide the department with:

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

461 (b) online identifiers for the offender's financial accounts, including any bank,

462 retirement, or investment accounts.

463 (32) An offender may petition the court of conviction for the offense requiring
464 registration for an order removing the offender from the Sex Offender and Kidnap Offender
465 Registry if:

466 (a) the offender was convicted of:

467 (i) Section 76-5-40, unlawful sexual activity with a minor;

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

469 (iii) a misdemeanor violation of Section 76-9-702.7, voyeurism;

470 (b) five years have passed since the completion of the offender's sentence;

471 (c) the offender has successfully completed all treatment ordered by the court or the
472 Board of Pardons and Parole;

473 (d) the offender has not been convicted of a crime, excluding traffic offenses, as
474 evidenced by a certificate of eligibility issued by the bureau;

475 (e) the offender has complied with all the registration requirements of this section; and

476 (f) the office that prosecuted the offender, and the victim, or if the victim is still a
477 minor, the victim's parent, are notified and provided with an opportunity to respond in
478 accordance with Subsection (35).

479 (33) (a) (i) An offender seeking removal from the Sex Offender or Kidnap Offender
480 Registry shall apply for a certificate of eligibility from the bureau.

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

484 (iii) Regardless of whether the offender is prosecuted, the bureau may deny a certificate
485 of eligibility to anyone providing false information on an application.

486 (b) (i) The bureau shall perform a check of records of governmental agencies,
487 including national criminal data bases, to determine whether an offender is eligible to receive a
488 certificate of eligibility under this Section.

489 (ii) If the offender meets all of the criteria under Subsections (32)(b) and (d), the
490 bureau shall issue a certificate of eligibility to the offender which shall be valid for a period of
491 90 days from the date the certificate is issued.

492 (c) (i) The bureau shall charge application and issuance fees for a certificate of

493 eligibility in accordance with the process in Section 63J-1-504.

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

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

499 (d) Funds generated under this Subsection (33) shall be deposited in the General Fund
500 as a dedicated credit by the department to cover the costs incurred in determining eligibility.

501 (34) (a) The offender shall deliver a copy of the petition to the office of the prosecuting
502 attorney.

503 (i) Upon receipt of a petition for removal from the Sex Offender and Kidnap Offender
504 Registry, the prosecuting attorney shall provide notice of the petition by first-class mail to the
505 victim at the most recent address of record on file or, if the victim is still a minor, to the parents
506 of the victim.

507 (ii) The notice shall include a copy of the petition, state that the victim has a right to
508 object to the removal, and provide instructions for registering an objection with the court.

509 (b) The prosecuting attorney and the victim, if applicable, may respond to the petition
510 by filing a recommendation or objection with the court within 30 days after the mailing of the
511 petition.

512 (35) The court shall review all documents submitted with the petition and may hold a
513 hearing. The court shall consider whether the offender has paid all restitution ordered by the
514 court or the Board of Pardons. If the court determines that it is not contrary to the interests of
515 the public to do so, it may grant the petition and order removal. If the court grants the petition,
516 it shall forward a copy of the order to the department and the prosecutor's office.

517 (36) The prosecutor's office shall notify the victim of the court's decision in the same
518 manner as notification was provided in Subsection (34).

519 Section 2. Section **78A-2-301** is amended to read:

520 **78A-2-301. Civil fees of the courts of record -- Courts complex design.**

521 (1) (a) The fee for filing any civil complaint or petition invoking the jurisdiction of a
522 court of record not governed by another subsection is \$360.

523 (b) The fee for filing a complaint or petition is:

- 524 (i) \$75 if the claim for damages or amount in interpleader exclusive of court costs,
525 interest, and attorney fees is \$2,000 or less;
- 526 (ii) \$185 if the claim for damages or amount in interpleader exclusive of court costs,
527 interest, and attorney fees is greater than \$2,000 and less than \$10,000;
- 528 (iii) \$360 if the claim for damages or amount in interpleader is \$10,000 or more;
- 529 (iv) \$310 if the petition is filed under Title 30, Chapter 3, Divorce, or Title 30, Chapter
530 4, Separate Maintenance; ~~and~~
- 531 (v) \$35 for a motion for temporary separation order filed under Section 30-3-4.5[-]; and
532 (vi) \$125 if the petition is for removal from the Sex Offender and Kidnap Offender
533 Registry under Subsection 77-27-21.5(32).
- 534 (c) The fee for filing a small claims affidavit is:
- 535 (i) \$60 if the claim for damages or amount in interpleader exclusive of court costs,
536 interest, and attorney fees is \$2,000 or less;
- 537 (ii) \$100 if the claim for damages or amount in interpleader exclusive of court costs,
538 interest, and attorney fees is greater than \$2,000, but less than \$7,500; and
- 539 (iii) \$185 if the claim for damages or amount in interpleader exclusive of court costs,
540 interest, and attorney fees is \$7,500 or more.
- 541 (d) The fee for filing a counter claim, cross claim, complaint in intervention, third party
542 complaint, or other claim for relief against an existing or joined party other than the original
543 complaint or petition is:
- 544 (i) \$55 if the claim for relief exclusive of court costs, interest, and attorney fees is
545 \$2,000 or less;
- 546 (ii) \$150 if the claim for relief exclusive of court costs, interest, and attorney fees is
547 greater than \$2,000 and less than \$10,000;
- 548 (iii) \$155 if the original petition is filed under Subsection (1)(a), the claim for relief is
549 \$10,000 or more, or the party seeks relief other than monetary damages; and
- 550 (iv) \$115 if the original petition is filed under Title 30, Chapter 3, Divorce, or Title 30,
551 Chapter 4, Separate Maintenance.
- 552 (e) The fee for filing a small claims counter affidavit is:
- 553 (i) \$50 if the claim for relief exclusive of court costs, interest, and attorney fees is
554 \$2,000 or less;

555 (ii) \$70 if the claim for relief exclusive of court costs, interest, and attorney fees is
556 greater than \$2,000, but less than \$7,500; and

557 (iii) \$120 if the claim for relief exclusive of court costs, interest, and attorney fees is
558 \$7,500 or more.

559 (f) The fee for depositing funds under Section 57-1-29 when not associated with an
560 action already before the court is determined under Subsection (1)(b) based on the amount
561 deposited.

562 (g) The fee for filing a petition is:

563 (i) \$225 for trial de novo of an adjudication of the justice court or of the small claims
564 department; and

565 (ii) \$65 for an appeal of a municipal administrative determination in accordance with
566 Section 10-3-703.7.

567 (h) The fee for filing a notice of appeal, petition for appeal of an interlocutory order, or
568 petition for writ of certiorari is \$225.

569 (i) The fee for filing a petition for expungement is \$135.

570 (j) (i) Fifteen dollars of the fees established by Subsections (1)(a) through (i) shall be
571 allocated to and between the Judges' Contributory Retirement Trust Fund and the Judges'
572 Noncontributory Retirement Trust Fund, as provided in Title 49, Chapter 17, Judges'
573 Contributory Retirement Act, and Title 49, Chapter 18, Judges' Noncontributory Retirement
574 Act.

575 (ii) Four dollars of the fees established by Subsections (1)(a) through (i) shall be
576 allocated by the state treasurer to be deposited in the restricted account, Children's Legal
577 Defense Account, as provided in Section 51-9-408.

578 (iii) Three dollars of the fees established under Subsections (1)(a) through (e), (1)(g),
579 and (1)(s) shall be allocated to and deposited with the Dispute Resolution Account as provided
580 in Section 78B-6-209.

581 (iv) Fifteen dollars of the fees established by Subsections (1)(a), (1)(b)(iii) and (iv),
582 (1)(d)(iii) and (iv), (1)(g)(ii), (1)(h), and (1)(i) shall be allocated by the state treasurer to be
583 deposited in the restricted account, Court Security Account, as provided in Section 78A-2-602.

584 (v) Five dollars of the fees established by Subsections (1)(b)(i) and (ii), (1)(d)(ii) and
585 (1)(g)(i) shall be allocated by the state treasurer to be deposited in the restricted account, Court

586 Security Account, as provided in Section 78A-2-602.

587 (k) The fee for filing a judgment, order, or decree of a court of another state or of the
588 United States is \$35.

589 (l) The fee for filing a renewal of judgment in accordance with Section 78B-6-1801 is
590 50% of the fee for filing an original action seeking the same relief.

591 (m) The fee for filing probate or child custody documents from another state is \$35.

592 (n) (i) The fee for filing an abstract or transcript of judgment, order, or decree of the
593 Utah State Tax Commission is \$30.

594 (ii) The fee for filing an abstract or transcript of judgment of a court of law of this state
595 or a judgment, order, or decree of an administrative agency, commission, board, council, or
596 hearing officer of this state or of its political subdivisions other than the Utah State Tax
597 Commission, is \$50.

598 (o) The fee for filing a judgment by confession without action under Section
599 78B-5-205 is \$35.

600 (p) The fee for filing an award of arbitration for confirmation, modification, or
601 vacation under Title 78B, Chapter 11, Utah Uniform Arbitration Act, that is not part of an
602 action before the court is \$35.

603 (q) The fee for filing a petition or counter-petition to modify a decree of divorce is
604 \$100.

605 (r) The fee for filing any accounting required by law is:

606 (i) \$15 for an estate valued at \$50,000 or less;

607 (ii) \$30 for an estate valued at \$75,000 or less but more than \$50,000;

608 (iii) \$50 for an estate valued at \$112,000 or less but more than \$75,000;

609 (iv) \$90 for an estate valued at \$168,000 or less but more than \$112,000; and

610 (v) \$175 for an estate valued at more than \$168,000.

611 (s) The fee for filing a demand for a civil jury is \$250.

612 (t) The fee for filing a notice of deposition in this state concerning an action pending in
613 another state under Utah Rule of Civil Procedure 26 is \$35.

614 (u) The fee for filing documents that require judicial approval but are not part of an
615 action before the court is \$35.

616 (v) The fee for a petition to open a sealed record is \$35.

617 (w) The fee for a writ of replevin, attachment, execution, or garnishment is \$50 in
618 addition to any fee for a complaint or petition.

619 (x) (i) The fee for a petition for authorization for a minor to marry required by Section
620 30-1-9 is \$5.

621 (ii) The fee for a petition for emancipation of a minor provided in Title 78A, Chapter 6,
622 Part 8, Emancipation, is \$50.

623 (y) The fee for a certificate issued under Section 26-2-25 is \$8.

624 (z) The fee for a certified copy of a document is \$4 per document plus 50 cents per
625 page.

626 (aa) The fee for an exemplified copy of a document is \$6 per document plus 50 cents
627 per page.

628 (bb) The Judicial Council shall by rule establish a schedule of fees for copies of
629 documents and forms and for the search and retrieval of records under Title 63G, Chapter 2,
630 Government Records Access and Management Act. Fees under this Subsection (1)(bb) shall
631 be credited to the court as a reimbursement of expenditures.

632 (cc) There is no fee for services or the filing of documents not listed in this section or
633 otherwise provided by law.

634 (dd) Except as provided in this section, all fees collected under this section are paid to
635 the General Fund. Except as provided in this section, all fees shall be paid at the time the clerk
636 accepts the pleading for filing or performs the requested service.

637 (ee) The filing fees under this section may not be charged to the state, its agencies, or
638 political subdivisions filing or defending any action. In judgments awarded in favor of the
639 state, its agencies, or political subdivisions, except the Office of Recovery Services, the court
640 shall order the filing fees and collection costs to be paid by the judgment debtor. The sums
641 collected under this Subsection (1)(ee) shall be applied to the fees after credit to the judgment,
642 order, fine, tax, lien, or other penalty and costs permitted by law.

643 (2) (a) (i) From March 17, 1994 until June 30, 1998, the administrator of the courts
644 shall transfer all revenues representing the difference between the fees in effect after May 2,
645 1994, and the fees in effect before February 1, 1994, as dedicated credits to the Division of
646 Facilities Construction and Management Capital Projects Fund.

647 (ii) (A) Except as provided in Subsection (2)(a)(ii)(B), the Division of Facilities

648 Construction and Management shall use up to \$3,750,000 of the revenue deposited in the
649 Capital Projects Fund under this Subsection (2)(a) to design and take other actions necessary to
650 initiate the development of a courts complex in Salt Lake City.

651 (B) If the Legislature approves funding for construction of a courts complex in Salt
652 Lake City in the 1995 Annual General Session, the Division of Facilities Construction and
653 Management shall use the revenue deposited in the Capital Projects Fund under this Subsection
654 (2)(a)(ii) to construct a courts complex in Salt Lake City.

655 (C) After the courts complex is completed and all bills connected with its construction
656 have been paid, the Division of Facilities Construction and Management shall use any money
657 remaining in the Capital Projects Fund under this Subsection (2)(a)(ii) to fund the Vernal
658 District Court building.

659 (iii) The Division of Facilities Construction and Management may enter into
660 agreements and make expenditures related to this project before the receipt of revenues
661 provided for under this Subsection (2)(a)(iii).

662 (iv) The Division of Facilities Construction and Management shall:

663 (A) make those expenditures from unexpended and unencumbered building funds
664 already appropriated to the Capital Projects Fund; and

665 (B) reimburse the Capital Projects Fund upon receipt of the revenues provided for
666 under this Subsection (2).

667 (b) After June 30, 1998, the administrator of the courts shall ensure that all revenues
668 representing the difference between the fees in effect after May 2, 1994, and the fees in effect
669 before February 1, 1994, are transferred to the Division of Finance for deposit in the restricted
670 account.

671 (c) The Division of Finance shall deposit all revenues received from the court
672 administrator into the restricted account created by this section.

673 (d) (i) From May 1, 1995 until June 30, 1998, the administrator of the courts shall
674 transfer \$7 of the amount of a fine or bail forfeiture paid for a violation of Title 41, Motor
675 Vehicles, in a court of record to the Division of Facilities Construction and Management
676 Capital Projects Fund. The division of money pursuant to Section 78A-5-110 shall be
677 calculated on the balance of the fine or bail forfeiture paid.

678 (ii) After June 30, 1998, the administrator of the courts or a municipality shall transfer

679 \$7 of the amount of a fine or bail forfeiture paid for a violation of Title 41, Motor Vehicles, in
680 a court of record to the Division of Finance for deposit in the restricted account created by this
681 section. The division of money pursuant to Section 78A-5-110 shall be calculated on the
682 balance of the fine or bail forfeiture paid.

683 (3) (a) There is created within the General Fund a restricted account known as the State
684 Courts Complex Account.

685 (b) The Legislature may appropriate money from the restricted account to the
686 administrator of the courts for the following purposes only:

687 (i) to repay costs associated with the construction of the court complex that were
688 funded from sources other than revenues provided for under this Subsection (3)(b)(i); and

689 (ii) to cover operations and maintenance costs on the court complex.

Legislative Review Note
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Office of Legislative Research and General Counsel