

SEX AND KIDNAP OFFENDER REGISTRY AMENDMENTS

2024 GENERAL SESSION

STATE OF UTAH

Chief Sponsor: Andrew Stoddard

Senate Sponsor: Michael K. McKell

LONG TITLE

General Description:

This bill amends provisions related to the Sex and Kidnap Offender Registry.

Highlighted Provisions:

This bill:

- changes references from the Department of Corrections to the Department of Public Safety;
- clarifies the purpose of the Department of Public Safety keeping certain information for individuals on the Sex and Kidnap Offender Registry; and
- clarifies the requirements the Bureau of Criminal Identification and the Department of Corrections must check for when an individual petitions to be removed from the registry.

Money Appropriated in this Bill:

None

Other Special Clauses:

This bill provides a special effective date.

Utah Code Sections Affected:

AMENDS:

53-3-205, as last amended by Laws of Utah 2023, Chapters 328, 454

53-3-804, as last amended by Laws of Utah 2023, Chapter 328

77-27-5.2, as enacted by Laws of Utah 2021, Chapter 410

77-27-21.7, as last amended by Laws of Utah 2023, Chapters 18, 117

77-41-103, as last amended by Laws of Utah 2023, Chapters 123, 128

77-41-112, as last amended by Laws of Utah 2023, Chapters 124, 128

80-5-201, as last amended by Laws of Utah 2023, Chapter 123

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

29 Section 1. Section **53-3-205** is amended to read:

30 **53-3-205 . Application for license or endorsement -- Fee required -- Tests --**
31 **Expiration dates of licenses and endorsements -- Information required -- Previous**
32 **licenses surrendered -- Driving record transferred from other states -- Reinstatement --**
33 **Fee required -- License agreement.**

34 (1) An application for an original license, provisional license, or endorsement shall be:

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

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

- 39 (a) not more than three attempts to pass both the knowledge and the skills tests for a
40 class D license within six months after the date of the application;
- 41 (b) a learner permit if needed pending completion of the application and testing process;
42 and
- 43 (c) an original class D license and license certificate after all tests are passed and
44 requirements are completed.

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

- 46 (a) not more than three attempts to pass both the knowledge and skills tests within six
47 months after the date of the application;
- 48 (b) a motorcycle learner permit after the motorcycle knowledge test is passed; and
- 49 (c) a motorcycle or taxicab endorsement when all tests are passed.

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

- 51 (a) not more than two attempts to pass a knowledge test when accompanied by the fee
52 provided in Subsection 53-3-105(18);
- 53 (b) not more than two attempts to pass a skills test when accompanied by a fee in
54 Subsection 53-3-105(19) within six months after the date of application;
- 55 (c) both a commercial driver instruction permit and a temporary license permit for the
56 license class held before the applicant submits the application if needed after the
57 knowledge test is passed; and
- 58 (d) an original commercial class A, B, or C license and license certificate when all
59 applicable tests are passed.

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

- 61 (a) not more than two attempts to pass a knowledge test and not more than two attempts
62 to pass a skills test within six months after the date of the application; and

- 63 (b) a CDL endorsement when all tests are passed.
- 64 (6) (a) If a CDL applicant does not pass a knowledge test, skills test, or an endorsement
65 test within the number of attempts provided in Subsection (4) or (5), each test may be
66 taken two additional times within the six months for the fee provided in Section
67 53-3-105.
- 68 (b) (i) An out-of-state resident who holds a valid CDIP issued by a state or
69 jurisdiction that is compliant with 49 C.F.R. Part 383 may take a skills test
70 administered by the division if the out-of-state resident pays the fee provided in
71 Subsection 53-3-105(19).
- 72 (ii) The division shall:
- 73 (A) electronically transmit skills test results for an out-of-state resident to the
74 licensing agency in the state or jurisdiction in which the out-of-state resident
75 has obtained a valid CDIP; and
- 76 (B) provide the out-of-state resident with documentary evidence upon successful
77 completion of the skills test.
- 78 (7) (a) (i) Except as provided under Subsections (7)(a)(ii), (f), and (g), an original
79 class D license expires on the birth date of the applicant in the eighth year after the
80 year the license certificate was issued.
- 81 (ii) An original provisional class D license expires on the birth date of the applicant
82 in the fifth year following the year the license certificate was issued.
- 83 (iii) Except as provided in Subsection (7)(f), a limited term class D license expires on
84 the birth date of the applicant in the fifth year the license certificate was issued.
- 85 (b) Except as provided under Subsections (7)(f) and (g), a renewal or an extension to a
86 license expires on the birth date of the licensee in the eighth year after the expiration
87 date of the license certificate renewed or extended.
- 88 (c) Except as provided under Subsections (7)(f) and (g), a duplicate license expires on
89 the same date as the last license certificate issued.
- 90 (d) An endorsement to a license expires on the same date as the license certificate
91 regardless of the date the endorsement was granted.
- 92 (e) (i) A regular license certificate and an endorsement to the regular license
93 certificate held by an individual described in Subsection (7)(e)(ii), that expires
94 during the time period the individual is stationed outside of the state, is valid until
95 90 days after the individual's orders are terminated, the individual is discharged, or
96 the individual's assignment is changed or terminated, unless:

- 97 (A) the license is suspended, disqualified, denied, or has been cancelled or
98 revoked by the division; or
99 (B) the licensee updates the information or photograph on the license certificate.
- 100 (ii) The provisions in Subsection (7)(e)(i) apply to an individual:
101 (A) ordered to active duty and stationed outside of Utah in any of the armed forces
102 of the United States;
103 (B) who is an immediate family member or dependent of an individual described
104 in Subsection (7)(e)(ii)(A) and is residing outside of Utah;
105 (C) who is a civilian employee of the United States State Department or United
106 States Department of Defense and is stationed outside of the United States; or
107 (D) who is an immediate family member or dependent of an individual described
108 in Subsection (7)(e)(ii)(C) and is residing outside of the United States.
- 109 (f) (i) Except as provided in Subsection (7)(f)(ii), a limited-term license certificate or
110 a renewal to a limited-term license certificate expires:
111 (A) on the expiration date of the period of time of the individual's authorized stay
112 in the United States or on the date provided under this Subsection (7),
113 whichever is sooner; or
114 (B) on the date of issuance in the first year following the year that the limited-term
115 license certificate was issued if there is no definite end to the individual's
116 period of authorized stay.
- 117 (ii) A limited-term license certificate or a renewal to a limited-term license certificate
118 issued to an approved asylee or a refugee expires on the birth date of the applicant
119 in the fifth year following the year that the limited-term license certificate was
120 issued.
- 121 (g) A driving privilege card issued or renewed under Section 53-3-207 expires on the
122 birth date of the applicant in the first year following the year that the driving privilege
123 card was issued or renewed.
- 124 (8) (a) In addition to the information required by Title 63G, Chapter 4, Administrative
125 Procedures Act, for requests for agency action, an applicant shall:
126 (i) provide:
127 (A) the applicant's full legal name;
128 (B) the applicant's birth date;
129 (C) the applicant's sex;
130 (D) (I) documentary evidence of the applicant's valid social security number;

- 131 (II) written proof that the applicant is ineligible to receive a social security
132 number;
- 133 (III) the applicant's temporary identification number (ITIN) issued by the
134 Internal Revenue Service for an individual who:
135 (Aa) does not qualify for a social security number; and
136 (Bb) is applying for a driving privilege card; or
- 137 (IV) other documentary evidence approved by the division;
- 138 (E) the applicant's Utah residence address as documented by a form or forms
139 acceptable under rules made by the division under Section 53-3-104, unless the
140 application is for a temporary CDL issued under Subsection 53-3-407(2)(b);
141 and
- 142 (F) fingerprints, or a fingerprint confirmation form described in Subsection
143 53-3-205.5(1)(a)(ii), and a photograph in accordance with Section 53-3-205.5
144 if the applicant is applying for a driving privilege card;
- 145 (ii) provide evidence of the applicant's lawful presence in the United States by
146 providing documentary evidence:
- 147 (A) that the applicant is:
148 (I) a United States citizen;
149 (II) a United States national; or
150 (III) a legal permanent resident alien; or
- 151 (B) of the applicant's:
152 (I) unexpired immigrant or nonimmigrant visa status for admission into the
153 United States;
154 (II) pending or approved application for asylum in the United States;
155 (III) admission into the United States as a refugee;
156 (IV) pending or approved application for temporary protected status in the
157 United States;
158 (V) approved deferred action status;
159 (VI) pending application for adjustment of status to legal permanent resident or
160 conditional resident; or
161 (VII) conditional permanent resident alien status;
- 162 (iii) provide a description of the applicant;
- 163 (iv) state whether the applicant has previously been licensed to drive a motor vehicle
164 and, if so, when and by what state or country;

- 165 (v) state whether the applicant has ever had a license suspended, cancelled, revoked,
166 disqualified, or denied in the last 10 years, or whether the applicant has ever had a
167 license application refused, and if so, the date of and reason for the suspension,
168 cancellation, revocation, disqualification, denial, or refusal;
- 169 (vi) state whether the applicant intends to make an anatomical gift under Title 26B,
170 Chapter 8, Part 3, Revised Uniform Anatomical Gift Act, in compliance with
171 Subsection (15);
- 172 (vii) state whether the applicant is required to register as a sex offender in accordance
173 with Title 77, Chapter 41, Sex and Kidnap Offender Registry;
- 174 (viii) state whether the applicant is a veteran of the United States military, provide
175 verification that the applicant was granted an honorable or general discharge from
176 the United States Armed Forces, and state whether the applicant does or does not
177 authorize sharing the information with the Department of Veterans and Military
178 Affairs;
- 179 (ix) provide all other information the division requires; and
- 180 (x) sign the application which signature may include an electronic signature as
181 defined in Section 46-4-102.
- 182 (b) Unless the applicant provides acceptable verification of homelessness as described in
183 rules made by the division, an applicant shall have a Utah residence address, unless
184 the application is for a temporary CDL issued under Subsection 53-3-407(2)(b).
- 185 (c) An applicant shall provide evidence of lawful presence in the United States in
186 accordance with Subsection (8)(a)(ii), unless the application is for a driving privilege
187 card.
- 188 (d) The division shall maintain on the division's computerized records an applicant's:
189 (i) (A) social security number;
190 (B) temporary identification number (ITIN); or
191 (C) other number assigned by the division if Subsection (8)(a)(i)(D)(IV) applies;
192 and
193 (ii) indication whether the applicant is required to register as a sex offender in
194 accordance with Title 77, Chapter 41, Sex and Kidnap Offender Registry.
- 195 (9) The division shall require proof of an applicant's name, birth date, and birthplace by at
196 least one of the following means:
197 (a) current license certificate;
198 (b) birth certificate;

- 199 (c) Selective Service registration; or
200 (d) other proof, including church records, family Bible notations, school records, or
201 other evidence considered acceptable by the division.
- 202 (10) (a) Except as provided in Subsection (10)(c), if an applicant receives a license in a
203 higher class than what the applicant originally was issued:
204 (i) the license application is treated as an original application; and
205 (ii) license and endorsement fees is assessed under Section 53-3-105.
- 206 (b) An applicant that receives a downgraded license in a lower license class during an
207 existing license cycle that has not expired:
208 (i) may be issued a duplicate license with a lower license classification for the
209 remainder of the existing license cycle; and
210 (ii) shall be assessed a duplicate license fee under Subsection 53-3-105(25) if a
211 duplicate license is issued under Subsection (10)(b)(i).
- 212 (c) An applicant who has received a downgraded license in a lower license class under
213 Subsection (10)(b):
214 (i) may, when eligible, receive a duplicate license in the highest class previously
215 issued during a license cycle that has not expired for the remainder of the existing
216 license cycle; and
217 (ii) shall be assessed a duplicate license fee under Subsection 53-3-105(25) if a
218 duplicate license is issued under Subsection (10)(c)(i).
- 219 (11) (a) When an application is received from an applicant previously licensed in
220 another state to drive a motor vehicle, the division shall request a copy of the driver's
221 record from the other state.
222 (b) When received, the driver's record becomes part of the driver's record in this state
223 with the same effect as though entered originally on the driver's record in this state.
- 224 (12) An application for reinstatement of a license after the suspension, cancellation,
225 disqualification, denial, or revocation of a previous license is accompanied by the
226 additional fee or fees specified in Section 53-3-105.
- 227 (13) An individual who has an appointment with the division for testing and fails to keep
228 the appointment or to cancel at least 48 hours in advance of the appointment shall pay
229 the fee under Section 53-3-105.
- 230 (14) An applicant who applies for an original license or renewal of a license agrees that the
231 individual's license is subject to a suspension or revocation authorized under this title or
232 Title 41, Motor Vehicles.

- 233 (15) (a) A licensee shall authenticate the indication of intent under Subsection (8)(a)(vi)
234 in accordance with division rule.
- 235 (b) (i) Notwithstanding Title 63G, Chapter 2, Government Records Access and
236 Management Act, the division may, upon request, release to an organ procurement
237 organization, as defined in Section 26B-8-301, the names and addresses of all
238 applicants who, under Subsection (8)(a)(vi), indicate that they intend to make an
239 anatomical gift.
- 240 (ii) An organ procurement organization may use released information only to:
241 (A) obtain additional information for an anatomical gift registry; and
242 (B) inform licensees of anatomical gift options, procedures, and benefits.
- 243 (16) Notwithstanding Title 63G, Chapter 2, Government Records Access and Management
244 Act, the division may release to the Department of Veterans and Military Affairs the
245 names and addresses of all applicants who indicate their status as a veteran under
246 Subsection (8)(a)(viii).
- 247 (17) Notwithstanding Title 63G, Chapter 2, Government Records Access and Management
248 Act, the division shall, upon request, release to the Sex and Kidnap Offender Registry
249 office in the Department of [~~Corrections~~] Public Safety, the names and addresses of all
250 applicants who, under Subsection (8)(a)(vii), indicate they are required to register as a
251 sex offender in accordance with Title 77, Chapter 41, Sex and Kidnap Offender Registry.
- 252 (18) The division and its employees are not liable, as a result of false or inaccurate
253 information provided under Subsection (8)(a)(vi) or (viii), for direct or indirect:
254 (a) loss;
255 (b) detriment; or
256 (c) injury.
- 257 (19) An applicant who knowingly fails to provide the information required under
258 Subsection (8)(a)(vii) is guilty of a class A misdemeanor.
- 259 (20) A person may not hold both an unexpired Utah license certificate and an unexpired
260 identification card.
- 261 (21) (a) An applicant who applies for an original motorcycle endorsement to a regular
262 license certificate is exempt from the requirement to pass the knowledge and skills
263 test to be eligible for the motorcycle endorsement if the applicant:
264 (i) is a resident of the state of Utah;
265 (ii) (A) is ordered to active duty and stationed outside of Utah in any of the armed
266 forces of the United States; or

- 267 (B) is an immediate family member or dependent of an individual described in
268 Subsection (21)(a)(ii)(A) and is residing outside of Utah;
- 269 (iii) has a digitized driver license photo on file with the division;
- 270 (iv) provides proof to the division of the successful completion of a certified
271 Motorcycle Safety Foundation rider training course; and
- 272 (v) provides the necessary information and documentary evidence required under
273 Subsection (8).
- 274 (b) In accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, the
275 division shall make rules:
- 276 (i) establishing the procedures for an individual to obtain a motorcycle endorsement
277 under this Subsection (21); and
- 278 (ii) identifying the applicable restrictions for a motorcycle endorsement issued under
279 this Subsection (21).

280 Section 2. Section **53-3-804** is amended to read:

281 **53-3-804 . Application for identification card -- Required information -- Release**
282 **of anatomical gift information -- Cancellation of identification card.**

- 283 (1) To apply for a regular identification card or limited-term identification card, an
284 applicant shall:
- 285 (a) be a Utah resident;
- 286 (b) have a Utah residence address; and
- 287 (c) appear in person at any license examining station.
- 288 (2) An applicant shall provide the following information to the division:
- 289 (a) true and full legal name and Utah residence address;
- 290 (b) date of birth as set forth in a certified copy of the applicant's birth certificate, or other
291 satisfactory evidence of birth, which shall be attached to the application;
- 292 (c) (i) social security number; or
- 293 (ii) written proof that the applicant is ineligible to receive a social security number;
- 294 (d) place of birth;
- 295 (e) height and weight;
- 296 (f) color of eyes and hair;
- 297 (g) signature;
- 298 (h) photograph;
- 299 (i) evidence of the applicant's lawful presence in the United States by providing
300 documentary evidence:

- 301 (i) that the applicant is:
- 302 (A) a United States citizen;
- 303 (B) a United States national; or
- 304 (C) a legal permanent resident alien; or
- 305 (ii) of the applicant's:
- 306 (A) unexpired immigrant or nonimmigrant visa status for admission into the
- 307 United States;
- 308 (B) pending or approved application for asylum in the United States;
- 309 (C) admission into the United States as a refugee;
- 310 (D) pending or approved application for temporary protected status in the United
- 311 States;
- 312 (E) approved deferred action status;
- 313 (F) pending application for adjustment of status to legal permanent resident or
- 314 conditional resident; or
- 315 (G) conditional permanent resident alien status;
- 316 (j) an indication whether the applicant intends to make an anatomical gift under Title
- 317 26B, Chapter 8, Part 3, Revised Uniform Anatomical Gift Act;
- 318 (k) an indication whether the applicant is required to register as a sex offender in
- 319 accordance with Title 77, Chapter 41, Sex and Kidnap Offender Registry; and
- 320 (l) an indication whether the applicant is a veteran of the United States Armed Forces,
- 321 verification that the applicant has received an honorable or general discharge from
- 322 the United States Armed Forces, and an indication whether the applicant does or does
- 323 not authorize sharing the information with the state Department of Veterans and
- 324 Military Affairs.
- 325 (3) (a) The requirements of Section 53-3-234 apply to this section for each individual,
- 326 age 16 and older, applying for an identification card.
- 327 (b) Refusal to consent to the release of information under Section 53-3-234 shall result
- 328 in the denial of the identification card.
- 329 (4) An individual person who knowingly fails to provide the information required under
- 330 Subsection (2)(k) is guilty of a class A misdemeanor.
- 331 (5) (a) A person may not hold both an unexpired Utah license certificate and an
- 332 unexpired identification card.
- 333 (b) A person who holds a regular or limited term Utah driver license and chooses to
- 334 relinquish the person's driving privilege may apply for an identification card under

- 335 this chapter, provided:
- 336 (i) the driver:
- 337 (A) no longer qualifies for a driver license for failure to meet the requirement in
- 338 Section 53-3-304; or
- 339 (B) makes a personal decision to permanently discontinue driving; and
- 340 (ii) the driver:
- 341 (A) submits an application to the division on a form approved by the division in
- 342 person, through electronic means, or by mail;
- 343 (B) affirms their intention to permanently discontinue driving; and
- 344 (C) surrenders to the division the driver license certificate; and
- 345 (iii) the division possesses a digital photograph of the driver obtained within the
- 346 preceding 10 years.
- 347 (c) (i) The division shall waive the fee under Section 53-3-105 for an identification
- 348 card for an original identification card application under this Subsection (5).
- 349 (ii) The fee waiver described in Subsection (5)(c)(i) does not apply to a person whose
- 350 driving privilege is suspended or revoked.
- 351 (6) Notwithstanding Title 63G, Chapter 2, Government Records Access and Management
- 352 Act, the division shall, upon request, release to the Sex and Kidnap Offender Registry
- 353 office in the Department of [~~Corrections~~] Public Safety, the names and addresses of all
- 354 applicants who, under Subsection (2)(k), indicate they are required to register as a sex
- 355 offender in accordance with Title 77, Chapter 41, Sex and Kidnap Offender Registry.
- 356 Section 3. Section **77-27-5.2** is amended to read:
- 357 **77-27-5.2 . Board authority to order removal from Sex and Kidnap Offender**
- 358 **Registry.**
- 359 (1) If the board grants a pardon for a conviction that is the basis for an individual's
- 360 registration on the Sex and Kidnap Offender Registry, the board shall issue an order
- 361 directing the Department of [~~Corrections~~] Public Safety to remove the individual's name
- 362 and personal information relating to the pardoned conviction from the Sex and Kidnap
- 363 Offender Registry.
- 364 (2) An order described in Subsection (1), issued by the board, satisfies the notification
- 365 requirement described in Subsection 77-41-113(1)(b).
- 366 Section 4. Section **77-27-21.7** is amended to read:
- 367 **77-27-21.7 . Sex offender restrictions.**
- 368 (1) As used in this section:

- 369 (a) "Condominium project" means the same as that term is defined in Section 57-8-3.
370 (b) "Minor" means an individual who is younger than 18 years old;
371 (c) (i) "Protected area" means the premises occupied by:
372 (A) a licensed day care or preschool facility;
373 (B) a public swimming pool or a swimming pool maintained, operated, or owned
374 by a homeowners' association, condominium project, or apartment complex;
375 (C) a public or private primary or secondary school that is not on the grounds of a
376 correctional facility;
377 (D) a community park that is open to the public or a park maintained, operated, or
378 owned by a homeowners' association, condominium project, or apartment
379 complex;
380 (E) a public playground or a playground maintained, operated, or owned by a
381 homeowners' association, condominium project, or apartment complex,
382 including those areas designed to provide minors with space, recreational
383 equipment, or other amenities intended to allow minors to engage in physical
384 activity; and
385 (F) except as provided in Subsection (1)(c)(ii), an area that is 1,000 feet or less
386 from the residence of a victim of the sex offender if the sex offender is subject
387 to a victim requested restriction.
388 (ii) "Protected area" does not include:
389 (A) the area described in Subsection (1)(c)(i)(F) if the victim is a member of the
390 immediate family of the sex offender and the terms of the sex offender's
391 agreement of probation or parole allow the sex offender to reside in the same
392 residence as the victim;
393 (B) a park, playground, or swimming pool located on the property of a residential
394 home;
395 (C) a park or swimming pool that prohibits minors at all times from using the park
396 or swimming pool; or
397 (D) a park or swimming pool maintained, operated, or owned by a homeowners'
398 association, condominium project, or apartment complex established for
399 residents 55 years old or older if no minors are present at the park or swimming
400 pool at the time the sex offender is present at the park or swimming pool.
401 (d) "Sex offender" means an adult or juvenile who is required to register in accordance
402 with Title 77, Chapter 41, Sex and Kidnap Offender Registry, due to a conviction for

- 403 an offense that is committed against a person younger than 18 years old.
- 404 (2) For purposes of Subsection (1)(c)(i)(F), a sex offender is subject to a victim requested
405 restriction if:
- 406 (a) the sex offender is on probation or parole for an offense that requires the offender to
407 register in accordance with Title 77, Chapter 41, Sex and Kidnap Offender Registry;
- 408 (b) the victim or the victim's parent or guardian advises the Department of [~~Corrections~~]
409 Public Safety that the victim elects to restrict the sex offender from the area and
410 authorizes the Department of [~~Corrections~~] Public Safety to advise the sex offender of
411 the area where the victim resides; and
- 412 (c) the Department of [~~Corrections~~] Public Safety notifies the sex offender in writing that
413 the sex offender is prohibited from being in the area described in Subsection
414 (1)(c)(i)(F) and provides a description of the location of the protected area to the sex
415 offender.
- 416 (3) A sex offender may not:
- 417 (a) be in a protected area except:
- 418 (i) when the sex offender must be in a protected area to perform the sex offender's
419 parental responsibilities;
- 420 (ii) (A) when the protected area is a public or private primary or secondary school;
421 and
422 (B) the school is open and being used for a public activity other than a
423 school-related function that involves a minor; or
- 424 (iii) (A) if the protected area is a licensed day care or preschool facility located
425 within a building that is open to the public for purposes other than the
426 operation of the day care or preschool facility; and
427 (B) the sex offender does not enter a part of the building that is occupied by the
428 day care or preschool facility; or
- 429 (b) serve as an athletic coach, manager, or trainer for a sports team of which a minor
430 who is younger than 18 years old is a member.
- 431 (4) A sex offender who violates this section is guilty of:
- 432 (a) a class A misdemeanor; or
- 433 (b) if previously convicted of violating this section within the last ten years, a third
434 degree felony.

435 Section 5. Section **77-41-103** is amended to read:
436 **77-41-103 . Department duties.**

- 437 (1) The department, to assist law enforcement in investigating kidnapping and sex-related
438 crimes and in apprehending offenders, shall:
- 439 (a) develop and operate a system to collect, analyze, maintain, and disseminate
440 information on offenders and sex and kidnap offenses;
- 441 (b) make information listed in Subsection 77-41-110(4) available to the public; and
- 442 (c) share information provided by an offender under this chapter that may not be made
443 available to the public under Subsection 77-41-110(4), but only:
- 444 (i) for the purposes under this chapter; or
- 445 (ii) in accordance with Section 63G-2-206.
- 446 (2) Any law enforcement agency shall, in the manner prescribed by the department, inform
447 the department of:
- 448 (a) the receipt of a report or complaint of an offense listed in Subsection 77-41-102(10)
449 or (18), within three business days; and
- 450 (b) the arrest of a person suspected of any of the offenses listed in Subsection 77-41-102
451 (10) or (18), within five business days.
- 452 (3) Upon convicting a person of any of the offenses listed in Subsection 77-41-102(10) or
453 (18), the convicting court shall within three business days forward a signed copy of the
454 judgment and sentence to the Sex and Kidnap Offender Registry office within the
455 department.
- 456 (4) Upon modifying, withdrawing, setting aside, vacating, or otherwise altering a
457 conviction for any offense listed in Subsection 77-41-102(10) or (18), the court shall,
458 within three business days, forward a signed copy of the order to the Sex and Kidnap
459 Offender Registry office within the department.
- 460 (5) The department may intervene in any matter, including a criminal action, where the
461 matter purports to affect a person's lawfully entered registration requirement.
- 462 (6) The department shall:
- 463 (a) provide the following additional information when available:
- 464 (i) the crimes the offender has been convicted of or adjudicated delinquent for;
- 465 (ii) a description of the offender's primary and secondary targets; and
- 466 (iii) any other relevant identifying information as determined by the department;
- 467 (b) maintain the Sex Offender and Kidnap Offender Notification and Registration
468 website; and
- 469 (c) ensure that the registration information collected regarding an offender's enrollment
470 or employment at an educational institution is:

- 471 (i) (A) promptly made available to any law enforcement agency that has
472 jurisdiction where the institution is located if the educational institution is an
473 institution of higher education; or
474 (B) promptly made available to the district superintendent of the school district
475 where the offender is employed if the educational institution is an institution of
476 primary education; and
477 (ii) entered into the appropriate state records or data system.

478 Section 6. Section **77-41-112** is amended to read:

479 **77-41-112 . Removal from registry -- Requirements -- Procedure.**

- 480 (1) An offender who is required to register with the Sex and Kidnap Offender Registry may
481 petition the court for an order removing the offender from the Sex and Kidnap Offender
482 Registry if:
- 483 (a) (i) the offender was convicted of an offense described in Subsection (2);
484 (ii) at least five years have passed after the day on which the offender's sentence for
485 the offense terminated;
486 (iii) the offense is the only offense for which the offender was required to register;
487 (iv) the offender has not been convicted of another offense, excluding a traffic
488 offense, since the day on which the offender was convicted of the offense for
489 which the offender is required to register, as evidenced by a certificate of
490 eligibility issued by the bureau;
491 (v) the offender successfully completed all treatment ordered by the court or the
492 Board of Pardons and Parole relating to the offense; and
493 (vi) the offender has paid all restitution ordered by the court or the Board of Pardons
494 and Parole relating to the offense;
- 495 (b) (i) if the offender is required to register in accordance with Subsection 77-41-105
496 (3)(a);
497 (ii) at least 10 years have passed after the later of:
498 (A) the day on which the offender was placed on probation;
499 (B) the day on which the offender was released from incarceration to parole;
500 (C) the day on which the offender's sentence was terminated without parole;
501 (D) the day on which the offender entered a community-based residential
502 program; or
503 (E) for a minor, as defined in Section 80-1-102, the day on which the division's
504 custody of the offender was terminated;

- 505 (iii) the offender has not been convicted of another offense that is a class A
506 misdemeanor, felony, or capital felony within the most recent 10-year period after
507 the date described in Subsection (1)(b)(ii), as evidenced by a certificate of
508 eligibility issued by the bureau;
- 509 (iv) the offender successfully completed all treatment ordered by the court or the
510 Board of Pardons and Parole relating to the offense; and
- 511 (v) the offender has paid all restitution ordered by the court or the Board of Pardons
512 and Parole relating to the offense; or
- 513 (c) (i) the offender is required to register in accordance with Subsection 77-41-105
514 (3)(c);
- 515 (ii) at least 20 years have passed after the later of:
- 516 (A) the day on which the offender was placed on probation;
- 517 (B) the day on which the offender was released from incarceration to parole;
- 518 (C) the day on which the offender's sentence was terminated without parole;
- 519 (D) the day on which the offender entered a community-based residential
520 program; or
- 521 (E) for a minor, as defined in Section 80-1-102, the day on which the division's
522 custody of the offender was terminated;
- 523 (iii) the offender has not been convicted of another offense that is a class A
524 misdemeanor, felony, or capital felony within the most recent 20-year period after
525 the date described in Subsection (1)(c)(ii), as evidenced by a certificate of
526 eligibility issued by the bureau;
- 527 (iv) the offender completed all treatment ordered by the court or the Board of
528 Pardons and Parole relating to the offense;
- 529 (v) the offender has paid all restitution ordered by the court or the Board of Pardons
530 and Parole relating to the offense; and
- 531 (vi) the offender submits to an evidence-based risk assessment to the court, with the
532 offender's petition, that:
- 533 (A) meets the standards for the current risk assessment, score, and risk level
534 required by the Board of Pardons and Parole for parole termination requests;
- 535 (B) is completed within the six months before the date on which the petition is
536 filed; and
- 537 (C) describes the evidence-based risk assessment of the current level of risk to the
538 safety of the public posed by the offender.

- 539 (2) The offenses referred to in Subsection (1)(a)(i) are:
- 540 (a) Section 76-4-401, enticing a minor, if the offense is a class A misdemeanor;
- 541 (b) Section 76-5-301, kidnapping;
- 542 (c) Section 76-5-304, unlawful detention, if the conviction of violating Section 76-5-304
- 543 is the only conviction for which the offender is required to register;
- 544 (d) Section 76-5-401, unlawful sexual activity with a minor if, at the time of the offense,
- 545 the offender is not more than 10 years older than the victim;
- 546 (e) Section 76-5-401.1, sexual abuse of a minor, if, at the time of the offense, the
- 547 offender is not more than 10 years older than the victim;
- 548 (f) Section 76-5-401.2, unlawful sexual conduct with a 16 or 17 year old, and at the time
- 549 of the offense, the offender is not more than 15 years older than the victim;
- 550 (g) Section 76-9-702.7, voyeurism, if the offense is a class A misdemeanor; or
- 551 (h) an offense for which an individual is required to register under Subsection 77-41-102
- 552 (10)(c) or 77-41-102(18)(c), if the offense is not substantially equivalent to an
- 553 offense described in Subsection 77-41-102(10)(a) or 77-41-102(18)(a).
- 554 (3) (a) (i) An offender seeking removal from the Sex and Kidnap Offender Registry
- 555 under this section shall apply for a certificate of eligibility from the bureau.
- 556 (ii) An offender who intentionally or knowingly provides false or misleading
- 557 information to the bureau when applying for a certificate of eligibility is guilty of
- 558 a class B misdemeanor and subject to prosecution under Section 76-8-504.6.
- 559 (iii) Regardless of whether the offender is prosecuted, the bureau may deny a
- 560 certificate of eligibility to an offender who provides false information on an
- 561 application.
- 562 (b) (i) The bureau shall:
- 563 (A) perform a check of records of governmental agencies, including national
- 564 criminal databases, to determine whether an offender is eligible to receive a
- 565 certificate of eligibility; and
- 566 (B) ~~[request information from the Department of Corrections regarding]~~ determine
- 567 whether the offender meets the requirements described in Subsection (1)(a)(ii),
- 568 (a)(v), (a)(vi), (b)(ii), (b)(iv), (b)(v), ~~[or]~~ (c)(ii), (c)(iv), or (c)(v).
- 569 ~~[(ii) Upon request from the bureau under Subsection (3)(b)(i)(B), the Department of~~
- 570 ~~Corrections shall issue a document reflecting whether the offender meets the~~
- 571 ~~requirements described in Subsection (1)(a)(ii), (a)(v), (a)(vi), (b)(ii), (b)(iv),~~
- 572 ~~(b)(v), or (c)(ii), (c)(iv), (c)(v).]~~

- 573 ~~[(iii)]~~ (ii) If the offender meets the requirements described in Subsection (1)(a), (b), or
574 (c), the bureau shall issue a certificate of eligibility to the offender, which is valid
575 for a period of 90 days after the day on which the bureau issues the certificate.
- 576 ~~[(iv) The bureau shall provide a copy of the document provided to the bureau under
577 Subsection (3)(b)(ii) to the offender upon issuance of a certificate of eligibility.]~~
- 578 (4) (a) (i) The bureau shall charge application and issuance fees for a certificate of
579 eligibility in accordance with the process in Section 63J-1-504.
- 580 (ii) The application fee shall be paid at the time the offender submits an application
581 for a certificate of eligibility to the bureau.
- 582 (iii) If the bureau determines that the issuance of a certificate of eligibility is
583 appropriate, the offender will be charged an additional fee for the issuance of a
584 certificate of eligibility.
- 585 (b) Funds generated under this Subsection (4) shall be deposited into the General Fund
586 as a dedicated credit by the department to cover the costs incurred in determining
587 eligibility.
- 588 (5) (a) The offender shall file the petition, including original information, the court
589 docket, the certificate of eligibility from the bureau, and the document from the
590 department described in Subsection (3)(b)(iv) with the court, and deliver a copy of
591 the petition to the office of the prosecutor.
- 592 (b) Upon receipt of a petition for removal from the Sex and Kidnap Offender Registry,
593 the office of the prosecutor shall provide notice of the petition by first-class mail to
594 the victim at the most recent address of record on file or, if the victim is still a minor
595 under 18 years old, to the parent or guardian of the victim.
- 596 (c) The notice described in Subsection (5)(b) shall include a copy of the petition, state
597 that the victim has a right to object to the removal of the offender from the registry,
598 and provide instructions for registering an objection with the court.
- 599 (d) The office of the prosecutor shall provide the following, if available, to the court
600 within 30 days after the day on which the office receives the petition:
- 601 (i) presentencing report;
- 602 (ii) an evaluation done as part of sentencing; and
- 603 (iii) any other information the office of the prosecutor feels the court should consider.
- 604 (e) The victim, or the victim's parent or guardian if the victim is a minor under 18 years
605 old, may respond to the petition by filing a recommendation or objection with the
606 court within 45 days after the day on which the petition is mailed to the victim.

- 607 (6) (a) The court shall:
- 608 (i) review the petition and all documents submitted with the petition; and
- 609 (ii) hold a hearing if requested by the prosecutor or the victim.
- 610 (b) (i) Except as provided in Subsections (6)(b)(ii) and (iii), the court may grant the
- 611 petition and order removal of the offender from the registry if the court determines
- 612 that the offender has met the requirements described in Subsection (1)(a) or (b)
- 613 and removal is not contrary to the interests of the public.
- 614 (ii) When considering a petition filed under Subsection (1)(c), the court shall
- 615 determine whether the offender has demonstrated, by clear and convincing
- 616 evidence, that the offender is rehabilitated and does not pose a threat to the safety
- 617 of the public.
- 618 (iii) In making the determination described in Subsection (6)(b)(ii), the court may
- 619 consider:
- 620 (A) the nature and degree of violence involved in the offense that requires
- 621 registration;
- 622 (B) the age and number of victims of the offense that requires registration;
- 623 (C) the age of the offender at the time of the offense that requires registration;
- 624 (D) the offender's performance while on supervision for the offense that requires
- 625 registration;
- 626 (E) the offender's stability in employment and housing;
- 627 (F) the offender's community and personal support system;
- 628 (G) other criminal and relevant noncriminal behavior of the offender both before
- 629 and after the offense that requires registration;
- 630 (H) the level of risk posed by the offender as evidenced by the evidence-based risk
- 631 assessment described in Subsection (1)(c)(vi); and
- 632 (I) any other relevant factors.
- 633 (c) In determining whether removal is contrary to the interests of the public, the court
- 634 may not consider removal unless the offender has substantially complied with all
- 635 registration requirements under this chapter at all times.
- 636 (d) If the court grants the petition, the court shall forward a copy of the order directing
- 637 removal of the offender from the registry to the department and the office of the
- 638 prosecutor.
- 639 (e) (i) Except as provided in Subsection (6)(e)(ii), if the court denies the petition, the
- 640 offender may not submit another petition for three years.

- 641 (ii) If the offender files a petition under Subsection (1)(c) and the court denies the
642 petition, the offender may not submit another petition for eight years.
- 643 (7) The court shall notify the victim and the Sex and Kidnap Offender Registry office in the
644 department of the court's decision within three days after the day on which the court
645 issues the court's decision in the same manner described in Subsection (5).
- 646 (8) Except as provided in Subsection (9), an offender required to register under Subsection
647 77-41-105(3)(b) may petition for early removal from the registry under Subsection
648 (1)(b) if the offender:
- 649 (a) meets the requirements of Subsections (1)(b)(ii) through (v);
 - 650 (b) has resided in this state for at least 183 days in a year for two consecutive years; and
 - 651 (c) intends to primarily reside in this state.
- 652 (9) An offender required to register under Subsection 77-41-105(3)(b) for life may petition
653 for early removal from the registry under Subsection (1)(c) if:
- 654 (a) the offense requiring the offender to register is substantially equivalent to an offense
655 listed in Section 77-41-106;
 - 656 (b) the offender meets the requirements of Subsections (1)(c)(ii) through (vi);
 - 657 (c) the offender has resided in this state for at least 183 days in a year for two
658 consecutive years; and
 - 659 (d) the offender intends to primarily reside in this state.
- 660 Section 7. Section **80-5-201** is amended to read:
- 661 **80-5-201 . Division responsibilities.**
- 662 (1) The division is responsible for all minors committed to the division by juvenile courts
663 under Sections 80-6-703 and 80-6-705.
 - 664 (2) The division shall:
 - 665 (a) establish and administer a continuum of community, secure, and nonsecure programs
666 for all minors committed to the division;
 - 667 (b) establish and maintain all detention and secure care facilities and set minimum
668 standards for all detention and secure care facilities;
 - 669 (c) establish and operate prevention and early intervention youth services programs for
670 nonadjudicated minors placed with the division;
 - 671 (d) establish observation and assessment programs necessary to serve minors in a
672 nonresidential setting under Subsection 80-6-706(1);
 - 673 (e) place minors committed to the division under Section 80-6-703 in the most
674 appropriate program for supervision and treatment;

- 675 (f) employ staff necessary to:
- 676 (i) supervise and control minors committed to the division for secure care or
- 677 placement in the community;
- 678 (ii) supervise and coordinate treatment of minors committed to the division for
- 679 placement in community-based programs; and
- 680 (iii) control and supervise adjudicated and nonadjudicated minors placed with the
- 681 division for temporary services in juvenile receiving centers, youth services, and
- 682 other programs established by the division;
- 683 (g) control or detain a minor committed to the division, or in the temporary custody of
- 684 the division, in a manner that is consistent with public safety and rules made by the
- 685 division;
- 686 (h) establish and operate work programs for minors committed to the division by the
- 687 juvenile court that:
- 688 (i) are not residential;
- 689 (ii) provide labor to help in the operation, repair, and maintenance of public facilities,
- 690 parks, highways, and other programs designated by the division;
- 691 (iii) provide educational and prevocational programs in cooperation with the State
- 692 Board of Education for minors placed in the program; and
- 693 (iv) provide counseling to minors;
- 694 (i) establish minimum standards for the operation of all private residential and
- 695 nonresidential rehabilitation facilities that provide services to minors who have
- 696 committed an offense in this state or in any other state;
- 697 (j) provide regular training for secure care staff, detention staff, case management staff,
- 698 and staff of the community-based programs;
- 699 (k) designate employees to obtain the saliva DNA specimens required under Section
- 700 53-10-403;
- 701 (l) ensure that the designated employees receive appropriate training and that the
- 702 specimens are obtained in accordance with accepted protocol;
- 703 (m) register an individual with the Department of [~~Corrections~~] Public Safety who:
- 704 (i) is adjudicated for an offense listed in Subsection 77-41-102(18)(a) or 77-43-102
- 705 (2);
- 706 (ii) is committed to the division for secure care; and
- 707 (iii) (A) if the individual is a youth offender, remains in the division's custody 30
- 708 days before the individual's 21st birthday; or

- 709 (B) if the individual is a serious youth offender, remains in the division's custody
710 30 days before the individual's 25th birthday; and
- 711 (n) ensure that a program delivered to a minor under this section is an evidence-based
712 program in accordance with Section 63M-7-208.
- 713 (3) (a) The division is authorized to employ special function officers, as defined in
714 Section 53-13-105, to:
- 715 (i) locate and apprehend minors who have absconded from division custody;
716 (ii) transport minors taken into custody in accordance with division policy;
717 (iii) investigate cases; and
718 (iv) carry out other duties as assigned by the division.
- 719 (b) A special function officer may be:
- 720 (i) employed through a contract with the Department of Public Safety, or any law
721 enforcement agency certified by the Peace Officer Standards and Training
722 Division; or
723 (ii) directly hired by the division.
- 724 (4) In the event of an unauthorized leave from secure care, detention, a community-based
725 program, a juvenile receiving center, a home, or any other designated placement of a
726 minor, a division employee has the authority and duty to locate and apprehend the
727 minor, or to initiate action with a local law enforcement agency for assistance.
- 728 (5) The division may proceed with an initial medical screening or assessment of a child
729 admitted to a detention facility to ensure the safety of the child and others in the
730 detention facility if the division makes a good faith effort to obtain consent for the
731 screening or assessment from the child's parent or guardian.

732 Section 8. **Effective date.**

733 This bill takes effect on July 1, 2024.