

Ariel Defay proposes the following substitute bill:

Criminal Conduct Amendments

2025 GENERAL SESSION

STATE OF UTAH

Chief Sponsor: Ariel Defay

Senate Sponsor:

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LONG TITLE

General Description:

This bill amends the crime of enticing a minor and provisions related to the Sex, Kidnap, and Child Abuse Offender Registry.

Highlighted Provisions:

This bill:

- amends the crime of enticing a minor;
- adds factors that a sentencing court must consider in making a determination regarding whether an individual under 21 years old used force or coercion when committing a registrable offense for purposes of determining registration length on the Sex, Kidnap, and Child Abuse Offender Registry;
- clarifies which prosecuting agency is required to receive a petition from an offender petitioning to be removed from the Sex, Kidnap, and Child Abuse Offender Registry and the responsibilities of that agency in notifying the victim regarding the petition;
- requires an offender on the Sex, Kidnap, and Child Abuse Offender Registry who is required to register on the registry because of an offense committed in another jurisdiction to be removed from the other jurisdiction's registry in order to be removed from the Sex, Kidnap, and Child Abuse Offender Registry;
- contains a coordination clause to coordinate technical changes between this bill and S.B. 41, Sex, Kidnap, and Child Abuse Offender Registry Amendments; and
- makes technical and conforming changes.

Money Appropriated in this Bill:

None

Other Special Clauses:

This bill provides a coordination clause.

Utah Code Sections Affected:

29 AMENDS:

30 **76-4-401**, as last amended by Laws of Utah 2023, Chapter 457

31 **77-41-105**, as last amended by Laws of Utah 2024, Chapter 234

32 **77-41-112**, as last amended by Laws of Utah 2024, Chapters 116, 234

33 **Utah Code Sections affected by Coordination Clause:**

34

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

36 Section 1. Section **76-4-401** is amended to read:

37 **76-4-401 . Enticing a minor -- Elements -- Penalties.**

38 (1)(a) As used in this section:

39 (i) "Minor" means an individual who is under 18 years old.

40 (ii) "Electronic communication" means the same as that term is defined in Section
41 76-9-201.

42 (iii) "Electronic communication device" means the same as that term is defined in
43 Section 76-9-201.

44 (b) Terms defined in Section 76-1-101.5 apply to this section.

45 (2) An actor commits enticement of a minor if the actor knowingly:

46 (a) uses an electronic communication or an electronic communication device to:

47 (i) solicit, seduce, lure, or entice a minor, or to attempt to solicit, seduce, lure, or
48 entice a minor, or another person [that] who the actor believes to be a minor, to
49 engage in sexual activity that is a violation of state criminal law;[-or]

50 (ii) communicate with any individual with the intent to solicit, seduce, lure, or entice
51 a minor, or attempt to solicit, seduce, lure, or entice a minor, to engage in sexual
52 activity that is a violation of state criminal law; or

53 ~~[(ii)]~~ (iii)(A) initiate contact with a minor or a person the actor believes to be a
54 minor; and

55 (B) subsequent to the action described in Subsection ~~[(2)(a)(ii)(A)]~~ (2)(a)(iii)(A),
56 by any electronic or written means, solicits, seduces, lures, or entices the minor,
57 or attempts to solicit, seduce, lure, or entice the minor, or a person the actor
58 believes to be the minor, to engage in sexual activity that is a violation of state
59 criminal law; or

60 (b) develops a relationship of trust with [the] a minor or the minor's parent or guardian
61 with the intent to solicit, seduce, lure, or entice the minor, or attempt to solicit,
62 seduce, lure, or entice the minor, to engage in sexual activity that is a violation of

63 state criminal law.

64 (3) It is not a defense to the crime of enticing a minor under Subsection (2), or an attempt to
65 commit this offense, that a law enforcement officer or an undercover operative who is
66 employed by a law enforcement agency was involved in the detection or investigation of
67 the offense.

68 (4) Enticement of a minor under Subsection (2) is punishable as follows:

69 (a) enticement to engage in sexual activity that would be a first degree felony for the
70 actor is a:

71 (i) second degree felony upon the first conviction for violation of this Subsection
72 (4)(a); and

73 (ii) first degree felony punishable by imprisonment for an indeterminate term of not
74 fewer than three years and which may be for life, upon a second or any subsequent
75 conviction for a violation of this Subsection (4)(a);

76 (b) enticement to engage in sexual activity that would be a second degree felony for the
77 actor is a third degree felony;

78 (c) enticement to engage in sexual activity that would be a third degree felony for the
79 actor is a class A misdemeanor;

80 (d) enticement to engage in sexual activity that would be a class A misdemeanor for the
81 actor is a class B misdemeanor; and

82 (e) enticement to engage in sexual activity that would be a class B misdemeanor for the
83 actor is a class C misdemeanor.

84 (5)(a) When an actor who commits a felony violation of this section has been previously
85 convicted of an offense under Subsection (5)(b), the court may not in any way
86 shorten the prison sentence, and the court may not:

87 (i) grant probation;

88 (ii) suspend the execution or imposition of the sentence;

89 (iii) enter a judgment for a lower category of offense; or

90 (iv) order hospitalization.

91 (b) The sections referred to in Subsection (5)(a) are:

92 (i) Section 76-4-401, enticing a minor;

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

94 (iii) Section 76-5-402, rape;

95 (iv) Section 76-5-402.1, rape of a child;

96 (v) Section 76-5-402.2, object rape;

- 97 (vi) Section 76-5-402.3, object rape of a child;
98 (vii) Section 76-5-403, forcible sodomy;
99 (viii) Section 76-5-403.1, sodomy on a child;
100 (ix) Section 76-5-404, forcible sexual abuse;
101 (x) Section 76-5-404.1, sexual abuse of a child and Section 76-5-404.3, aggravated
102 sexual abuse of a child;
103 (xi) Section 76-5-405, aggravated sexual assault;
104 (xii) Section 76-5-308.5, human trafficking of a child;
105 (xiii) any offense in any other state or federal jurisdiction that constitutes or would
106 constitute a crime in Subsections (5)(b)(i) through (xii); or
107 (xiv) the attempt, solicitation, or conspiracy to commit any of the offenses in
108 Subsections (5)(b)(i) through (xiii).

109 Section 2. Section **77-41-105** is amended to read:

110 **77-41-105 . Registration of offenders -- Offender responsibilities.**

- 111 (1)(a) An offender who enters this state from another jurisdiction is required to register
112 under Subsection (3) and Subsection 77-41-102(1), (11), or (19).
113 (b) The offender shall register with the department within 10 days after the day on which
114 the offender enters the state, regardless of the offender's length of stay.
- 115 (2)(a) An offender required to register under Subsection 77-41-102(1), (11), or (19) who
116 is under supervision by the department shall register in person with the Division of
117 Adult Probation and Parole.
118 (b) An offender required to register under Subsection 77-41-102(1), (11), or (19) who is
119 no longer under supervision by the department shall register in person with the police
120 department or sheriff's office that has jurisdiction over the area where the offender
121 resides.
- 122 (3)(a) Except as provided in Subsections (3)(b), (3)(c), and (4), an offender shall, for the
123 duration of the sentence and for 10 years after termination of sentence or custody of
124 the division, register each year during the month of the offender's date of birth,
125 during the month that is the sixth month after the offender's birth month, and within
126 three business days after the day on which there is a change of the offender's primary
127 residence, any secondary residences, place of employment, vehicle information, or
128 educational information required to be submitted under Subsection (7).
129 (b) Except as provided in Subsections (3)(c)(iii), (4), and (5), an offender who is
130 convicted in another jurisdiction of an offense listed in Subsection 77-41-102(1),

131 (11), or (19), a substantially similar offense, another offense that requires registration
132 in the jurisdiction of conviction, or an offender who is ordered by a court of another
133 jurisdiction to register as an offender shall register for the time period required by the
134 jurisdiction where the offender was convicted or ordered to register.

135 (c)(i) An offender convicted as an adult of an offense listed in Section 77-41-106
136 shall, for the offender's lifetime, register each year during the month of the
137 offender's birth, during the month that is the sixth month after the offender's birth
138 month, and also within three business days after the day on which there is a
139 change of the offender's primary residence, any secondary residences, place of
140 employment, vehicle information, or educational information required to be
141 submitted under Subsection (7).

142 (ii) Except as provided in Subsection (3)(c)(iii), the registration requirement
143 described in Subsection (3)(c)(i) is not subject to exemptions and may not be
144 terminated or altered during the offender's lifetime, unless a petition is granted
145 under Section 77-41-112.

146 (iii)(A) If the sentencing court at any time after conviction determines, after
147 considering the factors described in Subsection (3)(c)(iv) and any other factor
148 the sentencing court determines is relevant, that the offense does not involve
149 force or coercion, lifetime registration under Subsection (3)(c)(i) does not
150 apply to an offender who commits the offense when the offender is under 21
151 years old.

152 (B) For an offense listed in Section 77-41-106, an offender who commits the
153 offense when the offender is under 21 years old shall register for the
154 registration period required under Subsection (3)(a), unless a petition is granted
155 under Section 77-41-112.

156 (iv) In determining whether an offense committed by an offender involves force or
157 coercion under Subsection (3)(c)(iii)(A), the sentencing court shall consider:

158 (A) the age of the victim;

159 (B) the vulnerability of the victim;

160 (C) the physical, mental, psychological, or emotional harm the victim suffered
161 from the offense;

162 (D) whether the offender used fraud or deception to commit the offense; and

163 (E) if any child sexual abuse material, as that term is defined in Section 76-5b-103,
164 was:

165 (I) distributed to the victim by the offender; or
166 (II) distributed, produced, or possessed by the offender at the time of the
167 offense that involved force or coercion against a victim depicted in the child
168 sexual abuse material.

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

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

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

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

178 (5)(a) Except as provided in Subsection (5)(b), in the case of an offender adjudicated in
179 another jurisdiction as a juvenile and required to register under this chapter, the
180 offender shall register in the time period and in the frequency consistent with the
181 requirements of Subsection (3).

182 (b) If the jurisdiction of the offender's adjudication does not publish the offender's
183 information on a public website, the department shall maintain, but not publish the
184 offender's information on the registration website.

185 (6) A sex offender who violates Section 77-27-21.8 regarding being in the presence of a
186 child while required to register under this chapter shall register for an additional five
187 years subsequent to the registration period otherwise required under this chapter.

188 (7) An offender shall provide the department or the registering entity with the following
189 information:

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

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

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

194 (d) the make, model, color, year, plate number, and vehicle identification number of a
195 vehicle or vehicles the offender owns or drives more than 12 times per year;

196 (e) a current photograph of the offender;

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

198 (g) a DNA specimen, taken in accordance with Section 53-10-404, if one has not already

- 199 been provided;
- 200 (h) telephone numbers and any other designations used by the offender for routing or
201 self-identification in telephonic communications from fixed locations or cellular
202 telephones;
- 203 (i) Internet identifiers and the addresses the offender uses for routing or
204 self-identification in Internet communications or postings;
- 205 (j) the name and Internet address of all websites on which the offender is registered
206 using an online identifier, including all online identifiers used to access those
207 websites;
- 208 (k) a copy of the offender's passport, if a passport has been issued to the offender;
- 209 (l) if the offender is an alien, all documents establishing the offender's immigration
210 status;
- 211 (m) all professional licenses that authorize the offender to engage in an occupation or
212 carry out a trade or business, including any identifiers, such as numbers;
- 213 (n) each educational institution in Utah at which the offender is employed, carries on a
214 vocation, or is a student, and a change of enrollment or employment status of the
215 offender at an educational institution;
- 216 (o) the name, the telephone number, and the address of a place where the offender is
217 employed or will be employed;
- 218 (p) the name, the telephone number, and the address of a place where the offender works
219 as a volunteer or will work as a volunteer; and
- 220 (q) the offender's social security number.
- 221 (8)(a) An offender may change the offender's name in accordance with Title 42, Chapter
222 1, Change of Name, if the name change is not contrary to the interests of the public.
- 223 (b) Notwithstanding Section 42-1-2, an offender shall provide notice to the department
224 at least 30 days before the day on which the hearing for the name change is held.
- 225 (c) The court shall provide a copy of the order granting the offender's name change to
226 the department within 10 days after the day on which the court issues the order.
- 227 (d) If the court orders an offender's name changed, the department shall publish on the
228 registration website the offender's former name, and the offender's changed name as
229 an alias.
- 230 (9) Notwithstanding Subsections (7)(i) and (j) and 77-41-103(1)(c), an offender is not
231 required to provide the department with:
- 232 (a) the offender's online identifier and password used exclusively for the offender's

- 233 employment on equipment provided by an employer and used to access the
234 employer's private network; or
- 235 (b) online identifiers for the offender's financial accounts, including a bank, retirement,
236 or investment account.
- 237 Section 3. Section **77-41-112** is amended to read:
- 238 **77-41-112 . Removal from registry -- Requirements -- Procedure.**
- 239 (1) ~~[A]~~ Subject to Subsections (8) and (9), an offender who is required to register with the
240 Sex, Kidnap, and Child Abuse Offender Registry may petition the court for an order
241 removing the offender from the Sex, Kidnap, and Child Abuse Offender Registry if:
- 242 (a)(i) the offender was convicted of an offense described in Subsection (2);
243 (ii) at least five years have passed after the day on which the offender's sentence for
244 the offense terminated;
245 (iii) the offense is the only offense for which the offender was required to register;
246 (iv) the offender has not been convicted of another offense, excluding a traffic
247 offense, since the day on which the offender was convicted of the offense for
248 which the offender is required to register, as evidenced by a certificate of
249 eligibility issued by the bureau;
250 (v) the offender successfully completed all treatment ordered by the court or the
251 Board of Pardons and Parole relating to the offense; and
252 (vi) the offender has paid all restitution ordered by the court or the Board of Pardons
253 and Parole relating to the offense;
- 254 (b)(i) the offender is required to register in accordance with Subsection 77-41-105
255 (3)(a);
256 (ii) at least 10 years have passed after the later of:
257 (A) the day on which the offender was placed on probation;
258 (B) the day on which the offender was released from incarceration to parole;
259 (C) the day on which the offender's sentence was terminated without parole;
260 (D) the day on which the offender entered a community-based residential
261 program; or
262 (E) for a minor, as defined in Section 80-1-102, the day on which the division's
263 custody of the offender was terminated;
- 264 (iii) the offender has not been convicted of another offense that is a class A
265 misdemeanor, felony, or capital felony within the most recent 10-year period after
266 the date described in Subsection (1)(b)(ii), as evidenced by a certificate of

- 267 eligibility issued by the bureau;
- 268 (iv) the offender successfully completed all treatment ordered by the court or the
269 Board of Pardons and Parole relating to the offense; and
- 270 (v) the offender has paid all restitution ordered by the court or the Board of Pardons
271 and Parole relating to the offense; or
- 272 (c)(i) the offender is required to register in accordance with Subsection 77-41-105
273 (3)(c);
- 274 (ii) at least 20 years have passed after the later of:
- 275 (A) the day on which the offender was placed on probation;
- 276 (B) the day on which the offender was released from incarceration to parole;
- 277 (C) the day on which the offender's sentence was terminated without parole;
- 278 (D) the day on which the offender entered a community-based residential
279 program; or
- 280 (E) for a minor, as defined in Section 80-1-102, the day on which the division's
281 custody of the offender was terminated;
- 282 (iii) the offender has not been convicted of another offense that is a class A
283 misdemeanor, felony, or capital felony within the most recent 20-year period after
284 the date described in Subsection (1)(c)(ii), as evidenced by a certificate of
285 eligibility issued by the bureau;
- 286 (iv) the offender completed all treatment ordered by the court or the Board of
287 Pardons and Parole relating to the offense;
- 288 (v) the offender has paid all restitution ordered by the court or the Board of Pardons
289 and Parole relating to the offense; and
- 290 (vi) the offender submits to an evidence-based risk assessment to the court, with the
291 offender's petition, that:
- 292 (A) meets the standards for the current risk assessment, score, and risk level
293 required by the Board of Pardons and Parole for parole termination requests;
- 294 (B) is completed within the six months before the date on which the petition is
295 filed; and
- 296 (C) describes the evidence-based risk assessment of the current level of risk to the
297 safety of the public posed by the offender.
- 298 (2) The offenses referred to in Subsection (1)(a)(i) are:
- 299 (a) enticing a minor under Section 76-4-401, if the offense is a class A misdemeanor;
- 300 (b) kidnapping under Section 76-5-301;

- 301 (c) unlawful detention under Section 76-5-304, if the conviction of violating Section
302 76-5-304 is the only conviction for which the offender is required to register;
- 303 (d) unlawful sexual activity with a minor under Section 76-5-401, if, at the time of the
304 offense, the offender is not more than 10 years older than the victim;
- 305 (e) sexual abuse of a minor under Section 76-5-401.1, if, at the time of the offense, the
306 offender is not more than 10 years older than the victim;
- 307 (f) unlawful sexual conduct with a 16 or 17 year old under Section 76-5-401.2, and at
308 the time of the offense, the offender is not more than 15 years older than the victim;
- 309 (g) voyeurism under Section 76-9-702.7, if the offense is a class A misdemeanor; or
- 310 (h) an offense for which an individual is required to register under Subsection 77-41-102
311 (1)(c), (11)(c), or (19)(c), if the offense is not substantially equivalent to an offense
312 described in Subsection 77-41-102(1)(a), (11)(a), or (19)(a).
- 313 (3)(a)(i) An offender seeking removal from the Sex, Kidnap, and Child Abuse
314 Offender Registry under this section shall apply for a certificate of eligibility from
315 the bureau.
- 316 (ii) An offender who intentionally or knowingly provides false or misleading
317 information to the bureau when applying for a certificate of eligibility is guilty of
318 a class B misdemeanor and subject to prosecution under Section 76-8-504.6.
- 319 (iii) Regardless of whether the offender is prosecuted, the bureau may deny a
320 certificate of eligibility to an offender who provides false information on an
321 application.
- 322 (b)(i) The bureau shall:
- 323 (A) perform a check of records of governmental agencies, including national
324 criminal databases, to determine whether an offender is eligible to receive a
325 certificate of eligibility; and
- 326 (B) determine whether the offender meets the requirements described in
327 Subsection (1)(a)(ii), (a)(v), (a)(vi), (b)(ii), (b)(iv), (b)(v), (c)(ii), (c)(iv), or
328 (c)(v).
- 329 (ii) If the offender meets the requirements described in Subsection (1)(a), (b), or (c),
330 the bureau shall issue a certificate of eligibility to the offender, which is valid for a
331 period of 90 days after the day on which the bureau issues the certificate.
- 332 (4)(a)(i) The bureau shall charge application and issuance fees for a certificate of
333 eligibility in accordance with the process in Section 63J-1-504.
- 334 (ii) The application fee shall be paid at the time the offender submits an application

- 335 for a certificate of eligibility to the bureau.
- 336 (iii) If the bureau determines that the issuance of a certificate of eligibility is
337 appropriate, the offender will be charged an additional fee for the issuance of a
338 certificate of eligibility.
- 339 (b) Funds generated under this Subsection (4) shall be deposited into the General Fund
340 as a dedicated credit by the department to cover the costs incurred in determining
341 eligibility.
- 342 (5)(a) The offender shall file the petition, including original information, the court
343 docket, the certificate of eligibility from the bureau, and the document from the
344 department described in Subsection [~~(3)(b)(iv)~~] (3)(b)(ii) with the court, and deliver a
345 copy of the petition to:
- 346 (i) [-] if the offender is required to register on the Sex, Kidnap, and Child Abuse
347 Offender Registry for a conviction of an offense committed in this state, the office
348 of the prosecutor[-] that prosecuted the offender for the offense; or
- 349 (ii) if the offender is required to register on the Sex, Kidnap, and Child Abuse
350 Offender Registry for a conviction of an offense committed in another
351 jurisdiction, the attorney general's office.
- 352 (b) Upon receipt of a petition for removal from the Sex, Kidnap, and Child Abuse
353 Offender Registry[-] under Subsection (5)(a):
- 354 (i) [-]the office of the prosecutor shall provide notice of the petition by first-class mail
355 to the victim at the most recent address of record on file or, if the victim is still a
356 minor under 18 years old, to the most recent address of record on file for the
357 victim's parent or guardian[-of the victim] ; or
- 358 (ii) the attorney general's office shall, if reasonably practicable, provide notice of the
359 petition by first-class mail to the most recent address of record for the victim or, if
360 the victim is still a minor under 18 years old, to the most recent address of record
361 for the victim's parent or guardian.
- 362 (c) The notice described in Subsection (5)(b) shall include a copy of the petition, state
363 that the victim has a right to object to the removal of the offender from the registry,
364 and provide instructions for registering an objection with the court.
- 365 (d) The office of the prosecutor shall provide the following, if available, to the court
366 within 30 days after the day on which the office receives the petition:
- 367 (i) presentencing report;
- 368 (ii) an evaluation done as part of sentencing; and

- 369 (iii) other information the office of the prosecutor determines the court should
370 consider.
- 371 (e) The victim, or the victim's parent or guardian if the victim is a minor under 18 years
372 old, may respond to the petition by filing a recommendation or objection with the
373 court within 45 days after the day on which the petition is mailed to the victim.
- 374 (6)(a) The court shall:
- 375 (i) review the petition and all documents submitted with the petition; and
376 (ii) hold a hearing if requested by the prosecutor or the victim.
- 377 (b)(i) Except as provided in Subsections (6)(b)(ii) and (iii), the court may grant the
378 petition and order removal of the offender from the registry if the court determines
379 that the offender has met the requirements described in Subsection (1)(a) or (b)
380 and removal is not contrary to the interests of the public.
- 381 (ii) When considering a petition filed under Subsection (1)(c), the court shall
382 determine whether the offender has demonstrated, by clear and convincing
383 evidence, that the offender is rehabilitated and does not pose a threat to the safety
384 of the public.
- 385 (iii) In making the determination described in Subsection (6)(b)(ii), the court may
386 consider:
- 387 (A) the nature and degree of violence involved in the offense that requires
388 registration;
- 389 (B) the age and number of victims of the offense that requires registration;
- 390 (C) the age of the offender at the time of the offense that requires registration;
- 391 (D) the offender's performance while on supervision for the offense that requires
392 registration;
- 393 (E) the offender's stability in employment and housing;
- 394 (F) the offender's community and personal support system;
- 395 (G) other criminal and relevant noncriminal behavior of the offender both before
396 and after the offense that requires registration;
- 397 (H) the level of risk posed by the offender as evidenced by the evidence-based risk
398 assessment described in Subsection (1)(c)(vi); and
- 399 (I) any other relevant factors.
- 400 (c) In determining whether removal is contrary to the interests of the public, the court
401 may not consider removal unless the offender has substantially complied with all
402 registration requirements under this chapter at all times.

- 403 (d) If the court grants the petition, the court shall forward a copy of the order directing
404 removal of the offender from the registry to the department and the office of the
405 prosecutor.
- 406 (e)(i) Except as provided in Subsection (6)(e)(ii), if the court denies the petition, the
407 offender may not submit another petition for three years.
- 408 (ii) If the offender files a petition under Subsection (1)(c) and the court denies the
409 petition, the offender may not submit another petition for eight years.
- 410 (7) The court shall notify the victim and the Sex, Kidnap, and Child Abuse Offender
411 Registry office in the department of the court's decision within three days after the day
412 on which the court issues the court's decision in the same manner described in
413 Subsection (5).
- 414 (8) Except as provided in Subsection (9), an offender required to register under Subsection
415 77-41-105(3)(b) may petition for early removal from ~~[the registry]~~ the Sex, Kidnap, and
416 Child Abuse Offender Registry under Subsection ~~[(1)(b) if the offender:]~~ (1)(a) or (b) if
417 the offender:
- 418 (a) meets the applicable requirements of Subsections (1)(a) or (1)(b)(ii) through (v);
419 (b) has resided in this state for at least 183 days in a year for two consecutive years;~~[-and]~~
420 (c) intends to primarily reside in this state~~[-]~~ ; and
- 421 (d) has received an order from a court in the external jurisdiction where the offender was
422 initially required to register on a sex, kidnap, and child abuse registry, or an
423 equivalent registry, that authorizes the offender to be removed from the Sex, Kidnap,
424 and Child Abuse Offender Registry.
- 425 (9) An offender required to register under Subsection 77-41-105(3)(b) for life may petition
426 for early removal from ~~[the registry]~~ the Sex, Kidnap, and Child Abuse Offender Registry
427 under Subsection (1)(c) if:
- 428 (a) the offense requiring the offender to register is substantially equivalent to an offense
429 listed in Section 77-41-106;
- 430 (b) the offender meets the requirements of Subsections (1)(c)(ii) through (vi);
431 (c) the offender has resided in this state for at least 183 days in a year for two
432 consecutive years;~~[-and]~~
- 433 (d) the offender intends to primarily reside in this state~~[-]~~ ; and
- 434 (e) the offender has received an order from a court in the external jurisdiction where the
435 offender was initially required to register on a sex, kidnap, and child abuse registry,
436 or an equivalent registry, that authorizes the offender to be removed from the Sex,

437 Kidnap, and Child Abuse Offender Registry.

438 Section 4. **Effective Date.**

439 This bill takes effect on May 7, 2025.

440 Section 5. **Coordinating H.B. 197 with S.B. 41.**

441 If H.B. 197, Criminal Conduct Amendments, and S.B. 41, Sex, Kidnap, and Child
442 Abuse Offender Registry Amendments, both pass and become law, the Legislature intends
443 that, on May 7, 2025:

444 (1) Subsection 53-29-203(3), enacted in S.B. 41, be amended to read:

445 "(3) (a) If the sentencing court at any time after an offender is convicted of an offense
446 requiring lifetime registration described in Subsection (1)(b), and after considering the factors
447 described in Subsection (3)(b), determines that the offender was under 21 years old at the time
448 the offense was committed and the offense did not involve force or coercion, the requirement
449 that the offender register for the offender's lifetime does not apply and the offender shall
450 register for 10 years after the day on which the offender's sentence for the offense has been
451 terminated.

452 (b) In determining whether an offense committed by an offender involves force or
453 coercion under Subsection (3)(a), the sentencing court shall consider:

454 (i) the age of the victim;

455 (ii) the vulnerability of the victim;

456 (iii) the physical, mental, psychological, or emotional harm the victim suffered
457 from the offense;

458 (iv) whether the offender used fraud or deception to commit the offense;

459 (v) if any child sexual abuse material, as that term is defined in Section 76-5b-103,
460 was:

461 (A) distributed to the victim by the offender; or

462 (B) distributed, produced, or possessed by the offender at the time of the
463 offense, that involved force or coercion against a victim depicted in the child sexual abuse
464 material; and

465 (vi) any other factor the sentencing court determines is relevant.";

466 (2) Subsection 53-29-205(4), enacted in S.B. 41, be amended to read:

467 "(4) An individual who is as an offender under Section 53-29-202 based on a conviction
468 in an external jurisdiction for a registrable offense, or a substantially equivalent offense, and is
469 required to register on the external jurisdiction's sex, kidnap, or child abuse offender registry,
470 or an equivalent registry, may petition for removal from the registry in accordance with the

471 requirements of this section if the individual:

472 (a) does not have a lifetime registration requirement on the external jurisdiction's sex,
473 kidnap, or child abuse offender registry, or an equivalent registry;

474 (b) meets the requirements described in Subsections (1)(a) through (c);

475 (c) has resided in this state for at least 183 days in a year for two consecutive years;

476 (d) intends to primarily reside in this state; and

477 (e) has received an order from a court in the external jurisdiction where the offender
478 was initially required to register on a sex, kidnap, and child abuse registry, or an equivalent
479 registry, that authorizes the offender to be removed from the Sex, Kidnap, and Child Abuse
480 Offender Registry.";

481 (3) Subsection 53-29-206(3), enacted in S.B. 41, be amended to read:

482 "(3) An individual who is as an offender under Section 53-29-202 based on a conviction
483 in an external jurisdiction for a registrable offense or a substantially equivalent offense, and is
484 required to register on the external jurisdiction's sex, kidnap, or child abuse offender registry,
485 or an equivalent registry, may petition for removal from the registry in accordance with the
486 requirements of this section if the individual:

487 (a) is required to register on the external jurisdiction's sex, kidnap, or child abuse
488 offender registry, or an equivalent registry, for the individual's lifetime;

489 (b) meets the requirements described in Subsections (1)(a) through (d);

490 (c) has resided in this state for at least 183 days in a year for two consecutive years;

491 (d) intends to primarily reside in this state; and

492 (e) the offender has received an order from a court in the external jurisdiction where
493 the offender was initially required to register on a sex, kidnap, and child abuse registry, or an
494 equivalent registry, that authorizes the offender to be removed from the Sex, Kidnap, and
495 Child Abuse Offender Registry.";

496 (4) Subsection 53-29-207(3)(b), enacted in S.B. 41, be amended to read:

497 "(b) An offender who files a petition with the court as described in Subsection (3)(a)
498 shall provide a copy of the petition to:

499 (i) if the offender is required to register on the Sex, Kidnap, and Child Abuse
500 Offender Registry for a conviction of an offense committed in this state, the office of the
501 prosecutor that prosecuted the offender for the offense; or

502 (ii) if the offender is required to register on the Sex, Kidnap, and Child Abuse
503 Offender Registry for a conviction of an offense committed in another jurisdiction, the
504 attorney general's office."; and

505 (5) Subsection 53-29-207(4), enacted in S.B. 41, be amended to read:

506 "(4)(a) Subject to Subsections (4)(c) and (d), a prosecutor, upon receipt of a petition
507 described in Subsection (3)(b)(i), shall provide notice of the petition by first-class mail to the
508 victim at the most recent address of record on file or, if the victim is still a minor under 18
509 years old, to the most recent address of record on file for the victim's parent or guardian.

510 (b) Subject to Subsections (4)(c) and (d), the attorney general, upon receipt of a
511 petition described in Subsection (3)(b)(ii), shall, if reasonably practicable, provide notice of
512 the petition by first-class mail to the most recent address of record for the victim or, if the
513 victim is still a minor under 18 years old, to the most recent address of record for the victim's
514 parent or guardian.

515 (c) The notice described in Subsection (4)(a) or (b) shall include:

516 (i) a copy of the petition;

517 (ii) an explanation that the victim has a right to object to the removal of the
518 offender from the registry or make other recommendations to the court; and

519 (iii) instructions for how the victim can file an objection or recommendation with
520 the court.

521 (d) A prosecutor or the attorney general shall provide the following, if available, to
522 the court within 30 days after the day on which the prosecutor or attorney general receives the
523 petition:

524 (i) the presentencing report created for the offender based on the registrable
525 offense committed by the offender;

526 (ii) any evaluation done as part of sentencing for the registrable offense; and

527 (iii) other information the prosecutor determines the court should consider."