

**OFFENDER REGISTRY REVIEW**

2011 GENERAL SESSION

STATE OF UTAH

**Chief Sponsor: Jack R. Draxler**

Senate Sponsor: \_\_\_\_\_

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**LONG TITLE**

**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
- 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; 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:**

None

**Other Special Clauses:**

None

**Utah Code Sections Affected:**



28 AMENDS:

29 77-27-21.5, as last amended by Laws of Utah 2010, Chapters 55, 120, 144, 283, and  
30 328



31  
32 *Be it enacted by the Legislature of the state of Utah:*

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

34 **77-27-21.5. Sex and kidnap offenders -- Registration -- Information system --**  
35 **Law enforcement and courts to report -- Penalty -- Effect of expungement.**

36 (1) As used in this section:

37 (a) "Business day" means a day on which state offices are open for regular business.

38 (b) "Department" means the Department of Corrections.

39 (c) "Division" means the Division of Juvenile Justice Services.

40 (d) "Employed" or "carries on a vocation" includes employment that is full time or part  
41 time, whether financially compensated, volunteered, or for the purpose of government or  
42 educational benefit.

43 (e) "Indian Country" means:

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

47 (ii) all dependent Indian communities within the borders of the United States whether  
48 within the original or subsequently acquired territory, and whether or not within the limits of a  
49 state; and

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

52 (f) "Jurisdiction" means any state, Indian Country, United States Territory, or any  
53 property under the jurisdiction of the United States military.

54 (g) "Kidnap offender" means any person other than a natural parent of the victim who:

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

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

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

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

59 (D) attempting, soliciting, or conspiring to commit any felony offense listed in  
60 Subsections (1)(g)(i)(A) through (C);

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

64 (A) a Utah resident; or

65 (B) not a Utah resident, but who, in any 12 month period, is in this state for a total of  
66 10 or more days, regardless of whether or not the offender intends to permanently reside in this  
67 state;

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

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

72 (iv) is a nonresident regularly employed or working in this state, or who is a student in  
73 this state, and was convicted of one or more offenses listed in Subsection (1)(g), or any  
74 substantially equivalent offense in another jurisdiction, or as a result of the conviction, is  
75 required to register in the person's state of residence;

76 (v) is found not guilty by reason of insanity in this state or in any other jurisdiction of  
77 one or more offenses listed in Subsection (1)(g); or

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

81 (h) "Natural parent" means a minor's biological or adoptive parent, and includes the  
82 minor's noncustodial parent.

83 (i) "Offender" means a kidnap offender as defined in Subsection (1)(g) or a sex  
84 offender as defined in Subsection (1)(n).

85 (j) "Online identifier" or "Internet identifier":

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

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

90 (k) "Primary residence" means the location where the offender regularly resides, even  
91 if the offender intends to move to another location or return to another location at any future  
92 date.

93 (l) "Register" means to comply with the requirements of this section and administrative  
94 rules of the department made under this section.

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

98 (n) "Sex offender" means any person:

99 (i) convicted in this state of:

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

101 (B) a felony or class A misdemeanor violation of Section 76-9-702.7, voyeurism;

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

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

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

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

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

107 (H) Section 76-5-402.2, object rape;

108 (I) Section 76-5-402.3, object rape of a child;

109 (J) a felony violation of Section 76-5-403, forcible sodomy;

110 (K) Section 76-5-403.1, sodomy on a child;

111 (L) Section 76-5-404, forcible sexual abuse;

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

113 (N) Section 76-5-405, aggravated sexual assault;

114 (O) Section 76-5a-3, sexual exploitation of a minor;

115 (P) Section 76-7-102, incest;

116 (Q) Subsection 76-9-702(1), lewdness, if the person has been convicted of the offense  
117 four or more times;

118 (R) Subsection 76-9-702(3), sexual battery, if the person has been convicted of the  
119 offense four or more times;

120 (S) any combination of convictions of Subsection 76-9-702(1), lewdness, and of

121 Subsection 76-9-702(3), sexual battery, that total four or more convictions;  
122 (T) Section 76-9-702.5, lewdness involving a child;  
123 (U) Section 76-10-1306, aggravated exploitation of prostitution; or  
124 (V) attempting, soliciting, or conspiring to commit any felony offense listed in  
125 Subsection (1)(n)(i);  
126 (ii) who has been convicted of any crime, or an attempt, solicitation, or conspiracy to  
127 commit a crime in another jurisdiction, including any state, federal, or military court that is  
128 substantially equivalent to the offenses listed in Subsection (1)(n)(i) and who is:  
129 (A) a Utah resident; or  
130 (B) not a Utah resident, but who, in any 12 month period, is in this state for a total of  
131 10 or more days, regardless of whether the offender intends to permanently reside in this state;  
132 (iii) (A) who is required to register as an offender in any other jurisdiction, or who is  
133 required to register as an offender by any state, federal, or military court; and  
134 (B) who, in any 12 month period, is in the state for a total of 10 or more days,  
135 regardless of whether or not the offender intends to permanently reside in this state;  
136 (iv) who is a nonresident regularly employed or working in this state or who is a  
137 student in this state and was convicted of one or more offenses listed in Subsection (1)(n)(i), or  
138 any substantially equivalent offense in any jurisdiction, or as a result of the conviction, is  
139 required to register in the person's jurisdiction of residence;  
140 (v) who is found not guilty by reason of insanity in this state, or in any other  
141 jurisdiction of one or more offenses listed in Subsection (1)(n)(i); or  
142 (vi) who is adjudicated delinquent based on one or more offenses listed in Subsection  
143 (1)(n)(i) and who has been committed to the division for secure confinement and remains in the  
144 division's custody 30 days prior to the person's 21st birthday.  
145 (o) "Vehicle" means any motor vehicle, aircraft, or watercraft subject to registration in  
146 any jurisdiction.  
147 (2) The department, to assist in investigating kidnapping and sex-related crimes, and in  
148 apprehending offenders, shall:  
149 (a) develop and operate a system to collect, analyze, maintain, and disseminate  
150 information on offenders and sex and kidnap offenses;  
151 (b) make information listed in Subsection (27) available to the public; and

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

- 154 (i) for the purposes under this Subsection (2); or
- 155 (ii) in accordance with Section 63G-2-206.

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

158 (a) the receipt of a report or complaint of an offense listed in Subsection (1)(g) or (n),  
159 within three business days; and

160 (b) the arrest of a person suspected of any of the offenses listed in Subsection (1)(g) or  
161 (n), within five business days.

162 (4) Upon convicting a person of any of the offenses listed in Subsection (1)(g) or (n),  
163 the convicting court shall within three business days forward a copy of the judgment and  
164 sentence to the department.

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

167 (a) placement on probation;

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

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

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

174 (e) termination of probation or parole.

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

178 (a) commitment to the correctional facility; and

179 (b) release from confinement.

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

182 (8) An offender committed to a state mental hospital shall be registered with the

183 department by the hospital upon admission and upon discharge.

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

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

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

192 (B) certify annually with the department.

193 (b) (i) When the department receives offender registration information regarding a  
194 change of an offender's primary residence location, the department shall within five days  
195 electronically notify the law enforcement agencies that have jurisdiction over the area where:

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

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

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

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

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

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

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

213 (12) (a) Except as provided in Subsections (12)(b), (c), and (d), an offender shall, for

214 the duration of the sentence and for 10 years after termination of sentence or custody of the  
215 division, register every year during the month of the offender's birth, during the month that is  
216 the sixth month after the offender's birth month, and also within three business days of every  
217 change of the offender's primary residence, any secondary residences, place of employment,  
218 vehicle information, or educational information required to be submitted under Subsection  
219 (14).

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

223 (i) register for the time period, and in the frequency, required by the jurisdiction where  
224 the offender was convicted if that jurisdiction's registration period or registration frequency  
225 requirement for the offense that the offender was convicted of is greater than the 10 years from  
226 completion of the sentence registration period that is required under Subsection (12)(a), or is  
227 more frequent than every six months; or

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

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

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

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

241 (A) any offense listed in Subsection (1)(g) or (n) if, at the time of the conviction, the  
242 offender has previously been convicted of an offense listed in Subsection (1)(g) or (n) or has  
243 previously been required to register as a sex offender for an offense committed as a juvenile;

244 (B) a conviction for any of the following offenses, including attempting, soliciting, or



245 conspiring to commit any felony of:

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

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

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

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

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

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

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

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

255 (C) Section 76-4-401, a felony violation of enticing a minor over the Internet;

256 (D) Section 76-5-302, aggravated kidnapping, except if the offender is a natural parent  
257 of the victim;

258 (E) Section 76-5-403, forcible sodomy;

259 (F) Section 76-5-404.1, sexual abuse of a child; or

260 (G) Section 76-5a-3, sexual exploitation of a minor.

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

264 (e) An offender who is required to register under this Subsection (12) shall surrender  
265 the offender's license, certificate, or identification card as required under Subsection  
266 53-3-216(3) or 53-3-807(4) and may apply for a license certificate or identification card as  
267 provided under Section 53-3-205 or 53-3-804.

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

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

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

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

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

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

282 (b) the driver license certificate or identification card surrender requirement under  
283 Subsection 53-3-216(3) or 53-3-807(4) and application provisions under Section 53-3-205 or  
284 53-3-804.

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

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

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

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

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

293 (e) a current photograph of the offender;

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

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

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

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

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

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

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

306 (m) all professional licenses that authorize the offender to engage in an occupation or

307 carry out a trade or business, including any identifiers, such as numbers;

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

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

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

315 (q) the offender's Social Security number.

316 (15) The department shall:

317 (a) provide the following additional information when available:

318 (i) the crimes the offender has been convicted of or adjudicated delinquent for;

319 (ii) a description of the offender's primary and secondary targets; and

320 (iii) any other relevant identifying information as determined by the department;

321 (b) maintain the Sex Offender and Kidnap Offender Notification and Registration  
322 website; and

323 (c) ensure that the registration information collected regarding an offender's enrollment  
324 or employment at an educational institution is:

325 (i) (A) promptly made available to any law enforcement agency that has jurisdiction  
326 where the institution is located if the educational institution is an institution of higher  
327 education; or

328 (B) promptly made available to the district superintendent of the school district where  
329 the offender is enrolled if the educational institution is an institution of primary education; and

330 (ii) entered into the appropriate state records or data system.

331 (16) (a) An offender who knowingly fails to register under this section or provides  
332 false or incomplete information is guilty of:

333 (i) a third degree felony and shall be sentenced to serve a term of incarceration for not  
334 less than 90 days and also at least one year of probation if:

335 (A) the offender is required to register for a felony conviction or adjudicated delinquent  
336 for what would be a felony if the juvenile were an adult of an offense listed in Subsection

337 (1)(g)(i) or (n)(i); or

338 (B) the offender is required to register for the offender's lifetime under Subsection  
339 (12)(c); or

340 (ii) a class A misdemeanor and shall be sentenced to serve a term of incarceration for  
341 not fewer than 90 days and also at least one year of probation if the offender is required to  
342 register for a misdemeanor conviction or is adjudicated delinquent for what would be a  
343 misdemeanor if the juvenile were an adult of an offense listed in Subsection (1)(g)(i) or (n)(i).

344 (b) Neither the court nor the Board of Pardons and Parole may release a person who  
345 violates this section from serving the term required under Subsection (16)(a). This Subsection  
346 (16)(b) supersedes any other provision of the law contrary to this section.

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

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

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

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

359 (19) Notwithstanding Title 77, Chapter 40, Utah Expungement Act, a person convicted  
360 of any offense listed in Subsection (1)(g) or (n) is not relieved from the responsibility to  
361 register as required under this section.

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

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

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

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

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

368 (21) The department may make administrative rules necessary to implement this

369 section, including:

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

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

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

374 (23) This section does not create or impose any duty on any person to request or obtain  
375 information regarding any offender from the department.

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

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

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

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

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

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

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

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

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

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

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

398 (e) a current photograph of the offender;

399 (f) a list of all professional licenses that authorize the offender to engage in an

400 occupation or carry out a trade or business;

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

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

404 (i) the crimes listed in Subsections (1)(g) and(n) that the offender has been convicted of  
405 or for which the offender has been adjudicated delinquent in juvenile court.

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

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

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

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

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

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

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

424 (i) data entry;

425 (ii) processing registration packets;

426 (iii) updating registry information;

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

428 and

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

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

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

436 (b) online identifiers for the offender's financial accounts, including any bank,  
437 retirement, or investment accounts.

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

441 (a) the offender was convicted of:

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

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

444 (iii) Section 76-9-702.7, voyeurism;

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

446 (c) the offender has successfully completed all court-ordered treatment;

447 (d) the offender has not been convicted of a crime, excluding traffic offenses;

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

449 (f) the office that prosecuted the offender, and the victim, are notified and provided  
450 with an opportunity to respond in accordance with Subsection (33).

451 (33) (a) The offender shall deliver a copy of the petition to the office of the prosecuting  
452 attorney.

453 (i) Upon receipt of a petition for removal from the Sex Offender and Kidnap Offender  
454 Registry, the prosecuting attorney shall provide notice of the petition by first-class mail to the  
455 victim at the most recent address of record on file.

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

458 (b) The prosecuting attorney and the victim, if applicable, may respond to the petition  
459 by filing a recommendation or objection with the court within 30 days after receipt of the  
460 petition.

461 (34) The court shall review all documents submitted with the petition and may hold a

462 hearing. If the court determines that it is in the interests of justice to do so, it may grant the  
463 petition and order removal. If the court grants the petition, it shall forward a copy of the order  
464 to the department.

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**Legislative Review Note**  
**as of 2-22-11 8:00 AM**

**Office of Legislative Research and General Counsel**