



29 **53-3-807**, as last amended by Laws of Utah 2019, Chapters 381, 382  
30 **53-10-404**, as last amended by Laws of Utah 2021, Chapter 262  
31 **63G-2-302**, as last amended by Laws of Utah 2023, Chapters 329, 471  
32 **63G-7-301**, as last amended by Laws of Utah 2023, Chapter 516  
33 **63M-7-801**, as enacted by Laws of Utah 2023, Chapter 155  
34 **76-1-201**, as last amended by Laws of Utah 2017, Chapter 282  
35 **76-1-202**, as last amended by Laws of Utah 2017, Chapter 282  
36 **76-3-402**, as last amended by Laws of Utah 2023, Chapter 132  
37 **76-5-401**, as last amended by Laws of Utah 2023, Chapter 123  
38 **76-5-401.1**, as last amended by Laws of Utah 2023, Chapter 123  
39 **76-5-401.3**, as last amended by Laws of Utah 2023, Chapters 123, 161  
40 **76-9-702**, as last amended by Laws of Utah 2023, Chapter 123  
41 **76-9-702.1**, as last amended by Laws of Utah 2023, Chapter 123  
42 **77-2-2.3**, as renumbered and amended by Laws of Utah 2021, Chapter 260  
43 **77-11c-101**, as renumbered and amended by Laws of Utah 2023, Chapter 448  
44 **77-27-5.2**, as enacted by Laws of Utah 2021, Chapter 410  
45 **77-27-21.7**, as last amended by Laws of Utah 2023, Chapters 18, 117  
46 **77-27-21.8**, as last amended by Laws of Utah 2015, Chapter 258  
47 **77-38-605**, as last amended by Laws of Utah 2023, Chapter 237  
48 **77-40a-303**, as last amended by Laws of Utah 2023, Chapter 265  
49 **77-40a-403**, as last amended by Laws of Utah 2023, Chapter 265  
50 **77-41-102**, as last amended by Laws of Utah 2023, Chapters 123, 128  
51 **77-41-103**, as last amended by Laws of Utah 2023, Chapters 123, 128  
52 **77-41-105**, as last amended by Laws of Utah 2023, Chapters 123, 124  
53 **77-41-106**, as last amended by Laws of Utah 2023, Chapters 123, 457  
54 **77-41-107**, as last amended by Laws of Utah 2023, Chapter 123  
55 **77-41-109**, as last amended by Laws of Utah 2023, Chapter 123  
56 **77-41-110**, as last amended by Laws of Utah 2023, Chapter 123  
57 **77-41-112**, as last amended by Laws of Utah 2023, Chapters 124, 128  
58 **77-41-113**, as last amended by Laws of Utah 2023, Chapter 123  
59 **77-41-114**, as enacted by Laws of Utah 2023, Chapter 123  
60 **78B-8-302**, as last amended by Laws of Utah 2023, Chapters 49, 123  
61 **80-5-201**, as last amended by Laws of Utah 2023, Chapter 123

62 REPEALS:

- 63 77-41-101, as enacted by Laws of Utah 2012, Chapter 145
- 64 77-43-101, as enacted by Laws of Utah 2017, Chapter 282
- 65 77-43-102, as last amended by Laws of Utah 2023, Chapter 128
- 66 77-43-103, as enacted by Laws of Utah 2017, Chapter 282
- 67 77-43-104, as last amended by Laws of Utah 2023, Chapter 128
- 68 77-43-105, as enacted by Laws of Utah 2017, Chapter 282
- 69 77-43-106, as enacted by Laws of Utah 2017, Chapter 282
- 70 77-43-107, as enacted by Laws of Utah 2017, Chapter 282
- 71 77-43-108, as enacted by Laws of Utah 2017, Chapter 282
- 72 77-43-109, as last amended by Laws of Utah 2023, Chapter 128

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

75 Section 1. Section 13-51-107 is amended to read:

76 **13-51-107 . Driver requirements.**

- 77 (1) Before a transportation network company allows an individual to use the transportation
- 78 network company's software application as a transportation network driver, the
- 79 transportation network company shall:
  - 80 (a) require the individual to submit to the transportation network company:
    - 81 (i) the individual's name, address, and age;
    - 82 (ii) a copy of the individual's driver license, including the driver license number; and
    - 83 (iii) proof that the vehicle that the individual will use to provide transportation
    - 84 network services is registered with the Division of Motor Vehicles;
  - 85 (b) require the individual to consent to a criminal background check of the individual by
  - 86 the transportation network company or the transportation network company's
  - 87 designee; and
  - 88 (c) obtain and review a report that lists the individual's driving history.
- 89 (2) A transportation company may not allow an individual to provide transportation
- 90 network services as a transportation network driver if the individual:
  - 91 (a) has committed more than three moving violations in the three years before the day on
  - 92 which the individual applies to become a transportation network driver;
  - 93 (b) has been convicted, in the seven years before the day on which the individual applies
  - 94 to become a transportation network driver, of:
    - 95 (i) driving under the influence of alcohol or drugs;
    - 96 (ii) fraud;

- 97 (iii) a sexual offense;
- 98 (iv) a felony involving a motor vehicle;
- 99 (v) a crime involving property damage;
- 100 (vi) a crime involving theft;
- 101 (vii) a crime of violence; or
- 102 (viii) an act of terror;
- 103 (c) is required to register as a sex offender, kidnap offender, or child abuse offender in
- 104 accordance with [~~Title 77, Chapter 41, Sex and Kidnap Offender Registry~~] Title 77,
- 105 Chapter 41, Sex, Kidnap, and Child Abuse Offender Registry;
- 106 (d) does not have a valid Utah driver license; or
- 107 (e) is not at least 18 years [~~of age~~] old.
- 108 (3) (a) A transportation network company shall prohibit a transportation network driver
- 109 from accepting a request for a prearranged ride if the motor vehicle that the
- 110 transportation network driver uses to provide transportation network services fails to
- 111 comply with:
- 112 (i) equipment standards described in Section 41-6a-1601; and
- 113 (ii) emission requirements adopted by a county under Section 41-6a-1642.
- 114 (b) (i) If upon visual inspection, a defect relating to the equipment standards
- 115 described in Section 41-6a-1601 can be reasonably identified, an airport operator
- 116 may perform a safety inspection of a transportation network driver's vehicle
- 117 operating within the airport to ensure compliance with equipment standards
- 118 described in Section 41-6a-1601.
- 119 (ii) An airport operator shall conduct all inspections under this Subsection (3) in such
- 120 a manner to minimize impact to the transportation network driver's and
- 121 transportation network company vehicle's availability to provide prearranged rides.
- 122 (4) A transportation network driver, while providing transportation network services, shall
- 123 carry proof, in physical or electronic form, that the transportation network driver is
- 124 covered by insurance that satisfies the requirements of Section 13-51-108.
- 125 Section 2. Section **13-67-101** is amended to read:
- 126 **13-67-101 . Definitions.**
- 127 As used in this chapter:
- 128 (1) "Banned member" means a member whose account or profile is the subject of a fraud
- 129 ban.
- 130 (2) "Criminal background screening" means a name search for an individual's criminal

- 131 conviction and is conducted by searching:
- 132 (a) available and regularly updated government public record databases that in the
- 133 aggregate provide national coverage for criminal conviction records; or
- 134 (b) a regularly updated database with national coverage of criminal conviction records
- 135 and sexual offender registries maintained by a private vendor.
- 136 (3) (a) "Criminal conviction" means a conviction for a crime in this state, another state,
- 137 or under federal law.
- 138 (b) "Criminal conviction" includes an offense that would require registration under [~~Title~~
- 139 ~~77, Chapter 41, Sex and Kidnap Offender Registry~~] Title 77, Chapter 41, Sex,
- 140 Kidnap, and Child Abuse Offender Registry, or under a similar law in a different
- 141 jurisdiction.
- 142 (4) "Division" means the Division of Consumer Protection in the Department of Commerce.
- 143 (5) "Fraud ban" means the expulsion of a member from an online dating service because, in
- 144 the judgment of the online dating service provider, there is a significant risk the member
- 145 will attempt to obtain money from another member through fraudulent means.
- 146 (6) "Member" means an individual who submits to an online dating service provider the
- 147 information required by the online dating service provider to access the online dating
- 148 service provider's online dating service.
- 149 (7) "Online dating service" means a product or service that is:
- 150 (a) conducted through a website or a mobile application; and
- 151 (b) primarily marketed and intended to offer a member access to dating or romantic
- 152 relationships with another member by arranging or facilitating the social introduction
- 153 of members.
- 154 (8) "Online dating service provider" means a person predominately engaged in the business
- 155 of offering an online dating service.
- 156 (9) "Utah member" means a member who provides a Utah billing address or zip code when
- 157 registering with an online dating service provider.

158 Section 3. Section **26B-2-120** is amended to read:

159 **26B-2-120 . Background check -- Direct access to children or vulnerable adults.**

- 160 (1) As used in this section:
- 161 (a) (i) "Applicant" means, notwithstanding Section 26B-2-101:
- 162 (A) an individual who applies for an initial license or certification or a license or
- 163 certification renewal under this part;
- 164 (B) an individual who is associated with a licensee and has or will likely have

- 165 direct access to a child or a vulnerable adult;
- 166 (C) an individual who provides respite care to a foster parent or an adoptive parent  
167 on more than one occasion;
- 168 (D) a department contractor;
- 169 (E) an individual who transports a child for a youth transportation company;
- 170 (F) a guardian submitting an application on behalf of an individual, other than the  
171 child or vulnerable adult who is receiving the service, if the individual is 12  
172 years old or older and resides in a home, that is licensed or certified by the  
173 office; or
- 174 (G) a guardian submitting an application on behalf of an individual, other than the  
175 child or vulnerable adult who is receiving the service, if the individual is 12  
176 years old or older and is a person described in Subsection (1)(a)(i)(A), (B), (C),  
177 or (D).
- 178 (ii) "Applicant" does not include:
- 179 (A) an individual who is in the custody of the Division of Child and Family  
180 Services or the Division of Juvenile Justice Services; or
- 181 (B) an individual who applies for employment with, or is employed by, the  
182 Department of Health and Human Services.
- 183 (b) "Application" means a background screening application to the office.
- 184 (c) "Bureau" means the Bureau of Criminal Identification within the Department of  
185 Public Safety, created in Section 53-10-201.
- 186 (d) "Certified peer support specialist" means the same as that term is defined in Section  
187 26B-5-610.
- 188 (e) "Criminal finding" means a record of:
- 189 (i) an arrest or a warrant for an arrest;
- 190 (ii) charges for a criminal offense; or
- 191 (iii) a criminal conviction.
- 192 (f) "Incidental care" means occasional care, not in excess of five hours per week and  
193 never overnight, for a foster child.
- 194 (g) "Mental health professional" means an individual who:
- 195 (i) is licensed under Title 58, Chapter 60, Mental Health Professional Practice Act;  
196 and
- 197 (ii) engaged in the practice of mental health therapy.
- 198 (h) "Non-criminal finding" means a record maintained in:

- 199 (i) the Division of Child and Family Services' Management Information System  
200 described in Section 80-2-1001;
- 201 (ii) the Division of Child and Family Services' Licensing Information System  
202 described in Section 80-2-1002;
- 203 (iii) the Division of Aging and Adult Services' vulnerable adult abuse, neglect, or  
204 exploitation database described in Section 26B-6-210;
- 205 (iv) the Sex~~[-and]~~, Kidnap, and Child Abuse Offender Registry described in [Title  
206 ~~77, Chapter 41, Sex and Kidnap Offender Registry~~] Title 77, Chapter 41, Sex,  
207 Kidnap, and Child Abuse Offender Registry, or a national sex offender registry; or
- 208 (v) a state child abuse or neglect registry.
- 209 (i) (i) "Peer support specialist" means an individual who:  
210 (A) has a disability or a family member with a disability, or is in recovery from a  
211 mental illness or a substance use disorder; and  
212 (B) uses personal experience to provide support, guidance, or services to promote  
213 resiliency and recovery.
- 214 (ii) "Peer support specialist" includes a certified peer support specialist.
- 215 (iii) "Peer support specialist" does not include a mental health professional.
- 216 (j) "Personal identifying information" means:  
217 (i) current name, former names, nicknames, and aliases;  
218 (ii) date of birth;  
219 (iii) physical address and email address;  
220 (iv) telephone number;  
221 (v) driver license or other government-issued identification;  
222 (vi) social security number;  
223 (vii) only for applicants who are 18 years old or older, fingerprints, in a form  
224 specified by the office; and  
225 (viii) other information specified by the office by rule made in accordance with Title  
226 63G, Chapter 3, Utah Administrative Rulemaking Act.
- 227 (k) "Practice of mental health therapy" means the same as that term is defined in Section  
228 58-60-102.
- 229 (2) Except as provided in Subsection (12), an applicant or a representative shall submit the  
230 following to the office:  
231 (a) personal identifying information;  
232 (b) a fee established by the office under Section 63J-1-504; and

- 233 (c) a disclosure form, specified by the office, for consent for:  
234 (i) an initial background check upon submission of the information described in this  
235 Subsection (2);  
236 (ii) ongoing monitoring of fingerprints and registries until no longer associated with a  
237 licensee for 90 days;  
238 (iii) a background check when the office determines that reasonable cause exists; and  
239 (iv) retention of personal identifying information, including fingerprints, for  
240 monitoring and notification as described in Subsections (3)(d) and (4); and  
241 (d) if an applicant resided outside of the United States and its territories during the five  
242 years immediately preceding the day on which the information described in  
243 Subsections (2)(a) through (c) is submitted to the office, documentation establishing  
244 whether the applicant was convicted of a crime during the time that the applicant  
245 resided outside of the United States or its territories.
- 246 (3) The office:  
247 (a) shall perform the following duties as part of a background check of an applicant:  
248 (i) check state and regional criminal background databases for the applicant's  
249 criminal history by:  
250 (A) submitting personal identifying information to the bureau for a search; or  
251 (B) using the applicant's personal identifying information to search state and  
252 regional criminal background databases as authorized under Section 53-10-108;  
253 (ii) submit the applicant's personal identifying information and fingerprints to the  
254 bureau for a criminal history search of applicable national criminal background  
255 databases;  
256 (iii) search the Division of Child and Family Services' Licensing Information System  
257 described in Section 80-2-1002;  
258 (iv) if the applicant is applying to become a prospective foster or adoptive parent,  
259 search the Division of Child and Family Services' Management Information  
260 System described in Section 80-2-1001 for:  
261 (A) the applicant; and  
262 (B) any adult living in the applicant's home;  
263 (v) for an applicant described in Subsection (1)(a)(i)(F), search the Division of Child  
264 and Family Services' Management Information System described in Section  
265 80-2-1001;  
266 (vi) search the Division of Aging and Adult Services' vulnerable adult abuse, neglect,



- 267 or exploitation database described in Section 26B-6-210;
- 268 (vii) search the juvenile court records for substantiated findings of severe child abuse  
269 or neglect described in Section 80-3-404; and
- 270 (viii) search the juvenile court arrest, adjudication, and disposition records, as  
271 provided under Section 78A-6-209;
- 272 (b) shall conduct a background check of an applicant for an initial background check  
273 upon submission of the information described in Subsection (2);
- 274 (c) may conduct all or portions of a background check of an applicant, as provided by  
275 rule, made by the office in accordance with Title 63G, Chapter 3, Utah  
276 Administrative Rulemaking Act:
- 277 (i) for an annual renewal; or  
278 (ii) when the office determines that reasonable cause exists;
- 279 (d) may submit an applicant's personal identifying information, including fingerprints, to  
280 the bureau for checking, retaining, and monitoring of state and national criminal  
281 background databases and for notifying the office of new criminal activity associated  
282 with the applicant;
- 283 (e) shall track the status of an applicant under this section to ensure that the applicant is  
284 not required to duplicate the submission of the applicant's fingerprints if the applicant  
285 applies for:
- 286 (i) more than one license;  
287 (ii) direct access to a child or a vulnerable adult in more than one human services  
288 program; or  
289 (iii) direct access to a child or a vulnerable adult under a contract with the department;
- 290 (f) shall track the status of each individual with direct access to a child or a vulnerable  
291 adult and notify the bureau within 90 days after the day on which the license expires  
292 or the individual's direct access to a child or a vulnerable adult ceases;
- 293 (g) shall adopt measures to strictly limit access to personal identifying information  
294 solely to the individuals responsible for processing and entering the applications for  
295 background checks and to protect the security of the personal identifying information  
296 the office reviews under this Subsection (3);
- 297 (h) as necessary to comply with the federal requirement to check a state's child abuse  
298 and neglect registry regarding any individual working in a congregate care program,  
299 shall:
- 300 (i) search the Division of Child and Family Services' Licensing Information System

- 301 described in Section 80-2-1002; and
- 302 (ii) require the child abuse and neglect registry be checked in each state where an  
303 applicant resided at any time during the five years immediately preceding the day  
304 on which the applicant submits the information described in Subsection (2) to the  
305 office; and
- 306 (i) shall make rules, in accordance with Title 63G, Chapter 3, Utah Administrative  
307 Rulemaking Act, to implement the provisions of this Subsection (3) relating to  
308 background checks.
- 309 (4) (a) With the personal identifying information the office submits to the bureau under  
310 Subsection (3), the bureau shall check against state and regional criminal background  
311 databases for the applicant's criminal history.
- 312 (b) With the personal identifying information and fingerprints the office submits to the  
313 bureau under Subsection (3), the bureau shall check against national criminal  
314 background databases for the applicant's criminal history.
- 315 (c) Upon direction from the office, and with the personal identifying information and  
316 fingerprints the office submits to the bureau under Subsection (3)(d), the bureau shall:
- 317 (i) maintain a separate file of the fingerprints for search by future submissions to the  
318 local and regional criminal records databases, including latent prints; and
- 319 (ii) monitor state and regional criminal background databases and identify criminal  
320 activity associated with the applicant.
- 321 (d) The bureau is authorized to submit the fingerprints to the Federal Bureau of  
322 Investigation Next Generation Identification System, to be retained in the Federal  
323 Bureau of Investigation Next Generation Identification System for the purpose of:
- 324 (i) being searched by future submissions to the national criminal records databases,  
325 including the Federal Bureau of Investigation Next Generation Identification  
326 System and latent prints; and
- 327 (ii) monitoring national criminal background databases and identifying criminal  
328 activity associated with the applicant.
- 329 (e) The Bureau shall notify and release to the office all information of criminal activity  
330 associated with the applicant.
- 331 (f) Upon notice that an individual's direct access to a child or a vulnerable adult has  
332 ceased for 90 days, the bureau shall:
- 333 (i) discard and destroy any retained fingerprints; and
- 334 (ii) notify the Federal Bureau of Investigation when the license has expired or an

335 individual's direct access to a child or a vulnerable adult has ceased, so that the  
336 Federal Bureau of Investigation will discard and destroy the retained fingerprints  
337 from the Federal Bureau of Investigation Next Generation Identification System.

338 (5) (a) Except as provided in Subsection (5)(b), after conducting the background check  
339 described in Subsections (3) and (4), the office shall deny an application to an  
340 applicant who, within three years before the day on which the applicant submits  
341 information to the office under Subsection (2) for a background check, has been  
342 convicted of:

343 (i) a felony or misdemeanor involving conduct that constitutes any of the following:

344 (A) an offense identified as domestic violence, lewdness, voyeurism, battery,  
345 cruelty to animals, or bestiality;

346 (B) a violation of any pornography law, including sexual exploitation of a minor  
347 or aggravated sexual exploitation of a minor;

348 (C) sexual solicitation;

349 (D) an offense included in Title 76, Chapter 5, Offenses Against the Individual,  
350 Title 76, Chapter 5b, Sexual Exploitation Act, Title 76, Chapter 4, Part 4,  
351 Enticement of a Minor, or Title 76, Chapter 7, Offenses Against the Family;

352 (E) aggravated arson, as described in Section 76-6-103;

353 (F) aggravated burglary, as described in Section 76-6-203;

354 (G) aggravated robbery, as described in Section 76-6-302;

355 (H) identity fraud crime, as described in Section 76-6-1102;

356 (I) sexual battery, as described in Section 76-9-702.1; or

357 (J) a violent offense committed in the presence of a child, as described in Section  
358 76-3-203.10; or

359 (ii) a felony or misdemeanor offense committed outside of the state that, if committed  
360 in the state, would constitute a violation of an offense described in Subsection  
361 (5)(a)(i).

362 (b) (i) Subsection (5)(a) does not apply to an applicant who is seeking a position as a  
363 peer support provider, a mental health professional, or in a program that serves  
364 only adults with a primary mental health diagnosis, with or without a co-occurring  
365 substance use disorder.

366 (ii) The office shall conduct a comprehensive review of an applicant described in  
367 Subsection (5)(b)(i) in accordance with Subsection (6).

368 (6) The office shall conduct a comprehensive review of an applicant's background check if

- 369 the applicant:
- 370 (a) has a felony or class A misdemeanor conviction for an offense described in  
371 Subsection (5) with a date of conviction that is more than three years before the date  
372 on which the applicant submits the information described in Subsection (2);
- 373 (b) has a felony charge or conviction for an offense not described in Subsection (5) with  
374 a date of charge or conviction that is no more than 10 years before the date on which  
375 the applicant submits the application under Subsection (2) and no criminal findings  
376 or non-criminal findings after the date of conviction;
- 377 (c) has a class B misdemeanor or class C misdemeanor conviction for an offense  
378 described in Subsection (5) with a date of conviction that is more than three years  
379 after, and no more than 10 years before, the date on which the applicant submits the  
380 information described in Subsection (2) and no criminal findings or non-criminal  
381 findings after the date of conviction;
- 382 (d) has a misdemeanor conviction for an offense not described in Subsection (5) with a  
383 date of conviction that is no more than three years before the date on which the  
384 applicant submits information described in Subsection (2) and no criminal findings or  
385 non-criminal findings after the date of conviction;
- 386 (e) is currently subject to a plea in abeyance or diversion agreement for an offense  
387 described in Subsection (5);
- 388 (f) appears on the Sex~~[-and]~~ , Kidnap, and Child Abuse Offender Registry described in [  
389 ~~Title 77, Chapter 41, Sex and Kidnap Offender Registry~~] Title 77, Chapter 41, Sex,  
390 Kidnap, and Child Abuse Offender Registry, or a national sex offender registry;
- 391 (g) has a record of an adjudication in juvenile court for an act that, if committed by an  
392 adult, would be a felony or misdemeanor, if the applicant is:
- 393 (i) under 28 years old; or
- 394 (ii) 28 years old or older and has been convicted of, has pleaded no contest to, or is  
395 currently subject to a plea in abeyance or diversion agreement for a felony or a  
396 misdemeanor offense described in Subsection (5);
- 397 (h) has a pending charge for an offense described in Subsection (5);
- 398 (i) has a listing in the Division of Child and Family Services' Licensing Information  
399 System described in Section 80-2-1002 that occurred no more than 15 years before  
400 the date on which the applicant submits the information described in Subsection (2)  
401 and no criminal findings or non-criminal findings dated after the date of the listing;
- 402 (j) has a listing in the Division of Aging and Adult Services' vulnerable adult abuse,

- 403 neglect, or exploitation database described in Section 26B-6-210 that occurred no  
404 more than 15 years before the date on which the applicant submits the information  
405 described in Subsection (2) and no criminal findings or non-criminal findings dated  
406 after the date of the listing;
- 407 (k) has a substantiated finding of severe child abuse or neglect under Section 80-3-404  
408 or 80-3-504 that occurred no more than 15 years before the date on which the  
409 applicant submits the information described in Subsection (2) and no criminal  
410 findings or non-criminal findings dated after the date of the finding;
- 411 (l) (i) is seeking a position:
- 412 (A) as a peer support provider;
- 413 (B) as a mental health professional; or
- 414 (C) in a program that serves only adults with a primary mental health diagnosis,  
415 with or without a co-occurring substance use disorder; and
- 416 (ii) within three years before the day on which the applicant submits the information  
417 described in Subsection (2):
- 418 (A) has a felony or misdemeanor charge or conviction;
- 419 (B) has a listing in the Division of Child and Family Services' Licensing  
420 Information System described in Section 80-2-1002;
- 421 (C) has a listing in the Division of Aging and Adult Services' vulnerable adult  
422 abuse, neglect, or exploitation database described in Section 26B-6-210; or
- 423 (D) has a substantiated finding of severe child abuse or neglect under Section  
424 80-3-404 or 80-3-504;
- 425 (m) (i) (A) is seeking a position in a congregate care program;
- 426 (B) is seeking to become a prospective foster or adoptive parent; or
- 427 (C) is an applicant described in Subsection (1)(a)(i)(F); and
- 428 (ii) (A) has an infraction conviction for conduct that constitutes an offense or  
429 violation described in Subsection (5)(a)(i)(A) or (B);
- 430 (B) has a listing in the Division of Child and Family Services' Licensing  
431 Information System described in Section 80-2-1002;
- 432 (C) has a listing in the Division of Aging and Adult Services' vulnerable adult  
433 abuse, neglect, or exploitation database described in Section 26B-6-210;
- 434 (D) has a substantiated finding of severe child abuse or neglect under Section  
435 80-3-404 or 80-3-504; or
- 436 (E) has a listing on the registry check described in Subsection (13)(a) as having a

- 437 substantiated or supported finding of a severe type of child abuse or neglect as  
438 defined in Section 80-1-102; or
- 439 (n) is seeking to become a prospective foster or adoptive parent and has, or has an adult  
440 living with the applicant who has, a conviction, finding, or listing described in  
441 Subsection (6)(m)(ii).
- 442 (7) (a) The comprehensive review shall include an examination of:
- 443 (i) the date of the offense or incident;
- 444 (ii) the nature and seriousness of the offense or incident;
- 445 (iii) the circumstances under which the offense or incident occurred;
- 446 (iv) the age of the perpetrator when the offense or incident occurred;
- 447 (v) whether the offense or incident was an isolated or repeated incident;
- 448 (vi) whether the offense or incident directly relates to abuse of a child or vulnerable  
449 adult, including:
- 450 (A) actual or threatened, nonaccidental physical, mental, or financial harm;
- 451 (B) sexual abuse;
- 452 (C) sexual exploitation; or
- 453 (D) negligent treatment;
- 454 (vii) any evidence provided by the applicant of rehabilitation, counseling, psychiatric  
455 treatment received, or additional academic or vocational schooling completed; and
- 456 (viii) the applicant's risk of harm to clientele in the program or in the capacity for  
457 which the applicant is applying.
- 458 (b) At the conclusion of the comprehensive review, the office shall deny an application  
459 to an applicant if the office finds:
- 460 (i) that approval would likely create a risk of harm to a child or a vulnerable adult; or
- 461 (ii) an individual is prohibited from having direct access to a child or vulnerable adult  
462 by court order.
- 463 (8) The office shall approve an application to an applicant who is not denied under this  
464 section.
- 465 (9) (a) The office may conditionally approve an application of an applicant, for a  
466 maximum of 60 days after the day on which the office sends written notice to the  
467 applicant under Subsection (11), without requiring that the applicant be directly  
468 supervised, if the office:
- 469 (i) is awaiting the results of the criminal history search of national criminal  
470 background databases; and

- 471 (ii) would otherwise approve an application of the applicant under this section.
- 472 (b) The office may conditionally approve an application of an applicant, for a maximum  
473 of one year after the day on which the office sends written notice to the applicant  
474 under Subsection (11), without requiring that the applicant be directly supervised if  
475 the office:
- 476 (i) is awaiting the results of an out-of-state registry for providers other than foster and  
477 adoptive parents; and
- 478 (ii) would otherwise approve an application of the applicant under this section.
- 479 (c) Upon receiving the results of the criminal history search of a national criminal  
480 background database, the office shall approve or deny the application of the applicant  
481 in accordance with this section.
- 482 (10) (a) A licensee or department contractor may not permit an individual to have direct  
483 access to a child or a vulnerable adult without being directly supervised unless:
- 484 (i) the individual is associated with the licensee or department contractor and the  
485 department conducts a background screening in accordance with this section;
- 486 (ii) the individual is the parent or guardian of the child, or the guardian of the  
487 vulnerable adult;
- 488 (iii) the individual is approved by the parent or guardian of the child, or the guardian  
489 of the vulnerable adult, to have direct access to the child or the vulnerable adult;
- 490 (iv) the individual is only permitted to have direct access to a vulnerable adult who  
491 voluntarily invites the individual to visit; or
- 492 (v) the individual only provides incidental care for a foster child on behalf of a foster  
493 parent who has used reasonable and prudent judgment to select the individual to  
494 provide the incidental care for the foster child.
- 495 (b) Notwithstanding any other provision of this section, an individual for whom the  
496 office denies an application may not have direct access to a child or vulnerable adult  
497 unless the office approves a subsequent application by the individual.
- 498 (11) (a) Within 30 days after the day on which the applicant submits the information  
499 described in Subsection (2), the office shall notify the applicant of any potentially  
500 disqualifying criminal findings or non-criminal findings.
- 501 (b) If the notice under Subsection (11)(a) states that the applicant's application is denied,  
502 the notice shall further advise the applicant that the applicant may, under Subsection  
503 26B-2-111(2), request a hearing in the department's Office of Administrative  
504 Hearings, to challenge the office's decision.

- 505 (c) In accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, the  
506 office shall make rules, consistent with this part:
- 507 (i) defining procedures for the challenge of the office's background check decision  
508 described in Subsection (11)(b); and
- 509 (ii) expediting the process for renewal of a license under the requirements of this  
510 section and other applicable sections.
- 511 (12) (a) An individual or a department contractor who provides services in an adults  
512 only substance use disorder program, as defined by rule made in accordance with  
513 Title 63G, Chapter 3, Utah Administrative Rulemaking Act, is exempt from this  
514 section.
- 515 (b) The exemption described in Subsection (12)(a) does not extend to a program director  
516 or a member, as defined by Section 26B-2-105, of the program.
- 517 (13) (a) Except as provided in Subsection (13)(b), in addition to the other requirements  
518 of this section, if the background check of an applicant is being conducted for the  
519 purpose of giving clearance status to an applicant seeking a position in a congregate  
520 care program or an applicant seeking to become a prospective foster or adoptive  
521 parent, the office shall:
- 522 (i) check the child abuse and neglect registry in each state where each applicant  
523 resided in the five years immediately preceding the day on which the applicant  
524 applied to be a foster or adoptive parent, to determine whether the prospective  
525 foster or adoptive parent is listed in the registry as having a substantiated or  
526 supported finding of child abuse or neglect; and
- 527 (ii) check the child abuse and neglect registry in each state where each adult living in  
528 the home of the applicant described in Subsection (13)(a)(i) resided in the five  
529 years immediately preceding the day on which the applicant applied to be a foster  
530 or adoptive parent, to determine whether the adult is listed in the registry as  
531 having a substantiated or supported finding of child abuse or neglect.
- 532 (b) The requirements described in Subsection (13)(a) do not apply to the extent that:
- 533 (i) federal law or rule permits otherwise; or
- 534 (ii) the requirements would prohibit the Division of Child and Family Services or a  
535 court from placing a child with:
- 536 (A) a noncustodial parent under Section 80-2a-301, 80-3-302, or 80-3-303; or  
537 (B) a relative, other than a noncustodial parent, under Section 80-2a-301, 80-3-302,  
538 or 80-3-303, pending completion of the background check described in



- 539 Subsection (5).
- 540 (c) Notwithstanding Subsections (5) through (10), the office shall deny a clearance to an  
541 applicant seeking a position in a congregate care program or an applicant to become a  
542 prospective foster or adoptive parent if the applicant has been convicted of:
- 543 (i) a felony involving conduct that constitutes any of the following:
- 544 (A) child abuse, as described in Sections 76-5-109, 76-5-109.2, and 76-5-109.3;
- 545 (B) commission of domestic violence in the presence of a child, as described in  
546 Section 76-5-114;
- 547 (C) abuse or neglect of a child with a disability, as described in Section 76-5-110;
- 548 (D) endangerment of a child or vulnerable adult, as described in Section  
549 76-5-112.5;
- 550 (E) aggravated murder, as described in Section 76-5-202;
- 551 (F) murder, as described in Section 76-5-203;
- 552 (G) manslaughter, as described in Section 76-5-205;
- 553 (H) child abuse homicide, as described in Section 76-5-208;
- 554 (I) homicide by assault, as described in Section 76-5-209;
- 555 (J) kidnapping, as described in Section 76-5-301;
- 556 (K) child kidnapping, as described in Section 76-5-301.1;
- 557 (L) aggravated kidnapping, as described in Section 76-5-302;
- 558 (M) human trafficking of a child, as described in Section 76-5-308.5;
- 559 (N) an offense described in Title 76, Chapter 5, Part 4, Sexual Offenses;
- 560 (O) sexual exploitation of a minor, as described in Title 76, Chapter 5b, Sexual  
561 Exploitation Act;
- 562 (P) aggravated exploitation of a minor, as described in Section 76-5b-201.1;
- 563 (Q) aggravated arson, as described in Section 76-6-103;
- 564 (R) aggravated burglary, as described in Section 76-6-203;
- 565 (S) aggravated robbery, as described in Section 76-6-302;
- 566 (T) lewdness involving a child, as described in Section 76-9-702.5;
- 567 (U) incest, as described in Section 76-7-102; or
- 568 (V) domestic violence, as described in Section 77-36-1; or
- 569 (ii) an offense committed outside the state that, if committed in the state, would  
570 constitute a violation of an offense described in Subsection (13)(c)(i).
- 571 (d) Notwithstanding Subsections (5) through (10), the office shall deny a license or  
572 license renewal to an individual seeking a position in a congregate care program or a

573 prospective foster or adoptive parent if, within the five years immediately preceding  
 574 the day on which the individual's application or license would otherwise be approved,  
 575 the individual was convicted of a felony involving conduct that constitutes a violation  
 576 of any of the following:

- 577 (i) aggravated assault, as described in Section 76-5-103;
- 578 (ii) aggravated assault by a prisoner, as described in Section 76-5-103.5;
- 579 (iii) mayhem, as described in Section 76-5-105;
- 580 (iv) an offense described in Title 58, Chapter 37, Utah Controlled Substances Act;
- 581 (v) an offense described in Title 58, Chapter 37a, Utah Drug Paraphernalia Act;
- 582 (vi) an offense described in Title 58, Chapter 37b, Imitation Controlled Substances  
 583 Act;
- 584 (vii) an offense described in Title 58, Chapter 37c, Utah Controlled Substance  
 585 Precursor Act; or
- 586 (viii) an offense described in Title 58, Chapter 37d, Clandestine Drug Lab Act.

587 (e) In addition to the circumstances described in Subsection (6), the office shall conduct  
 588 the comprehensive review of an applicant's background check under this section if  
 589 the registry check described in Subsection (13)(a) indicates that the individual is  
 590 listed in a child abuse and neglect registry of another state as having a substantiated  
 591 or supported finding of a severe type of child abuse or neglect as defined in Section  
 592 80-1-102.

593 (14) In accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, the  
 594 office may make rules, consistent with this part, to:

- 595 (a) establish procedures for, and information to be examined in, the comprehensive  
 596 review described in Subsections (6) and (7); and
- 597 (b) determine whether to consider an offense or incident that occurred while an  
 598 individual was in the custody of the Division of Child and Family Services or the  
 599 Division of Juvenile Justice Services for purposes of approval or denial of an  
 600 application for a prospective foster or adoptive parent.

601 Section 4. Section **53-3-205** is amended to read:

602 **53-3-205 . Application for license or endorsement -- Fee required -- Tests --**  
 603 **Expiration dates of licenses and endorsements -- Information required --**  
 604 **Previous licenses surrendered -- Driving record transferred from other states --**  
 605 **Reinstatement -- Fee required -- License agreement.**

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

- 607 (a) made upon a form furnished by the division; and  
608 (b) accompanied by a nonrefundable fee set under Section 53-3-105.
- 609 (2) An application and fee for an original provisional class D license or an original class D  
610 license entitle the applicant to:
- 611 (a) not more than three attempts to pass both the knowledge and the skills tests for a  
612 class D license within six months after the date of the application;
- 613 (b) a learner permit if needed pending completion of the application and testing process;  
614 and
- 615 (c) an original class D license and license certificate after all tests are passed and  
616 requirements are completed.
- 617 (3) An application and fee for a motorcycle or taxicab endorsement entitle the applicant to:
- 618 (a) not more than three attempts to pass both the knowledge and skills tests within six  
619 months after the date of the application;
- 620 (b) a motorcycle learner permit after the motorcycle knowledge test is passed; and  
621 (c) a motorcycle or taxicab endorsement when all tests are passed.
- 622 (4) An application for a commercial class A, B, or C license entitles the applicant to:
- 623 (a) not more than two attempts to pass a knowledge test when accompanied by the fee  
624 provided in Subsection 53-3-105(18);
- 625 (b) not more than two attempts to pass a skills test when accompanied by a fee in  
626 Subsection 53-3-105(19) within six months after the date of application;
- 627 (c) both a commercial driver instruction permit and a temporary license permit for the  
628 license class held before the applicant submits the application if needed after the  
629 knowledge test is passed; and
- 630 (d) an original commercial class A, B, or C license and license certificate when all  
631 applicable tests are passed.
- 632 (5) An application and fee for a CDL endorsement entitle the applicant to:
- 633 (a) not more than two attempts to pass a knowledge test and not more than two attempts  
634 to pass a skills test within six months after the date of the application; and  
635 (b) a CDL endorsement when all tests are passed.
- 636 (6) (a) If a CDL applicant does not pass a knowledge test, skills test, or an endorsement  
637 test within the number of attempts provided in Subsection (4) or (5), each test may be  
638 taken two additional times within the six months for the fee provided in Section  
639 53-3-105.
- 640 (b) (i) An out-of-state resident who holds a valid CDIP issued by a state or

- 641 jurisdiction that is compliant with 49 C.F.R. Part 383 may take a skills test  
642 administered by the division if the out-of-state resident pays the fee provided in  
643 Subsection 53-3-105(19).
- 644 (ii) The division shall:
- 645 (A) electronically transmit skills test results for an out-of-state resident to the  
646 licensing agency in the state or jurisdiction in which the out-of-state resident  
647 has obtained a valid CDIP; and
- 648 (B) provide the out-of-state resident with documentary evidence upon successful  
649 completion of the skills test.
- 650 (7) (a) (i) Except as provided under Subsections (7)(a)(ii), (f), and (g), an original  
651 class D license expires on the birth date of the applicant in the eighth year after the  
652 year the license certificate was issued.
- 653 (ii) An original provisional class D license expires on the birth date of the applicant  
654 in the fifth year following the year the license certificate was issued.
- 655 (iii) Except as provided in Subsection (7)(f), a limited term class D license expires on  
656 the birth date of the applicant in the fifth year the license certificate was issued.
- 657 (b) Except as provided under Subsections (7)(f) and (g), a renewal or an extension to a  
658 license expires on the birth date of the licensee in the eighth year after the expiration  
659 date of the license certificate renewed or extended.
- 660 (c) Except as provided under Subsections (7)(f) and (g), a duplicate license expires on  
661 the same date as the last license certificate issued.
- 662 (d) An endorsement to a license expires on the same date as the license certificate  
663 regardless of the date the endorsement was granted.
- 664 (e) (i) A regular license certificate and an endorsement to the regular license  
665 certificate held by an individual described in Subsection (7)(e)(ii), that expires  
666 during the time period the individual is stationed outside of the state, is valid until  
667 90 days after the individual's orders are terminated, the individual is discharged, or  
668 the individual's assignment is changed or terminated, unless:
- 669 (A) the license is suspended, disqualified, denied, or has been cancelled or  
670 revoked by the division; or
- 671 (B) the licensee updates the information or photograph on the license certificate.
- 672 (ii) The provisions in Subsection (7)(e)(i) apply to an individual:
- 673 (A) ordered to active duty and stationed outside of Utah in any of the armed forces  
674 of the United States;

- 675 (B) who is an immediate family member or dependent of an individual described  
676 in Subsection (7)(e)(ii)(A) and is residing outside of Utah;
- 677 (C) who is a civilian employee of the United States State Department or United  
678 States Department of Defense and is stationed outside of the United States; or
- 679 (D) who is an immediate family member or dependent of an individual described  
680 in Subsection (7)(e)(ii)(C) and is residing outside of the United States.
- 681 (f) (i) Except as provided in Subsection (7)(f)(ii), a limited-term license certificate or  
682 a renewal to a limited-term license certificate expires:
- 683 (A) on the expiration date of the period of time of the individual's authorized stay  
684 in the United States or on the date provided under this Subsection (7),  
685 whichever is sooner; or
- 686 (B) on the date of issuance in the first year following the year that the limited-term  
687 license certificate was issued if there is no definite end to the individual's  
688 period of authorized stay.
- 689 (ii) A limited-term license certificate or a renewal to a limited-term license certificate  
690 issued to an approved asylee or a refugee expires on the birth date of the applicant  
691 in the fifth year following the year that the limited-term license certificate was  
692 issued.
- 693 (g) A driving privilege card issued or renewed under Section 53-3-207 expires on the  
694 birth date of the applicant in the first year following the year that the driving privilege  
695 card was issued or renewed.
- 696 (8) (a) In addition to the information required by Title 63G, Chapter 4, Administrative  
697 Procedures Act, for requests for agency action, an applicant shall:
- 698 (i) provide:
- 699 (A) the applicant's full legal name;
- 700 (B) the applicant's birth date;
- 701 (C) the applicant's sex;
- 702 (D) (I) documentary evidence of the applicant's valid social security number;
- 703 (II) written proof that the applicant is ineligible to receive a social security  
704 number;
- 705 (III) the applicant's temporary identification number (ITIN) issued by the  
706 Internal Revenue Service for an individual who:
- 707 (Aa) does not qualify for a social security number; and
- 708 (Bb) is applying for a driving privilege card; or

- 709 (IV) other documentary evidence approved by the division;
- 710 (E) the applicant's Utah residence address as documented by a form or forms
- 711 acceptable under rules made by the division under Section 53-3-104, unless the
- 712 application is for a temporary CDL issued under Subsection 53-3-407(2)(b);
- 713 and
- 714 (F) fingerprints, or a fingerprint confirmation form described in Subsection
- 715 53-3-205.5(1)(a)(ii), and a photograph in accordance with Section 53-3-205.5
- 716 if the applicant is applying for a driving privilege card;
- 717 (ii) provide evidence of the applicant's lawful presence in the United States by
- 718 providing documentary evidence:
- 719 (A) that the applicant is:
- 720 (I) a United States citizen;
- 721 (II) a United States national; or
- 722 (III) a legal permanent resident alien; or
- 723 (B) of the applicant's:
- 724 (I) unexpired immigrant or nonimmigrant visa status for admission into the
- 725 United States;
- 726 (II) pending or approved application for asylum in the United States;
- 727 (III) admission into the United States as a refugee;
- 728 (IV) pending or approved application for temporary protected status in the
- 729 United States;
- 730 (V) approved deferred action status;
- 731 (VI) pending application for adjustment of status to legal permanent resident or
- 732 conditional resident; or
- 733 (VII) conditional permanent resident alien status;
- 734 (iii) provide a description of the applicant;
- 735 (iv) state whether the applicant has previously been licensed to drive a motor vehicle
- 736 and, if so, when and by what state or country;
- 737 (v) state whether the applicant has ever had a license suspended, cancelled, revoked,
- 738 disqualified, or denied in the last 10 years, or whether the applicant has ever had a
- 739 license application refused, and if so, the date of and reason for the suspension,
- 740 cancellation, revocation, disqualification, denial, or refusal;
- 741 (vi) state whether the applicant intends to make an anatomical gift under Title 26B,
- 742 Chapter 8, Part 3, Revised Uniform Anatomical Gift Act, in compliance with

- 743 Subsection (15);
- 744 (vii) state whether the applicant is required to register as a sex offender, kidnap  
745 offender, or child abuse offender, in accordance with [~~Title 77, Chapter 41, Sex~~  
746 ~~and Kidnap Offender Registry~~] Title 77, Chapter 41, Sex, Kidnap, and Child  
747 Abuse Offender Registry;
- 748 (viii) state whether the applicant is a veteran of the United States military, provide  
749 verification that the applicant was granted an honorable or general discharge from  
750 the United States Armed Forces, and state whether the applicant does or does not  
751 authorize sharing the information with the Department of Veterans and Military  
752 Affairs;
- 753 (ix) provide all other information the division requires; and
- 754 (x) sign the application which signature may include an electronic signature as  
755 defined in Section 46-4-102.
- 756 (b) Unless the applicant provides acceptable verification of homelessness as described in  
757 rules made by the division, an applicant shall have a Utah residence address, unless  
758 the application is for a temporary CDL issued under Subsection 53-3-407(2)(b).
- 759 (c) An applicant shall provide evidence of lawful presence in the United States in  
760 accordance with Subsection (8)(a)(ii), unless the application is for a driving privilege  
761 card.
- 762 (d) The division shall maintain on the division's computerized records an applicant's:
- 763 (i) (A) social security number;
- 764 (B) temporary identification number (ITIN); or
- 765 (C) other number assigned by the division if Subsection (8)(a)(i)(D)(IV) applies;
- 766 and
- 767 (ii) indication whether the applicant is required to register as a sex offender, kidnap  
768 offender, or child abuse offender in accordance with [~~Title 77, Chapter 41, Sex~~  
769 ~~and Kidnap Offender Registry~~] Title 77, Chapter 41, Sex, Kidnap, and Child  
770 Abuse Offender Registry.
- 771 (9) The division shall require proof of an applicant's name, birth date, and birthplace by at  
772 least one of the following means:
- 773 (a) current license certificate;
- 774 (b) birth certificate;
- 775 (c) Selective Service registration; or
- 776 (d) other proof, including church records, family Bible notations, school records, or

- 777 other evidence considered acceptable by the division.
- 778 (10) (a) Except as provided in Subsection (10)(c), if an applicant receives a license in a  
779 higher class than what the applicant originally was issued:
- 780 (i) the license application is treated as an original application; and  
781 (ii) license and endorsement fees is assessed under Section 53-3-105.
- 782 (b) An applicant that receives a downgraded license in a lower license class during an  
783 existing license cycle that has not expired:
- 784 (i) may be issued a duplicate license with a lower license classification for the  
785 remainder of the existing license cycle; and  
786 (ii) shall be assessed a duplicate license fee under Subsection 53-3-105(25) if a  
787 duplicate license is issued under Subsection (10)(b)(i).
- 788 (c) An applicant who has received a downgraded license in a lower license class under  
789 Subsection (10)(b):
- 790 (i) may, when eligible, receive a duplicate license in the highest class previously  
791 issued during a license cycle that has not expired for the remainder of the existing  
792 license cycle; and  
793 (ii) shall be assessed a duplicate license fee under Subsection 53-3-105(25) if a  
794 duplicate license is issued under Subsection (10)(c)(i).
- 795 (11) (a) When an application is received from an applicant previously licensed in  
796 another state to drive a motor vehicle, the division shall request a copy of the driver's  
797 record from the other state.
- 798 (b) When received, the driver's record becomes part of the driver's record in this state  
799 with the same effect as though entered originally on the driver's record in this state.
- 800 (12) An application for reinstatement of a license after the suspension, cancellation,  
801 disqualification, denial, or revocation of a previous license is accompanied by the  
802 additional fee or fees specified in Section 53-3-105.
- 803 (13) An individual who has an appointment with the division for testing and fails to keep  
804 the appointment or to cancel at least 48 hours in advance of the appointment shall pay  
805 the fee under Section 53-3-105.
- 806 (14) An applicant who applies for an original license or renewal of a license agrees that the  
807 individual's license is subject to a suspension or revocation authorized under this title or  
808 Title 41, Motor Vehicles.
- 809 (15) (a) A licensee shall authenticate the indication of intent under Subsection (8)(a)(vi)  
810 in accordance with division rule.



- 811 (b) (i) Notwithstanding Title 63G, Chapter 2, Government Records Access and  
812 Management Act, the division may, upon request, release to an organ procurement  
813 organization, as defined in Section 26B-8-301, the names and addresses of all  
814 applicants who, under Subsection (8)(a)(vi), indicate that they intend to make an  
815 anatomical gift.
- 816 (ii) An organ procurement organization may use released information only to:  
817 (A) obtain additional information for an anatomical gift registry; and  
818 (B) inform licensees of anatomical gift options, procedures, and benefits.
- 819 (16) Notwithstanding Title 63G, Chapter 2, Government Records Access and Management  
820 Act, the division may release to the Department of Veterans and Military Affairs the  
821 names and addresses of all applicants who indicate their status as a veteran under  
822 Subsection (8)(a)(viii).
- 823 (17) Notwithstanding Title 63G, Chapter 2, Government Records Access and Management  
824 Act, the division shall, upon request, release to the Sex~~[-and]~~ , Kidnap, and Child Abuse  
825 Offender Registry office in the Department of ~~[Corrections]~~ Public Safety, the names  
826 and addresses of all applicants who, under Subsection (8)(a)(vii), indicate they are  
827 required to register as a sex offender, kidnap offender, or child abuse offender in  
828 accordance with ~~[Title 77, Chapter 41, Sex and Kidnap Offender Registry]~~ Title 77,  
829 Chapter 41, Sex, Kidnap, and Child Abuse Offender Registry.
- 830 (18) The division and its employees are not liable, as a result of false or inaccurate  
831 information provided under Subsection (8)(a)(vi) or (viii), for direct or indirect:  
832 (a) loss;  
833 (b) detriment; or  
834 (c) injury.
- 835 (19) An applicant who knowingly fails to provide the information required under  
836 Subsection (8)(a)(vii) is guilty of a class A misdemeanor.
- 837 (20) A person may not hold both an unexpired Utah license certificate and an unexpired  
838 identification card.
- 839 (21) (a) An applicant who applies for an original motorcycle endorsement to a regular  
840 license certificate is exempt from the requirement to pass the knowledge and skills  
841 test to be eligible for the motorcycle endorsement if the applicant:  
842 (i) is a resident of the state of Utah;  
843 (ii) (A) is ordered to active duty and stationed outside of Utah in any of the armed  
844 forces of the United States; or

845 (B) is an immediate family member or dependent of an individual described in  
 846 Subsection (21)(a)(ii)(A) and is residing outside of Utah;  
 847 (iii) has a digitized driver license photo on file with the division;  
 848 (iv) provides proof to the division of the successful completion of a certified  
 849 Motorcycle Safety Foundation rider training course; and  
 850 (v) provides the necessary information and documentary evidence required under  
 851 Subsection (8).

852 (b) In accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, the  
 853 division shall make rules:

854 (i) establishing the procedures for an individual to obtain a motorcycle endorsement  
 855 under this Subsection (21); and

856 (ii) identifying the applicable restrictions for a motorcycle endorsement issued under  
 857 this Subsection (21).

858 Section 5. Section **53-3-216** is amended to read:

859 **53-3-216 . Change of address -- Duty of licensee to notify division within 10 days**

860 **-- Change of name -- Proof necessary -- Method of giving notice by division.**

861 (1) (a) Except as provided in Subsection (1)(b), if an individual, after applying for or  
 862 receiving a license, moves from the address named in the application or in the license  
 863 certificate issued to the individual, the individual shall, within 10 days after the day  
 864 on which the individual moves, notify the division in a manner specified by the  
 865 division of the individual's new address and the number of any license certificate held  
 866 by the individual.

867 (b) If an individual who is required to register as a sex offender, kidnap offender, or  
 868 child abuse offender under [~~Title 77, Chapter 41, Sex and Kidnap Offender Registry~~]  
 869 Title 77, Chapter 41, Sex, Kidnap, and Child Abuse Offender Registry, after applying  
 870 for or receiving a license, moves from the address named in the application or in the  
 871 license certificate issued to the individual, the individual shall, within 30 days after  
 872 the day on which the individual moves, apply for an updated license in-person at a  
 873 division office.

874 (2) If an applicant requests to change the surname on the applicant's license, the division  
 875 shall issue a substitute license with the new name upon receiving an application and fee  
 876 for a duplicate license and any of the following proofs of the applicant's full legal name:

877 (a) an original or certified copy of the applicant's marriage certificate;

878 (b) a certified copy of a court order under Title 42, Chapter 1, Change of Name, showing

- 879 the name change;
- 880 (c) an original or certified copy of a birth certificate issued by a government agency;
- 881 (d) a certified copy of a divorce decree or annulment granted the applicant that specifies
- 882 the name change requested; or
- 883 (e) a certified copy of a divorce decree that does not specify the name change requested
- 884 together with:
- 885 (i) an original or certified copy of the applicant's birth certificate;
- 886 (ii) the applicant's marriage license;
- 887 (iii) a driver license record showing use of a maiden name; or
- 888 (iv) other documentation the division finds acceptable.
- 889 (3) (a) If the division is authorized or required to give a notice under this chapter or
- 890 other law regulating the operation of vehicles, the notice shall, unless otherwise
- 891 prescribed, be given by:
- 892 (i) personal delivery to the individual to be notified; or
- 893 (ii) deposit in the United States mail with postage prepaid, addressed to the individual
- 894 at the individual's address as shown by the records of the division.
- 895 (b) The giving of notice by mail is complete upon the expiration of four days after the
- 896 deposit of the notice.
- 897 (c) Proof of the giving of notice in either manner may be made by the certificate of an
- 898 officer or employee of the division or affidavit of an individual 18 years of age or
- 899 older, naming the individual to whom the notice was given and specifying the time,
- 900 place, and manner of giving the notice.
- 901 (4) The division may use state mailing or United States Postal Service information to:
- 902 (a) verify an address on an application or on records of the division; and
- 903 (b) correct mailing addresses in the division's records.
- 904 (5) A violation of the provisions of Subsection (1) is an infraction.
- 905 Section 6. Section **53-3-804** is amended to read:
- 906 **53-3-804 . Application for identification card -- Required information -- Release**
- 907 **of anatomical gift information -- Cancellation of identification card.**
- 908 (1) To apply for a regular identification card or limited-term identification card, an
- 909 applicant shall:
- 910 (a) be a Utah resident;
- 911 (b) have a Utah residence address; and
- 912 (c) appear in person at any license examining station.

- 913 (2) An applicant shall provide the following information to the division:
- 914 (a) true and full legal name and Utah residence address;
- 915 (b) date of birth as set forth in a certified copy of the applicant's birth certificate, or other
- 916 satisfactory evidence of birth, which shall be attached to the application;
- 917 (c) (i) social security number; or
- 918 (ii) written proof that the applicant is ineligible to receive a social security number;
- 919 (d) place of birth;
- 920 (e) height and weight;
- 921 (f) color of eyes and hair;
- 922 (g) signature;
- 923 (h) photograph;
- 924 (i) evidence of the applicant's lawful presence in the United States by providing
- 925 documentary evidence:
- 926 (i) that the applicant is:
- 927 (A) a United States citizen;
- 928 (B) a United States national; or
- 929 (C) a legal permanent resident alien; or
- 930 (ii) of the applicant's:
- 931 (A) unexpired immigrant or nonimmigrant visa status for admission into the
- 932 United States;
- 933 (B) pending or approved application for asylum in the United States;
- 934 (C) admission into the United States as a refugee;
- 935 (D) pending or approved application for temporary protected status in the United
- 936 States;
- 937 (E) approved deferred action status;
- 938 (F) pending application for adjustment of status to legal permanent resident or
- 939 conditional resident; or
- 940 (G) conditional permanent resident alien status;
- 941 (j) an indication whether the applicant intends to make an anatomical gift under Title
- 942 26B, Chapter 8, Part 3, Revised Uniform Anatomical Gift Act;
- 943 (k) an indication whether the applicant is required to register as a sex offender, kidnap
- 944 offender, or child abuse offender in accordance with [~~Title 77, Chapter 41, Sex and~~
- 945 ~~Kidnap Offender Registry~~] Title 77, Chapter 41, Sex, Kidnap, and Child Abuse
- 946 Offender Registry; and

- 947 (l) an indication whether the applicant is a veteran of the United States Armed Forces,  
948 verification that the applicant has received an honorable or general discharge from  
949 the United States Armed Forces, and an indication whether the applicant does or does  
950 not authorize sharing the information with the state Department of Veterans and  
951 Military Affairs.
- 952 (3) (a) The requirements of Section 53-3-234 apply to this section for each individual,  
953 age 16 and older, applying for an identification card.
- 954 (b) Refusal to consent to the release of information under Section 53-3-234 shall result  
955 in the denial of the identification card.
- 956 (4) An individual person who knowingly fails to provide the information required under  
957 Subsection (2)(k) is guilty of a class A misdemeanor.
- 958 (5) (a) A person may not hold both an unexpired Utah license certificate and an  
959 unexpired identification card.
- 960 (b) A person who holds a regular or limited term Utah driver license and chooses to  
961 relinquish the person's driving privilege may apply for an identification card under  
962 this chapter, provided:
- 963 (i) the driver:
- 964 (A) no longer qualifies for a driver license for failure to meet the requirement in  
965 Section 53-3-304; or
- 966 (B) makes a personal decision to permanently discontinue driving; ~~and~~
- 967 (ii) the driver:
- 968 (A) submits an application to the division on a form approved by the division in  
969 person, through electronic means, or by mail;
- 970 (B) affirms their intention to permanently discontinue driving; and
- 971 (C) surrenders to the division the driver license certificate; and
- 972 (iii) the division possesses a digital photograph of the driver obtained within the  
973 preceding 10 years.
- 974 (c) (i) The division shall waive the fee under Section 53-3-105 for an identification  
975 card for an original identification card application under this Subsection (5).
- 976 (ii) The fee waiver described in Subsection (5)(c)(i) does not apply to a person whose  
977 driving privilege is suspended or revoked.
- 978 (6) Notwithstanding Title 63G, Chapter 2, Government Records Access and Management  
979 Act, the division shall, upon request, release to the Sex ~~and~~ , Kidnap, and Child Abuse  
980 Offender Registry office in the Department of ~~Corrections~~ Public Safety, the names

981 and addresses of all applicants who, under Subsection (2)(k), indicate they are required  
 982 to register as a sex offender, kidnap offender, or child abuse offender in accordance with [  
 983 ~~Title 77, Chapter 41, Sex and Kidnap Offender Registry~~] Title 77, Chapter 41, Sex,  
 984 Kidnap, and Child Abuse Offender Registry.

985 Section 7. Section **53-3-806.5** is amended to read:

986 **53-3-806.5 . Identification card required if offender does not have driver license.**

987 (1) (a) [~~If a person is~~] An individual who does not hold a current driver license in  
 988 compliance with Section 53-3-205 and is required to register as a sex offender,  
 989 kidnap offender, or child abuse offender in accordance with [~~Title 77, Chapter 41,~~  
 990 ~~Sex and Kidnap Offender Registry or as a child abuse offender in accordance with~~  
 991 ~~Title 77, Chapter 43, Child Abuse Offender Registry, and the person does not hold a~~  
 992 ~~current driver license in compliance with Section 53-3-205, the person~~] Title 77,  
 993 Chapter 41, Sex, Kidnap, and Child Abuse Offender Registry, shall obtain an  
 994 identification card.

995 (b) The [~~person~~] individual shall maintain a current identification card during [~~any time~~  
 996 ~~the person~~] the time the individual is required to register as a sex offender, kidnap  
 997 offender, or child abuse offender and the [~~person~~] individual does not hold a valid  
 998 driver license.

999 (2) Failure to maintain a current identification card as required under Subsection (1) is a  
 1000 class A misdemeanor for each month of violation of Subsection (1).

1001 Section 8. Section **53-3-807** is amended to read:

1002 **53-3-807 . Expiration -- Address and name change -- Extension.**

1003 (1) (a) A regular identification card expires on the birth date of the applicant in the fifth  
 1004 year after the issuance of the regular identification card.

1005 (b) A limited-term identification card expires on:

1006 (i) the expiration date of the period of time of the individual's authorized stay in the  
 1007 United States or on the birth date of the applicant in the fifth year after the  
 1008 issuance of the limited-term identification card, whichever is sooner; or  
 1009 (ii) on the date of issuance in the first year after the year that the limited-term  
 1010 identification card was issued if there is no definite end to the individual's period  
 1011 of authorized stay.

1012 (2) (a) Except as provided in Subsection (2)(b), if an individual has applied for and  
 1013 received an identification card and subsequently moves from the address shown on  
 1014 the application or on the card, the individual shall, within 10 days after the day on

- 1015 which the individual moves, notify the division in a manner specified by the division  
1016 of the individual's new address.
- 1017 (b) If an individual who is required to register as a sex offender, kidnap offender, or  
1018 child abuse offender under [~~Title 77, Chapter 41, Sex and Kidnap Offender Registry~~]  
1019 Title 77, Chapter 41, Sex, Kidnap, and Child Abuse Offender Registry, has applied  
1020 for and received an identification card and subsequently moves from the address  
1021 shown on the application or on the card, the individual shall, within 30 days after the  
1022 day on which the individual moves, apply for an updated identification card in-person  
1023 at a division office.
- 1024 (3) If an individual has applied for and received an identification card and subsequently  
1025 changes the individual's name under Title 42, Chapter 1, Change of Name, the  
1026 individual:
- 1027 (a) shall surrender the card to the division; and  
1028 (b) may apply for a new card in the individual's new name by:
- 1029 (i) furnishing proper documentation to the division as provided in Section 53-3-804;  
1030 and  
1031 (ii) paying the fee required under Section 53-3-105.
- 1032 (4) A person 21 years [~~of age~~] old or older with a disability, as defined under the Americans  
1033 with Disabilities Act of 1990, Pub. L. 101-336, may extend the expiration date on an  
1034 identification card for five years if the person with a disability or an agent of the person  
1035 with a disability:
- 1036 (a) requests that the division send the application form to obtain the extension or  
1037 requests an application form in person at the division's offices;  
1038 (b) completes the application;  
1039 (c) certifies that the extension is for a person 21 years [~~of age~~] old or older with a  
1040 disability; and  
1041 (d) returns the application to the division together with the identification card fee  
1042 required under Section 53-3-105.
- 1043 (5) (a) The division may extend a valid regular identification card issued after January 1,  
1044 2010, for five years at any time within six months before the day on which the  
1045 identification card expires.
- 1046 (b) The application for an extension of a regular identification card is accompanied by a  
1047 fee under Section 53-3-105.
- 1048 (c) The division shall allow extensions:

- 1049 (i) by mail, electronic means, or other means as determined by the division at the  
1050 appropriate extension fee rate under Section 53-3-105; and
- 1051 (ii) only if the applicant qualifies under this section.
- 1052 (6) (a) A regular identification card may only be extended once under Subsections (4)  
1053 and (5).
- 1054 (b) After an extension an application for an identification card must be applied for in  
1055 person at the division's offices.
- 1056 Section 9. Section **53-10-404** is amended to read:
- 1057 **53-10-404 . DNA specimen analysis -- Requirement to obtain the specimen.**
- 1058 (1) As used in this section, "person" refers to any person as described under Section  
1059 53-10-403.
- 1060 (2) (a) A person under Section 53-10-403 or any person required to register as a sex  
1061 offender, kidnap offender, or child abuse offender under [~~Title 77, Chapter 41, Sex~~  
1062 ~~and Kidnap Offender Registry~~] Title 77, Chapter 41, Sex, Kidnap, and Child Abuse  
1063 Offender Registry, shall provide a DNA specimen and shall reimburse the agency  
1064 responsible for obtaining the DNA specimen \$150 for the cost of obtaining the DNA  
1065 specimen unless:
- 1066 (i) the person was booked under Section 53-10-403 and is not required to reimburse  
1067 the agency under Section 53-10-404.5; or
- 1068 (ii) the agency determines the person lacks the ability to pay.
- 1069 (b) (i) (A) The responsible agencies shall establish guidelines and procedures for  
1070 determining if the person is able to pay the fee.
- 1071 (B) An agency's implementation of Subsection (2)(b)(i) meets an agency's  
1072 obligation to determine an inmate's ability to pay.
- 1073 (ii) An agency's guidelines and procedures may provide for the assessment of \$150  
1074 on the inmate's county trust fund account and may allow a negative balance in the  
1075 account until the \$150 is paid in full.
- 1076 (3) (a) (i) All fees collected under Subsection (2) shall be deposited [~~in~~] into the DNA  
1077 Specimen Restricted Account created in Section 53-10-407, except that the  
1078 agency collecting the fee may retain not more than \$25 per individual specimen  
1079 for the costs of obtaining the saliva DNA specimen.
- 1080 (ii) The agency collecting the \$150 fee may not retain from each separate fee more  
1081 than \$25, and no amount of the \$150 fee may be credited to any other fee or  
1082 agency obligation.



- 1083 (b) The responsible agency shall determine the method of collecting the DNA specimen.  
1084 Unless the responsible agency determines there are substantial reasons for using a  
1085 different method of collection or the person refuses to cooperate with the collection,  
1086 the preferred method of collection shall be obtaining a saliva specimen.
- 1087 (c) The responsible agency may use reasonable force, as established by its guidelines  
1088 and procedures, to collect the DNA sample if the person refuses to cooperate with the  
1089 collection.
- 1090 (d) If the judgment places the person on probation, the person shall submit to the  
1091 obtaining of a DNA specimen as a condition of the probation.
- 1092 (e) (i) Under this section a person is required to provide one DNA specimen and pay  
1093 the collection fee as required under this section.
- 1094 (ii) The person shall provide an additional DNA specimen only if the DNA specimen  
1095 previously provided is not adequate for analysis.
- 1096 (iii) The collection fee is not imposed for a second or subsequent DNA specimen  
1097 collected under this section.
- 1098 (f) Any agency that is authorized to obtain a DNA specimen under this part may collect  
1099 any outstanding amount of a fee due under this section from any person who owes  
1100 any portion of the fee and deposit the amount in the DNA Specimen Restricted  
1101 Account created in Section 53-10-407.
- 1102 (4) (a) The responsible agency shall cause a DNA specimen to be obtained as soon as  
1103 possible and transferred to the Department of Public Safety:
- 1104 (i) after a conviction or a finding of jurisdiction by the juvenile court;  
1105 (ii) on and after January 1, 2011, through December 31, 2014, after the booking of a  
1106 person for any offense under Subsection 53-10-403(1)(c); and  
1107 (iii) on and after January 1, 2015, after the booking of a person for any felony  
1108 offense, as provided under Subsection 53-10-403(1)(d)(ii).
- 1109 (b) On and after May 13, 2014, through December 31, 2014, the responsible agency may  
1110 cause a DNA specimen to be obtained and transferred to the Department of Public  
1111 Safety after the booking of a person for any felony offense, as provided under  
1112 Subsection 53-10-403(1)(d)(i).
- 1113 (c) If notified by the Department of Public Safety that a DNA specimen is not adequate  
1114 for analysis, the agency shall, as soon as possible:
- 1115 (i) obtain and transmit an additional DNA specimen; or  
1116 (ii) request that another agency that has direct access to the person and that is

- 1117 authorized to collect DNA specimens under this section collect the necessary  
1118 second DNA specimen and transmit it to the Department of Public Safety.
- 1119 (d) Each agency that is responsible for collecting DNA specimens under this section  
1120 shall establish:
- 1121 (i) a tracking procedure to record the handling and transfer of each DNA specimen it  
1122 obtains; and
- 1123 (ii) a procedure to account for the management of all fees it collects under this  
1124 section.
- 1125 (5) (a) The Department of Corrections is the responsible agency whenever the person is  
1126 committed to the custody of or is under the supervision of the Department of  
1127 Corrections.
- 1128 (b) The juvenile court is the responsible agency regarding a minor under Subsection  
1129 53-10-403(3), but if the minor has been committed to the legal custody of the  
1130 Division of Juvenile Justice Services, that division is the responsible agency if a  
1131 DNA specimen of the minor has not previously been obtained by the juvenile court  
1132 under Section 80-6-608.
- 1133 (c) The sheriff operating a county jail is the responsible agency regarding the collection  
1134 of DNA specimens from persons who:
- 1135 (i) have pled guilty to or have been convicted of an offense listed under Subsection  
1136 53-10-403(2) but who have not been committed to the custody of or are not under  
1137 the supervision of the Department of Corrections;
- 1138 (ii) are incarcerated in the county jail:
- 1139 (A) as a condition of probation for a felony offense; or  
1140 (B) for a misdemeanor offense for which collection of a DNA specimen is  
1141 required;
- 1142 (iii) on and after January 1, 2011, through May 12, 2014, are booked at the county  
1143 jail for any offense under Subsection 53-10-403(1)(c)[-]; and
- 1144 (iv) are booked at the county jail:
- 1145 (A) by a law enforcement agency that is obtaining a DNA specimen for any felony  
1146 offense on or after May 13, 2014, through December 31, 2014, under  
1147 Subsection 53-10-404(4)(b); or  
1148 (B) on or after January 1, 2015, for any felony offense.
- 1149 (d) Each agency required to collect a DNA specimen under this section shall:
- 1150 (i) designate employees to obtain the saliva DNA specimens required under this

- 1151 section; and
- 1152 (ii) ensure that employees designated to collect the DNA specimens receive
- 1153 appropriate training and that the specimens are obtained in accordance with
- 1154 generally accepted protocol.
- 1155 (6) (a) As used in this Subsection (6), "department" means the Department of
- 1156 Corrections.
- 1157 (b) Priority of obtaining DNA specimens by the department is:
- 1158 (i) first, to obtain DNA specimens of persons who as of July 1, 2002, are in the
- 1159 custody of or under the supervision of the department before these persons are
- 1160 released from incarceration, parole, or probation, if their release date is prior to
- 1161 that of persons under Subsection (6)(b)(ii), but in no case later than July 1, 2004;
- 1162 and
- 1163 (ii) second, the department shall obtain DNA specimens from persons who are
- 1164 committed to the custody of the department or who are placed under the
- 1165 supervision of the department after July 1, 2002, within 120 days after the
- 1166 commitment, if possible, but not later than prior to release from incarceration if
- 1167 the person is imprisoned, or prior to the termination of probation if the person is
- 1168 placed on probation.
- 1169 (c) The priority for obtaining DNA specimens from persons under Subsection (6)(b)(ii)
- 1170 is:
- 1171 (i) first, persons on probation;
- 1172 (ii) second, persons on parole; and
- 1173 (iii) third, incarcerated persons.
- 1174 (d) Implementation of the schedule of priority under Subsection (6)(c) is subject to the
- 1175 priority of Subsection (6)(b)(i), to ensure that the Department of Corrections obtains
- 1176 DNA specimens from persons in the custody of or under the supervision of the
- 1177 Department of Corrections as of July 1, 2002, prior to their release.
- 1178 (7) (a) As used in this Subsection (7):
- 1179 (i) "Court" means the juvenile court.
- 1180 (ii) "Division" means the Division of Juvenile Justice Services.
- 1181 (b) Priority of obtaining DNA specimens by the court from minors under Section
- 1182 53-10-403 whose cases are under the jurisdiction of the court but who are not in the
- 1183 legal custody of the division shall be:
- 1184 (i) first, to obtain specimens from minors whose cases, as of July 1, 2002, are under

- 1185 the court's jurisdiction, before the court's jurisdiction over the minors' cases  
1186 terminates; and
- 1187 (ii) second, to obtain specimens from minors whose cases are under the jurisdiction  
1188 of the court after July 1, 2002, within 120 days of the minor's case being found to  
1189 be within the court's jurisdiction, if possible, but no later than before the court's  
1190 jurisdiction over the minor's case terminates.
- 1191 (c) Priority of obtaining DNA specimens by the division from minors under Section  
1192 53-10-403 who are committed to the legal custody of the division shall be:
- 1193 (i) first, to obtain specimens from minors who as of July 1, 2002, are within the  
1194 division's legal custody and who have not previously provided a DNA specimen  
1195 under this section, before termination of the division's legal custody of these  
1196 minors; and
- 1197 (ii) second, to obtain specimens from minors who are placed in the legal custody of  
1198 the division after July 1, 2002, within 120 days of the minor's being placed in the  
1199 custody of the division, if possible, but no later than before the termination of the  
1200 court's jurisdiction over the minor's case.
- 1201 (8) (a) The Department of Corrections, the juvenile court, the Division of Juvenile  
1202 Justice Services, and all law enforcement agencies in the state shall by policy  
1203 establish procedures for obtaining saliva DNA specimens, and shall provide training  
1204 for employees designated to collect saliva DNA specimens.
- 1205 (b) (i) The department may designate correctional officers, including those employed  
1206 by the adult probation and parole section of the department, to obtain the saliva  
1207 DNA specimens required under this section.
- 1208 (ii) The department shall ensure that the designated employees receive appropriate  
1209 training and that the specimens are obtained in accordance with accepted protocol.
- 1210 (c) Blood DNA specimens shall be obtained in accordance with Section 53-10-405.
- 1211 Section 10. Section **63G-2-302** is amended to read:
- 1212 **63G-2-302 . Private records.**
- 1213 (1) The following records are private:
- 1214 (a) records concerning an individual's eligibility for unemployment insurance benefits,  
1215 social services, welfare benefits, or the determination of benefit levels;
- 1216 (b) records containing data on individuals describing medical history, diagnosis,  
1217 condition, treatment, evaluation, or similar medical data;
- 1218 (c) records of publicly funded libraries that when examined alone or with other records

- 1219 identify a patron;
- 1220 (d) records received by or generated by or for:
- 1221 (i) the Independent Legislative Ethics Commission, except for:
- 1222 (A) the commission's summary data report that is required under legislative rule;
- 1223 and
- 1224 (B) any other document that is classified as public under legislative rule; or
- 1225 (ii) a Senate or House Ethics Committee in relation to the review of ethics
- 1226 complaints, unless the record is classified as public under legislative rule;
- 1227 (e) records received by, or generated by or for, the Independent Executive Branch Ethics
- 1228 Commission, except as otherwise expressly provided in Title 63A, Chapter 14,
- 1229 Review of Executive Branch Ethics Complaints;
- 1230 (f) records received or generated for a Senate confirmation committee concerning
- 1231 character, professional competence, or physical or mental health of an individual:
- 1232 (i) if, prior to the meeting, the chair of the committee determines release of the
- 1233 records:
- 1234 (A) reasonably could be expected to interfere with the investigation undertaken by
- 1235 the committee; or
- 1236 (B) would create a danger of depriving a person of a right to a fair proceeding or
- 1237 impartial hearing; and
- 1238 (ii) after the meeting, if the meeting was closed to the public;
- 1239 (g) employment records concerning a current or former employee of, or applicant for
- 1240 employment with, a governmental entity that would disclose that individual's home
- 1241 address, home telephone number, social security number, insurance coverage, marital
- 1242 status, or payroll deductions;
- 1243 (h) records or parts of records under Section 63G-2-303 that a current or former
- 1244 employee identifies as private according to the requirements of that section;
- 1245 (i) that part of a record indicating a person's social security number or federal employer
- 1246 identification number if provided under Section 31A-23a-104, 31A-25-202,
- 1247 31A-26-202, 58-1-301, 58-55-302, 61-1-4, or 61-2f-203;
- 1248 (j) that part of a voter registration record identifying a voter's:
- 1249 (i) driver license or identification card number;
- 1250 (ii) social security number, or last four digits of the social security number;
- 1251 (iii) email address;
- 1252 (iv) date of birth; or

- 1253 (v) phone number;
- 1254 (k) a voter registration record that is classified as a private record by the lieutenant  
1255 governor or a county clerk under Subsection 20A-2-101.1(5)(a), 20A-2-104(4)(h), or  
1256 20A-2-204(4)(b);
- 1257 (l) a voter registration record that is withheld under Subsection 20A-2-104(7);
- 1258 (m) a withholding request form described in Subsections 20A-2-104(7) and (8) and any  
1259 verification submitted in support of the form;
- 1260 (n) a record that:
- 1261 (i) contains information about an individual;
- 1262 (ii) is voluntarily provided by the individual; and
- 1263 (iii) goes into an electronic database that:
- 1264 (A) is designated by and administered under the authority of the Chief Information  
1265 Officer; and
- 1266 (B) acts as a repository of information about the individual that can be  
1267 electronically retrieved and used to facilitate the individual's online interaction  
1268 with a state agency;
- 1269 (o) information provided to the Commissioner of Insurance under:
- 1270 (i) Subsection 31A-23a-115(3)(a);
- 1271 (ii) Subsection 31A-23a-302(4); or
- 1272 (iii) Subsection 31A-26-210(4);
- 1273 (p) information obtained through a criminal background check under Title 11, Chapter  
1274 40, Criminal Background Checks by Political Subdivisions Operating Water Systems;
- 1275 (q) information provided by an offender that is:
- 1276 (i) required by the registration requirements of [~~Title 77, Chapter 41, Sex and Kidnap  
1277 Offender Registry or Title 77, Chapter 43, Child Abuse Offender Registry~~] Title  
1278 77, Chapter 41, Sex, Kidnap, and Child Abuse Offender Registry; and
- 1279 (ii) not required to be made available to the public under Subsection 77-41-110(4)[  
1280 ~~or 77-43-108(4)~~];
- 1281 (r) a statement and any supporting documentation filed with the attorney general in  
1282 accordance with Section 34-45-107, if the federal law or action supporting the filing  
1283 involves homeland security;
- 1284 (s) electronic toll collection customer account information received or collected under  
1285 Section 72-6-118 and customer information described in Section 17B-2a-815  
1286 received or collected by a public transit district, including contact and payment

- 1287 information and customer travel data;
- 1288 (t) an email address provided by a military or overseas voter under Section 20A-16-501;
- 1289 (u) a completed military-overseas ballot that is electronically transmitted under Title
- 1290 20A, Chapter 16, Uniform Military and Overseas Voters Act;
- 1291 (v) records received by or generated by or for the Political Subdivisions Ethics Review
- 1292 Commission established in Section 63A-15-201, except for:
- 1293 (i) the commission's summary data report that is required in Section 63A-15-202; and
- 1294 (ii) any other document that is classified as public in accordance with Title 63A,
- 1295 Chapter 15, Political Subdivisions Ethics Review Commission;
- 1296 (w) a record described in Section 53G-9-604 that verifies that a parent was notified of an
- 1297 incident or threat;
- 1298 (x) a criminal background check or credit history report conducted in accordance with
- 1299 Section 63A-3-201;
- 1300 (y) a record described in Subsection 53-5a-104(7);
- 1301 (z) on a record maintained by a county for the purpose of administering property taxes,
- 1302 an individual's:
- 1303 (i) email address;
- 1304 (ii) phone number; or
- 1305 (iii) personal financial information related to a person's payment method;
- 1306 (aa) a record submitted by a taxpayer to establish the taxpayer's eligibility for an
- 1307 exemption, deferral, abatement, or relief under:
- 1308 (i) Title 59, Chapter 2, Part 11, Exemptions;
- 1309 (ii) Title 59, Chapter 2, Part 12, Property Tax Relief;
- 1310 (iii) Title 59, Chapter 2, Part 18, Tax Deferral and Tax Abatement; or
- 1311 (iv) Title 59, Chapter 2, Part 19, Armed Forces Exemptions;
- 1312 (bb) a record provided by the State Tax Commission in response to a request under
- 1313 Subsection 59-1-403(4)(y)(iii);
- 1314 (cc) a record of the Child Welfare Legislative Oversight Panel regarding an individual
- 1315 child welfare case, as described in Subsection 36-33-103(3); and
- 1316 (dd) a record relating to drug or alcohol testing of a state employee under Section
- 1317 63A-17-1004.
- 1318 (2) The following records are private if properly classified by a governmental entity:
- 1319 (a) records concerning a current or former employee of, or applicant for employment
- 1320 with a governmental entity, including performance evaluations and personal status

- 1321 information such as race, religion, or disabilities, but not including records that are  
1322 public under Subsection 63G-2-301(2)(b) or 63G-2-301(3)(o) or private under  
1323 Subsection (1)(b);
- 1324 (b) records describing an individual's finances, except that the following are public:
- 1325 (i) records described in Subsection 63G-2-301(2);
- 1326 (ii) information provided to the governmental entity for the purpose of complying  
1327 with a financial assurance requirement; or
- 1328 (iii) records that must be disclosed in accordance with another statute;
- 1329 (c) records of independent state agencies if the disclosure of those records would  
1330 conflict with the fiduciary obligations of the agency;
- 1331 (d) other records containing data on individuals the disclosure of which constitutes a  
1332 clearly unwarranted invasion of personal privacy;
- 1333 (e) records provided by the United States or by a government entity outside the state that  
1334 are given with the requirement that the records be managed as private records, if the  
1335 providing entity states in writing that the record would not be subject to public  
1336 disclosure if retained by it;
- 1337 (f) any portion of a record in the custody of the Division of Aging and Adult Services,  
1338 created in Section 26B-6-102, that may disclose, or lead to the discovery of, the  
1339 identity of a person who made a report of alleged abuse, neglect, or exploitation of a  
1340 vulnerable adult; and
- 1341 (g) audio and video recordings created by a body-worn camera, as defined in Section  
1342 77-7a-103, that record sound or images inside a home or residence except for  
1343 recordings that:
- 1344 (i) depict the commission of an alleged crime;
- 1345 (ii) record any encounter between a law enforcement officer and a person that results  
1346 in death or bodily injury, or includes an instance when an officer fires a weapon;
- 1347 (iii) record any encounter that is the subject of a complaint or a legal proceeding  
1348 against a law enforcement officer or law enforcement agency;
- 1349 (iv) contain an officer involved critical incident as defined in Subsection 76-2-408  
1350 (1)(f); or
- 1351 (v) have been requested for reclassification as a public record by a subject or  
1352 authorized agent of a subject featured in the recording.
- 1353 (3) (a) As used in this Subsection (3), "medical records" means medical reports, records,  
1354 statements, history, diagnosis, condition, treatment, and evaluation.



- 1355 (b) Medical records in the possession of the University of Utah Hospital, its clinics,  
1356 doctors, or affiliated entities are not private records or controlled records under  
1357 Section 63G-2-304 when the records are sought:
- 1358 (i) in connection with any legal or administrative proceeding in which the patient's  
1359 physical, mental, or emotional condition is an element of any claim or defense; or  
1360 (ii) after a patient's death, in any legal or administrative proceeding in which any  
1361 party relies upon the condition as an element of the claim or defense.
- 1362 (c) Medical records are subject to production in a legal or administrative proceeding  
1363 according to state or federal statutes or rules of procedure and evidence as if the  
1364 medical records were in the possession of a nongovernmental medical care provider.  
1365 Section 11. Section **63G-7-301** is amended to read:
- 1366 **63G-7-301 . Waivers of immunity.**
- 1367 (1) (a) Immunity from suit of each governmental entity is waived as to any contractual  
1368 obligation.
- 1369 (b) Actions arising out of contractual rights or obligations are not subject to the  
1370 requirements of Section 63G-7-401, 63G-7-402, 63G-7-403, or 63G-7-601.
- 1371 (c) The Division of Water Resources is not liable for failure to deliver water from a  
1372 reservoir or associated facility authorized by Title 73, Chapter 26, Bear River  
1373 Development Act, if the failure to deliver the contractual amount of water is due to  
1374 drought, other natural condition, or safety condition that causes a deficiency in the  
1375 amount of available water.
- 1376 (2) Immunity from suit of each governmental entity is waived:
- 1377 (a) as to any action brought to recover, obtain possession of, or quiet title to real or  
1378 personal property;
- 1379 (b) as to any action brought to foreclose mortgages or other liens on real or personal  
1380 property, to determine any adverse claim on real or personal property, or to obtain an  
1381 adjudication about any mortgage or other lien that the governmental entity may have  
1382 or claim on real or personal property;
- 1383 (c) as to any action based on the negligent destruction, damage, or loss of goods,  
1384 merchandise, or other property while it is in the possession of any governmental  
1385 entity or employee, if the property was seized for the purpose of forfeiture under any  
1386 provision of state law;
- 1387 (d) subject to Section 63G-7-302, as to any action brought under the authority of Utah  
1388 Constitution, Article I, Section 22, for the recovery of compensation from the governmental

- 1389 entity when the governmental entity has taken or damaged private property for public uses  
1390 without just compensation;
- 1391 (e) as to any claim for attorney fees or costs under Section 63G-2-209, 63G-2-405, or  
1392 63G-2-802;
- 1393 (f) for actual damages under Title 67, Chapter 21, Utah Protection of Public Employees  
1394 Act;
- 1395 (g) as to any action brought to obtain relief from a land use regulation that imposes a  
1396 substantial burden on the free exercise of religion under Title 63L, Chapter 5, Utah  
1397 Religious Land Use Act;
- 1398 (h) except as provided in Subsection 63G-7-201(3), as to any injury caused by:
- 1399 (i) a defective, unsafe, or dangerous condition of any highway, road, street, alley,  
1400 crosswalk, sidewalk, culvert, tunnel, bridge, viaduct, or other structure located on  
1401 them; or
- 1402 (ii) any defective or dangerous condition of a public building, structure, dam,  
1403 reservoir, or other public improvement;
- 1404 (i) subject to Subsections 63G-7-101(4) and 63G-7-201(4), as to any injury proximately  
1405 caused by a negligent act or omission of an employee committed within the scope of  
1406 employment;
- 1407 (j) notwithstanding Subsection 63G-7-101(4), as to a claim for an injury resulting from a  
1408 sexual battery, as provided in Section 76-9-702.1, committed:
- 1409 (i) against a student of a public elementary or secondary school, including a charter  
1410 school; and
- 1411 (ii) by an employee of a public elementary or secondary school or charter school who:
- 1412 (A) at the time of the sexual battery, held a position of special trust, as defined in  
1413 Section 76-5-404.1, with respect to the student;
- 1414 (B) is criminally charged in connection with the sexual battery; and
- 1415 (C) the public elementary or secondary school or charter school knew or in the  
1416 exercise of reasonable care should have known, at the time of the employee's  
1417 hiring, to be a sex offender, kidnap offender, or child abuse offender as defined  
1418 in Section 77-41-102, required to register under [~~Title 77, Chapter 41, Sex and  
1419 Kidnap Offender Registry~~] Title 77, Chapter 41, Sex, Kidnap, and Child Abuse  
1420 Offender Registry, whose status as a sex offender, kidnap offender, or child  
1421 abuse offender would have been revealed in a background check under Section  
1422 53G-11-402; and

- 1423 (k) as to any action brought under Section 78B-6-2303.
- 1424 (3) (a) As used in this Subsection (3):
- 1425 (i) "Code of conduct" means a code of conduct that:
- 1426 (A) is not less stringent than a model code of conduct, created by the State Board
- 1427 of Education, establishing a professional standard of care for preventing the
- 1428 conduct described in Subsection (3)(a)(i)(D);
- 1429 (B) is adopted by the applicable local education governing body;
- 1430 (C) regulates behavior of a school employee toward a student; and
- 1431 (D) includes a prohibition against any sexual conduct between an employee and a
- 1432 student and against the employee and student sharing any sexually explicit or
- 1433 lewd communication, image, or photograph.
- 1434 (ii) "Local education agency" means:
- 1435 (A) a school district;
- 1436 (B) a charter school; or
- 1437 (C) the Utah Schools for the Deaf and the Blind.
- 1438 (iii) "Local education governing board" means:
- 1439 (A) for a school district, the local school board;
- 1440 (B) for a charter school, the charter school governing board; or
- 1441 (C) for the Utah Schools for the Deaf and the Blind, the state board.
- 1442 (iv) "Public school" means a public elementary or secondary school.
- 1443 (v) "Sexual abuse" means the offense described in Subsection 76-5-404.1(2).
- 1444 (vi) "Sexual battery" means the offense described in Section 76-9-702.1, considering
- 1445 the term "child" in that section to include an individual under age 18.
- 1446 (b) Notwithstanding Subsection 63G-7-101(4), immunity from suit is waived as to a
- 1447 claim against a local education agency for an injury resulting from a sexual battery or
- 1448 sexual abuse committed against a student of a public school by a paid employee of
- 1449 the public school who is criminally charged in connection with the sexual battery or
- 1450 sexual abuse, unless:
- 1451 (i) at the time of the sexual battery or sexual abuse, the public school was subject to a
- 1452 code of conduct; and
- 1453 (ii) before the sexual battery or sexual abuse occurred, the public school had:
- 1454 (A) provided training on the code of conduct to the employee; and
- 1455 (B) required the employee to sign a statement acknowledging that the employee
- 1456 has read and understands the code of conduct.

- 1457 (4) (a) As used in this Subsection (4):
- 1458 (i) "Higher education institution" means an institution included within the state
- 1459 system of higher education under Section 53B-1-102.
- 1460 (ii) "Policy governing behavior" means a policy adopted by a higher education
- 1461 institution or the Utah Board of Higher Education that:
- 1462 (A) establishes a professional standard of care for preventing the conduct
- 1463 described in Subsections (4)(a)(ii)(C) and (D);
- 1464 (B) regulates behavior of a special trust employee toward a subordinate student;
- 1465 (C) includes a prohibition against any sexual conduct between a special trust
- 1466 employee and a subordinate student; and
- 1467 (D) includes a prohibition against a special trust employee and subordinate student
- 1468 sharing any sexually explicit or lewd communication, image, or photograph.
- 1469 (iii) "Sexual battery" means the offense described in Section 76-9-702.1.
- 1470 (iv) "Special trust employee" means an employee of a higher education institution
- 1471 who is in a position of special trust, as defined in Section 76-5-404.1, with a
- 1472 higher education student.
- 1473 (v) "Subordinate student" means a student:
- 1474 (A) of a higher education institution; and
- 1475 (B) whose educational opportunities could be adversely impacted by a special
- 1476 trust employee.
- 1477 (b) Notwithstanding Subsection 63G-7-101(4), immunity from suit is waived as to a
- 1478 claim for an injury resulting from a sexual battery committed against a subordinate
- 1479 student by a special trust employee, unless:
- 1480 (i) the institution proves that the special trust employee's behavior that otherwise
- 1481 would constitute a sexual battery was:
- 1482 (A) with a subordinate student who was at least 18 years old at the time of the
- 1483 behavior; and
- 1484 (B) with the student's consent; or
- 1485 (ii) (A) at the time of the sexual battery, the higher education institution was
- 1486 subject to a policy governing behavior; and
- 1487 (B) before the sexual battery occurred, the higher education institution had taken
- 1488 steps to implement and enforce the policy governing behavior.

1489 Section 12. Section **63M-7-801** is amended to read:

1490 **63M-7-801 . Definitions.**

1491 As used in this part:

1492 (1) "Board" means the Sex Offense Management Board created in Section 63M-7-802.

1493 (2) "Commission" means the State Commission on Criminal and Juvenile Justice created in  
1494 Section 63M-7-201.

1495 (3) "Registry" means the registry established in [~~Title 77, Chapter 41, Sex and Kidnap~~  
1496 ~~Offender Registry~~] Title 77, Chapter 41, Sex, Kidnap, and Child Abuse Offender Registry.

1497 Section 13. Section **76-1-201** is amended to read:

1498 **76-1-201 . Jurisdiction of offenses.**

1499 (1) A person is subject to prosecution in this state for an offense which [~~he~~] the person  
1500 commits, while either within or outside the state, by [~~his~~] the person's own conduct or  
1501 that of another for which [~~he~~] the person is legally accountable, if:

1502 (a) the offense is committed either wholly or partly within the state;

1503 (b) the conduct outside the state constitutes an attempt to commit an offense within the  
1504 state;

1505 (c) the conduct outside the state constitutes a conspiracy to commit an offense within the  
1506 state and an act in furtherance of the conspiracy occurs in the state; or

1507 (d) the conduct within the state constitutes an attempt, solicitation, or conspiracy to  
1508 commit in another jurisdiction an offense under the laws of both this state and the  
1509 other jurisdiction.

1510 (2) An offense is committed partly within this state if either the conduct which is any  
1511 element of the offense, or the result which is an element, occurs within this state.

1512 (3) In homicide offenses, the "result" is either the physical contact which causes death or  
1513 the death itself.

1514 (a) If the body of a homicide victim is found within the state, the death shall be  
1515 presumed to have occurred within the state.

1516 (b) If jurisdiction is based on this presumption, this state retains jurisdiction unless the  
1517 defendant proves by clear and convincing evidence that:

1518 (i) the result of the homicide did not occur in this state; and

1519 (ii) the defendant did not engage in any conduct in this state which is any element of  
1520 the offense.

1521 (4) (a) An offense which is based on an omission to perform a duty imposed by the law  
1522 of this state is committed within the state regardless of the location of the offender at  
1523 the time of the omission.

1524 (b) For the purpose of establishing venue for a violation of Subsection 77-41-105(3)

1525 concerning sex offender, kidnap offender, or child abuse registration~~[or Subsection~~  
1526 ~~77-43-105(3) for child abuse offender registration]~~, the offense is considered to be  
1527 committed:

1528 (i) at the most recent registered primary residence of the offender, if the actual  
1529 location of the offender at the time of the violation is not known; or

1530 (ii) at the location of the offender at the time the offender is apprehended.

1531 (5) (a) If no jurisdictional issue is raised, the pleadings are sufficient to establish  
1532 jurisdiction.

1533 (b) The defendant may challenge jurisdiction by filing a motion before trial stating  
1534 which facts exist that deprive the state of jurisdiction.

1535 (c) The burden is upon the state to initially establish jurisdiction over the offense by a  
1536 preponderance of the evidence by showing under the provisions of Subsections (1)  
1537 through (4) that the offense was committed either wholly or partly within the borders  
1538 of the state.

1539 (d) If after the prosecution has met its burden of proof under Subsection (5)(c) the  
1540 defendant claims that the state is deprived of jurisdiction or may not exercise  
1541 jurisdiction, the burden is upon the defendant to prove by a preponderance of the  
1542 evidence:

1543 (i) any facts claimed; and

1544 (ii) why those facts deprive the state of jurisdiction.

1545 (6) Facts that deprive the state of jurisdiction or prohibit the state from exercising  
1546 jurisdiction include the fact that the:

1547 (a) defendant is serving in a position that is entitled to diplomatic immunity from  
1548 prosecution and that the defendant's country has not waived that diplomatic immunity;

1549 (b) defendant is a member of the armed forces of another country and that the crime that  
1550 he is alleged to have committed is one that due to an international agreement, such as  
1551 a status of forces agreement between his country and the United States, cedes the  
1552 exercise of jurisdiction over him for that offense to his country;

1553 (c) defendant is an enrolled member of an Indian tribe, as defined in Section 9-9-101,  
1554 and that the Indian tribe has a legal status with the United States or the state that vests  
1555 jurisdiction in either tribal or federal courts for certain offenses committed within the  
1556 exterior boundaries of a tribal reservation, and that the facts establish that the crime is  
1557 one that vests jurisdiction in tribal or federal court; or

1558 (d) offense occurred on land that is exclusively within federal jurisdiction.

- 1559 (7) (a) The Legislature finds that identity fraud under Chapter 6, Part 11, Identity Fraud  
1560 Act, involves the use of personal identifying information which is uniquely personal  
1561 to the consumer or business victim of that identity fraud and which information is  
1562 considered to be in lawful possession of the consumer or business victim wherever  
1563 the consumer or business victim currently resides or is found.
- 1564 (b) For purposes of Subsection (1)(a), an offense which is based on a violation of  
1565 Chapter 6, Part 11, Identity Fraud Act, is committed partly within this state,  
1566 regardless of the location of the offender at the time of the offense, if the victim of  
1567 the identity fraud resides or is found in this state.
- 1568 (8) The judge shall determine jurisdiction.
- 1569 Section 14. Section **76-1-202** is amended to read:
- 1570 **76-1-202 . Venue of actions.**
- 1571 (1) Criminal actions shall be tried in the county, district, or precinct where the offense is  
1572 alleged to have been committed. In determining the proper place of trial, the following  
1573 provisions shall apply:
- 1574 (a) If the commission of an offense commenced outside the state is consummated within  
1575 this state, the offender shall be tried in the county where the offense is consummated.
- 1576 (b) When conduct constituting elements of an offense or results that constitute elements,  
1577 whether the conduct or result constituting elements is in itself unlawful, shall occur in  
1578 two or more counties, trial of the offense may be held in any of the counties  
1579 concerned.
- 1580 (c) If a person committing an offense upon the person of another is located in one county  
1581 and his victim is located in another county at the time of the commission of the  
1582 offense, trial may be held in either county.
- 1583 (d) If a cause of death is inflicted in one county and death ensues in another county, the  
1584 offender may be tried in either county.
- 1585 (e) A person who commits an inchoate offense may be tried in any county in which any  
1586 act that is an element of the offense, including the agreement in conspiracy, is  
1587 committed.
- 1588 (f) Where a person in one county solicits, aids, abets, agrees, or attempts to aid another  
1589 in the planning or commission of an offense in another county, he may be tried for  
1590 the offense in either county.
- 1591 (g) When an offense is committed within this state and it cannot be readily determined  
1592 in which county or district the offense occurred, the following provisions shall be

- 1593 applicable:
- 1594 (i) When an offense is committed upon any railroad car, vehicle, watercraft, or
- 1595 aircraft passing within this state, the offender may be tried in any county through
- 1596 which such railroad car, vehicle, watercraft, or aircraft has passed.
- 1597 (ii) When an offense is committed on any body of water bordering on or within this
- 1598 state, the offender may be tried in any county adjacent to such body of water. The
- 1599 words "body of water" shall include but not be limited to any stream, river, lake,
- 1600 or reservoir, whether natural or man-made.
- 1601 (iii) A person who commits theft may be tried in any county in which he exerts
- 1602 control over the property affected.
- 1603 (iv) If an offense is committed on or near the boundary of two or more counties, trial
- 1604 of the offense may be held in any of such counties.
- 1605 (v) For any other offense, trial may be held in the county in which the defendant
- 1606 resides, or, if he has no fixed residence, in the county in which he is apprehended
- 1607 or to which he is extradited.
- 1608 (h) A person who commits an offense based on Chapter 6, Part 11, Identity Fraud Act,
- 1609 may be tried in the county:
- 1610 (i) where the victim's personal identifying information was obtained;
- 1611 (ii) where the defendant used or attempted to use the personally identifying
- 1612 information;
- 1613 (iii) where the victim of the identity fraud resides or is found; or
- 1614 (iv) if multiple offenses of identity fraud occur in multiple jurisdictions, in any
- 1615 county where the victim's identity was used or obtained, or where the victim
- 1616 resides or is found.
- 1617 (i) For the purpose of establishing venue for a violation of Subsection 77-41-105(3)
- 1618 concerning sex offender, kidnap offender, or child abuse offender registration[~~or~~
- 1619 ~~Subsection 77-43-105(3) for child abuse offender registration~~], the offense is
- 1620 considered to be committed:
- 1621 (i) at the most recent registered primary residence of the offender, if the actual
- 1622 location of the offender at the time of the violation is not known; or
- 1623 (ii) at the location of the offender at the time the offender is apprehended.
- 1624 (2) All objections of improper place of trial are waived by a defendant unless made before
- 1625 trial.
- 1626 Section 15. Section **76-3-402** is amended to read:



- 1627           **76-3-402 . Conviction of lower degree of offense -- Procedure and limitations.**
- 1628       (1) As used in this section:
- 1629           (a) "Lower degree of offense" includes an offense for which:
- 1630               (i) a statutory enhancement is charged in the information or indictment that would
- 1631                   increase either the maximum or the minimum sentence; and
- 1632               (ii) the court removes the statutory enhancement in accordance with this section.
- 1633           (b) "Minor regulatory offense" means the same as that term is defined in Section
- 1634               77-40a-101.
- 1635           (c) (i) "Rehabilitation program" means a program designed to reduce criminogenic
- 1636               and recidivism risks.
- 1637               (ii) "Rehabilitation program" includes:
- 1638                   (A) a domestic violence treatment program, as that term is defined in Section
- 1639                       62A-2-101;
- 1640                   (B) a residential, vocational, and life skills program, as that term is defined in
- 1641                       Section 13-53-102;
- 1642                   (C) a substance abuse treatment program, as that term is defined in Section
- 1643                       62A-2-101;
- 1644                   (D) a substance use disorder treatment program, as that term is defined in Section
- 1645                       62A-2-101;
- 1646                   (E) a youth program, as that term is defined in Section 62A-2-101;
- 1647                   (F) a program that meets the standards established by the Department of
- 1648                       Corrections under Section 64-13-25;
- 1649                   (G) a drug court, a veterans court, or a mental health court certified by the Judicial
- 1650                       Council; or
- 1651                   (H) a program that is substantially similar to a program described in Subsections
- 1652                       (1)(c)(ii)(A) through (G).
- 1653           (d) "Serious offense" means a felony or misdemeanor offense that is not a minor
- 1654               regulatory offense or a traffic offense.
- 1655           (e) "Traffic offense" means the same as that term is defined in Section 77-40a-101.
- 1656           (f) (i) Except as provided in Subsection (1)(f)(ii), "violent felony" means the same as
- 1657               that term is defined in Section 76-3-203.5.
- 1658               (ii) "Violent felony" does not include an offense, or any attempt, solicitation, or
- 1659                   conspiracy to commit an offense, for:
- 1660                   (A) the possession, use, or removal of explosive, chemical, or incendiary devices

- 1661 under Subsection 76-10-306(3), (5), or (6); or  
1662 (B) the purchase or possession of a dangerous weapon or handgun by a restricted  
1663 person under Section 76-10-503.
- 1664 (2) The court may enter a judgment of conviction for a lower degree of offense than  
1665 established by statute and impose a sentence at the time of sentencing for the lower  
1666 degree of offense if the court:
- 1667 (a) takes into account:
- 1668 (i) the nature and circumstances of the offense of which the defendant was found  
1669 guilty; and
- 1670 (ii) the history and character of the defendant;
- 1671 (b) gives any victim present at the sentencing and the prosecuting attorney an  
1672 opportunity to be heard; and
- 1673 (c) concludes that the degree of offense established by statute would be unduly harsh to  
1674 record as a conviction on the record for the defendant.
- 1675 (3) Upon a motion from the prosecuting attorney or the defendant, the court may enter a  
1676 judgment of conviction for a lower degree of offense than established by statute:
- 1677 (a) after the defendant is successfully discharged from probation or parole for the  
1678 conviction; and
- 1679 (b) if the court finds that entering a judgment of conviction for a lower degree of offense  
1680 is in the interest of justice in accordance with Subsection (7).
- 1681 (4) Upon a motion from the prosecuting attorney or the defendant, the court may enter a  
1682 judgment of conviction for a lower degree of offense than established by statute if:
- 1683 (a) the defendant's probation or parole for the conviction did not result in a successful  
1684 discharge but the defendant is successfully discharged from probation or parole for a  
1685 subsequent conviction of an offense;
- 1686 (b) (i) at least five years have passed after the day on which the defendant is  
1687 sentenced for the subsequent conviction; or
- 1688 (ii) at least three years have passed after the day on which the defendant is sentenced  
1689 for the subsequent conviction and the prosecuting attorney consents to the  
1690 reduction;
- 1691 (c) the defendant is not convicted of a serious offense during the time period described  
1692 in Subsection (4)(b);
- 1693 (d) there are no criminal proceedings pending against the defendant;
- 1694 (e) the defendant is not on probation, on parole, or currently incarcerated for any other

- 1695 offense;
- 1696 (f) if the offense for which the reduction is sought is a violent felony, the prosecuting  
1697 attorney consents to the reduction; and
- 1698 (g) the court finds that entering a judgment of conviction for a lower degree of offense is  
1699 in the interest of justice in accordance with Subsection (7).
- 1700 (5) Upon a motion from the prosecuting attorney or the defendant, the court may enter a  
1701 judgment of conviction for a lower degree of offense than established by statute if:
- 1702 (a) the defendant's probation or parole for the conviction did not result in a successful  
1703 discharge but the defendant is successfully discharged from a rehabilitation program;
- 1704 (b) at least three years have passed after the day on which the defendant is successfully  
1705 discharged from the rehabilitation program;
- 1706 (c) the defendant is not convicted of a serious offense during the time period described  
1707 in Subsection (5)(b);
- 1708 (d) there are no criminal proceedings pending against the defendant;
- 1709 (e) the defendant is not on probation, on parole, or currently incarcerated for any other  
1710 offense;
- 1711 (f) if the offense for which the reduction is sought is a violent felony, the prosecuting  
1712 attorney consents to the reduction; and
- 1713 (g) the court finds that entering a judgment of conviction for a lower degree of offense is  
1714 in the interest of justice in accordance with Subsection (7).
- 1715 (6) Upon a motion from the prosecuting attorney or the defendant, the court may enter a  
1716 judgment of conviction for a lower degree of offense than established by statute if:
- 1717 (a) at least five years have passed after the day on which the defendant's probation or  
1718 parole for the conviction did not result in a successful discharge;
- 1719 (b) the defendant is not convicted of a serious offense during the time period described  
1720 in Subsection (6)(a);
- 1721 (c) there are no criminal proceedings pending against the defendant;
- 1722 (d) the defendant is not on probation, on parole, or currently incarcerated for any other  
1723 offense;
- 1724 (e) if the offense for which the reduction is sought is a violent felony, the prosecuting  
1725 attorney consents to the reduction; and
- 1726 (f) the court finds that entering a judgment of conviction for a lower degree of offense is  
1727 in the interest of justice in accordance with Subsection (7).
- 1728 (7) In determining whether entering a judgment of a conviction for a lower degree of

- 1729 offense is in the interest of justice under Subsection (3), (4), (5), or (6):
- 1730 (a) the court shall consider:
- 1731 (i) the nature, circumstances, and severity of the offense for which a reduction is
- 1732 sought;
- 1733 (ii) the physical, emotional, or other harm that the defendant caused any victim of the
- 1734 offense for which the reduction is sought; and
- 1735 (iii) any input from a victim of the offense; and
- 1736 (b) the court may consider:
- 1737 (i) any special characteristics or circumstances of the defendant, including the
- 1738 defendant's criminogenic risks and needs;
- 1739 (ii) the defendant's criminal history;
- 1740 (iii) the defendant's employment and community service history;
- 1741 (iv) whether the defendant participated in a rehabilitative program and successfully
- 1742 completed the program;
- 1743 (v) any effect that a reduction would have on the defendant's ability to obtain or
- 1744 reapply for a professional license from the Department of Commerce;
- 1745 (vi) whether the level of the offense has been reduced by law after the defendant's
- 1746 conviction;
- 1747 (vii) any potential impact that the reduction would have on public safety; or
- 1748 (viii) any other circumstances that are reasonably related to the defendant or the
- 1749 offense for which the reduction is sought.
- 1750 (8) (a) A court may only enter a judgment of conviction for a lower degree of offense
- 1751 under Subsection (3), (4), (5), or (6) after:
- 1752 (i) notice is provided to the other party;
- 1753 (ii) reasonable efforts have been made by the prosecuting attorney to provide notice
- 1754 to any victims; and
- 1755 (iii) a hearing is held if a hearing is requested by either party.
- 1756 (b) A prosecuting attorney is entitled to a hearing on a motion seeking to reduce a
- 1757 judgment of conviction for a lower degree of offense under Subsection (3), (4), (5),
- 1758 or (6).
- 1759 (c) In a motion under Subsection (3), (4), (5), or (6) and at a requested hearing on the
- 1760 motion, the moving party has the burden to provide evidence sufficient to
- 1761 demonstrate that the requirements under Subsection (3), (4), (5), or (6) are met.
- 1762 (9) A court has jurisdiction to consider and enter a judgment of conviction for a lower

- 1763 degree of offense under Subsection (3), (4), (5), or (6) regardless of whether the  
1764 defendant is committed to jail as a condition of probation or is sentenced to prison.
- 1765 (10) (a) An offense may be reduced only one degree under this section, unless the  
1766 prosecuting attorney specifically agrees in writing or on the court record that the  
1767 offense may be reduced two degrees.
- 1768 (b) An offense may not be reduced under this section by more than two degrees.
- 1769 (11) This section does not preclude an individual from obtaining or being granted an  
1770 expungement of the individual's record in accordance with Title 77, Chapter 40a,  
1771 Expungement.
- 1772 (12) The court may not enter a judgment for a conviction for a lower degree of offense  
1773 under this section if:
- 1774 (a) the reduction is specifically precluded by law; or  
1775 (b) any unpaid balance remains on court-ordered restitution for the offense for which the  
1776 reduction is sought.
- 1777 (13) When the court enters a judgment for a lower degree of offense under this section, the  
1778 actual title of the offense for which the reduction is made may not be altered.
- 1779 (14) (a) An individual may not obtain a reduction under this section of a conviction that  
1780 requires the individual to register as a sex offender, kidnap offender, or child abuse  
1781 offender until the registration requirements under [~~Title 77, Chapter 41, Sex and~~  
1782 ~~Kidnap Offender Registry~~] Title 77, Chapter 41, Sex, Kidnap, and Child Abuse  
1783 Offender Registry, have expired.
- 1784 (b) An individual required to register as a sex offender, kidnap offender, or child abuse  
1785 offender for the individual's lifetime under Subsection 77-41-105(3)(c) may not be  
1786 granted a reduction of the conviction for the offense or offenses that require the  
1787 individual to register as a sex offender, kidnap offender, or child abuse offender.
- 1788 [~~(15) (a) An individual may not obtain a reduction under this section of a conviction that~~  
1789 ~~requires the individual to register as a child abuse offender until the registration~~  
1790 ~~requirements under Title 77, Chapter 43, Child Abuse Offender Registry, have expired.]~~
- 1791 [~~(b) An individual required to register as a child abuse offender for the individual's lifetime~~  
1792 ~~under Subsection 77-43-105(3)(c) may not be granted a reduction of the conviction for~~  
1793 ~~the offense or offenses that require the individual to register as a child abuse offender.]~~
- 1794 Section 16. Section **76-5-401** is amended to read:
- 1795 **76-5-401 . Unlawful sexual activity with a minor -- Penalties -- Evidence of age**  
1796 **raised by defendant -- Limitations.**

- 1797 (1) (a) As used in this section, "minor" means an individual who is 14 years old or older,  
1798 but younger than 16 years old, at the time the sexual activity described in Subsection  
1799 (2) occurred.
- 1800 (b) Terms defined in Section 76-1-101.5 apply to this section.
- 1801 (2) (a) Under circumstances not amounting to an offense listed in Subsection (4), an  
1802 actor 18 years old or older commits unlawful sexual activity with a minor if the actor:
- 1803 (i) has sexual intercourse with the minor;
- 1804 (ii) engages in any sexual act with the minor involving the genitals of an individual  
1805 and the mouth or anus of another individual; or
- 1806 (iii) causes the penetration, however slight, of the genital or anal opening of the  
1807 minor by a foreign object, substance, instrument, or device, including a part of the  
1808 human body, with the intent to cause substantial emotional or bodily pain to any  
1809 individual or with the intent to arouse or gratify the sexual desire of any individual.
- 1810 (b) Any touching, however slight, is sufficient to constitute the relevant element of a  
1811 violation of Subsection (2)(a)(ii).
- 1812 (3) (a) A violation of Subsection (2) is a third degree felony.
- 1813 (b) (i) Notwithstanding Subsection (3)(a) or (c), if the defendant establishes by a  
1814 preponderance of the evidence the mitigating factor that the defendant is less than  
1815 four years older than the minor at the time the sexual activity occurred, the offense  
1816 is a class B misdemeanor.
- 1817 (ii) An offense under Subsection (3)(b)(i) is not subject to registration under  
1818 Subsection [~~77-41-102(18)(a)(vii)~~] 77-41-102(19)(a)(vii).
- 1819 (c) (i) Notwithstanding Subsection (3)(a), if the defendant establishes by a  
1820 preponderance of the evidence the mitigating factor that the defendant was  
1821 younger than 21 years old at the time the sexual activity occurred, the offense is a  
1822 class A misdemeanor.
- 1823 (ii) An offense under Subsection (3)(c)(i) is not subject to registration under  
1824 Subsection [~~77-41-102(18)(a)(vii)~~] 77-41-102(19)(a)(vii).
- 1825 (4) The offenses referred to in Subsection (2)(a) are:
- 1826 (a) rape, in violation of Section 76-5-402;
- 1827 (b) object rape, in violation of Section 76-5-402.2;
- 1828 (c) forcible sodomy, in violation of Section 76-5-403;
- 1829 (d) aggravated sexual assault, in violation of Section 76-5-405; or
- 1830 (e) an attempt to commit an offense listed in Subsections (4)(a) through (4)(d).

- 1831 Section 17. Section **76-5-401.1** is amended to read:
- 1832 **76-5-401.1 . Sexual abuse of a minor -- Penalties -- Limitations.**
- 1833 (1) (a) As used in this section:
- 1834 (i) "Indecent liberties" means:
- 1835 (A) the actor touching another individual's genitals, anus, buttocks, pubic area, or
- 1836 female breast;
- 1837 (B) causing any part of an individual's body to touch the actor's or another's
- 1838 genitals, pubic area, anus, buttocks, or female breast;
- 1839 (C) simulating or pretending to engage in sexual intercourse with another
- 1840 individual, including genital-genital, oral-genital, anal-genital, or oral-anal
- 1841 intercourse; or
- 1842 (D) causing an individual to simulate or pretend to engage in sexual intercourse
- 1843 with the actor or another, including genital-genital, oral-genital, anal-genital, or
- 1844 oral-anal intercourse.
- 1845 (ii) "Minor" means an individual who is 14 years old or older, but younger than 16
- 1846 years old, at the time the sexual activity described in Subsection (2) occurred.
- 1847 (b) Terms defined in Section 76-1-101.5 apply to this section.
- 1848 (2) (a) Under circumstances not amounting to an offense listed in Subsection (4), an
- 1849 actor commits sexual abuse of a minor if the actor:
- 1850 (i) is four years or more older than the minor; and
- 1851 (ii) with the intent to cause substantial emotional or bodily pain to any individual, or
- 1852 with the intent to arouse or gratify the sexual desire of any individual:
- 1853 (A) touches the anus, buttocks, pubic area, or any part of the genitals of the minor;
- 1854 (B) touches the breast of a female minor; or
- 1855 (C) otherwise takes indecent liberties with the minor.
- 1856 (b) Any touching, even if accomplished through clothing, is sufficient to constitute the
- 1857 relevant element of a violation of Subsection (2)(a).
- 1858 (3) A violation of Subsection (2)(a) is:
- 1859 (a) a class A misdemeanor; and
- 1860 (b) not subject to registration under Subsection [~~77-41-102(18)(a)(viii)] 77-41-102~~
- 1861 (19)(a)(viii) on a first offense if the offender was younger than 21 years old at the
- 1862 time of the offense.
- 1863 (4) The offenses referred to in Subsection (2)(a) are:
- 1864 (a) unlawful sexual activity with a minor, in violation of Section 76-5-401;

- 1865 (b) rape, in violation of Section 76-5-402;  
 1866 (c) object rape, in violation of Section 76-5-402.2;  
 1867 (d) forcible sodomy, in violation of Section 76-5-403;  
 1868 (e) aggravated sexual assault, in violation of Section 76-5-405; or  
 1869 (f) an attempt to commit an offense listed in Subsections (4)(a) through (e).

1870 Section 18. Section **76-5-401.3** is amended to read:

1871 **76-5-401.3 . Unlawful adolescent sexual activity -- Penalties -- Limitations.**

- 1872 (1) (a) As used in this section, "adolescent" means an individual in the transitional phase  
 1873 of human physical and psychological growth and development between childhood  
 1874 and adulthood who is 12 years old or older, but younger than 18 years old.  
 1875 (b) Terms defined in Section 76-1-101.5 apply to this section.
- 1876 (2) Under circumstances not amounting to an offense listed in Subsection (4), an actor  
 1877 commits unlawful sexual activity if the actor:  
 1878 (a) is an adolescent; and  
 1879 (b) has sexual activity with another adolescent.
- 1880 (3) A violation of Subsection (2) is a:  
 1881 (a) third degree felony if an actor who is 17 years old engages in unlawful adolescent  
 1882 sexual activity with an adolescent who is 12 or 13 years old;  
 1883 (b) third degree felony if an actor who is 16 years old engages in unlawful adolescent  
 1884 sexual activity with an adolescent who is 12 years old;  
 1885 (c) class A misdemeanor if an actor who is 16 years old engages in unlawful adolescent  
 1886 sexual activity with an adolescent who is 13 years old;  
 1887 (d) class A misdemeanor if an actor who is 14 or 15 years old engages in unlawful  
 1888 adolescent sexual activity with an adolescent who is 12 years old;  
 1889 (e) class B misdemeanor if an actor who is 17 years old engages in unlawful adolescent  
 1890 sexual activity with an adolescent who is 14 years old;  
 1891 (f) class B misdemeanor if an actor who is 15 years old engages in unlawful adolescent  
 1892 sexual activity with an adolescent who is 13 years old;  
 1893 (g) class C misdemeanor if an actor who is 12 or 13 years old engages in unlawful  
 1894 adolescent sexual activity with an adolescent who is 12 or 13 years old; and  
 1895 (h) class C misdemeanor if an actor who is 14 years old engages in unlawful adolescent  
 1896 sexual activity with an adolescent who is 13 years old.
- 1897 (4) The offenses referred to in Subsection (2) are:  
 1898 (a) rape~~[, in violation of]~~ under Section 76-5-402;



- 1899 (b) rape of a child~~[, in violation of]~~ under Section 76-5-402.1;
- 1900 (c) object rape~~[, in violation of]~~ under Section 76-5-402.2;
- 1901 (d) object rape of a child~~[, in violation of]~~ under Section 76-5-402.3;
- 1902 (e) forcible sodomy~~[, in violation of]~~ under Section 76-5-403;
- 1903 (f) sodomy on a child~~[, in violation of]~~ under Section 76-5-403.1;
- 1904 (g) sexual abuse of a child~~[, in violation of]~~ under Section 76-5-404;
- 1905 (h) aggravated sexual assault~~[, in violation of]~~ under Section 76-5-405;
- 1906 (i) incest~~[, in violation of]~~ under Section 76-7-102; or
- 1907 (j) an attempt to commit ~~[any]~~ an offense listed in Subsections (4)(a) through (4)(i).
- 1908 (5) An offense under this section is not eligible for a nonjudicial adjustment under Section
- 1909 80-6-303.5 or a referral to a youth court under Section 80-6-902.
- 1910 (6) Except for an offense that is transferred to a district court by the juvenile court in
- 1911 accordance with Section 80-6-504, the district court may enter any sentence or
- 1912 combination of sentences that would have been available in juvenile court but for the
- 1913 delayed reporting or delayed filing of the information in the district court.
- 1914 (7) An offense under this section is not subject to registration under Subsection ~~[77-41-102~~
- 1915 ~~(18)]~~ 77-41-102(19).
- 1916 Section 19. Section **76-9-702** is amended to read:
- 1917 **76-9-702 . Lewdness.**
- 1918 (1) A person is guilty of lewdness if the person under circumstances not amounting to rape,
- 1919 object rape, forcible sodomy, forcible sexual abuse, aggravated sexual assault, sexual
- 1920 abuse of a minor, unlawful sexual conduct with a 16- or 17-year-old, custodial sexual
- 1921 relations under Section 76-5-412, custodial sexual misconduct under Section 76-5-412.2,
- 1922 custodial sexual relations with youth receiving state services under Section 76-5-413,
- 1923 custodial sexual misconduct with youth receiving state services under Section 76-5-413.2,
- 1924 or an attempt to commit any of these offenses, performs any of the following acts in a
- 1925 public place or under circumstances which the person should know will likely cause
- 1926 affront or alarm to, on, or in the presence of another individual who is 14 years old or
- 1927 older:
- 1928 (a) an act of sexual intercourse or sodomy;
- 1929 (b) exposes his or her genitals, the female breast below the top of the areola, the
- 1930 buttocks, the anus, or the pubic area;
- 1931 (c) masturbates; or
- 1932 (d) any other act of lewdness.

- 1933 (2) (a) A person convicted the first or second time of a violation of Subsection (1) is  
 1934 guilty of a class B misdemeanor, except under Subsection (2)(b).
- 1935 (b) A person convicted of a violation of Subsection (1) is guilty of a third degree felony  
 1936 if at the time of the violation:
- 1937 (i) the person is a sex offender as defined in Section 77-27-21.7;
- 1938 (ii) the person has been previously convicted two or more times of violating  
 1939 Subsection (1); or
- 1940 (iii) the person has previously been convicted of a violation of Subsection (1) and has  
 1941 also previously been convicted of a violation of Section 76-9-702.5.
- 1942 (c) (i) For purposes of this Subsection (2) and Subsection [~~77-41-102(18)~~] 77-41-102  
 1943 (19), a plea of guilty or nolo contendere to a charge under this section that is held  
 1944 in abeyance under Title 77, Chapter 2a, Pleas in Abeyance, is the equivalent of a  
 1945 conviction.
- 1946 (ii) This Subsection (2)(c) also applies if the charge under this Subsection (2) has  
 1947 been subsequently reduced or dismissed in accordance with the plea in abeyance  
 1948 agreement.
- 1949 (3) A woman's breast feeding, including breast feeding in any location where the woman  
 1950 otherwise may rightfully be, does not under any circumstance constitute a lewd act,  
 1951 irrespective of whether or not the breast is covered during or incidental to feeding.
- 1952 Section 20. Section **76-9-702.1** is amended to read:
- 1953 **76-9-702.1 . Sexual battery.**
- 1954 (1) [~~A person~~] An actor is guilty of sexual battery if the [~~person~~] actor, under circumstances  
 1955 not amounting to an offense under Subsection (2), intentionally touches, whether or not  
 1956 through clothing, the anus, buttocks, or any part of the genitals of another [~~person~~]  
 1957 individual, or the breast of a female [~~person~~] individual, and the actor's conduct is under  
 1958 circumstances the actor knows or should know will likely cause affront or alarm to the [~~person~~]  
 1959 individual touched.
- 1960 (2) Offenses referred to in Subsection (1) are:
- 1961 (a) rape[;] under Section 76-5-402;
- 1962 (b) rape of a child[;] under Section 76-5-402.1;
- 1963 (c) object rape[;] under Section 76-5-402.2;
- 1964 (d) object rape of a child[;] under Section 76-5-402.3;
- 1965 (e) forcible sodomy[;] under Subsection 76-5-403(2);
- 1966 (f) sodomy on a child[;] under Section 76-5-403.1;

- 1967 (g) forcible sexual abuse[;] under Section 76-5-404;
- 1968 (h) sexual abuse of a child[;] under Section 76-5-404.1;
- 1969 (i) aggravated sexual abuse of a child[;] under Section 76-5-404.3;
- 1970 (j) aggravated sexual assault[;] under Section 76-5-405; and
- 1971 (k) an attempt to commit [~~any~~] an offense under this Subsection (2).
- 1972 (3) Sexual battery is a class A misdemeanor.
- 1973 (4) (a) For purposes of Subsection [~~77-41-102(18)~~] 77-41-102(19) only, a plea of guilty
- 1974 or nolo contendere to a charge under this section that is held in abeyance under Title
- 1975 77, Chapter 2a, Pleas in Abeyance, is the equivalent of a conviction.
- 1976 (b) This Subsection (4) also applies if the charge under this section has been
- 1977 subsequently reduced or dismissed in accordance with the plea in abeyance
- 1978 agreement.
- 1979 Section 21. Section **77-2-2.3** is amended to read:
- 1980 **77-2-2.3 . Reducing the level of an offense.**
- 1981 (1) Notwithstanding any other provision of law, a prosecuting attorney may:
- 1982 (a) present and file an information charging an individual for an offense under
- 1983 Subsections 76-3-103(1)(b) through (d), Subsection 76-3-103(2), or Section 76-3-104
- 1984 with a classification of the offense at one degree lower than the classification that is
- 1985 provided in statute if the prosecuting attorney believes that the sentence would be
- 1986 disproportionate to the offense because there are special circumstances relating to the
- 1987 offense; or
- 1988 (b) subject to the approval of the court, amend an information, as part of a plea
- 1989 agreement, to charge an individual for an offense under Subsections 76-3-103(1)(b)
- 1990 through (d), Subsection 76-3-103(2), or Section 76-3-104 with a classification of the
- 1991 offense at one degree lower than the classification that is provided in statute.
- 1992 (2) A court may:
- 1993 (a) enter a judgment of conviction for an offense filed under Subsection (1) at one
- 1994 degree lower than classified in statute; and
- 1995 (b) impose a sentence for the offense filed under Subsection (1) at one degree lower than
- 1996 classified in statute.
- 1997 (3) A conviction of an offense at one degree lower than classified in statute under
- 1998 Subsection (2) does not affect the requirements for registration of the offense under [ ~~Title 77, Chapter 41, Sex and Kidnap Offender Registry, or Title 77, Chapter 43, Child~~
- 1999 ~~Abuse Offender Registry]~~ Title 77, Chapter 41, Sex, Kidnap, and Child Abuse Offender
- 2000 Registry]

2001 Registry, if the elements of the offense for which the defendant is convicted are the same  
 2002 as the elements of an offense described in Section 77-41-102[~~or 77-43-102~~].

2003 (4) This section does not preclude an individual from obtaining and being granted an  
 2004 expungement for the individual's record in accordance with Title 77, Chapter 40a,  
 2005 Expungement.

2006 Section 22. Section **77-11c-101** is amended to read:

2007 **77-11c-101 . Definitions.**

2008 As used in this chapter:

2009 (1) "Acquitted" means the same as that term is defined in Section 77-11b-101.

2010 (2) "Adjudicated" means that:

2011 (a) (i) a judgment of conviction by plea or verdict of an offense has been entered by a  
 2012 court; and

2013 (ii) a sentence has been imposed by the court; or

2014 (b) a judgment has been entered for an adjudication of an offense by a juvenile court  
 2015 under Section 80-6-701.

2016 (3) "Adjudication" means:

2017 (a) a judgment of conviction by plea or verdict of an offense; or

2018 (b) an adjudication for an offense by a juvenile court under Section 80-6-701.

2019 (4) "Agency" means the same as that term is defined in Section 77-11a-101.

2020 (5) "Appellate court" means the Utah Court of Appeals, the Utah Supreme Court, or the  
 2021 United States Supreme Court.

2022 (6) (a) "Biological evidence" means an item that contains blood, semen, hair, saliva,  
 2023 epithelial cells, latent fingerprint evidence that may contain biological material  
 2024 suitable for DNA testing, or other identifiable human biological material that:

2025 (i) is collected as part of an investigation or prosecution of a violent felony offense;  
 2026 and

2027 (ii) may reasonably be used to incriminate or exculpate a person for the violent  
 2028 felony offense.

2029 (b) "Biological evidence" includes:

2030 (i) material that is catalogued separately, including:

2031 (A) on a slide or swab; or

2032 (B) inside a test tube, if the evidentiary sample that previously was inside the test  
 2033 tube has been consumed by testing;

2034 (ii) material that is present on other evidence, including clothing, a ligature, bedding,

- 2035 a drinking cup, a cigarette, or a weapon, from which a DNA profile may be  
2036 obtained;
- 2037 (iii) the contents of a sexual assault examination kit; and
- 2038 (iv) for a violent felony offense, material described in this Subsection (6) that is in  
2039 the custody of an evidence collecting or retaining entity on May 4, 2022.
- 2040 (7) "Claimant" means the same as that term is defined in Section 77-11a-101.
- 2041 (8) "Computer" means the same as that term is defined in Section 77-11a-101.
- 2042 (9) "Continuous chain of custody" means:
- 2043 (a) for a law enforcement agency or a court, that legal standards regarding a continuous  
2044 chain of custody are maintained; and
- 2045 (b) for an entity that is not a law enforcement agency or a court, that the entity maintains  
2046 a record in accordance with legal standards required of the entity.
- 2047 (10) "Contraband" means the same as that term is defined in Section 77-11a-101.
- 2048 (11) "Controlled substance" means the same as that term is defined in Section 58-37-2.
- 2049 (12) "Court" means a municipal, county, or state court.
- 2050 (13) "DNA" means deoxyribonucleic acid.
- 2051 (14) "DNA profile" means a unique identifier of an individual derived from DNA.
- 2052 (15) "Drug paraphernalia" means the same as that term is defined in Section 58-37a-3.
- 2053 (16) "Evidence" means property, contraband, or an item or substance that:
- 2054 (a) is seized or collected as part of an investigation or prosecution of an offense; and
- 2055 (b) may reasonably be used to incriminate or exculpate an individual for an offense.
- 2056 (17) (a) "Evidence collecting or retaining entity" means an entity within the state that  
2057 collects, stores, or retrieves biological evidence.
- 2058 (b) "Evidence collecting or retaining entity" includes:
- 2059 (i) a medical or forensic entity;
- 2060 (ii) a law enforcement agency;
- 2061 (iii) a court; and
- 2062 (iv) an official, employee, or agent of an entity or agency described in this Subsection  
2063 (17).
- 2064 (18) "Exhibit" means property, contraband, or an item or substance that is admitted into  
2065 evidence for a court proceeding.
- 2066 (19) "In custody" means an individual who:
- 2067 (a) is incarcerated, civilly committed, on parole, or on probation; or
- 2068 (b) is required to register under [~~Title 77, Chapter 41, Sex and Kidnap Offender Registry~~]

- 2069            Title 77, Chapter 41, Sex, Kidnap, and Child Abuse Offender Registry.
- 2070        (20) "Law enforcement agency" means the same as that term is defined in Section
- 2071            77-11a-101.
- 2072        (21) "Medical or forensic entity" means a private or public hospital, medical facility, or
- 2073            other entity that secures biological evidence or conducts forensic examinations related to
- 2074            criminal investigations.
- 2075        (22) "Physical evidence" includes evidence that:
- 2076            (a) is related to:
- 2077                (i) an investigation;
- 2078                (ii) an arrest; or
- 2079                (iii) a prosecution that resulted in a judgment of conviction; and
- 2080            (b) is in the actual or constructive possession of a law enforcement agency or a court or
- 2081            an agent of a law enforcement agency or a court.
- 2082        (23) "Property" means the same as that term is defined in Section 77-11a-101.
- 2083        (24) "Prosecuting attorney" means the same as that term is defined in Section 77-11a-101.
- 2084        (25) "Violent felony offense" means the same as the term "violent felony" is defined in
- 2085            Section 76-3-203.5.
- 2086        (26) "Wildlife" means the same as that term is defined in Section 23A-1-101.
- 2087            Section 23. Section **77-27-5.2** is amended to read:
- 2088            **77-27-5.2 . Board authority to order removal from Sex, Kidnap, and Child Abuse**
- 2089        **Offender Registry.**
- 2090        (1) If the board grants a pardon for a conviction that is the basis for an individual's
- 2091            registration on the Sex~~[and]~~ , Kidnap, and Child Abuse Offender Registry, the board
- 2092            shall issue an order directing the Department of [~~Corrections~~] Public Safety to remove
- 2093            the individual's name and personal information relating to the pardoned conviction from
- 2094            the Sex~~[and]~~ , Kidnap, and Child Abuse Offender Registry.
- 2095        (2) An order described in Subsection (1), issued by the board, satisfies the notification
- 2096            requirement described in Subsection 77-41-113(1)(b).
- 2097            Section 24. Section **77-27-21.7** is amended to read:
- 2098            **77-27-21.7 . Sex offender restrictions.**
- 2099        (1) As used in this section:
- 2100            (a) "Condominium project" means the same as that term is defined in Section 57-8-3.
- 2101            (b) "Minor" means an individual who is younger than 18 years old;
- 2102            (c) (i) "Protected area" means the premises occupied by:

- 2103 (A) a licensed day care or preschool facility;
- 2104 (B) a public swimming pool or a swimming pool maintained, operated, or owned
- 2105 by a homeowners' association, condominium project, or apartment complex;
- 2106 (C) a public or private primary or secondary school that is not on the grounds of a
- 2107 correctional facility;
- 2108 (D) a community park that is open to the public or a park maintained, operated, or
- 2109 owned by a homeowners' association, condominium project, or apartment
- 2110 complex;
- 2111 (E) a public playground or a playground maintained, operated, or owned by a
- 2112 homeowners' association, condominium project, or apartment complex,
- 2113 including those areas designed to provide minors with space, recreational
- 2114 equipment, or other amenities intended to allow minors to engage in physical
- 2115 activity; and
- 2116 (F) except as provided in Subsection (1)(c)(ii), an area that is 1,000 feet or less
- 2117 from the residence of a victim of the sex offender if the sex offender is subject
- 2118 to a victim requested restriction.
- 2119 (ii) "Protected area" does not include:
- 2120 (A) the area described in Subsection (1)(c)(i)(F) if the victim is a member of the
- 2121 immediate family of the sex offender and the terms of the sex offender's
- 2122 agreement of probation or parole allow the sex offender to reside in the same
- 2123 residence as the victim;
- 2124 (B) a park, playground, or swimming pool located on the property of a residential
- 2125 home;
- 2126 (C) a park or swimming pool that prohibits minors at all times from using the park
- 2127 or swimming pool; or
- 2128 (D) a park or swimming pool maintained, operated, or owned by a homeowners'
- 2129 association, condominium project, or apartment complex established for
- 2130 residents 55 years old or older if no minors are present at the park or swimming
- 2131 pool at the time the sex offender is present at the park or swimming pool.
- 2132 (d) "Sex offender" means an adult or juvenile who is required to register in accordance
- 2133 with [~~Title 77, Chapter 41, Sex and Kidnap Offender Registry~~] Title 77, Chapter 41,
- 2134 Sex, Kidnap, and Child Abuse Offender Registry, due to a conviction for an offense
- 2135 that is committed against a person younger than 18 years old.
- 2136 (2) For purposes of Subsection (1)(c)(i)(F), a sex offender is subject to a victim requested

- 2137 restriction if:
- 2138 (a) the sex offender is on probation or parole for an offense that requires the offender to
- 2139 register in accordance with [~~Title 77, Chapter 41, Sex and Kidnap Offender Registry~~]
- 2140 Title 77, Chapter 41, Sex, Kidnap, and Child Abuse Offender Registry;
- 2141 (b) the victim or the victim's parent or guardian advises the Department of [~~Corrections~~]
- 2142 Public Safety that the victim elects to restrict the sex offender from the area and
- 2143 authorizes the Department of [~~Corrections~~] Public Safety to advise the sex offender of
- 2144 the area where the victim resides; and
- 2145 (c) the Department of [~~Corrections~~] Public Safety notifies the sex offender in writing that
- 2146 the sex offender is prohibited from being in the area described in Subsection
- 2147 (1)(c)(i)(F) and provides a description of the location of the protected area to the sex
- 2148 offender.
- 2149 (3) A sex offender may not:
- 2150 (a) be in a protected area except:
- 2151 (i) when the sex offender must be in a protected area to perform the sex offender's
- 2152 parental responsibilities;
- 2153 (ii) (A) when the protected area is a public or private primary or secondary school;
- 2154 and
- 2155 (B) the school is open and being used for a public activity other than a
- 2156 school-related function that involves a minor; or
- 2157 (iii) (A) if the protected area is a licensed day care or preschool facility located
- 2158 within a building that is open to the public for purposes other than the
- 2159 operation of the day care or preschool facility; and
- 2160 (B) the sex offender does not enter a part of the building that is occupied by the
- 2161 day care or preschool facility; or
- 2162 (b) serve as an athletic coach, manager, or trainer for a sports team of which a minor
- 2163 who is younger than 18 years old is a member.
- 2164 (4) A sex offender who violates this section is guilty of:
- 2165 (a) a class A misdemeanor; or
- 2166 (b) if previously convicted of violating this section within the last ten years, a third
- 2167 degree felony.
- 2168 Section 25. Section **77-27-21.8** is amended to read:
- 2169 **77-27-21.8 . Sex offender in presence of a child -- Definitions -- Penalties.**
- 2170 (1) As used in this section:



- 2171 (a) "Accompany" means:
- 2172 (i) to be in the presence of an individual; and
- 2173 (ii) to move or travel with that individual from one location to another, whether
- 2174 outdoors, indoors, or in or on any type of vehicle.
- 2175 (b) "Child" means an individual younger than 14 years of age.
- 2176 (2) A sex offender subject to registration in accordance with [~~Title 77, Chapter 41, Sex and~~
- 2177 ~~Kidnap Offender Registry~~] Title 77, Chapter 41, Sex, Kidnap, and Child Abuse Offender
- 2178 Registry, for an offense committed or attempted to be committed against a child younger
- 2179 than 14 years of age is guilty of a class A misdemeanor if the sex offender requests,
- 2180 invites, or solicits a child to accompany the sex offender, under circumstances that do
- 2181 not constitute an attempt to violate Section 76-5-301.1, child kidnapping, unless:
- 2182 (a) (i) the sex offender, prior to accompanying the child:
- 2183 (A) verbally advises the child's parent or legal guardian that the sex offender is on
- 2184 the state sex offender registry and is required by state law to obtain written
- 2185 permission in order for the sex offender to accompany the child; and
- 2186 (B) requests that the child's parent or legal guardian provide written authorization
- 2187 for the sex offender to accompany the child, including the specific dates and
- 2188 locations;
- 2189 (ii) the child's parent or legal guardian has provided to the sex offender written
- 2190 authorization, including the specific dates and locations, for the sex offender to
- 2191 accompany the child; and
- 2192 (iii) the sex offender has possession of the written authorization and is accompanying
- 2193 the child only at the dates and locations specified in the authorization;
- 2194 (b) the child's parent or guardian has verbally authorized the sex offender to accompany
- 2195 the child either in the child's residence or on property appurtenant to the child's
- 2196 residence, but in no other locations; or
- 2197 (c) the child is the natural child of the sex offender, and the offender is not prohibited by
- 2198 any court order, or probation or parole provision, from contact with the child.
- 2199 (3) (a) A sex offender convicted of a violation of Subsection (2) is subject to registration
- 2200 in accordance with [~~Title 77, Chapter 41, Sex and Kidnap Offender Registry~~] Title 77,
- 2201 Chapter 41, Sex, Kidnap, and Child Abuse Offender Registry, for an additional five
- 2202 years subsequent to the required registration under Section 77-41-105.
- 2203 (b) The period of additional registration imposed under Subsection (3)(a) is also in
- 2204 addition to any period of registration imposed under Subsection 77-41-107(3) for

2205 failure to comply with registration requirements.

2206 (4) It is not a defense to a prosecution under this section that the defendant mistakenly  
2207 believed the individual to be 14 years of age or older at the time of the offense or was  
2208 unaware of the individual's true age.

2209 (5) This section does not apply if a sex offender is acting to rescue a child who is in an  
2210 emergency and life-threatening situation.

2211 Section 26. Section **77-38-605** is amended to read:

2212 **77-38-605 . Administration -- Application.**

2213 (1) The commission shall provide an application form to an applicant who seeks to  
2214 participate in the program under this part.

2215 (2) The commission may not charge an applicant or program participant for an application  
2216 or participation fee to apply for, or participate in, the program.

2217 (3) The application shall include:

2218 (a) the applicant's name;

2219 (b) a mailing address, a phone number, and an email address where the applicant may be  
2220 contacted by the commission;

2221 (c) an indication regarding whether the assailant is employed by a state or local  
2222 government entity, and if applicable, the name of the state or local government entity;

2223 (d) a statement that the applicant understands and consents to:

2224 (i) remain enrolled in the program for four years, unless the applicant's participation  
2225 in the program is cancelled under Section 77-38-617;

2226 (ii) while the applicant is enrolled in the program, notify the commission when the  
2227 applicant changes the applicant's actual address or legal name;

2228 (iii) develop a safety plan with a program assistant;

2229 (iv) authorize the commission to notify a state or local government entity that the  
2230 applicant is a program participant;

2231 (v) submit written notice to the commission if the applicant chooses to cancel the  
2232 applicant's participation in the program;

2233 (vi) register to vote in person at the office of the clerk in the county where the  
2234 applicant's actual address is located; and

2235 (vii) certify that the commission is the applicant's designated agent for service of  
2236 process for personal service;

2237 (e) evidence that the applicant, or a minor or an incapacitated individual residing with  
2238 the applicant, is a victim, including:

- 2239 (i) a law enforcement, court, or other state, local, or federal government agency  
2240 record; or
- 2241 (ii) a document from:
- 2242 (A) a domestic violence program, facility, or shelter;
- 2243 (B) a sexual assault program; or
- 2244 (C) a religious, medical, or other professional from whom the applicant, or the  
2245 minor or the incapacitated individual residing with the applicant, sought  
2246 assistance in dealing with alleged abuse, domestic violence, stalking, or a  
2247 sexual offense;
- 2248 (f) a statement from the applicant that a disclosure of the applicant's actual address  
2249 would endanger the applicant, or a minor or an incapacitated individual residing with  
2250 the applicant;
- 2251 (g) a statement by the applicant that the applicant:
- 2252 (i) resides at a residential address that is not known by the assailant;
- 2253 (ii) has relocated to a different residential address in the past 90 days that is not  
2254 known by the assailant; or
- 2255 (iii) will relocate to a different residential address in the state within 90 days that is  
2256 not known by the assailant;
- 2257 (h) the actual address that:
- 2258 (i) the applicant requests that the commission not disclose; and
- 2259 (ii) is at risk of discovery by the assailant or potential assailant;
- 2260 (i) a statement by the applicant disclosing:
- 2261 (i) the existence of a court order or action involving the applicant, or a minor or an  
2262 incapacitated individual residing with the applicant, related to a divorce  
2263 proceeding, a child support order or judgment, or the allocation of custody or  
2264 parent-time; and
- 2265 (ii) the court that issued the order or has jurisdiction over the action;
- 2266 (j) the name of any other individual who resides with the applicant who needs to be a  
2267 program participant to ensure the safety of the applicant, or a minor or an  
2268 incapacitated individual residing with the applicant;
- 2269 (k) a statement by the applicant that:
- 2270 (i) the applicant, or a minor or an incapacitated individual residing at the same  
2271 address as the applicant, will benefit from participation in the program;
- 2272 (ii) if the applicant intends to vote, the applicant will register to vote at the office of

- 2273 the clerk in the county in which the applicant actually resides; and
- 2274 (iii) the applicant does not have a current obligation to register as a sex offender~~[or~~
- 2275 a], kidnap offender, or child abuse offender under ~~[Title 77, Chapter 41, Sex and~~
- 2276 Kidnap Offender Registry; and] Title 77, Chapter 41, Sex, Kidnap, and Child
- 2277 Abuse Offender Registry;
- 2278 ~~[(iv) the applicant does not have a current obligation to register as a child abuse~~
- 2279 ~~offender under Title 77, Chapter 43, Child Abuse Offender Registry;]~~
- 2280 (l) a statement by the applicant, under penalty of perjury, that the information contained
- 2281 in the application is true;
- 2282 (m) a statement that:
- 2283 (i) if the applicant intends to use the assigned address for any correspondence with
- 2284 the State Tax Commission, the applicant must provide the State Tax Commission
- 2285 with the applicant's social security number, federal employee identification
- 2286 number, and any other identification number related to a tax, fee, charge, or
- 2287 license administered by the State Tax Commission; and
- 2288 (ii) if the applicant intends to use the assigned address for correspondence to a state
- 2289 or local government entity for the purpose of titling or registering a motor vehicle
- 2290 or a watercraft that is owned or leased by the applicant, the applicant shall provide
- 2291 to the state or local government entity for each motor vehicle or watercraft:
- 2292 (A) the motor vehicle or hull identification number;
- 2293 (B) the license plate or registration number for the motor vehicle or the watercraft;
- 2294 and
- 2295 (C) the physical address where each motor vehicle or watercraft is stored; and
- 2296 (n) a statement that any assistance or counseling provided by a program assistant as part
- 2297 of the program does not constitute legal advice or legal services to the applicant.
- 2298 Section 27. Section **77-40a-303** is amended to read:
- 2299 **77-40a-303 . Requirements for a certificate of eligibility to expunge records of a**
- 2300 **conviction.**
- 2301 (1) Except as otherwise provided by this section, a petitioner is eligible to receive a
- 2302 certificate of eligibility from the bureau to expunge the records of a conviction if:
- 2303 (a) the petitioner has paid in full all fines and interest ordered by the court related to the
- 2304 conviction for which expungement is sought;
- 2305 (b) the petitioner has paid in full all restitution ordered by the court under Section
- 2306 77-38b-205; and

- 2307 (c) the following time periods have passed after the day on which the petitioner was  
2308 convicted or released from incarceration, parole, or probation, whichever occurred  
2309 last, for the conviction that the petitioner seeks to expunge:
- 2310 (i) 10 years for the conviction of a misdemeanor under Subsection 41-6a-501(2);
  - 2311 (ii) 10 years for the conviction of a felony for operating a motor vehicle with any amount of a  
2312 controlled substance in an individual's body and causing serious bodily injury or death, as  
2313 codified before May 4, 2022, Laws of Utah 2021,  
2314 Chapter 236, Section 1, Subsection 58-37-8(2)(g);
  - 2315 (iii) seven years for the conviction of a felony;
  - 2316 (iv) five years for the conviction of a drug possession offense that is a felony;
  - 2317 (v) five years for the conviction of a class A misdemeanor;
  - 2318 (vi) four years for the conviction of a class B misdemeanor; or
  - 2319 (vii) three years for the conviction of a class C misdemeanor or infraction.
- 2320 (2) A petitioner is not eligible to receive a certificate of eligibility from the bureau to  
2321 expunge the records of a conviction under Subsection (1) if:
- 2322 (a) except as provided in Subsection (3), the conviction for which expungement is  
2323 sought is:
    - 2324 (i) a capital felony;
    - 2325 (ii) a first degree felony;
    - 2326 (iii) a felony conviction of a violent felony as defined in Subsection 76-3-203.5  
2327 (1)(c)(i);
    - 2328 (iv) a felony conviction described in Subsection 41-6a-501(2);
    - 2329 (v) an offense, or a combination of offenses, that would require the individual to  
2330 register as a sex offender, as defined in Section 77-41-102; or
    - 2331 (vi) a registerable child abuse offense as defined in Subsection [~~77-43-102(2)~~  
2332 77-41-102(1)];
  - 2333 (b) there is a criminal proceeding for a misdemeanor or felony offense pending against  
2334 the petitioner, unless the criminal proceeding is for a traffic offense;
  - 2335 (c) there is a plea in abeyance for a misdemeanor or felony offense pending against the  
2336 petitioner, unless the plea in abeyance is for a traffic offense;
  - 2337 (d) the petitioner is currently incarcerated, on parole, or on probation, unless the  
2338 petitioner is on probation or parole for an infraction, a traffic offense, or a minor  
2339 regulatory offense;
  - 2340 (e) the petitioner intentionally or knowingly provides false or misleading information on

- 2341 the application for a certificate of eligibility;
- 2342 (f) there is a criminal protective order or a criminal stalking injunction in effect for the  
2343 case; or
- 2344 (g) the bureau determines that the petitioner's criminal history makes the petitioner  
2345 ineligible for a certificate of eligibility under Subsection (4) or (5).
- 2346 (3) Subsection (2)(a) does not apply to a conviction for a qualifying sexual offense, as  
2347 defined in Section 76-3-209, if, at the time of the offense, a petitioner who committed  
2348 the offense was at least 14 years old but under 18 years old, unless the petitioner was  
2349 convicted by a district court as an adult in accordance with Title 80, Chapter 6, Part 5,  
2350 Transfer to District Court.
- 2351 (4) Subject to Subsections (6), (7), and (8), a petitioner is not eligible to receive a certificate  
2352 of eligibility if, at the time the petitioner seeks the certificate of eligibility, the bureau  
2353 determines that the petitioner's criminal history, including previously expunged  
2354 convictions, contains any of the following:
- 2355 (a) two or more felony convictions other than for drug possession offenses, each of  
2356 which is contained in a separate criminal episode;
- 2357 (b) any combination of three or more convictions other than for drug possession offenses  
2358 that include two class A misdemeanor convictions, each of which is contained in a  
2359 separate criminal episode;
- 2360 (c) any combination of four or more convictions other than for drug possession offenses  
2361 that include three class B misdemeanor convictions, each of which is contained in a  
2362 separate criminal episode; or
- 2363 (d) five or more convictions other than for drug possession offenses of any degree  
2364 whether misdemeanor or felony, each of which is contained in a separate criminal  
2365 episode.
- 2366 (5) Subject to Subsections (7) and (8), a petitioner is not eligible to receive a certificate of  
2367 eligibility if, at the time the petitioner seeks the certificate of eligibility, the bureau  
2368 determines that the petitioner's criminal history, including previously expunged  
2369 convictions, contains any of the following:
- 2370 (a) three or more felony convictions for drug possession offenses, each of which is  
2371 contained in a separate criminal episode; or
- 2372 (b) any combination of five or more convictions for drug possession offenses, each of  
2373 which is contained in a separate criminal episode.
- 2374 (6) If the petitioner's criminal history contains convictions for both a drug possession

- 2375 offense and a non-drug possession offense arising from the same criminal episode, the  
2376 bureau shall count that criminal episode as a conviction under Subsection (4) if any  
2377 non-drug possession offense in that episode:
- 2378 (a) is a felony or class A misdemeanor; or  
2379 (b) has the same or a longer waiting period under Subsection (1)(c) than any drug  
2380 possession offense in that episode.
- 2381 (7) Except as provided in Subsection (8), if at least 10 years have passed after the day on  
2382 which the petitioner was convicted or released from incarceration, parole, or probation,  
2383 whichever occurred last, for all convictions:
- 2384 (a) each numerical eligibility limit under Subsections (4)(a) and (b) shall be increased by  
2385 one; and  
2386 (b) each numerical eligibility limit under Subsections (4)(c) and (d) is not applicable if  
2387 the highest level of convicted offense in the criminal episode is:
- 2388 (i) a class B misdemeanor;  
2389 (ii) a class C misdemeanor;  
2390 (iii) a drug possession offense if none of the non-drug possession offenses in the  
2391 criminal episode are a felony or a class A misdemeanor; or  
2392 (iv) an infraction.
- 2393 (8) When determining whether a petitioner is eligible for a certificate of eligibility under  
2394 Subsection (4), (5), or (7), the bureau may not consider a petitioner's pending case or  
2395 prior conviction for:
- 2396 (a) an infraction;  
2397 (b) a traffic offense;  
2398 (c) a minor regulatory offense; or  
2399 (d) a clean slate eligible case that was automatically expunged in accordance with  
2400 Section 77-40a-201.
- 2401 (9) If the petitioner received a pardon before May 14, 2013, from the Utah Board of  
2402 Pardons and Parole, the petitioner is entitled to an expungement order for all pardoned  
2403 crimes in accordance with Section 77-27-5.1.
- 2404 Section 28. Section **77-40a-403** is amended to read:  
2405 **77-40a-403 . Retention and release of expunged records -- Agencies.**
- 2406 (1) (a) The bureau, after receiving an expungement order, shall keep, index, and  
2407 maintain all expunged records of arrests and convictions.  
2408 (b) Any agency, other than the bureau, receiving an expungement order shall develop

- 2409 and implement a process to identify and maintain an expunged record.
- 2410 (2) (a) An agency shall provide an individual who receives an expungement with written  
2411 confirmation that the agency has expunged all records of the offense for which the  
2412 individual received the expungement if the individual requests confirmation from the  
2413 agency.
- 2414 (b) The bureau may charge a fee for providing a written confirmation under Subsection  
2415 (2)(a) in accordance with the process in Section 63J-1-504.
- 2416 (3) (a) An employee of the bureau, or any agency with an expunged record, may not  
2417 divulge any information contained in the expunged record to any person or agency  
2418 without a court order unless:
- 2419 (i) specifically authorized by statute; or
- 2420 (ii) subject to Subsection (3)(b), the information in an expunged record is being  
2421 shared with another agency through a records management system that both  
2422 agencies use for the purpose of record management.
- 2423 (b) An agency with a records management system may not disclose any information in  
2424 an expunged record with another agency or person that does not use the records  
2425 management system for the purpose of record management.
- 2426 (4) The following entities or agencies may receive information contained in expunged  
2427 records upon specific request:
- 2428 (a) the Board of Pardons and Parole;
- 2429 (b) Peace Officer Standards and Training;
- 2430 (c) federal authorities if required by federal law;
- 2431 (d) the State Board of Education;
- 2432 (e) the Commission on Criminal and Juvenile Justice, for purposes of investigating  
2433 applicants for judicial office; and
- 2434 (f) a research institution or an agency engaged in research regarding the criminal justice  
2435 system if:
- 2436 (i) the research institution or agency provides a legitimate research purpose for  
2437 gathering information from the expunged records;
- 2438 (ii) the research institution or agency enters into a data sharing agreement with the  
2439 court or agency with custody of the expunged records that protects the  
2440 confidentiality of any identifying information in the expunged records;
- 2441 (iii) any research using expunged records does not include any individual's name or  
2442 identifying information in any product of that research; and



- 2443 (iv) any product resulting from research using expunged records includes a disclosure  
2444 that expunged records were used for research purposes.
- 2445 (5) Except as otherwise provided by this section or by court order, a person, an agency, or  
2446 an entity authorized by this section to view expunged records may not reveal or release  
2447 any information obtained from the expunged records to anyone outside the specific  
2448 request, including distribution on a public website.
- 2449 (6) A prosecuting attorney may communicate with another prosecuting attorney, or another  
2450 prosecutorial agency, regarding information in an expunged record that includes a  
2451 conviction, or a charge dismissed as a result of a successful completion of a plea in  
2452 abeyance agreement, for:
- 2453 (a) stalking as described in Section 76-5-106.5;  
2454 (b) a domestic violence offense as defined in Section 77-36-1;  
2455 (c) an offense that would require the individual to register as a sex offender, kidnap  
2456 offender, or child abuse offender as defined in Section 77-41-102; or  
2457 (d) a weapons offense under Title 76, Chapter 10, Part 5, Weapons.
- 2458 (7) Except as provided in Subsection (9), a prosecuting attorney may not use an expunged  
2459 record for the purpose of a sentencing enhancement or as a basis for charging an  
2460 individual with an offense that requires a prior conviction.
- 2461 (8) The bureau may also use the information in the bureau's index as provided in Section  
2462 53-5-704.
- 2463 (9) If, after obtaining an expungement, an individual is charged with a felony or an offense  
2464 eligible for enhancement based on a prior conviction, the state may petition the court to  
2465 open the expunged records upon a showing of good cause.
- 2466 (10) (a) For judicial sentencing, a court may order any records expunged under this  
2467 chapter or Section 77-27-5.1 to be opened and admitted into evidence.  
2468 (b) The records are confidential and are available for inspection only by the court,  
2469 parties, counsel for the parties, and any other person who is authorized by the court to  
2470 inspect them.  
2471 (c) At the end of the action or proceeding, the court shall order the records expunged  
2472 again.  
2473 (d) Any person authorized by this Subsection (10) to view expunged records may not  
2474 reveal or release any information obtained from the expunged records to anyone  
2475 outside the court.
- 2476 (11) Records released under this chapter are classified as protected under Section 63G-2-305

2477 and are accessible only as provided under Title 63G, Chapter 2, Part 2, Access to  
2478 Records, and Subsection 53-10-108(2)(k) for records held by the bureau.

2479 Section 29. Section **77-41-102** is amended to read:

2480 **CHAPTER 41. SEX, KIDNAP, AND CHILD ABUSE OFFENDER REGISTRY**

2481 **77-41-102 . Definitions.**

2482 As used in this chapter:

2483 (1) "Child abuse offender" means an individual:

2484 (a) who has been convicted in this state of a violation of:

2485 (i) aggravated child abuse under Subsection 76-5-109.2(3)(a) or (b); or

2486 (ii) attempting, soliciting, or conspiring to commit aggravated child abuse under  
2487 Subsection 76-5-109.2(3)(a) or (b);

2488 (b) (i) who has been convicted of a crime, or an attempt, solicitation, or conspiracy to  
2489 commit a crime in another jurisdiction, including a state, federal, or military court,  
2490 that is substantially equivalent to the offense listed in Subsection (1)(a); and

2491 (ii) (A) who is a Utah resident; or

2492 (B) who is not a Utah resident but is in this state for a total of 10 days in a  
2493 12-month period, regardless of whether the offender intends to permanently  
2494 reside in this state;

2495 (c) (i) (A) who is required to register as a child abuse offender in another  
2496 jurisdiction of original conviction;

2497 (B) who is required to register as a child abuse offender by a state, a federal, or a  
2498 military court; or

2499 (C) who would be required to register as a child abuse offender if residing in the  
2500 jurisdiction of the conviction regardless of the date of the conviction or a  
2501 previous registration requirement; and

2502 (ii) who is in this state for a total of 10 days in a 12-month period, regardless of  
2503 whether the offender intends to permanently reside in this state;

2504 (d) (i) (A) who is a nonresident regularly employed or working in this state; or

2505 (B) who is a student in this state; and

2506 (ii) (A) who was convicted of the offense listed in Subsection (1)(a) or a  
2507 substantially equivalent offense in another jurisdiction; or

2508 (B) who is required to register in the individual's state of residence based on a

2509 conviction for an offense that is not substantially equivalent to an offense listed

- 2510 in Subsection (1)(a);
- 2511 (e) who is found not guilty by reason of insanity in this state or in another jurisdiction of
- 2512 the offense listed in Subsection (1)(a); or
- 2513 (f) (i) who is adjudicated under Section 80-6-701 for the offense listed in Subsection
- 2514 (1)(a); and
- 2515 (ii) who has been committed to the division for secure care, as defined in Section
- 2516 80-1-102, for that offense if:
- 2517 (A) the individual remains in the division's custody until 30 days before the
- 2518 individual's 21st birthday;
- 2519 (B) the juvenile court extended the juvenile court's jurisdiction over the individual
- 2520 under Section 80-6-605 and the individual remains in the division's custody
- 2521 until 30 days before the individual's 25th birthday; or
- 2522 (C) the individual is moved from the division's custody to the custody of the
- 2523 department before expiration of the division's jurisdiction over the individual.
- 2524 (2) "Bureau" means the Bureau of Criminal Identification of the Department of Public
- 2525 Safety established in section 53-10-201.
- 2526 ~~[(2)]~~ (3) "Business day" means a day on which state offices are open for regular business.
- 2527 ~~[(3)]~~ (4) "Certificate of eligibility" means a document issued by the Bureau of Criminal
- 2528 Identification showing that the offender has met the requirements of Section 77-41-112.
- 2529 ~~[(4)]~~ (5) (a) "Convicted" means a plea or conviction of:
- 2530 (i) guilty;
- 2531 (ii) guilty with a mental illness; or
- 2532 (iii) no contest.
- 2533 (b) "Convicted" includes, unless otherwise specified, the period a plea is held in
- 2534 abeyance pursuant to a plea in abeyance agreement as defined in Section 77-2a-1.
- 2535 (c) "Convicted" does not include:
- 2536 (i) a withdrawn or dismissed plea in abeyance;
- 2537 (ii) a diversion agreement; or
- 2538 (iii) an adjudication of a minor for an offense under Section 80-6-701.
- 2539 ~~[(5)]~~ (6) "Department" means the Department of Public Safety.
- 2540 ~~[(6)]~~ (7) "Division" means the Division of Juvenile Justice Services.
- 2541 ~~[(7)]~~ (8) "Employed" or "carries on a vocation" includes employment that is full time or part
- 2542 time, whether financially compensated, volunteered, or for the purpose of government or
- 2543 educational benefit.

- 2544 [(8)] (9) "Indian Country" means:
- 2545 (a) all land within the limits of any Indian reservation under the jurisdiction of the
- 2546 United States government, regardless of the issuance of any patent, and includes
- 2547 rights-of-way running through the reservation;
- 2548 (b) all dependent Indian communities within the borders of the United States whether
- 2549 within the original or subsequently acquired territory, and whether or not within the
- 2550 limits of a state; and
- 2551 (c) all Indian allotments, including the Indian allotments to which the Indian titles have
- 2552 not been extinguished, including rights-of-way running through the allotments.
- 2553 [(9)] (10) "Jurisdiction" means any state, Indian Country, United States Territory, or [any]
- 2554 property under the jurisdiction of the United States military, Canada, the United
- 2555 Kingdom, Australia, or New Zealand.
- 2556 [(10)] (11) "Kidnap offender" means [any] an individual, other than a natural parent of the
- 2557 victim:
- 2558 (a) who has been convicted in this state of a violation of:
- 2559 (i) [~~Subsection 76-5-301(2)(e) or (d),~~] kidnapping under Subsection 76-5-301(2)(c)
- 2560 or (d);
- 2561 (ii) [~~Section 76-5-301.1,~~] child kidnapping under Section 76-5-301.1;
- 2562 (iii) [~~Section 76-5-302,~~] aggravated kidnapping under Section 76-5-302;
- 2563 (iv) [~~Section 76-5-308,~~] human trafficking for labor under Section 76-5-308;
- 2564 (v) [~~Section 76-5-308.3,~~] human smuggling under Section 76-5-308.3;
- 2565 [(vi) ~~Section 76-5-308, human smuggling, when the individual smuggled is under 18~~
- 2566 ~~years old;~~]
- 2567 [(vii)] (vi) [~~Section 76-5-308.5,~~] human trafficking of a child for labor under
- 2568 Subsection 76-5-308.5(4)(a);
- 2569 [(viii)] (vii) [~~Section 76-5-310,~~] aggravated human trafficking under Section 76-5-310;
- 2570 [(ix)] (viii) [~~Section 76-5-310.1,~~] aggravated human smuggling under Section
- 2571 76-5-310.1;
- 2572 [(x)] (ix) [~~Section 76-5-311,~~] human trafficking of a vulnerable adult for labor under
- 2573 Section 76-5-311; or
- 2574 [(xi)] (x) attempting, soliciting, or conspiring to commit [any] a felony offense listed
- 2575 in Subsections [(10)(a)(i)] (11)(a)(i) through [(x);] (ix);
- 2576 (b) (i) who has been convicted of [any] a crime, or an attempt, solicitation, or
- 2577 conspiracy to commit a crime in another jurisdiction, including [any] a state,

- 2578 federal, or military court, that is substantially equivalent to the offenses listed in  
 2579 Subsection ~~[(10)(a)]~~ (11)(a); and
- 2580 (ii) ~~(A)~~ who is~~[:]~~  
 2581 ~~[(A)]~~ a Utah resident; or
- 2582 (B) who is not a Utah resident~~[, but who, in any 12-month period,]~~ but is in this  
 2583 state for a total of 10~~[or more]~~ days in a 12-month period, regardless of  
 2584 whether~~[or not]~~ the offender intends to permanently reside in this state;
- 2585 (c) (i) (A) who is required to register as a kidnap offender in ~~[any other]~~ another  
 2586 jurisdiction of original conviction;
- 2587 (B) who is required to register as a kidnap offender by ~~[any]~~ a state, federal, or  
 2588 military court; or
- 2589 (C) who would be required to register as a kidnap offender if residing in the  
 2590 jurisdiction of the conviction regardless of the date of the conviction or ~~[any]~~ a  
 2591 previous registration ~~[requirements]~~ requirement; and
- 2592 (ii) ~~[in any 12-month period,]~~ who is in this state for a total of 10 ~~[or more]~~ days in a  
 2593 12-month period, regardless of whether ~~[or not]~~ the offender intends to  
 2594 permanently reside in this state;
- 2595 (d) (i) (A) who is a nonresident regularly employed or working in this state; or  
 2596 (B) who is a student in this state; and
- 2597 (ii) (A) who was convicted of one or more offenses listed in Subsection ~~[(10),]~~  
 2598 (11)(a) or any substantially equivalent offense in another jurisdiction; or  
 2599 (B) ~~[as a result of the conviction,]~~ who is required to register in the individual's  
 2600 state of residence based on a conviction for an offense that is not substantially  
 2601 equivalent to an offense listed in Subsection (11)(a);
- 2602 (e) who is found not guilty by reason of insanity in this state or in any other jurisdiction  
 2603 of one or more offenses listed in Subsection ~~[(10)]~~ (11)(a); or
- 2604 (f) (i) who is adjudicated under Section 80-6-701 for one or more offenses listed in  
 2605 Subsection ~~[(10)(a)]~~ (11)(a); and
- 2606 (ii) who has been committed to the division for secure care, as defined in Section  
 2607 80-1-102, for that offense if:
- 2608 (A) the individual remains in the division's custody until 30 days before the  
 2609 individual's 21st birthday;
- 2610 (B) the juvenile court extended the juvenile court's jurisdiction over the individual  
 2611 under Section 80-6-605 and the individual remains in the division's custody

- 2612                   until 30 days before the individual's 25th birthday; or
- 2613                   (C) the individual is moved from the division's custody to the custody of the
- 2614                   department before expiration of the division's jurisdiction over the individual.
- 2615   ~~[(11)]~~ (12) "Natural parent" means a minor's biological or adoptive parent, ~~[and includes]~~
- 2616                   including the minor's noncustodial parent.
- 2617   ~~[(12)]~~ (13) "Offender" means a ~~[kidnap offender as defined in Subsection (10) or a sex~~
- 2618                   ~~offender as defined in Subsection (18)]~~ child abuse offender, kidnap offender, or sex
- 2619                   offender.
- 2620   ~~[(13)]~~ (14) "Online identifier" or "Internet identifier":
- 2621                   (a) means any electronic mail, chat, instant messenger, social networking, or similar
- 2622                   name used for Internet communication; and
- 2623                   (b) does not include date of birth, social security number, PIN number, or Internet
- 2624                   passwords.
- 2625   ~~[(14)]~~ (15) "Primary residence" means the location where the offender regularly resides,
- 2626                   even if the offender intends to move to another location or return to another location at [
- 2627                   ~~any]~~ a future date.
- 2628   ~~[(15)]~~ (16) "Register" means to comply with the requirements of this chapter and
- 2629                   administrative rules of the department made under this chapter.
- 2630   ~~[(16)]~~ (17) "Registration website" means the Sex~~[and]~~ , Kidnap, and Child Abuse Offender
- 2631                   Notification and Registration website described in Section 77-41-110 and the
- 2632                   information on the website.
- 2633   ~~[(17)]~~ (18) "Secondary residence" means ~~[any]~~ real property that the offender owns or has a
- 2634                   financial interest in, or ~~[any]~~ a location where~~[, in any 12-month period,]~~ the offender
- 2635                   stays overnight a total of 10 or more nights in a 12-month period when not staying at the
- 2636                   offender's primary residence.
- 2637   ~~[(18)]~~ (19) "Sex offender" means ~~[any]~~ an individual:
- 2638                   (a) convicted in this state of:
- 2639                   (i) a felony or class A misdemeanor violation of ~~[Section 76-4-401,]~~ enticing a minor
- 2640                   under Section 76-4-401;
- 2641                   (ii) ~~[Section 76-5b-202,]~~ sexual exploitation of a vulnerable adult under Section
- 2642                   76-5b-202;
- 2643                   (iii) ~~[Section 76-5-308.1,]~~ human trafficking for sexual exploitation under Section
- 2644                   76-5-308.1;
- 2645                   (iv) ~~[Section 76-5-308.5,]~~ human trafficking of a child for sexual exploitation under

- 2646            Subsection 76-5-308.5(4)(b);
- 2647            (v) [~~Section 76-5-310,~~] aggravated human trafficking for sexual exploitation under
- 2648            Section 76-5-310;
- 2649            (vi) [~~Section 76-5-311,~~] human trafficking of a vulnerable adult for sexual
- 2650            exploitation under Section 76-5-311;
- 2651            (vii) [~~Section 76-5-401,~~] unlawful sexual activity with a minor under Section
- 2652            76-5-401, except as provided in Subsection 76-5-401(3)(b) or (c);
- 2653            (viii) [~~Section 76-5-401.1,~~] sexual abuse of a minor under Section 76-5-401.1, except
- 2654            as provided in Subsection 76-5-401.1(3);
- 2655            (ix) [~~Section 76-5-401.2,~~] unlawful sexual conduct with a 16 or 17 year old under
- 2656            Section 76-5-401.2;
- 2657            (x) [~~Section 76-5-402,~~] rape under Section 76-5-402;
- 2658            (xi) [~~Section 76-5-402.1,~~] rape of a child under Section 76-5-402.1;
- 2659            (xii) [~~Section 76-5-402.2,~~] object rape under Section 76-5-402.2;
- 2660            (xiii) [~~Section 76-5-402.3,~~] object rape of a child under Section 76-5-402.3;
- 2661            (xiv) a felony violation of [~~Section 76-5-403,~~] forcible sodomy under Section
- 2662            76-5-403;
- 2663            (xv) [~~Section 76-5-403.1,~~] sodomy on a child under Section 76-5-403.1;
- 2664            (xvi) [~~Section 76-5-404,~~] forcible sexual abuse under Section 76-5-404;
- 2665            (xvii) [~~Section 76-5-404.1,~~] sexual abuse of a child[;] under Section 76-5-404.1;
- 2666            (xviii) [~~or Section 76-5-404.3,~~] aggravated sexual abuse of a child under Section
- 2667            76-5-404.3;
- 2668            [(xviii)] (xix) [~~Section 76-5-405,~~] aggravated sexual assault under Section 76-5-405;
- 2669            [(xix)] (xx) [~~Section 76-5-412,~~] custodial sexual relations under Section 76-5-412,
- 2670            when the individual in custody is younger than 18 years old, if the offense is
- 2671            committed on or after May 10, 2011;
- 2672            [(xx)] (xxi) [~~Section 76-5b-201,~~] sexual exploitation of a minor under Section
- 2673            76-5b-201;
- 2674            [(xxi)] (xxii) [~~Section 76-5b-201.1,~~] aggravated sexual exploitation of a minor under
- 2675            Section 76-5b-201.1;
- 2676            [(xxii)] (xxiii) [~~Section 76-5b-204,~~] sexual extortion or aggravated sexual extortion
- 2677            under Section 76-5b-204;
- 2678            [(xxiii)] (xxiv) [~~Section 76-7-102,~~] incest under Section 76-7-102;
- 2679            [(xxiv)] (xxv) [~~Section 76-9-702,~~] lewdness under Section 76-9-702, if the individual

2680 has been convicted of the offense four or more times;

2681 ~~[(xxv)]~~ (xxvi) ~~[Section 76-9-702.1,]~~ sexual battery under Section 76-9-702.1, if the

2682 individual has been convicted of the offense four or more times;

2683 ~~[(xxvi)]~~ (xxvii) any combination of convictions of ~~[Section 76-9-702,]~~ lewdness under

2684 Section 76-9-702, and of ~~[Section 76-9-702.1,]~~ sexual battery under Section

2685 76-9-702.1, that total four or more convictions;

2686 ~~[(xxvii)]~~ (xxviii) ~~[Section 76-9-702.5,]~~ lewdness involving a child under Section

2687 76-9-702.5;

2688 ~~[(xxviii)]~~ (xxix) a felony or class A misdemeanor violation of ~~[Section 76-9-702.7,]~~

2689 voyeurism under Section 76-9-702.7;

2690 ~~[(xxix)]~~ (xxx) ~~[Section 76-10-1306,]~~ aggravated exploitation of prostitution under

2691 Section 76-10-1306; or

2692 ~~[(xxx)]~~ (xxxi) attempting, soliciting, or conspiring to commit ~~[any]~~ a felony offense

2693 listed in this Subsection ~~[(18)(a)]~~ (19)(a);

2694 (b) (i) who has been convicted of ~~[any]~~ a crime, or an attempt, solicitation, or

2695 conspiracy to commit a crime in another jurisdiction, including ~~[any]~~ a state,

2696 federal, or military court, that is substantially equivalent to the offenses listed in

2697 Subsection ~~[(18)(a)]~~ (19)(a); and

2698 (ii) (A) who is~~;~~

2699 ~~[(A)]~~ a Utah resident; or

2700 (B) who is not a Utah resident~~[, but who, in any 12-month period,]~~ but is in this

2701 state for a total of 10 ~~[or more]~~ days in a 12-month period, regardless of

2702 whether the offender intends to permanently reside in this state;

2703 (c) (i) (A) who is required to register as a sex offender in ~~[any other]~~ another

2704 jurisdiction of original conviction;

2705 (B) who is required to register as a sex offender by ~~[any]~~ a state, federal, or

2706 military court; or

2707 (C) who would be required to register as a sex offender if residing in the

2708 jurisdiction of the original conviction regardless of the date of the conviction or [

2709 any] a previous registration ~~[requirements]~~ requirement; and

2710 (ii) who~~[, in any 12-month period,]~~ is in ~~[the]~~ this state for a total of 10 ~~[or more]~~ days

2711 in a 12-month period, regardless of whether ~~[or not]~~ the offender intends to

2712 permanently reside in this state;

2713 (d) (i) (A) who is a nonresident regularly employed or working in this state; or



- 2714 (B) who is a student in this state; and
- 2715 (ii) (A) who was convicted of one or more offenses listed in Subsection [~~(18)(a)~~;  
 2716 ~~or any~~] (19)(a) or a substantially equivalent offense in [any] another jurisdiction;  
 2717 or
- 2718 (B) who is [~~as a result of the conviction,~~] required to register in the individual's  
 2719 jurisdiction of residence based on a conviction for an offense that is not  
 2720 substantially equivalent to an offense listed in Subsection (19)(a);
- 2721 (e) who is found not guilty by reason of insanity in this state, or in [~~any other~~] another  
 2722 jurisdiction of one or more offenses listed in Subsection [~~(18)(a)~~] (19)(a); or
- 2723 (f) (i) who is adjudicated under Section 80-6-701 for one or more offenses listed in  
 2724 Subsection [~~(18)(a)~~] (19)(a); and
- 2725 (ii) who has been committed to the division for secure care, as defined in Section  
 2726 80-1-102, for that offense if:
- 2727 (A) the individual remains in the division's custody until 30 days before the  
 2728 individual's 21st birthday;
- 2729 (B) the juvenile court extended the juvenile court's jurisdiction over the individual  
 2730 under Section 80-6-605 and the individual remains in the division's custody  
 2731 until 30 days before the individual's 25th birthday; or
- 2732 (C) the individual is moved from the division's custody to the custody of the  
 2733 department before expiration of the division's jurisdiction over the individual.
- 2734 [~~(19)~~] (20) "Traffic offense" does not include a violation of Title 41, Chapter 6a, Part 5,  
 2735 Driving Under the Influence and Reckless Driving.
- 2736 [~~(20)~~] (21) "Vehicle" means [any] a motor vehicle, an aircraft, or a watercraft subject to  
 2737 registration in any jurisdiction.
- 2738 Section 30. Section **77-41-103** is amended to read:
- 2739 **77-41-103 . Department duties.**
- 2740 (1) The department shall:
- 2741 (a) develop and operate a system to collect, analyze, maintain, and disseminate  
 2742 information on offenders and sex[~~and~~] , kidnap, and child abuse offenses;
- 2743 (b) make information listed in Subsection 77-41-110(4) available to the public; and
- 2744 (c) share information provided by an offender under this chapter that may not be made  
 2745 available to the public under Subsection 77-41-110(4), but only:
- 2746 (i) for the purposes under this chapter; or
- 2747 (ii) in accordance with Section 63G-2-206.

- 2748 (2) ~~[Any]~~ A law enforcement agency shall, in the manner prescribed by the department,  
 2749 inform the department of:
- 2750 (a) the receipt of a report or complaint of an offense listed in Subsection ~~[77-41-102(10)~~  
 2751 ~~or (18)]~~ 77-41-102(1), (11), or (19), within three business days; and
- 2752 (b) the arrest of ~~[a person]~~ an individual suspected of ~~[any of the offenses]~~ an offense  
 2753 listed in Subsection ~~[77-41-102(10) or (18)]~~ 77-41-102(1), (11), or (19), within five  
 2754 business days.
- 2755 (3) Upon convicting ~~[a person of any of the offenses]~~ an individual of an offense listed in  
 2756 Subsection ~~[77-41-102(10) or (18)]~~ 77-41-102(1), (11), or (19), the ~~[convicting]~~  
 2757 sentencing court shall within three business days forward a signed copy of the judgment  
 2758 and sentence to the Sex~~[-and]~~ , Kidnap, and Child Abuse Offender Registry office within  
 2759 the department.
- 2760 (4) Upon modifying, withdrawing, setting aside, vacating, or otherwise altering a  
 2761 conviction for ~~[any]~~ an offense listed in Subsection ~~[77-41-102(10) or (18)]~~ 77-41-102(1),  
 2762 (11), or (19), the court shall, within three business days, forward a signed copy of the  
 2763 order to the Sex~~[-and]~~ , Kidnap, and Child Abuse Offender Registry office within the  
 2764 department.
- 2765 (5) (a) ~~[The]~~ Subject to Subsection (5)(b), the department may intervene in any matter,  
 2766 including a criminal action, where the matter purports to affect ~~[a person's lawfully~~  
 2767 ~~entered registration requirement]~~ an individual's registration requirements under this  
 2768 chapter.
- 2769 (b) Except as provided in Subsection (5)(c), the department may only file a motion to  
 2770 intervene under Subsection (5)(a) within 60 days after the day on which:
- 2771 (i) the sentencing court enters a judgment or sentence against an individual for an  
 2772 offense listed in Subsection 77-41-102(1), (11), or (19), if the details of the written  
 2773 plea agreement, judgment, or sentence indicate that the individual's registration  
 2774 requirements under this chapter could be affected; or
- 2775 (ii) a court modifies, withdraws, sets aside, vacates, or otherwise alters an individual's  
 2776 conviction for an offense listed in Subsection 77-41-102(1), (11), or (19),  
 2777 affecting the individual's registration requirement under this chapter and the  
 2778 written plea agreement, judgment, or sentence entered at the time the individual  
 2779 was sentenced did not indicate that the individual's registration requirement could  
 2780 be affected.
- 2781 (c) For a judgment or sentence, or other court order modifying, withdrawing, setting

2782 aside, vacating, or otherwise altering an individual's conviction for an offense listed  
 2783 in Subsection 77-41-102(1), (11), or (19), affecting the individual's registration  
 2784 requirement under this chapter that was entered on or before July, 1, 2024, the  
 2785 department may file a motion to intervene before November 1, 2024.

2786 (6) The department shall:

2787 (a) provide the following additional information when available:

2788 (i) the crimes the offender has been convicted of or adjudicated delinquent for;

2789 (ii) a description of the offender's primary and secondary targets; and

2790 (iii) ~~[any]~~ other relevant identifying information as determined by the department;

2791 (b) maintain the ~~[Sex Offender and Kidnap Offender]~~ Sex, Kidnap, and Child Abuse  
 2792 Offender Notification and Registration website; and

2793 (c) ensure that the registration information collected regarding an offender's enrollment  
 2794 or employment at an educational institution is:

2795 (i) (A) promptly made available to any law enforcement agency that has  
 2796 jurisdiction where the institution is located if the educational institution is an  
 2797 institution of higher education; or

2798 (B) promptly made available to the district superintendent of the school district  
 2799 where the offender is employed if the educational institution is an institution of  
 2800 primary education; and

2801 (ii) entered into the appropriate state records or data system.

2802 Section 31. Section **77-41-105** is amended to read:

2803 **77-41-105 . Registration of offenders -- Offender responsibilities.**

2804 (1) (a) An offender who enters this state from another jurisdiction is required to register  
 2805 under Subsection (3) and Subsection ~~[77-41-102(10) or (18)]~~ 77-41-102(1), (11), or  
 2806 (19).

2807 (b) The offender shall register with the department within 10 days after the day on which  
 2808 the offender enters the state, regardless of the offender's length of stay.

2809 (2) (a) An offender required to register under Subsection ~~[77-41-102(10) or (18)]~~  
 2810 77-41-102(1), (11), or (19) who is under supervision by the department shall register  
 2811 in person with the Division of Adult Probation and Parole.

2812 (b) An offender required to register under Subsection ~~[77-41-102(10) or (18)]~~ 77-41-102  
 2813 (1), (11), or (19) who is no longer under supervision by the department shall register  
 2814 in person with the police department or sheriff's office that has jurisdiction over the  
 2815 area where the offender resides.

- 2816 (3) (a) Except as provided in Subsections (3)(b), (3)(c), and (4), an offender shall, for the  
2817 duration of the sentence and for 10 years after termination of sentence or custody of  
2818 the division, register each year during the month of the offender's date of birth,  
2819 during the month that is the sixth month after the offender's birth month, and within  
2820 three business days after the day on which there is a change of the offender's primary  
2821 residence, any secondary residences, place of employment, vehicle information, or  
2822 educational information required to be submitted under Subsection (7).
- 2823 (b) Except as provided in Subsections (3)(c)(iii), (4), and (5), an offender who is convicted in  
2824 another jurisdiction of an offense listed in Subsection [~~77-41-102(10)(a) or (18)(a)~~] 77-41-102  
2825 (1), (11), or (19), a substantially similar offense, another offense that requires registration in  
2826 the jurisdiction of conviction, or an offender who is ordered by a court of another jurisdiction  
2827 to register as an offender shall  
2828 register for the time period required by the jurisdiction where the offender was convicted or  
2829 ordered to register.
- 2830 (c) (i) An offender convicted as an adult of an offense listed in Section 77-41-106  
2831 shall, for the offender's lifetime, register each year during the month of the  
2832 offender's birth, during the month that is the sixth month after the offender's birth  
2833 month, and also within three business days after the day on which there is a  
2834 change of the offender's primary residence, any secondary residences, place of  
2835 employment, vehicle information, or educational information required to be  
2836 submitted under Subsection (7).
- 2837 (ii) Except as provided in Subsection (3)(c)(iii), the registration requirement  
2838 described in Subsection (3)(c)(i) is not subject to exemptions and may not be  
2839 terminated or altered during the offender's lifetime, unless a petition is granted  
2840 under Section 77-41-112.
- 2841 (iii) (A) If the sentencing court at any time after conviction determines that the  
2842 offense does not involve force or coercion, lifetime registration under  
2843 Subsection (3)(c)(i) does not apply to an offender who commits the offense  
2844 when the offender is under 21 years old.
- 2845 (B) For an offense listed in Section 77-41-106, an offender who commits the  
2846 offense when the offender is under 21 years old shall register for the  
2847 registration period required under Subsection (3)(a), unless a petition is granted  
2848 under Section 77-41-112.
- 2849 (d) For the purpose of establishing venue for a violation of this Subsection (3), the

- 2850 violation is considered to be committed:
- 2851 (i) at the most recent registered primary residence of the offender or at the location of
- 2852 the offender, if the actual location of the offender at the time of the violation is not
- 2853 known; or
- 2854 (ii) at the location of the offender at the time the offender is apprehended.
- 2855 (4) Notwithstanding Subsection (3) and Section 77-41-106, an offender who is confined in
- 2856 a secure facility or in a state mental hospital is not required to register during the period
- 2857 of confinement.
- 2858 (5) (a) Except as provided in Subsection (5)(b), in the case of an offender adjudicated in
- 2859 another jurisdiction as a juvenile and required to register under this chapter, the
- 2860 offender shall register in the time period and in the frequency consistent with the
- 2861 requirements of Subsection (3).
- 2862 (b) If the jurisdiction of the offender's adjudication does not publish the offender's
- 2863 information on a public website, the department shall maintain, but not publish the
- 2864 offender's information on the registration website.
- 2865 (6) A sex offender who violates Section 77-27-21.8 regarding being in the presence of a
- 2866 child while required to register under this chapter shall register for an additional five
- 2867 years subsequent to the registration period otherwise required under this chapter.
- 2868 (7) An offender shall provide the department or the registering entity with the following
- 2869 information:
- 2870 (a) all names and aliases by which the offender is or has been known;
- 2871 (b) the addresses of the offender's primary and secondary residences;
- 2872 (c) a physical description, including the offender's date of birth, height, weight, eye and
- 2873 hair color;
- 2874 (d) the make, model, color, year, plate number, and vehicle identification number of a
- 2875 vehicle or vehicles the offender owns or drives more than 12 times per year;
- 2876 (e) a current photograph of the offender;
- 2877 (f) a set of fingerprints, if one has not already been provided;
- 2878 (g) a DNA specimen, taken in accordance with Section 53-10-404, if one has not already
- 2879 been provided;
- 2880 (h) telephone numbers and any other designations used by the offender for routing or
- 2881 self-identification in telephonic communications from fixed locations or cellular
- 2882 telephones;
- 2883 (i) Internet identifiers and the addresses the offender uses for routing or

- 2884 self-identification in Internet communications or postings;
- 2885 (j) the name and Internet address of all websites on which the offender is registered
- 2886 using an online identifier, including all online identifiers used to access those
- 2887 websites;
- 2888 (k) a copy of the offender's passport, if a passport has been issued to the offender;
- 2889 (l) if the offender is an alien, all documents establishing the offender's immigration
- 2890 status;
- 2891 (m) all professional licenses that authorize the offender to engage in an occupation or
- 2892 carry out a trade or business, including any identifiers, such as numbers;
- 2893 (n) each educational institution in Utah at which the offender is employed, carries on a
- 2894 vocation, or is a student, and a change of enrollment or employment status of the
- 2895 offender at an educational institution;
- 2896 (o) the name, the telephone number, and the address of a place where the offender is
- 2897 employed or will be employed;
- 2898 (p) the name, the telephone number, and the address of a place where the offender works
- 2899 as a volunteer or will work as a volunteer; and
- 2900 (q) the offender's social security number.
- 2901 (8) (a) An offender may change the offender's name in accordance with Title 42,
- 2902 Chapter 1, Change of Name, if the name change is not contrary to the interests of the
- 2903 public.
- 2904 (b) Notwithstanding Section 42-1-2, an offender shall provide notice to the department
- 2905 at least 30 days before the day on which the hearing for the name change is held.
- 2906 (c) The court shall provide a copy of the order granting the offender's name change to
- 2907 the department within 10 days after the day on which the court issues the order.
- 2908 (d) If the court orders an offender's name changed, the department shall publish on the
- 2909 registration website the offender's former name, and the offender's changed name as
- 2910 an alias.
- 2911 (9) Notwithstanding Subsections (7)(i) and (j) and 77-41-103(1)(c), an offender is not
- 2912 required to provide the department with:
- 2913 (a) the offender's online identifier and password used exclusively for the offender's
- 2914 employment on equipment provided by an employer and used to access the
- 2915 employer's private network; or
- 2916 (b) online identifiers for the offender's financial accounts, including a bank, retirement,
- 2917 or investment account.

- 2918 Section 32. Section **77-41-106** is amended to read:
- 2919 **77-41-106 . Offenses requiring lifetime registration.**
- 2920 Offenses referred to in Subsection 77-41-105(3)(c)(i) requiring lifetime registration
- 2921 are:
- 2922 (1) [~~any~~] an offense listed in Subsection [~~77-41-102(10) or (18)~~] 77-41-102(1), (11), or (19)
- 2923 if, at the time of the conviction for the offense, the offender has previously been
- 2924 convicted of an offense listed in Subsection [~~77-41-102(10) or (18)~~] 77-41-102(1), (11),
- 2925 or (19) or has previously been required to register as a sex offender, kidnap offender, or
- 2926 child abuse offender for an offense committed as a juvenile;
- 2927 (2) a conviction for [~~any of the~~] a following [~~offenses~~] offense, including attempting,
- 2928 soliciting, or conspiring to commit [~~any~~] a felony of:
- 2929 (a) [~~Section 76-5-301.1,~~] child kidnapping under Section 76-5-301.1, except if the
- 2930 offender is a natural parent of the victim;
- 2931 (b) [~~Section 76-5-402,~~] rape under Section 76-5-402;
- 2932 (c) [~~Section 76-5-402.1,~~] rape of a child under Section 76-5-402.1;
- 2933 (d) [~~Section 76-5-402.2,~~] object rape under Section 76-5-402.2;
- 2934 (e) [~~Section 76-5-402.3,~~] object rape of a child under Section 76-5-402.3;
- 2935 (f) [~~Section 76-5-403.1,~~] sodomy on a child under Section 76-5-403.1;
- 2936 (g) [~~Section 76-5-404.3,~~] aggravated sexual abuse of a child under Section 76-5-404.3; or
- 2937 (h) [~~Section 76-5-405,~~] aggravated sexual assault under Section 76-5-405;
- 2938 (3) [~~Section 76-5-308.1,~~] human trafficking for sexual exploitation under Section
- 2939 76-5-308.1;
- 2940 (4) [~~Section 76-5-308.5,~~] human trafficking of a child for sexual exploitation under
- 2941 Subsection 76-5-308.5(4)(b);
- 2942 (5) [~~Section 76-5-310,~~] aggravated human trafficking for sexual exploitation under Section
- 2943 76-5-310;
- 2944 (6) [~~Section 76-5-311,~~] human trafficking of a vulnerable adult for sexual exploitation
- 2945 under Section 76-5-311;
- 2946 [~~(7) Section 76-4-401, a felony violation of enticing a minor;~~]
- 2947 [~~(8)~~] (7) [~~Section 76-5-302,~~] aggravated kidnapping under Section 76-5-302, except if the
- 2948 offender is a natural parent of the victim;
- 2949 [~~(9)~~] (8) [~~Section 76-5-403,~~] forcible sodomy under Section 76-5-403;
- 2950 [~~(10)~~] (9) [~~Section 76-5-404.1,~~] sexual abuse of a child under Section 76-5-404.1;
- 2951 [~~(11)~~] (10) [~~Section 76-5b-201,~~] sexual exploitation of a minor under Section 76-5b-201;

2952 ~~[(12)]~~ (11) ~~[Section 76-5b-201.1,]~~ aggravated sexual exploitation of a minor under Section  
 2953 76-5b-201.1;

2954 ~~[(13)]~~ (12) ~~[Subsection 76-5b-204(2)(b),]~~ aggravated sexual extortion under Subsection  
 2955 76-5b-204(2)(b); or

2956 ~~[(14)]~~ (13) ~~[Section 76-10-1306,]~~ aggravated exploitation of prostitution under Section  
 2957 76-10-1306, on or after May 10, 2011; or

2958 (14) a felony violation of enticing a minor under Section 76-4-401 if the offender enticed  
 2959 the minor to engage in sexual activity that is one of the offenses described in  
 2960 Subsections (2) through (13).

2961 Section 33. Section **77-41-107** is amended to read:

2962 **77-41-107 . Penalties.**

2963 (1) An offender who knowingly fails to register under this chapter or provides false or  
 2964 incomplete information is guilty of:

2965 (a) a third degree felony and shall be sentenced to serve a term of incarceration for not  
 2966 less than 30 days and also at least one year of probation if:

2967 (i) the offender is required to register for a felony conviction or adjudicated  
 2968 delinquent for what would be a felony if the juvenile were an adult of an offense  
 2969 listed in Subsection ~~[77-41-102(10)(a) or (18)(a)]~~ 77-41-102(1), (11), or (19); or

2970 (ii) the offender is required to register for the offender's lifetime under Subsection  
 2971 77-41-105(3)(c); or

2972 (b) a class A misdemeanor and shall be sentenced to serve a term of incarceration for not  
 2973 fewer than 30 days and also at least one year of probation if the offender is required  
 2974 to register for a misdemeanor conviction or is adjudicated delinquent for what would  
 2975 be a misdemeanor if the juvenile were an adult of an offense listed in Subsection [  
 2976 ~~77-41-102(10)(a) or (18)(a)]~~ 77-41-102(1), (11), or (19).

2977 (2) (a) Neither the court nor the Board of Pardons and Parole may release an individual  
 2978 who violates this chapter from serving the term required under Subsection (1).

2979 (b) This Subsection (2) supersedes any other provision of the law contrary to this chapter.

2980 (3) The offender shall register for an additional year for every year in which the offender  
 2981 does not comply with the registration requirements of this chapter.

2982 Section 34. Section **77-41-109** is amended to read:

2983 **77-41-109 . Miscellaneous provisions.**

2984 (1) (a) If an offender is to be temporarily sent on ~~[any]~~ an assignment outside a secure  
 2985 facility in which the offender is confined on ~~[any]~~ an assignment, including, without



2986 limitation, firefighting or disaster control, the official who has custody of the  
 2987 offender shall, within a reasonable time prior to removal from the secure facility,  
 2988 notify the local law enforcement agencies where the assignment is to be filled.

2989 (b) This Subsection (1) does not apply to ~~[any person]~~ an offender temporarily released  
 2990 under guard from the institution in which the ~~[person]~~ offender is confined.

2991 (2) Notwithstanding Title 77, Chapter 40a, Expungement, ~~[a person]~~ an offender convicted  
 2992 of ~~[any]~~ an offense listed in Subsection ~~[77-41-102(10) or (18)]~~ 77-41-102(1), (11), or  
 2993 (19) is not relieved from the responsibility to register as required under this section,  
 2994 unless the offender is removed from the registry under Section 77-41-112 or Section  
 2995 77-41-113.

2996 Section 35. Section **77-41-110** is amended to read:

2997 **77-41-110 . Sex offender, kidnap offender, and child abuse offender registry --**  
 2998 **Department to maintain.**

2999 (1) The department shall maintain a ~~[Sex Offender and Kidnap]~~ Sex, Kidnap, and Child  
 3000 Abuse Offender Notification and Registration website on the Internet, which shall  
 3001 contain a disclaimer informing the public:

3002 (a) the information contained on the site is obtained from offenders and the department  
 3003 does not guarantee its accuracy or completeness;

3004 (b) members of the public are not allowed to use the information to harass or threaten  
 3005 offenders or members of their families; and

3006 (c) harassment, stalking, or threats against offenders or their families are prohibited and  
 3007 doing so may violate Utah criminal laws.

3008 (2) The ~~[Sex Offender and Kidnap]~~ Sex, Kidnap, and Child Abuse Offender Notification  
 3009 and Registration website shall be indexed by both the surname of the offender and by  
 3010 postal codes.

3011 (3) The department shall construct the Sex, Kidnap, and Child Abuse Offender Notification  
 3012 and Registration website so that users, before accessing registry information, must  
 3013 indicate that they have read the disclaimer, understand it, and agree to comply with its  
 3014 terms.

3015 (4) Except as provided in Subsection (5), the ~~[Sex Offender and Kidnap]~~ Sex, Kidnap, and  
 3016 Child Abuse Offender Notification and Registration website shall include the following  
 3017 registry information:

3018 (a) all names and aliases by which the offender is or has been known, but not including  
 3019 any online or Internet identifiers;

- 3020 (b) the addresses of the offender's primary, secondary, and temporary residences;
- 3021 (c) a physical description, including the offender's date of birth, height, weight, and eye
- 3022 and hair color;
- 3023 (d) the make, model, color, year, and plate number of any vehicle or vehicles the
- 3024 offender owns or regularly drives;
- 3025 (e) a current photograph of the offender;
- 3026 (f) a list of all professional licenses that authorize the offender to engage in an
- 3027 occupation or carry out a trade or business;
- 3028 (g) each educational institution in Utah at which the offender is employed, carries on a
- 3029 vocation, or is a student;
- 3030 (h) a list of places where the offender works as a volunteer; and
- 3031 (i) the crimes listed in Subsections [~~77-41-102(10) and (18)~~] 77-41-102(1), (11), or (19)
- 3032 that the offender has been convicted of or for which the offender has been
- 3033 adjudicated delinquent in juvenile court.
- 3034 (5) The department, its personnel, and any individual or entity acting at the request or upon
- 3035 the direction of the department are immune from civil liability for damages for good
- 3036 faith compliance with this chapter and will be presumed to have acted in good faith by
- 3037 reporting information.
- 3038 (6) The department shall redact information that, if disclosed, could reasonably identify a
- 3039 victim.

3040 Section 36. Section **77-41-112** is amended to read:

3041 **77-41-112 . Removal from registry -- Requirements -- Procedure.**

- 3042 (1) An offender who is required to register with the Sex[~~and~~] , Kidnap, and Child Abuse
- 3043 Offender Registry may petition the court for an order removing the offender from the
- 3044 Sex[~~and~~] , Kidnap, and Child Abuse Offender Registry if:
- 3045 (a) (i) the offender was convicted of an offense described in Subsection (2);
- 3046 (ii) at least five years have passed after the day on which the offender's sentence for
- 3047 the offense terminated;
- 3048 (iii) the offense is the only offense for which the offender was required to register;
- 3049 (iv) the offender has not been convicted of another offense, excluding a traffic
- 3050 offense, since the day on which the offender was convicted of the offense for
- 3051 which the offender is required to register, as evidenced by a certificate of
- 3052 eligibility issued by the bureau;
- 3053 (v) the offender successfully completed all treatment ordered by the court or the

- 3054 Board of Pardons and Parole relating to the offense; and
- 3055 (vi) the offender has paid all restitution ordered by the court or the Board of Pardons
- 3056 and Parole relating to the offense;
- 3057 (b) (i) [if]the offender is required to register in accordance with Subsection
- 3058 77-41-105(3)(a);
- 3059 (ii) at least 10 years have passed after the later of:
- 3060 (A) the day on which the offender was placed on probation;
- 3061 (B) the day on which the offender was released from incarceration to parole;
- 3062 (C) the day on which the offender's sentence was terminated without parole;
- 3063 (D) the day on which the offender entered a community-based residential
- 3064 program; or
- 3065 (E) for a minor, as defined in Section 80-1-102, the day on which the division's
- 3066 custody of the offender was terminated;
- 3067 (iii) the offender has not been convicted of another offense that is a class A
- 3068 misdemeanor, felony, or capital felony within the most recent 10-year period after
- 3069 the date described in Subsection (1)(b)(ii), as evidenced by a certificate of
- 3070 eligibility issued by the bureau;
- 3071 (iv) the offender successfully completed all treatment ordered by the court or the
- 3072 Board of Pardons and Parole relating to the offense; and
- 3073 (v) the offender has paid all restitution ordered by the court or the Board of Pardons
- 3074 and Parole relating to the offense; or
- 3075 (c) (i) the offender is required to register in accordance with Subsection 77-41-105
- 3076 (3)(c);
- 3077 (ii) at least 20 years have passed after the later of:
- 3078 (A) the day on which the offender was placed on probation;
- 3079 (B) the day on which the offender was released from incarceration to parole;
- 3080 (C) the day on which the offender's sentence was terminated without parole;
- 3081 (D) the day on which the offender entered a community-based residential
- 3082 program; or
- 3083 (E) for a minor, as defined in Section 80-1-102, the day on which the division's
- 3084 custody of the offender was terminated;
- 3085 (iii) the offender has not been convicted of another offense that is a class A
- 3086 misdemeanor, felony, or capital felony within the most recent 20-year period after
- 3087 the date described in Subsection (1)(c)(ii), as evidenced by a certificate of

- 3088 eligibility issued by the bureau;
- 3089 (iv) the offender completed all treatment ordered by the court or the Board of
- 3090 Pardons and Parole relating to the offense;
- 3091 (v) the offender has paid all restitution ordered by the court or the Board of Pardons
- 3092 and Parole relating to the offense; and
- 3093 (vi) the offender submits to an evidence-based risk assessment to the court, with the
- 3094 offender's petition, that:
- 3095 (A) meets the standards for the current risk assessment, score, and risk level
- 3096 required by the Board of Pardons and Parole for parole termination requests;
- 3097 (B) is completed within the six months before the date on which the petition is
- 3098 filed; and
- 3099 (C) describes the evidence-based risk assessment of the current level of risk to the
- 3100 safety of the public posed by the offender.
- 3101 (2) The offenses referred to in Subsection (1)(a)(i) are:
- 3102 (a) [~~Section 76-4-401,~~]enticing a minor under Section 76-4-401, if the offense is a class
- 3103 A misdemeanor;
- 3104 (b) [~~Section 76-5-301,~~]kidnapping under Section 76-5-301;
- 3105 (c) [~~Section 76-5-304,~~]unlawful detention under Section 76-5-304, if the conviction of
- 3106 violating Section 76-5-304 is the only conviction for which the offender is required to
- 3107 register;
- 3108 (d) [~~Section 76-5-401,~~]unlawful sexual activity with a minor under Section 76-5-401, if,
- 3109 at the time of the offense, the offender is not more than 10 years older than the victim;
- 3110 (e) [~~Section 76-5-401.1,~~]sexual abuse of a minor under Section 76-5-401.1, if, at the
- 3111 time of the offense, the offender is not more than 10 years older than the victim;
- 3112 (f) [~~Section 76-5-401.2,~~]unlawful sexual conduct with a 16 or 17 year old under Section
- 3113 76-5-401.2, and at the time of the offense, the offender is not more than 15 years
- 3114 older than the victim;
- 3115 (g) [~~Section 76-9-702.7,~~]voyeurism under Section 76-9-702.7, if the offense is a class A
- 3116 misdemeanor; or
- 3117 (h) an offense for which an individual is required to register under Subsection [~~77-41-102~~
- 3118 ~~(10)(e) or 77-41-102(18)(e)] 77-41-102(1)(c), (11)(c), or (19)(c), if the offense is not~~
- 3119 substantially equivalent to an offense described in Subsection [~~77-41-102(10)(a) or~~
- 3120 ~~77-41-102(18)(a)] 77-41-102(1)(a), (11)(a), or (19)(a).~~
- 3121 (3) (a) (i) An offender seeking removal from the Sex[~~and~~] , Kidnap, and Child Abuse

- 3122 Offender Registry under this section shall apply for a certificate of eligibility from  
3123 the bureau.
- 3124 (ii) An offender who intentionally or knowingly provides false or misleading  
3125 information to the bureau when applying for a certificate of eligibility is guilty of  
3126 a class B misdemeanor and subject to prosecution under Section 76-8-504.6.
- 3127 (iii) Regardless of whether the offender is prosecuted, the bureau may deny a  
3128 certificate of eligibility to an offender who provides false information on an  
3129 application.
- 3130 (b) (i) The bureau shall:
- 3131 (A) perform a check of records of governmental agencies, including national  
3132 criminal databases, to determine whether an offender is eligible to receive a  
3133 certificate of eligibility; and
- 3134 (B) request information from the Department of Corrections regarding whether the  
3135 offender meets the requirements described in Subsection (1)(a)(ii), (a)(v),  
3136 (a)(vi), (b)(ii), (b)(iv), (b)(v),~~[-or-]~~(c)(ii), (c)(iv), or (c)(v).
- 3137 (ii) Upon request from the bureau under Subsection (3)(b)(i)(B), the Department of  
3138 Corrections shall issue a document reflecting whether the offender meets the  
3139 requirements described in Subsection (1)(a)(ii), (a)(v), (a)(vi), (b)(ii), (b)(iv),  
3140 (b)(v),~~[-or-]~~(c)(ii), (c)(iv), or(c)(v).
- 3141 (iii) If the offender meets the requirements described in Subsection (1)(a), (b), or (c),  
3142 the bureau shall issue a certificate of eligibility to the offender, which is valid for a  
3143 period of 90 days after the day on which the bureau issues the certificate.
- 3144 (iv) The bureau shall provide a copy of the document provided to the bureau under  
3145 Subsection (3)(b)(ii) to the offender upon issuance of a certificate of eligibility.
- 3146 (4) (a) (i) The bureau shall charge application and issuance fees for a certificate of  
3147 eligibility in accordance with the process in Section 63J-1-504.
- 3148 (ii) The application fee shall be paid at the time the offender submits an application  
3149 for a certificate of eligibility to the bureau.
- 3150 (iii) If the bureau determines that the issuance of a certificate of eligibility is  
3151 appropriate, the offender will be charged an additional fee for the issuance of a  
3152 certificate of eligibility.
- 3153 (b) Funds generated under this Subsection (4) shall be deposited into the General Fund  
3154 as a dedicated credit by the department to cover the costs incurred in determining  
3155 eligibility.

- 3156 (5) (a) The offender shall file the petition, including original information, the court  
3157 docket, the certificate of eligibility from the bureau, and the document from the  
3158 department described in Subsection (3)(b)(iv) with the court, and deliver a copy of  
3159 the petition to the office of the prosecutor.
- 3160 (b) Upon receipt of a petition for removal from the Sex~~[-and]~~ , Kidnap, and Child Abuse  
3161 Offender Registry, the office of the prosecutor shall provide notice of the petition by  
3162 first-class mail to the victim at the most recent address of record on file or, if the  
3163 victim is still a minor under 18 years old, to the parent or guardian of the victim.
- 3164 (c) The notice described in Subsection (5)(b) shall include a copy of the petition, state  
3165 that the victim has a right to object to the removal of the offender from the registry,  
3166 and provide instructions for registering an objection with the court.
- 3167 (d) The office of the prosecutor shall provide the following, if available, to the court  
3168 within 30 days after the day on which the office receives the petition:
- 3169 (i) presentencing report;
- 3170 (ii) an evaluation done as part of sentencing; and
- 3171 (iii) ~~[any]~~ other information the office of the prosecutor ~~[feels]~~ determines the court  
3172 should consider.
- 3173 (e) The victim, or the victim's parent or guardian if the victim is a minor under 18 years  
3174 old, may respond to the petition by filing a recommendation or objection with the  
3175 court within 45 days after the day on which the petition is mailed to the victim.
- 3176 (6) (a) The court shall:
- 3177 (i) review the petition and all documents submitted with the petition; and
- 3178 (ii) hold a hearing if requested by the prosecutor or the victim.
- 3179 (b) (i) Except as provided in Subsections (6)(b)(ii) and (iii), the court may grant the  
3180 petition and order removal of the offender from the registry if the court determines  
3181 that the offender has met the requirements described in Subsection (1)(a) or (b)  
3182 and removal is not contrary to the interests of the public.
- 3183 (ii) When considering a petition filed under Subsection (1)(c), the court shall  
3184 determine whether the offender has demonstrated, by clear and convincing  
3185 evidence, that the offender is rehabilitated and does not pose a threat to the safety  
3186 of the public.
- 3187 (iii) In making the determination described in Subsection (6)(b)(ii), the court may  
3188 consider:
- 3189 (A) the nature and degree of violence involved in the offense that requires

- 3190 registration;
- 3191 (B) the age and number of victims of the offense that requires registration;
- 3192 (C) the age of the offender at the time of the offense that requires registration;
- 3193 (D) the offender's performance while on supervision for the offense that requires
- 3194 registration;
- 3195 (E) the offender's stability in employment and housing;
- 3196 (F) the offender's community and personal support system;
- 3197 (G) other criminal and relevant noncriminal behavior of the offender both before
- 3198 and after the offense that requires registration;
- 3199 (H) the level of risk posed by the offender as evidenced by the evidence-based risk
- 3200 assessment described in Subsection (1)(c)(vi); and
- 3201 (I) any other relevant factors.
- 3202 (c) In determining whether removal is contrary to the interests of the public, the court
- 3203 may not consider removal unless the offender has substantially complied with all
- 3204 registration requirements under this chapter at all times.
- 3205 (d) If the court grants the petition, the court shall forward a copy of the order directing
- 3206 removal of the offender from the registry to the department and the office of the
- 3207 prosecutor.
- 3208 (e) (i) Except as provided in Subsection (6)(e)(ii), if the court denies the petition, the
- 3209 offender may not submit another petition for three years.
- 3210 (ii) If the offender files a petition under Subsection (1)(c) and the court denies the
- 3211 petition, the offender may not submit another petition for eight years.
- 3212 (7) The court shall notify the victim and the Sex[~~and~~], Kidnap, and Child Abuse Offender
- 3213 Registry office in the department of the court's decision within three days after the day
- 3214 on which the court issues the court's decision in the same manner described in
- 3215 Subsection (5).
- 3216 (8) Except as provided in Subsection (9), an offender required to register under Subsection
- 3217 77-41-105(3)(b) may petition for early removal from the registry under Subsection
- 3218 (1)(b) if the offender:
- 3219 (a) meets the requirements of Subsections (1)(b)(ii) through (v);
- 3220 (b) has resided in this state for at least 183 days in a year for two consecutive years; and
- 3221 (c) intends to primarily reside in this state.
- 3222 (9) An offender required to register under Subsection 77-41-105(3)(b) for life may petition
- 3223 for early removal from the registry under Subsection (1)(c) if:

- 3224 (a) the offense requiring the offender to register is substantially equivalent to an offense  
 3225 listed in Section 77-41-106;
- 3226 (b) the offender meets the requirements of Subsections (1)(c)(ii) through (vi);
- 3227 (c) the offender has resided in this state for at least 183 days in a year for two  
 3228 consecutive years; and
- 3229 (d) the offender intends to primarily reside in this state.

3230 Section 37. Section **77-41-113** is amended to read:

3231 **77-41-113 . Removal for offenses or convictions for which registration is no**  
 3232 **longer required.**

- 3233 (1) The department shall automatically remove an individual who is currently on the Sex[  
 3234 ~~and~~], Kidnap, and Child Abuse Offender Registry because of a conviction if:
- 3235 (a) the only offense or offenses for which the individual is on the registry are listed in  
 3236 Subsection (2); or
- 3237 (b) the department receives a formal notification or order from the court or the Board of  
 3238 Pardons and Parole that the conviction for the offense or offenses for which the  
 3239 individual is on the registry have been reversed, vacated, or pardoned.
- 3240 (2) The offenses described in Subsection (1)(a) are:
- 3241 (a) a class B or class C misdemeanor for enticing a minor[;] under Section 76-4-401;
- 3242 (b) kidnapping[; ~~based upon~~] under Subsection 76-5-301(2)(a) or (b);
- 3243 (c) child kidnapping[;] under Section 76-5-301.1, if the offender was the natural parent  
 3244 of the child victim;
- 3245 (d) unlawful detention[;] under Section 76-5-304;
- 3246 (e) a third degree felony for unlawful sexual intercourse before 1986, or a class B  
 3247 misdemeanor for unlawful sexual intercourse, under Section 76-5-401; or
- 3248 (f) sodomy, but not forcible sodomy, under Section 76-5-403.
- 3249 (3) (a) The department shall notify an individual who has been removed from the  
 3250 registry in accordance with Subsection (1).
- 3251 (b) The notice described in Subsection (3)(a) shall include a statement that the individual  
 3252 is no longer required to register as a sex offender or kidnap offender.
- 3253 (4) An individual who is currently on the Sex[~~and~~], Kidnap, and Child Abuse Offender  
 3254 Registry may submit a request to the department to be removed from the registry if the  
 3255 individual believes that the individual qualifies for removal under this section.
- 3256 (5) The department, upon receipt of a request for removal from the registry shall:  
 3257 (a) check the registry for the individual's current status;



- 3258 (b) determine whether the individual qualifies for removal based upon this section; and  
3259 (c) notify the individual in writing of the department's determination and whether the  
3260 individual:
- 3261 (i) qualifies for removal from the registry; or  
3262 (ii) does not qualify for removal.
- 3263 (6) If the department determines that the individual qualifies for removal from the registry,  
3264 the department shall remove the offender from the registry.
- 3265 (7) If the department determines that the individual does not qualify for removal from the  
3266 registry, the department shall provide an explanation in writing for the department's  
3267 determination. The department's determination is final and not subject to administrative  
3268 review.
- 3269 (8) Neither the department nor [~~any~~] an employee of the department may be civilly liable for  
3270 a determination made in good faith in accordance with this section.
- 3271 (9) (a) The department shall provide a response to a request for removal within 30 days  
3272 of receipt of the request.
- 3273 (b) [-]If the response under Subsection (9)(a) cannot be provided within 30 days, the  
3274 department shall notify the individual that the response may be delayed up to 30  
3275 additional days.
- 3276 Section 38. Section **77-41-114** is amended to read:
- 3277 **77-41-114 . Registration for individuals under 18 years old at the time of the**  
3278 **offense.**
- 3279 (1) Except for an offender who is subject to lifetime registration under Subsection  
3280 77-41-106(1), the department shall, if the offender was under 18 years old at the time of  
3281 the offense, maintain, but not publish, the offender's information on the registration  
3282 website for an offense listed in Subsection [~~77-41-102(10)(a), (e), or (f) or 77-41-102~~  
3283 ~~(18)(a), (e), or (f)] 77-41-102(1)(a), (c), or (f), (11)(a), (c), or (f), or (19)(a), (c), or (f).~~
- 3284 (2) (a) If, based on the information provided to the department by the sentencing court,  
3285 prosecuting entity, offender, or offender's counsel, the department cannot determine  
3286 if the offender is eligible for an exemption to publication on the registration website  
3287 as described in Subsection (1), the department shall continue to publish the offender's  
3288 information on the registration website.
- 3289 (b) Information may be provided to the department at any time in order to clarify the  
3290 offender's age at the time of the offense.
- 3291 (c) This section does not prohibit the department from seeking or receiving information

- 3292 from individuals or entities other than those identified in Subsection (2)(a).
- 3293 (3) This section applies to offenders with a registration requirement on or after May 3,  
3294 2023, regardless of when the offender was first required to register.
- 3295 (4) An offender convicted after May 3, 2023, of an offense committed when the individual  
3296 was under 18 years old, is not subject to registration requirements under this chapter  
3297 unless the offender:
- 3298 (a) is charged by criminal information in juvenile court under Section 80-6-503;  
3299 (b) is bound over to district court in accordance with Section 80-6-504; and  
3300 (c) is convicted of a qualifying offense described in Subsection [~~77-41-102(10)(a) or~~  
3301 ~~77-41-102(18)(a)] 77-41-102(1)(a), (11)(a), or (19)(a).~~
- 3302 Section 39. Section **78B-8-302** is amended to read:
- 3303 **78B-8-302 . Process servers.**
- 3304 (1) A complaint, a summons, or a subpoena may be served by [~~a person~~] an individual who  
3305 is:
- 3306 (a) 18 years old or older at the time of service; and  
3307 (b) not a party to the action or a party's attorney.
- 3308 (2) Except as provided in Subsection (5), the following may serve all process issued by the  
3309 courts of this state:
- 3310 (a) a peace officer employed by a political subdivision of the state acting within the  
3311 scope and jurisdiction of the peace officer's employment;  
3312 (b) a sheriff or appointed deputy sheriff employed by a county of the state;  
3313 (c) a constable, or the constable's deputy, serving in compliance with applicable law;  
3314 (d) an investigator employed by the state and authorized by law to serve civil process; [  
3315 ~~and~~] or
- 3316 (e) a private investigator licensed in accordance with Title 53, Chapter 9, Private  
3317 Investigator Regulation Act.
- 3318 (3) A private investigator licensed in accordance with Title 53, Chapter 9, Private  
3319 Investigator Regulation Act, may not make an arrest pursuant to a bench warrant.
- 3320 (4) While serving process, a private investigator shall:
- 3321 (a) have on the investigator's [~~person~~] body a visible form of credentials and  
3322 identification identifying:
- 3323 (i) the investigator's name;  
3324 (ii) that the investigator is a licensed private investigator; and  
3325 (iii) the name and address of the agency employing the investigator or, if the

- 3326 investigator is self-employed, the address of the investigator's place of business;
- 3327 (b) verbally communicate to the person being served that the investigator is acting as a
- 3328 process server; and
- 3329 (c) print on the first page of each document served:
- 3330 (i) the investigator's name and identification number as a private investigator; and
- 3331 (ii) the address and phone number for the investigator's place of business.
- 3332 (5) ~~[Any service]~~ The following may only serve process under this section when the use of
- 3333 force is authorized on the face of the document, or when a breach of the peace is
- 3334 imminent or likely under the totality of the circumstances~~[, may only be served by]~~:
- 3335 (a) a law enforcement officer, as defined in Section 53-13-103; or
- 3336 (b) a special function officer, as defined in Section 53-13-105, who is:
- 3337 (i) employed as an appointed deputy sheriff by a county of the state; or
- 3338 (ii) a constable.
- 3339 (6) The following may not serve process issued by a court:
- 3340 (a) ~~[a person]~~ an individual convicted of a felony violation of an offense listed in
- 3341 Subsection ~~[77-41-102(18)]~~ 77-41-102(19); or
- 3342 (b) ~~[a person]~~ an individual who is a respondent in a proceeding described in Title 78B,
- 3343 Chapter 7, Protective Orders and Stalking Injunctions, in which a court has granted
- 3344 the petitioner a protective order.
- 3345 (7) ~~[A person]~~ An individual serving process shall:
- 3346 (a) legibly document the date and time of service on the front page of the document
- 3347 being served;
- 3348 (b) legibly print the process server's name, address, and telephone number on the return
- 3349 of service;
- 3350 (c) sign the return of service in substantial compliance with Title 78B, Chapter 18a,
- 3351 Uniform Unsworn Declarations Act;
- 3352 (d) if the process server is a peace officer, sheriff, or deputy sheriff, legibly print the
- 3353 badge number of the process server on the return of service; and
- 3354 (e) if the process server is a private investigator, legibly print the private investigator's
- 3355 identification number on the return of service.
- 3356 Section 40. Section **80-5-201** is amended to read:
- 3357 **80-5-201 . Division responsibilities.**
- 3358 (1) The division is responsible for all minors committed to the division by juvenile courts
- 3359 under Sections 80-6-703 and 80-6-705.

- 3360 (2) The division shall:
- 3361 (a) establish and administer a continuum of community, secure, and nonsecure programs  
3362 for all minors committed to the division;
- 3363 (b) establish and maintain all detention and secure care facilities and set minimum  
3364 standards for all detention and secure care facilities;
- 3365 (c) establish and operate prevention and early intervention youth services programs for  
3366 nonadjudicated minors placed with the division;
- 3367 (d) establish observation and assessment programs necessary to serve minors in a  
3368 nonresidential setting under Subsection 80-6-706(1);
- 3369 (e) place minors committed to the division under Section 80-6-703 in the most  
3370 appropriate program for supervision and treatment;
- 3371 (f) employ staff necessary to:
- 3372 (i) supervise and control minors committed to the division for secure care or  
3373 placement in the community;
- 3374 (ii) supervise and coordinate treatment of minors committed to the division for  
3375 placement in community-based programs; and
- 3376 (iii) control and supervise adjudicated and nonadjudicated minors placed with the  
3377 division for temporary services in juvenile receiving centers, youth services, and  
3378 other programs established by the division;
- 3379 (g) control or detain a minor committed to the division, or in the temporary custody of  
3380 the division, in a manner that is consistent with public safety and rules made by the  
3381 division;
- 3382 (h) establish and operate work programs for minors committed to the division by the  
3383 juvenile court that:
- 3384 (i) are not residential;
- 3385 (ii) provide labor to help in the operation, repair, and maintenance of public facilities,  
3386 parks, highways, and other programs designated by the division;
- 3387 (iii) provide educational and prevocational programs in cooperation with the State  
3388 Board of Education for minors placed in the program; and
- 3389 (iv) provide counseling to minors;
- 3390 (i) establish minimum standards for the operation of all private residential and  
3391 nonresidential rehabilitation facilities that provide services to minors who have  
3392 committed an offense in this state or in any other state;
- 3393 (j) provide regular training for secure care staff, detention staff, case management staff,

- 3394 and staff of the community-based programs;
- 3395 (k) designate employees to obtain the saliva DNA specimens required under Section  
3396 53-10-403;
- 3397 (l) ensure that the designated employees receive appropriate training and that the  
3398 specimens are obtained in accordance with accepted protocol;
- 3399 (m) register an individual with the Department of [~~Corrections~~] Public Safety who:
- 3400 (i) is adjudicated for an offense listed in Subsection [~~77-41-102(18)(a) or 77-43-102~~  
3401 ~~(2)~~] 77-41-102(1) or 77-41-102(19);
- 3402 (ii) is committed to the division for secure care; and
- 3403 (iii) (A) if the individual is a youth offender, remains in the division's custody 30  
3404 days before the individual's 21st birthday; or
- 3405 (B) if the individual is a serious youth offender, remains in the division's custody  
3406 30 days before the individual's 25th birthday; and
- 3407 (n) ensure that a program delivered to a minor under this section is an evidence-based  
3408 program in accordance with Section 63M-7-208.
- 3409 (3) (a) The division is authorized to employ special function officers, as defined in  
3410 Section 53-13-105, to:
- 3411 (i) locate and apprehend minors who have absconded from division custody;
- 3412 (ii) transport minors taken into custody in accordance with division policy;
- 3413 (iii) investigate cases; and
- 3414 (iv) carry out other duties as assigned by the division.
- 3415 (b) A special function officer may be:
- 3416 (i) employed through a contract with the Department of Public Safety, or any law  
3417 enforcement agency certified by the Peace Officer Standards and Training  
3418 Division; or
- 3419 (ii) directly hired by the division.
- 3420 (4) In the event of an unauthorized leave from secure care, detention, a community-based  
3421 program, a juvenile receiving center, a home, or any other designated placement of a  
3422 minor, a division employee has the authority and duty to locate and apprehend the  
3423 minor, or to initiate action with a local law enforcement agency for assistance.
- 3424 (5) The division may proceed with an initial medical screening or assessment of a child  
3425 admitted to a detention facility to ensure the safety of the child and others in the  
3426 detention facility if the division makes a good faith effort to obtain consent for the  
3427 screening or assessment from the child's parent or guardian.

- 3428 Section 41. **Repealer.**
- 3429 This bill repeals:
- 3430 Section **77-41-101, Title.**
- 3431 Section **77-43-101, Title.**
- 3432 Section **77-43-102, Definitions.**
- 3433 Section **77-43-103, Department duties.**
- 3434 Section **77-43-104, Registration of offenders -- Department and agency requirements.**
- 3435 Section **77-43-105, Registration of offenders -- Offender responsibilities.**
- 3436 Section **77-43-106, Penalties.**
- 3437 Section **77-43-107, Classification of information.**
- 3438 Section **77-43-108, Child Abuse Offender Registry -- Department to maintain.**
- 3439 Section **77-43-109, Fees.**
- 3440 Section 42. **Effective date.**
- 3441 This bill takes effect on July 1, 2024.