

SEX OFFENDER REGISTRY AMENDMENTS

2022 GENERAL SESSION

STATE OF UTAH

Chief Sponsor: Michael S. Kennedy

House Sponsor: _____

LONG TITLE

General Description:

This bill allows for individuals on the Sex and Kidnap Offender Registry to enter restricted areas if accompanied by an adult.

Highlighted Provisions:

This bill:

- ▶ allows for individuals on the Sex and Kidnap Offender Registry to enter a restricted area if accompanied by an adult; and
- ▶ changes the term "sex offender" to "registrant."

Money Appropriated in this Bill:

None

Other Special Clauses:

None

Utah Code Sections Affected:

AMENDS:

77-27-21.7, as last amended by Laws of Utah 2020, Chapter 206

77-27-21.8, as last amended by Laws of Utah 2015, Chapter 258

77-27-21.9, as enacted by Laws of Utah 2008, Chapter 309

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

Section 1. Section **77-27-21.7** is amended to read:



28 **77-27-21.7. Sex offender registrant restrictions.**29 (1) As used in this section, Section 77-27-21.8, and Section 77-27-21.9:

30 (a) "Minor" means an individual who is less than 18 years old[;].

31 (b) (i) "Protected area" means the premises occupied by:

32 (A) any licensed day care or preschool facility;

33 (B) a swimming pool that is open to the public;

34 (C) a public or private primary or secondary school that is not on the grounds of a
35 correctional facility;

36 (D) a community park that is open to the public;

37 (E) a playground that is open to the public, including those areas designed to provide
38 children space, recreational equipment, or other amenities intended to allow children to engage
39 in physical activity; and40 (F) except as provided in Subsection (1)(b)(ii), an area that is 1,000 feet or less from
41 the residence of a victim of the [~~sex offender if the sex offender~~] registrant if the registrant is
42 subject to a victim requested restriction.

43 (ii) "Protected area" does not include the area described in Subsection (1)(b)(i)(F) if:

44 (A) the victim is a member of the immediate family of the [~~sex offender~~] registrant;

45 and

46 (B) the terms of the [~~sex offender's~~] registrant's agreement of probation or parole allow
47 the [~~sex offender~~] registrant to reside in the same residence as the victim.48 (c) [~~"Sex offender"~~] "Registrant" means an adult or juvenile who is required to register
49 in accordance with Title 77, Chapter 41, Sex and Kidnap Offender Registry, due to a
50 conviction for any offense that is committed against a person younger than 18 years old.51 (2) For purposes of Subsection (1)(b)(i)(F), a [~~sex offender~~] registrant is subject to a
52 victim requested restriction if:53 (a) the [~~sex offender~~] registrant is on probation or parole for an offense that requires
54 the [~~offender~~] registrant to register in accordance with Title 77, Chapter 41, Sex and Kidnap
55 Offender Registry;56 (b) the victim or the victim's parent or guardian advises the Department of Corrections
57 that the victim elects to restrict the [~~sex offender~~] registrant from the area and authorizes the
58 Department of Corrections to advise the [~~sex offender~~] registrant of the area where the victim

59 resides; and

60 (c) the Department of Corrections notifies the [~~sex-offender~~] registrant in writing that
 61 the [~~sex-offender~~] registrant is prohibited from being in the area described in Subsection
 62 (1)(b)(i)(F) and provides a description of the location of the protected area to the [~~sex-offender~~]
 63 registrant.

64 (3) A [~~sex-offender~~] registrant may not:

65 (a) be in a protected area except:

66 (i) when the [~~sex-offender~~] registrant must be in a protected area to perform the [~~sex~~
 67 ~~offender's~~] registrant's parental responsibilities;

68 (ii) (A) when the protected area is a public or private primary or secondary school; and

69 (B) the school is open and being used for a public activity other than a school-related
 70 function that involves a minor; [~~or~~]

71 (iii) (A) if the protected area is a licensed day care or preschool facility located within a
 72 building that is open to the public for purposes other than the operation of the day care or
 73 preschool facility; and

74 (B) the [~~sex-offender~~] registrant does not enter a part of the building that is occupied by
 75 the day care or preschool facility; or

76 (iv) when the registrant is accompanied in the protected area by an adult who remains
 77 with the registrant for the duration of the visit; or

78 (b) serve as an athletic coach, manager, or trainer for any sports team of which a minor
 79 who is less than 18 years old is a member.

80 (4) Subsection (3)(a)(iv) does not apply to Subsection (1)(b)(i)(F).

81 [~~(4)~~] (5) A [~~sex-offender~~] registrant who violates this section is guilty of a class A
 82 misdemeanor.

83 Section 2. Section **77-27-21.8** is amended to read:

84 **77-27-21.8. Sex offender registrant in presence of a child -- Definitions --**

85 **Penalties.**

86 (1) As used in this section:

87 (a) "Accompany" means:

88 (i) to be in the presence of an individual; and

89 (ii) to move or travel with that individual from one location to another, whether

90 outdoors, indoors, or in or on any type of vehicle.

91 (b) "Child" means an individual younger than 14 years [~~of age~~] old.

92 (2) A [~~sex offender~~] registrant subject to registration in accordance with Title 77,
93 Chapter 41, Sex and Kidnap Offender Registry, for an offense committed or attempted to be
94 committed against a child younger than 14 years [~~of age~~] old is guilty of a class A
95 misdemeanor if the [~~sex offender~~] registrant requests, invites, or solicits a child to accompany
96 the [~~sex offender~~] registrant, under circumstances that do not constitute an attempt to violate
97 Section 76-5-301.1, child kidnapping, unless:

98 (a) (i) the [~~sex offender~~] registrant, prior to accompanying the child:

99 (A) verbally advises the child's parent or legal guardian that the [~~sex offender~~]
100 registrant is on the state sex offender registry and is required by state law to obtain written
101 permission in order for the [~~sex offender~~] registrant to accompany the child; and

102 (B) requests that the child's parent or legal guardian provide written authorization for
103 the [~~sex offender~~] registrant to accompany the child, including the specific dates and locations;

104 (ii) the child's parent or legal guardian has provided to the [~~sex offender~~] registrant
105 written authorization, including the specific dates and locations, for the [~~sex offender~~]
106 registrant to accompany the child; and

107 (iii) the [~~sex offender~~] registrant has possession of the written authorization and is
108 accompanying the child only at the dates and locations specified in the authorization;

109 (b) the child's parent or guardian has verbally authorized the [~~sex offender~~] registrant to
110 accompany the child either in the child's residence or on property appurtenant to the child's
111 residence, but in no other locations; or

112 (c) the child is the natural child of the [~~sex offender~~] registrant, and the [~~offender~~]
113 registrant is not prohibited by any court order, or probation or parole provision, from contact
114 with the child.

115 (3) (a) A [~~sex offender~~] registrant convicted of a violation of Subsection (2) is subject
116 to registration in accordance with Title 77, Chapter 41, Sex and Kidnap Offender Registry, for
117 an additional five years subsequent to the required registration under Section 77-41-105.

118 (b) The period of additional registration imposed under Subsection (3)(a) is also in
119 addition to any period of registration imposed under Subsection 77-41-107(3) for failure to
120 comply with registration requirements.

121 (4) It is not a defense to a prosecution under this section that the [~~defendant~~] registrant
122 mistakenly believed the individual to be 14 years [~~of age~~] old or older at the time of the offense
123 or was unaware of the individual's true age.

124 (5) This section does not apply if a [~~sex offender~~] registrant is acting to rescue a child
125 who is in an emergency and life-threatening situation.

126 Section 3. Section ~~77-27-21.9~~ is amended to read:

127 **~~77-27-21.9. Sex offender registrant assessment.~~**

128 (1) As used in this section:

129 (a) "Dynamic factors" means a person's individual characteristics, issues, resources, or
130 circumstances that:

131 (i) can change or be influenced; and

132 (ii) affect the risk of recidivism or the risk of violating conditions of probation or
133 parole.

134 (b) "Multi-domain assessment" means an evaluation process or tool which reports in
135 quantitative and qualitative terms [~~an offender's~~] a registrant's condition, stability, needs,
136 resources, and dynamic factors affecting the [~~offender's~~] registrant's transition into the
137 community and compliance with conditions of probation or parole, such as the following:

138 (i) alcohol and other drug use;

139 (ii) mental health status;

140 (iii) physical health;

141 (iv) criminal behavior;

142 (v) education;

143 (vi) emotional health and barriers;

144 (vii) employment;

145 (viii) family dynamics;

146 (ix) housing;

147 (x) physical health and nutrition;

148 (xi) spirituality;

149 (xii) social support systems;

150 (xiii) special population needs, including:

151 (A) co-existing disorders;

- 152 (B) domestic violence;
- 153 (C) drug of choice;
- 154 (D) gender, ethnic, and cultural considerations;
- 155 (E) other health issues;
- 156 (F) sexual abuse; and
- 157 (G) sexual orientation;
- 158 (xiv) transportation; and
- 159 (xv) treatment involvement.
- 160 (c) "Qualitative terms" means written summaries used to describe meaning, enrich, or
- 161 explain significant quantitative indicators or benchmarks within the areas defined in Subsection
- 162 (1)(b).
- 163 (d) "Quantitative terms" means numerical distinctions or benchmarks used to describe
- 164 conditions within the areas defined in Subsection (1)(b).
- 165 (2) The department shall issue a request for proposals to provide a periodic
- 166 multi-domain assessment tool, as defined in Subsection (1)(b) and implement the tool for a
- 167 three-year trial period in the management of [~~sex offenders~~] registrants being supervised in the
- 168 community in the department's Region 3.
- 169 (3) The request for proposals shall include a requirement that the multi-domain
- 170 assessment tool be designed to be administered:
- 171 (a) every 16 weeks during the first year a [~~sex offender~~] registrant is supervised in the
- 172 community; and
- 173 (b) every 12 to 26 weeks during the second and subsequent years a [~~sex offender~~]
- 174 registrant is supervised in the community, as determined appropriate by the department's
- 175 supervisory personnel and the [~~sex offenders~~] registrant's treatment team.
- 176 (4) The department shall promptly make results of the multi-domain assessment
- 177 available to:
- 178 (a) the [~~sex offender's~~] registrant's treatment team; and
- 179 (b) the corrections personnel responsible for supervising the [~~offender~~] registrant.
- 180 (5) The department shall provide to the legislative Law Enforcement and Criminal
- 181 Justice Interim Committee at the conclusion of the trial period a written report of the results of
- 182 the use of the multi-domain assessments, including:

- 183 (a) the impact on recidivism;
- 184 (b) other indicators of the effect of the use of the assessments;
- 185 (c) the number of assessments administered annually;
- 186 (d) the number of individuals who were assessed during the year; and
- 187 (e) any recommended legislative or policy changes.