

Todd Weiler proposes the following substitute bill:

Sex, Kidnap, and Child Abuse Offender Adjustments

2025 GENERAL SESSION

STATE OF UTAH

Chief Sponsor: Todd Weiler

House Sponsor:

LONG TITLE

General Description:

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

Highlighted Provisions:

This bill:

▸ reduces the amount of time that must elapse before an offender who is on the Sex, Kidnap, and Child Abuse Offender Registry for an offense requiring lifetime registration

is:

- able to first petition for early removal from the registry; and
- able to file an additional petition for early removal if the offender's previous petition is

denied;

▸ contains a coordination clause to coordinate changes between this bill and S.B. 41, Sex, Kidnap, and Child Abuse Offender Registry Amendments; and

▸ makes technical and conforming changes.

Money Appropriated in this Bill:

None

Other Special Clauses:

This bill provides a coordination clause.

Utah Code Sections Affected:

AMENDS:

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

Utah Code Sections affected by Coordination Clause:

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

Section 1. Section **77-41-112** is amended to read:

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

(1) An offender who is required to register with the Sex, Kidnap, and Child Abuse Offender

- 30 Registry may petition the court for an order removing the offender from the Sex,
31 Kidnap, and Child Abuse Offender Registry if:
- 32 (a)(i) the offender was convicted of an offense described in Subsection (2);
33 (ii) at least five years have passed after the day on which the offender's sentence for
34 the offense terminated;
35 (iii) the offense is the only offense for which the offender was required to register;
36 (iv) the offender has not been convicted of another offense, excluding a traffic
37 offense, since the day on which the offender was convicted of the offense for
38 which the offender is required to register, as evidenced by a certificate of
39 eligibility issued by the bureau;
40 (v) the offender successfully completed all treatment ordered by the court or the
41 Board of Pardons and Parole relating to the offense; and
42 (vi) the offender has paid all restitution ordered by the court or the Board of Pardons
43 and Parole relating to the offense;
- 44 (b)(i) the offender is required to register in accordance with Subsection 77-41-105
45 (3)(a);
46 (ii) at least 10 years have passed after the later of:
47 (A) the day on which the offender was placed on probation;
48 (B) the day on which the offender was released from incarceration to parole;
49 (C) the day on which the offender's sentence was terminated without parole;
50 (D) the day on which the offender entered a community-based residential
51 program; or
52 (E) for a minor, as defined in Section 80-1-102, the day on which the division's
53 custody of the offender was terminated;
54 (iii) the offender has not been convicted of another offense that is a class A
55 misdemeanor, felony, or capital felony within the most recent 10-year period after
56 the date described in Subsection (1)(b)(ii), as evidenced by a certificate of
57 eligibility issued by the bureau;
58 (iv) the offender successfully completed all treatment ordered by the court or the
59 Board of Pardons and Parole relating to the offense; and
60 (v) the offender has paid all restitution ordered by the court or the Board of Pardons
61 and Parole relating to the offense; or
62 (c)(i) the offender is required to register in accordance with Subsection 77-41-105
63 (3)(c);

- 64 (ii) at least [20] 12 years have passed after the later of:
- 65 (A) the day on which the offender was placed on probation;
- 66 (B) the day on which the offender was released from incarceration to parole;
- 67 (C) the day on which the offender's sentence was terminated without parole;
- 68 (D) the day on which the offender entered a community-based residential
- 69 program; or
- 70 (E) for a minor, as defined in Section 80-1-102, the day on which the division's
- 71 custody of the offender was terminated;
- 72 (iii) the offender has not been convicted of another offense that is a class A
- 73 misdemeanor, felony, or capital felony within the most recent 20-year period after
- 74 the date described in Subsection (1)(c)(ii), as evidenced by a certificate of
- 75 eligibility issued by the bureau;
- 76 (iv) the offender completed all treatment ordered by the court or the Board of
- 77 Pardons and Parole relating to the offense;
- 78 (v) the offender has paid all restitution ordered by the court or the Board of Pardons
- 79 and Parole relating to the offense; and
- 80 (vi) the offender submits to an evidence-based risk assessment to the court, with the
- 81 offender's petition, that:
- 82 (A) meets the standards for the current risk assessment, score, and risk level
- 83 required by the Board of Pardons and Parole for parole termination requests;
- 84 (B) is completed within the six months before the date on which the petition is
- 85 filed; and
- 86 (C) describes the evidence-based risk assessment of the current level of risk to the
- 87 safety of the public posed by the offender.
- 88 (2) The offenses referred to in Subsection (1)(a)(i) are:
- 89 (a) enticing a minor under Section 76-4-401, if the offense is a class A misdemeanor;
- 90 (b) kidnapping under Section 76-5-301;
- 91 (c) unlawful detention under Section 76-5-304, if the conviction of violating Section
- 92 76-5-304 is the only conviction for which the offender is required to register;
- 93 (d) unlawful sexual activity with a minor under Section 76-5-401, if, at the time of the
- 94 offense, the offender is not more than 10 years older than the victim;
- 95 (e) sexual abuse of a minor under Section 76-5-401.1, if, at the time of the offense, the
- 96 offender is not more than 10 years older than the victim;
- 97 (f) unlawful sexual conduct with a 16 or 17 year old under Section 76-5-401.2, and at

- 98 the time of the offense, the offender is not more than 15 years older than the victim;
- 99 (g) voyeurism under Section 76-9-702.7, if the offense is a class A misdemeanor; or
- 100 (h) an offense for which an individual is required to register under Subsection 77-41-102
- 101 (1)(c), (11)(c), or (19)(c), if the offense is not substantially equivalent to an offense
- 102 described in Subsection 77-41-102(1)(a), (11)(a), or (19)(a).
- 103 (3)(a)(i) An offender seeking removal from the Sex, Kidnap, and Child Abuse
- 104 Offender Registry under this section shall apply for a certificate of eligibility from
- 105 the bureau.
- 106 (ii) An offender who intentionally or knowingly provides false or misleading
- 107 information to the bureau when applying for a certificate of eligibility is guilty of
- 108 a class B misdemeanor and subject to prosecution under Section 76-8-504.6.
- 109 (iii) Regardless of whether the offender is prosecuted, the bureau may deny a
- 110 certificate of eligibility to an offender who provides false information on an
- 111 application.
- 112 (b)(i) The bureau shall:
- 113 (A) perform a check of records of governmental agencies, including national
- 114 criminal databases, to determine whether an offender is eligible to receive a
- 115 certificate of eligibility; and
- 116 (B) determine whether the offender meets the requirements described in
- 117 Subsection (1)(a)(ii), (a)(v), (a)(vi), (b)(ii), (b)(iv), (b)(v), (c)(ii), (c)(iv), or
- 118 (c)(v).
- 119 (ii) If the offender meets the requirements described in Subsection (1)(a), (b), or (c),
- 120 the bureau shall issue a certificate of eligibility to the offender, which is valid for a
- 121 period of 90 days after the day on which the bureau issues the certificate.
- 122 (4)(a)(i) The bureau shall charge application and issuance fees for a certificate of
- 123 eligibility in accordance with the process in Section 63J-1-504.
- 124 (ii) The application fee shall be paid at the time the offender submits an application
- 125 for a certificate of eligibility to the bureau.
- 126 (iii) If the bureau determines that the issuance of a certificate of eligibility is
- 127 appropriate, the offender will be charged an additional fee for the issuance of a
- 128 certificate of eligibility.
- 129 (b) Funds generated under this Subsection (4) shall be deposited into the General Fund
- 130 as a dedicated credit by the department to cover the costs incurred in determining
- 131 eligibility.

- 132 (5)(a) The offender shall file the petition, including original information, the court
133 docket, the certificate of eligibility from the bureau, and the document from the
134 department described in Subsection (3)(b)(iv) with the court, and deliver a copy of
135 the petition to the office of the prosecutor.
- 136 (b) Upon receipt of a petition for removal from the Sex, Kidnap, and Child Abuse
137 Offender Registry, the office of the prosecutor shall provide notice of the petition by
138 first-class mail to the victim at the most recent address of record on file or, if the
139 victim is still a minor under 18 years old, to the parent or guardian of the victim.
- 140 (c) The notice described in Subsection (5)(b) shall include a copy of the petition, state
141 that the victim has a right to object to the removal of the offender from the registry,
142 and provide instructions for registering an objection with the court.
- 143 (d) The office of the prosecutor shall provide the following, if available, to the court
144 within 30 days after the day on which the office receives the petition:
- 145 (i) presentencing report;
146 (ii) an evaluation done as part of sentencing; and
147 (iii) other information the office of the prosecutor determines the court should
148 consider.
- 149 (e) The victim, or the victim's parent or guardian if the victim is a minor under 18 years
150 old, may respond to the petition by filing a recommendation or objection with the
151 court within 45 days after the day on which the petition is mailed to the victim.
- 152 (6)(a) The court shall:
- 153 (i) review the petition and all documents submitted with the petition; and
154 (ii) hold a hearing if requested by the prosecutor or the victim.
- 155 (b)(i) Except as provided in Subsections (6)(b)(ii) and (iii), the court may grant the
156 petition and order removal of the offender from the registry if the court determines
157 that the offender has met the requirements described in Subsection (1)(a) or (b)
158 and removal is not contrary to the interests of the public.
- 159 (ii) When considering a petition filed under Subsection (1)(c), the court shall
160 determine whether the offender has demonstrated, by clear and convincing
161 evidence, that the offender is rehabilitated and does not pose a threat to the safety
162 of the public.
- 163 (iii) In making the determination described in Subsection (6)(b)(ii), the court may
164 consider:
- 165 (A) the nature and degree of violence involved in the offense that requires

- 166 registration;
- 167 (B) the age and number of victims of the offense that requires registration;
- 168 (C) the age of the offender at the time of the offense that requires registration;
- 169 (D) the offender's performance while on supervision for the offense that requires
- 170 registration;
- 171 (E) the offender's stability in employment and housing;
- 172 (F) the offender's community and personal support system;
- 173 (G) other criminal and relevant noncriminal behavior of the offender both before
- 174 and after the offense that requires registration;
- 175 (H) the level of risk posed by the offender as evidenced by the evidence-based risk
- 176 assessment described in Subsection (1)(c)(vi); and
- 177 (I) any other relevant factors.
- 178 (c) In determining whether removal is contrary to the interests of the public, the court
- 179 may not consider removal unless the offender has substantially complied with all
- 180 registration requirements under this chapter at all times.
- 181 (d) If the court grants the petition, the court shall forward a copy of the order directing
- 182 removal of the offender from the registry to the department and the office of the
- 183 prosecutor.
- 184 (e)(i) Except as provided in Subsection (6)(e)(ii), if the court denies the petition, the
- 185 offender may not submit another petition for three years.
- 186 (ii) If the offender files a petition under Subsection (1)(c) and the court denies the
- 187 petition, the offender may not submit another petition for ~~eight~~ five years.
- 188 (7) The court shall notify the victim and the Sex, Kidnap, and Child Abuse Offender
- 189 Registry office in the department of the court's decision within three days after the day
- 190 on which the court issues the court's decision in the same manner described in
- 191 Subsection (5).
- 192 (8) Except as provided in Subsection (9), an offender required to register under Subsection
- 193 77-41-105(3)(b) may petition for early removal from the registry under Subsection
- 194 (1)(b) if the offender:
- 195 (a) meets the requirements of Subsections (1)(b)(ii) through (v);
- 196 (b) has resided in this state for at least 183 days in a year for two consecutive years; and
- 197 (c) intends to primarily reside in this state.
- 198 (9) An offender required to register under Subsection 77-41-105(3)(b) for life may petition
- 199 for early removal from the registry under Subsection (1)(c) if:

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

206 Section 2. **Effective Date.**

207 This bill takes effect on May 7, 2025.

208 Section 3. **Coordinating S.B. 155 with S.B. 41.**

209 If S.B. 155, Sex, Kidnap, and Child Abuse Offender Adjustments, and S.B. 41, Sex,
 210 Kidnap, and Child Abuse Offender Registry Amendments, both pass and become law, the
 211 Legislature intends that, on May 7, 2025:

212 (1) Subsection 53-29-205(3)(y), enacted in S.B. 41, be amended to read:

213 "(y) an offense described in Subsection 53-29-203(1)(b) that would otherwise be
 214 subject to a 12-year petition for removal as described in Section 53-29-206, if:

215 (i) the sentencing court determines that the offender was under 21 years old at the
 216 time the offense was committed; and

217 (ii) the offense did not involve force or coercion as described in Subsection
 218 53-29-203(3).";

219 (2) Subsection 53-29-206(1), enacted in S.B. 41, be amended to read:

220 "(1) An offender who is required to register on the registry for a registrable offense
 221 subject to a lifetime registration period described in Subsection 53-29-203(1)(b) is eligible to
 222 petition the court under Section 53-29-207 for an order of removal from the registry at a
 223 12-year entrance into the community period described in Subsection (2) if:

224 (a) the offender has not been convicted of another offense that is a class A
 225 misdemeanor, felony, or capital felony within the most recent 12-year period after the date
 226 described in Subsection (2), as evidenced by a certificate of eligibility issued by the bureau;

227 (b) the offender successfully completed all treatment ordered by the court or the
 228 Board of Pardons and Parole relating to the offense;

229 (c) the offender has paid all restitution ordered by the court or the Board of
 230 Pardons and Parole relating to the offense; and

231 (d) the offender submits to an evidence-based risk assessment that:

232 (i) meets the standards for the current risk assessment, score, and risk level
 233 required by the Board of Pardons and Parole for parole termination requests;

234 (ii) is completed within the six months before the date on which the petition is
235 filed; and

236 (iii) describes the evidence-based risk assessment of the current level of risk to
237 the safety of the public posed by the offender.";

238 (3) Subsection 53-29-206(2), enacted in S.B. 41, be amended to read:

239 "(2) An offender who qualifies under Subsection (1) may petition the court under
240 Section 53-29-207 for an order of removal from the registry if 12 years have passed after the
241 later of the following events in which the offender has entered into the community:

242 (a) the day on which the offender was placed on probation;

243 (b) the day on which the offender was released from incarceration to parole;

244 (c) the day on which the offender's sentence was terminated without parole;

245 (d) the day on which the offender entered a community-based residential program;

246 or

247 (e) for a minor, as defined in Section 80-1-102, the day on which the division's
248 custody of the offender was terminated.";

249 (4) Subsection 53-29-207(2)(a)(iii), enacted in S.B. 41, be amended to read:

250 "(iii) Subsections 53-29-206(1) and (2), if the offender is seeking a 12-year petition
251 for removal; and";

252 (5) Subsection 53-29-207(6)(b)(ii), enacted in S.B. 41, be amended to read:

253 "(ii) When considering a petition filed by an offender subject to a lifetime registration
254 requirement and eligible for a 12-year petition for removal from the registry as described in
255 Section 53-29-206, the court shall determine whether the offender has demonstrated, by clear
256 and convincing evidence, that the offender is rehabilitated and does not pose a threat to the
257 safety of the public."; and

258 (6) Subsection 53-29-207(6)(e)(ii), enacted in S.B. 41, be amended to read:

259 "(ii) If the offender is an offender subject to a lifetime registration requirement and
260 eligible for a 12-year petition for removal from the registry as described in Section 53-29-206
261 and files a petition for removal that is denied by the court, the offender may not submit another
262 petition for five years after the day on which the court denied the petition.".