

Keith Grover proposes the following substitute bill:

Sex, Kidnap, and Child Abuse Offender Registry Amendments

2025 GENERAL SESSION

STATE OF UTAH

Chief Sponsor: Keith Grover

House Sponsor: Matthew H. Gwynn

LONG TITLE

General Description:

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

Highlighted Provisions:

This bill:

- recodifies the statutes applicable to the Sex, Kidnap, and Child Abuse Offender Registry;

and

- makes technical and conforming changes.

Money Appropriated in this Bill:

None

Other Special Clauses:

None

Utah Code Sections Affected:

AMENDS:

13-51-107, as last amended by Laws of Utah 2024, Chapter 234

13-67-101, as last amended by Laws of Utah 2024, Chapter 234

26B-2-120, as last amended by Laws of Utah 2024, Chapter 234

41-3-205.5, as last amended by Laws of Utah 2012, Chapter 145

41-3-209, as last amended by Laws of Utah 2024, Chapter 251

42-1-1, as last amended by Laws of Utah 2024, Chapter 296

53-3-205, as last amended by Laws of Utah 2024, Chapters 116, 234

53-3-216, as last amended by Laws of Utah 2024, Chapter 234

53-3-804, as last amended by Laws of Utah 2024, Chapters 116, 234

53-3-806.5, as last amended by Laws of Utah 2024, Chapter 234

53-3-807, as last amended by Laws of Utah 2024, Chapter 234

53-10-214, as enacted by Laws of Utah 2019, Chapter 406

53-10-403, as last amended by Laws of Utah 2024, Chapters 96, 153, 187, and 256

30 **53-10-404**, as last amended by Laws of Utah 2024, Chapter 234
31 **57-8-3**, as last amended by Laws of Utah 2024, Chapter 519
32 **57-8-8.1**, as last amended by Laws of Utah 2024, Chapters 115, 519
33 **57-8a-102**, as last amended by Laws of Utah 2024, Chapter 519
34 **57-8a-218**, as last amended by Laws of Utah 2024, Chapters 115, 519
35 **63G-2-302**, as last amended by Laws of Utah 2024, Chapter 234
36 **63G-7-301**, as last amended by Laws of Utah 2024, Chapter 234
37 **76-1-201**, as last amended by Laws of Utah 2024, Chapter 234
38 **76-1-202**, as last amended by Laws of Utah 2024, Chapter 234
39 **76-3-402**, as last amended by Laws of Utah 2024, Chapter 234
40 **76-5-401**, as last amended by Laws of Utah 2024, Chapter 234
41 **76-5-401.1**, as last amended by Laws of Utah 2024, Chapter 234
42 **76-5-401.3**, as last amended by Laws of Utah 2024, Chapter 234
43 **76-9-702**, as last amended by Laws of Utah 2024, Chapter 234
44 **76-9-702.1**, as last amended by Laws of Utah 2024, Chapter 234
45 **76-9-702.5**, as last amended by Laws of Utah 2024, Chapter 2
46 **77-2-2.3**, as last amended by Laws of Utah 2024, Chapter 234
47 **77-11c-101**, as last amended by Laws of Utah 2024, Chapter 234
48 **77-27-5.2**, as last amended by Laws of Utah 2024, Chapters 116, 234
49 **77-38-605**, as last amended by Laws of Utah 2024, Chapter 234
50 **77-40a-303**, as last amended by Laws of Utah 2024, Chapter 180
51 **77-40a-403**, as last amended by Laws of Utah 2024, Chapter 180
52 **78A-2-301**, as last amended by Laws of Utah 2024, Chapter 366
53 **78B-8-302**, as last amended by Laws of Utah 2024, Chapter 234
54 **80-3-406**, as last amended by Laws of Utah 2023, Chapter 320
55 **80-5-201**, as last amended by Laws of Utah 2024, Chapters 116, 234
56 **80-8-101**, as enacted by Laws of Utah 2024, Chapter 371
57 **80-8-201**, as enacted by Laws of Utah 2024, Chapter 371
58 **81-9-202**, as renumbered and amended by Laws of Utah 2024, Chapter 366
59 **81-9-208**, as renumbered and amended by Laws of Utah 2024, Chapter 366
60 ENACTS:
61 **53-29-101**, Utah Code Annotated 1953
62 **53-29-102**, Utah Code Annotated 1953
63 **53-29-201**, Utah Code Annotated 1953

64 **53-29-202**, Utah Code Annotated 1953
65 **53-29-203**, Utah Code Annotated 1953
66 **53-29-204**, Utah Code Annotated 1953
67 **53-29-205**, Utah Code Annotated 1953
68 **53-29-206**, Utah Code Annotated 1953
69 **53-29-207**, Utah Code Annotated 1953
70 **53-29-301**, Utah Code Annotated 1953
71 **53-29-302**, Utah Code Annotated 1953
72 **53-29-303**, Utah Code Annotated 1953
73 **53-29-304**, Utah Code Annotated 1953
74 **53-29-305**, Utah Code Annotated 1953
75 **53-29-401**, Utah Code Annotated 1953
76 **53-29-402**, Utah Code Annotated 1953
77 **53-29-403**, Utah Code Annotated 1953
78 **53-29-404**, Utah Code Annotated 1953
79 **53-29-405**, Utah Code Annotated 1953

80 RENUMBERS AND AMENDS:

81 **53-29-306**, (Renumbered from 77-27-21.7, as last amended by Laws of Utah 2024,
82 Chapters 116, 234)
83 **53-29-307**, (Renumbered from 77-27-21.8, as last amended by Laws of Utah 2024,
84 Chapter 234)

85 REPEALS:

86 **77-41-102**, as last amended by Laws of Utah 2024, Chapter 234
87 **77-41-103**, as last amended by Laws of Utah 2024, Chapters 116, 234
88 **77-41-104**, as last amended by Laws of Utah 2023, Chapter 128
89 **77-41-105**, as last amended by Laws of Utah 2024, Chapter 234
90 **77-41-106**, as last amended by Laws of Utah 2024, Chapter 234
91 **77-41-107**, as last amended by Laws of Utah 2024, Chapter 234
92 **77-41-108**, as enacted by Laws of Utah 2012, Chapter 145
93 **77-41-109**, as last amended by Laws of Utah 2024, Chapter 234
94 **77-41-110**, as last amended by Laws of Utah 2024, Chapter 234
95 **77-41-111**, as last amended by Laws of Utah 2023, Chapter 128
96 **77-41-112**, as last amended by Laws of Utah 2024, Chapters 116, 234
97 **77-41-113**, as last amended by Laws of Utah 2024, Chapter 234

98 **77-41-114**, as last amended by Laws of Utah 2024, Chapter 234

99

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

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

102 **13-51-107 . Driver requirements.**

103 (1) Before a transportation network company allows an individual to use the transportation
104 network company's software application as a transportation network driver, the
105 transportation network company shall:

106 (a) require the individual to submit to the transportation network company:

107 (i) the individual's name, address, and age;

108 (ii) a copy of the individual's driver license, including the driver license number; and

109 (iii) proof that the vehicle that the individual will use to provide transportation

110 network services is registered with the Division of Motor Vehicles;

111 (b) require the individual to consent to a criminal background check of the individual by
112 the transportation network company or the transportation network company's
113 designee; and

114 (c) obtain and review a report that lists the individual's driving history.

115 (2) A transportation company may not allow an individual to provide transportation
116 network services as a transportation network driver if the individual:

117 (a) has committed more than three moving violations in the three years before the day on
118 which the individual applies to become a transportation network driver;

119 (b) has been convicted, in the seven years before the day on which the individual applies
120 to become a transportation network driver, of:

121 (i) driving under the influence of alcohol or drugs;

122 (ii) fraud;

123 (iii) a sexual offense;

124 (iv) a felony involving a motor vehicle;

125 (v) a crime involving property damage;

126 (vi) a crime involving theft;

127 (vii) a crime of violence; or

128 (viii) an act of terror;

129 (c) is required to register as a sex offender, kidnap offender, or child abuse offender in
130 accordance with [~~Title 77, Chapter 41, Sex, Kidnap, and Child Abuse Offender~~
131 ~~Registry~~] Title 53, Chapter 29, Sex, Kidnap, and Child Abuse Offender Registry;

- 132 (d) does not have a valid Utah driver license; or
 133 (e) is not at least 18 years old.
- 134 (3)(a) A transportation network company shall prohibit a transportation network driver
 135 from accepting a request for a prearranged ride if the motor vehicle that the
 136 transportation network driver uses to provide transportation network services fails to
 137 comply with:
- 138 (i) equipment standards described in Section 41-6a-1601; and
 139 (ii) emission requirements adopted by a county under Section 41-6a-1642.
- 140 (b)(i) If upon visual inspection, a defect relating to the equipment standards
 141 described in Section 41-6a-1601 can be reasonably identified, an airport operator
 142 may perform a safety inspection of a transportation network driver's vehicle
 143 operating within the airport to ensure compliance with equipment standards
 144 described in Section 41-6a-1601.
- 145 (ii) An airport operator shall conduct all inspections under this Subsection (3) in such
 146 a manner to minimize impact to the transportation network driver's and
 147 transportation network company vehicle's availability to provide prearranged rides.
- 148 (4) A transportation network driver, while providing transportation network services, shall
 149 carry proof, in physical or electronic form, that the transportation network driver is
 150 covered by insurance that satisfies the requirements of Section 13-51-108.

151 Section 2. Section **13-67-101** is amended to read:

152 **13-67-101 . Definitions.**

153 As used in this chapter:

- 154 (1) "Banned member" means a member whose account or profile is the subject of a fraud
 155 ban.
- 156 (2) "Criminal background screening" means a name search for an individual's criminal
 157 conviction and is conducted by searching:
- 158 (a) available and regularly updated government public record databases that in the
 159 aggregate provide national coverage for criminal conviction records; or
 160 (b) a regularly updated database with national coverage of criminal conviction records
 161 and sexual offender registries maintained by a private vendor.
- 162 (3)(a) "Criminal conviction" means a conviction for a crime in this state, another state,
 163 or under federal law.
- 164 (b) "Criminal conviction" includes an offense that would require registration under [Title
 165 ~~77, Chapter 41, Sex, Kidnap, and Child Abuse Offender Registry~~ Title 53, Chapter

166 29, Sex, Kidnap, and Child Abuse Offender Registry, or under a similar law in a
 167 different jurisdiction.

168 (4) "Division" means the Division of Consumer Protection in the Department of Commerce.

169 (5) "Fraud ban" means the expulsion of a member from an online dating service because, in
 170 the judgment of the online dating service provider, there is a significant risk the member
 171 will attempt to obtain money from another member through fraudulent means.

172 (6) "Member" means an individual who submits to an online dating service provider the
 173 information required by the online dating service provider to access the online dating
 174 service provider's online dating service.

175 (7) "Online dating service" means a product or service that is:

176 (a) conducted through a website or a mobile application; and

177 (b) primarily marketed and intended to offer a member access to dating or romantic
 178 relationships with another member by arranging or facilitating the social introduction
 179 of members.

180 (8) "Online dating service provider" means a person [~~predominately~~] predominantly
 181 engaged in the business of offering an online dating service.

182 (9) "Utah member" means a member who provides a Utah billing address or zip code when
 183 registering with an online dating service provider.

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

185 **26B-2-120 . Background check -- Direct access to children or vulnerable adults.**

186 (1) As used in this section:

187 (a)(i) "Applicant" means an individual who is associated with a certification,
 188 contract, or licensee with the department under this part and has direct access,
 189 including:

190 (A) an adoptive parent or prospective adoptive parent, including an applicant for
 191 an adoption in accordance with Section 78B-6-128;

192 (B) a foster parent or prospective foster parent;

193 (C) an individual who provides respite care to a foster parent or an adoptive parent
 194 on more than one occasion;

195 (D) an individual who transports a child for a youth transportation company;

196 (E) an individual who provides certified peer support, as defined in Section
 197 26B-5-610;

198 (F) an individual who provides peer supports, has a disability or a family member
 199 with a disability, or is in recovery from a mental illness or a substance use

- 200 disorder;
- 201 (G) an individual who has lived experience with the services provided by the
202 department, and uses that lived experience to provide support, guidance, or
203 services to promote resiliency and recovery;
- 204 (H) an individual who is identified as a mental health professional, licensed under
205 Title 58, Chapter 60, Mental Health Professional Practice Act, and engaged in
206 the practice of mental health therapy, as defined in Section 58-60-102;
- 207 (I) an individual, other than the child or vulnerable adult receiving the service,
208 who is 12 years old or older and resides in a home, that is licensed or certified
209 by the division;
- 210 (J) an individual who is 12 years old or older and is associated with a certification,
211 contract, or licensee with the department under this part and has or will likely
212 have direct access;
- 213 (K) a foster home licensee that submits an application for an annual background
214 screening as required by Subsection 26B-2-105(4)(d)(iii); or
- 215 (L) a short-term relief care provider.
- 216 (ii) "Applicant" does not include:
- 217 (A) an individual who is in the custody of the Division of Child and Family
218 Services or the Division of Juvenile Justice and Youth Services;
- 219 (B) an individual who applies for employment with, or is employed by, the
220 Department of Health and Human Services;
- 221 (C) a parent of a person receiving services from the Division of Services for
222 People with Disabilities, if the parent provides direct care to and resides with
223 the person, including if the parent provides direct care to and resides with the
224 person pursuant to a court order; or
- 225 (D) an individual or a department contractor who provides services in an adults
226 only substance use disorder program, as defined by rule adopted by the
227 Department of Health and Human Services in accordance with Title 63G,
228 Chapter 3, Utah Administrative Rulemaking Act, and who is not a program
229 director or a member, as defined by Section 26B-2-105, of the program.
- 230 (b) "Application" means a background check application to the office.
- 231 (c) "Bureau" means the Bureau of Criminal Identification within the Department of
232 Public Safety, created in Section 53-10-201.
- 233 (d) "Criminal finding" means a record of:

- 234 (i) an arrest for a criminal offense;
- 235 (ii) a warrant for a criminal arrest;
- 236 (iii) charges for a criminal offense; or
- 237 (iv) a criminal conviction.
- 238 (e) "Direct access" means that an individual has, or likely will have:
- 239 (i) contact with or access to a child or vulnerable adult by which the individual will
- 240 have the opportunity for personal communication or touch with the child or
- 241 vulnerable adult; or
- 242 (ii) an opportunity to view medical, financial, or other confidential personal
- 243 identifying information of the child, the child's parent or legal guardian, or the
- 244 vulnerable adult.
- 245 (f)(i) "Direct access qualified" means that the applicant has an eligible determination
- 246 by the office within the license and renewal time period; and
- 247 (ii) no more than 180 days have passed since the date on which the applicant's
- 248 association with a certification, contract, or licensee with the department expires.
- 249 (g) "Incidental care" means occasional care, not in excess of five hours per week and
- 250 never overnight, for a foster child.
- 251 (h) "Licensee" means an individual or a human services program licensed by the
- 252 division.
- 253 (i) "Non-criminal finding" means a record maintained in:
- 254 (i) the Division of Child and Family Services' Management Information System
- 255 described in Section 80-2-1001;
- 256 (ii) the Division of Child and Family Services' Licensing Information System
- 257 described in Section 80-2-1002;
- 258 (iii) the Division of Aging and Adult Services' vulnerable adult abuse, neglect, or
- 259 exploitation database described in Section 26B-6-210;
- 260 (iv) juvenile court arrest, adjudication, and disposition records;
- 261 (v) the Sex, Kidnap, and Child Abuse Offender Registry described in [~~Title 77,~~
- 262 ~~Chapter 41, Sex, Kidnap, and Child Abuse Offender Registry~~] Title 53, Chapter
- 263 29, Sex, Kidnap, and Child Abuse Offender Registry, or a national sex offender
- 264 registry; or
- 265 (vi) a state child abuse or neglect registry.
- 266 (j) "Office" means the Office of Background Processing within the department.
- 267 (k) "Personal identifying information" means:

- 268 (i) current name, former names, nicknames, and aliases;
269 (ii) date of birth;
270 (iii) physical address and email address;
271 (iv) telephone number;
272 (v) driver license or other government-issued identification;
273 (vi) social security number;
274 (vii) only for applicants who are 18 years old or older, fingerprints, in a form
275 specified by the office; and
276 (viii) other information specified by the office by rule made in accordance with Title
277 63G, Chapter 3, Utah Administrative Rulemaking Act.
- 278 (2) Except as provided in Subsection (12), an applicant or a representative shall submit the
279 following to the office:
- 280 (a) personal identifying information;
281 (b) a fee established by the office under Section 63J-1-504;
282 (c) a disclosure form, specified by the office, for consent for:
- 283 (i) an initial background check upon association with a certification, contract, or
284 licensee with the department;
285 (ii) ongoing monitoring of fingerprints and registries until no longer associated with a
286 certification, contract, or licensee with the department for 180 days;
287 (iii) a background check when the office determines that reasonable cause exists; and
288 (iv) retention of personal identifying information, including fingerprints, for
289 monitoring and notification as described in Subsections (3)(c) and (4);
- 290 (d) if an applicant resided outside of the United States and its territories during the five
291 years immediately preceding the day on which the information described in
292 Subsections (2)(a) through (c) is submitted to the office, documentation establishing
293 whether the applicant was convicted of a crime during the time that the applicant
294 resided outside of the United States or its territories; and
- 295 (e) an application showing an applicant's association with a certification, contract, or a
296 licensee with the department, for the purpose of the office tracking the direct access
297 qualified status of the applicant, which expires 180 days after the date on which the
298 applicant is no longer associated with a certification, contract, or a licensee with the
299 department.
- 300 (3) The office:
- 301 (a) shall perform the following duties as part of a background check of an applicant

- 302 before the office grants or denies direct access qualified status to an applicant:
- 303 (i) check state and regional criminal background databases for the applicant's
- 304 criminal history by:
- 305 (A) submitting personal identifying information to the bureau for a search; or
- 306 (B) using the applicant's personal identifying information to search state and
- 307 regional criminal background databases as authorized under Section 53-10-108;
- 308 (ii) submit the applicant's personal identifying information and fingerprints to the
- 309 bureau for a criminal history search of applicable national criminal background
- 310 databases;
- 311 (iii) search the Division of Child and Family Services' Licensing Information System
- 312 described in Section 80-2-1002;
- 313 (iv) search the Sex, Kidnap, and Child Abuse Offender Registry described in [~~Title~~
- 314 ~~77, Chapter 41, Sex, Kidnap, and Child Abuse Offender Registry~~] Title 53,
- 315 Chapter 29, Sex, Kidnap, and Child Abuse Offender Registry, or a national sex
- 316 offender registry for an applicant 18 years old or older;
- 317 (v) if the applicant is associated with a licensee for a prospective foster or adoptive
- 318 parent, search the Division of Child and Family Services' Management
- 319 Information System described in Section 80-2-1001;
- 320 (vi) search the Division of Aging and Adult Services' vulnerable adult abuse, neglect,
- 321 or exploitation database described in Section 26B-6-210;
- 322 (vii) search the juvenile court records for substantiated findings of severe child abuse
- 323 or neglect described in Section 80-3-404; and
- 324 (viii) search the juvenile court arrest, adjudication, and disposition records, as
- 325 provided under Section 78A-6-209;
- 326 (b) may conduct all or portions of a background check in connection with determining
- 327 whether an applicant is direct access qualified, as provided by rule, made by the
- 328 office in accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act:
- 329 (i) for an annual renewal; or
- 330 (ii) when the office determines that reasonable cause exists;
- 331 (c) may submit an applicant's personal identifying information, including fingerprints, to
- 332 the bureau for checking, retaining, and monitoring of state and national criminal
- 333 background databases and for notifying the office of new criminal activity associated
- 334 with the applicant;
- 335 (d) shall track the status of an applicant under this section to ensure that the applicant is

- 336 not required to duplicate the submission of the applicant's fingerprints if the applicant
337 is associated with more than one certification, contract, or licensee with the
338 department;
- 339 (e) shall notify the bureau when a direct access qualified individual has not been
340 associated with a certification, contract, or licensee with the department for a period
341 of 180 days;
- 342 (f) shall adopt measures to strictly limit access to personal identifying information solely
343 to the individuals responsible for processing and entering the applications for
344 background checks and to protect the security of the personal identifying information
345 the office reviews under this Subsection (3);
- 346 (g) as necessary to comply with the federal requirement to check a state's child abuse
347 and neglect registry regarding any applicant working in a congregate care program,
348 shall:
- 349 (i) search the Division of Child and Family Services' Licensing Information System
350 described in Section 80-2-1002; and
- 351 (ii) require the child abuse and neglect registry be checked in each state where an
352 applicant resided at any time during the five years immediately preceding the day
353 on which the application is submitted to the office; and
- 354 (h) shall make rules, in accordance with Title 63G, Chapter 3, Utah Administrative
355 Rulemaking Act, to implement the provisions of this Subsection (3) relating to
356 background checks.
- 357 (4)(a) With the personal identifying information the office submits to the bureau under
358 Subsection (3), the bureau shall check against state and regional criminal background
359 databases for the applicant's criminal history.
- 360 (b) With the personal identifying information and fingerprints the office submits to the
361 bureau under Subsection (3), the bureau shall check against national criminal
362 background databases for the applicant's criminal history.
- 363 (c) Upon direction from the office, and with the personal identifying information and
364 fingerprints the office submits to the bureau under Subsection (3)(c), the bureau shall:
- 365 (i) maintain a separate file of the fingerprints for search by future submissions to the
366 local and regional criminal records databases, including latent prints; and
- 367 (ii) monitor state and regional criminal background databases and identify criminal
368 activity associated with the applicant.
- 369 (d) The bureau is authorized to submit the fingerprints to the Federal Bureau of

- 370 Investigation Next Generation Identification System, to be retained in the Federal
371 Bureau of Investigation Next Generation Identification System for the purpose of:
- 372 (i) being searched by future submissions to the national criminal records databases,
373 including the Federal Bureau of Investigation Next Generation Identification
374 System and latent prints; and
- 375 (ii) monitoring national criminal background databases and identifying criminal
376 activity associated with the applicant.
- 377 (e) The ~~[Bureau]~~ bureau shall notify and release to the office all information of criminal
378 activity associated with the applicant.
- 379 (f) Upon notice that an individual who has direct access qualified status will no longer
380 be associated with a certification, contract, or licensee with the department, the
381 bureau shall:
- 382 (i) discard and destroy any retained fingerprints; and
- 383 (ii) notify the Federal Bureau of Investigation when the license has expired or an
384 individual's direct access to a child or a vulnerable adult has ceased, so that the
385 Federal Bureau of Investigation will discard and destroy the retained fingerprints
386 from the Federal Bureau of Investigation Next Generation Identification System.
- 387 (5)(a) Except as provided in Subsection (5)(b), the office shall deny direct access
388 qualified status to an applicant who, within three years from the date on which the
389 office conducts the background check, was convicted of:
- 390 (i) a felony or misdemeanor involving conduct that constitutes any of the following:
- 391 (A) an offense identified as domestic violence, lewdness, voyeurism, battery,
392 cruelty to animals, or bestiality;
- 393 (B) a violation of any pornography law, including sexual exploitation of a minor
394 or aggravated sexual exploitation of a minor;
- 395 (C) sexual solicitation or prostitution;
- 396 (D) a violent offense committed in the presence of a child, as described in Section
397 76-3-203.10;
- 398 (E) an offense included in Title 76, Chapter 4, Part 4, Enticement of a Minor;
- 399 (F) an offense included in Title 76, Chapter 5, Offenses Against the Individual;
- 400 (G) an offense included in Title 76, Chapter 5b, Sexual Exploitation Act;
- 401 (H) an offense included in Title 76, Chapter 7, Offenses Against the Family;
- 402 (I) an offense included in Title 76, Chapter 9, Part 4, Offenses Against Privacy;
- 403 (J) an offense included in Title 76, Chapter 10, Part 4, Weapons of Mass

- 404 Destruction;
- 405 (K) an offense included in Title 78B, Chapter 7, Protective Orders and Stalking
- 406 Injunctions;
- 407 (L) aggravated arson, as described in Section 76-6-103;
- 408 (M) aggravated burglary, as described in Section 76-6-203;
- 409 (N) aggravated exploitation of prostitution, as described in Section 76-10-1306;
- 410 (O) aggravated robbery, as described in Section 76-6-302;
- 411 (P) endangering persons in a human services program, as described in Section
- 412 26B-2-113;
- 413 (Q) failure to report, as described in Section 80-2-609;
- 414 (R) identity fraud crime, as described in Section 76-6-1102;
- 415 (S) leaving a child unattended in a motor vehicle, as described in Section
- 416 76-10-2202;
- 417 (T) riot, as described in Section 76-9-101;
- 418 (U) sexual battery, as described in Section 76-9-702.1; or
- 419 (V) threatening with or using a dangerous weapon in a fight or quarrel, as
- 420 described in Section 76-10-506; or
- 421 (ii) a felony or misdemeanor offense committed outside of the state that, if committed
- 422 in the state, would constitute a violation of an offense described in Subsection
- 423 (5)(a)(i).
- 424 (b)(i) Subsection (5)(a) does not apply to an applicant who is seeking a position as a
- 425 peer support provider or a mental health professional, if the applicant provides
- 426 services in a program that serves only adults with a primary mental health
- 427 diagnosis, with or without a co-occurring substance use disorder.
- 428 (ii) The office shall conduct a comprehensive review of an applicant described in
- 429 Subsection (5)(b)(i) in accordance with Subsection (7).
- 430 (c) The office shall deny direct access qualified status to an applicant if the office finds
- 431 that a court order prohibits the applicant from having direct access to a child or
- 432 vulnerable adult.
- 433 (6) The office shall conduct a comprehensive review of an applicant's background check if
- 434 the applicant:
- 435 (a) has a felony or class A misdemeanor conviction that is more than three years from
- 436 the date on which the office conducts the background check, for an offense described
- 437 in Subsection (5)(a);

- 438 (b) has a felony charge or conviction that is no more than 10 years from the date on
439 which the office conducts the background check for an offense not described in
440 Subsection (5)(a);
- 441 (c) has a felony charge or conviction that is more than 10 years from the date on which
442 the office conducts the background check, for an offense not described in Subsection
443 (5)(a), with criminal or non-criminal findings after the date of the felony charge or
444 conviction;
- 445 (d) has a class B misdemeanor or class C misdemeanor conviction that is more than
446 three years and no more than 10 years from the date on which the office conducts the
447 background check for an offense described in Subsection (5)(a);
- 448 (e) has a class B misdemeanor or class C misdemeanor conviction that is more than 10
449 years from the date on which the office conducts the background check, for an
450 offense described in Subsection (5)(a), with criminal or non-criminal findings after
451 the date of conviction;
- 452 (f) has a misdemeanor charge or conviction that is no more than three years from the
453 date on which the office conducts the background check for an offense not described
454 in Subsection (5)(a);
- 455 (g) has a misdemeanor charge or conviction that is more than three years from the date
456 on which the office conducts the background check, for an offense not described in
457 Subsection (5)(a), with criminal or non-criminal findings after the date of charge or
458 conviction;
- 459 (h) is currently subject to a plea in abeyance or diversion agreement for an offense
460 described in Subsection (5)(a);
- 461 (i) appears on the Sex, Kidnap, and Child Abuse Offender Registry described in [Title
462 ~~77, Chapter 41, Sex, Kidnap, and Child Abuse Offender Registry~~ Title 53, Chapter
463 29, Sex, Kidnap, and Child Abuse Offender Registry, or a national sex offender
464 registry;
- 465 (j) has a record of an adjudication in juvenile court for an act that, if committed by an
466 adult, would be a felony or misdemeanor, if the applicant is:
- 467 (i) under 28 years old; or
- 468 (ii) 28 years old or older and has been convicted of, has pleaded no contest to, or is
469 currently subject to a plea in abeyance or diversion agreement for a felony or a
470 misdemeanor offense described in Subsection (5)(a);
- 471 (k) has a pending charge for an offense described in Subsection (5)(a);

- 472 (l) has a listing that occurred no more than 15 years from the date on which the office
473 conducts the background check in the Division of Child and Family Services'
474 Licensing Information System described in Section 80-2-1002;
- 475 (m) has a listing that occurred more than 15 years from the date on which the office
476 conducts the background check in the Division of Child and Family Services'
477 Licensing Information System described in Section 80-2-1002, with criminal or
478 non-criminal findings after the date of the listing;
- 479 (n) has a listing that occurred no more than 15 years from the date on which the office
480 conducts the background check in the Division of Aging and Adult Services'
481 vulnerable adult abuse, neglect, or exploitation database described in Section
482 26B-6-210;
- 483 (o) has a listing that occurred more than 15 years from the date on which the office
484 conducts the background check in the Division of Aging and Adult Services'
485 vulnerable adult abuse, neglect, or exploitation database described in Section
486 26B-6-210, with criminal or non-criminal findings after the date of the listing;
- 487 (p) has a substantiated finding that occurred no more than 15 years from the date on
488 which the office conducts the background check of severe child abuse or neglect
489 under Section 80-3-404 or 80-3-504[-]; or
- 490 (q) has a substantiated finding that occurred more than 15 years from the date on which
491 the office conducts the background check of severe child abuse or neglect under
492 Section 80-3-404 or 80-3-504, with criminal or non-criminal findings after the date of
493 the listing.
- 494 (7)(a) The comprehensive review shall include an examination of:
- 495 (i) the date of the offense or incident;
- 496 (ii) the nature and seriousness of the offense or incident;
- 497 (iii) the circumstances under which the offense or incident occurred;
- 498 (iv) the age of the perpetrator when the offense or incident occurred;
- 499 (v) whether the offense or incident was an isolated or repeated incident;
- 500 (vi) whether the offense or incident directly relates to abuse of a child or vulnerable
501 adult, including:
- 502 (A) actual or threatened, nonaccidental physical, mental, or financial harm;
- 503 (B) sexual abuse;
- 504 (C) sexual exploitation; or
- 505 (D) negligent treatment;

- 506 (vii) any evidence provided by the applicant of rehabilitation, counseling, psychiatric
507 treatment received, or additional academic or vocational schooling completed;
- 508 (viii) the applicant's risk of harm to clientele in the program or in the capacity for
509 which the applicant is applying; and
- 510 (ix) if the background check of an applicant is being conducted for the purpose of
511 giving direct access qualified status to an applicant seeking a position in a
512 congregate care program or to become a prospective foster or adoptive parent, any
513 listing in the Division of Child and Family Services' Management Information
514 System described in Section 80-2-1001.
- 515 (b) At the conclusion of the comprehensive review, the office shall deny direct access
516 qualified status to an applicant if the office finds the approval would likely create a
517 risk of harm to a child or vulnerable adult.
- 518 (8) The office shall grant direct access qualified status to an applicant who is not denied
519 under this section.
- 520 (9)(a) The office may conditionally grant direct access qualified status to an applicant,
521 for a maximum of 60 days after the day on which the office sends written notice,
522 without requiring that the applicant be directly supervised, if the office:
- 523 (i) is awaiting the results of the criminal history search of national criminal
524 background databases; and
- 525 (ii) would otherwise grant direct access qualified status to the applicant under this
526 section.
- 527 (b) The office may conditionally grant direct access qualified status to an applicant, for a
528 maximum of one year after the day on which the office sends written notice, without
529 requiring that the applicant be directly supervised if the office:
- 530 (i) is awaiting the results of an out-of-state registry for providers other than foster and
531 adoptive parents; and
- 532 (ii) would otherwise grant direct access qualified status to the applicant under this
533 section.
- 534 (c) Upon receiving the results of the criminal history search of a national criminal
535 background database, the office shall grant or deny direct access qualified status to
536 the applicant in accordance with this section.
- 537 (10)(a) Each time an applicant is associated with a licensee, the department shall review
538 the current status of the applicant's background check to ensure the applicant is still
539 eligible for direct access qualified status in accordance with this section.

- 540 (b) A licensee may not permit an individual to have direct access to a child or a
541 vulnerable adult without being directly supervised unless:
- 542 (i) the individual is the parent or guardian of the child, or the guardian of the
543 vulnerable adult;
- 544 (ii) the individual is approved by the parent or guardian of the child, or the guardian
545 of the vulnerable adult, to have direct access to the child or the vulnerable adult;
- 546 (iii) the individual is only permitted to have direct access to a vulnerable adult who
547 voluntarily invites the individual to visit; or
- 548 (iv) the individual only provides incidental care for a foster child on behalf of a foster
549 parent who has used reasonable and prudent judgment to select the individual to
550 provide the incidental care for the foster child.
- 551 (c) Notwithstanding any other provision of this section, an applicant who is denied direct
552 access qualified status shall not have direct access to a child or vulnerable adult
553 unless the office grants direct access qualified status to the applicant through a
554 subsequent application in accordance with this section.
- 555 (11) If the office denies direct access qualified status to an applicant, the applicant may
556 request a hearing in the department's Office of Administrative Hearings to challenge the
557 office's decision.
- 558 (12)(a) This Subsection (12) applies to an applicant associated with a certification,
559 contract, or licensee serving adults only.
- 560 (b) A program director or a member, as defined in Section 26B-2-105, of the licensee
561 shall comply with this section.
- 562 (c) The office shall conduct a comprehensive review for an applicant if:
- 563 (i) the applicant is seeking a position:
- 564 (A) as a peer support provider;
- 565 (B) as a mental health professional; or
- 566 (C) in a program that serves only adults with a primary mental health diagnosis,
567 with or without a co-occurring substance use disorder; and
- 568 (ii) within three years from the date on which the office conducts the background
569 check, the applicant has a felony or misdemeanor charge or conviction or a
570 non-criminal finding.
- 571 (13)(a) This Subsection (13) applies to an applicant seeking a position in a congregate
572 care program, an applicant seeking to provide a prospective foster home, an applicant
573 seeking to provide a prospective adoptive home, and each adult living in the home of

- 574 the prospective foster or prospective adoptive home.
- 575 (b) As federally required, the office shall:
- 576 (i) check the child abuse and neglect registry in each state where each applicant
- 577 resided in the five years immediately preceding the day on which the applicant
- 578 applied to be a foster or adoptive parent, to determine whether the prospective
- 579 foster or adoptive parent is listed in the registry as having a substantiated or
- 580 supported finding of child abuse or neglect; and
- 581 (ii) except for applicants seeking a position in a congregate care program, check the
- 582 child abuse and neglect registry in each state where each adult living in the home
- 583 of the prospective foster or adoptive home resided in the five years immediately
- 584 preceding the day on which the applicant applied to be a foster or adoptive parent,
- 585 to determine whether the adult is listed in the registry as having a substantiated or
- 586 supported finding of child abuse or neglect.
- 587 (c) The requirements described in Subsection (13)(b) do not apply to the extent that:
- 588 (i) federal law or rule permits otherwise; or
- 589 (ii) the requirements would prohibit the Division of Child and Family Services or a
- 590 court from placing a child with:
- 591 (A) a noncustodial parent under Section 80-2a-301, 80-3-302, or 80-3-303; or
- 592 (B) a relative, other than a noncustodial parent, under Section 80-2a-301, 80-3-302,
- 593 or 80-3-303, pending completion of the background check described in
- 594 Subsections (5), (6), and (7).
- 595 (d) Notwithstanding Subsections (5) through (10), the office shall deny direct access
- 596 qualified status if the applicant has been convicted of:
- 597 (i) a felony involving conduct that constitutes any of the following:
- 598 (A) child abuse, as described in Sections 76-5-109, 76-5-109.2, and 76-5-109.3;
- 599 (B) commission of domestic violence in the presence of a child, as described in
- 600 Section 76-5-114;
- 601 (C) abuse or neglect of a child with a disability, as described in Section 76-5-110;
- 602 (D) intentional aggravated abuse of a vulnerable adult, as described in Section
- 603 76-5-111;
- 604 (E) endangerment of a child or vulnerable adult, as described in Section
- 605 76-5-112.5;
- 606 (F) aggravated murder, as described in Section 76-5-202;
- 607 (G) murder, as described in Section 76-5-203;

- 608 (H) manslaughter, as described in Section 76-5-205;
- 609 (I) child abuse homicide, as described in Section 76-5-208;
- 610 (J) homicide by assault, as described in Section 76-5-209;
- 611 (K) kidnapping, as described in Section 76-5-301;
- 612 (L) child kidnapping, as described in Section 76-5-301.1;
- 613 (M) aggravated kidnapping, as described in Section 76-5-302;
- 614 (N) human trafficking of a child, as described in Section 76-5-308.5;
- 615 (O) an offense described in Title 76, Chapter 5, Part 4, Sexual Offenses;
- 616 (P) sexual exploitation of a minor, as described in Title 76, Chapter 5b, Sexual
- 617 Exploitation Act;
- 618 (Q) aggravated exploitation of a minor, as described in Section 76-5b-201.1;
- 619 (R) aggravated arson, as described in Section 76-6-103;
- 620 (S) aggravated burglary, as described in Section 76-6-203;
- 621 (T) aggravated robbery, as described in Section 76-6-302;
- 622 (U) lewdness involving a child, as described in Section 76-9-702.5;
- 623 (V) incest, as described in Section 76-7-102; or
- 624 (W) domestic violence, as described in Section 77-36-1; or
- 625 (ii) an offense committed outside the state that, if committed in the state, would
- 626 constitute a violation of an offense described in Subsection (13)(d)(i).
- 627 (e) Notwithstanding Subsections (5) through (10), the office shall deny direct access
- 628 qualified status to an applicant if, within the five years from the date on which the
- 629 office conducts the background check, the applicant was convicted of a felony
- 630 involving conduct that constitutes a violation of any of the following:
- 631 (i) aggravated assault, as described in Section 76-5-103;
- 632 (ii) aggravated assault by a prisoner, as described in Section 76-5-103.5;
- 633 (iii) mayhem, as described in Section 76-5-105;
- 634 (iv) an offense described in Title 58, Chapter 37, Utah Controlled Substances Act;
- 635 (v) an offense described in Title 58, Chapter 37a, Utah Drug Paraphernalia Act;
- 636 (vi) an offense described in Title 58, Chapter 37b, Imitation Controlled Substances
- 637 Act;
- 638 (vii) an offense described in Title 58, Chapter 37c, Utah Controlled Substance
- 639 Precursor Act; or
- 640 (viii) an offense described in Title 58, Chapter 37d, Clandestine Drug Lab Act.
- 641 (f) In addition to the circumstances described in Subsection (6), the office shall conduct

642 a comprehensive review of an applicant's background check under this section if the
643 applicant:

- 644 (i) has an offense described in Subsection (5)(a);
- 645 (ii) has an infraction conviction entered on a date that is no more than three years
646 before the date on which the office conducts the background check;
- 647 (iii) has a listing in the Division of Child and Family Services' Licensing Information
648 System described in Section 80-2-1002;
- 649 (iv) has a listing in the Division of Aging and Adult Services' vulnerable adult,
650 neglect, or exploitation database described in Section 26B-2-210;
- 651 (v) has a substantiated finding of severe child abuse or neglect under Section
652 80-3-404 or 80-3-504; or
- 653 (vi) has a listing on the registry check described in Subsection (13)(b) as having a
654 substantiated or supported finding of a severe type of child abuse or neglect, as
655 defined in Section 80-1-102.

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

- 658 (a) establish procedures for, and information to be examined in, the comprehensive
659 review described in Subsections (6), (7), and (13); and
- 660 (b) determine whether to consider an offense or incident that occurred while an
661 individual was in the custody of the Division of Child and Family Services or the
662 Division of Juvenile Justice and Youth Services for purposes of granting or denying
663 direct access qualified status to an applicant.

664 Section 4. Section **41-3-205.5** is amended to read:

665 **41-3-205.5 . Licenses -- Criminal background check required on salesperson's**
666 **licenses -- Payment of cost.**

- 667 (1)(a) Every applicant for a salesperson's license shall submit fingerprints with a
668 completed application to the division.
- 669 (b) [~~A person~~] An individual required to renew a salesperson license on or before June
670 30, 2010, shall submit fingerprints to the division on or before November 30, 2010.
- 671 (2) The division shall submit fingerprints for each applicant described in Subsection (1) to
672 the Bureau of Criminal Identification established in Section 53-10-201.
- 673 (3) The Bureau of Criminal Identification shall:
 - 674 (a) check the information submitted by the division for an applicant under Subsection (2)
 - 675 against the applicable state and regional criminal records databases; and

676 (b) release to the division all information obtained under Subsection (3)(a) relating to the
677 applicant.

678 (4)(a) The Bureau of Criminal Identification shall maintain a separate file of
679 fingerprints submitted under Subsection (2) and notify the division when a new entry
680 is made in the applicable state and regional database against ~~[a person]~~ an individual
681 whose fingerprints are held in the file regarding any matter involving an arrest under
682 state law involving:

683 (i) motor vehicles;

684 (ii) controlled substances;

685 (iii) fraud; or

686 ~~[(iv) a registerable sex offense under Section 77-41-106.]~~

687 (iv) an offense that would result in the individual being a sex offender under
688 Subsection 53-29-202(2)(b) and required to register for the individual's lifetime
689 under Subsection 53-29-203(1)(b).

690 (b) Upon request by the division, the Bureau of Criminal Identification shall inform the
691 division whether a person whose arrest was reported to the division under Subsection
692 (4)(a) was subsequently convicted of the charge for which the person was arrested.

693 (5) In addition to any fees imposed under this chapter, the division shall:

694 (a) impose on individuals submitting fingerprints in accordance with this section the fees
695 that the Bureau of Criminal Identification is authorized to collect for the services the
696 Bureau of Criminal Identification provides under Subsections (3) and (4); and

697 (b) remit the fees collected under Subsection (5)(a) to the Bureau of Criminal
698 Identification.

699 (6) The division shall use information received from the Bureau of Criminal Identification
700 under this section to determine whether a license should be denied, suspended, or
701 revoked under Section 41-3-209.

702 Section 5. Section **41-3-209** is amended to read:

703 **41-3-209 . Administrator's findings -- Suspension and revocation of license.**

704 (1) If the administrator finds that an applicant is not qualified to receive a license, a license
705 may not be granted.

706 (2)(a) If the administrator finds that there is reasonable cause to deny, suspend, or
707 revoke a license issued under this chapter, the administrator shall deny, suspend, or
708 revoke the license.

709 (b) Reasonable cause for denial, suspension, or revocation of a license includes, in

- 710 relation to the applicant or license holder or any of the applicant or license holder's
711 partners, officers, or directors:
- 712 (i) lack of a principal place of business or authorized service center as required by
713 this chapter;
 - 714 (ii) lack of a sales tax license required under Title 59, Chapter 12, Sales and Use Tax
715 Act;
 - 716 (iii) lack of a bond in effect as required by this chapter;
 - 717 (iv) current revocation or suspension of a dealer, dismantler, auction, or salesperson
718 license issued in another state;
 - 719 (v) nonpayment of required fees;
 - 720 (vi) making a false statement on any application for a license under this chapter or for
721 a special license plate;
 - 722 (vii) a violation of any state or federal law involving motor vehicles;
 - 723 (viii) a violation of any state or federal law involving controlled substances;
 - 724 (ix) charges filed with any county attorney, district attorney, or U.S. attorney in any
725 court of competent jurisdiction for a violation of any state or federal law involving
726 motor vehicles;
 - 727 (x) a violation of any state or federal law involving fraud;
 - 728 (xi) a violation of any state or federal law involving ~~[a registerable sex offense under~~
729 Section 77-41-106] an offense that would result in the individual being a sex
730 offender under Subsection 53-29-202(2)(b) and required to register for the
731 individual's lifetime under Subsection 53-29-203(1)(b);
 - 732 (xii) having had a license issued under this chapter revoked within five years from
733 the date of application; or
 - 734 (xiii) failure to comply with any applicable qualification or requirement imposed
735 under this chapter.
- 736 (c) Any action taken by the administrator under Subsection (2)(b)(ix) shall remain in
737 effect until a final resolution is reached by the court involved or the charges are
738 dropped.
- 739 (3) If the administrator finds that an applicant is not qualified to receive a license under this
740 section, the administrator shall provide the applicant written notice of the reason for the
741 denial.
- 742 (4) If the administrator finds that the license holder has been convicted by a court of
743 competent jurisdiction of violating any of the provisions of this chapter or any rules

744 made by the administrator, or finds other reasonable cause, the administrator may, by
 745 complying with the emergency procedures of Title 63G, Chapter 4, Administrative
 746 Procedures Act:

747 (a) suspend the license on terms and for a period of time the administrator finds
 748 reasonable; or

749 (b) revoke the license.

750 (5)(a) After suspending or revoking a license, the administrator may take reasonable
 751 action to:

752 (i) notify the public that the licensee is no longer in business; and

753 (ii) prevent the former licensee from violating the law by conducting business
 754 without a license.

755 (b) Action under Subsection (5)(a) may include signs, banners, barriers, locks, bulletins,
 756 and notices.

757 (c) Any business being conducted incidental to the business for which the former
 758 licensee was licensed may continue to operate subject to the preventive action taken
 759 under this subsection.

760 Section 6. Section **42-1-1** is amended to read:

761 **42-1-1 . By petition to district court -- Contents.**

762 (1) Any natural person, desiring to change the natural person's name, may file a petition in
 763 the district court of the county where the natural person resides, setting forth:

764 (a) the cause for which the change of name is sought;

765 (b) the name proposed; and

766 (c) that the natural person has been a bona fide resident of the county for the year
 767 immediately prior to the filing of the petition.

768 (2)(a) A natural person petitioning for a name change under this section shall indicate
 769 on the petition whether the individual is [~~registered with the state's Sex and Kidnap~~
 770 ~~Offender Registry~~] required to register under Title 53, Chapter 29, Sex, Kidnap, and
 771 Child Abuse Offender Registry.

772 (b) The court may request additional information from a natural person who is [
 773 ~~registered with the state's Sex and Kidnap Offender Registry~~] required to register
 774 under Title 53, Chapter 29, Sex, Kidnap, and Child Abuse Offender Registry, to
 775 make the determination described in Subsection [77-41-105(8)] 53-29-303(3).

776 (3) The provisions of Title 76, Chapter 8, Part 5, Falsification in Official Matters, apply to
 777 this section when applicable.

778 Section 7. Section **53-3-205** is amended to read:

779 **53-3-205 . Application for license or endorsement -- Fee required -- Tests --**
780 **Expiration dates of licenses and endorsements -- Information required -- Previous**
781 **licenses surrendered -- Driving record transferred from other states -- Reinstatement --**
782 **Fee required -- License agreement.**

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

- 784 (a) made upon a form furnished by the division; and
- 785 (b) accompanied by a nonrefundable fee set under Section 53-3-105.

786 (2) An application and fee for an original provisional class D license or an original class D
787 license entitle the applicant to:

- 788 (a) not more than three attempts to pass both the knowledge and the skills tests for a
789 class D license within six months after the date of the application;
- 790 (b) a learner permit if needed pending completion of the application and testing process;
791 and
- 792 (c) an original class D license and license certificate after all tests are passed and
793 requirements are completed.

794 (3) An application and fee for a motorcycle or taxicab endorsement entitle the applicant to:

- 795 (a) not more than three attempts to pass both the knowledge and skills tests within six
796 months after the date of the application;
- 797 (b) a motorcycle learner permit after the motorcycle knowledge test is passed; and
- 798 (c) a motorcycle or taxicab endorsement when all tests are passed.

799 (4) An application for a commercial class A, B, or C license entitles the applicant to:

- 800 (a) not more than two attempts to pass a knowledge test when accompanied by the fee
801 provided in Subsection 53-3-105(18);
- 802 (b) not more than two attempts to pass a skills test when accompanied by a fee in
803 Subsection 53-3-105(19) within six months after the date of application;
- 804 (c) both a commercial driver instruction permit and a temporary license permit for the
805 license class held before the applicant submits the application if needed after the
806 knowledge test is passed; and
- 807 (d) an original commercial class A, B, or C license and license certificate when all
808 applicable tests are passed.

809 (5) An application and fee for a CDL endorsement entitle the applicant to:

- 810 (a) not more than two attempts to pass a knowledge test and not more than two attempts
811 to pass a skills test within six months after the date of the application; and

- 812 (b) a CDL endorsement when all tests are passed.
- 813 (6)(a) If a CDL applicant does not pass a knowledge test, skills test, or an endorsement
814 test within the number of attempts provided in Subsection (4) or (5), each test may be
815 taken two additional times within the six months for the fee provided in Section
816 53-3-105.
- 817 (b)(i) An out-of-state resident who holds a valid CDIP issued by a state or
818 jurisdiction that is compliant with 49 C.F.R. Part 383 may take a skills test
819 administered by the division if the out-of-state resident pays the fee provided in
820 Subsection 53-3-105(19).
- 821 (ii) The division shall:
- 822 (A) electronically transmit skills test results for an out-of-state resident to the
823 licensing agency in the state or jurisdiction in which the out-of-state resident
824 has obtained a valid CDIP; and
- 825 (B) provide the out-of-state resident with documentary evidence upon successful
826 completion of the skills test.
- 827 (7)(a)(i) Except as provided under Subsections (7)(a)(ii), (f), and (g), an original
828 class D license expires on the birth date of the applicant in the eighth year after the
829 year the license certificate was issued.
- 830 (ii) An original provisional class D license expires on the birth date of the applicant
831 in the fifth year following the year the license certificate was issued.
- 832 (iii) Except as provided in Subsection (7)(f), a limited term class D license expires on
833 the birth date of the applicant in the fifth year the license certificate was issued.
- 834 (b) Except as provided under Subsections (7)(f) and (g), a renewal or an extension to a
835 license expires on the birth date of the licensee in the eighth year after the expiration
836 date of the license certificate renewed or extended.
- 837 (c) Except as provided under Subsections (7)(f) and (g), a duplicate license expires on
838 the same date as the last license certificate issued.
- 839 (d) An endorsement to a license expires on the same date as the license certificate
840 regardless of the date the endorsement was granted.
- 841 (e)(i) A regular license certificate and an endorsement to the regular license
842 certificate held by an individual described in Subsection (7)(e)(ii), that expires
843 during the time period the individual is stationed outside of the state, is valid until
844 90 days after the individual's orders are terminated, the individual is discharged, or
845 the individual's assignment is changed or terminated, unless:

- 846 (A) the license is suspended, disqualified, denied, or has been cancelled or
847 revoked by the division; or
- 848 (B) the licensee updates the information or photograph on the license certificate.
- 849 (ii) The provisions in Subsection (7)(e)(i) apply to an individual:
- 850 (A) ordered to active duty and stationed outside of Utah in any of the armed forces
851 of the United States;
- 852 (B) who is an immediate family member or dependent of an individual described
853 in Subsection (7)(e)(ii)(A) and is residing outside of Utah;
- 854 (C) who is a civilian employee of the United States State Department or United
855 States Department of Defense and is stationed outside of the United States; or
- 856 (D) who is an immediate family member or dependent of an individual described
857 in Subsection (7)(e)(ii)(C) and is residing outside of the United States.
- 858 (f)(i) Except as provided in Subsection (7)(f)(ii), a limited-term license certificate or
859 a renewal to a limited-term license certificate expires:
- 860 (A) on the expiration date of the period of time of the individual's authorized stay
861 in the United States or on the date provided under this Subsection (7),
862 whichever is sooner; or
- 863 (B) on the date of issuance in the first year following the year that the limited-term
864 license certificate was issued if there is no definite end to the individual's
865 period of authorized stay.
- 866 (ii) A limited-term license certificate or a renewal to a limited-term license certificate
867 issued to an approved asylee or a refugee expires on the birth date of the applicant
868 in the fifth year following the year that the limited-term license certificate was
869 issued.
- 870 (g) A driving privilege card issued or renewed under Section 53-3-207 expires on the
871 birth date of the applicant in the first year following the year that the driving privilege
872 card was issued or renewed.
- 873 (8)(a) In addition to the information required by Title 63G, Chapter 4, Administrative
874 Procedures Act, for requests for agency action, an applicant shall:
- 875 (i) provide:
- 876 (A) the applicant's full legal name;
- 877 (B) the applicant's birth date;
- 878 (C) the applicant's sex;
- 879 (D)(I) documentary evidence of the applicant's valid social security number;

- 880 (II) written proof that the applicant is ineligible to receive a social security
881 number;
- 882 (III) the applicant's temporary identification number (ITIN) issued by the
883 Internal Revenue Service for an individual who:
884 (Aa) does not qualify for a social security number; and
885 (Bb) is applying for a driving privilege card; or
886 (IV) other documentary evidence approved by the division;
- 887 (E) the applicant's Utah residence address as documented by a form or forms
888 acceptable under rules made by the division under Section 53-3-104, unless the
889 application is for a temporary CDL issued under Subsection 53-3-407(2)(b);
890 and
- 891 (F) fingerprints, or a fingerprint confirmation form described in Subsection
892 53-3-205.5(1)(a)(ii), and a photograph in accordance with Section 53-3-205.5
893 if the applicant is applying for a driving privilege card;
- 894 (ii) provide evidence of the applicant's lawful presence in the United States by
895 providing documentary evidence:
- 896 (A) that the applicant is:
897 (I) a United States citizen;
898 (II) a United States national; or
899 (III) a legal permanent resident alien; or
900 (B) of the applicant's:
901 (I) unexpired immigrant or nonimmigrant visa status for admission into the
902 United States;
903 (II) pending or approved application for asylum in the United States;
904 (III) admission into the United States as a refugee;
905 (IV) pending or approved application for temporary protected status in the
906 United States;
907 (V) approved deferred action status;
908 (VI) pending application for adjustment of status to legal permanent resident or
909 conditional resident; or
910 (VII) conditional permanent resident alien status;
- 911 (iii) provide a description of the applicant;
- 912 (iv) state whether the applicant has previously been licensed to drive a motor vehicle
913 and, if so, when and by what state or country;

- 914 (v) state whether the applicant has ever had a license suspended, cancelled, revoked,
915 disqualified, or denied in the last 10 years, or whether the applicant has ever had a
916 license application refused, and if so, the date of and reason for the suspension,
917 cancellation, revocation, disqualification, denial, or refusal;
- 918 (vi) state whether the applicant intends to make an anatomical gift under Title 26B,
919 Chapter 8, Part 3, Revised Uniform Anatomical Gift Act, in compliance with
920 Subsection (15);
- 921 (vii) state whether the applicant is required to register as a sex offender, kidnap
922 offender, or child abuse offender, in accordance with [~~Title 77, Chapter 41, Sex,~~
923 ~~Kidnap, and Child Abuse Offender Registry~~] Title 53, Chapter 29, Sex, Kidnap,
924 and Child Abuse Offender Registry;
- 925 (viii) state whether the applicant is a veteran of the United States military, provide
926 verification that the applicant was granted an honorable or general discharge from
927 the United States Armed Forces, and state whether the applicant does or does not
928 authorize sharing the information with the Department of Veterans and Military
929 Affairs;
- 930 (ix) provide all other information the division requires; and
- 931 (x) sign the application which signature may include an electronic signature as
932 defined in Section 46-4-102.
- 933 (b) Unless the applicant provides acceptable verification of homelessness as described in
934 rules made by the division, an applicant shall have a Utah residence address, unless
935 the application is for a temporary CDL issued under Subsection 53-3-407(2)(b).
- 936 (c) An applicant shall provide evidence of lawful presence in the United States in
937 accordance with Subsection (8)(a)(ii), unless the application is for a driving privilege
938 card.
- 939 (d) The division shall maintain on the division's computerized records an applicant's:
940 (i)(A) social security number;
941 (B) temporary identification number (ITIN); or
942 (C) other number assigned by the division if Subsection (8)(a)(i)(D)(IV) applies;
943 and
944 (ii) indication whether the applicant is required to register as a sex offender, kidnap
945 offender, or child abuse offender in accordance with [~~Title 77, Chapter 41, Sex,~~
946 ~~Kidnap, and Child Abuse Offender Registry~~] Title 53, Chapter 29, Sex, Kidnap,
947 and Child Abuse Offender Registry.

- 948 (9) The division shall require proof of an applicant's name, birth date, and birthplace by at
949 least one of the following means:
- 950 (a) current license certificate;
 - 951 (b) birth certificate;
 - 952 (c) Selective Service registration; or
 - 953 (d) other proof, including church records, family Bible notations, school records, or
954 other evidence considered acceptable by the division.
- 955 (10)(a) Except as provided in Subsection (10)(c), if an applicant receives a license in a
956 higher class than what the applicant originally was issued:
- 957 (i) the license application is treated as an original application; and
 - 958 (ii) license and endorsement fees is assessed under Section 53-3-105.
- 959 (b) An applicant that receives a downgraded license in a lower license class during an
960 existing license cycle that has not expired:
- 961 (i) may be issued a duplicate license with a lower license classification for the
962 remainder of the existing license cycle; and
 - 963 (ii) shall be assessed a duplicate license fee under Subsection 53-3-105(25) if a
964 duplicate license is issued under Subsection (10)(b)(i).
- 965 (c) An applicant who has received a downgraded license in a lower license class under
966 Subsection (10)(b):
- 967 (i) may, when eligible, receive a duplicate license in the highest class previously
968 issued during a license cycle that has not expired for the remainder of the existing
969 license cycle; and
 - 970 (ii) shall be assessed a duplicate license fee under Subsection 53-3-105(25) if a
971 duplicate license is issued under Subsection (10)(c)(i).
- 972 (11)(a) When an application is received from an applicant previously licensed in
973 another state to drive a motor vehicle, the division shall request a copy of the driver's
974 record from the other state.
- 975 (b) When received, the driver's record becomes part of the driver's record in this state
976 with the same effect as though entered originally on the driver's record in this state.
- 977 (12) An application for reinstatement of a license after the suspension, cancellation,
978 disqualification, denial, or revocation of a previous license is accompanied by the
979 additional fee or fees specified in Section 53-3-105.
- 980 (13) An individual who has an appointment with the division for testing and fails to keep
981 the appointment or to cancel at least 48 hours in advance of the appointment shall pay

- 982 the fee under Section 53-3-105.
- 983 (14) An applicant who applies for an original license or renewal of a license agrees that the
984 individual's license is subject to a suspension or revocation authorized under this title or
985 Title 41, Motor Vehicles.
- 986 (15)(a) A licensee shall authenticate the indication of intent under Subsection (8)(a)(vi)
987 in accordance with division rule.
- 988 (b)(i) Notwithstanding Title 63G, Chapter 2, Government Records Access and
989 Management Act, the division may, upon request, release to an organ procurement
990 organization, as defined in Section 26B-8-301, the names and addresses of all
991 applicants who, under Subsection (8)(a)(vi), indicate that they intend to make an
992 anatomical gift.
- 993 (ii) An organ procurement organization may use released information only to:
994 (A) obtain additional information for an anatomical gift registry; and
995 (B) inform licensees of anatomical gift options, procedures, and benefits.
- 996 (16) Notwithstanding Title 63G, Chapter 2, Government Records Access and Management
997 Act, the division may release to the Department of Veterans and Military Affairs the
998 names and addresses of all applicants who indicate their status as a veteran under
999 Subsection (8)(a)(viii).
- 1000 (17) Notwithstanding Title 63G, Chapter 2, Government Records Access and Management
1001 Act, the division shall, upon request, release to the Sex, Kidnap, and Child Abuse
1002 Offender Registry office in the Department of Public Safety, the names and addresses of
1003 all applicants who, under Subsection (8)(a)(vii), indicate they are required to register as
1004 a sex offender, kidnap offender, or child abuse offender in accordance with [~~Title 77,~~
1005 ~~Chapter 41, Sex, Kidnap, and Child Abuse Offender Registry~~] Title 53, Chapter 29, Sex,
1006 Kidnap, and Child Abuse Offender Registry.
- 1007 (18) The division and its employees are not liable, as a result of false or inaccurate
1008 information provided under Subsection (8)(a)(vi) or (viii), for direct or indirect:
1009 (a) loss;
1010 (b) detriment; or
1011 (c) injury.
- 1012 (19) An applicant who knowingly fails to provide the information required under
1013 Subsection (8)(a)(vii) is guilty of a class A misdemeanor.
- 1014 (20) A person may not hold both an unexpired Utah license certificate and an unexpired
1015 identification card.

- 1016 (21)(a) An applicant who applies for an original motorcycle endorsement to a regular
 1017 license certificate is exempt from the requirement to pass the knowledge and skills
 1018 test to be eligible for the motorcycle endorsement if the applicant:
- 1019 (i) is a resident of the state of Utah;
 - 1020 (ii)(A) is ordered to active duty and stationed outside of Utah in any of the armed
 1021 forces of the United States; or
 - 1022 (B) is an immediate family member or dependent of an individual described in
 1023 Subsection (21)(a)(ii)(A) and is residing outside of Utah;
 - 1024 (iii) has a digitized driver license photo on file with the division;
 - 1025 (iv) provides proof to the division of the successful completion of a certified
 1026 Motorcycle Safety Foundation rider training course; and
 - 1027 (v) provides the necessary information and documentary evidence required under
 1028 Subsection (8).
- 1029 (b) In accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, the
 1030 division shall make rules:
- 1031 (i) establishing the procedures for an individual to obtain a motorcycle endorsement
 1032 under this Subsection (21); and
 - 1033 (ii) identifying the applicable restrictions for a motorcycle endorsement issued under
 1034 this Subsection (21).

1035 Section 8. Section **53-3-216** is amended to read:

1036 **53-3-216 . Change of address -- Duty of licensee to notify division within 10 days**
 1037 **-- Change of name -- Proof necessary -- Method of giving notice by division.**

- 1038 (1)(a) Except as provided in Subsection (1)(b), if an individual, after applying for or
 1039 receiving a license, moves from the address named in the application or in the license
 1040 certificate issued to the individual, the individual shall, within 10 days after the day
 1041 on which the individual moves, notify the division in a manner specified by the
 1042 division of the individual's new address and the number of any license certificate held
 1043 by the individual.
- 1044 (b) If an individual who is required to register as a sex offender, kidnap offender, or
 1045 child abuse offender under [~~Title 77, Chapter 41, Sex, Kidnap, and Child Abuse~~
 1046 ~~Offender Registry~~] Title 53, Chapter 29, Sex, Kidnap, and Child Abuse Offender
 1047 Registry, after applying for or receiving a license, moves from the address named in
 1048 the application or in the license certificate issued to the individual, the individual
 1049 shall, within 30 days after the day on which the individual moves, apply for an

- 1050 updated license in-person at a division office.
- 1051 (2) If an applicant requests to change the surname on the applicant's license, the division
1052 shall issue a substitute license with the new name upon receiving an application and fee
1053 for a duplicate license and any of the following proofs of the applicant's full legal name:
1054 (a) an original or certified copy of the applicant's marriage certificate;
1055 (b) a certified copy of a court order under Title 42, Chapter 1, Change of Name, showing
1056 the name change;
1057 (c) an original or certified copy of a birth certificate issued by a government agency;
1058 (d) a certified copy of a divorce decree or annulment granted the applicant that specifies
1059 the name change requested; or
1060 (e) a certified copy of a divorce decree that does not specify the name change requested
1061 together with:
1062 (i) an original or certified copy of the applicant's birth certificate;
1063 (ii) the applicant's marriage license;
1064 (iii) a driver license record showing use of a maiden name; or
1065 (iv) other documentation the division finds acceptable.
- 1066 (3)(a) If the division is authorized or required to give a notice under this chapter or
1067 other law regulating the operation of vehicles, the notice shall, unless otherwise
1068 prescribed, be given by:
1069 (i) personal delivery to the individual to be notified; or
1070 (ii) deposit in the United States mail with postage prepaid, addressed to the individual
1071 at the individual's address as shown by the records of the division.
- 1072 (b) The giving of notice by mail is complete upon the expiration of four days after the
1073 deposit of the notice.
- 1074 (c) Proof of the giving of notice in either manner may be made by the certificate of an
1075 officer or employee of the division or affidavit of an individual 18 years [~~of age~~] old
1076 or older, naming the individual to whom the notice was given and specifying the
1077 time, place, and manner of giving the notice.
- 1078 (4) The division may use state mailing or United States Postal Service information to:
1079 (a) verify an address on an application or on records of the division; and
1080 (b) correct mailing addresses in the division's records.
- 1081 (5) A violation of the provisions of Subsection (1) is an infraction.
- 1082 Section 9. Section **53-3-804** is amended to read:
1083 **53-3-804 . Application for identification card -- Required information -- Release**

1084 **of anatomical gift information -- Cancellation of identification card.**

- 1085 (1) To apply for a regular identification card or limited-term identification card, an
1086 applicant shall:
- 1087 (a) be a Utah resident;
 - 1088 (b) have a Utah residence address; and
 - 1089 (c) appear in person at any license examining station.
- 1090 (2) An applicant shall provide the following information to the division:
- 1091 (a) true and full legal name and Utah residence address;
 - 1092 (b) date of birth as set forth in a certified copy of the applicant's birth certificate, or other
1093 satisfactory evidence of birth, which shall be attached to the application;
 - 1094 (c)(i) social security number; or
1095 (ii) written proof that the applicant is ineligible to receive a social security number;
 - 1096 (d) place of birth;
 - 1097 (e) height and weight;
 - 1098 (f) color of eyes and hair;
 - 1099 (g) signature;
 - 1100 (h) photograph;
 - 1101 (i) evidence of the applicant's lawful presence in the United States by providing
1102 documentary evidence:
 - 1103 (i) that the applicant is:
 - 1104 (A) a United States citizen;
 - 1105 (B) a United States national; or
 - 1106 (C) a legal permanent resident alien; or
 - 1107 (ii) of the applicant's:
 - 1108 (A) unexpired immigrant or nonimmigrant visa status for admission into the
1109 United States;
 - 1110 (B) pending or approved application for asylum in the United States;
 - 1111 (C) admission into the United States as a refugee;
 - 1112 (D) pending or approved application for temporary protected status in the United
1113 States;
 - 1114 (E) approved deferred action status;
 - 1115 (F) pending application for adjustment of status to legal permanent resident or
1116 conditional resident; or
 - 1117 (G) conditional permanent resident alien status;

- 1118 (j) an indication whether the applicant intends to make an anatomical gift under Title
1119 26B, Chapter 8, Part 3, Revised Uniform Anatomical Gift Act;
- 1120 (k) an indication whether the applicant is required to register as a sex offender, kidnap
1121 offender, or child abuse offender in accordance with [~~Title 77, Chapter 41, Sex,~~
1122 ~~Kidnap, and Child Abuse Offender Registry~~] Title 53, Chapter 29, Sex, Kidnap, and
1123 Child Abuse Offender Registry; and
- 1124 (l) an indication whether the applicant is a veteran of the United States Armed Forces,
1125 verification that the applicant has received an honorable or general discharge from
1126 the United States Armed Forces, and an indication whether the applicant does or does
1127 not authorize sharing the information with the state Department of Veterans and
1128 Military Affairs.
- 1129 (3)(a) The requirements of Section 53-3-234 apply to this section for each individual,
1130 age 16 and older, applying for an identification card.
- 1131 (b) Refusal to consent to the release of information under Section 53-3-234 shall result
1132 in the denial of the identification card.
- 1133 (4) An individual person who knowingly fails to provide the information required under
1134 Subsection (2)(k) is guilty of a class A misdemeanor.
- 1135 (5)(a) A person may not hold both an unexpired Utah license certificate and an
1136 unexpired identification card.
- 1137 (b) A person who holds a regular or limited term Utah driver license and chooses to
1138 relinquish the person's driving privilege may apply for an identification card under
1139 this chapter, provided:
- 1140 (i) the driver:
- 1141 (A) no longer qualifies for a driver license for failure to meet the requirement in
1142 Section 53-3-304; or
- 1143 (B) makes a personal decision to permanently discontinue driving;
- 1144 (ii) the driver:
- 1145 (A) submits an application to the division on a form approved by the division in
1146 person, through electronic means, or by mail;
- 1147 (B) affirms their intention to permanently discontinue driving; and
- 1148 (C) surrenders to the division the driver license certificate; and
- 1149 (iii) the division possesses a digital photograph of the driver obtained within the
1150 preceding 10 years.
- 1151 (c)(i) The division shall waive the fee under Section 53-3-105 for an identification

1152 card for an original identification card application under this Subsection (5).
1153 (ii) The fee waiver described in Subsection (5)(c)(i) does not apply to a person whose
1154 driving privilege is suspended or revoked.

1155 (6) Notwithstanding Title 63G, Chapter 2, Government Records Access and Management
1156 Act, the division shall, upon request, release to the Sex, Kidnap, and Child Abuse
1157 Offender Registry office in the Department of Public Safety, the names and addresses of
1158 all applicants who, under Subsection (2)(k), indicate they are required to register as a sex
1159 offender, kidnap offender, or child abuse offender in accordance with [~~Title 77, Chapter~~
1160 ~~41, Sex, Kidnap, and Child Abuse Offender Registry~~] Title 53, Chapter 29, Sex, Kidnap,
1161 and Child Abuse Offender Registry.

1162 Section 10. Section **53-3-806.5** is amended to read:

1163 **53-3-806.5 . Identification card required if offender does not have driver license.**

1164 (1)(a) An individual who does not hold a current driver license in compliance with
1165 Section 53-3-205 and is required to register as a sex offender, kidnap offender, or
1166 child abuse offender in accordance with [~~Title 77, Chapter 41, Sex, Kidnap, and~~
1167 ~~Child Abuse Offender Registry~~] Title 53, Chapter 29, Sex, Kidnap, and Child Abuse
1168 Offender Registry, shall obtain an identification card.

1169 (b) The individual shall maintain a current identification card during the time the
1170 individual is required to register as a sex offender, kidnap offender, or child abuse
1171 offender and the individual does not hold a valid driver license.

1172 (2) Failure to maintain a current identification card as required under Subsection (1) is a
1173 class A misdemeanor for each month of violation of Subsection (1).

1174 Section 11. Section **53-3-807** is amended to read:

1175 **53-3-807 . Expiration -- Address and name change -- Extension.**

1176 (1)(a) A regular identification card expires on the birth date of the applicant in the fifth
1177 year after the issuance of the regular identification card.

1178 (b) A limited-term identification card expires on:

1179 (i) the expiration date of the period of time of the individual's authorized stay in the
1180 United States or on the birth date of the applicant in the fifth year after the
1181 issuance of the limited-term identification card, whichever is sooner; or
1182 (ii) on the date of issuance in the first year after the year that the limited-term
1183 identification card was issued if there is no definite end to the individual's period
1184 of authorized stay.

1185 (2)(a) Except as provided in Subsection (2)(b), if an individual has applied for and

- 1186 received an identification card and subsequently moves from the address shown on
1187 the application or on the card, the individual shall, within 10 days after the day on
1188 which the individual moves, notify the division in a manner specified by the division
1189 of the individual's new address.
- 1190 (b) If an individual who is required to register as a sex offender, kidnap offender, or
1191 child abuse offender under [~~Title 77, Chapter 41, Sex, Kidnap, and Child Abuse~~
1192 ~~Offender Registry~~] Title 53, Chapter 29, Sex, Kidnap, and Child Abuse Offender
1193 Registry, has applied for and received an identification card and subsequently moves
1194 from the address shown on the application or on the card, the individual shall, within
1195 30 days after the day on which the individual moves, apply for an updated
1196 identification card in-person at a division office.
- 1197 (3) If an individual has applied for and received an identification card and subsequently
1198 changes the individual's name under Title 42, Chapter 1, Change of Name, the
1199 individual:
- 1200 (a) shall surrender the card to the division; and
1201 (b) may apply for a new card in the individual's new name by:
- 1202 (i) furnishing proper documentation to the division as provided in Section 53-3-804;
1203 and
1204 (ii) paying the fee required under Section 53-3-105.
- 1205 (4) A person 21 years old or older with a disability, as defined under the Americans with
1206 Disabilities Act of 1990, Pub. L. 101-336, may extend the expiration date on an
1207 identification card for five years if the person with a disability or an agent of the person
1208 with a disability:
- 1209 (a) requests that the division send the application form to obtain the extension or
1210 requests an application form in person at the division's offices;
1211 (b) completes the application;
1212 (c) certifies that the extension is for a person 21 years old or older with a disability; and
1213 (d) returns the application to the division together with the identification card fee
1214 required under Section 53-3-105.
- 1215 (5)(a) The division may extend a valid regular identification card issued after January 1,
1216 2010, for five years at any time within six months before the day on which the
1217 identification card expires.
- 1218 (b) The application for an extension of a regular identification card is accompanied by a
1219 fee under Section 53-3-105.

- 1220 (c) The division shall allow extensions:
- 1221 (i) by mail, electronic means, or other means as determined by the division at the
- 1222 appropriate extension fee rate under Section 53-3-105; and
- 1223 (ii) only if the applicant qualifies under this section.
- 1224 (6)(a) A regular identification card may only be extended once under Subsections (4)
- 1225 and (5).
- 1226 (b) After an extension an application for an identification card must be applied for in
- 1227 person at the division's offices.
- 1228 Section 12. Section **53-10-214** is amended to read:
- 1229 **53-10-214 . Reporting requirements.**
- 1230 The bureau shall submit a record received pursuant to Section 53-10-208.1 for all
- 1231 nonextraditable warrants issued for violent felonies as defined in Section 76-3-203.5 and all
- 1232 nonextraditable warrants issued for knowingly failing to register under Title 53, Chapter 29,
- 1233 Sex, Kidnap, and Child Abuse Offender Registry, for a sexual offense pursuant to Section [
- 1234 ~~77-41-107~~] 53-29-305 to the National Crime Information Center within 48 hours of receipt,
- 1235 excluding Saturdays, Sundays, and legal holidays.
- 1236 Section 13. Section **53-10-403** is amended to read:
- 1237 **53-10-403 . DNA specimen analysis -- Application to offenders, including minors.**
- 1238 (1) Sections 53-10-403.6, 53-10-404, 53-10-404.5, 53-10-405, and 53-10-406 apply to:
- 1239 (a) a person who has pled guilty to or has been convicted of any of the offenses under
- 1240 Subsection (2)(a) or (b) on or after July 1, 2002;
- 1241 (b) a person who has pled guilty to or has been convicted by any other state or by the
- 1242 United States government of an offense which if committed in this state would be
- 1243 punishable as one or more of the offenses listed in Subsection (2)(a) or (b) on or after
- 1244 July 1, 2003;
- 1245 (c) a person who has been booked on or after January 1, 2011, through December 31,
- 1246 2014, for any offense under Subsection (2)(c);
- 1247 (d) a person who has been booked:
- 1248 (i) by a law enforcement agency that is obtaining a DNA specimen on or after May
- 1249 13, 2014, through December 31, 2014, under Subsection 53-10-404(4)(b) for any
- 1250 felony offense; or
- 1251 (ii) on or after January 1, 2015, for any felony offense; or
- 1252 (e) a minor:
- 1253 (i)(A) who is adjudicated by the juvenile court for an offense described in

- 1254 Subsection (2) that is within the jurisdiction of the juvenile court on or after
1255 July 1, 2002; or
- 1256 (B) who is adjudicated by the juvenile court for an offense described in
1257 Subsection (2) and is in the legal custody of the Division of Juvenile Justice
1258 Services for the offense on or after July 1, 2002; and
- 1259 (ii) who is 14 years old or older at the time of the commission of the offense
1260 described in Subsection (2).
- 1261 (2) Offenses referred to in Subsection (1) are:
- 1262 (a) any felony or class A misdemeanor under the Utah Code;
- 1263 (b) any offense under Subsection (2)(a):
- 1264 (i) for which the court enters a judgment for conviction to a lower degree of offense
1265 under Section 76-3-402; or
- 1266 (ii) regarding which the court allows the defendant to enter a plea in abeyance as
1267 defined in Section 77-2a-1; or
- 1268 (c)(i) any violent felony as defined in Section 53-10-403.5;
- 1269 (ii) sale or use of body parts, Section 26B-8-315;
- 1270 (iii) failure to stop at an accident that resulted in death, Section 41-6a-401.5;
- 1271 (iv) operating a motor vehicle with any amount of a controlled substance in an
1272 individual's body and causing serious bodily injury or death, as codified before
1273 May 4, 2022, Laws of Utah 2021, Chapter 236, Section 1, Subsection 58-37-8
1274 (2)(g);
- 1275 (v) a felony violation of enticing a minor, Section 76-4-401;
- 1276 (vi) negligently operating a vehicle resulting in injury, Subsection 76-5-102.1(2)(b);
- 1277 (vii) a felony violation of propelling a substance or object at a correctional officer, a
1278 peace officer, or an employee or a volunteer, including health care providers,
1279 Section 76-5-102.6;
- 1280 (viii) automobile homicide, Subsection 76-5-207(2)(b);
- 1281 (ix) aggravated human trafficking, Section 76-5-310, and aggravated human
1282 smuggling, Section 76-5-310.1;
- 1283 (x) a felony violation of unlawful sexual activity with a minor, Section 76-5-401;
- 1284 (xi) a felony violation of sexual abuse of a minor, Section 76-5-401.1;
- 1285 (xii) unlawful sexual contact with a 16 or 17-year old, Section 76-5-401.2;
- 1286 (xiii) sale of a child, Section 76-7-203;
- 1287 (xiv) aggravated escape, Section 76-8-309.3;

- 1288 (xv) a felony violation of threatened or attempted assault on an elected official,
1289 Section 76-8-313;
- 1290 (xvi) threat with intent to impede, intimidate, interfere, or retaliate against a judge or
1291 a member of the Board of Pardons and Parole or acting against a family member
1292 of a judge or a member of the Board of Pardons and Parole, Section 76-8-316;
- 1293 (xvii) assault with intent to impede, intimidate, interfere, or retaliate against a judge
1294 or a member of the Board of Pardons and Parole or acting against a family
1295 member of a judge or a member of the Board of Pardons and Parole, Section
1296 76-8-316.2;
- 1297 (xviii) aggravated assault with intent to impede, intimidate, interfere, or retaliate
1298 against a judge or a member of the Board of Pardons and Parole or acting against
1299 a family member of a judge or a member of the Board of Pardons and Parole,
1300 Section 76-8-316.4;
- 1301 (xix) attempted murder with intent to impede, intimidate, interfere, or retaliate
1302 against a judge or a member of the Board of Pardons and Parole or acting against
1303 a family member of a judge or a member of the Board of Pardons and Parole,
1304 Section 76-8-316.6;
- 1305 (xx) advocating criminal syndicalism or sabotage, Section 76-8-902;
- 1306 (xxi) assembling for advocating criminal syndicalism or sabotage, Section 76-8-903;
- 1307 (xxii) a felony violation of sexual battery, Section 76-9-702.1;
- 1308 (xxiii) a felony violation of lewdness involving a child, Section 76-9-702.5;
- 1309 (xxiv) a felony violation of abuse or desecration of a dead human body, Section
1310 76-9-704;
- 1311 (xxv) manufacture, possession, sale, or use of a weapon of mass destruction, Section
1312 76-10-402;
- 1313 (xxvi) manufacture, possession, sale, or use of a hoax weapon of mass destruction,
1314 Section 76-10-403;
- 1315 (xxvii) possession of a concealed firearm in the commission of a violent felony,
1316 Subsection 76-10-504(4);
- 1317 (xxviii) assault with the intent to commit bus hijacking with a dangerous weapon,
1318 Subsection 76-10-1504(3);
- 1319 (xxix) commercial obstruction, Subsection 76-10-2402(2);
- 1320 (xxx) a felony violation of failure to register as a sex or kidnap offender, Section [
1321 ~~77-41-107~~] 53-29-305;

- 1322 (xxx) repeat violation of a protective order, Subsection 77-36-1.1(4); or
1323 (xxxii) violation of condition for release after arrest under Section 78B-7-802.
1324 Section 14. Section **53-10-404** is amended to read:
1325 **53-10-404 . DNA specimen analysis -- Requirement to obtain the specimen.**
- 1326 (1) As used in this section, "person" means a person or minor described in Section
1327 53-10-403.
- 1328 (2)(a) A person under Section 53-10-403 or any person required to register as a sex
1329 offender, kidnap offender, or child abuse offender under [~~Title 77, Chapter 41, Sex,~~
1330 ~~Kidnap, and Child Abuse Offender Registry~~] Title 53, Chapter 29, Sex, Kidnap, and
1331 Child Abuse Offender Registry, shall provide a DNA specimen and shall reimburse
1332 the agency responsible for obtaining the DNA specimen \$150 for the cost of
1333 obtaining the DNA specimen unless:
- 1334 (i) the person was booked under Section 53-10-403 and is not required to reimburse
1335 the agency under Section 53-10-404.5; or
1336 (ii) the agency determines the person lacks the ability to pay.
- 1337 (b)(i)(A) The responsible agencies shall establish guidelines and procedures for
1338 determining if the person is able to pay the fee.
- 1339 (B) An agency's implementation of Subsection (2)(b)(i) meets an agency's
1340 obligation to determine an inmate's ability to pay.
- 1341 (ii) An agency's guidelines and procedures may provide for the assessment of \$150
1342 on the inmate's county trust fund account and may allow a negative balance in the
1343 account until the \$150 is paid in full.
- 1344 (3)(a)(i) All fees collected under Subsection (2) shall be deposited into the DNA
1345 Specimen Restricted Account created in Section 53-10-407, except that the
1346 agency collecting the fee may retain not more than \$25 per individual specimen
1347 for the costs of obtaining the saliva DNA specimen.
- 1348 (ii) The agency collecting the \$150 fee may not retain from each separate fee more
1349 than \$25, and no amount of the \$150 fee may be credited to any other fee or
1350 agency obligation.
- 1351 (b) The responsible agency shall determine the method of collecting the DNA specimen.
1352 Unless the responsible agency determines there are substantial reasons for using a
1353 different method of collection or the person refuses to cooperate with the collection,
1354 the preferred method of collection shall be obtaining a saliva specimen.
- 1355 (c) The responsible agency may use reasonable force, as established by its guidelines

1356 and procedures, to collect the DNA sample if the person refuses to cooperate with the
1357 collection.

1358 (d) If the judgment places the person on probation, the person shall submit to the
1359 obtaining of a DNA specimen as a condition of the probation.

1360 (e)(i) Under this section a person is required to provide one DNA specimen and pay
1361 the collection fee as required under this section.

1362 (ii) The person shall provide an additional DNA specimen only if the DNA specimen
1363 previously provided is not adequate for analysis.

1364 (iii) The collection fee is not imposed for a second or subsequent DNA specimen
1365 collected under this section.

1366 (f) Any agency that is authorized to obtain a DNA specimen under this part may collect
1367 any outstanding amount of a fee due under this section from any person who owes
1368 any portion of the fee and deposit the amount in the DNA Specimen Restricted
1369 Account created in Section 53-10-407.

1370 (4)(a) The responsible agency shall cause a DNA specimen to be obtained as soon as
1371 possible and transferred to the Department of Public Safety:

1372 (i) after a conviction or an adjudication by the juvenile court;

1373 (ii) on and after January 1, 2011, through December 31, 2014, after the booking of a
1374 person for any offense under Subsection 53-10-403(1)(c); and

1375 (iii) on and after January 1, 2015, after the booking of a person for any felony
1376 offense, as provided under Subsection 53-10-403(1)(d)(ii).

1377 (b) On and after May 13, 2014, through December 31, 2014, the responsible agency may
1378 cause a DNA specimen to be obtained and transferred to the Department of Public
1379 Safety after the booking of a person for any felony offense, as provided under
1380 Subsection 53-10-403(1)(d)(i).

1381 (c) If notified by the Department of Public Safety that a DNA specimen is not adequate
1382 for analysis, the agency shall, as soon as possible:

1383 (i) obtain and transmit an additional DNA specimen; or

1384 (ii) request that another agency that has direct access to the person and that is
1385 authorized to collect DNA specimens under this section collect the necessary
1386 second DNA specimen and transmit it to the Department of Public Safety.

1387 (d) Each agency that is responsible for collecting DNA specimens under this section
1388 shall establish:

1389 (i) a tracking procedure to record the handling and transfer of each DNA specimen it

- 1390 obtains; and
- 1391 (ii) a procedure to account for the management of all fees it collects under this
- 1392 section.
- 1393 (5)(a) The Department of Corrections is the responsible agency whenever the person is
- 1394 committed to the custody of or is under the supervision of the Department of
- 1395 Corrections.
- 1396 (b) If a minor described in Subsection 53-10-403(3) is not committed to the legal
- 1397 custody of the Division of Juvenile Justice and Youth Services upon an adjudication,
- 1398 the juvenile court is the responsible agency regarding the collection of a DNA
- 1399 specimen from the minor.
- 1400 (c) If a minor described in Subsection 53-10-403(3) is committed to the legal custody of
- 1401 the Division of Juvenile Justice and Youth Services upon an adjudication, the
- 1402 Division of Juvenile Justice and Youth Services is the responsible agency regarding
- 1403 the collection of a DNA specimen from the minor.
- 1404 (d) The sheriff operating a county jail is the responsible agency regarding the collection
- 1405 of DNA specimens from persons who:
- 1406 (i) have pled guilty to or have been convicted of an offense listed under Subsection
- 1407 53-10-403(2) but who have not been committed to the custody of or are not under
- 1408 the supervision of the Department of Corrections;
- 1409 (ii) are incarcerated in the county jail:
- 1410 (A) as a condition of probation for a felony offense; or
- 1411 (B) for a misdemeanor offense for which collection of a DNA specimen is
- 1412 required;
- 1413 (iii) on and after January 1, 2011, through May 12, 2014, are booked at the county
- 1414 jail for any offense under Subsection 53-10-403(1)(c); and
- 1415 (iv) are booked at the county jail:
- 1416 (A) by a law enforcement agency that is obtaining a DNA specimen for any felony
- 1417 offense on or after May 13, 2014, through December 31, 2014, under
- 1418 Subsection 53-10-404(4)(b); or
- 1419 (B) on or after January 1, 2015, for any felony offense.
- 1420 (e) Each agency required to collect a DNA specimen under this section shall:
- 1421 (i) designate employees to obtain the saliva DNA specimens required under this
- 1422 section; and
- 1423 (ii) ensure that employees designated to collect the DNA specimens receive

1424 appropriate training and that the specimens are obtained in accordance with
1425 generally accepted protocol.

1426 (6)(a) As used in this Subsection (6), "department" means the Department of
1427 Corrections.

1428 (b) Priority of obtaining DNA specimens by the department is:

1429 (i) first, to obtain DNA specimens of persons who as of July 1, 2002, are in the
1430 custody of or under the supervision of the department before these persons are
1431 released from incarceration, parole, or probation, if their release date is prior to
1432 that of persons under Subsection (6)(b)(ii), but in no case later than July 1, 2004;
1433 and

1434 (ii) second, the department shall obtain DNA specimens from persons who are
1435 committed to the custody of the department or who are placed under the
1436 supervision of the department after July 1, 2002, within 120 days after the
1437 commitment, if possible, but not later than prior to release from incarceration if
1438 the person is imprisoned, or prior to the termination of probation if the person is
1439 placed on probation.

1440 (c) The priority for obtaining DNA specimens from persons under Subsection (6)(b)(ii)
1441 is:

1442 (i) first, persons on probation;

1443 (ii) second, persons on parole; and

1444 (iii) third, incarcerated persons.

1445 (d) Implementation of the schedule of priority under Subsection (6)(c) is subject to the
1446 priority of Subsection (6)(b)(i), to ensure that the Department of Corrections obtains
1447 DNA specimens from persons in the custody of or under the supervision of the
1448 Department of Corrections as of July 1, 2002, prior to their release.

1449 (7)(a) As used in this Subsection (7):

1450 (i) "Court" means the juvenile court.

1451 (ii) "Division" means the Division of Juvenile Justice and Youth Services.

1452 (b) Priority of obtaining DNA specimens by the court from minors under Section
1453 53-10-403 whose cases are under the jurisdiction of the court but who are not in the
1454 legal custody of the division shall be:

1455 (i) first, to obtain specimens from minors whose cases, as of July 1, 2002, are under
1456 the court's jurisdiction, before the court's jurisdiction over the minors' cases
1457 terminates; and

1458 (ii) second, to obtain specimens from minors whose cases are under the jurisdiction
 1459 of the court after July 1, 2002, within 120 days of the minor's case being found to
 1460 be within the court's jurisdiction, if possible, but no later than before the court's
 1461 jurisdiction over the minor's case terminates.

1462 (c) Priority of obtaining DNA specimens by the division from minors under Section
 1463 53-10-403 who are committed to the legal custody of the division shall be:

1464 (i) first, to obtain specimens from minors who as of July 1, 2002, are within the
 1465 division's legal custody and who have not previously provided a DNA specimen
 1466 under this section, before termination of the division's legal custody of these
 1467 minors; and

1468 (ii) second, to obtain specimens from minors who are placed in the legal custody of
 1469 the division after July 1, 2002, within 120 days of the minor's being placed in the
 1470 custody of the division, if possible, but no later than before the termination of the
 1471 court's jurisdiction over the minor's case.

1472 (8)(a) The Department of Corrections, the juvenile court, the Division of Juvenile
 1473 Justice and Youth Services, and all law enforcement agencies in the state shall by
 1474 policy establish procedures for obtaining saliva DNA specimens, and shall provide
 1475 training for employees designated to collect saliva DNA specimens.

1476 (b)(i) The department may designate correctional officers, including those employed
 1477 by the adult probation and parole section of the department, to obtain the saliva
 1478 DNA specimens required under this section.

1479 (ii) The department shall ensure that the designated employees receive appropriate
 1480 training and that the specimens are obtained in accordance with accepted protocol.

1481 (c) Blood DNA specimens shall be obtained in accordance with Section 53-10-405.

1482 Section 15. Section **53-29-101** is enacted to read:

1483 **CHAPTER 29. SEX, KIDNAP, AND CHILD ABUSE OFFENDER REGISTRY**

1484 **Part 1. General Provisions**

1485 **53-29-101 . Definitions.**

1486 As used in this chapter:

1487 (1) "Bureau" means the Bureau of Criminal Identification of the Department of Public
 1488 Safety established in Section 53-10-201.

1489 (2) "Certificate of eligibility" means the certificate issued by the bureau described in
 1490 Section 53-29-207.

- 1491 (3) "Child abuse offender" means an individual who meets the requirements under
1492 Subsection 53-29-202(2)(a).
- 1493 (4)(a) "Convicted" means a plea or conviction of:
1494 (i) guilty;
1495 (ii) guilty with a mental illness; or
1496 (iii) no contest.
- 1497 (b) "Convicted" includes, except as provided in Subsection 53-29-202(4), the period a
1498 plea is held in abeyance pursuant to a plea in abeyance agreement as defined in
1499 Section 77-2a-1.
- 1500 (c) "Convicted" does not include:
1501 (i) a withdrawn or dismissed plea in abeyance;
1502 (ii) a diversion agreement; or
1503 (iii) an adjudication of a minor for an offense under Section 80-6-701.
- 1504 (5) "Division" means the Division of Juvenile Justice and Youth Services.
- 1505 (6) "Employed" means employment that is full time or part time, whether financially
1506 compensated, volunteered, or for the purpose of government or educational benefit.
- 1507 (7) "Kidnap offender" means an individual who meets the requirements under Subsection
1508 53-29-202(2)(c).
- 1509 (8) "Offender" means an individual who qualifies as a sex offender, a kidnap offender, or a
1510 child abuse offender as described in Section 53-29-202.
- 1511 (9)(a) "Online identifier" means any electronic mail, chat, instant messenger, social
1512 networking, or similar name used for Internet communication.
- 1513 (b) "Online identifier" does not include date of birth, social security number, PIN
1514 number, or Internet passwords.
- 1515 (10) "Primary residence" means the location where an offender regularly resides, even if the
1516 offender intends to move to another location or return to another location at a future date.
- 1517 (11) "Registrable offense" means an offense described in Subsection 53-29-202(1).
- 1518 (12) "Registration website" means the Sex, Kidnap, and Child Abuse Offender Notification
1519 and Registration website described in Section 53-29-404.
- 1520 (13) "Registry" means the Sex, Kidnap, and Child Abuse Offender Registry maintained by
1521 the department and created in Section 53-29-102 to monitor and track offenders.
- 1522 (14) "Registry office" means the office within the department that manages the Sex,
1523 Kidnap, and Child Abuse Offender Registry.
- 1524 (15) "Sex offender" means an individual who meets the requirements under Subsection

1525 53-29-202(2)(b).

1526 (16) "Vehicle" means a motor vehicle, an aircraft, or a watercraft subject to registration in
1527 any jurisdiction.

1528 Section 16. Section **53-29-102** is enacted to read:

1529 **53-29-102 . Sex, Kidnap, and Child Abuse Offender Registry -- Creation --**
1530 **Purpose.**

1531 (1) The department, to assist law enforcement in investigating kidnapping and sex-related
1532 crimes and in apprehending offenders, shall:

1533 (a) develop and operate a system known as the Sex, Kidnap, and Child Abuse Offender
1534 Registry to collect, analyze, maintain, and disseminate information on offenders and
1535 registrable offenses; and

1536 (b) make information listed in Subsection 53-29-404(3) available to the public.

1537 (2) This chapter does not create or impose any duty on any individual to request or obtain
1538 information regarding any offender from the department.

1539 Section 17. Section **53-29-201** is enacted to read:

1540 **Part 2. Registrable Offenses, Timelines for Registration, and Petitions for Removal**

1541 **53-29-201 . Definitions.**

1542 As used in this part:

1543 (1) "Court" means a state, federal, or military court.

1544 (2) "External jurisdiction" means:

1545 (a) a state of the United States not including Utah;

1546 (b) the United States federal government;

1547 (c) Indian country;

1548 (d) a United States territory;

1549 (e) the United States military; or

1550 (f) Canada, Australia, New Zealand, or the United Kingdom.

1551 (3) "Indian country" means:

1552 (a) all land within the limits of an Indian reservation under the jurisdiction of the United
1553 States government, regardless of the issuance of any patent, and includes
1554 rights-of-way running through the reservation;

1555 (b) all dependent Indian communities within the borders of the United States whether
1556 within the original or subsequently acquired territory, and whether or not within the
1557 limits of a state; and

1558 (c) all Indian allotments, including the Indian allotments to which the Indian titles have

1559 not been extinguished, including rights-of-way running through the allotments.

1560 (4) "Natural parent" means a minor's biological or adoptive parent, including the minor's
1561 noncustodial parent.

1562 (5) "Traffic offense" does not include a violation of Title 41, Chapter 6a, Part 5, Driving
1563 Under the Influence and Reckless Driving.

1564 Section 18. Section **53-29-202** is enacted to read:

1565 **53-29-202 . Registrable offenses -- Status as a sex offender, kidnap offender, and**
1566 **child abuse offender established.**

1567 (1) An individual is an offender described in Subsection (2) and subject to the requirements,
1568 restrictions, and penalties described in this chapter if the individual:

1569 (a) has been convicted in this state of:

1570 (i) aggravated child abuse under Subsection 76-5-109.2(3)(a) or (b);

1571 (ii) a felony or class A misdemeanor violation of enticing a minor under Section
1572 76-4-401;

1573 (iii) sexual exploitation of a vulnerable adult under Section 76-5b-202;

1574 (iv) human trafficking for sexual exploitation under Section 76-5-308.1;

1575 (v) human trafficking of a child for sexual exploitation under Subsection
1576 76-5-308.5(4)(b);

1577 (vi) aggravated human trafficking for sexual exploitation under Section 76-5-310;

1578 (vii) human trafficking of a vulnerable adult for sexual exploitation under Section
1579 76-5-311;

1580 (viii) unlawful sexual activity with a minor under Section 76-5-401, except as
1581 provided in Subsection 76-5-401(3)(b) or (c);

1582 (ix) sexual abuse of a minor under Section 76-5-401.1, on the individual's first
1583 offense unless the individual was younger than 21 years old at the time of the
1584 offense then on the individual's second offense;

1585 (x) unlawful sexual conduct with a 16 or 17 year old under Section 76-5-401.2;

1586 (xi) rape under Section 76-5-402;

1587 (xii) rape of a child under Section 76-5-402.1;

1588 (xiii) object rape under Section 76-5-402.2;

1589 (xiv) object rape of a child under Section 76-5-402.3;

1590 (xv) a felony violation of forcible sodomy under Section 76-5-403;

1591 (xvi) sodomy on a child under Section 76-5-403.1;

1592 (xvii) forcible sexual abuse under Section 76-5-404;

- 1593 (xviii) sexual abuse of a child under Section 76-5-404.1;
- 1594 (xix) aggravated sexual abuse of a child under Section 76-5-404.3;
- 1595 (xx) aggravated sexual assault under Section 76-5-405;
- 1596 (xxi) custodial sexual relations under Section 76-5-412, if the victim in custody is
1597 younger than 18 years old and the offense is committed on or after May 10, 2011;
- 1598 (xxii) sexual exploitation of a minor under Section 76-5b-201;
- 1599 (xxiii) aggravated sexual exploitation of a minor under Section 76-5b-201.1;
- 1600 (xxiv) sexual extortion or aggravated sexual extortion under Section 76-5b-204;
- 1601 (xxv) incest under Section 76-7-102;
- 1602 (xxvi) lewdness under Section 76-9-702, if the individual has been convicted of the
1603 offense four or more times;
- 1604 (xxvii) sexual battery under Section 76-9-702.1, if the individual has been convicted
1605 of the offense four or more times;
- 1606 (xxviii) any combination of convictions of lewdness under Section 76-9-702, and of
1607 sexual battery under Section 76-9-702.1, that total four or more convictions;
- 1608 (xxix) lewdness involving a child under Section 76-9-702.5;
- 1609 (xxx) a felony or class A misdemeanor violation of voyeurism under Section
1610 76-9-702.7;
- 1611 (xxxi) aggravated exploitation of prostitution under Section 76-10-1306;
- 1612 (xxxii) kidnapping under Subsection 76-5-301(2)(c) or (d), if the offender was not the
1613 natural parent of the child victim;
- 1614 (xxxiii) child kidnapping under Section 76-5-301.1, if the offender was not the
1615 natural parent of the child victim;
- 1616 (xxxiv) aggravated kidnapping under Section 76-5-302, if the offender was not the
1617 natural parent of the child victim;
- 1618 (xxxv) human trafficking for labor under Section 76-5-308, if the offender was not
1619 the natural parent of the child victim;
- 1620 (xxxvi) human smuggling under Section 76-5-308.3, if the offender was not the
1621 natural parent of the child victim;
- 1622 (xxxvii) human trafficking of a child for labor under Subsection 76-5-308.5(4)(a), if
1623 the offender was not the natural parent of the child victim;
- 1624 (xxxviii) aggravated human trafficking for labor under Section 76-5-310, if the
1625 offender was not the natural parent of the child victim;
- 1626 (xxxix) aggravated human smuggling under Section 76-5-310.1, if the offender was

1627 not the natural parent of the child victim;
1628 (xl) human trafficking of a vulnerable adult for labor under Section 76-5-311, if the
1629 offender was not the natural parent of the child victim; or
1630 (xli) attempting, soliciting, or conspiring to commit a felony violation of an offense
1631 listed in Subsections (1)(a)(i) through (xl);
1632 (b)(i) has been convicted of a criminal offense, or an attempt, solicitation, or
1633 conspiracy to commit a criminal offense in an external jurisdiction that is
1634 substantially equivalent to the offense listed in Subsection (1)(a); and
1635 (ii)(A) is a Utah resident; or
1636 (B) is not a Utah resident and is in this state for a total of 10 days in a 12-month
1637 period, regardless of whether the individual intends to permanently reside in
1638 this state;
1639 (c)(i)(A) is required to register on a registry in an external jurisdiction for
1640 individuals who have committed an offense listed in Subsection (1)(a) or a
1641 substantially equivalent offense;
1642 (B) is ordered by a court to register on a registry for individuals who have
1643 committed an offense listed in Subsection (1)(a) or a substantially equivalent
1644 offense; or
1645 (C) would be required to register on a registry in an external jurisdiction for
1646 individuals who have committed an offense listed in Subsection (1)(a), or a
1647 substantially equivalent offense, if residing in the external jurisdiction of the
1648 conviction regardless of the date of the conviction or a previous registration
1649 requirement; and
1650 (ii) is in this state for a total of 10 days in a 12-month period, regardless of whether
1651 the individual intends to permanently reside in this state;
1652 (d)(i)(A) is a nonresident regularly employed or working in this state; or
1653 (B) who is a student in this state; and
1654 (ii)(A) is convicted of an offense listed in Subsection (1)(a) or a substantially
1655 equivalent offense in an external jurisdiction; or
1656 (B) is required to register on a sex, kidnap, and child abuse registry, or an
1657 equivalent registry, in the individual's state of residence based on a conviction
1658 for an offense that is not substantially equivalent to an offense listed in
1659 Subsection (1)(a);
1660 (e) is found not guilty by reason of insanity in this state or in an external jurisdiction of

- 1661 an offense listed in Subsection (1)(a) or a substantially equivalent offense; or
1662 (f)(i) is adjudicated under Section 80-6-701 for one or more offenses listed in
1663 Subsection (1)(a); and
1664 (ii) has been committed to the division for secure care, as defined in Section 80-1-102,
1665 for that offense if:
1666 (A) the individual remains in the division's custody until 30 days before the
1667 individual's 21st birthday;
1668 (B) the juvenile court extended the juvenile court's jurisdiction over the individual
1669 under Section 80-6-605 and the individual remains in the division's custody
1670 until 30 days before the individual's 25th birthday; or
1671 (C) the individual is moved from the division's custody to the custody of the
1672 department before expiration of the division's jurisdiction over the individual.
- 1673 (2) Subject to Subsection (3), an individual is:
1674 (a) a child abuse offender if the individual:
1675 (i) has committed, attempted, solicited, or conspired to commit an offense described
1676 in Subsection (1)(a)(i); or
1677 (ii) meets a requirement described in Subsections (1)(b) through (e) for an offense
1678 described in Subsection (1)(a)(i) or a substantially equivalent offense;
1679 (b) a sex offender if the individual:
1680 (i) has committed, attempted, solicited, or conspired to commit an offense described
1681 in Subsections (1)(a)(ii) through (xxxi); or
1682 (ii) meets a requirement described in Subsections (1)(b) through (e) for an offense
1683 described in Subsections (1)(a)(ii) through (xxxi) or a substantially equivalent
1684 offense; or
1685 (c) a kidnap offender if the individual:
1686 (i) has committed, attempted, solicited, or conspired to commit an offense described
1687 in Subsections (1)(a)(xxxii) through (xl); or
1688 (ii) meets a requirement described in Subsections (1)(b) through (e) for an offense
1689 described in Subsections (1)(a)(xxxii) through (xl) or a substantially equivalent
1690 offense.
- 1691 (3) An individual who has committed a registrable offense described in Subsection
1692 (1)(d)(ii)(B) in an external jurisdiction that is not substantially equivalent to an offense
1693 described in Subsection (1)(a) and is required to register on a sex, kidnap, and child
1694 abuse registry, or an equivalent registry, in the individual's state of residence is a child

1695 abuse offender, sex offender, or kidnap offender based on the individual's status on the
1696 registry in the individual's state of residence.

1697 (4) Notwithstanding Subsection 53-29-101(4)(a), a plea of guilty or nolo contendere to a
1698 charge of sexual battery or lewdness that is held in abeyance under Title 77, Chapter 2a,
1699 Pleas in Abeyance, is the equivalent of a conviction even if the charge is subsequently
1700 reduced or dismissed in accordance with the plea in abeyance agreement.

1701 Section 19. Section **53-29-203** is enacted to read:

1702 **53-29-203 . Registration lengths -- 10 years -- Lifetime.**

1703 (1) Except as provided in Subsection (2), (3), or (4), an individual who commits a
1704 registrable offense is required to register on the registry for:

1705 (a) 10 years after the day on which the offender's sentence for the offense has been
1706 terminated if the registrable offense is for:

1707 (i) a felony or class A misdemeanor violation of enticing a minor under Section
1708 76-4-401, if the offender enticed the minor to engage in sexual activity that is one
1709 of the offenses described in Subsections (1)(a)(ii) through (xxiii);

1710 (ii) aggravated child abuse under Subsection 76-5-109.2(3)(a) or (b);

1711 (iii) kidnapping under Subsection 76-5-301(2)(c) or (d), if the offender was not the
1712 natural parent of the child victim;

1713 (iv) human trafficking for labor under Section 76-5-308, if the offender was not the
1714 natural parent of the child victim;

1715 (v) human smuggling under Section 76-5-308.3, if the offender was not the natural
1716 parent of the child victim;

1717 (vi) human trafficking of a child for labor under Subsection 76-5-308.5(4)(a), if the
1718 offender was not the natural parent of the child victim;

1719 (vii) aggravated human trafficking for labor under Section 76-5-310, if the offender
1720 was not the natural parent of the child victim;

1721 (viii) aggravated human smuggling under Section 76-5-310.1;

1722 (ix) human trafficking of a vulnerable adult for labor under Section 76-5-311;

1723 (x) a felony violation of unlawful sexual activity with a minor under Section 76-5-401;

1724 (xi) sexual abuse of a minor under Section 76-5-401.1;

1725 (xii) unlawful sexual conduct with a 16 or 17 year old under Section 76-5-401.2;

1726 (xiii) forcible sexual abuse under Section 76-5-404;

1727 (xiv) custodial sexual relations under Section 76-5-412;

1728 (xv) sexual exploitation of a vulnerable adult under Section 76-5b-202;

- 1729 (xvi) sexual extortion under Subsection 76-5b-204(2)(a);
 1730 (xvii) incest under Section 76-7-102;
 1731 (xviii) four or more convictions of lewdness under Section 76-9-702;
 1732 (xix) four or more convictions of sexual battery under Section 76-9-702.1;
 1733 (xx) any combination of convictions of lewdness under Section 76-9-702, and of
 1734 sexual battery under Section 76-9-702.1, that total four or more convictions;
 1735 (xxi) lewdness involving a child under Section 76-9-702.5;
 1736 (xxii) a felony or class A misdemeanor violation of voyeurism under Section
 1737 76-9-702.7;
 1738 (xxiii) aggravated exploitation of prostitution under Section 76-10-1306, committed
 1739 on or before May 9, 2011;
 1740 (xxiv) attempting, soliciting, or conspiring to commit an offense listed in Subsections
 1741 (1)(a)(i) through (xxiii) if the attempt, solicitation, or conspiracy is a registrable
 1742 offense; or
 1743 (xxv) attempting, soliciting, or conspiring to commit:
 1744 (A) aggravated kidnapping under Section 76-5-302, if the offender was not the
 1745 natural parent of the child victim;
 1746 (B) human trafficking for sexual exploitation under Section 76-5-308.1, if the
 1747 offender was not the natural parent of the child victim;
 1748 (C) human trafficking of a child for sexual exploitation under Subsection
 1749 76-5-308.5(4)(b), if the offender was not the natural parent of the child victim;
 1750 (D) aggravated human trafficking for sexual exploitation under Section 76-5-310,
 1751 if the offender was not the natural parent of the child victim;
 1752 (E) human trafficking of a vulnerable adult for sexual exploitation under Section
 1753 76-5-311, if the offender was not the natural parent of the child victim;
 1754 (F) forcible sodomy under Section 76-5-403;
 1755 (G) sexual abuse of a child under Section 76-5-404.1;
 1756 (H) sexual exploitation of a minor under Section 76-5b-201;
 1757 (I) aggravated sexual exploitation of a minor under Section 76-5b-201.1;
 1758 (J) aggravated sexual extortion under Subsection 76-5b-204(2)(b); or
 1759 (K) aggravated exploitation of prostitution under Section 76-10-1306, on or after
 1760 May 10, 2011; or
 1761 (b) the offender's lifetime if the registrable offense is:
 1762 (i) a conviction for an offense described in Subsection (1)(a), if the offender has, at

1763 the time of conviction for the offense:

1764 (A) previously been convicted of an offense described in Subsection (1)(a), or a

1765 substantially equivalent offense in an external jurisdiction, not including the

1766 offenses listed in Subsections (1)(a)(xviii) through (xx); or

1767 (B) previously been required to register as an offender for an offense described in

1768 Subsection (1)(a) committed as a juvenile;

1769 (ii) a following offense, including attempting, soliciting, or conspiring to commit a

1770 felony violation of:

1771 (A) child kidnapping under Section 76-5-301.1, if the offender was not the natural

1772 parent of the child victim;

1773 (B) rape under Section 76-5-402;

1774 (C) rape of a child under Section 76-5-402.1;

1775 (D) object rape under Section 76-5-402.2;

1776 (E) object rape of a child under Section 76-5-402.3;

1777 (F) sodomy on a child under Section 76-5-403.1;

1778 (G) aggravated sexual abuse of a child under Section 76-5-404.3; or

1779 (H) aggravated sexual assault under Section 76-5-405;

1780 (iii) aggravated kidnapping under Section 76-5-302, if the offender was not the

1781 natural parent of the child victim;

1782 (iv) human trafficking for sexual exploitation under Section 76-5-308.1, if the

1783 offender was not the natural parent of the child victim;

1784 (v) human trafficking of a child for sexual exploitation under Subsection

1785 76-5-308.5(4)(b), if the offender was not the natural parent of the child victim;

1786 (vi) aggravated human trafficking for sexual exploitation under Section 76-5-310, if

1787 the offender was not the natural parent of the child victim;

1788 (vii) human trafficking of a vulnerable adult for sexual exploitation under Section

1789 76-5-311, if the offender was not the natural parent of the child victim;

1790 (viii) forcible sodomy under Section 76-5-403;

1791 (ix) sexual abuse of a child under Section 76-5-404.1;

1792 (x) sexual exploitation of a minor under Section 76-5b-201;

1793 (xi) aggravated sexual exploitation of a minor under Section 76-5b-201.1;

1794 (xii) aggravated sexual extortion under Subsection 76-5b-204(2)(b);

1795 (xiii) aggravated exploitation of prostitution under Section 76-10-1306, on or after

1796 May 10, 2011; or

1797 (xiv) a felony violation of enticing a minor under Section 76-4-401, if the offender
 1798 enticed the minor to engage in sexual activity that is one of the offenses described
 1799 in Subsections (1)(b)(ii) through (xiii).

1800 (2) An individual who qualifies as an offender based on a conviction in an external
 1801 jurisdiction for a registrable offense, or a substantially equivalent offense, and is on an
 1802 external jurisdiction's sex, kidnap, and child abuse registry, or an equivalent registry, is
 1803 required to register on the registry for the time period required by the external
 1804 jurisdiction.

1805 (3) If the sentencing court at any time after an offender is convicted of an offense requiring
 1806 lifetime registration described in Subsection (1)(b) determines that the offender was
 1807 under 21 years old at the time the offense was committed and the offense did not involve
 1808 force or coercion, the requirement that the offender register for the offender's lifetime
 1809 does not apply and the offender shall register for 10 years after the day on which the
 1810 offender's sentence for the offense has been terminated.

1811 (4) Except for an individual who is adjudicated for a registrable offense and is an offender
 1812 who meets the requirements under Subsection 53-29-202(1)(f), an individual who is
 1813 under 18 years old and commits a registrable offense after May 3, 2023, is not subject to
 1814 registration requirements under this chapter unless the offender:

1815 (a) is charged by criminal information in juvenile court under Section 80-6-503;

1816 (b) is bound over to district court in accordance with Section 80-6-504; and

1817 (c) is convicted of a registrable offense.

1818 (5) An offender subject to the 10-year or lifetime registration requirements under
 1819 Subsection (1) may petition the court for an order of removal from the registry in
 1820 accordance with Section 53-29-204, 53-29-205, or 53-29-206.

1821 Section 20. Section **53-29-204** is enacted to read:

1822 **53-29-204 . Five-year petition for removal from registry -- Eligibility.**

1823 (1) An offender who is required to register on the registry for a registrable offense
 1824 described in Subsection (2) that is subject to a 10-year registration period, as described
 1825 in Section 53-29-203, is eligible to petition the court under Section 53-29-207 for an
 1826 order of removal from the registry after five years after the day on which the offender's
 1827 sentence for the offense has been terminated if:

1828 (a) the offense is the only offense for which the offender was required to register;

1829 (b) the offender has not been convicted of another offense, excluding a traffic offense,
 1830 after the day on which the offender was convicted of the offense for which the

- 1831 offender is required to register, as evidenced by a certificate of eligibility issued by
 1832 the bureau;
- 1833 (c) the offender successfully completed all treatment ordered by the court or the Board
 1834 of Pardons and Parole relating to the offense; and
- 1835 (d) the offender has paid all restitution ordered by the court or the Board of Pardons and
 1836 Parole relating to the offense.
- 1837 (2) The offenses that qualify for a five-year petition for an order of removal from the
 1838 registry referenced in Subsection (1) are:
- 1839 (a) a class A misdemeanor violation of enticing a minor under Section 76-4-401;
 1840 (b) kidnapping under Subsection 76-5-301(2)(c) or (d);
 1841 (c) a felony violation of unlawful sexual activity with a minor under Section 76-5-401,
 1842 if, at the time of the offense, the offender is not more than 10 years older than the
 1843 victim;
- 1844 (d) sexual abuse of a minor under Section 76-5-401.1, if, at the time of the offense, the
 1845 offender is not more than 10 years older than the victim;
- 1846 (e) unlawful sexual conduct with a 16 or 17 year old under Section 76-5-401.2, if at the
 1847 time of the offense, the offender is not more than 15 years older than the victim;
- 1848 (f) a class A misdemeanor violation of voyeurism under Section 76-9-702.7;
 1849 (g) attempting, soliciting, or conspiring to commit an offense listed in Subsections (2)(a)
 1850 through (f) if the attempt, solicitation, or conspiracy is a registrable offense; and
 1851 (h) an offense committed in an external jurisdiction that is not substantially equivalent to
 1852 a registrable offense described in Subsection 53-29-202(1)(a).

1853 Section 21. Section **53-29-205** is enacted to read:

1854 **53-29-205 . Ten-year petition for removal from registry -- Eligibility.**

- 1855 (1) An offender who is required to register on the registry for a registrable offense
 1856 described in Subsection (3) subject to a 10-year registration period as described in
 1857 Section 53-29-203 is eligible to petition the court under Section 53-29-207 for an order
 1858 of removal from the registry at a 10-year after entrance into the community period
 1859 described in Subsection (2) if:
- 1860 (a) the offender has not been convicted of another offense that is a class A misdemeanor,
 1861 felony, or capital felony within the most recent 10-year period after the date
 1862 described in Subsection (2), as evidenced by a certificate of eligibility issued by the
 1863 bureau;
- 1864 (b) the offender successfully completed all treatment ordered by the court or the Board

- 1865 of Pardons and Parole relating to the offense; and
- 1866 (c) the offender has paid all restitution ordered by the court or the Board of Pardons and
- 1867 Parole relating to the offense.
- 1868 (2) An offender who qualifies under Subsection (1) may petition the court under Section
- 1869 53-29-207 for an order of removal from the registry if 10 years have passed after the
- 1870 later of the following events in which the offender entered into the community:
- 1871 (a) the day on which the offender was placed on probation;
- 1872 (b) the day on which the offender was released from incarceration to parole;
- 1873 (c) the day on which the offender's sentence was terminated without parole;
- 1874 (d) the day on which the offender entered a community-based residential program; or
- 1875 (e) for a minor, as defined in Section 80-1-102, the day on which the division's custody
- 1876 of the offender was terminated.
- 1877 (3) The offenses that qualify for a 10-year petition for an order of removal from the registry
- 1878 referenced in Subsection (1) are:
- 1879 (a) a felony violation of enticing a minor under Section 76-4-401, if the offender enticed
- 1880 the minor to engage in sexual activity that is one of the offenses described in
- 1881 Subsections (3)(b) through (v);
- 1882 (b) aggravated child abuse under Subsection 76-5-109.2(3)(a) or (b);
- 1883 (c) human trafficking for labor under Section 76-5-308;
- 1884 (d) human smuggling under Section 76-5-308.3;
- 1885 (e) human trafficking of a child for labor under Subsection 76-5-308.5(4)(a);
- 1886 (f) aggravated human trafficking for labor under Section 76-5-310;
- 1887 (g) aggravated human smuggling under Section 76-5-310.1;
- 1888 (h) human trafficking of a vulnerable adult for labor under Section 76-5-311;
- 1889 (i) a felony violation of unlawful sexual activity with a minor under Section 76-5-401, if,
- 1890 at the time of the offense, the offender is more than 10 years older than the victim;
- 1891 (j) sexual abuse of a minor under Section 76-5-401.1, if, at the time of the offense, the
- 1892 offender is more than 10 years older than the victim;
- 1893 (k) unlawful sexual conduct with a 16 or 17 year old under Section 76-5-401.2, if, at the
- 1894 time of the offense, the offender is more than 15 years older than the victim;
- 1895 (l) forcible sexual abuse under Section 76-5-404;
- 1896 (m) custodial sexual relations under Section 76-5-412, if the victim in custody is
- 1897 younger than 18 years old and the offense is committed on or after May 10, 2011;
- 1898 (n) sexual exploitation of a vulnerable adult under Section 76-5b-202;

- 1899 (o) sexual extortion under Subsection 76-5b-204(2)(a);
 1900 (p) incest under Section 76-7-102;
 1901 (q) four convictions of lewdness under Section 76-9-702;
 1902 (r) four convictions of sexual battery under Section 76-9-702.1;
 1903 (s) any combination of convictions of lewdness under Section 76-9-702, and of sexual
 1904 battery under Section 76-9-702.1, that total four convictions;
 1905 (t) lewdness involving a child under Section 76-9-702.5;
 1906 (u) a felony violation of voyeurism under Section 76-9-702.7;
 1907 (v) aggravated exploitation of prostitution under Section 76-10-1306, committed on or
 1908 before May 9, 2011;
 1909 (w) attempting, soliciting, or conspiring to commit an offense listed in Subsections
 1910 (3)(a) through (w) if the attempt, solicitation, or conspiracy is a registrable offense;
 1911 (x) attempting, soliciting, or conspiring to commit a felony violation of:
 1912 (i) child kidnapping under Section 76-5-301.1, if the offender was not the natural
 1913 parent of the child victim;
 1914 (ii) rape under Section 76-5-402;
 1915 (iii) rape of a child under Section 76-5-402.1;
 1916 (iv) object rape under Section 76-5-402.2;
 1917 (v) object rape of a child under Section 76-5-402.3;
 1918 (vi) sodomy on a child under Section 76-5-403.1;
 1919 (vii) aggravated sexual abuse of a child under Section 76-5-404.3; or
 1920 (viii) aggravated sexual assault under Section 76-5-405; or
 1921 (y) an offense described in Subsection 53-29-203(1)(b) that would otherwise be subject
 1922 to a 20-year petition for removal as described in Section 53-29-206, if:
 1923 (i) the sentencing court determines that the offender was under 21 years old at the
 1924 time the offense was committed; and
 1925 (ii) the offense did not involve force or coercion as described in Subsection
 1926 53-29-203(3).
 1927 (4) An individual who is as an offender under Section 53-29-202 based on a conviction in
 1928 an external jurisdiction for a registrable offense, or a substantially equivalent offense,
 1929 and is required to register on the external jurisdiction's sex, kidnap, or child abuse
 1930 offender registry, or an equivalent registry, may petition for removal from the registry in
 1931 accordance with the requirements of this section if the individual:
 1932 (a) does not have a lifetime registration requirement on the external jurisdiction's sex,

- 1933 kidnap, or child abuse offender registry, or an equivalent registry;
- 1934 (b) meets the requirements described in Subsections (1)(a) through (c);
- 1935 (c) has resided in this state for at least 183 days in a year for two consecutive years; and
- 1936 (d) intends to primarily reside in this state.
- 1937 Section 22. Section **53-29-206** is enacted to read:
- 1938 **53-29-206 . Twenty-year petition for removal from registry -- Eligibility.**
- 1939 (1) An offender who is required to register on the registry for a registrable offense subject
- 1940 to a lifetime registration period described in Subsection 53-29-203(1)(b) is eligible to
- 1941 petition the court under Section 53-29-207 for an order of removal from the registry at a
- 1942 20-year entrance into the community period described in Subsection (2) if:
- 1943 (a) the offender has not been convicted of another offense that is a class A misdemeanor,
- 1944 felony, or capital felony within the most recent 20-year period after the date
- 1945 described in Subsection (2), as evidenced by a certificate of eligibility issued by the
- 1946 bureau;
- 1947 (b) the offender successfully completed all treatment ordered by the court or the Board
- 1948 of Pardons and Parole relating to the offense;
- 1949 (c) the offender has paid all restitution ordered by the court or the Board of Pardons and
- 1950 Parole relating to the offense; and
- 1951 (d) the offender submits to an evidence-based risk assessment that:
- 1952 (i) meets the standards for the current risk assessment, score, and risk level required
- 1953 by the Board of Pardons and Parole for parole termination requests;
- 1954 (ii) is completed within the six months before the date on which the petition is filed;
- 1955 and
- 1956 (iii) describes the evidence-based risk assessment of the current level of risk to the
- 1957 safety of the public posed by the offender.
- 1958 (2) An offender who qualifies under Subsection (1) may petition the court under Section
- 1959 53-29-207 for an order of removal from the registry if 20 years have passed after the
- 1960 later of the following events in which the offender has entered into the community:
- 1961 (a) the day on which the offender was placed on probation;
- 1962 (b) the day on which the offender was released from incarceration to parole;
- 1963 (c) the day on which the offender's sentence was terminated without parole;
- 1964 (d) the day on which the offender entered a community-based residential program; or
- 1965 (e) for a minor, as defined in Section 80-1-102, the day on which the division's custody
- 1966 of the offender was terminated.

1967 (3) An individual who is as an offender under Section 53-29-202 based on a conviction in
 1968 an external jurisdiction for a registrable offense or a substantially equivalent offense,
 1969 and is required to register on the external jurisdiction's sex, kidnap, or child abuse
 1970 offender registry, or an equivalent registry, may petition for removal from the registry in
 1971 accordance with the requirements of this section if the individual:

- 1972 (a) is required to register on the external jurisdiction's sex, kidnap, or child abuse
 1973 offender registry, or an equivalent registry, for the individual's lifetime;
 1974 (b) meets the requirements described in Subsections (1)(a) through (d);
 1975 (c) has resided in this state for at least 183 days in a year for two consecutive years; and
 1976 (d) intends to primarily reside in this state.

1977 Section 23. Section **53-29-207** is enacted to read:

1978 **53-29-207 . Process to petition for removal from registry -- Offender, bureau,**
 1979 **court, and prosecutor responsibilities.**

1980 (1) Before an an offender who is eligible to petition for an order of removal from the
 1981 registry as described in Section 53-29-204, 53-29-205, or 53-29-206 may file a petition
 1982 with the court for an order of removal from the registry, the offender shall apply to the
 1983 bureau for a certificate of eligibility for removal from the registry that states that the
 1984 offender has met certain qualifications for removal.

1985 (2) After the bureau receives an offender's application for a certificate of eligibility for
 1986 removal from the registry, the bureau shall:

- 1987 (a) perform a check of records of governmental agencies, including national criminal
 1988 databases, to determine whether an offender meets the requirements described in:
 1989 (i) Subsection 53-29-204(1), if the offender is seeking a five-year petition for
 1990 removal;
 1991 (ii) Subsections 53-29-205(1) and (2), if the offender is seeking a 10-year petition for
 1992 removal; or
 1993 (iii) Subsections 53-29-206(1) and (2), if the offender is seeking a 20-year petition
 1994 for removal; and
 1995 (b) if the bureau determines that the offender meets the requirements described in
 1996 Subsection (2)(a), issue a certificate of eligibility for removal from the registry to the
 1997 offender, which is valid for 90 days after the day on which the bureau issues the
 1998 certificate.

1999 (3)(a) After an offender has received the certificate of eligibility for removal from the
 2000 registry described in Subsection (2), the offender may petition the court for an order

- 2001 of removal from the registry, and shall include in the petition:
- 2002 (i) the original information or indictment regarding the registrable offense that the
- 2003 offender committed;
- 2004 (ii) the court docket; and
- 2005 (iii) the certificate of eligibility for removal from the registry.
- 2006 (b) An offender who files a petition with the court as described in Subsection (3)(a) shall
- 2007 provide a copy of the petition to the prosecutor.
- 2008 (4) A prosecutor, upon receipt of the petition described in Subsection (3), shall:
- 2009 (a) provide notice of the petition by first-class mail to the victim at the most recent
- 2010 address of record on file or, if the victim is still a minor under 18 years old, to the
- 2011 parent or guardian of the victim, that includes:
- 2012 (i) a copy of the petition;
- 2013 (ii) an explanation that the victim has a right to object to the removal of the offender
- 2014 from the registry or make other recommendations to the court; and
- 2015 (iii) instructions for how the victim can file an objection or recommendation with the
- 2016 court; and
- 2017 (b) provide the following, if available, to the court within 30 days after the day on which
- 2018 the prosecutor receives the petition:
- 2019 (i) the presentencing report created for the offender based on the registrable offense
- 2020 committed by the offender;
- 2021 (ii) any evaluation done as part of sentencing for the registrable offense; and
- 2022 (iii) other information the prosecutor determines the court should consider.
- 2023 (5) A victim, or the victim's parent or guardian if the victim is a minor under 18 years old,
- 2024 may respond to a petition described in Subsection (3) by filing a recommendation or
- 2025 objection with the court within 45 days after the day on which the petition is mailed to
- 2026 the victim.
- 2027 (6)(a) A court receiving a petition under this section shall:
- 2028 (i) review the petition and all documents submitted with the petition; and
- 2029 (ii) hold a hearing if requested by the prosecutor or the victim.
- 2030 (b)(i) Except as provided in Subsection (6)(b)(ii) or (iii), the court may grant the
- 2031 petition for removal and order the removal of the offender from the registry if the
- 2032 court determines that the offender has met the requirements for issuance of a
- 2033 certificate of eligibility for removal issued under Subsection (2) and removal is
- 2034 not contrary to the interests of the public.

- 2035 (ii) When considering a petition filed by an offender subject to a lifetime registration
2036 requirement and eligible for a 20-year petition for removal from the registry as
2037 described in Section 53-29-206, the court shall determine whether the offender has
2038 demonstrated, by clear and convincing evidence, that the offender is rehabilitated
2039 and does not pose a threat to the safety of the public.
- 2040 (iii) In making the determination described in Subsection (6)(b)(ii), the court may
2041 consider:
- 2042 (A) the nature and degree of violence involved in the registrable offense;
2043 (B) the age and number of victims of the registrable offense;
2044 (C) the age of the offender at the time the registrable offense was committed;
2045 (D) the offender's performance while on supervision for the registrable offense;
2046 (E) the offender's stability in employment and housing;
2047 (F) the offender's community and personal support system;
2048 (G) other criminal and relevant noncriminal behavior of the offender both before
2049 and after the offender committed the registrable offense;
2050 (H) if applicable, the level of risk posed by the offender as evidenced by the
2051 evidence-based risk assessment described in Subsection 53-29-206(1)(d); and
2052 (I) any other relevant factors.
- 2053 (c) In determining whether removal from the registry is contrary to the interests of the
2054 public, the court may not consider removal unless the offender has substantially
2055 complied with all registration requirements under this chapter at all times.
- 2056 (d) If the court grants the petition, the court shall forward a copy of the order directing
2057 removal of the offender from the registry to the department and the office of the
2058 prosecutor.
- 2059 (e)(i) Except as provided in Subsection (6)(e)(ii), if the court denies the petition, the
2060 offender may not submit another petition for three years after the day on which the
2061 court denied the petition.
- 2062 (ii) If the offender is an offender subject to a lifetime registration requirement and
2063 eligible for a 20-year petition for removal from the registry as described in Section
2064 53-29-206 and files a petition for removal that is denied by the court, the offender
2065 may not submit another petition for eight years after the day on which the court
2066 denied the petition.
- 2067 (f) The court shall notify the victim and the registry office of the court's decision under
2068 this Subsection (6) within three days after the day on which the court issues the

2069 court's decision.

2070 (7)(a) An offender who intentionally or knowingly provides false or misleading
2071 information to the bureau when applying for a certificate of eligibility under this
2072 section is guilty of a class B misdemeanor and subject to prosecution under Section
2073 76-8-504.6.

2074 (b) The bureau may, even if the offender is not prosecuted for providing the false or
2075 misleading information, deny a certificate of eligibility to an offender who provides
2076 false or misleading information on an application.

2077 (8)(a)(i) The bureau shall charge application and issuance fees for a certificate of
2078 eligibility for removal from the registry under this section in accordance with the
2079 process in Section 63J-1-504.

2080 (ii) The application fee shall be paid at the time the offender submits an application to
2081 the bureau for a certificate of eligibility for removal from the registry.

2082 (iii) If the bureau determines that the issuance of a certificate of eligibility for
2083 removal from the registry is appropriate, the offender will be charged an
2084 additional fee for the issuance of the certificate.

2085 (b) Funds generated under this Subsection (8) shall be deposited into the General Fund
2086 as a dedicated credit by the department to cover the costs incurred in determining
2087 eligibility.

2088 Section 24. Section **53-29-301** is enacted to read:

2089 **Part 3. Offender, Court, and Law Enforcement Responsibilities**

2090 **53-29-301 . Definitions.**

2091 As used in this part:

2092 (1) "Business day" means a day on which state offices are open for regular business.

2093 (2) "Correctional facility" means:

2094 (a) a county jail;

2095 (b) a secure correctional facility as defined by Section 64-13-1; or

2096 (c) a secure care facility as defined in Section 80-1-102.

2097 (3) "Secondary residence" means real property that an offender owns or has a financial
2098 interest in, or a location where the offender stays overnight a total of 10 or more nights
2099 in a 12-month period when not staying at the offender's primary residence.

2100 Section 25. Section **53-29-302** is enacted to read:

2101 **53-29-302 . Law enforcement and agency responsibilities related to the registry.**

2102 (1) A law enforcement agency shall, in the manner prescribed by the department, inform

- 2103 the department of:
- 2104 (a) the receipt of a report or complaint of a registrable offense, within three business
- 2105 days after the day on which the law enforcement agency received the report or
- 2106 complaint; and
- 2107 (b) the arrest of an individual suspected of a registrable offense, within five business
- 2108 days after the day on which the law enforcement agency arrested the individual.
- 2109 (2) The Department of Corrections shall register an offender in the custody of the
- 2110 Department of Corrections with the department upon:
- 2111 (a) placement on probation;
- 2112 (b) commitment to a secure correctional facility operated by or under contract with the
- 2113 Department of Corrections;
- 2114 (c) release from confinement to parole status, termination or expiration of sentence, or
- 2115 escape;
- 2116 (d) entrance to and release from any community-based residential program operated by
- 2117 or under contract with the Department of Corrections; or
- 2118 (e) termination of probation or parole.
- 2119 (3) The sheriff of the county in which an offender is confined shall register an offender with
- 2120 the department, as required under this chapter, if the offender is not in the custody of the
- 2121 Department of Corrections and is confined in a correctional facility not operated by or
- 2122 under contract with the Department of Corrections upon:
- 2123 (a) commitment to the correctional facility; and
- 2124 (b) release from confinement.
- 2125 (4)(a) Except as provided in Subsection (4)(b), if an offender is sent on an assignment
- 2126 outside a secure facility, including being assigned for firefighting or disaster control,
- 2127 the official who has physical custody of the offender shall, within a reasonable time
- 2128 after the day of the offender's removal from the secure facility, notify the local law
- 2129 enforcement agencies where the offender is assigned.
- 2130 (b) Subsection (4)(a) does not apply to an offender temporarily released from a secure
- 2131 facility setting who is under the supervision of a correctional facility official.
- 2132 (5) The division shall register an offender in the custody of the division with the
- 2133 department, as required under this chapter, before the offender's release from custody of
- 2134 the division.
- 2135 (6) A state mental hospital shall register an offender committed to the state mental hospital
- 2136 with the department, as required under this chapter, upon the offender's admission and

- 2137 upon the offender's discharge.
- 2138 (7)(a) A municipal or county law enforcement agency shall register an offender who
2139 resides within the agency's jurisdiction and is not under the supervision of the
2140 Division of Adult Probation and Parole within the Department of Corrections.
- 2141 (b) A municipal or county law enforcement agency may conduct offender registration
2142 under this chapter, if the agency ensures that the agency's staff responsible for
2143 registration:
- 2144 (i) have received initial training by the department and have been certified by the
2145 department as qualified and authorized to conduct registrations and enter offender
2146 registration information into the registry database; and
- 2147 (ii) annually certifies with the department.
- 2148 (8) An agency in the state that registers with the department an offender on probation, an
2149 offender who has been released from confinement to parole status or termination, or an
2150 offender whose sentence has expired, shall inform the offender of the duty to comply
2151 with the continuing registration requirements of this chapter during the period of
2152 registration required in Section 53-29-203, including:
- 2153 (a) notification to the state agencies in the states where the registrant presently resides
2154 and plans to reside when moving across state lines;
- 2155 (b) verification of address at least every 60 days pursuant to a parole agreement for
2156 lifetime parolees; and
- 2157 (c) notification to the out-of-state agency where the offender is living, regardless of
2158 whether the offender is a resident of that state.
- 2159 Section 26. Section **53-29-303** is enacted to read:
- 2160 **53-29-303 . Court responsibilities related to the registry.**
- 2161 (1) The court shall, after an offender is convicted of a registrable offense, within three
2162 business days after the day on which the conviction is entered, forward a signed copy of
2163 the judgment and sentence to the registry office.
- 2164 (2) Upon modifying, withdrawing, setting aside, vacating, or otherwise altering a
2165 conviction for a registrable offense, the court shall, within three business days, forward a
2166 signed copy of the order to the registry office.
- 2167 (3)(a) An offender may change the offender's name in accordance with Title 42,
2168 Chapter 1, Change of Name, if the name change is not contrary to the interests of the
2169 public.
- 2170 (b) Notwithstanding Section 42-1-2, an offender shall provide notice to the department

2171 at least 30 days before the day on which the hearing for the name change is held.
2172 (c) The court shall provide a copy of the order granting the offender's name change to
2173 the department within 10 days after the day on which the court issues the order.
2174 (d) If the court orders an offender's name to be changed, the department shall publish on
2175 the registration website the offender's former name and the offender's changed name
2176 as an alias.

2177 (4) Notwithstanding Title 63G, Chapter 2, Government Records Access and Management
2178 Act, information under Subsection (2) that is collected and released under Subsection
2179 53-29-404(3)(a) is public information, unless otherwise restricted under this chapter.

2180 (5) The department shall redact information regarding the identity or location of a victim
2181 from information provided under Subsection (2).

2182 Section 27. Section **53-29-304** is enacted to read:

2183 **53-29-304 . Offender responsibilities related to the registry.**

2184 (1) An offender shall:

2185 (a) if the offender is on probation or parole under the supervision of the Department of
2186 Corrections, register in person with the Division of Adult Probation and Parole; or
2187 (b) if the offender is not on probation or parole under the supervision of the Department
2188 of Corrections, register in person with the police department or sheriff's office that
2189 has jurisdiction over the area where the offender resides.

2190 (2) An offender registering under Subsection (1) shall register for the duration of the
2191 offender's applicable registration period described in Section 53-29-203:

2192 (a) each year during the month of the offender's date of birth;
2193 (b) during the month that is the sixth month after the offender's birth month; and
2194 (c) within three business days after the day on which there is a change of the offender's
2195 primary residence, any secondary residences, place of employment, vehicle
2196 information, or educational information described in Subsection (4).

2197 (3) An offender who enters this state from another jurisdiction is required to register with
2198 the department within 10 days after the day on which the offender enters the state,
2199 regardless of the offender's length of stay.

2200 (4)(a) When registering under Subsection (1), an offender shall provide the following
2201 information:

2202 (i) all names and aliases by which the offender is or has been known;
2203 (ii) the addresses of the offender's primary and secondary residences;
2204 (iii) a physical description, including the offender's date of birth, height, weight, eye

- 2205 color, and hair color;
- 2206 (iv) the make, model, color, year, plate number, and vehicle identification number of
- 2207 a vehicle or vehicles the offender owns or drives more than 12 times per year;
- 2208 (v) a current photograph of the offender;
- 2209 (vi) a set of fingerprints, if a set has not already been provided;
- 2210 (vii) a DNA specimen, taken in accordance with Section 53-10-404, if a set has not
- 2211 already been provided;
- 2212 (viii) telephone numbers and any other designations used by the offender for routing
- 2213 or self-identification in telephonic communications from fixed locations or
- 2214 cellular telephones;
- 2215 (ix) online identifiers and the addresses the offender uses for routing or
- 2216 self-identification in Internet communications or postings;
- 2217 (x) the name and Internet address of all websites on which the offender is registered
- 2218 using an online identifier, including all online identifiers used to access those
- 2219 websites;
- 2220 (xi) a copy of the offender's passport, if a passport has been issued to the offender;
- 2221 (xii) if the offender is an alien, all documents establishing the offender's immigration
- 2222 status;
- 2223 (xiii) all professional licenses that authorize the offender to engage in an occupation
- 2224 or carry out a trade or business, including any identifiers, such as numbers;
- 2225 (xiv) each educational institution in Utah at which the offender is employed or is a
- 2226 student, and a change of enrollment or employment status of the offender at an
- 2227 educational institution;
- 2228 (xv) the name, the telephone number, and the address of a place where the offender is
- 2229 employed or will be employed;
- 2230 (xvi) the name, the telephone number, and the address of a place where the offender
- 2231 works as a volunteer or will work as a volunteer; and
- 2232 (xvii) the offender's social security number.
- 2233 (b) The department shall redact information regarding the identity or location of a victim
- 2234 from information provided under Subsection (4)(a).
- 2235 (5) Notwithstanding Subsections (4)(a)(ix) and (x) and 53-29-404(7), an offender is not
- 2236 required to provide the department with:
- 2237 (a) the offender's online identifier and password used exclusively for the offender's
- 2238 employment on equipment provided by an employer and used to access the

- 2239 employer's private network; or
- 2240 (b) online identifiers for the offender's financial accounts, including a bank, retirement,
- 2241 or investment account.
- 2242 (6) Notwithstanding Title 77, Chapter 40a, Expungement of Criminal Records, an offender
- 2243 convicted of a registrable offense is required to register in accordance with this section
- 2244 unless the offender is removed from the registry under Section 53-29-207.
- 2245 (7) Except as provided in Subsection 53-29-404(7), in the case of an offender adjudicated in
- 2246 another jurisdiction as a juvenile and required to register under this chapter, the offender
- 2247 shall register in the time period and in the frequency consistent with the requirements of
- 2248 Subsection (3).
- 2249 (8)(a) An offender required to register on the registry shall, in the month of the
- 2250 offender's birth:
- 2251 (i) pay to the department an annual fee of \$100 each year the offender is subject to
- 2252 the registration requirements of this chapter; and
- 2253 (ii) pay to the registering agency, if the registering agency is an agency other than the
- 2254 department, an annual fee of not more than \$25, which may be assessed by that
- 2255 agency for providing registration.
- 2256 (b) Notwithstanding Subsection (8)(a), an offender who is confined in a secure facility
- 2257 or in a state mental hospital is not required to pay the annual fee.
- 2258 (c) The department shall deposit fees collected in accordance with this chapter into the
- 2259 General Fund as a dedicated credit, to be used by the department for maintaining the
- 2260 offender registry under this chapter and monitoring offender registration compliance,
- 2261 including the costs of:
- 2262 (i) data entry;
- 2263 (ii) processing registration packets;
- 2264 (iii) updating registry information; and
- 2265 (iv) reporting an offender not in compliance with registration requirements to a law
- 2266 enforcement agency.

2267 Section 28. Section **53-29-305** is enacted to read:

2268 **53-29-305 . Failing to register or providing false or incomplete information --**

2269 **Penalties.**

- 2270 (1) An offender who knowingly fails to register under this chapter or provides false or
- 2271 incomplete information is guilty of:
- 2272 (a) a third degree felony and shall be sentenced to serve a term of incarceration of not

2273 less than 30 days and also at least one year of probation if:
 2274 (i) the offender is required to register for a registrable offense that is a felony or
 2275 adjudicated delinquent for a registrable offense committed before May 3, 2023,
 2276 that would be a felony if the juvenile were an adult; or
 2277 (ii) the offender is required to register for the offender's lifetime as described in
 2278 Subsection 53-29-203(1)(b); or
 2279 (b) a class A misdemeanor and shall be sentenced to serve a term of incarceration of not
 2280 less than 30 days and also at least one year of probation if the offender is required to
 2281 register for a misdemeanor conviction that is a registrable offense or is adjudicated
 2282 delinquent for a registrable offense committed before May 3, 2023, that would be a
 2283 misdemeanor if the juvenile were an adult.

2284 (2)(a) The court or Board of Pardons and Parole may not release an individual who
 2285 violates this chapter from serving the term required under Subsection (1).
 2286 (b) This Subsection (2) supersedes any other provision of the law contrary to this chapter.
 2287 (3) The offender shall register for an additional year for every year in which the offender
 2288 does not comply with the registration requirements of this chapter.

2289 Section 29. Section **53-29-306**, which is renumbered from Section 77-27-21.7 is renumbered
 2290 and amended to read:

2291 **[77-27-21.7] 53-29-306 . Sex offender restrictions.**

2292 (1) As used in this section:

2293 (a) "Condominium project" means the same as that term is defined in Section 57-8-3.

2294 (b) "Minor" means an individual who is younger than 18 years old[;] .

2295 (c)(i) "Protected area" means the premises occupied by:

2296 (A) a licensed day care or preschool facility;

2297 (B) a public swimming pool or a swimming pool maintained, operated, or owned
 2298 by a homeowners' association, condominium project, or apartment complex;

2299 (C) a public or private primary or secondary school that is not on the grounds of a
 2300 correctional facility;

2301 (D) a community park that is open to the public or a park maintained, operated, or
 2302 owned by a homeowners' association, condominium project, or apartment
 2303 complex;

2304 (E) a public playground or a playground maintained, operated, or owned by a
 2305 homeowners' association, condominium project, or apartment complex,
 2306 including those areas designed to provide minors with space, recreational

- 2307 equipment, or other amenities intended to allow minors to engage in physical
 2308 activity; and
- 2309 (F) except as provided in Subsection (1)(c)(ii), an area that is 1,000 feet or less
 2310 from the residence of a victim of the sex offender if the sex offender is subject
 2311 to a victim requested restriction.
- 2312 (ii) "Protected area" does not include:
- 2313 (A) the area described in Subsection (1)(c)(i)(F) if the victim is a member of the
 2314 immediate family of the sex offender and the terms of the sex offender's
 2315 agreement of probation or parole allow the sex offender to reside in the same
 2316 residence as the victim;
- 2317 (B) a park, playground, or swimming pool located on the property of a residential
 2318 home;
- 2319 (C) a park or swimming pool that prohibits minors at all times from using the park
 2320 or swimming pool; or
- 2321 (D) a park or swimming pool maintained, operated, or owned by a homeowners'
 2322 association, condominium project, or apartment complex established for
 2323 residents 55 years old or older if no minors are present at the park or swimming
 2324 pool at the time the sex offender is present at the park or swimming pool.
- 2325 ~~[(d) "Sex offender" means an adult or juvenile who is required to register in accordance~~
 2326 ~~with Title 77, Chapter 41, Sex, Kidnap, and Child Abuse Offender Registry, due to a~~
 2327 ~~conviction for an offense that is committed against a person younger than 18 years~~
 2328 ~~old.]~~
- 2329 (2) For purposes of Subsection (1)(c)(i)(F), a sex offender who has committed a registrable
 2330 offense against an individual younger than 18 years old is subject to a victim requested
 2331 restriction if:
- 2332 (a) the sex offender is on probation or parole for an offense that requires the offender to
 2333 register in accordance with ~~[Title 77, Chapter 41, Sex, Kidnap, and Child Abuse~~
 2334 ~~Offender Registry]~~ this chapter;
- 2335 (b) the victim or the victim's parent or guardian advises the ~~[Department of Public Safety]~~
 2336 department that the victim elects to restrict the sex offender from the area and
 2337 authorizes the ~~[Department of Public Safety]~~ department to advise the sex offender of
 2338 the area where the victim resides; and
- 2339 (c) the ~~[Department of Public Safety]~~ department notifies the sex offender in writing that
 2340 the sex offender is prohibited from being in the area described in Subsection

2341 (1)(c)(i)(F) and provides a description of the location of the protected area to the sex
2342 offender.

2343 (3) A sex offender who has committed a registrable offense against an individual younger
2344 than 18 years old may not:

2345 (a) be in a protected area except:

2346 (i) when the sex offender must be in a protected area to perform the sex offender's
2347 parental responsibilities;

2348 (ii)(A) when the protected area is a public or private primary or secondary school;
2349 and

2350 (B) the school is open and being used for a public activity other than a
2351 school-related function that involves a minor; or

2352 (iii)(A) if the protected area is a licensed day care or preschool facility located
2353 within a building that is open to the public for purposes other than the
2354 operation of the day care or preschool facility; and

2355 (B) the sex offender does not enter a part of the building that is occupied by the
2356 day care or preschool facility; or

2357 (b) serve as an athletic coach, manager, or trainer for a sports team of which a minor
2358 who is younger than 18 years old is a member.

2359 (4) A sex offender who violates this section is guilty of:

2360 (a) a class A misdemeanor; or

2361 (b) if previously convicted of violating this section within the last ten years, a third
2362 degree felony.

2363 Section 30. Section **53-29-307**, which is renumbered from Section 77-27-21.8 is renumbered
2364 and amended to read:

2365 **[77-27-21.8] 53-29-307 . Sex offender in presence of a child -- Definitions --**

2366a **Penalties.**

2366 (1) As used in this section:

2367 (a) "Accompany" means:

2368 (i) to be in the presence of an individual; and

2369 (ii) to move or travel with that individual from one location to another, whether
2370 outdoors, indoors, or in or on any type of vehicle.

2371 (b) "Child" means an individual younger than 14 years ~~[of age]~~ old.

2372 (2) A sex offender subject to registration in accordance with ~~[Title 77, Chapter 41, Sex,~~
2373 ~~Kidnap, and Child Abuse Offender Registry]~~ this chapter, for ~~[an]~~ a registrable offense

- 2374 committed or attempted to be committed against a child younger than 14 years [~~of age~~]
2375 old is guilty of a class A misdemeanor if the sex offender requests, invites, or solicits a
2376 child to accompany the sex offender, under circumstances that do not constitute an
2377 attempt to violate Section 76-5-301.1, child kidnapping, unless:
- 2378 (a)(i) the sex offender, prior to accompanying the child:
- 2379 (A) verbally advises the child's parent or legal guardian that the sex offender is on
2380 the state sex offender registry and is required by state law to obtain written
2381 permission in order for the sex offender to accompany the child; and
- 2382 (B) requests that the child's parent or legal guardian provide written authorization
2383 for the sex offender to accompany the child, including the specific dates and
2384 locations;
- 2385 (ii) the child's parent or legal guardian has provided to the sex offender written
2386 authorization, including the specific dates and locations, for the sex offender to
2387 accompany the child; and
- 2388 (iii) the sex offender has possession of the written authorization and is accompanying
2389 the child only at the dates and locations specified in the authorization;
- 2390 (b) the child's parent or guardian has verbally authorized the sex offender to accompany
2391 the child either in the child's residence or on property appurtenant to the child's
2392 residence, but in no other locations; or
- 2393 (c) the child is the natural child of the sex offender, and the offender is not prohibited by
2394 any court order, or probation or parole provision, from contact with the child.
- 2395 (3)(a) A sex offender convicted of a violation of Subsection (2) is subject to registration
2396 in accordance with [~~Title 77, Chapter 41, Sex, Kidnap, and Child Abuse Offender~~
2397 ~~Registry~~] this chapter, for an additional five years subsequent to the required
2398 registration [~~under Section 77-41-105~~] described in Section 53-29-203.
- 2399 (b) The period of additional registration imposed under Subsection (3)(a) is also in
2400 addition to any period of registration imposed under Subsection [~~77-41-107(3)~~]
2401 53-29-305(3) for failure to comply with registration requirements.
- 2402 (4) It is not a defense to a prosecution under this section that the defendant mistakenly
2403 believed the individual to be 14 years [~~of age~~] old or older at the time of the offense or
2404 was unaware of the individual's true age.
- 2405 (5) This section does not apply if a sex offender is acting to rescue a child who is in an
2406 emergency and life-threatening situation.
- 2407 Section 31. Section **53-29-401** is enacted to read:

2408 **Part 4. Department Functions Related to the Registry**2409 **53-29-401 . Definitions.**2410 Reserved.2411 Section 32. Section **53-29-402** is enacted to read:2412 **53-29-402 . Department responsibilities related to the registry.**2413 (1) The department shall:2414 (a) maintain the registration website;2415 (b) ensure that the registration information collected regarding an offender's enrollment
2416 or employment at an educational institution is:2417 (i)(A) promptly made available to any law enforcement agency that has2418 jurisdiction where the institution is located if the educational institution is an
2419 institution of higher education; or2420 (B) promptly made available to the district superintendent of the school district2421 where the offender is employed if the educational institution is an institution of
2422 primary education; and2423 (ii) entered into the appropriate state records or data system; and2424 (c) make available to an offender the name of the local law enforcement agency or state
2425 agency that the offender should contact to register, the location for registering, and
2426 the requirements of registration.2427 (2)(a) When the department receives offender registration information regarding a2428 change of an offender's primary residence, the department shall, within five days2429 after the day on which the department receives the information, electronically notify2430 the law enforcement agencies that have jurisdiction over the area where:2431 (i) the residence that the offender is leaving is located; and2432 (ii) the residence to which the offender is moving is located.2433 (b) The department shall provide notification under Subsection (2)(a) if the offender's
2434 change of address is:2435 (i) between law enforcement agency jurisdictions; or2436 (ii) within one law enforcement agency jurisdiction.2437 (3) The department may make administrative rules necessary to implement this chapter,2438 including:2439 (a) the method for dissemination of the information; and2440 (b) instructions to the public regarding the use of the information.2441 Section 33. Section **53-29-403** is enacted to read:

2442 **53-29-403 . Intervention in legal action by the department.**

- 2443 (1) Subject to Subsection (2), the department may intervene in any matter, including a
2444 criminal action, where the matter purports to affect an individual's registration
2445 requirements under this chapter.
- 2446 (2) The department may only file a motion to intervene under Subsection (1) within 60 days
2447 after the day on which:
- 2448 (a) the sentencing court enters a judgment or sentence against an individual for a
2449 registrable offense, if the details of the written plea agreement, judgment, or sentence
2450 indicate that the individual's registration requirements under this chapter could be
2451 affected; or
- 2452 (b) a court modifies, withdraws, sets aside, vacates, or otherwise alters an individual's
2453 conviction for a registrable offense, affecting the individual's registration requirement
2454 under this chapter if the written plea agreement, judgment, or sentence entered at the
2455 time the individual was sentenced did not indicate that the individual's registration
2456 requirement could be affected.

2457 Section 34. Section **53-29-404** is enacted to read:

2458 **53-29-404 . Sex, Kidnap, and Child Abuse Offender Notification and**
2459 **Registration website.**

- 2460 (1) The department shall maintain a Sex, Kidnap, and Child Abuse Offender Notification
2461 and Registration website on the Internet available to the public.
- 2462 (2) The registration website shall be indexed by both the surname of the offender and by
2463 postal codes.
- 2464 (3)(a) Except as provided in Subsection (3)(b), the registration website shall include the
2465 following information:
- 2466 (i) all names and aliases by which the offender is or has been known, but not
2467 including any online identifiers;
- 2468 (ii) the addresses of the offender's primary, secondary, and temporary residences;
- 2469 (iii) a physical description, including the offender's date of birth, height, weight, eye
2470 color, and hair color;
- 2471 (iv) the make, model, color, year, and plate number of any vehicle or vehicles the
2472 offender owns or regularly drives;
- 2473 (v) a current photograph of the offender;
- 2474 (vi) a list of all professional licenses that authorize the offender to engage in an
2475 occupation or carry out a trade or business;

- 2476 (vii) each educational institution in Utah at which the offender is employed or is a
2477 student;
- 2478 (viii) a list of places where the offender works as a volunteer;
- 2479 (ix) any registrable offenses for which the offender has been convicted or
2480 adjudicated; and
- 2481 (x) other relevant identifying information of the offender as determined by the
2482 department.
- 2483 (b) The department shall redact any information the department receives under
2484 Subsection (3)(a) that, if disclosed, could reasonably identify a victim.
- 2485 (4)(a) The department shall enable the public to search the registration website to
2486 determine if the following search criteria are linked to an offender:
- 2487 (i) telephone numbers or other designations for an offender provided under
2488 Subsection 53-29-304(4)(a)(vii);
- 2489 (ii) online identifiers or other addresses for an offender provided under Subsection
2490 53-29-304(4)(a)(ix); and
- 2491 (iii) names and Internet addresses of websites on which an offender is registered
2492 using an online identifier, including the online identifier used to access the
2493 website.
- 2494 (b) The department shall ensure that a search performed using the criteria in Subsection
2495 (4)(a):
- 2496 (i) provides the individual requesting the search with only information regarding
2497 whether the criteria are linked to an offender; and
- 2498 (ii) does not return the name or any other identifying information about an offender.
- 2499 (c) The department is not required to:
- 2500 (i) report the results of the search under Subsection (4)(a) to a law enforcement
2501 agency; or
- 2502 (ii) based on the results of a search under Subsection (4)(a), open an investigation.
- 2503 (5)(a) Subject to Subsection (5)(b), the department shall place a disclaimer on the
2504 registration website informing the public that:
- 2505 (i) the information contained on the site is obtained from offenders and the
2506 department does not guarantee the information's accuracy or completeness;
- 2507 (ii) members of the public are not allowed to use the information to harass or threaten
2508 an offender or a member of an offender's family; and
- 2509 (iii) harassment, stalking, or threats against an offender or an offender's family are

- 2510 prohibited and may violate Utah criminal laws.
- 2511 (b) Before a user may access the registry website, the department shall require the user
2512 to indicate that the user has read the disclaimer, understands the disclaimer, and
2513 agrees to comply with the disclaimer's terms.
- 2514 (6)(a) If an offender was under 18 years old at the time of committing a registrable
2515 offense described in Subsection 53-29-202(1)(a), (c), or (f), and as a result is required
2516 to register on the registry, the department shall maintain, but not publish, the
2517 offender's information on the registration website.
- 2518 (b)(i) If, based on the information provided to the department by the sentencing
2519 court, prosecuting entity, offender, or offender's counsel, the department cannot
2520 determine whether the offender is eligible for an exemption to publication on the
2521 registration website as described in Subsection (6)(a), the department shall
2522 continue to publish the offender's information on the registration website.
- 2523 (ii) Information may be provided to the department at any time in order to clarify the
2524 offender's age at the time the offender committed the registrable offense.
- 2525 (iii) This section does not prohibit the department from seeking or receiving
2526 information from individuals or entities other than those identified in Subsection
2527 (6)(b)(i).
- 2528 (c) This Subsection (6):
- 2529 (i) applies to an offender with a registration requirement on or after May 3, 2023,
2530 regardless of when the offender was first required to register; and
- 2531 (ii) does not apply to an offender who is required to register for the offender's lifetime
2532 due to the offender being convicted of two or more registrable offenses or being
2533 convicted of one registrable offense and, at the time of the conviction for the
2534 registrable offense, being previously required to register as an offender for an
2535 offense committed as a juvenile as described in Subsection 53-29-203(1)(b).
- 2536 (7) In the case of an offender adjudicated in an external jurisdiction as a juvenile and
2537 required to register under this chapter the department shall maintain, but not publish, the
2538 offender's information on the registration website if the external jurisdiction where the
2539 juvenile offender was adjudicated does not publish the juvenile offender's information
2540 on a public website.
- 2541 (8) Any information in the department's possession not listed in Subsection (3)(a) that is not
2542 available to the public shall be shared:
- 2543 (a) for a purpose under this chapter; or

2544 (b) in accordance with Section 63G-2-206.

2545 Section 35. Section **53-29-405** is enacted to read:

2546 **53-29-405 . Removal for offenses or convictions for which registration is no**
2547 **longer required.**

2548 (1) The department shall automatically remove an individual who is currently on the
2549 registry if:

2550 (a) the only offense or offenses for which the individual is on the registry are listed in
2551 Subsection (2); or

2552 (b) the department receives a formal notification or order from the court or the Board of
2553 Pardons and Parole that the conviction for the registrable offense for which the
2554 individual is on the registry has been reversed, vacated, or pardoned.

2555 (2) The offenses described in Subsection (1)(a) are:

2556 (a) a class B or class C misdemeanor for enticing a minor under Section 76-4-401;

2557 (b) kidnapping under Subsection 76-5-301(2)(a) or (b);

2558 (c) child kidnapping under Section 76-5-301.1, if the offender was the natural parent of
2559 the child victim;

2560 (d) unlawful detention under Section 76-5-304;

2561 (e) a third degree felony for unlawful sexual intercourse before 1986, or a class B
2562 misdemeanor for unlawful sexual intercourse, under Section 76-5-401; or

2563 (f) sodomy, but not forcible sodomy, under Section 76-5-403.

2564 (3) The department shall notify an individual who has been removed from the registry in
2565 accordance with Subsection (1) and inform the individual in the notice that the
2566 individual is no longer required to register as an offender.

2567 (4) An individual who is currently on the registry may submit a request to the department to
2568 be removed from the registry if the individual believes that the individual qualifies for
2569 removal under Subsection (1).

2570 (5) The department, upon receipt of a request for removal from the registry in accordance
2571 with this section, shall:

2572 (a) check the registry for the individual's current status;

2573 (b) determine whether the individual qualifies for removal based upon this section; and

2574 (c) notify the individual in writing of the department's determination and whether the
2575 individual:

2576 (i) qualifies for removal from the registry; or

2577 (ii) does not qualify for removal.

2578 (6) If the department determines that the individual qualifies for removal from the registry,
 2579 the department shall remove the offender from the registry.

2580 (7)(a) If the department determines that the individual does not qualify for removal
 2581 from the registry, the department shall provide an explanation in writing for the
 2582 department's determination.

2583 (b) The department's determination under Subsection (7)(a) is final and not subject to
 2584 administrative review.

2585 (8) The department or an employee of the department is not civilly liable for a
 2586 determination made in good faith in accordance with this section.

2587 (9)(a) The department shall provide a response to a request for removal within 30 days
 2588 after the day on which the department receives the request.

2589 (b) If the response under Subsection (9)(a) cannot be provided within 30 days after the
 2590 day on which the department receives the request, the department shall notify the
 2591 individual that the response may be delayed up to 30 additional days.

2592 Section 36. Section **57-8-3** is amended to read:

2593 **57-8-3 . Definitions.**

2594 As used in this chapter:

2595 (1) "Assessment" means any charge imposed by the association, including:

2596 (a) common expenses on or against a unit owner pursuant to the provisions of the
 2597 declaration, bylaws, or this chapter; and

2598 (b) an amount that an association of unit owners assesses to a unit owner under
 2599 Subsection 57-8-43(9)(g).

2600 (2) "Association of unit owners" or "association" means all of the unit owners:

2601 (a) acting as a group in accordance with the declaration and bylaws; or

2602 (b) organized as a legal entity in accordance with the declaration.

2603 (3) "Building" means a building, containing units, and comprising a part of the property.

2604 (4) "Commercial condominium project" means a condominium project that has no
 2605 residential units within the project.

2606 (5) "Common areas and facilities" unless otherwise provided in the declaration or lawful
 2607 amendments to the declaration means:

2608 (a) the land included within the condominium project, whether leasehold or in fee
 2609 simple;

2610 (b) the foundations, columns, girders, beams, supports, main walls, roofs, halls,
 2611 corridors, lobbies, stairs, stairways, fire escapes, entrances, and exits of the building;

- 2612 (c) the basements, yards, gardens, parking areas, and storage spaces;
2613 (d) the premises for lodging of janitors or persons in charge of the property;
2614 (e) installations of central services such as power, light, gas, hot and cold water, heating,
2615 refrigeration, air conditioning, and incinerating;
2616 (f) the elevators, tanks, pumps, motors, fans, compressors, ducts, and in general all
2617 apparatus and installations existing for common use;
2618 (g) such community and commercial facilities as may be provided for in the declaration;
2619 and
2620 (h) all other parts of the property necessary or convenient to its existence, maintenance,
2621 and safety, or normally in common use.
- 2622 (6) "Common expenses" means:
2623 (a) all sums lawfully assessed against the unit owners;
2624 (b) expenses of administration, maintenance, repair, or replacement of the common areas
2625 and facilities;
2626 (c) expenses agreed upon as common expenses by the association of unit owners; and
2627 (d) expenses declared common expenses by this chapter, or by the declaration or the
2628 bylaws.
- 2629 (7) "Common profits," unless otherwise provided in the declaration or lawful amendments
2630 to the declaration, means the balance of all income, rents, profits, and revenues from the
2631 common areas and facilities remaining after the deduction of the common expenses.
- 2632 (8) "Condominium" means the ownership of a single unit in a multiunit project together
2633 with an undivided interest in common in the common areas and facilities of the property.
- 2634 (9) "Condominium plat" means a plat or plats of survey of land and units prepared in
2635 accordance with Section 57-8-13.
- 2636 (10) "Condominium project" means a real estate condominium project; a plan or project
2637 whereby two or more units, whether contained in existing or proposed apartments,
2638 commercial or industrial buildings or structures, or otherwise, are separately offered or
2639 proposed to be offered for sale. Condominium project also means the property when the
2640 context so requires.
- 2641 (11) "Condominium unit" means a unit together with the undivided interest in the common
2642 areas and facilities appertaining to that unit. Any reference in this chapter to a
2643 condominium unit includes both a physical unit together with its appurtenant undivided
2644 interest in the common areas and facilities and a time period unit together with its
2645 appurtenant undivided interest, unless the reference is specifically limited to a time

- 2646 period unit.
- 2647 (12) "Contractible condominium" means a condominium project from which one or more
2648 portions of the land within the project may be withdrawn in accordance with provisions
2649 of the declaration and of this chapter. If the withdrawal can occur only by the expiration
2650 or termination of one or more leases, then the condominium project is not a contractible
2651 condominium within the meaning of this chapter.
- 2652 (13) "Convertible land" means a building site which is a portion of the common areas and
2653 facilities, described by metes and bounds, within which additional units or limited
2654 common areas and facilities may be created in accordance with this chapter.
- 2655 (14) "Convertible space" means a portion of the structure within the condominium project,
2656 which portion may be converted into one or more units or common areas and facilities,
2657 including limited common areas and facilities in accordance with this chapter.
- 2658 (15) "Declarant" means all persons who execute the declaration or on whose behalf the
2659 declaration is executed. From the time of the recordation of any amendment to the
2660 declaration expanding an expandable condominium, all persons who execute that
2661 amendment or on whose behalf that amendment is executed shall also come within this
2662 definition. Any successors of the persons referred to in this subsection who come to
2663 stand in the same relation to the condominium project as their predecessors also come
2664 within this definition.
- 2665 (16) "Declaration" means the instrument by which the property is submitted to the
2666 provisions of this act, as it from time to time may be lawfully amended.
- 2667 (17) "Electrical corporation" means the same as that term is defined in Section 54-2-1.
- 2668 (18) "Expandable condominium" means a condominium project to which additional land or
2669 an interest in it may be added in accordance with the declaration and this chapter.
- 2670 (19) "Gas corporation" means the same as that term is defined in Section 54-2-1.
- 2671 (20) "Governing documents":
- 2672 (a) means a written instrument by which an association of unit owners may:
- 2673 (i) exercise powers; or
- 2674 (ii) manage, maintain, or otherwise affect the property under the jurisdiction of the
2675 association of unit owners; and
- 2676 (b) includes:
- 2677 (i) articles of incorporation;
- 2678 (ii) bylaws;
- 2679 (iii) a plat;

- 2680 (iv) a declaration of covenants, conditions, and restrictions; and
2681 (v) rules of the association of unit owners.
- 2682 (21) "Independent third party" means a person that:
2683 (a) is not related to the unit owner;
2684 (b) shares no pecuniary interests with the unit owner; and
2685 (c) purchases the unit in good faith and without the intent to defraud a current or future
2686 lienholder.
- 2687 (22) "Judicial foreclosure" means a foreclosure of a unit:
2688 (a) for the nonpayment of an assessment;
2689 (b) in the manner provided by law for the foreclosure of a mortgage on real property; and
2690 (c) as provided in this chapter.
- 2691 (23) "Leasehold condominium" means a condominium project in all or any portion of
2692 which each unit owner owns an estate for years in his unit, or in the land upon which
2693 that unit is situated, or both, with all those leasehold interests to expire naturally at the
2694 same time. A condominium project including leased land, or an interest in the land,
2695 upon which no units are situated or to be situated is not a leasehold condominium within
2696 the meaning of this chapter.
- 2697 (24) "Limited common areas and facilities" means those common areas and facilities
2698 designated in the declaration as reserved for use of a certain unit or units to the exclusion
2699 of the other units.
- 2700 (25) "Majority" or "majority of the unit owners," unless otherwise provided in the
2701 declaration or lawful amendments to the declaration, means the owners of more than
2702 50% in the aggregate in interest of the undivided ownership of the common areas and
2703 facilities.
- 2704 (26) "Management committee" means the committee as provided in the declaration charged
2705 with and having the responsibility and authority to make and to enforce all of the
2706 reasonable rules covering the operation and maintenance of the property.
- 2707 (27) "Management committee meeting" means a gathering of a management committee,
2708 whether in person or by means of electronic communication, at which the management
2709 committee can take binding action.
- 2710 (28)(a) "Means of electronic communication" means an electronic system that allows
2711 individuals to communicate orally in real time.
2712 (b) "Means of electronic communication" includes:
2713 (i) web conferencing;

- 2714 (ii) video conferencing; and
2715 (iii) telephone conferencing.
- 2716 (29) "Mixed-use condominium project" means a condominium project that has both
2717 residential and commercial units in the condominium project.
- 2718 (30) "Nonjudicial foreclosure" means the sale of a unit:
2719 (a) for the nonpayment of an assessment;
2720 (b) in the same manner as the sale of trust property under Sections 57-1-19 through
2721 57-1-34; and
2722 (c) as provided in this chapter.
- 2723 (31) "Par value" means a number of dollars or points assigned to each unit by the
2724 declaration. Substantially identical units shall be assigned the same par value, but units
2725 located at substantially different heights above the ground, or having substantially
2726 different views, or having substantially different amenities or other characteristics that
2727 might result in differences in market value, may be considered substantially identical
2728 within the meaning of this subsection. If par value is stated in terms of dollars, that
2729 statement may not be considered to reflect or control the sales price or fair market value
2730 of any unit, and no opinion, appraisal, or fair market transaction at a different figure may
2731 affect the par value of any unit, or any undivided interest in the common areas and
2732 facilities, voting rights in the unit owners' association, liability for common expenses, or
2733 right to common profits, assigned on the basis thereof.
- 2734 (32) "Period of administrative control" means the period of control described in Subsection
2735 57-8-16.5(1).
- 2736 (33) "Person" means an individual, corporation, partnership, association, trustee, or other
2737 legal entity.
- 2738 (34) "Political sign" means any sign or document that advocates:
2739 (a) the election or defeat of a candidate for public office; or
2740 (b) the approval or defeat of a ballot proposition.
- 2741 (35) "Property" means the land, whether leasehold or in fee simple, the building, if any, all
2742 improvements and structures thereon, all easements, rights, and appurtenances belonging
2743 thereto, and all articles of personal property intended for use in connection therewith.
- 2744 (36) "Protected area" means the same as that term is defined in Section [77-27-21.7]
2745 53-29-306.
- 2746 (37) "Record," "recording," "recorded," and "recorder" have the meaning stated in Chapter
2747 3, Recording of Documents.

- 2748 (38) "Rentals" or "rental unit" means:
- 2749 (a) a unit that:
- 2750 (i) is not owned by an entity or trust; and
- 2751 (ii) is occupied by an individual while the unit owner is not occupying the unit as the
- 2752 unit owner's primary residence; or
- 2753 (b) an occupied unit owned by an entity or trust, regardless of who occupies the unit.
- 2754 (39) "Size" means the number of cubic feet, or the number of square feet of ground or floor
- 2755 space, within each unit as computed by reference to the record of survey map and
- 2756 rounded off to a whole number. Certain spaces within the units including attic,
- 2757 basement, or garage space may be omitted from the calculation or be partially
- 2758 discounted by the use of a ratio, if the same basis of calculation is employed for all units
- 2759 in the condominium project and if that basis is described in the declaration.
- 2760 (40) "Time period unit" means an annually recurring part or parts of a year specified in the
- 2761 declaration as a period for which a unit is separately owned and includes a timeshare
- 2762 estate as defined in Section 57-19-2.
- 2763 (41) "Unconstructed unit" means a unit that:
- 2764 (a) is intended, as depicted in the condominium plat, to be fully or partially contained in
- 2765 a building; and
- 2766 (b) is not constructed.
- 2767 (42)(a) "Unit" means a separate part of the property intended for any type of
- 2768 independent use, which is created by the recording of a declaration and a
- 2769 condominium plat that describes the unit boundaries.
- 2770 (b) "Unit" includes one or more rooms or spaces located in one or more floors or a
- 2771 portion of a floor in a building.
- 2772 (c) "Unit" includes a convertible space, in accordance with Subsection 57-8-13.4(3).
- 2773 (43) "Unit number" means the number, letter, or combination of numbers and letters
- 2774 designating the unit in the declaration and in the record of survey map.
- 2775 (44) "Unit owner" means the person or persons owning a unit in fee simple and an
- 2776 undivided interest in the fee simple estate of the common areas and facilities in the
- 2777 percentage specified and established in the declaration or, in the case of a leasehold
- 2778 condominium project, the person or persons whose leasehold interest or interests in the
- 2779 condominium unit extend for the entire balance of the unexpired term or terms.
- 2780 (45) "Water wise landscaping" means:
- 2781 (a) installation of plant materials, suited to the microclimate and soil conditions, that can:

- 2782 (i) remain healthy with minimal irrigation once established; or
 2783 (ii) be maintained without the use of overhead spray irrigation;
- 2784 (b) use of water for outdoor irrigation through proper and efficient irrigation design and
 2785 water application; or
- 2786 (c) use of other landscape design features that:
- 2787 (i) minimize the landscape's need for supplemental water from irrigation;
 2788 (ii) reduce the landscape area dedicated to lawn or turf; or
 2789 (iii) encourage vegetative coverage.
- 2790 (46) "Water wise plant material" means a plant material suited to water wise landscaping.
 2791 Section 37. Section **57-8-8.1** is amended to read:
- 2792 **57-8-8.1 . Equal treatment by rules required -- Limits on rules.**
- 2793 (1)(a) Except as provided in Subsection (1)(b), a rule shall treat similarly situated unit
 2794 owners similarly.
- 2795 (b) Notwithstanding Subsection (1)(a), a rule may:
- 2796 (i) vary according to the level and type of service that the association of unit owners
 2797 provides to unit owners;
- 2798 (ii) differ between residential and nonresidential uses; or
 2799 (iii) for a unit that a unit owner leases for a term of less than 30 days, impose a
 2800 reasonable limit on the number of individuals that may use the common areas and
 2801 facilities as the rental unit tenant's guest or as the unit owner's guest.
- 2802 (2)(a) If a unit owner owns a rental unit and is in compliance with the association of
 2803 unit owners' governing documents and any rule that the association of unit owners
 2804 adopts under Subsection (5), a rule may not treat the unit owner differently because
 2805 the unit owner owns a rental unit.
- 2806 (b) Notwithstanding Subsection (2)(a), a rule may:
- 2807 (i) limit or prohibit a rental unit owner from using the common areas and facilities for
 2808 purposes other than attending an association meeting or managing the rental unit;
- 2809 (ii) if the rental unit owner retains the right to use the association of unit owners'
 2810 common areas and facilities, even occasionally:
- 2811 (A) charge a rental unit owner a fee to use the common areas and facilities; and
 2812 (B) for a unit that a unit owner leases for a term of less than 30 days, impose a
 2813 reasonable limit on the number of individuals that may use the common areas
 2814 and facilities as the rental unit tenant's guest or as the unit owner's guest; or
 2815 (iii) include a provision in the association of unit owners' governing documents that:

- 2816 (A) requires each tenant of a rental unit to abide by the terms of the governing
2817 documents; and
- 2818 (B) holds the tenant and the rental unit owner jointly and severally liable for a
2819 violation of a provision of the governing documents.
- 2820 (3)(a) A rule may not interfere with the freedom of a unit owner to determine the
2821 composition of the unit owner's household.
- 2822 (b) Notwithstanding Subsection (3)(a), an association of unit owners may:
- 2823 (i) require that all occupants of a dwelling be members of a single housekeeping unit;
2824 or
- 2825 (ii) limit the total number of occupants permitted in each residential dwelling on the
2826 basis of the residential dwelling's:
- 2827 (A) size and facilities; and
- 2828 (B) fair use of the common areas and facilities.
- 2829 (4) Unless contrary to a declaration, a rule may require a minimum lease term.
- 2830 (5) Unless otherwise provided in the declaration, an association of unit owners may by rule:
- 2831 (a) regulate the use, maintenance, repair, replacement, and modification of common
2832 areas and facilities;
- 2833 (b) impose and receive any payment, fee, or charge for:
- 2834 (i) the use, rental, or operation of the common areas, except limited common areas
2835 and facilities; and
- 2836 (ii) a service provided to a unit owner;
- 2837 (c) impose a charge for a late payment of an assessment; or
- 2838 (d) provide for the indemnification of the association of unit owners' officers and
2839 management committee consistent with Title 16, Chapter 6a, Utah Revised Nonprofit
2840 Corporation Act.
- 2841 (6)(a) Except as provided in Subsection (6)(b), a rule may not prohibit a unit owner
2842 from installing a personal security camera immediately adjacent to the entryway,
2843 window, or other outside entry point of the owner's condominium unit.
- 2844 (b) A rule may prohibit a unit owner from installing a personal security camera in a
2845 common area not physically connected to the owner's unit.
- 2846 (7)(a) A rule may not abridge the right of a unit owner to display a religious or holiday
2847 sign, symbol, or decoration inside the owner's condominium unit.
- 2848 (b) An association may adopt a reasonable time, place, and manner restriction with
2849 respect to a display that is visible from the exterior of a unit.

- 2850 (8)(a) A rule may not:
- 2851 (i) prohibit a unit owner from displaying in a window of the owner's condominium
- 2852 unit:
- 2853 (A) a for-sale sign; or
- 2854 (B) a political sign;
- 2855 (ii) regulate the content of a political sign; or
- 2856 (iii) establish design criteria for a political sign.
- 2857 (b) Notwithstanding Subsection (8)(a), a rule may reasonably regulate the size and time,
- 2858 place, and manner of posting a for-sale sign or a political sign.
- 2859 (9) For any area for which one or more unit owners are responsible for landscape
- 2860 maintenance, the association of unit owners:
- 2861 (a) shall adopt rules supporting water wise landscaping, including:
- 2862 (i) low water use requirements on lawns during drought conditions;
- 2863 (ii) design criterion for water wise landscaping; and
- 2864 (iii) limiting permissible plant material to specific water wise plant material;
- 2865 (b) may not prohibit low water use on lawns during drought conditions; and
- 2866 (c) may not prohibit or restrict the conversion of a grass park strip to water-efficient
- 2867 landscaping.
- 2868 (10) A rule may restrict a sex offender from accessing a protected area that is maintained,
- 2869 operated, or owned by the association, subject to the exceptions described in Subsection [
- 2870 ~~77-27-21.7(3)~~ 53-29-306(3).
- 2871 (11)(a) Except as provided in this Subsection (11), a rule may not prohibit a unit owner
- 2872 from making modifications, consistent with industry standards, for radon mitigation.
- 2873 (b) Subsection (11)(a) does not apply if the modifications would violate:
- 2874 (i) a local land use ordinance;
- 2875 (ii) a building code;
- 2876 (iii) a health code; or
- 2877 (iv) a fire code.
- 2878 (c) A rule governing the placement or external appearance of modifications may apply to
- 2879 modifications for radon mitigation unless the rule would:
- 2880 (i) unreasonably interfere with the modifications' functionality; or
- 2881 (ii) add more than 40% of the modifications' original cost to the cost of installing the
- 2882 modifications.
- 2883 (d) A rule may require that a unit owner making modifications related to radon

- 2884 mitigation:
- 2885 (i) demonstrate or provide proof of radon contamination; and
- 2886 (ii) provide proof that the modifications and any related construction will be
- 2887 performed by a licensed person.
- 2888 (12) A rule shall be reasonable.
- 2889 (13) A declaration, or an amendment to a declaration, may vary any of the requirements of
- 2890 Subsections (1) through (5), except Subsection (1)(b)(ii).
- 2891 (14) This section applies to an association of unit owners regardless of when the association
- 2892 of unit owners is created.
- 2893 Section 38. Section **57-8a-102** is amended to read:
- 2894 **57-8a-102 . Definitions.**
- 2895 As used in this chapter:
- 2896 (1)(a) "Assessment" means a charge imposed or levied:
- 2897 (i) by the association;
- 2898 (ii) on or against a lot or a lot owner; and
- 2899 (iii) pursuant to a governing document recorded with the county recorder.
- 2900 (b) "Assessment" includes:
- 2901 (i) a common expense; and
- 2902 (ii) an amount assessed against a lot owner under Subsection 57-8a-405(7).
- 2903 (2)(a) Except as provided in Subsection (2)(b), "association" means a corporation or
- 2904 other legal entity, any member of which:
- 2905 (i) is an owner of a residential lot located within the jurisdiction of the association, as
- 2906 described in the governing documents; and
- 2907 (ii) by virtue of membership or ownership of a residential lot is obligated to pay:
- 2908 (A) real property taxes;
- 2909 (B) insurance premiums;
- 2910 (C) maintenance costs; or
- 2911 (D) for improvement of real property not owned by the member.
- 2912 (b) "Association" or "homeowner association" does not include an association created
- 2913 under Chapter 8, Condominium Ownership Act.
- 2914 (3) "Board meeting" means a gathering of a board, whether in person or by means of
- 2915 electronic communication, at which the board can take binding action.
- 2916 (4) "Board of directors" or "board" means the entity, regardless of name, with primary
- 2917 authority to manage the affairs of the association.

- 2918 (5) "Common areas" means property that the association:
2919 (a) owns;
2920 (b) maintains;
2921 (c) repairs; or
2922 (d) administers.
- 2923 (6) "Common expense" means costs incurred by the association to exercise any of the
2924 powers provided for in the association's governing documents.
- 2925 (7) "Declarant":
2926 (a) means the person who executes a declaration and submits it for recording in the
2927 office of the recorder of the county in which the property described in the declaration
2928 is located; and
2929 (b) includes the person's successor and assign.
- 2930 (8) "Director" means a member of the board of directors.
- 2931 (9) "Electrical corporation" means the same as that term is defined in Section 54-2-1.
- 2932 (10) "Gas corporation" means the same as that term is defined in Section 54-2-1.
- 2933 (11)(a) "Governing documents" means a written instrument by which the association
2934 may:
2935 (i) exercise powers; or
2936 (ii) manage, maintain, or otherwise affect the property under the jurisdiction of the
2937 association.
- 2938 (b) "Governing documents" includes:
2939 (i) articles of incorporation;
2940 (ii) bylaws;
2941 (iii) a plat;
2942 (iv) a declaration of covenants, conditions, and restrictions; and
2943 (v) rules of the association.
- 2944 (12) "Independent third party" means a person that:
2945 (a) is not related to the owner of the residential lot;
2946 (b) shares no pecuniary interests with the owner of the residential lot; and
2947 (c) purchases the residential lot in good faith and without the intent to defraud a current
2948 or future lienholder.
- 2949 (13) "Judicial foreclosure" means a foreclosure of a lot:
2950 (a) for the nonpayment of an assessment;
2951 (b) in the manner provided by law for the foreclosure of a mortgage on real property; and

- 2952 (c) as provided in Part 3, Collection of Assessments.
- 2953 (14) "Lease" or "leasing" means regular, exclusive occupancy of a lot:
- 2954 (a) by a person or persons other than the owner; and
- 2955 (b) for which the owner receives a consideration or benefit, including a fee, service,
- 2956 gratuity, or emolument.
- 2957 (15) "Limited common areas" means common areas described in the declaration and
- 2958 allocated for the exclusive use of one or more lot owners.
- 2959 (16) "Lot" means:
- 2960 (a) a lot, parcel, plot, or other division of land:
- 2961 (i) designated for separate ownership or occupancy; and
- 2962 (ii)(A) shown on a recorded subdivision plat; or
- 2963 (B) the boundaries of which are described in a recorded governing document; or
- 2964 (b)(i) a unit in a condominium association if the condominium association is a part
- 2965 of a development; or
- 2966 (ii) a unit in a real estate cooperative if the real estate cooperative is part of a
- 2967 development.
- 2968 (17)(a) "Means of electronic communication" means an electronic system that allows
- 2969 individuals to communicate orally in real time.
- 2970 (b) "Means of electronic communication" includes:
- 2971 (i) web conferencing;
- 2972 (ii) video conferencing; and
- 2973 (iii) telephone conferencing.
- 2974 (18) "Mixed-use project" means a project under this chapter that has both residential and
- 2975 commercial lots in the project.
- 2976 (19) "Nonjudicial foreclosure" means the sale of a lot:
- 2977 (a) for the nonpayment of an assessment;
- 2978 (b) in the same manner as the sale of trust property under Sections 57-1-19 through
- 2979 57-1-34; and
- 2980 (c) as provided in Part 3, Collection of Assessments.
- 2981 (20) "Period of administrative control" means the period during which the person who filed
- 2982 the association's governing documents or the person's successor in interest retains
- 2983 authority to:
- 2984 (a) appoint or remove members of the association's board of directors; or
- 2985 (b) exercise power or authority assigned to the association under the association's

2986 governing documents.

2987 (21) "Political sign" means any sign or document that advocates:

2988 (a) the election or defeat of a candidate for public office; or

2989 (b) the approval or defeat of a ballot proposition.

2990 (22) "Protected area" means the same as that term is defined in Section 77-27-21.7.

2991 (23) "Rentals" or "rental lot" means:

2992 (a) a lot that:

2993 (i) is not owned by an entity or trust; and

2994 (ii) is occupied by an individual while the lot owner is not occupying the lot as the lot
2995 owner's primary residence;

2996 (b) an occupied lot owned by an entity or trust, regardless of who occupies the lot; or

2997 (c) an internal accessory dwelling unit as defined in Section 10-9a-530 or 17-27a-526.

2998 (24) "Residential lot" means a lot, the use of which is limited by law, covenant, or
2999 otherwise to primarily residential or recreational purposes.

3000 (25)(a) "Rule" means a policy, guideline, restriction, procedure, or regulation of an
3001 association that:

3002 (i) is not set forth in a contract, easement, article of incorporation, bylaw, or
3003 declaration; and

3004 (ii) governs:

3005 (A) the conduct of persons; or

3006 (B) the use, quality, type, design, or appearance of real property or personal
3007 property.

3008 (b) "Rule" does not include the internal business operating procedures of a board.

3009 (26) "Sex offender" means ~~[the same as that term is defined in Section 77-27-21.7]~~ an
3010 individual who is a sex offender as described in Subsection 53-29-202(2)(b) if the
3011 offense that the individual committed that resulted in the individual being a sex offender
3012 was committed against an individual younger than 18 years old.

3013 (27) "Solar energy system" means:

3014 (a) a system that is used to produce electric energy from sunlight; and

3015 (b) the components of the system described in Subsection (27)(a).

3016 Section 39. Section **57-8a-218** is amended to read:

3017 **57-8a-218 . Equal treatment by rules required -- Limits on association rules and**
3018 **design criteria.**

3019 (1)(a) Except as provided in Subsection (1)(b), a rule shall treat similarly situated lot

3020 owners similarly.

3021 (b) Notwithstanding Subsection (1)(a), a rule may:

3022 (i) vary according to the level and type of service that the association provides to lot
3023 owners;

3024 (ii) differ between residential and nonresidential uses; and

3025 (iii) for a lot that an owner leases for a term of less than 30 days, impose a reasonable
3026 limit on the number of individuals who may use the common areas and facilities
3027 as guests of the lot tenant or lot owner.

3028 (2)(a) If a lot owner owns a rental lot and is in compliance with the association's
3029 governing documents and any rule that the association adopts under Subsection (4), a
3030 rule may not treat the lot owner differently because the lot owner owns a rental lot.

3031 (b) Notwithstanding Subsection (2)(a), a rule may:

3032 (i) limit or prohibit a rental lot owner from using the common areas for purposes
3033 other than attending an association meeting or managing the rental lot;

3034 (ii) if the rental lot owner retains the right to use the association's common areas,
3035 even occasionally:

3036 (A) charge a rental lot owner a fee to use the common areas; or

3037 (B) for a lot that an owner leases for a term of less than 30 days, impose a
3038 reasonable limit on the number of individuals who may use the common areas
3039 and facilities as guests of the lot tenant or lot owner; or

3040 (iii) include a provision in the association's governing documents that:

3041 (A) requires each tenant of a rental lot to abide by the terms of the governing
3042 documents; and

3043 (B) holds the tenant and the rental lot owner jointly and severally liable for a
3044 violation of a provision of the governing documents.

3045 (3)(a) A rule criterion may not abridge the rights of a lot owner to display a religious or
3046 holiday sign, symbol, or decoration:

3047 (i) inside a dwelling on a lot; or

3048 (ii) outside a dwelling on:

3049 (A) a lot;

3050 (B) the exterior of the dwelling, unless the association has an ownership interest
3051 in, or a maintenance, repair, or replacement obligation for, the exterior; or

3052 (C) the front yard of the dwelling, unless the association has an ownership interest
3053 in, or a maintenance, repair, or replacement obligation for, the yard.

- 3054 (b) Notwithstanding Subsection (3)(a), the association may adopt a reasonable time,
3055 place, and manner restriction with respect to a display that is:
3056 (i) outside a dwelling on:
3057 (A) a lot;
3058 (B) the exterior of the dwelling; or
3059 (C) the front yard of the dwelling; and
3060 (ii) visible from outside the lot.
- 3061 (4)(a) A rule may not prohibit a lot owner from displaying a political sign:
3062 (i) inside a dwelling on a lot; or
3063 (ii) outside a dwelling on:
3064 (A) a lot;
3065 (B) the exterior of the dwelling, regardless of whether the association has an
3066 ownership interest in the exterior; or
3067 (C) the front yard of the dwelling, regardless of whether the association has an
3068 ownership interest in the yard.
- 3069 (b) A rule may not regulate the content of a political sign.
- 3070 (c) Notwithstanding Subsection (4)(a), a rule may reasonably regulate the time, place,
3071 and manner of posting a political sign.
- 3072 (d) An association design provision may not establish design criteria for a political sign.
- 3073 (5)(a) A rule may not prohibit a lot owner from displaying a for-sale sign:
3074 (i) inside a dwelling on a lot; or
3075 (ii) outside a dwelling on:
3076 (A) a lot;
3077 (B) the exterior of the dwelling, regardless of whether the association has an
3078 ownership interest in the exterior; or
3079 (C) the front yard of the dwelling, regardless of whether the association has an
3080 ownership interest in the yard.
- 3081 (b) Notwithstanding Subsection (5)(a), a rule may reasonably regulate the time, place,
3082 and manner of posting a for-sale sign.
- 3083 (6)(a) A rule may not interfere with the freedom of a lot owner to determine the
3084 composition of the lot owner's household.
- 3085 (b) Notwithstanding Subsection (6)(a), an association may:
3086 (i) require that all occupants of a dwelling be members of a single housekeeping unit;
3087 or

- 3088 (ii) limit the total number of occupants permitted in each residential dwelling on the
3089 basis of the residential dwelling's:
3090 (A) size and facilities; and
3091 (B) fair use of the common areas.
- 3092 (7)(a) A rule may not interfere with a reasonable activity of a lot owner within the
3093 confines of a dwelling or lot, including backyard landscaping or amenities, to the
3094 extent that the activity is in compliance with local laws and ordinances, including
3095 nuisance laws and ordinances.
- 3096 (b) Notwithstanding Subsection (7)(a), a rule may prohibit an activity within the
3097 confines of a dwelling or lot, including backyard landscaping or amenities, if the
3098 activity:
3099 (i) is not normally associated with a project restricted to residential use; or
3100 (ii)(A) creates monetary costs for the association or other lot owners;
3101 (B) creates a danger to the health or safety of occupants of other lots;
3102 (C) generates excessive noise or traffic;
3103 (D) creates unsightly conditions visible from outside the dwelling;
3104 (E) creates an unreasonable source of annoyance to persons outside the lot; or
3105 (F) if there are attached dwellings, creates the potential for smoke to enter another
3106 lot owner's dwelling, the common areas, or limited common areas.
- 3107 (c) If permitted by law, an association may adopt rules described in Subsection (7)(b)
3108 that affect the use of or behavior inside the dwelling.
- 3109 (8)(a) A rule may not, to the detriment of a lot owner and over the lot owner's written
3110 objection to the board, alter the allocation of financial burdens among the various lots.
- 3111 (b) Notwithstanding Subsection [~~(7)(b)~~] (8)(a), an association may:
3112 (i) change the common areas available to a lot owner;
3113 (ii) adopt generally applicable rules for the use of common areas; or
3114 (iii) deny use privileges to a lot owner who:
3115 (A) is delinquent in paying assessments;
3116 (B) abuses the common areas; or
3117 (C) violates the governing documents.
- 3118 (c) This Subsection (8) does not permit a rule that:
3119 (i) alters the method of levying assessments; or
3120 (ii) increases the amount of assessments as provided in the declaration.
- 3121 (9)(a) Subject to Subsection (9)(b), a rule may not:

- 3122 (i) prohibit the transfer of a lot; or
3123 (ii) require the consent of the association or board to transfer a lot.
- 3124 (b) Unless contrary to a declaration, a rule may require a minimum lease term.
- 3125 (10)(a) A rule may not require a lot owner to dispose of personal property that was in or
3126 on a lot before the adoption of the rule or design criteria if the personal property was
3127 in compliance with all rules and other governing documents previously in force.
- 3128 (b) The exemption in Subsection (10)(a):
- 3129 (i) applies during the period of the lot owner's ownership of the lot; and
3130 (ii) does not apply to a subsequent lot owner who takes title to the lot after adoption
3131 of the rule described in Subsection (10)(a).
- 3132 (11) A rule or action by the association or action by the board may not unreasonably
3133 impede a declarant's ability to satisfy existing development financing for community
3134 improvements and right to develop:
- 3135 (a) the project; or
3136 (b) other properties in the vicinity of the project.
- 3137 (12) A rule or association or board action may not interfere with:
- 3138 (a) the use or operation of an amenity that the association does not own or control; or
3139 (b) the exercise of a right associated with an easement.
- 3140 (13) A rule may not divest a lot owner of the right to proceed in accordance with a
3141 completed application for design review, or to proceed in accordance with another
3142 approval process, under the terms of the governing documents in existence at the time
3143 the completed application was submitted by the owner for review.
- 3144 (14) Unless otherwise provided in the declaration, an association may by rule:
- 3145 (a) regulate the use, maintenance, repair, replacement, and modification of common
3146 areas;
- 3147 (b) impose and receive any payment, fee, or charge for:
- 3148 (i) the use, rental, or operation of the common areas, except limited common areas;
3149 and
3150 (ii) a service provided to a lot owner;
- 3151 (c) impose a charge for a late payment of an assessment; or
3152 (d) provide for the indemnification of the association's officers and board consistent with
3153 Title 16, Chapter 6a, Utah Revised Nonprofit Corporation Act.
- 3154 (15) A rule may not prohibit a lot owner from installing a personal security camera
3155 immediately adjacent to the entryway, window, or other outside entry point of the

- 3156 owner's dwelling unit.
- 3157 (16)(a) For any area for which one or more lot owners are responsible for landscape
3158 maintenance of any landscaping within the lot owner's lot or the common areas, the
3159 association shall adopt rules supporting water wise landscaping as defined in Section
3160 57-8a-231 including:
- 3161 (i) low water use requirements on lawns during drought conditions;
 - 3162 (ii) design criterion for water wise landscaping; and
 - 3163 (iii) limiting permissible plant material to specific water wise plant material.
- 3164 (b) A rule may not:
- 3165 (i) prohibit or restrict the conversion of a grass park strip to water wise landscaping
3166 as defined in Section 57-8a-231; or
 - 3167 (ii) prohibit low water use on lawns during drought conditions.
- 3168 (17)(a) Except as provided in Subsection (17)(b), a rule may not prohibit the owner of a
3169 residential lot from constructing an internal accessory dwelling unit, as defined in
3170 Section 10-9a-530 or 17-27a-526, within the owner's residential lot.
- 3171 (b) Subsection (17)(a) does not apply if the construction would violate:
- 3172 (i) a local land use ordinance;
 - 3173 (ii) a building code;
 - 3174 (iii) a health code; or
 - 3175 (iv) a fire code.
- 3176 (18)(a) Except as provided in Subsection (18)(b), a rule may not prohibit the owner of a
3177 residential lot from making modifications, consistent with industry standards, for
3178 radon mitigation.
- 3179 (b) Subsection (18)(a) does not apply if the modifications would violate:
- 3180 (i) a local land use ordinance;
 - 3181 (ii) a building code;
 - 3182 (iii) a health code; or
 - 3183 (iv) a fire code.
- 3184 (c) A rule governing the placement or external appearance of modifications for radon
3185 mitigation does not apply to a lot owner's modifications if the rule would:
- 3186 (i) unreasonably interfere with the modifications' functionality; or
 - 3187 (ii) add more than 40% of the modifications' original cost to the cost of installing the
3188 modifications.
- 3189 (d) A rule may require that a lot owner making modifications related to radon mitigation:

- 3190 (i) demonstrate or provide proof of radon contamination; and
 3191 (ii) provide proof that the modifications and any related construction will be
 3192 performed by a licensed person.
- 3193 (19) A rule may restrict a sex offender from accessing a protected area that is maintained,
 3194 operated, or owned by the association, subject to the exceptions described in Subsection [
 3195 ~~77-27-21.7(3)~~] 53-29-306(3).
- 3196 (20) A rule shall be reasonable.
- 3197 (21) A declaration, or an amendment to a declaration, may vary any of the requirements of
 3198 Subsections (1), (2), (6), and (8) through (14), except Subsection (1)(b)(ii).
- 3199 (22) A rule may not be inconsistent with a provision of the association's declaration,
 3200 bylaws, or articles of incorporation.
- 3201 (23) This section applies to an association regardless of when the association is created.
 3202 Section 40. Section **63G-2-302** is amended to read:
 3203 **63G-2-302 . Private records.**
- 3204 (1) The following records are private:
- 3205 (a) records concerning an individual's eligibility for unemployment insurance benefits,
 3206 social services, welfare benefits, or the determination of benefit levels;
- 3207 (b) records containing data on individuals describing medical history, diagnosis,
 3208 condition, treatment, evaluation, or similar medical data;
- 3209 (c) records of publicly funded libraries that when examined alone or with other records
 3210 identify a patron;
- 3211 (d) records received by or generated by or for:
- 3212 (i) the Independent Legislative Ethics Commission, except for:
- 3213 (A) the commission's summary data report that is required under legislative rule;
 3214 and
 3215 (B) any other document that is classified as public under legislative rule; or
- 3216 (ii) a Senate or House Ethics Committee in relation to the review of ethics
 3217 complaints, unless the record is classified as public under legislative rule;
- 3218 (e) records received by, or generated by or for, the Independent Executive Branch Ethics
 3219 Commission, except as otherwise expressly provided in Title 63A, Chapter 14,
 3220 Review of Executive Branch Ethics Complaints;
- 3221 (f) records received or generated for a Senate confirmation committee concerning
 3222 character, professional competence, or physical or mental health of an individual:
 3223 (i) if, prior to the meeting, the chair of the committee determines release of the

- 3224 records:
- 3225 (A) reasonably could be expected to interfere with the investigation undertaken by
- 3226 the committee; or
- 3227 (B) would create a danger of depriving a person of a right to a fair proceeding or
- 3228 impartial hearing; and
- 3229 (ii) after the meeting, if the meeting was closed to the public;
- 3230 (g) employment records concerning a current or former employee of, or applicant for
- 3231 employment with, a governmental entity that would disclose that individual's home
- 3232 address, home telephone number, social security number, insurance coverage, marital
- 3233 status, or payroll deductions;
- 3234 (h) records or parts of records under Section 63G-2-303 that a current or former
- 3235 employee identifies as private according to the requirements of that section;
- 3236 (i) that part of a record indicating a person's social security number or federal employer
- 3237 identification number if provided under Section 31A-23a-104, 31A-25-202,
- 3238 31A-26-202, 58-1-301, 58-55-302, 61-1-4, or 61-2f-203;
- 3239 (j) that part of a voter registration record identifying a voter's:
- 3240 (i) driver license or identification card number;
- 3241 (ii) social security number, or last four digits of the social security number;
- 3242 (iii) email address;
- 3243 (iv) date of birth; or
- 3244 (v) phone number;
- 3245 (k) a voter registration record that is classified as a private record by the lieutenant
- 3246 governor or a county clerk under Subsection 20A-2-101.1(5)(a), 20A-2-104(4)(h), or
- 3247 20A-2-204(4)(b);
- 3248 (l) a voter registration record that is withheld under Subsection 20A-2-104(7);
- 3249 (m) a withholding request form described in Subsections 20A-2-104(7) and (8) and any
- 3250 verification submitted in support of the form;
- 3251 (n) a record that:
- 3252 (i) contains information about an individual;
- 3253 (ii) is voluntarily provided by the individual; and
- 3254 (iii) goes into an electronic database that:
- 3255 (A) is designated by and administered under the authority of the Chief Information
- 3256 Officer; and
- 3257 (B) acts as a repository of information about the individual that can be

- 3258 electronically retrieved and used to facilitate the individual's online interaction
3259 with a state agency;
- 3260 (o) information provided to the Commissioner of Insurance under:
- 3261 (i) Subsection 31A-23a-115(3)(a);
- 3262 (ii) Subsection 31A-23a-302(4); or
- 3263 (iii) Subsection 31A-26-210(4);
- 3264 (p) information obtained through a criminal background check under Title 11, Chapter
3265 40, Criminal Background Checks by Political Subdivisions Operating Water Systems;
- 3266 (q) information provided by an offender that is:
- 3267 (i) required by the registration requirements of [~~Title 77, Chapter 41, Sex, Kidnap,~~
3268 ~~and Child Abuse Offender Registry~~] Title 53, Chapter 29, Sex, Kidnap, and Child
3269 Abuse Offender Registry; and
- 3270 (ii) not required to be made available to the public under Subsection [~~77-41-110(4)~~]
3271 53-29-404(3)(a);
- 3272 (r) a statement and any supporting documentation filed with the attorney general in
3273 accordance with Section 34-45-107, if the federal law or action supporting the filing
3274 involves homeland security;
- 3275 (s) electronic toll collection customer account information received or collected under
3276 Section 72-6-118 and customer information described in Section 17B-2a-815
3277 received or collected by a public transit district, including contact and payment
3278 information and customer travel data;
- 3279 (t) an email address provided by a military or overseas voter under Section 20A-16-501;
- 3280 (u) a completed military-overseas ballot that is electronically transmitted under Title
3281 20A, Chapter 16, Uniform Military and Overseas Voters Act;
- 3282 (v) records received by or generated by or for the Political Subdivisions Ethics Review
3283 Commission established in Section 63A-15-201, except for:
- 3284 (i) the commission's summary data report that is required in Section 63A-15-202; and
3285 (ii) any other document that is classified as public in accordance with Title 63A,
3286 Chapter 15, Political Subdivisions Ethics Review Commission;
- 3287 (w) a record described in Section 53G-9-604 that verifies that a parent was notified of an
3288 incident or threat;
- 3289 (x) a criminal background check or credit history report conducted in accordance with
3290 Section 63A-3-201;
- 3291 (y) a record described in Subsection 53-5a-104(7);

- 3292 (z) on a record maintained by a county for the purpose of administering property taxes,
 3293 an individual's:
- 3294 (i) email address;
- 3295 (ii) phone number; or
- 3296 (iii) personal financial information related to a person's payment method;
- 3297 (aa) a record submitted by a taxpayer to establish the taxpayer's eligibility for an
 3298 exemption, deferral, abatement, or relief under:
- 3299 (i) Title 59, Chapter 2, Part 11, Exemptions;
- 3300 (ii) Title 59, Chapter 2, Part 12, Property Tax Relief;
- 3301 (iii) Title 59, Chapter 2, Part 18, Tax Deferral and Tax Abatement; or
- 3302 (iv) Title 59, Chapter 2, Part 19, Armed Forces Exemptions;
- 3303 (bb) a record provided by the State Tax Commission in response to a request under
 3304 Subsection 59-1-403(4)(y)(iii);
- 3305 (cc) a record of the Child Welfare Legislative Oversight Panel regarding an individual
 3306 child welfare case, as described in Subsection 36-33-103(3); and
- 3307 (dd) a record relating to drug or alcohol testing of a state employee under Section
 3308 63A-17-1004;
- 3309 (ee) a record relating to a request by a state elected official or state employee who has
 3310 been threatened to the Division of Technology Services to remove personal
 3311 identifying information from the open web under Section 63A-16-109; and
- 3312 (ff) a record including confidential information as that term is defined in Section
 3313 67-27-105.
- 3314 (2) The following records are private if properly classified by a governmental entity:
- 3315 (a) records concerning a current or former employee of, or applicant for employment
 3316 with a governmental entity, including performance evaluations and personal status
 3317 information such as race, religion, or disabilities, but not including records that are
 3318 public under Subsection 63G-2-301(2)(b) or 63G-2-301(3)(o) or private under
 3319 Subsection (1)(b);
- 3320 (b) records describing an individual's finances, except that the following are public:
- 3321 (i) records described in Subsection 63G-2-301(2);
- 3322 (ii) information provided to the governmental entity for the purpose of complying
 3323 with a financial assurance requirement; or
- 3324 (iii) records that must be disclosed in accordance with another statute;
- 3325 (c) records of independent state agencies if the disclosure of those records would

- 3326 conflict with the fiduciary obligations of the agency;
- 3327 (d) other records containing data on individuals the disclosure of which constitutes a
3328 clearly unwarranted invasion of personal privacy;
- 3329 (e) records provided by the United States or by a government entity outside the state that
3330 are given with the requirement that the records be managed as private records, if the
3331 providing entity states in writing that the record would not be subject to public
3332 disclosure if retained by it;
- 3333 (f) any portion of a record in the custody of the Division of Aging and Adult Services,
3334 created in Section 26B-6-102, that may disclose, or lead to the discovery of, the
3335 identity of a person who made a report of alleged abuse, neglect, or exploitation of a
3336 vulnerable adult; and
- 3337 (g) audio and video recordings created by a body-worn camera, as defined in Section
3338 77-7a-103, that record sound or images inside a home or residence except for
3339 recordings that:
- 3340 (i) depict the commission of an alleged crime;
- 3341 (ii) record any encounter between a law enforcement officer and a person that results
3342 in death or bodily injury, or includes an instance when an officer fires a weapon;
- 3343 (iii) record any encounter that is the subject of a complaint or a legal proceeding
3344 against a law enforcement officer or law enforcement agency;
- 3345 (iv) contain an officer involved critical incident as defined in Subsection 76-2-408
3346 (1)(f); or
- 3347 (v) have been requested for reclassification as a public record by a subject or
3348 authorized agent of a subject featured in the recording.
- 3349 (3)(a) As used in this Subsection (3), "medical records" means medical reports, records,
3350 statements, history, diagnosis, condition, treatment, and evaluation.
- 3351 (b) Medical records in the possession of the University of Utah Hospital, its clinics,
3352 doctors, or affiliated entities are not private records or controlled records under
3353 Section 63G-2-304 when the records are sought:
- 3354 (i) in connection with any legal or administrative proceeding in which the patient's
3355 physical, mental, or emotional condition is an element of any claim or defense; or
3356 (ii) after a patient's death, in any legal or administrative proceeding in which any
3357 party relies upon the condition as an element of the claim or defense.
- 3358 (c) Medical records are subject to production in a legal or administrative proceeding
3359 according to state or federal statutes or rules of procedure and evidence as if the

3360 medical records were in the possession of a nongovernmental medical care provider.

3361 Section 41. Section **63G-7-301** is amended to read:

3362 **63G-7-301 . Waivers of immunity.**

3363 (1)(a) Immunity from suit of each governmental entity is waived as to any contractual
3364 obligation.

3365 (b) Actions arising out of contractual rights or obligations are not subject to the
3366 requirements of Section 63G-7-401, 63G-7-402, 63G-7-403, or 63G-7-601.

3367 (c) The Division of Water Resources is not liable for failure to deliver water from a
3368 reservoir or associated facility authorized by Title 73, Chapter 26, Bear River
3369 Development Act, if the failure to deliver the contractual amount of water is due to
3370 drought, other natural condition, or safety condition that causes a deficiency in the
3371 amount of available water.

3372 (2) Immunity from suit of each governmental entity is waived:

3373 (a) as to any action brought to recover, obtain possession of, or quiet title to real or
3374 personal property;

3375 (b) as to any action brought to foreclose mortgages or other liens on real or personal
3376 property, to determine any adverse claim on real or personal property, or to obtain an
3377 adjudication about any mortgage or other lien that the governmental entity may have
3378 or claim on real or personal property;

3379 (c) as to any action based on the negligent destruction, damage, or loss of goods,
3380 merchandise, or other property while it is in the possession of any governmental
3381 entity or employee, if the property was seized for the purpose of forfeiture under any
3382 provision of state law;

3383 (d) subject to Section 63G-7-302, as to any action brought under the authority of Utah
3384 Constitution, Article I, Section 22, for the recovery of compensation from the governmental
3385 entity when the governmental entity has taken or damaged private property for public uses
3386 without just compensation;

3387 (e) as to any claim for attorney fees or costs under Section 63G-2-209, 63G-2-405, or
3388 63G-2-802;

3389 (f) for actual damages under Title 67, Chapter 21, Utah Protection of Public Employees
3390 Act;

3391 (g) as to any action brought to obtain relief from a land use regulation that imposes a
3392 substantial burden on the free exercise of religion under Title 63L, Chapter 5, Utah
3393 Religious Land Use Act;

- 3394 (h) except as provided in Subsection 63G-7-201(3), as to any injury caused by:
- 3395 (i) a defective, unsafe, or dangerous condition of any highway, road, street, alley,
- 3396 crosswalk, sidewalk, culvert, tunnel, bridge, viaduct, or other structure located on
- 3397 them; or
- 3398 (ii) any defective or dangerous condition of a public building, structure, dam,
- 3399 reservoir, or other public improvement;
- 3400 (i) subject to Subsections 63G-7-101(4) and 63G-7-201(4), as to any injury proximately
- 3401 caused by a negligent act or omission of an employee committed within the scope of
- 3402 employment;
- 3403 (j) notwithstanding Subsection 63G-7-101(4), as to a claim for an injury resulting from a
- 3404 sexual battery, as provided in Section 76-9-702.1, committed:
- 3405 (i) against a student of a public elementary or secondary school, including a charter
- 3406 school; and
- 3407 (ii) by an employee of a public elementary or secondary school or charter school who:
- 3408 (A) at the time of the sexual battery, held a position of special trust, as defined in
- 3409 Section 76-5-404.1, with respect to the student;
- 3410 (B) is criminally charged in connection with the sexual battery; and
- 3411 (C) the public elementary or secondary school or charter school knew or in the
- 3412 exercise of reasonable care should have known, at the time of the employee's
- 3413 hiring, to be a sex offender, a kidnap offender, or a child abuse offender as [
- 3414 ~~defined~~] described in Section [~~77-41-102~~] 53-29-202, required to register under [
- 3415 ~~Title 77, Chapter 41, Sex, Kidnap, and Child Abuse Offender Registry~~] Title
- 3416 53, Chapter 29, Sex, Kidnap, and Child Abuse Offender Registry, whose status
- 3417 as a sex offender, kidnap offender, or child abuse offender would have been
- 3418 revealed in a background check under Section 53G-11-402;
- 3419 (k) as to any action brought under Section 78B-6-2303; and
- 3420 (l) as to any action brought to obtain relief under Title 53B, Chapter 27, Part 6, Student
- 3421 Legal Representation.
- 3422 (3)(a) As used in this Subsection (3):
- 3423 (i) "Code of conduct" means a code of conduct that:
- 3424 (A) is not less stringent than a model code of conduct, created by the State Board
- 3425 of Education, establishing a professional standard of care for preventing the
- 3426 conduct described in Subsection (3)(a)(i)(D);
- 3427 (B) is adopted by the applicable local education governing body;

- 3428 (C) regulates behavior of a school employee toward a student; and
- 3429 (D) includes a prohibition against any sexual conduct between an employee and a
- 3430 student and against the employee and student sharing any sexually explicit or
- 3431 lewd communication, image, or photograph.
- 3432 (ii) "Local education agency" means:
- 3433 (A) a school district;
- 3434 (B) a charter school; or
- 3435 (C) the Utah Schools for the Deaf and the Blind.
- 3436 (iii) "Local education governing board" means:
- 3437 (A) for a school district, the local school board;
- 3438 (B) for a charter school, the charter school governing board; or
- 3439 (C) for the Utah Schools for the Deaf and the Blind, the state board.
- 3440 (iv) "Public school" means a public elementary or secondary school.
- 3441 (v) "Sexual abuse" means the offense described in Subsection 76-5-404.1(2).
- 3442 (vi) "Sexual battery" means the offense described in Section 76-9-702.1, considering
- 3443 the term "child" in that section to include an individual under age 18.
- 3444 (b) Notwithstanding Subsection 63G-7-101(4), immunity from suit is waived as to a
- 3445 claim against a local education agency for an injury resulting from a sexual battery or
- 3446 sexual abuse committed against a student of a public school by a paid employee of
- 3447 the public school who is criminally charged in connection with the sexual battery or
- 3448 sexual abuse, unless:
- 3449 (i) at the time of the sexual battery or sexual abuse, the public school was subject to a
- 3450 code of conduct; and
- 3451 (ii) before the sexual battery or sexual abuse occurred, the public school had:
- 3452 (A) provided training on the code of conduct to the employee; and
- 3453 (B) required the employee to sign a statement acknowledging that the employee
- 3454 has read and understands the code of conduct.
- 3455 (4)(a) As used in this Subsection (4):
- 3456 (i) "Higher education institution" means an institution included within the state
- 3457 system of higher education under Section 53B-1-102.
- 3458 (ii) "Policy governing behavior" means a policy adopted by a higher education
- 3459 institution or the Utah Board of Higher Education that:
- 3460 (A) establishes a professional standard of care for preventing the conduct
- 3461 described in Subsections (4)(a)(ii)(C) and (D);

- 3462 (B) regulates behavior of a special trust employee toward a subordinate student;
- 3463 (C) includes a prohibition against any sexual conduct between a special trust
- 3464 employee and a subordinate student; and
- 3465 (D) includes a prohibition against a special trust employee and subordinate student
- 3466 sharing any sexually explicit or lewd communication, image, or photograph.
- 3467 (iii) "Sexual battery" means the offense described in Section 76-9-702.1.
- 3468 (iv) "Special trust employee" means an employee of a higher education institution
- 3469 who is in a position of special trust, as defined in Section 76-5-404.1, with a
- 3470 higher education student.
- 3471 (v) "Subordinate student" means a student:
- 3472 (A) of a higher education institution; and
- 3473 (B) whose educational opportunities could be adversely impacted by a special
- 3474 trust employee.
- 3475 (b) Notwithstanding Subsection 63G-7-101(4), immunity from suit is waived as to a
- 3476 claim for an injury resulting from a sexual battery committed against a subordinate
- 3477 student by a special trust employee, unless:
- 3478 (i) the institution proves that the special trust employee's behavior that otherwise
- 3479 would constitute a sexual battery was:
- 3480 (A) with a subordinate student who was at least 18 years old at the time of the
- 3481 behavior; and
- 3482 (B) with the student's consent; or
- 3483 (ii)(A) at the time of the sexual battery, the higher education institution was
- 3484 subject to a policy governing behavior; and
- 3485 (B) before the sexual battery occurred, the higher education institution had taken
- 3486 steps to implement and enforce the policy governing behavior.
- 3487 Section 42. Section **76-1-201** is amended to read:
- 3488 **76-1-201 . Jurisdiction of offenses.**
- 3489 (1) A person is subject to prosecution in this state for an offense which the person commits,
- 3490 while either within or outside the state, by the person's own conduct or that of another
- 3491 for which the person is legally accountable, if:
- 3492 (a) the offense is committed either wholly or partly within the state;
- 3493 (b) the conduct outside the state constitutes an attempt to commit an offense within the
- 3494 state;
- 3495 (c) the conduct outside the state constitutes a conspiracy to commit an offense within the

- 3496 state and an act in furtherance of the conspiracy occurs in the state; or
3497 (d) the conduct within the state constitutes an attempt, solicitation, or conspiracy to
3498 commit in another jurisdiction an offense under the laws of both this state and the
3499 other jurisdiction.
- 3500 (2) An offense is committed partly within this state if either the conduct which is any
3501 element of the offense, or the result which is an element, occurs within this state.
- 3502 (3) In homicide offenses, the "result" is either the physical contact which causes death or
3503 the death itself.
- 3504 (a) If the body of a homicide victim is found within the state, the death shall be
3505 presumed to have occurred within the state.
- 3506 (b) If jurisdiction is based on this presumption, this state retains jurisdiction unless the
3507 defendant proves by clear and convincing evidence that:
- 3508 (i) the result of the homicide did not occur in this state; and
3509 (ii) the defendant did not engage in any conduct in this state which is any element of
3510 the offense.
- 3511 (4)~~[(a)]~~ An offense which is based on an omission to perform a duty imposed by the law
3512 of this state is committed within the state regardless of the location of the offender at
3513 the time of the omission.
- 3514 ~~[(b) For the purpose of establishing venue for a violation of Subsection 77-41-105(3)~~
3515 ~~concerning sex offender, kidnap offender, or child abuse registration, the offense is~~
3516 ~~considered to be committed:]~~
- 3517 ~~[(i) at the most recent registered primary residence of the offender, if the actual~~
3518 ~~location of the offender at the time of the violation is not known; or]~~
- 3519 ~~[(ii) at the location of the offender at the time the offender is apprehended.]~~
- 3520 (5)(a) If no jurisdictional issue is raised, the pleadings are sufficient to establish
3521 jurisdiction.
- 3522 (b) The defendant may challenge jurisdiction by filing a motion before trial stating
3523 which facts exist that deprive the state of jurisdiction.
- 3524 (c) The burden is upon the state to initially establish jurisdiction over the offense by a
3525 preponderance of the evidence by showing under the provisions of Subsections (1)
3526 through (4) that the offense was committed either wholly or partly within the borders
3527 of the state.
- 3528 (d) If after the prosecution has met its burden of proof under Subsection (5)(c) the
3529 defendant claims that the state is deprived of jurisdiction or may not exercise

- 3530 jurisdiction, the burden is upon the defendant to prove by a preponderance of the
3531 evidence:
- 3532 (i) any facts claimed; and
3533 (ii) why those facts deprive the state of jurisdiction.
- 3534 (6) Facts that deprive the state of jurisdiction or prohibit the state from exercising
3535 jurisdiction include the fact that the:
- 3536 (a) defendant is serving in a position that is entitled to diplomatic immunity from
3537 prosecution and that the defendant's country has not waived that diplomatic immunity;
3538 (b) defendant is a member of the armed forces of another country and that the crime that
3539 he is alleged to have committed is one that due to an international agreement, such as
3540 a status of forces agreement between his country and the United States, cedes the
3541 exercise of jurisdiction over him for that offense to his country;
- 3542 (c) defendant is an enrolled member of an Indian tribe, as defined in Section 9-9-101,
3543 and that the Indian tribe has a legal status with the United States or the state that vests
3544 jurisdiction in either tribal or federal courts for certain offenses committed within the
3545 exterior boundaries of a tribal reservation, and that the facts establish that the crime is
3546 one that vests jurisdiction in tribal or federal court; or
3547 (d) offense occurred on land that is exclusively within federal jurisdiction.
- 3548 (7)(a) The Legislature finds that identity fraud under Chapter 6, Part 11, Identity Fraud
3549 Act, involves the use of personal identifying information which is uniquely personal
3550 to the consumer or business victim of that identity fraud and which information is
3551 considered to be in lawful possession of the consumer or business victim wherever
3552 the consumer or business victim currently resides or is found.
- 3553 (b) For purposes of Subsection (1)(a), an offense which is based on a violation of
3554 Chapter 6, Part 11, Identity Fraud Act, is committed partly within this state,
3555 regardless of the location of the offender at the time of the offense, if the victim of
3556 the identity fraud resides or is found in this state.
- 3557 (8) The judge shall determine jurisdiction.
- 3558 Section 43. Section **76-1-202** is amended to read:
3559 **76-1-202 . Venue of actions.**
- 3560 (1) Criminal actions shall be tried in the county, district, or precinct where the offense is
3561 alleged to have been committed. In determining the proper place of trial, the following
3562 provisions shall apply:
- 3563 (a) If the commission of an offense commenced outside the state is consummated within

- 3564 this state, the offender shall be tried in the county where the offense is consummated.
- 3565 (b) When conduct constituting elements of an offense or results that constitute elements,
3566 whether the conduct or result constituting elements is in itself unlawful, shall occur in
3567 two or more counties, trial of the offense may be held in any of the counties
3568 concerned.
- 3569 (c) If a person committing an offense upon the person of another is located in one county
3570 and his victim is located in another county at the time of the commission of the
3571 offense, trial may be held in either county.
- 3572 (d) If a cause of death is inflicted in one county and death ensues in another county, the
3573 offender may be tried in either county.
- 3574 (e) A person who commits an inchoate offense may be tried in any county in which any
3575 act that is an element of the offense, including the agreement in conspiracy, is
3576 committed.
- 3577 (f) Where a person in one county solicits, aids, abets, agrees, or attempts to aid another
3578 in the planning or commission of an offense in another county, he may be tried for
3579 the offense in either county.
- 3580 (g) When an offense is committed within this state and it cannot be readily determined
3581 in which county or district the offense occurred, the following provisions shall be
3582 applicable:
- 3583 (i) When an offense is committed upon any railroad car, vehicle, watercraft, or
3584 aircraft passing within this state, the offender may be tried in any county through
3585 which such railroad car, vehicle, watercraft, or aircraft has passed.
- 3586 (ii) When an offense is committed on any body of water bordering on or within this
3587 state, the offender may be tried in any county adjacent to such body of water. The
3588 words "body of water" shall include but not be limited to any stream, river, lake,
3589 or reservoir, whether natural or man-made.
- 3590 (iii) A person who commits theft may be tried in any county in which he exerts
3591 control over the property affected.
- 3592 (iv) If an offense is committed on or near the boundary of two or more counties, trial
3593 of the offense may be held in any of such counties.
- 3594 (v) For any other offense, trial may be held in the county in which the defendant
3595 resides, or, if he has no fixed residence, in the county in which he is apprehended
3596 or to which he is extradited.
- 3597 (h) A person who commits an offense based on Chapter 6, Part 11, Identity Fraud Act,

- 3598 may be tried in the county:
- 3599 (i) where the victim's personal identifying information was obtained;
- 3600 (ii) where the defendant used or attempted to use the personally identifying
- 3601 information;
- 3602 (iii) where the victim of the identity fraud resides or is found; or
- 3603 (iv) if multiple offenses of identity fraud occur in multiple jurisdictions, in any
- 3604 county where the victim's identity was used or obtained, or where the victim
- 3605 resides or is found.
- 3606 (i) For the purpose of establishing venue for a violation of [~~Subsection 77-41-105(3)~~]
- 3607 Section 53-29-304 concerning sex offender, kidnap offender, or child abuse offender
- 3608 registration, the offense is considered to be committed:
- 3609 (i) at the most recent registered primary residence of the offender, if the actual
- 3610 location of the offender at the time of the violation is not known; or
- 3611 (ii) at the location of the offender at the time the offender is apprehended.
- 3612 (2) All objections of improper place of trial are waived by a defendant unless made before
- 3613 trial.
- 3614 Section 44. Section **76-3-402** is amended to read:
- 3615 **76-3-402 . Conviction of lower degree of offense -- Procedure and limitations.**
- 3616 (1) As used in this section:
- 3617 (a) "Lower degree of offense" includes an offense for which:
- 3618 (i) a statutory enhancement is charged in the information or indictment that would
- 3619 increase either the maximum or the minimum sentence; and
- 3620 (ii) the court removes the statutory enhancement in accordance with this section.
- 3621 (b) "Minor regulatory offense" means the same as that term is defined in Section
- 3622 77-40a-101.
- 3623 (c)(i) "Rehabilitation program" means a program designed to reduce criminogenic
- 3624 and recidivism risks.
- 3625 (ii) "Rehabilitation program" includes:
- 3626 (A) a domestic violence treatment program, as that term is defined in Section
- 3627 26B-2-101;
- 3628 (B) a residential, vocational, and life skills program, as that term is defined in
- 3629 Section 13-53-102;
- 3630 (C) a substance abuse treatment program, as that term is defined in Section
- 3631 26B-2-101;

- 3632 (D) a substance use disorder treatment program, as that term is defined in Section
3633 26B-2-101;
- 3634 (E) a youth program, as that term is defined in Section 26B-2-101;
- 3635 (F) a program that meets the standards established by the Department of
3636 Corrections under Section 64-13-25;
- 3637 (G) a drug court, a veterans court, or a mental health court certified by the Judicial
3638 Council; or
- 3639 (H) a program that is substantially similar to a program described in Subsections
3640 (1)(c)(ii)(A) through (G).
- 3641 (d) "Serious offense" means a felony or misdemeanor offense that is not a minor
3642 regulatory offense or a traffic offense.
- 3643 (e) "Traffic offense" means the same as that term is defined in Section 77-40a-101.
- 3644 (f)(i) Except as provided in Subsection (1)(f)(ii), "violent felony" means the same as
3645 that term is defined in Section 76-3-203.5.
- 3646 (ii) "Violent felony" does not include an offense, or any attempt, solicitation, or
3647 conspiracy to commit an offense, for:
- 3648 (A) the possession, use, or removal of explosive, chemical, or incendiary devices
3649 under Subsection 76-10-306(3), (5), or (6); or
- 3650 (B) the purchase or possession of a dangerous weapon or handgun by a restricted
3651 person under Section 76-10-503.
- 3652 (2) The court may enter a judgment of conviction for a lower degree of offense than
3653 established by statute and impose a sentence at the time of sentencing for the lower
3654 degree of offense if the court:
- 3655 (a) takes into account:
- 3656 (i) the nature and circumstances of the offense of which the defendant was found
3657 guilty; and
- 3658 (ii) the history and character of the defendant;
- 3659 (b) gives any victim present at the sentencing and the prosecuting attorney an
3660 opportunity to be heard; and
- 3661 (c) concludes that the degree of offense established by statute would be unduly harsh to
3662 record as a conviction on the record for the defendant.
- 3663 (3) Upon a motion from the prosecuting attorney or the defendant, the court may enter a
3664 judgment of conviction for a lower degree of offense than established by statute:
- 3665 (a) after the defendant is successfully discharged from probation or parole for the

- 3666 conviction; and
- 3667 (b) if the court finds that entering a judgment of conviction for a lower degree of offense
3668 is in the interest of justice in accordance with Subsection (7).
- 3669 (4) Upon a motion from the prosecuting attorney or the defendant, the court may enter a
3670 judgment of conviction for a lower degree of offense than established by statute if:
- 3671 (a) the defendant's probation or parole for the conviction did not result in a successful
3672 discharge but the defendant is successfully discharged from probation or parole for a
3673 subsequent conviction of an offense;
- 3674 (b)(i) at least five years have passed after the day on which the defendant is
3675 sentenced for the subsequent conviction; or
- 3676 (ii) at least three years have passed after the day on which the defendant is sentenced
3677 for the subsequent conviction and the prosecuting attorney consents to the
3678 reduction;
- 3679 (c) the defendant is not convicted of a serious offense during the time period described
3680 in Subsection (4)(b);
- 3681 (d) there are no criminal proceedings pending against the defendant;
- 3682 (e) the defendant is not on probation, on parole, or currently incarcerated for any other
3683 offense;
- 3684 (f) if the offense for which the reduction is sought is a violent felony, the prosecuting
3685 attorney consents to the reduction; and
- 3686 (g) the court finds that entering a judgment of conviction for a lower degree of offense is
3687 in the interest of justice in accordance with Subsection (7).
- 3688 (5) Upon a motion from the prosecuting attorney or the defendant, the court may enter a
3689 judgment of conviction for a lower degree of offense than established by statute if:
- 3690 (a) the defendant's probation or parole for the conviction did not result in a successful
3691 discharge but the defendant is successfully discharged from a rehabilitation program;
- 3692 (b) at least three years have passed after the day on which the defendant is successfully
3693 discharged from the rehabilitation program;
- 3694 (c) the defendant is not convicted of a serious offense during the time period described
3695 in Subsection (5)(b);
- 3696 (d) there are no criminal proceedings pending against the defendant;
- 3697 (e) the defendant is not on probation, on parole, or currently incarcerated for any other
3698 offense;
- 3699 (f) if the offense for which the reduction is sought is a violent felony, the prosecuting

- 3700 attorney consents to the reduction; and
- 3701 (g) the court finds that entering a judgment of conviction for a lower degree of offense is
- 3702 in the interest of justice in accordance with Subsection (7).
- 3703 (6) Upon a motion from the prosecuting attorney or the defendant, the court may enter a
- 3704 judgment of conviction for a lower degree of offense than established by statute if:
- 3705 (a) at least five years have passed after the day on which the defendant's probation or
- 3706 parole for the conviction did not result in a successful discharge;
- 3707 (b) the defendant is not convicted of a serious offense during the time period described
- 3708 in Subsection (6)(a);
- 3709 (c) there are no criminal proceedings pending against the defendant;
- 3710 (d) the defendant is not on probation, on parole, or currently incarcerated for any other
- 3711 offense;
- 3712 (e) if the offense for which the reduction is sought is a violent felony, the prosecuting
- 3713 attorney consents to the reduction; and
- 3714 (f) the court finds that entering a judgment of conviction for a lower degree of offense is
- 3715 in the interest of justice in accordance with Subsection (7).
- 3716 (7) In determining whether entering a judgment of a conviction for a lower degree of
- 3717 offense is in the interest of justice under Subsection (3), (4), (5), or (6):
- 3718 (a) the court shall consider:
- 3719 (i) the nature, circumstances, and severity of the offense for which a reduction is
- 3720 sought;
- 3721 (ii) the physical, emotional, or other harm that the defendant caused any victim of the
- 3722 offense for which the reduction is sought; and
- 3723 (iii) any input from a victim of the offense; and
- 3724 (b) the court may consider:
- 3725 (i) any special characteristics or circumstances of the defendant, including the
- 3726 defendant's criminogenic risks and needs;
- 3727 (ii) the defendant's criminal history;
- 3728 (iii) the defendant's employment and community service history;
- 3729 (iv) whether the defendant participated in a rehabilitative program and successfully
- 3730 completed the program;
- 3731 (v) any effect that a reduction would have on the defendant's ability to obtain or
- 3732 reapply for a professional license from the Department of Commerce;
- 3733 (vi) whether the level of the offense has been reduced by law after the defendant's

- 3734 conviction;
- 3735 (vii) any potential impact that the reduction would have on public safety; or
- 3736 (viii) any other circumstances that are reasonably related to the defendant or the
- 3737 offense for which the reduction is sought.
- 3738 (8)(a) A court may only enter a judgment of conviction for a lower degree of offense
- 3739 under Subsection (3), (4), (5), or (6) after:
- 3740 (i) notice is provided to the other party;
- 3741 (ii) reasonable efforts have been made by the prosecuting attorney to provide notice
- 3742 to any victims; and
- 3743 (iii) a hearing is held if a hearing is requested by either party.
- 3744 (b) A prosecuting attorney is entitled to a hearing on a motion seeking to reduce a
- 3745 judgment of conviction for a lower degree of offense under Subsection (3), (4), (5),
- 3746 or (6).
- 3747 (c) In a motion under Subsection (3), (4), (5), or (6) and at a requested hearing on the
- 3748 motion, the moving party has the burden to provide evidence sufficient to
- 3749 demonstrate that the requirements under Subsection (3), (4), (5), or (6) are met.
- 3750 (d) If a defendant files a motion under this section, the prosecuting attorney shall
- 3751 respond to the motion within 35 days after the day on which the motion is filed with
- 3752 the court.
- 3753 (9) A court has jurisdiction to consider and enter a judgment of conviction for a lower
- 3754 degree of offense under Subsection (3), (4), (5), or (6) regardless of whether the
- 3755 defendant is committed to jail as a condition of probation or is sentenced to prison.
- 3756 (10)(a) An offense may be reduced only one degree under this section, unless the
- 3757 prosecuting attorney specifically agrees in writing or on the court record that the
- 3758 offense may be reduced two degrees.
- 3759 (b) An offense may not be reduced under this section by more than two degrees.
- 3760 (11) This section does not preclude an individual from obtaining or being granted an
- 3761 expungement of the individual's record in accordance with [~~Title 44, Chapter 40A,~~
- 3762 ~~Expungement of Criminal Records~~] Title 77, Chapter 40a, Expungement of Criminal
- 3763 Records.
- 3764 (12) The court may not enter a judgment for a conviction for a lower degree of offense
- 3765 under this section if:
- 3766 (a) the reduction is specifically precluded by law; or
- 3767 (b) any unpaid balance remains on court-ordered restitution for the offense for which the

3768 reduction is sought.

3769 (13) When the court enters a judgment for a lower degree of offense under this section, the
3770 actual title of the offense for which the reduction is made may not be altered.

3771 (14)(a) An individual may not obtain a reduction under this section of a conviction that
3772 requires the individual to register as a sex offender, kidnap offender, or child abuse
3773 offender under Section 53-29-202 until the registration requirements under [~~Title 77,~~
3774 ~~Chapter 41, Sex, Kidnap, and Child Abuse Offender Registry~~] Title 53, Chapter 29,
3775 Sex, Kidnap, and Child Abuse Offender Registry, have expired.

3776 (b) An individual required to register as a sex offender, kidnap offender, or child abuse
3777 offender under Section 53-29-202 and required to register for the individual's lifetime [
3778 ~~under Subsection 77-41-105(3)(e)~~] as described in Subsection 53-29-203(1)(b), may
3779 not be granted a reduction of the conviction for the offense or offenses that require
3780 the individual to register as a sex offender, kidnap offender, or child abuse offender.

3781 Section 45. Section **76-5-401** is amended to read:

3782 **76-5-401 . Unlawful sexual activity with a minor -- Penalties -- Evidence of age**
3783 **raised by defendant -- Limitations.**

3784 (1)(a) As used in this section, "minor" means an individual who is 14 years old or older,
3785 but younger than 16 years old, at the time the sexual activity described in Subsection
3786 (2) occurred.

3787 (b) Terms defined in Section 76-1-101.5 apply to this section.

3788 (2)(a) Under circumstances not amounting to an offense listed in Subsection (4), an
3789 actor 18 years old or older commits unlawful sexual activity with a minor if the actor:

3790 (i) has sexual intercourse with the minor;

3791 (ii) engages in any sexual act with the minor involving the genitals of an individual
3792 and the mouth or anus of another individual; or

3793 (iii) causes the penetration, however slight, of the genital or anal opening of the
3794 minor by a foreign object, substance, instrument, or device, including a part of the
3795 human body, with the intent to cause substantial emotional or bodily pain to any
3796 individual or with the intent to arouse or gratify the sexual desire of any individual.

3797 (b) Any touching, however slight, is sufficient to constitute the relevant element of a
3798 violation of Subsection (2)(a)(ii).

3799 (3)(a) A violation of Subsection (2) is a third degree felony.

3800 (b)[(†)] Notwithstanding Subsection (3)(a) or (c), a violation of Subsection (2) is a
3801 class B misdemeanor if the defendant establishes by a preponderance of the

- 3802 evidence the mitigating factor that:
- 3803 [~~(A)~~] (i) the defendant is less than four years older than the minor at the time the
- 3804 sexual activity occurred; or
- 3805 [~~(B)~~] (ii) the defendant is 18 years old and enrolled in high school at the time the
- 3806 sexual activity occurred.
- 3807 [~~(ii) An offense under Subsection (3)(b)(i) is not subject to registration under~~
- 3808 ~~Subsection 77-41-102(19)(a)(vii).]~~
- 3809 (c)[~~(f)~~] Notwithstanding Subsection (3)(a), if the defendant establishes by a
- 3810 preponderance of the evidence the mitigating factor that the defendant was
- 3811 younger than 21 years old at the time the sexual activity occurred, the offense is a
- 3812 class A misdemeanor.
- 3813 [~~(ii) An offense under Subsection (3)(c)(i) is not subject to registration under~~
- 3814 ~~Subsection 77-41-102(19)(a)(vii).]~~
- 3815 (4) The offenses referred to in Subsection (2)(a) are:
- 3816 (a) rape, in violation of Section 76-5-402;
- 3817 (b) object rape, in violation of Section 76-5-402.2;
- 3818 (c) forcible sodomy, in violation of Section 76-5-403;
- 3819 (d) aggravated sexual assault, in violation of Section 76-5-405; or
- 3820 (e) an attempt to commit an offense listed in Subsections (4)(a) through (4)(d).
- 3821 Section 46. Section **76-5-401.1** is amended to read:
- 3822 **76-5-401.1 . Sexual abuse of a minor.**
- 3823 (1)(a) As used in this section:
- 3824 (i) "Indecent liberties" means:
- 3825 (A) the actor touching another individual's genitals, anus, buttocks, pubic area, or
- 3826 female breast;
- 3827 (B) causing any part of an individual's body to touch the actor's or another's
- 3828 genitals, pubic area, anus, buttocks, or female breast;
- 3829 (C) simulating or pretending to engage in sexual intercourse with another
- 3830 individual, including genital-genital, oral-genital, anal-genital, or oral-anal
- 3831 intercourse; or
- 3832 (D) causing an individual to simulate or pretend to engage in sexual intercourse
- 3833 with the actor or another, including genital-genital, oral-genital, anal-genital, or
- 3834 oral-anal intercourse.
- 3835 (ii) "Minor" means an individual who is 14 years old or older, but younger than 16

- 3836 years old, at the time the sexual activity described in Subsection (2) occurred.
- 3837 (b) Terms defined in Section 76-1-101.5 apply to this section.
- 3838 (2)(a) Under circumstances not amounting to an offense listed in Subsection (4), an
- 3839 actor commits sexual abuse of a minor if the actor:
- 3840 (i) is four years or more older than the minor; and
- 3841 (ii) with the intent to cause substantial emotional or bodily pain to any individual, or
- 3842 with the intent to arouse or gratify the sexual desire of any individual:
- 3843 (A) touches the anus, buttocks, pubic area, or any part of the genitals of the minor;
- 3844 (B) touches the breast of a female minor; or
- 3845 (C) otherwise takes indecent liberties with the minor.
- 3846 (b) Any touching, even if accomplished through clothing, is sufficient to constitute the
- 3847 relevant element of a violation of Subsection (2)(a).
- 3848 (3) A violation of Subsection (2)(a) is[:]
- 3849 [(a)] a class A misdemeanor[; and] .
- 3850 [~~(b) not subject to registration under Subsection 77-41-102(19)(a)(viii) on a first~~
- 3851 ~~offense if the offender was younger than 21 years old at the time of the offense.]~~
- 3852 (4) The offenses referred to in Subsection (2)(a) are:
- 3853 (a) unlawful sexual activity with a minor, in violation of Section 76-5-401;
- 3854 (b) rape, in violation of Section 76-5-402;
- 3855 (c) object rape, in violation of Section 76-5-402.2;
- 3856 (d) forcible sodomy, in violation of Section 76-5-403;
- 3857 (e) aggravated sexual assault, in violation of Section 76-5-405; or
- 3858 (f) an attempt to commit an offense listed in Subsections (4)(a) through (e).
- 3859 Section 47. Section **76-5-401.3** is amended to read:
- 3860 **76-5-401.3 . Unlawful adolescent sexual activity -- Penalties -- Limitations.**
- 3861 (1)(a) As used in this section, "adolescent" means an individual who is 12 years old or
- 3862 older but younger than 18 years old.
- 3863 (b) Terms defined in Section 76-1-101.5 apply to this section.
- 3864 (2) Under circumstances not amounting to an offense listed in Subsection (5), an actor
- 3865 commits unlawful sexual activity if:
- 3866 (a)(i) the actor is 12 years old or older but younger than 18 years old;
- 3867 (ii) the actor engages in sexual activity with an adolescent;
- 3868 (iii) the actor is not the biological sibling of the adolescent; and
- 3869 (iv) both the actor and the adolescent mutually agree to the sexual activity; or

- 3870 (b)(i) the actor engages in sexual activity with an adolescent who is 13 years old;
- 3871 (ii) the actor is 18 years old and enrolled in high school at the time that the sexual
- 3872 activity occurred;
- 3873 (iii) the actor is not the biological sibling of the adolescent; and
- 3874 (iv) both the actor and the adolescent mutually agree to the sexual activity.
- 3875 (3)(a) A violation of Subsection (2)(a) is a:
- 3876 (i) third degree felony if an actor who is 17 years old engages in unlawful adolescent
- 3877 sexual activity with an adolescent who is 13 years old;
- 3878 (ii) third degree felony if an actor who is 16 years old engages in unlawful adolescent
- 3879 sexual activity with an adolescent who is 12 years old;
- 3880 (iii) class A misdemeanor if an actor who is 16 years old engages in unlawful
- 3881 adolescent sexual activity with an adolescent who is 13 years old;
- 3882 (iv) class A misdemeanor if an actor who is 14 or 15 years old engages in unlawful
- 3883 adolescent sexual activity with an adolescent who is 12 years old;
- 3884 (v) class B misdemeanor if an actor who is 17 years old engages in unlawful
- 3885 adolescent sexual activity with an adolescent who is 14 years old;
- 3886 (vi) class B misdemeanor if an actor who is 15 years old engages in unlawful
- 3887 adolescent sexual activity with an adolescent who is 13 years old;
- 3888 (vii) class C misdemeanor if an actor who is 12 or 13 years old engages in unlawful
- 3889 adolescent sexual activity with an adolescent who is 12 or 13 years old; and
- 3890 (viii) class C misdemeanor if an actor who is 14 years old engages in unlawful
- 3891 adolescent sexual activity with an adolescent who is 13 years old.
- 3892 (b) A violation of Subsection (2)(b) is a third degree felony.
- 3893 (4) The actor and the adolescent do not mutually agree to the sexual activity under
- 3894 Subsection (2) if:
- 3895 (a) the adolescent expresses lack of agreement to the sexual activity through words or
- 3896 conduct;
- 3897 (b) the actor overcomes the adolescent's will through:
- 3898 (i) threats to the adolescent or any other individual;
- 3899 (ii) force;
- 3900 (iii) coercion; or
- 3901 (iv) enticement;
- 3902 (c) the actor is able to overcome the adolescent through concealment or by the element
- 3903 of surprise;

- 3904 (d) the actor knows, or reasonably should know, that the adolescent has a mental disease
 3905 or defect, which renders the adolescent unable to:
 3906 (i) appraise the nature of the act;
 3907 (ii) resist the act;
 3908 (iii) understand the possible consequences to the adolescent's health or safety; or
 3909 (iv) appraise the nature of the relationship between the actor and the adolescent;
 3910 (e) the actor knows that the adolescent participates in the sexual activity because the
 3911 adolescent erroneously believes that the actor is someone else; or
 3912 (f) the actor intentionally impaired the power of the adolescent to appraise or control the
 3913 adolescent's conduct by administering any substance without the adolescent's
 3914 knowledge.

3915 (5) The offenses referred to in Subsection (2) are:

- 3916 (a) rape under Section 76-5-402;
 3917 (b) object rape under Section 76-5-402.2;
 3918 (c) forcible sodomy under Section 76-5-403;
 3919 (d) aggravated sexual assault under Section 76-5-405;
 3920 (e) incest under Section 76-7-102; or
 3921 (f) an attempt to commit an offense listed in Subsections (5)(a) through (e).

3922 (6) An offense under this section is not eligible for a nonjudicial adjustment under Section
 3923 80-6-303.5 or a referral to a youth court under Section 80-6-902.

3924 (7) Except for an offense that is transferred to a district court by the juvenile court in
 3925 accordance with Section 80-6-504, the district court may enter any sentence or
 3926 combination of sentences that would have been available in juvenile court but for the
 3927 delayed reporting or delayed filing of the information in the district court.

3928 [~~(8) An offense under this section is not subject to registration under Subsection 77-41-102~~
 3929 ~~(19).]~~

3930 Section 48. Section **76-9-702** is amended to read:

3931 **76-9-702 . Lewdness.**

3932 (1) A person is guilty of lewdness if the person under circumstances not amounting to rape,
 3933 object rape, forcible sodomy, forcible sexual abuse, aggravated sexual assault, sexual
 3934 abuse of a minor, unlawful sexual conduct with a 16- or 17-year-old, custodial sexual
 3935 relations under Section 76-5-412, custodial sexual misconduct under Section 76-5-412.2,
 3936 custodial sexual relations with youth receiving state services under Section 76-5-413,
 3937 custodial sexual misconduct with youth receiving state services under Section 76-5-413.2,

3938 or an attempt to commit any of these offenses, performs any of the following acts in a
 3939 public place or under circumstances which the person should know will likely cause
 3940 affront or alarm to, on, or in the presence of another individual who is 14 years old or
 3941 older:

3942 (a) an act of sexual intercourse or sodomy;

3943 (b) exposes his or her genitals, the female breast below the top of the areola, the
 3944 buttocks, the anus, or the pubic area;

3945 (c) masturbates; or

3946 (d) any other act of lewdness.

3947 (2)(a) A person convicted the first or second time of a violation of Subsection (1) is
 3948 guilty of a class B misdemeanor, except under Subsection (2)(b).

3949 (b) A person convicted of a violation of Subsection (1) is guilty of a third degree felony
 3950 if at the time of the violation:

3951 (i) the person is a sex offender as defined in Section ~~[77-27-21.7]~~ 57-8a-102;

3952 (ii) the person has been previously convicted two or more times of violating
 3953 Subsection (1);

3954 (iii) the person has previously been convicted of a violation of Subsection (1) and has
 3955 also previously been convicted of a violation of Section 76-9-702.5;

3956 (iv) the person commits the offense of lewdness while also committing the offense of:

3957 (A) criminal trespass in a sex-designated changing room under Subsection
 3958 76-6-206(2)(d);

3959 (B) lewdness involving a child under Section 76-9-702.5;

3960 (C) voyeurism under Section 76-9-702.7; or

3961 (D) loitering in a privacy space under Section 76-9-702.8; or

3962 (v) the person commits the offense of lewdness in a sex-designated privacy space, as
 3963 defined in Section 76-9-702.8, that is not designated for individuals of the actor's
 3964 sex.

3965 (c)(i) ~~[For]~~ As described in Subsection 53-29-202(4), for purposes of this

3966 Subsection (2)~~[-and Subsection 77-41-102(19)]~~, a plea of guilty or nolo

3967 contendere to a charge under this section that is held in abeyance under Title 77,

3968 Chapter 2a, Pleas in Abeyance, is the equivalent of a conviction.

3969a (ii) This Subsection

3969 (2)(c) also applies if the charge under this Subsection (2) has been subsequently
 3970 reduced or dismissed in accordance with the plea in abeyance agreement.

- 3971 (3)(a) As used in this Subsection (3):
- 3972 (i) "Common area of a privacy space" means any area of a privacy space other than:
- 3973 (A) a toilet stall with a closed door;
- 3974 (B) immediately in front of a urinal during use; or
- 3975 (C) a shower stall with a closed door or other closed covering.
- 3976 (ii) "Privacy space" means the same as that term is defined in Section 76-9-702.8.
- 3977 (b) The common area of a privacy space constitutes a public place or circumstance
- 3978 described in Subsection (1) where an act or an attempted act described in Subsection
- 3979 (1) constitutes lewdness.
- 3980 (c) Within the common area of a dressing room, fitting room, locker room, changing
- 3981 facility, or any other space designated for multiple individuals to dress or undress
- 3982 within the same space, exposing, displaying, or otherwise uncovering genitalia that
- 3983 does not correspond with the sex designation of the changing room constitutes an act
- 3984 or an attempted act described in Subsection (1) that constitutes lewdness.
- 3985 (4) A woman's breast feeding, including breast feeding in any location where the woman
- 3986 otherwise may rightfully be, does not under any circumstance constitute a lewd act,
- 3987 irrespective of whether or not the breast is covered during or incidental to feeding.
- 3988 Section 49. Section **76-9-702.1** is amended to read:
- 3989 **76-9-702.1 . Sexual battery.**
- 3990 (1) An actor is guilty of sexual battery if the actor, under circumstances not amounting to an
- 3991 offense under Subsection (2), intentionally touches, whether or not through clothing, the
- 3992 anus, buttocks, or any part of the genitals of another individual, or the breast of a female
- 3993 individual, and the actor's conduct is under circumstances the actor knows or should
- 3994 know will likely cause affront or alarm to the individual touched.
- 3995 (2) Offenses referred to in Subsection (1) are:
- 3996 (a) rape under Section 76-5-402;
- 3997 (b) rape of a child under Section 76-5-402.1;
- 3998 (c) object rape under Section 76-5-402.2;
- 3999 (d) object rape of a child under Section 76-5-402.3;
- 4000 (e) forcible sodomy under Subsection 76-5-403(2);
- 4001 (f) sodomy on a child under Section 76-5-403.1;
- 4002 (g) forcible sexual abuse under Section 76-5-404;
- 4003 (h) sexual abuse of a child under Section 76-5-404.1;
- 4004 (i) aggravated sexual abuse of a child under Section 76-5-404.3;

4005 (j) aggravated sexual assault under Section 76-5-405; and

4006 (k) an attempt to commit an offense under this Subsection (2).

4007 (3) Sexual battery is a class A misdemeanor.

4008 [~~(4)(a) For purposes of Subsection 77-41-102(19) only, a plea of guilty or nolo~~
 4009 ~~contendere to a charge under this section that is held in abeyance under Title 77,~~
 4010 ~~Chapter 2a, Pleas in Abeyance, is the equivalent of a conviction.]~~

4011 [~~(b) This Subsection (4) also applies if the charge under this section has been~~
 4012 ~~subsequently reduced or dismissed in accordance with the plea in abeyance~~
 4013 ~~agreement.]~~

4014 Section 50. Section **76-9-702.5** is amended to read:

4015 **76-9-702.5 . Lewdness involving a child.**

4016 (1) As used in this section:

4017 (a) "In the presence of" includes within visual contact through an electronic device.

4018 (b) "Common area of a privacy space" means the same as that term is defined in Section
 4019 76-9-702.

4020 (c) "Privacy space" means the same as that term is defined in Section 76-9-702.8.

4021 (2) A person is guilty of lewdness involving a child if the person under circumstances not
 4022 amounting to rape of a child, object rape of a child, sodomy upon a child, sexual abuse
 4023 of a child, aggravated sexual abuse of a child, or an attempt to commit any of those
 4024 offenses, intentionally or knowingly:

4025 (a) does any of the following in the presence of a child who is under 14 years of age:

4026 (i) performs an act of sexual intercourse or sodomy;

4027 (ii) exposes his or her genitals, the female breast below the top of the areola, the
 4028 buttocks, the anus, or the pubic area:

4029 (A) in a public place; or

4030 (B) in a private place under circumstances the person should know will likely

4031 cause affront or alarm or with the intent to arouse or gratify the sexual desire of
 4032 the actor or the child;

4033 (iii) masturbates; or

4034 (iv) performs any other act of lewdness; or

4035 (b) under circumstances not amounting to sexual exploitation of a child under Section

4036 76-5b-201 or aggravated sexual exploitation of a child under Section 76-5b-201.1,

4037 causes a child under the age of 14 years to expose his or her genitals, anus, or breast,

4038 if female, to the actor, with the intent to arouse or gratify the sexual desire of the

4039 actor or the child.

4040 (3)(a) Lewdness involving a child is a class A misdemeanor, except under Subsection

4041 (3)(b).

4042 (b) Lewdness involving a child is a third degree felony if at the time of the violation:

4043 (i) the person is a sex offender [~~as defined in Section 77-27-21.7~~] as described in
4044 Subsection 53-29-202(2)(b) and the offense that the individual committed that
4045 resulted in the individual being a sex offender was committed against an
4046 individual younger than 18 years old;

4047 (ii) the person has previously been convicted of a violation of this section;

4048 (iii) the person commits the offense of lewdness involving a child while also
4049 committing the offense of:

4050 (A) criminal trespass in a sex-designated changing room under Subsection
4051 76-6-206(2)(d);

4052 (B) lewdness under Section 76-9-702;

4053 (C) voyeurism under Section 76-9-702.7; or

4054 (D) loitering in a privacy space under Section 76-9-702.8; or

4055 (iv) the person commits the offense of lewdness involving a child in a sex-designated
4056 privacy space, as defined in Section 76-9-702.8, that is not designated for
4057 individuals of the actor's sex.

4058 (4)(a) The common area of a privacy space constitutes a public place or circumstance
4059 described in Subsection (2) where an act or an attempted act described in Subsection
4060 (2) constitutes lewdness involving a child.

4061 (b) Within the common area of a government entity's dressing room, fitting room, locker
4062 room, changing facility, or any other space designated for multiple individuals to
4063 dress or undress within the same space, exposing, displaying, or otherwise
4064 uncovering genitalia that does not correspond with the sex designation of the
4065 changing room constitutes an act or an attempted act described in Subsection (2) that
4066 constitutes lewdness involving a child.

4067 Section 51. Section **77-2-2.3** is amended to read:

4068 **77-2-2.3 . Reducing the level of an offense.**

4069 (1) Notwithstanding any other provision of law, a prosecuting attorney may:

4070 (a) present and file an information charging an individual for an offense under
4071 Subsections 76-3-103(1)(b) through (d), Subsection 76-3-103(2), or Section 76-3-104
4072 with a classification of the offense at one degree lower than the classification that is

4073 provided in statute if the prosecuting attorney believes that the sentence would be
 4074 disproportionate to the offense because there are special circumstances relating to the
 4075 offense; or

4076 (b) subject to the approval of the court, amend an information, as part of a plea
 4077 agreement, to charge an individual for an offense under Subsections 76-3-103(1)(b)
 4078 through (d), Subsection 76-3-103(2), or Section 76-3-104 with a classification of the
 4079 offense at one degree lower than the classification that is provided in statute.

4080 (2) A court may:

4081 (a) enter a judgment of conviction for an offense filed under Subsection (1) at one
 4082 degree lower than classified in statute; and

4083 (b) impose a sentence for the offense filed under Subsection (1) at one degree lower than
 4084 classified in statute.

4085 (3) A conviction of an offense at one degree lower than classified in statute under
 4086 Subsection (2) does not affect the requirements for registration of the offense under [
 4087 ~~Title 77, Chapter 41, Sex, Kidnap, and Child Abuse Offender Registry~~] Title 53, Chapter
 4088 29, Sex, Kidnap, and Child Abuse Offender Registry, if the elements of the offense for
 4089 which the defendant is convicted are the same as the elements of [an] a registrable
 4090 offense described in Section [~~77-41-102~~] 53-29-202.

4091 (4) This section does not preclude an individual from obtaining and being granted an
 4092 expungement for the individual's record in accordance with Title 77, Chapter 40a,
 4093 Expungement of Criminal Records.

4094 Section 52. Section **77-11c-101** is amended to read:

4095 **77-11c-101 . Definitions.**

4096 As used in this chapter:

4097 (1) "Acquitted" means the same as that term is defined in Section 77-11b-101.

4098 (2) "Adjudicated" means that:

4099 (a)(i) a judgment of conviction by plea or verdict of an offense has been entered by a
 4100 court; and

4101 (ii) a sentence has been imposed by the court; or

4102 (b) a judgment has been entered for an adjudication of an offense by a juvenile court
 4103 under Section 80-6-701.

4104 (3) "Adjudication" means:

4105 (a) a judgment of conviction by plea or verdict of an offense; or

4106 (b) an adjudication for an offense by a juvenile court under Section 80-6-701.

- 4107 (4) "Agency" means the same as that term is defined in Section 77-11a-101.
- 4108 (5) "Appellate court" means the Utah Court of Appeals, the Utah Supreme Court, or the
4109 United States Supreme Court.
- 4110 (6)(a) "Biological evidence" means an item that contains blood, semen, hair, saliva,
4111 epithelial cells, latent fingerprint evidence that may contain biological material
4112 suitable for DNA testing, or other identifiable human biological material that:
- 4113 (i) is collected as part of an investigation or prosecution of a violent felony offense;
4114 and
- 4115 (ii) may reasonably be used to incriminate or exculpate a person for the violent
4116 felony offense.
- 4117 (b) "Biological evidence" includes:
- 4118 (i) material that is catalogued separately, including:
- 4119 (A) on a slide or swab; or
4120 (B) inside a test tube, if the evidentiary sample that previously was inside the test
4121 tube has been consumed by testing;
- 4122 (ii) material that is present on other evidence, including clothing, a ligature, bedding,
4123 a drinking cup, a cigarette, or a weapon, from which a DNA profile may be
4124 obtained;
- 4125 (iii) the contents of a sexual assault kit; and
- 4126 (iv) for a violent felony offense, material described in this Subsection (6) that is in
4127 the custody of an evidence collecting or retaining entity on May 4, 2022.
- 4128 (7) "Claimant" means the same as that term is defined in Section 77-11a-101.
- 4129 (8) "Computer" means the same as that term is defined in Section 77-11a-101.
- 4130 (9) "Continuous chain of custody" means:
- 4131 (a) for a law enforcement agency or a court, that legal standards regarding a continuous
4132 chain of custody are maintained; and
- 4133 (b) for an entity that is not a law enforcement agency or a court, that the entity maintains
4134 a record in accordance with legal standards required of the entity.
- 4135 (10) "Contraband" means the same as that term is defined in Section 77-11a-101.
- 4136 (11) "Controlled substance" means the same as that term is defined in Section 58-37-2.
- 4137 (12) "Court" means a municipal, county, or state court.
- 4138 (13) "DNA" means deoxyribonucleic acid.
- 4139 (14) "DNA profile" means a unique identifier of an individual derived from DNA.
- 4140 (15) "Drug paraphernalia" means the same as that term is defined in Section 58-37a-3.

- 4141 (16) "Evidence" means property, contraband, or an item or substance that:
- 4142 (a) is seized or collected as part of an investigation or prosecution of an offense; and
- 4143 (b) may reasonably be used to incriminate or exculpate an individual for an offense.
- 4144 (17)(a) "Evidence collecting or retaining entity" means an entity within the state that
- 4145 collects, stores, or retrieves biological evidence.
- 4146 (b) "Evidence collecting or retaining entity" includes:
- 4147 (i) a medical or forensic entity;
- 4148 (ii) a law enforcement agency;
- 4149 (iii) a court; and
- 4150 (iv) an official, employee, or agent of an entity or agency described in this Subsection
- 4151 (17).
- 4152 (v) "Evidence collecting or retaining entity" does not include a collecting facility
- 4153 defined in Section 53-10-902.
- 4154 (18) "Exhibit" means property, contraband, or an item or substance that is admitted into
- 4155 evidence for a court proceeding.
- 4156 (19) "In custody" means an individual who:
- 4157 (a) is incarcerated, civilly committed, on parole, or on probation; or
- 4158 (b) is required to register under [~~Title 77, Chapter 41, Sex, Kidnap, and Child Abuse~~
- 4159 ~~Offender Registry~~] Title 53, Chapter 29, Sex, Kidnap, and Child Abuse Offender
- 4160 Registry.
- 4161 (20) "Law enforcement agency" means the same as that term is defined in Section
- 4162 77-11a-101.
- 4163 (21) "Medical or forensic entity" means a private or public hospital, medical facility, or
- 4164 other entity that secures biological evidence or conducts forensic examinations related to
- 4165 criminal investigations.
- 4166 (22) "Physical evidence" includes evidence that:
- 4167 (a) is related to:
- 4168 (i) an investigation;
- 4169 (ii) an arrest; or
- 4170 (iii) a prosecution that resulted in a judgment of conviction; and
- 4171 (b) is in the actual or constructive possession of a law enforcement agency or a court or
- 4172 an agent of a law enforcement agency or a court.
- 4173 (23) "Property" means the same as that term is defined in Section 77-11a-101.
- 4174 (24) "Prosecuting attorney" means the same as that term is defined in Section 77-11a-101.

- 4175 (25) "Sexual assault kit" means the same as that term is defined in Section 53-10-902.
- 4176 (26) "Victim" means the same as that term is defined in Section 53-10-902.
- 4177 (27) "Violent felony offense" means the same as the term "violent felony" is defined in
4178 Section 76-3-203.5.
- 4179 (28) "Wildlife" means the same as that term is defined in Section 23A-1-101.
- 4180 Section 53. Section **77-27-5.2** is amended to read:
- 4181 **77-27-5.2 . Board authority to order removal from Sex, Kidnap, and Child Abuse**
4182 **Offender Registry.**
- 4183 (1) If the board grants a pardon for a conviction described in Section 53-29-202 that is the
4184 basis for an individual's registration on the Sex, Kidnap, and Child Abuse Offender
4185 Registry, the board shall issue an order directing the Department of Public Safety to
4186 remove the individual's name and personal information relating to the pardoned
4187 conviction from the Sex, Kidnap, and Child Abuse Offender Registry.
- 4188 (2) An order described in Subsection (1), issued by the board, satisfies the notification
4189 requirement described in Subsection [~~77-41-113(1)(b)~~] 53-29-405(1)(b).
- 4190 Section 54. Section **77-38-605** is amended to read:
- 4191 **77-38-605 . Administration -- Application.**
- 4192 (1) The commission shall provide an application form to an applicant who seeks to
4193 participate in the program under this part.
- 4194 (2) The commission may not charge an applicant or program participant for an application
4195 or participation fee to apply for, or participate in, the program.
- 4196 (3) The application shall include:
- 4197 (a) the applicant's name;
- 4198 (b) a mailing address, a phone number, and an email address where the applicant may be
4199 contacted by the commission;
- 4200 (c) an indication regarding whether the assailant is employed by a state or local
4201 government entity, and if applicable, the name of the state or local government entity;
- 4202 (d) a statement that the applicant understands and consents to:
- 4203 (i) remain enrolled in the program for four years, unless the applicant's participation
4204 in the program is cancelled under Section 77-38-617;
- 4205 (ii) while the applicant is enrolled in the program, notify the commission when the
4206 applicant changes the applicant's actual address or legal name;
- 4207 (iii) develop a safety plan with a program assistant;
- 4208 (iv) authorize the commission to notify a state or local government entity that the

- 4209 applicant is a program participant;
- 4210 (v) submit written notice to the commission if the applicant chooses to cancel the
4211 applicant's participation in the program;
- 4212 (vi) register to vote in person at the office of the clerk in the county where the
4213 applicant's actual address is located; and
- 4214 (vii) certify that the commission is the applicant's designated agent for service of
4215 process for personal service;
- 4216 (e) evidence that the applicant, or a minor or an incapacitated individual residing with
4217 the applicant, is a victim, including:
- 4218 (i) a law enforcement, court, or other state, local, or federal government agency
4219 record; or
- 4220 (ii) a document from:
- 4221 (A) a domestic violence program, facility, or shelter;
4222 (B) a sexual assault program; or
4223 (C) a religious, medical, or other professional from whom the applicant, or the
4224 minor or the incapacitated individual residing with the applicant, sought
4225 assistance in dealing with alleged abuse, domestic violence, stalking, or a
4226 sexual offense;
- 4227 (f) a statement from the applicant that a disclosure of the applicant's actual address
4228 would endanger the applicant, or a minor or an incapacitated individual residing with
4229 the applicant;
- 4230 (g) a statement by the applicant that the applicant:
- 4231 (i) resides at a residential address that is not known by the assailant;
4232 (ii) has relocated to a different residential address in the past 90 days that is not
4233 known by the assailant; or
4234 (iii) will relocate to a different residential address in the state within 90 days that is
4235 not known by the assailant;
- 4236 (h) the actual address that:
- 4237 (i) the applicant requests that the commission not disclose; and
4238 (ii) is at risk of discovery by the assailant or potential assailant;
- 4239 (i) a statement by the applicant disclosing:
- 4240 (i) the existence of a court order or action involving the applicant, or a minor or an
4241 incapacitated individual residing with the applicant, related to a divorce
4242 proceeding, a child support order or judgment, or the allocation of custody or

- 4243 parent-time; and
- 4244 (ii) the court that issued the order or has jurisdiction over the action;
- 4245 (j) the name of any other individual who resides with the applicant who needs to be a
- 4246 program participant to ensure the safety of the applicant, or a minor or an
- 4247 incapacitated individual residing with the applicant;
- 4248 (k) a statement by the applicant that:
- 4249 (i) the applicant, or a minor or an incapacitated individual residing at the same
- 4250 address as the applicant, will benefit from participation in the program;
- 4251 (ii) if the applicant intends to vote, the applicant will register to vote at the office of
- 4252 the clerk in the county in which the applicant actually resides; and
- 4253 (iii) the applicant does not have a current obligation to register as a sex offender,
- 4254 kidnap offender, or child abuse offender under [~~Title 77, Chapter 41, Sex, Kidnap,~~
- 4255 ~~and Child Abuse Offender Registry~~] Title 53, Chapter 29, Sex, Kidnap, and Child
- 4256 Abuse Offender Registry;
- 4257 (l) a statement by the applicant, under penalty of perjury, that the information contained
- 4258 in the application is true;
- 4259 (m) a statement that:
- 4260 (i) if the applicant intends to use the assigned address for any correspondence with
- 4261 the State Tax Commission, the applicant must provide the State Tax Commission
- 4262 with the applicant's social security number, federal employee identification
- 4263 number, and any other identification number related to a tax, fee, charge, or
- 4264 license administered by the State Tax Commission; and
- 4265 (ii) if the applicant intends to use the assigned address for correspondence to a state
- 4266 or local government entity for the purpose of titling or registering a motor vehicle
- 4267 or a watercraft that is owned or leased by the applicant, the applicant shall provide
- 4268 to the state or local government entity for each motor vehicle or watercraft:
- 4269 (A) the motor vehicle or hull identification number;
- 4270 (B) the license plate or registration number for the motor vehicle or the watercraft;
- 4271 and
- 4272 (C) the physical address where each motor vehicle or watercraft is stored; and
- 4273 (n) a statement that any assistance or counseling provided by a program assistant as part
- 4274 of the program does not constitute legal advice or legal services to the applicant.

4275 Section 55. Section **77-40a-303** is amended to read:

4276 **77-40a-303 . Requirements for a certificate of eligibility to expunge records of a**

4277 **conviction.**

- 4278 (1) Except as otherwise provided by this section, a petitioner is eligible to receive a
 4279 certificate of eligibility from the bureau to expunge the records of a conviction if:
 4280 (a) the petitioner has paid in full all fines and interest ordered by the court related to the
 4281 conviction for which expungement is sought;
 4282 (b) the petitioner has paid in full all restitution ordered by the court under Section
 4283 77-38b-205; and
 4284 (c) the following time periods have passed after the day on which the petitioner was
 4285 convicted or released from incarceration, parole, or probation, whichever occurred
 4286 last, for the conviction that the petitioner seeks to expunge:
 4287 (i) 10 years for the conviction of a misdemeanor under Subsection 41-6a-501(2);
 4288 (ii) 10 years for the conviction of a felony for operating a motor vehicle with any amount of a
 4289 controlled substance in an individual's body and causing serious bodily injury or death, as
 4290 codified before May 4, 2022, Laws of Utah 2021,
 4291 Chapter 236, Section 1, Subsection 58-37-8(2)(g);
 4292 (iii) seven years for the conviction of a felony;
 4293 (iv) five years for the conviction of a drug possession offense that is a felony;
 4294 (v) five years for the conviction of a class A misdemeanor;
 4295 (vi) four years for the conviction of a class B misdemeanor; or
 4296 (vii) three years for the conviction of a class C misdemeanor or infraction.
- 4297 (2) A petitioner is not eligible to receive a certificate of eligibility from the bureau to
 4298 expunge the records of a conviction under Subsection (1) if:
 4299 (a) except as provided in Subsection (3), the conviction for which expungement is
 4300 sought is:
 4301 (i) a capital felony;
 4302 (ii) a first degree felony;
 4303 (iii) a felony conviction of a violent felony as defined in Subsection 76-3-203.5
 4304 (1)(c)(i);
 4305 (iv) a felony conviction described in Subsection 41-6a-501(2);
 4306 (v) an offense, or a combination of offenses, that would [~~require the individual to~~
 4307 ~~register as a sex offender, as defined in Section 77-41-102] result in the individual
 4308 being a sex offender under Subsection 53-29-202(2)(b); or
 4309 (vi) [~~a registerable child abuse offense as defined in Subsection 77-41-102(1);~~] an
 4310 offense, or a combination of offenses, that would result in the individual being a~~

- 4311 child abuse offender under Subsection 53-29-202(2)(a);
- 4312 (b) there is a criminal proceeding for a misdemeanor or felony offense pending against
- 4313 the petitioner, unless the criminal proceeding is for a traffic offense;
- 4314 (c) there is a plea in abeyance for a misdemeanor or felony offense pending against the
- 4315 petitioner, unless the plea in abeyance is for a traffic offense;
- 4316 (d) the petitioner is currently incarcerated, on parole, or on probation, unless the
- 4317 petitioner is on probation or parole for an infraction, a traffic offense, or a minor
- 4318 regulatory offense;
- 4319 (e) the petitioner intentionally or knowingly provides false or misleading information on
- 4320 the application for a certificate of eligibility;
- 4321 (f) there is a criminal protective order or a criminal stalking injunction in effect for the
- 4322 case; or
- 4323 (g) the bureau determines that the petitioner's criminal history makes the petitioner
- 4324 ineligible for a certificate of eligibility under Subsection (4) or (5).
- 4325 (3) Subsection (2)(a) does not apply to a conviction for a qualifying sexual offense, as
- 4326 defined in Section 76-3-209, if, at the time of the offense, a petitioner who committed
- 4327 the offense was at least 14 years old but under 18 years old, unless the petitioner was
- 4328 convicted by a district court as an adult in accordance with [~~Title 80, Chapter 6, Part 5,~~
- 4329 ~~Transfer to District Court~~] Title 80, Chapter 6, Part 5, Minor Tried as an Adult.
- 4330 (4) Subject to Subsections (6), (7), and (8), a petitioner is not eligible to receive a certificate
- 4331 of eligibility if, at the time the petitioner seeks the certificate of eligibility, the bureau
- 4332 determines that the petitioner's criminal history, including previously expunged
- 4333 convictions, contains any of the following:
- 4334 (a) two or more felony convictions other than for drug possession offenses, each of
- 4335 which is contained in a separate criminal episode;
- 4336 (b) any combination of three or more convictions other than for drug possession offenses
- 4337 that include two class A misdemeanor convictions, each of which is contained in a
- 4338 separate criminal episode;
- 4339 (c) any combination of four or more convictions other than for drug possession offenses
- 4340 that include three class B misdemeanor convictions, each of which is contained in a
- 4341 separate criminal episode; or
- 4342 (d) five or more convictions other than for drug possession offenses of any degree
- 4343 whether misdemeanor or felony, each of which is contained in a separate criminal
- 4344 episode.

- 4345 (5) Subject to Subsections (7) and (8), a petitioner is not eligible to receive a certificate of
4346 eligibility if, at the time the petitioner seeks the certificate of eligibility, the bureau
4347 determines that the petitioner's criminal history, including previously expunged
4348 convictions, contains any of the following:
- 4349 (a) three or more felony convictions for drug possession offenses, each of which is
4350 contained in a separate criminal episode; or
 - 4351 (b) any combination of five or more convictions for drug possession offenses, each of
4352 which is contained in a separate criminal episode.
- 4353 (6) If the petitioner's criminal history contains convictions for both a drug possession
4354 offense and a non-drug possession offense arising from the same criminal episode, the
4355 bureau shall count that criminal episode as a conviction under Subsection (4) if any
4356 non-drug possession offense in that episode:
- 4357 (a) is a felony or class A misdemeanor; or
 - 4358 (b) has the same or a longer waiting period under Subsection (1)(c) than any drug
4359 possession offense in that episode.
- 4360 (7) Except as provided in Subsection (8), if at least 10 years have passed after the day on
4361 which the petitioner was convicted or released from incarceration, parole, or probation,
4362 whichever occurred last, for all convictions:
- 4363 (a) each numerical eligibility limit under Subsections (4)(a) and (b) shall be increased by
4364 one; and
 - 4365 (b) each numerical eligibility limit under Subsections (4)(c) and (d) is not applicable if
4366 the highest level of convicted offense in the criminal episode is:
 - 4367 (i) a class B misdemeanor;
 - 4368 (ii) a class C misdemeanor;
 - 4369 (iii) a drug possession offense if none of the non-drug possession offenses in the
4370 criminal episode are a felony or a class A misdemeanor; or
 - 4371 (iv) an infraction.
- 4372 (8) When determining whether a petitioner is eligible for a certificate of eligibility under
4373 Subsection (4), (5), or (7), the bureau may not consider a petitioner's pending case or
4374 prior conviction for:
- 4375 (a) an infraction;
 - 4376 (b) a traffic offense;
 - 4377 (c) a minor regulatory offense; or
 - 4378 (d) a clean slate eligible case that was automatically expunged.

4379 (9) If the petitioner received a pardon before May 14, 2013, from the Utah Board of
4380 Pardons and Parole, the petitioner is entitled to an expungement order for all pardoned
4381 crimes in accordance with Section 77-27-5.1.

4382 Section 56. Section **77-40a-403** is amended to read:

4383 **77-40a-403 . Release and use of expunged records -- Agencies.**

4384 (1)(a) An agency with an expunged record, or any employee of an agency with an
4385 expunged record, may not knowingly or intentionally divulge any information
4386 contained in the expunged record to any person, or another agency, without a court
4387 order unless:

4388 (i) specifically authorized by Subsection (4) or Section 77-40a-404; or

4389 (ii) subject to Subsection (1)(b), the information in an expunged record is being
4390 shared with another agency through a records management system that both
4391 agencies use for the purpose of record management.

4392 (b) An agency with a records management system may not disclose any information in
4393 an expunged record to another agency or person, or allow another agency or person
4394 access to an expunged record, if that agency or person does not use the records
4395 management system for the purpose of record management.

4396 (2) The following entities or agencies may receive information contained in expunged
4397 records upon specific request:

4398 (a) the Board of Pardons and Parole;

4399 (b) Peace Officer Standards and Training;

4400 (c) federal authorities if required by federal law;

4401 (d) the State Board of Education;

4402 (e) the Commission on Criminal and Juvenile Justice, for purposes of investigating
4403 applicants for judicial office; and

4404 (f) a research institution or an agency engaged in research regarding the criminal justice
4405 system if:

4406 (i) the research institution or agency provides a legitimate research purpose for
4407 gathering information from the expunged records;

4408 (ii) the research institution or agency enters into a data sharing agreement with the
4409 court or agency with custody of the expunged records that protects the
4410 confidentiality of any identifying information in the expunged records;

4411 (iii) any research using expunged records does not include any individual's name or
4412 identifying information in any product of that research; and

- 4413 (iv) any product resulting from research using expunged records includes a disclosure
4414 that expunged records were used for research purposes.
- 4415 (3) Except as otherwise provided by this section or by court order, a person, an agency, or
4416 an entity authorized by this section to view expunged records may not reveal or release
4417 any information obtained from the expunged records to anyone outside the specific
4418 request, including distribution on a public website.
- 4419 (4) A prosecuting attorney may communicate with another prosecuting attorney, or another
4420 prosecutorial agency, regarding information in an expunged record that includes a
4421 conviction, or a charge dismissed as a result of a successful completion of a plea in
4422 abeyance agreement, for:
- 4423 (a) stalking as described in Section 76-5-106.5;
- 4424 (b) a domestic violence offense as defined in Section 77-36-1;
- 4425 (c) an offense that would [~~require the individual to register as a sex offender, kidnap~~
4426 ~~offender, or child abuse offender as defined in Section 77-41-102]~~ result in the
4427 individual being a child abuse offender, a sex offender, or a kidnap offender under
4428 Section 53-29-202; or
- 4429 (d) a weapons offense under Title 76, Chapter 10, Part 5, Weapons.
- 4430 (5) Except as provided in Subsection (7), a prosecuting attorney may not use an expunged
4431 record for the purpose of a sentencing enhancement or as a basis for charging an
4432 individual with an offense that requires a prior conviction.
- 4433 (6) The bureau may also use the information in the bureau's index as provided in Section
4434 53-5-704.
- 4435 (7) If an individual is charged with a felony, or an offense eligible for enhancement based
4436 on a prior conviction, after obtaining an order of expungement, the prosecuting attorney
4437 may petition the court in which the individual is charged to open the expunged records
4438 upon a showing of good cause.
- 4439 (8)(a) For judicial sentencing, a court may order any records expunged under this
4440 chapter or Section 77-27-5.1 to be opened and admitted into evidence.
- 4441 (b) The records are confidential and are available for inspection only by the court,
4442 parties, counsel for the parties, and any other person who is authorized by the court to
4443 inspect them.
- 4444 (c) At the end of the action or proceeding, the court shall order the records expunged
4445 again.
- 4446 (d) Any person authorized by this Subsection (8) to view expunged records may not

4447 reveal or release any information obtained from the expunged records to anyone
4448 outside the court.

4449 (9) Records released under this chapter are classified as protected under Section 63G-2-305
4450 and are accessible only as provided under Title 63G, Chapter 2, Part 2, Access to
4451 Records, and Subsection 53-10-108(2)(k) for records held by the bureau.

4452 Section 57. Section **78A-2-301** is amended to read:

4453 **78A-2-301 . Civil fees of the courts of record -- Courts complex design.**

4454 (1)(a) The fee for filing any civil complaint or petition invoking the jurisdiction of a
4455 court of record not governed by another subsection is \$375.

4456 (b) The fee for filing a complaint or petition is:

4457 (i) \$90 if the claim for damages or amount in interpleader exclusive of court costs,
4458 interest, and attorney fees is \$2,000 or less;

4459 (ii) \$200 if the claim for damages or amount in interpleader exclusive of court costs,
4460 interest, and attorney fees is greater than \$2,000 and less than \$10,000;

4461 (iii) \$375 if the claim for damages or amount in interpleader is \$10,000 or more;

4462 (iv) except as provided in Subsection (1)(b)(v), \$325 if the petition is filed for an
4463 action described in Title 81, Chapter 4, Dissolution of Marriage;

4464 (v) \$35 for a petition for temporary separation described in Section 81-4-104;

4465 (vi) \$125 if the petition is for removal from the [The-]Sex, Kidnap, and Child Abuse
4466 Offender Registry under Section [~~77-41-112~~] 53-29-204, 53-29-205, or 53-29-206;
4467 and

4468 (vii) \$35 if the petition is for guardianship and the prospective ward is the biological
4469 or adoptive child of the petitioner.

4470 (c) The fee for filing a small claims affidavit is:

4471 (i) \$60 if the claim for damages or amount in interpleader exclusive of court costs,
4472 interest, and attorney fees is \$2,000 or less;

4473 (ii) \$100 if the claim for damages or amount in interpleader exclusive of court costs,
4474 interest, and attorney fees is greater than \$2,000, but less than \$7,500; and

4475 (iii) \$185 if the claim for damages or amount in interpleader exclusive of court costs,
4476 interest, and attorney fees is \$7,500 or more.

4477 (d) The fee for filing a counter claim, cross claim, complaint in intervention, third party
4478 complaint, or other claim for relief against an existing or joined party other than the
4479 original complaint or petition is:

4480 (i) \$55 if the claim for relief exclusive of court costs, interest, and attorney fees is

- 4481 \$2,000 or less;
- 4482 (ii) \$165 if the claim for relief exclusive of court costs, interest, and attorney fees is
- 4483 greater than \$2,000 and less than \$10,000;
- 4484 (iii) \$170 if the original petition is filed under Subsection (1)(a), the claim for relief is
- 4485 \$10,000 or more, or the party seeks relief other than monetary damages; and
- 4486 (iv) \$130 if the original petition is filed for an action described in Title 81, Chapter 4,
- 4487 Dissolution of Marriage.
- 4488 (e) The fee for filing a small claims counter affidavit is:
- 4489 (i) \$50 if the claim for relief exclusive of court costs, interest, and attorney fees is
- 4490 \$2,000 or less;
- 4491 (ii) \$70 if the claim for relief exclusive of court costs, interest, and attorney fees is
- 4492 greater than \$2,000, but less than \$7,500; and
- 4493 (iii) \$120 if the claim for relief exclusive of court costs, interest, and attorney fees is
- 4494 \$7,500 or more.
- 4495 (f) The fee for depositing funds under Section 57-1-29 when not associated with an
- 4496 action already before the court is determined under Subsection (1)(b) based on the
- 4497 amount deposited.
- 4498 (g) The fee for filing a petition is:
- 4499 (i) \$240 for trial de novo of an adjudication of the justice court or of the small claims
- 4500 department; and
- 4501 (ii) \$80 for an appeal of a municipal administrative determination in accordance with
- 4502 Section 10-3-703.7.
- 4503 (h) The fee for filing a notice of appeal, petition for appeal of an interlocutory order, or
- 4504 petition for writ of certiorari is \$240.
- 4505 (i) The fee for filing a petition for expungement is \$150.
- 4506 (j)(i) Fifteen dollars of the fees established by Subsections (1)(a) through (i) shall be
- 4507 allocated to and between the Judges' Contributory Retirement Trust Fund and the
- 4508 Judges' Noncontributory Retirement Trust Fund, as provided in Title 49, Chapter
- 4509 17, Judges' Contributory Retirement Act, and Title 49, Chapter 18, Judges'
- 4510 Noncontributory Retirement Act.
- 4511 (ii) Four dollars of the fees established by Subsections (1)(a) through (i) shall be
- 4512 allocated by the state treasurer to be deposited into the restricted account,
- 4513 Children's Legal Defense Account, as provided in Section 51-9-408.
- 4514 (iii) Five dollars of the fees established under Subsections (1)(a) through (e), (1)(g),

- 4515 and (1)(s) shall be allocated to and deposited with the Dispute Resolution Account
4516 as provided in Section 78B-6-209.
- 4517 (iv) Thirty dollars of the fees established by Subsections (1)(a), (1)(b)(iii) and (iv),
4518 (1)(d)(iii) and (iv), (1)(g)(ii), (1)(h), and (1)(i) shall be allocated by the state
4519 treasurer to be deposited into the restricted account, Court Security Account, as
4520 provided in Section 78A-2-602.
- 4521 (v) Twenty dollars of the fees established by Subsections (1)(b)(i) and (ii), (1)(d)(ii)
4522 and (1)(g)(i) shall be allocated by the state treasurer to be deposited into the
4523 restricted account, Court Security Account, as provided in Section 78A-2-602.
- 4524 (k) The fee for filing a judgment, order, or decree of a court of another state or of the
4525 United States is \$35.
- 4526 (l) The fee for filing a renewal of judgment in accordance with Section 78B-6-1801 is
4527 50% of the fee for filing an original action seeking the same relief.
- 4528 (m) The fee for filing probate or child custody documents from another state is \$35.
- 4529 (n)(i) The fee for filing an abstract or transcript of judgment, order, or decree of the
4530 State Tax Commission is \$30.
- 4531 (ii) The fee for filing an abstract or transcript of judgment of a court of law of this
4532 state or a judgment, order, or decree of an administrative agency, commission,
4533 board, council, or hearing officer of this state or of its political subdivisions other
4534 than the State Tax Commission, is \$50.
- 4535 (o) The fee for filing a judgment by confession without action under Section 78B-5-205
4536 is \$35.
- 4537 (p) The fee for filing an award of arbitration for confirmation, modification, or vacation
4538 under Title 78B, Chapter 11, Utah Uniform Arbitration Act, that is not part of an
4539 action before the court is \$35.
- 4540 (q) The fee for filing a petition or counter-petition to modify a domestic relations order
4541 other than a protective order or stalking injunction is \$100.
- 4542 (r) The fee for filing any accounting required by law is:
- 4543 (i) \$15 for an estate valued at \$50,000 or less;
- 4544 (ii) \$30 for an estate valued at \$75,000 or less but more than \$50,000;
- 4545 (iii) \$50 for an estate valued at \$112,000 or less but more than \$75,000;
- 4546 (iv) \$90 for an estate valued at \$168,000 or less but more than \$112,000; and
- 4547 (v) \$175 for an estate valued at more than \$168,000.
- 4548 (s) The fee for filing a demand for a civil jury is \$250.

- 4549 (t) The fee for filing a notice of deposition in this state concerning an action pending in
4550 another state under Utah Rules of Civil Procedure, Rule 30 is \$35.
- 4551 (u) The fee for filing documents that require judicial approval but are not part of an
4552 action before the court is \$35.
- 4553 (v) The fee for a petition to open a sealed record is \$35.
- 4554 (w) The fee for a writ of replevin, attachment, execution, or garnishment is \$50 in
4555 addition to any fee for a complaint or petition.
- 4556 (x)(i) The fee for a petition for authorization for a minor to marry required by
4557 Section 81-2-304 is \$5.
- 4558 (ii) The fee for a petition for emancipation of a minor provided in Title 80, Chapter 7,
4559 Emancipation, is \$50.
- 4560 (y) The fee for a certificate issued under Section 26B-8-128 is \$8.
- 4561 (z) The fee for a certified copy of a document is \$4 per document plus 50 cents per page.
- 4562 (aa) The fee for an exemplified copy of a document is \$6 per document plus 50 cents per
4563 page.
- 4564 (bb) The Judicial Council shall, by rule, establish a schedule of fees for copies of
4565 documents and forms and for the search and retrieval of records under Title 63G,
4566 Chapter 2, Government Records Access and Management Act. Fees under
4567 Subsection (1)(bb) and (cc) shall be credited to the court as a reimbursement of
4568 expenditures.
- 4569 (cc) The Judicial Council may, by rule, establish a reasonable fee to allow members of
4570 the public to conduct a limited amount of searches on the Xchange database without
4571 having to pay a monthly subscription fee.
- 4572 (dd) There is no fee for services or the filing of documents not listed in this section or
4573 otherwise provided by law.
- 4574 (ee) Except as provided in this section, all fees collected under this section are paid to
4575 the General Fund. Except as provided in this section, all fees shall be paid at the time
4576 the clerk accepts the pleading for filing or performs the requested service.
- 4577 (ff) The filing fees under this section may not be charged to the state, the state's
4578 agencies, or political subdivisions filing or defending any action. In judgments
4579 awarded in favor of the state, its agencies, or political subdivisions, except the Office
4580 of Recovery Services, the court shall order the filing fees and collection costs to be
4581 paid by the judgment debtor. The sums collected under this Subsection (1)(ff) shall
4582 be applied to the fees after credit to the judgment, order, fine, tax, lien, or other

- 4583 penalty and costs permitted by law.
- 4584 (2)(a)(i) From March 17, 1994, until June 30, 1998, the state court administrator
4585 shall transfer all revenues representing the difference between the fees in effect
4586 after May 2, 1994, and the fees in effect before February 1, 1994, as dedicated
4587 credits to the Division of Facilities Construction and Management Capital Projects
4588 Fund.
- 4589 (ii)(A) Except as provided in Subsection (2)(a)(ii)(B), the Division of Facilities
4590 Construction and Management shall use up to \$3,750,000 of the revenue
4591 deposited into the Capital Projects Fund under this Subsection (2)(a) to design
4592 and take other actions necessary to initiate the development of a courts
4593 complex in Salt Lake City.
- 4594 (B) If the Legislature approves funding for construction of a courts complex in
4595 Salt Lake City in the 1995 Annual General Session, the Division of Facilities
4596 Construction and Management shall use the revenue deposited into the Capital
4597 Projects Fund under this Subsection (2)(a)(ii) to construct a courts complex in
4598 Salt Lake City.
- 4599 (C) After the courts complex is completed and all bills connected with its
4600 construction have been paid, the Division of Facilities Construction and
4601 Management shall use any money remaining in the Capital Projects Fund under
4602 this Subsection (2)(a)(ii) to fund the Vernal District Court building.
- 4603 (iii) The Division of Facilities Construction and Management may enter into
4604 agreements and make expenditures related to this project before the receipt of
4605 revenues provided for under this Subsection (2)(a)(iii).
- 4606 (iv) The Division of Facilities Construction and Management shall:
- 4607 (A) make those expenditures from unexpended and unencumbered building funds
4608 already appropriated to the Capital Projects Fund; and
- 4609 (B) reimburse the Capital Projects Fund upon receipt of the revenues provided for
4610 under this Subsection (2).
- 4611 (b) After June 30, 1998, the state court administrator shall ensure that all revenues
4612 representing the difference between the fees in effect after May 2, 1994, and the fees
4613 in effect before February 1, 1994, are transferred to the Division of Finance for
4614 deposit in the restricted account.
- 4615 (c) The Division of Finance shall deposit all revenues received from the state court
4616 administrator into the restricted account created by this section.

- 4617 (d)(i) From May 1, 1995, until June 30, 1998, the state court administrator shall
4618 transfer \$7 of the amount of a fine or bail forfeiture paid for a violation of Title
4619 41, Motor Vehicles, in a court of record to the Division of Facilities Construction
4620 and Management Capital Projects Fund. The division of money pursuant to
4621 Section 78A-5-110 shall be calculated on the balance of the fine or bail forfeiture
4622 paid.
- 4623 (ii) After June 30, 1998, the state court administrator or a municipality shall transfer
4624 \$7 of the amount of a fine or bail forfeiture paid for a violation of Title 41, Motor
4625 Vehicles, in a court of record to the Division of Finance for deposit in the
4626 restricted account created by this section. The division of money pursuant to
4627 Section 78A-5-110 shall be calculated on the balance of the fine or bail forfeiture
4628 paid.
- 4629 (3)(a) There is created within the General Fund a restricted account known as the State
4630 Courts Complex Account.
- 4631 (b) The Legislature may appropriate money from the restricted account to the state court
4632 administrator for the following purposes only:
- 4633 (i) to repay costs associated with the construction of the court complex that were
4634 funded from sources other than revenues provided for under this Subsection
4635 (3)(b)(i); and
- 4636 (ii) to cover operations and maintenance costs on the court complex.
- 4637 Section 58. Section **78B-8-302** is amended to read:
- 4638 **78B-8-302 . Process servers.**
- 4639 (1) A complaint, a summons, or a subpoena may be served by an individual who is:
- 4640 (a) 18 years old or older at the time of service; and
4641 (b) not a party to the action or a party's attorney.
- 4642 (2) Except as provided in Subsection (5), the following may serve all process issued by the
4643 courts of this state:
- 4644 (a) a peace officer employed by a political subdivision of the state acting within the
4645 scope and jurisdiction of the peace officer's employment;
4646 (b) a sheriff or appointed deputy sheriff employed by a county of the state;
4647 (c) a constable, or the constable's deputy, serving in compliance with applicable law;
4648 (d) an investigator employed by the state and authorized by law to serve civil process; or
4649 (e) a private investigator licensed in accordance with Title 53, Chapter 9, Private
4650 Investigator Regulation Act.

- 4651 (3) A private investigator licensed in accordance with Title 53, Chapter 9, Private
4652 Investigator Regulation Act, may not make an arrest pursuant to a bench warrant.
- 4653 (4) While serving process, a private investigator shall:
- 4654 (a) have on the investigator's body a visible form of credentials and identification
4655 identifying:
- 4656 (i) the investigator's name;
- 4657 (ii) that the investigator is a licensed private investigator; and
- 4658 (iii) the name and address of the agency employing the investigator or, if the
4659 investigator is self-employed, the address of the investigator's place of business;
- 4660 (b) verbally communicate to the person being served that the investigator is acting as a
4661 process server; and
- 4662 (c) print on the first page of each document served:
- 4663 (i) the investigator's name and identification number as a private investigator; and
4664 (ii) the address and phone number for the investigator's place of business.
- 4665 (5) The following may only serve process under this section when the use of force is
4666 authorized on the face of the document, or when a breach of the peace is imminent or
4667 likely under the totality of the circumstances:
- 4668 (a) a law enforcement officer, as defined in Section 53-13-103; or
- 4669 (b) a special function officer, as defined in Section 53-13-105, who is:
- 4670 (i) employed as an appointed deputy sheriff by a county of the state; or
4671 (ii) a constable.
- 4672 (6) The following may not serve process issued by a court:
- 4673 (a) an individual convicted of a felony violation of an offense [~~listed in Subsection~~
4674 77-41-102(19)] that would result in the individual being a sex offender under
4675 Subsection 53-29-202(2)(b); or
- 4676 (b) an individual who is a respondent in a proceeding described in Title 78B, Chapter 7,
4677 Protective Orders and Stalking Injunctions, in which a court has granted the
4678 petitioner a protective order.
- 4679 (7) An individual serving process shall:
- 4680 (a) legibly document the date and time of service on the front page of the document
4681 being served;
- 4682 (b) legibly print the process server's name, address, and telephone number on the return
4683 of service;
- 4684 (c) sign the return of service in substantial compliance with Title 78B, Chapter 18a,

4685 Uniform Unsworn Declarations Act;

4686 (d) if the process server is a peace officer, sheriff, or deputy sheriff, legibly print the
4687 badge number of the process server on the return of service; and

4688 (e) if the process server is a private investigator, legibly print the private investigator's
4689 identification number on the return of service.

4690 Section 59. Section **80-3-406** is amended to read:

4691 **80-3-406 . Permanency plan -- Reunification services.**

4692 (1) If the juvenile court orders continued removal at the dispositional hearing under Section
4693 80-3-402, and that the minor remain in the custody of the division, the juvenile court
4694 shall first:

4695 (a) establish a primary permanency plan and a concurrent permanency plan for the minor
4696 in accordance with this section; and

4697 (b) determine whether, in view of the primary permanency plan, reunification services
4698 are appropriate for the minor and the minor's family under Subsections (5) through (8).

4699 (2)(a) The concurrent permanency plan shall include:

4700 (i) a representative list of the conditions under which the primary permanency plan
4701 will be abandoned in favor of the concurrent permanency plan; and

4702 (ii) an explanation of the effect of abandoning or modifying the primary permanency
4703 plan.

4704 (b) In determining the primary permanency plan and concurrent permanency plan, the
4705 juvenile court shall consider:

4706 (i) the preference for kinship placement over nonkinship placement, including the
4707 rebuttable presumption described in Subsection 80-3-302(7)(a);

4708 (ii) the potential for a guardianship placement if parental rights are terminated and no
4709 appropriate adoption placement is available; and

4710 (iii) the use of an individualized permanency plan, only as a last resort.

4711 (3)(a) The juvenile court may amend a minor's primary permanency plan before the
4712 establishment of a final permanency plan under Section 80-3-409.

4713 (b) The juvenile court is not limited to the terms of the concurrent permanency plan in
4714 the event that the primary permanency plan is abandoned.

4715 (c) If, at any time, the juvenile court determines that reunification is no longer a minor's
4716 primary permanency plan, the juvenile court shall conduct a permanency hearing in
4717 accordance with Section 80-3-409 on or before the earlier of:

4718 (i) 30 days after the day on which the juvenile court makes the determination

- 4719 described in this Subsection (3)(c); or
- 4720 (ii) the day on which the provision of reunification services, described in Section
- 4721 80-3-409, ends.
- 4722 (4)(a) Because of the state's interest in and responsibility to protect and provide
- 4723 permanency for minors who are abused, neglected, or dependent, the Legislature
- 4724 finds that a parent's interest in receiving reunification services is limited.
- 4725 (b) The juvenile court may determine that:
- 4726 (i) efforts to reunify a minor with the minor's family are not reasonable or
- 4727 appropriate, based on the individual circumstances; and
- 4728 (ii) reunification services should not be provided.
- 4729 (c) In determining reasonable efforts to be made with respect to a minor, and in making
- 4730 reasonable efforts, the juvenile court and the division shall consider the minor's
- 4731 health, safety, and welfare as the paramount concern.
- 4732 (5) There is a presumption that reunification services should not be provided to a parent if
- 4733 the juvenile court finds, by clear and convincing evidence, that any of the following
- 4734 circumstances exist:
- 4735 (a) the whereabouts of the parents are unknown, based on a verified affidavit indicating
- 4736 that a reasonably diligent search has failed to locate the parent;
- 4737 (b) subject to Subsection (6)(a), the parent is suffering from a mental illness of such
- 4738 magnitude that the mental illness renders the parent incapable of utilizing
- 4739 reunification services;
- 4740 (c) the minor was previously adjudicated as an abused child due to physical abuse,
- 4741 sexual abuse, or sexual exploitation, and following the adjudication the child:
- 4742 (i) was removed from the custody of the minor's parent;
- 4743 (ii) was subsequently returned to the custody of the parent; and
- 4744 (iii) is being removed due to additional physical abuse, sexual abuse, or sexual
- 4745 exploitation;
- 4746 (d) the parent:
- 4747 (i) caused the death of another minor through abuse or neglect;
- 4748 (ii) committed, aided, abetted, attempted, conspired, or solicited to commit:
- 4749 (A) murder or manslaughter of a minor; or
- 4750 (B) child abuse homicide;
- 4751 (iii) committed sexual abuse against the minor;
- 4752 (iv) is [~~a registered sex offender or required to register as a sex offender~~] a sex

- 4753 offender under Subsection 53-29-202(2)(b); or
4754 (v)(A) intentionally, knowingly, or recklessly causes the death of another parent
4755 of the minor;
4756 (B) is identified by a law enforcement agency as the primary suspect in an
4757 investigation for intentionally, knowingly, or recklessly causing the death of
4758 another parent of the minor; or
4759 (C) is being prosecuted for or has been convicted of intentionally, knowingly, or
4760 recklessly causing the death of another parent of the minor;
- 4761 (e) the minor suffered severe abuse by the parent or by any individual known by the
4762 parent if the parent knew or reasonably should have known that the individual was
4763 abusing the minor;
- 4764 (f) the minor is adjudicated as an abused minor as a result of severe abuse by the parent,
4765 and the juvenile court finds that it would not benefit the minor to pursue reunification
4766 services with the offending parent;
- 4767 (g) the parent's rights are terminated with regard to any other minor;
- 4768 (h) the minor was removed from the minor's home on at least two previous occasions
4769 and reunification services were offered or provided to the family at those times;
- 4770 (i) the parent has abandoned the minor for a period of six months or longer;
- 4771 (j) the parent permitted the minor to reside, on a permanent or temporary basis, at a
4772 location where the parent knew or should have known that a clandestine laboratory
4773 operation was located;
- 4774 (k) except as provided in Subsection (6)(b), with respect to a parent who is the minor's
4775 birth mother, the minor has fetal alcohol syndrome, fetal alcohol spectrum disorder,
4776 or was exposed to an illegal or prescription drug that was abused by the minor's
4777 mother while the minor was in utero, if the minor was taken into division custody for
4778 that reason, unless the mother agrees to enroll in, is currently enrolled in, or has
4779 recently and successfully completed a substance use disorder treatment program
4780 approved by the department; or
- 4781 (l) any other circumstance that the juvenile court determines should preclude
4782 reunification efforts or services.
- 4783 (6)(a) The juvenile court shall base the finding under Subsection (5)(b) on competent
4784 evidence from at least two medical or mental health professionals, who are not
4785 associates, establishing that, even with the provision of services, the parent is not
4786 likely to be capable of adequately caring for the minor within 12 months after the day

- 4787 on which the juvenile court finding is made.
- 4788 (b) The juvenile court may disregard the provisions of Subsection (5)(k) if the juvenile
4789 court finds, under the circumstances of the case, that the substance use disorder
4790 treatment described in Subsection (5)(k) is not warranted.
- 4791 (7) In determining whether reunification services are appropriate, the juvenile court shall
4792 take into consideration:
- 4793 (a) failure of the parent to respond to previous services or comply with a previous child
4794 and family plan;
- 4795 (b) the fact that the minor was abused while the parent was under the influence of drugs
4796 or alcohol;
- 4797 (c) any history of violent behavior directed at the minor or an immediate family member;
- 4798 (d) whether a parent continues to live with an individual who abused the minor;
- 4799 (e) any patterns of the parent's behavior that have exposed the minor to repeated abuse;
- 4800 (f) testimony by a competent professional that the parent's behavior is unlikely to be
4801 successful; and
- 4802 (g) whether the parent has expressed an interest in reunification with the minor.
- 4803 (8) If, under Subsections (5)(b) through (l), the juvenile court does not order reunification
4804 services, a permanency hearing shall be conducted within 30 days in accordance with
4805 Section 80-3-409.
- 4806 (9)(a) Subject to Subsections (9)(b) through (e), if the juvenile court determines that
4807 reunification services are appropriate for the minor and the minor's family, the
4808 juvenile court shall provide for reasonable parent-time with the parent or parents
4809 from whose custody the minor was removed, unless parent-time is not in the best
4810 interest of the minor.
- 4811 (b) Parent-time is in the best interests of a minor unless the juvenile court makes a
4812 finding that it is necessary to deny parent-time in order to:
- 4813 (i) protect the physical safety of the minor;
- 4814 (ii) protect the life of the minor; or
- 4815 (iii) prevent the minor from being traumatized by contact with the parent due to the
4816 minor's fear of the parent in light of the nature of the alleged abuse or neglect.
- 4817 (c) Notwithstanding Subsection (9)(a), a juvenile court may not deny parent-time based
4818 solely on a parent's failure to:
- 4819 (i) prove that the parent has not used legal or illegal substances; or
- 4820 (ii) comply with an aspect of the child and family plan that is ordered by the juvenile

- 4821 court.
- 4822 (d) Parent-time shall be under the least restrictive conditions necessary to:
- 4823 (i) protect the physical safety of the child; or
- 4824 (ii) prevent the child from being traumatized by contact with the parent due to the
- 4825 minor's fear of the parent in light of the nature of the alleged abuse or neglect.
- 4826 (e)(i) The division or the person designated by the division or a court to supervise a
- 4827 parent-time session may deny parent-time for the session if the division or the
- 4828 supervising person determines that, based on the parent's condition, it is necessary
- 4829 to deny parent-time to:
- 4830 (A) protect the physical safety of the child;
- 4831 (B) protect the life of the child; or
- 4832 (C) consistent with Subsection (9)(e)(ii), prevent the child from being traumatized
- 4833 by contact with the parent.
- 4834 (ii) In determining whether the condition of the parent described in Subsection
- 4835 (9)(e)(i) will traumatize a child, the division or the person supervising the
- 4836 parent-time session shall consider the impact that the parent's condition will have
- 4837 on the child in light of:
- 4838 (A) the child's fear of the parent; and
- 4839 (B) the nature of the alleged abuse or neglect.
- 4840 (10)(a) If the juvenile court determines that reunification services are appropriate, the
- 4841 juvenile court shall order that the division make reasonable efforts to provide services
- 4842 to the minor and the minor's parent for the purpose of facilitating reunification of the
- 4843 family, for a specified period of time.
- 4844 (b) In providing the services described in Subsection (10)(a), the juvenile court and the
- 4845 division shall consider the minor's health, safety, and welfare as the paramount
- 4846 concern.
- 4847 (11) In cases where sexual abuse, sexual exploitation, abandonment, severe abuse, or severe
- 4848 neglect are involved:
- 4849 (a) the juvenile court does not have any duty to order reunification services; and
- 4850 (b) the division does not have a duty to make reasonable efforts to or in any other way
- 4851 attempt to provide reunification services or attempt to rehabilitate the offending
- 4852 parent or parents.
- 4853 (12)(a) The juvenile court shall:
- 4854 (i) determine whether the services offered or provided by the division under the child

- 4855 and family plan constitute reasonable efforts on the part of the division;
- 4856 (ii) determine and define the responsibilities of the parent under the child and family
4857 plan in accordance with Subsection 80-3-307(5)(g)(iii); and
- 4858 (iii) identify verbally on the record, or in a written document provided to the parties,
4859 the responsibilities described in Subsection (12)(a)(ii), for the purpose of assisting
4860 in any future determination regarding the provision of reasonable efforts, in
4861 accordance with state and federal law.
- 4862 (b) If the parent is in a substance use disorder treatment program, other than a certified
4863 drug court program, the juvenile court may order the parent:
- 4864 (i) to submit to supplementary drug or alcohol testing, in accordance with Subsection
4865 80-3-110(6), in addition to the testing recommended by the parent's substance use
4866 disorder program based on a finding of reasonable suspicion that the parent is
4867 abusing drugs or alcohol; and
- 4868 (ii) to provide the results of drug or alcohol testing recommended by the substance
4869 use disorder program to the juvenile court or division.
- 4870 (13)(a) The time period for reunification services may not exceed 12 months from the
4871 day on which the minor was initially removed from the minor's home, unless the time
4872 period is extended under Subsection 80-3-409(7).
- 4873 (b) This section does not entitle any parent to an entire 12 months of reunification
4874 services.
- 4875 (14)(a) If reunification services are ordered, the juvenile court may terminate those
4876 services at any time.
- 4877 (b) If, at any time, continuation of reasonable efforts to reunify a minor is determined to
4878 be inconsistent with the final permanency plan for the minor established under
4879 Section 80-3-409, then measures shall be taken, in a timely manner, to:
- 4880 (i) place the minor in accordance with the final permanency plan; and
4881 (ii) complete whatever steps are necessary to finalize the permanent placement of the
4882 minor.
- 4883 (15) Any physical custody of the minor by the parent or a relative during the period
4884 described in Subsections (10) through (14) does not interrupt the running of the period.
- 4885 (16)(a) If reunification services are ordered, the juvenile court shall conduct a
4886 permanency hearing in accordance with Section 80-3-409 before the day on which
4887 the time period for reunification services expires.
- 4888 (b) The permanency hearing shall be held no later than 12 months after the original

- 4889 removal of the minor.
- 4890 (c) If reunification services are not ordered, a permanency hearing shall be conducted
4891 within 30 days in accordance with Section 80-3-409.
- 4892 (17) With regard to a minor in the custody of the division whose parent or parents are
4893 ordered to receive reunification services but who have abandoned that minor for a period
4894 of six months from the day on which reunification services are ordered:
- 4895 (a) the juvenile court shall terminate reunification services; and
4896 (b) the division shall petition the juvenile court for termination of parental rights.
- 4897 (18) When a minor is under the custody of the division and has been separated from a
4898 sibling due to foster care or adoptive placement, a juvenile court may order sibling
4899 visitation, subject to the division obtaining consent from the sibling's guardian,
4900 according to the juvenile court's determination of the best interests of the minor for
4901 whom the hearing is held.
- 4902 (19)(a) If reunification services are not ordered under this section, and the whereabouts
4903 of a parent becomes known within six months after the day on which the out-of-home
4904 placement of the minor is made, the juvenile court may order the division to provide
4905 reunification services.
- 4906 (b) The time limits described in this section are not tolled by the parent's absence.
- 4907 (20)(a) If a parent is incarcerated or institutionalized, the juvenile court shall order
4908 reasonable services unless the juvenile court determines that those services would be
4909 detrimental to the minor.
- 4910 (b) In making the determination described in Subsection (20)(a), the juvenile court shall
4911 consider:
- 4912 (i) the age of the minor;
4913 (ii) the degree of parent-child bonding;
4914 (iii) the length of the sentence;
4915 (iv) the nature of the treatment;
4916 (v) the nature of the crime or illness;
4917 (vi) the degree of detriment to the minor if services are not offered;
4918 (vii) for a minor who is 10 years old or older, the minor's attitude toward the
4919 implementation of family reunification services; and
4920 (viii) any other appropriate factors.
- 4921 (c) Reunification services for an incarcerated parent are subject to the time limitations
4922 imposed in this section.

- 4923 (d) Reunification services for an institutionalized parent are subject to the time
4924 limitations imposed in this section, unless the juvenile court determines that
4925 continued reunification services would be in the minor's best interest.
- 4926 Section 60. Section **80-5-201** is amended to read:
- 4927 **80-5-201 . Division responsibilities.**
- 4928 (1) The division is responsible for all minors committed to the division by juvenile courts
4929 under Sections 80-6-703 and 80-6-705.
- 4930 (2) The division shall:
- 4931 (a) establish and administer a continuum of community, secure, and nonsecure programs
4932 for all minors committed to the division;
- 4933 (b) establish and maintain all detention and secure care facilities and set minimum
4934 standards for all detention and secure care facilities;
- 4935 (c) establish and operate prevention and early intervention youth services programs for
4936 nonadjudicated minors placed with the division;
- 4937 (d) establish observation and assessment programs necessary to serve minors in a
4938 nonresidential setting under Subsection 80-6-706(1);
- 4939 (e) place minors committed to the division under Section 80-6-703 in the most
4940 appropriate program for supervision and treatment;
- 4941 (f) employ staff necessary to:
- 4942 (i) supervise and control minors committed to the division for secure care or
4943 placement in the community;
- 4944 (ii) supervise and coordinate treatment of minors committed to the division for
4945 placement in community-based programs; and
- 4946 (iii) control and supervise adjudicated and nonadjudicated minors placed with the
4947 division for temporary services in juvenile receiving centers, youth services, and
4948 other programs established by the division;
- 4949 (g) control or detain a minor committed to the division, or in the temporary custody of
4950 the division, in a manner that is consistent with public safety and rules made by the
4951 division;
- 4952 (h) establish and operate work programs for minors committed to the division by the
4953 juvenile court that:
- 4954 (i) are not residential;
- 4955 (ii) provide labor to help in the operation, repair, and maintenance of public facilities,
4956 parks, highways, and other programs designated by the division;

- 4957 (iii) provide educational and prevocational programs in cooperation with the State
 4958 Board of Education for minors placed in the program; and
- 4959 (iv) provide counseling to minors;
- 4960 (i) establish minimum standards for the operation of all private residential and
 4961 nonresidential rehabilitation facilities that provide services to minors who have
 4962 committed an offense in this state or in any other state;
- 4963 (j) provide regular training for secure care staff, detention staff, case management staff,
 4964 and staff of the community-based programs;
- 4965 (k) designate employees to obtain the saliva DNA specimens required under Section
 4966 53-10-403;
- 4967 (l) ensure that the designated employees receive appropriate training and that the
 4968 specimens are obtained in accordance with accepted protocol;
- 4969 (m) register an individual with the Department of Public Safety who:
- 4970 (i) is adjudicated for an offense [~~listed in Subsection 77-41-102(1) or 77-41-102(19)]~~
 4971 that would result in the individual being a child abuse offender under Subsection
 4972 53-29-202(2)(a) or a sex offender under Subsection 53-29-202(2)(b);
- 4973 (ii) is committed to the division for secure care; and
- 4974 (iii)(A) if the individual is a youth offender, remains in the division's custody 30
 4975 days before the individual's 21st birthday; or
- 4976 (B) if the individual is a serious youth offender, remains in the division's custody
 4977 30 days before the individual's 25th birthday; and
- 4978 (n) ensure that a program delivered to a minor under this section is an evidence-based
 4979 program in accordance with Section 63M-7-208.
- 4980 (3)(a) The division is authorized to employ special function officers, as defined in
 4981 Section 53-13-105, to:
- 4982 (i) locate and apprehend minors who have absconded from division custody;
- 4983 (ii) transport minors taken into custody in accordance with division policy;
- 4984 (iii) investigate cases; and
- 4985 (iv) carry out other duties as assigned by the division.
- 4986 (b) A special function officer may be:
- 4987 (i) employed through a contract with the Department of Public Safety, or any law
 4988 enforcement agency certified by the Peace Officer Standards and Training
 4989 Division; or
- 4990 (ii) directly hired by the division.

4991 (4) In the event of an unauthorized leave from secure care, detention, a community-based
 4992 program, a juvenile receiving center, a home, or any other designated placement of a
 4993 minor, a division employee has the authority and duty to locate and apprehend the
 4994 minor, or to initiate action with a local law enforcement agency for assistance.

4995 (5) The division may proceed with an initial medical screening or assessment of a child
 4996 admitted to a detention facility to ensure the safety of the child and others in the
 4997 detention facility if the division makes a good faith effort to obtain consent for the
 4998 screening or assessment from the child's parent or guardian.

4999 Section 61. Section **80-8-101** is amended to read:

5000 **80-8-101 . Definitions.**

5001 As used in this chapter:

5002 (1) "Child" means an individual under 18 years old.

5003 (2) "Registered sex offender check" means a search of:

5004 (a) the [~~state's Sex and Kidnap Offender Registry~~] registry described in [~~Title 77, Chapter~~
 5005 ~~41, Sex and Kidnap Offender Registry~~] Title 53, Chapter 29, Sex, Kidnap, and Child
 5006 Abuse Offender Registry; and

5007 (b) the National Sex Offender Public Website administered by the United States
 5008 Department of Justice.

5009 (3) "Sexual abuse" means the same as that term is defined in Section 78B-2-308.

5010 (4)(a) "Youth services organization" means a sports league, athletic association, church
 5011 or religious organization, scouting organization, or similar formally organized
 5012 association, league, or organization, that provides recreational, educational, cultural,
 5013 or social programs or activities to 25 or more children.

5014 (b) "Youth services organization" does not include any person that is required to conduct
 5015 a background check on employees or volunteers under any other provision of state or
 5016 federal law.

5017 (5) "Youth worker" means an individual:

5018 (a) who is 18 years old or older;

5019 (b) who is employed by or volunteers with a youth services organization; and

5020 (c) whose responsibilities as an employee or volunteer with the youth services
 5021 organization give the individual regular and repeated care, supervision, guidance, or
 5022 control of a child or children.

5023 Section 62. Section **80-8-201** is amended to read:

5024 **80-8-201 . Youth protection requirements.**

- 5025 (1) A youth service organization may not employ a youth worker or allow an individual to
 5026 volunteer as a youth worker unless the youth service organization has completed a
 5027 registered sex offender check for the individual.
- 5028 (2) A youth services organization shall require a potential youth worker to provide the
 5029 individual's full name and a current, government-issued identification to facilitate the
 5030 registered sex offender check required by Subsection (1).
- 5031 (3) If an individual is registered on the [~~state's Sex and Kidnap Offender Registry~~] registry
 5032 described in Title 53, Chapter 29, Sex, Kidnap, and Child Abuse Offender Registry, or
 5033 the National Sex Offender Public Website, a youth service organization may not employ
 5034 the individual as a youth worker or allow the individual to volunteer as a youth worker.

5035 Section 63. Section **81-9-202** is amended to read:

5036 **81-9-202 . Advisory guidelines for a custody and parent-time arrangement.**

- 5037 (1) In addition to the parent-time schedules provided in Sections 81-9-302 and 81-9-304,
 5038 the following advisory guidelines are suggested to govern a custody and parent-time
 5039 arrangement between parents.
- 5040 (2) A parent-time schedule mutually agreed upon by both parents is preferable to a
 5041 court-imposed solution.
- 5042 (3) A parent-time schedule shall be used to maximize the continuity and stability of the
 5043 minor child's life.
- 5044 (4) Each parent shall give special consideration to make the minor child available to attend
 5045 family functions including funerals, weddings, family reunions, religious holidays,
 5046 important ceremonies, and other significant events in the life of the minor child or in the
 5047 life of either parent which may inadvertently conflict with the parent-time schedule.
- 5048 (5)(a) The court shall determine the responsibility for the pick up, delivery, and return
 5049 of the minor child when the parent-time order is entered.
- 5050 (b) The court may change the responsibility described in Subsection (5)(a) at any time a
 5051 subsequent modification is made to the parent-time order.
- 5052 (c) If the noncustodial parent will be providing transportation, the custodial parent shall:
 5053 (i) have the minor child ready for parent-time at the time the minor child is to be
 5054 picked up ; and
 5055 (ii) be present at the custodial home or make reasonable alternate arrangements to
 5056 receive the minor child at the time the minor child is returned.
- 5057 (d) If the custodial parent will be transporting the minor child, the noncustodial parent
 5058 shall:

- 5059 (i) be at the appointed place at the time the noncustodial parent is to receive the
5060 minor child; and
- 5061 (ii) have the minor child ready to be picked up at the appointed time and place or
5062 have made reasonable alternate arrangements for the custodial parent to pick up
5063 the minor child.
- 5064 (6) A parent may not interrupt regular school hours for a school-age minor child for the
5065 exercise of parent-time.
- 5066 (7) The court may:
- 5067 (a) make alterations in the parent-time schedule to reasonably accommodate the work
5068 schedule of both parents; and
- 5069 (b) increase the parent-time allowed to the noncustodial parent but may not diminish the
5070 standardized parent-time provided in Sections 81-9-302 and 81-9-304.
- 5071 (8) The court may make alterations in the parent-time schedule to reasonably accommodate
5072 the distance between the parties and the expense of exercising parent-time.
- 5073 (9) A parent may not withhold parent-time or child support due to the other parent's failure
5074 to comply with a court-ordered parent-time schedule.
- 5075 (10)(a) The custodial parent shall notify the noncustodial parent within 24 hours of
5076 receiving notice of all significant school, social, sports, and community functions in
5077 which the minor child is participating or being honored.
- 5078 (b) The noncustodial parent is entitled to attend and participate fully in the functions
5079 described in Subsection (10)(a).
- 5080 (c) The noncustodial parent shall have access directly to all school reports including
5081 preschool and daycare reports and medical records.
- 5082 (d) A parent shall immediately notify the other parent in the event of a medical
5083 emergency.
- 5084 (11) Each parent shall provide the other with the parent's current address and telephone
5085 number, email address, and other virtual parent-time access information within 24 hours
5086 of any change.
- 5087 (12)(a) Each parent shall permit and encourage, during reasonable hours, reasonable
5088 and uncensored communications with the minor child, in the form of mail privileges
5089 and virtual parent-time if the equipment is reasonably available.
- 5090 (b) If the parents cannot agree on whether the equipment is reasonably available, the
5091 court shall decide whether the equipment for virtual parent-time is reasonably
5092 available by taking into consideration:

- 5093 (i) the best interests of the minor child;
- 5094 (ii) each parent's ability to handle any additional expenses for virtual parent-time; and
- 5095 (iii) any other factors the court considers material.
- 5096 (13)(a) Parental care is presumed to be better care for the minor child than surrogate
- 5097 care.
- 5098 (b) The court shall encourage the parties to cooperate in allowing the noncustodial
- 5099 parent, if willing and able to transport the minor child, to provide the child care.
- 5100 (c) Child care arrangements existing during the marriage are preferred as are child care
- 5101 arrangements with nominal or no charge.
- 5102 (14) Each parent shall:
- 5103 (a) provide all surrogate care providers with the name, current address, and telephone
- 5104 number of the other parent; and
- 5105 (b) provide the noncustodial parent with the name, current address, and telephone
- 5106 number of all surrogate care providers unless the court for good cause orders
- 5107 otherwise.
- 5108 (15)(a) Each parent is entitled to an equal division of major religious holidays
- 5109 celebrated by the parents.
- 5110 (b) The parent who celebrates a religious holiday that the other parent does not celebrate
- 5111 shall have the right to be together with the minor child on the religious holiday.
- 5112 (16) If the minor child is on a different parent-time schedule than a sibling, based on
- 5113 Sections 81-9-302 and 81-9-304, the parents should consider if an upward deviation for
- 5114 parent-time with all the minor children so that parent-time is uniform between school
- 5115 aged and nonschool aged children, is appropriate.
- 5116 (17)(a) When one or both parents are servicemembers or contemplating joining a
- 5117 uniformed service, the parents should resolve issues of custodial responsibility in the
- 5118 event of deployment as soon as practicable through reaching a voluntary agreement
- 5119 pursuant to Section 78B-20-201 or through court order obtained pursuant to this part.
- 5120 (b) Service members shall ensure their family care plan reflects orders and agreements
- 5121 entered and filed pursuant to Title 78B, Chapter 20, Uniform Deployed Parents
- 5122 Custody, Parent-time, and Visitation Act.
- 5123 (18) A parent shall immediately notify the other parent if:
- 5124 (a) the parent resides with an individual or provides an individual with access to the
- 5125 minor child; and
- 5126 (b) the parent knows that the individual:

- 5127 (i) is required to register as a sex offender,~~[or]~~ a kidnap offender, or a child abuse
 5128 offender for an offense committed against a minor child under [~~Title 77, Chapter~~
 5129 ~~41, Sex and Kidnap Offender Registry]~~ Title 53, Chapter 29, Sex, Kidnap, and
 5130 Child Abuse Offender Registry; or
- 5131 [~~(ii) is required to register as a child abuse offender under Title 77, Chapter 43,~~
 5132 ~~Child Abuse Offender Registry; or]~~
- 5133 [(~~iii~~)] (ii) has been convicted of:
- 5134 (A) a child abuse offense under Section 76-5-109, 76-5-109.2, 76-5-109.3,
 5135 76-5-114, or 76-5-208;
- 5136 (B) a sexual offense against a minor child under Title 76, Chapter 5, Part 4, Sexual
 5137 Offenses;
- 5138 (C) an offense for kidnapping or human trafficking of a minor child under Title
 5139 76, Chapter 5, Part 3, Kidnapping, Trafficking, and Smuggling;
- 5140 (D) a sexual exploitation offense against a minor child under Title 76, Chapter 5b,
 5141 Sexual Exploitation Act; or
- 5142 (E) an offense that is substantially similar to an offense under Subsections [
 5143 ~~(18)(b)(iii)(A)]~~ (18)(b)(ii)(A) through (D).
- 5144 (19)(a) For emergency purposes, whenever the minor child travels with a parent, the
 5145 parent shall provide the following information to the other parent:
- 5146 (i) an itinerary of travel dates;
- 5147 (ii) destinations;
- 5148 (iii) places where the minor child or traveling parent can be reached; and
- 5149 (iv) the name and telephone number of an available third person who would be
 5150 knowledgeable of the minor child's location.
- 5151 (b) Unchaperoned travel of a minor child under the age of five years is not
 5152 recommended.
- 5153 Section 64. Section **81-9-208** is amended to read:
- 5154 **81-9-208 . Modification or termination of a custody or parent-time order --**
 5155 **Noncompliance with a parent-time order.**
- 5156 (1) The court has continuing jurisdiction to make subsequent changes to modify:
- 5157 (a) custody of a minor child if there is a showing of a substantial and material change in
 5158 circumstances since the entry of the order; and
- 5159 (b) parent-time for a minor child if there is a showing that there is a change in
 5160 circumstances since the entry of the order.

- 5161 (2) A substantial and material change in circumstances under Subsection (1)(a) includes a
 5162 showing by a parent that the other parent:
- 5163 (a) resides with an individual or provides an individual with access to the minor child;
 5164 and
- 5165 (b) knows that the individual:
- 5166 (i) is required to register as a sex offender,~~[or]~~ a kidnap offender, or a child abuse
 5167 offender for an offense committed against a minor child under [Title 77, Chapter
 5168 41, Sex and Kidnap Offender Registry] Title 53, Chapter 29, Sex, Kidnap, and
 5169 Child Abuse Offender Registry; or
- 5170 ~~[(ii) is required to register as a child abuse offender under Title 77, Chapter 43,~~
 5171 ~~Child Abuse Offender Registry; or]~~
- 5172 ~~[(iii)]~~ (ii) has been convicted of:
- 5173 (A) a child abuse offense under Section 76-5-109, 76-5-109.2, 76-5-109.3,
 5174 76-5-114, or 76-5-208;
- 5175 (B) a sexual offense against a minor child under Title 76, Chapter 5, Part 4, Sexual
 5176 Offenses;
- 5177 (C) an offense for kidnapping or human trafficking of a minor child under Title
 5178 76, Chapter 5, Part 3, Kidnapping, Trafficking, and Smuggling;
- 5179 (D) a sexual exploitation offense against a minor child under Title 76, Chapter 5b,
 5180 Sexual Exploitation Act; or
- 5181 (E) an offense that is substantially similar to an offense under Subsections [
 5182 ~~(2)(b)(iii)(A)] (2)(b)(ii)(A) through (D).~~
- 5183 (3) On the petition of one or both of the parents, or the joint legal or physical custodians if
 5184 they are not the parents, the court may, after a hearing, modify or terminate an order that
 5185 established joint legal custody or joint physical custody if:
- 5186 (a) the verified petition or accompanying affidavit initially alleges that admissible
 5187 evidence will show that there has been a substantial and material change in the
 5188 circumstances of the minor child or one or both parents or joint legal or physical
 5189 custodians since the entry of the order to be modified;
- 5190 (b) a modification of the terms and conditions of the order would be an improvement for
 5191 and in the best interest of the minor child; and
- 5192 (c)(i) both parents have complied in good faith with the dispute resolution procedure
 5193 in accordance with Subsection 81-9-205(8); or
- 5194 (ii) if no dispute resolution procedure is contained in the order that established joint

5195 legal custody or joint physical custody, the court orders the parents to participate
5196 in a dispute resolution procedure in accordance with Subsection 81-9-205(13)
5197 unless the parents certify that, in good faith, they have used a dispute resolution
5198 procedure to resolve their dispute.

5199 (4)(a) In determining whether the best interest of a minor child will be served by either
5200 modifying or terminating the joint legal custody or joint physical custody order, the
5201 court shall, in addition to other factors the court considers relevant, consider the
5202 factors described in Sections 81-9-204 and 81-9-205.

5203 (b) A court order modifying or terminating an existing joint legal custody or joint
5204 physical custody order shall contain written findings that:

5205 (i) a substantial and material change of circumstance has occurred; and

5206 (ii) a modification of the terms and conditions of the order would be an improvement
5207 for and in the best interest of the minor child.

5208 (c) The court shall give substantial weight to the existing joint legal custody or joint
5209 physical custody order when the minor child is thriving, happy, and well-adjusted.

5210 (5) The court shall, in every case regarding a petition for termination of a joint legal
5211 custody or joint physical custody order, consider reasonable alternatives to preserve the
5212 existing order in accordance with Section 81-9-204.

5213 (6) The court may modify the terms and conditions of the existing order in accordance with
5214 this chapter and may order the parents to file a parenting plan in accordance with
5215 Section 81-9-203.

5216 (7) A parent requesting a modification from sole custody to joint legal custody or joint
5217 physical custody or both, or any other type of shared parenting arrangement, shall file
5218 and serve a proposed parenting plan with the petition to modify in accordance with
5219 Section 81-9-203.

5220 (8) If an issue before the court involves custodial responsibility in the event of deployment
5221 of one or both parents who are service members, and the service member has not yet
5222 been notified of deployment, the court shall resolve the issue based on the standards in
5223 Sections 78B-20-306 through 78B-20-309.

5224 (9) If the court finds that an action to modify custody or parent-time is filed or answered
5225 frivolously and, in a manner, designed to harass the other party, the court shall assess
5226 attorney fees as costs against the offending party.

5227 (10) If a petition to modify custody or parent-time provisions of a court order is made and
5228 denied, the court shall order the petitioner to pay the reasonable attorney fees expended

5229 by the prevailing party in that action if the court determines that the petition was without
5230 merit and not asserted or defended against in good faith.

5231 (11) If a motion or petition alleges noncompliance with a parent-time order by a parent, or a
5232 visitation order by a grandparent or other member of the immediate family where a
5233 visitation or parent-time right has been previously granted by the court, the court:

5234 (a) may award to the prevailing party:

5235 (i) actual attorney fees incurred;

5236 (ii) the costs incurred by the prevailing party because of the other party's failure to
5237 provide or exercise court-ordered visitation or parent-time, including:

5238 (A) court costs;

5239 (B) child care expenses;

5240 (C) transportation expenses actually incurred;

5241 (D) lost wages, if ascertainable; or

5242 (E) counseling for a parent or a minor child if ordered or approved by the court; or

5243 (iii) any other appropriate equitable remedy; and

5244 (b) shall award reasonable make-up parent-time to the prevailing party, unless make-up
5245 parent-time is not in the best interest of the minor child.

5246 Section 65. **Repealer.**

5247 This bill repeals:

5248 Section **77-41-102, Definitions.**

5249 Section **77-41-103, Department duties.**

5250 Section **77-41-104, Registration of offenders -- Department and agency requirements.**

5251 Section **77-41-106, Offenses requiring lifetime registration.**

5252 Section **77-41-107, Penalties.**

5253 Section **77-41-108, Classification of information.**

5254 Section **77-41-109, Miscellaneous provisions.**

5255 Section **77-41-110, Sex offender, kidnap offender, and child abuse offender registry --
5256 Department to maintain.**

5257 Section **77-41-111, Fees.**

5258 Section **77-41-112, Removal from registry -- Requirements -- Procedure.**

5259 Section **77-41-113, Removal for offenses or convictions for which registration is no
5260 longer required.**

5261 Section **77-41-114, Registration for individuals under 18 years old at the time of the
5262 offense.**

5263 Section **77-41-105, Registration of offenders -- Offender responsibilities.**

5264 Section 66. **Effective Date.**

5265 This bill takes effect on May 7, 2025.