

Representative James A. Dunnigan proposes the following substitute bill:

OFFENDER REGISTRY AMENDMENTS

2019 GENERAL SESSION

STATE OF UTAH

Chief Sponsor: James A. Dunnigan

Senate Sponsor: _____

LONG TITLE

General Description:

This bill modifies provisions relating to certain sexual offenses and the Sex and Kidnap Offender Registry.

Highlighted Provisions:

This bill:

- ▶ modifies the definition of "sexual offense against a minor" as the term relates to a criminal investigation of an electronic communications record;
- ▶ deletes provisions requiring a sex offender to annually apply for a driver license or identification card;
- ▶ requires a sex offender to apply in person for an updated driver license or identification card within 30 days after the day on which the offender changes addresses;
- ▶ requires the Driver License Division to disclose to the Department of Corrections certain records relating to sex offenders upon request;
- ▶ modifies the offenses for which a petition for removal from the registry may be filed;
- ▶ modifies certain procedural requirements relating to a sex or kidnap offender's removal from the registry;



- 26 ▶ provides that a sex or kidnap offender may change the offender's name if certain
- 27 requirements are met;
- 28 ▶ modifies the penalty for the offense of dealing in material harmful to minors;
- 29 ▶ modifies the penalty and registry requirements for the offense of sexual exploitation
- 30 of a minor; and
- 31 ▶ makes technical changes.

32 **Money Appropriated in this Bill:**

33 None

34 **Other Special Clauses:**

35 None

36 **Utah Code Sections Affected:**

37 AMENDS:

- 38 **53-3-105**, as last amended by Laws of Utah 2018, Chapters 301 and 417
- 39 **53-3-205**, as last amended by Laws of Utah 2018, Chapters 39, 128, and 417
- 40 **53-3-216**, as last amended by Laws of Utah 2015, Chapter 210
- 41 **53-3-413**, as last amended by Laws of Utah 2012, Chapter 145
- 42 **53-3-804**, as last amended by Laws of Utah 2018, Chapter 39
- 43 **53-3-807**, as last amended by Laws of Utah 2015, Chapter 210
- 44 **76-5b-201**, as last amended by Laws of Utah 2018, Chapter 285
- 45 **76-10-1206**, as last amended by Laws of Utah 2009, Chapter 345
- 46 **77-22-2.5**, as last amended by Laws of Utah 2017, Chapter 447
- 47 **77-41-104**, as enacted by Laws of Utah 2012, Chapter 145
- 48 **77-41-105**, as last amended by Laws of Utah 2017, Chapter 290
- 49 **77-41-106**, as last amended by Laws of Utah 2017, Chapter 434
- 50 **77-41-112**, as last amended by Laws of Utah 2016, Chapter 185



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

53 Section 1. Section **53-3-105** is amended to read:

54 **53-3-105. Fees for licenses, renewals, extensions, reinstatements, rescheduling,**
55 **and identification cards.**

56 The following fees apply under this chapter:

- 57 (1) An original class D license application under Section 53-3-205 is \$32.
- 58 (2) An original provisional license application for a class D license under Section
- 59 53-3-205 is \$39.
- 60 (3) An original application for a motorcycle endorsement under Section 53-3-205 is
- 61 \$11.
- 62 (4) An original application for a taxicab endorsement under Section 53-3-205 is \$9.
- 63 (5) A learner permit application under Section 53-3-210.5 is \$19.
- 64 (6) A renewal of a class D license under Section 53-3-214 is \$32 unless Subsection
- 65 (10) applies.
- 66 (7) A renewal of a provisional license application for a class D license under Section
- 67 53-3-214 is \$32.
- 68 (8) A renewal of a motorcycle endorsement under Section 53-3-214 is \$11.
- 69 (9) A renewal of a taxicab endorsement under Section 53-3-214 is \$9.
- 70 (10) A renewal of a class D license for ~~a person~~ an individual 65 and older under
- 71 Section 53-3-214 is \$17.
- 72 (11) An extension of a class D license under Section 53-3-214 is \$26 unless Subsection
- 73 (15) applies.
- 74 (12) An extension of a provisional license application for a class D license under
- 75 Section 53-3-214 is \$26.
- 76 (13) An extension of a motorcycle endorsement under Section 53-3-214 is \$11.
- 77 (14) An extension of a taxicab endorsement under Section 53-3-214 is \$9.
- 78 (15) An extension of a class D license for ~~a person~~ an individual 65 and older under
- 79 Section 53-3-214 is \$14.
- 80 (16) An original or renewal application for a commercial class A, B, or C license or an
- 81 original or renewal of a provisional commercial class A or B license under Part 4, Uniform
- 82 Commercial Driver License Act, is \$52.
- 83 (17) A commercial class A, B, or C license skills test is \$78.
- 84 (18) Each original CDL endorsement for passengers, hazardous material, double or
- 85 triple trailers, or tankers is \$9.
- 86 (19) An original CDL endorsement for a school bus under Part 4, Uniform Commercial
- 87 Driver License Act, is \$9.

88 (20) A renewal of a CDL endorsement under Part 4, Uniform Commercial Driver
89 License Act, is \$9.

90 (21) (a) A retake of a CDL knowledge test provided for in Section 53-3-205 is \$26.

91 (b) A retake of a CDL skills test provided for in Section 53-3-205 is \$52.

92 (22) A retake of a CDL endorsement test provided for in Section 53-3-205 is \$9.

93 (23) A duplicate class A, B, C, or D license certificate under Section 53-3-215 is \$23.

94 (24) (a) A license reinstatement application under Section 53-3-205 is \$40.

95 (b) A license reinstatement application under Section 53-3-205 for an alcohol, drug, or
96 combination of alcohol and any drug-related offense is \$45 in addition to the fee under
97 Subsection (24)(a).

98 (25) (a) An administrative fee for license reinstatement after an alcohol, drug, or
99 combination of alcohol and any drug-related offense under Section 41-6a-520, 53-3-223, or
100 53-3-231 or an alcohol, drug, or combination of alcohol and any drug-related offense under
101 Part 4, Uniform Commercial Driver License Act, is \$255.

102 (b) This administrative fee is in addition to the fees under Subsection (24).

103 (26) (a) An administrative fee for providing the driving record of a driver under
104 Section 53-3-104 or 53-3-420 is \$8.

105 (b) The division may not charge for a report furnished under Section 53-3-104 to a
106 municipal, county, state, or federal agency.

107 (27) A rescheduling fee under Section 53-3-205 or 53-3-407 is \$25.

108 (28) (a) Except as provided under Subsections (28)(b) and (c), an identification card
109 application under Section 53-3-808 is \$23.

110 (b) An identification card application under Section 53-3-808 for a person with a
111 disability, as defined in 42 U.S.C. Sec. 12102, is \$17.

112 (c) A fee may not be charged for an identification card application if the individual
113 applying:

114 (i) (A) has not been issued a Utah driver license;

115 (B) is indigent; and

116 (C) is at least 18 years of age; or

117 (ii) submits written verification that the individual is homeless, as defined in Section
118 26-18-411, or a person who is homeless, as defined in Section 35A-5-302, from:

119 (A) a homeless shelter, as defined in Section 10-9a-526;

120 (B) a permanent housing, permanent, supportive, or transitional facility, as defined in
121 Section 35A-5-302; or

122 (C) the Department of Workforce Services.

123 (29) (a) An extension of a regular identification card under Subsection
124 53-3-807~~(5)~~(4) for a person with a disability, as defined in 42 U.S.C. Sec. 12102, is \$17.

125 (b) The fee described in Subsection (29)(a) ~~shall be~~ is waived if the applicant submits
126 written verification that the individual is homeless, as defined in Section 26-18-411, or a
127 person who is homeless, as defined in Section 35A-5-302, from:

128 (i) a homeless shelter, as defined in Section 10-9a-526;

129 (ii) a permanent housing, permanent, supportive, or transitional facility, as defined in
130 Section 35A-5-302; or

131 (iii) the Department of Workforce Services.

132 (30) (a) An extension of a regular identification card under Subsection
133 53-3-807~~(6)~~(5) is \$23.

134 (b) The fee described in Subsection (30)(a) ~~shall be~~ is waived if the applicant submits
135 written verification that the individual is homeless, as defined in Section 26-18-411, or a
136 person who is homeless, as defined in Section 35A-5-302, from:

137 (i) a homeless shelter, as defined in Section 10-9a-526;

138 (ii) a permanent housing, permanent, supportive, or transitional facility, as defined in
139 Section 35A-5-302; or

140 (iii) the Department of Workforce Services.

141 (31) In addition to any license application fees collected under this chapter, the division
142 shall impose on individuals submitting fingerprints in accordance with Section 53-3-205.5 the
143 fees that the Bureau of Criminal Identification is authorized to collect for the services the
144 Bureau of Criminal Identification provides under Section 53-3-205.5.

145 (32) An original mobility vehicle permit application under Section 41-6a-1118 is \$30.

146 (33) A renewal of a mobility vehicle permit under Section 41-6a-1118 is \$30.

147 (34) A duplicate mobility vehicle permit under Section 41-6a-1118 is \$12.

148 Section 2. Section 53-3-205 is amended to read:

149 **53-3-205. Application for license or endorsement -- Fee required -- Tests --**

150 **Expiration dates of licenses and endorsements -- Information required -- Previous**
151 **licenses surrendered -- Driving record transferred from other states -- Reinstatement --**
152 **Fee required -- License agreement.**

153 (1) An application for [~~any~~] an original license, provisional license, or endorsement
154 shall be:

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

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

159 (a) not more than three attempts to pass both the knowledge and the skills tests for a
160 class D license within six months [~~of~~] after the date of the application;

161 (b) a learner permit if needed pending completion of the application and testing
162 process; and

163 (c) an original class D license and license certificate after all tests are passed and
164 requirements are completed.

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

167 (a) not more than three attempts to pass both the knowledge and skills tests within six
168 months [~~of~~] after the date of the application;

169 (b) a motorcycle learner permit after the motorcycle knowledge test is passed; and

170 (c) a motorcycle or taxicab endorsement when all tests are passed.

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

172 (a) not more than two attempts to pass a knowledge test when accompanied by the fee
173 provided in Subsection 53-3-105(16);

174 (b) not more than two attempts to pass a skills test when accompanied by a fee in
175 Subsection 53-3-105(17) within six months [~~of~~] after the date of application;

176 (c) both a commercial driver instruction permit and a temporary license permit for the
177 license class held before the applicant submits the application if needed after the knowledge
178 test is passed; and

179 (d) an original commercial class A, B, or C license and license certificate when all
180 applicable tests are passed.

- 181 (5) An application and fee for a CDL endorsement entitle the applicant to:
- 182 (a) not more than two attempts to pass a knowledge test and not more than two
- 183 attempts to pass a skills test within six months ~~[of]~~ after the date of the application; and
- 184 (b) a CDL endorsement when all tests are passed.
- 185 (6) (a) If a CDL applicant does not pass a knowledge test, skills test, or an endorsement
- 186 test within the number of attempts provided in Subsection (4) or (5), each test may be taken
- 187 two additional times within the six months for the fee provided in Section [53-3-105](#).
- 188 (b) (i) Beginning July 1, 2015, an out-of-state resident who holds a valid CDIP issued
- 189 by a state or jurisdiction that is compliant with 49 C.F.R. Part 383 may take a skills test
- 190 administered by the division if the out-of-state resident pays the fee provided in Subsection
- 191 [53-3-105](#)(17).
- 192 (ii) The division shall:
- 193 (A) electronically transmit skills test results for an out-of-state resident to the licensing
- 194 agency in the state or jurisdiction in which the ~~[person]~~ out-of-state resident has obtained a
- 195 valid CDIP; and
- 196 (B) provide the out-of-state resident with documentary evidence upon successful
- 197 completion of the skills test.
- 198 (7) (a) Except as provided under Subsections (7)(f)~~;~~ and (g), ~~[and (h);]~~ an original
- 199 license expires on the birth date of the applicant in the fifth year ~~[following]~~ after the year the
- 200 license certificate was issued.
- 201 (b) Except as provided under Subsections (7)(f)~~;~~ and (g), ~~[and (h);]~~ a renewal or an
- 202 extension to a license expires on the birth date of the licensee in the fifth year ~~[following]~~ after
- 203 the expiration date of the license certificate renewed or extended.
- 204 (c) Except as provided under Subsections (7)(f) and (g), a duplicate license expires on
- 205 the same date as the last license certificate issued.
- 206 (d) An endorsement to a license expires on the same date as the license certificate
- 207 regardless of the date the endorsement was granted.
- 208 (e) (i) A regular license certificate and ~~[any]~~ an endorsement to the regular license
- 209 certificate held by ~~[a person]~~ an individual described in Subsection (7)(e)(ii), ~~[which]~~ that
- 210 expires during the time period the ~~[person]~~ individual is stationed outside of the state, is valid
- 211 until 90 days after the ~~[person's orders have been]~~ individual's orders are terminated, the

212 ~~[person has been]~~ individual is discharged, or the ~~[person's assignment has been]~~ individual's
213 assignment is changed or terminated, unless:

214 (A) the license is suspended, disqualified, denied, or has been cancelled or revoked by
215 the division; or

216 (B) the licensee updates the information or photograph on the license certificate.

217 (ii) The provisions in Subsection (7)(e)(i) apply to ~~[a person]~~ an individual:

218 (A) ordered to active duty and stationed outside of Utah in any of the armed forces of
219 the United States;

220 (B) who is an immediate family member or dependent of ~~[a person]~~ an individual
221 described in Subsection (7)(e)(ii)(A) and is residing outside of Utah;

222 (C) who is a civilian employee of the United States State Department or United States
223 Department of Defense and is stationed outside of the United States; or

224 (D) who is an immediate family member or dependent of ~~[a person]~~ an individual
225 described in Subsection (7)(e)(ii)(C) and is residing outside of the United States.

226 (f) (i) Except as provided in Subsection (7)(f)(ii), a limited-term license certificate or a
227 renewal to a limited-term license certificate expires:

228 (A) on the expiration date of the period of time of the individual's authorized stay in
229 the United States or on the date provided under this Subsection (7), whichever is sooner; or

230 (B) on the date of issuance in the first year following the year that the limited-term
231 license certificate was issued if there is no definite end to the individual's period of authorized
232 stay.

233 (ii) A limited-term license certificate or a renewal to a limited-term license certificate
234 issued to an approved asylee or a refugee expires on the birth date of the applicant in the fifth
235 year following the year that the limited-term license certificate was issued.

236 (g) A driving privilege card issued or renewed under Section [53-3-207](#) expires on the
237 birth date of the applicant in the first year following the year that the driving privilege card was
238 issued or renewed.

239 ~~[(h) An original license or a renewal to an original license expires on the birth date of~~
240 ~~the applicant in the first year following the year that the license was issued if the applicant is~~
241 ~~required to register as a sex offender in accordance with Title 77, Chapter 41, Sex and Kidnap~~
242 ~~Offender Registry.]~~

243 (8) (a) In addition to the information required by Title 63G, Chapter 4, Administrative
244 Procedures Act, for requests for agency action, [~~each~~] an applicant shall:

245 (i) provide:

246 (A) the applicant's full legal name;

247 (B) the applicant's birth date;

248 (C) the applicant's gender;

249 (D) (I) documentary evidence of the applicant's valid [~~Social Security~~] social security
250 number;

251 (II) written proof that the applicant is ineligible to receive a [~~Social Security~~] social
252 security number;

253 (III) the applicant's temporary identification number (ITIN) issued by the Internal
254 Revenue Service for [~~a person~~] an individual who:

255 (Aa) does not qualify for a [~~Social Security~~] social security number; and

256 (Bb) is applying for a driving privilege card; or

257 (IV) other documentary evidence approved by the division;

258 (E) the applicant's Utah residence address as documented by a form or forms
259 acceptable under rules made by the division under Section 53-3-104, unless the application is
260 for a temporary CDL issued under Subsection 53-3-407(2)(b); and

261 (F) fingerprints and a photograph in accordance with Section 53-3-205.5 if the [~~person~~]
262 applicant is applying for a driving privilege card;

263 (ii) provide evidence of the applicant's lawful presence in the United States by
264 providing documentary evidence:

265 (A) that [~~a person~~] the applicant is:

266 (I) a United States citizen;

267 (II) a United States national; or

268 (III) a legal permanent resident alien; or

269 (B) of the applicant's:

270 (I) unexpired immigrant or nonimmigrant visa status for admission into the United
271 States;

272 (II) pending or approved application for asylum in the United States;

273 (III) admission into the United States as a refugee;

- 274 (IV) pending or approved application for temporary protected status in the United
275 States;
- 276 (V) approved deferred action status;
- 277 (VI) pending application for adjustment of status to legal permanent resident or
278 conditional resident; or
- 279 (VII) conditional permanent resident alien status;
- 280 (iii) provide a description of the applicant;
- 281 (iv) state whether the applicant has previously been licensed to drive a motor vehicle
282 and, if so, when and by what state or country;
- 283 (v) state whether the applicant has ever had [~~any~~] a license suspended, cancelled,
284 revoked, disqualified, or denied in the last 10 years, or whether the applicant has ever had [~~any~~]
285 a license application refused, and if so, the date of and reason for the suspension, cancellation,
286 revocation, disqualification, denial, or refusal;
- 287 (vi) state whether the applicant intends to make an anatomical gift under Title 26,
288 Chapter 28, Revised Uniform Anatomical Gift Act, in compliance with Subsection (15);
- 289 (vii) state whether the applicant is required to register as a sex offender in accordance
290 with Title 77, Chapter 41, Sex and Kidnap Offender Registry;
- 291 (viii) state whether the applicant is a veteran of the United States military, provide
292 verification that the applicant was granted an honorable or general discharge from the United
293 States Armed Forces, and state whether the applicant does or does not authorize sharing the
294 information with the Department of Veterans and Military Affairs;
- 295 (ix) provide all other information the division requires; and
- 296 (x) sign the application which signature may include an electronic signature as defined
297 in Section [46-4-102](#).
- 298 (b) [~~Each~~] An applicant shall have a Utah residence address, unless the application is
299 for a temporary CDL issued under Subsection [53-3-407\(2\)\(b\)](#).
- 300 (c) [~~Each~~] An applicant shall provide evidence of lawful presence in the United States
301 in accordance with Subsection (8)(a)(ii), unless the application is for a driving privilege card.
- 302 (d) The division shall maintain on [~~its~~] the division's computerized records an
303 applicant's:
- 304 (i) (A) [~~Social Security~~] social security number;

- 305 (B) temporary identification number (ITIN); or
- 306 (C) other number assigned by the division if Subsection (8)(a)(i)(D)(IV) applies; and
- 307 (ii) indication whether the applicant is required to register as a sex offender in
- 308 accordance with Title 77, Chapter 41, Sex and Kidnap Offender Registry.
- 309 (9) The division shall require proof of ~~[every]~~ an applicant's name, ~~[birthdate]~~ birth
- 310 date, and birthplace by at least one of the following means:
- 311 (a) current license certificate;
- 312 (b) birth certificate;
- 313 (c) Selective Service registration; or
- 314 (d) other proof, including church records, family Bible notations, school records, or
- 315 other evidence considered acceptable by the division.
- 316 (10) (a) Except as provided in Subsection (10)(c), if an applicant receives a license in a
- 317 higher class than what the applicant originally was issued:
- 318 (i) the license application ~~[shall be]~~ is treated as an original application; and
- 319 (ii) license and endorsement fees ~~[shall be]~~ are assessed under Section [53-3-105](#).
- 320 (b) An applicant that receives a downgraded license in a lower license class during an
- 321 existing license cycle that has not expired:
- 322 (i) may be issued a duplicate license with a lower license classification for the
- 323 remainder of the existing license cycle; and
- 324 (ii) shall be assessed a duplicate license fee under Subsection [53-3-105](#)(23) if a
- 325 duplicate license is issued under Subsection (10)(b)(i).
- 326 (c) An applicant who has received a downgraded license in a lower license class under
- 327 Subsection (10)(b):
- 328 (i) may, when eligible, receive a duplicate license in the highest class previously issued
- 329 during a license cycle that has not expired for the remainder of the existing license cycle; and
- 330 (ii) shall be assessed a duplicate license fee under Subsection [53-3-105](#)(23) if a
- 331 duplicate license is issued under Subsection (10)(c)(i).
- 332 (11) (a) When an application is received from ~~[a person]~~ an applicant previously
- 333 licensed in another state to drive a motor vehicle, the division shall request a copy of the
- 334 driver's record from the other state.
- 335 (b) When received, the driver's record becomes part of the driver's record in this state

336 with the same effect as though entered originally on the driver's record in this state.

337 (12) An application for reinstatement of a license after the suspension, cancellation,
338 disqualification, denial, or revocation of a previous license ~~[shall be]~~ is accompanied by the
339 additional fee or fees specified in Section 53-3-105.

340 (13) ~~[A person]~~ An individual who has an appointment with the division for testing
341 and fails to keep the appointment or to cancel at least 48 hours in advance of the appointment
342 shall pay the fee under Section 53-3-105.

343 (14) ~~[A person]~~ An applicant who applies for an original license or renewal of a license
344 agrees that the ~~[person's]~~ individual's license is subject to ~~[any]~~ a suspension or revocation
345 authorized under this title or Title 41, Motor Vehicles.

346 (15) (a) ~~[The indication of intent]~~ A licensee shall authenticate the indication of intent
347 under Subsection (8)(a)(vi) [shall be authenticated by the licensee] in accordance with division
348 rule.

349 (b) (i) Notwithstanding Title 63G, Chapter 2, Government Records Access and
350 Management Act, the division may, upon request, release to an organ procurement
351 organization, as defined in Section 26-28-102, the names and addresses of all ~~[persons]~~
352 applicants who, under Subsection (8)(a)(vi), indicate that they intend to make an anatomical
353 gift.

354 (ii) An organ procurement organization may use released information only to:

355 (A) obtain additional information for an anatomical gift registry; and

356 (B) inform licensees of anatomical gift options, procedures, and benefits.

357 (16) Notwithstanding Title 63G, Chapter 2, Government Records Access and
358 Management Act, the division may release to the Department of Veterans and Military Affairs
359 the names and addresses of all ~~[persons]~~ applicants who indicate their status as a veteran under
360 Subsection (8)(a)(viii).

361 (17) Notwithstanding Title 63G, Chapter 2, Government Records Access and
362 Management Act, the division shall, upon request, release to the Sex and Kidnap Offender
363 Registry office in the Department of Corrections, the names and addresses of all applicants
364 who, under Subsection (8)(a)(vii), indicate they are required to register as a sex offender in
365 accordance with Title 77, Chapter 41, Sex and Kidnap Offender Registry.

366 ~~[(17)]~~ (18) The division and ~~[its]~~ the division's employees are not liable, as a result of

367 false or inaccurate information provided under Subsection (8)(a)(vi) or (viii), for direct or
368 indirect:

369 (a) loss;

370 (b) detriment; or

371 (c) injury.

372 ~~[(18)]~~ (19) ~~[A person]~~ An applicant who knowingly fails to provide the information
373 required under Subsection (8)(a)(vii) is guilty of a class A misdemeanor.

374 ~~[(19)]~~ (20) (a) Until December 1, 2014, ~~[a person]~~ an individual born on or after
375 December 1, 1964, may hold both an unexpired Utah license certificate and an unexpired Utah
376 identification card.

377 (b) On or after December 1, 2014, ~~[a person]~~ an individual born on or after December
378 1, 1964:

379 (i) may not hold both an unexpired Utah license certificate and an unexpired
380 identification card; and

381 (ii) if the ~~[person]~~ individual has both an unexpired Utah license certificate and an
382 unexpired Utah identification card in the ~~[person's possession, shall be]~~ individual's possession,
383 the individual is required to surrender either the unexpired Utah license certificate or the
384 unexpired Utah identification card.

385 (c) If ~~[a person]~~ an individual has not surrendered either the Utah license certificate or
386 the Utah identification card as required under this Subsection ~~[(19)]~~ (20), the division shall
387 cancel the Utah identification card on December 1, 2014.

388 ~~[(20)]~~ (21) (a) Until December 1, 2017, ~~[a person born prior to]~~ an individual born
389 before December 1, 1964, may hold both an unexpired Utah license certificate and an
390 unexpired Utah identification card.

391 (b) On or after December 1, 2017, ~~[a person born prior to]~~ an individual born before
392 December 1, 1964:

393 (i) may not hold both an unexpired Utah license certificate and an unexpired
394 identification card; and

395 (ii) if the ~~[person]~~ individual has both an unexpired Utah license certificate and an
396 unexpired Utah identification card in the ~~[person's possession, shall be required to]~~ individual's
397 possession, the individual shall surrender either the unexpired Utah license certificate or the

398 unexpired Utah identification card.

399 (c) If [~~a person~~] an individual has not surrendered either the Utah license certificate or
400 the Utah identification card as required under this Subsection [~~(20)~~] (21), the division shall
401 cancel the Utah identification card on December 1, 2017.

402 [~~(21)~~] (22) (a) [~~A person~~] An applicant who applies for an original motorcycle
403 endorsement to a regular license certificate is exempt from the requirement to pass the
404 knowledge and skills test to be eligible for the motorcycle endorsement if the [~~person~~]
405 applicant:

406 (i) is a resident of the state of Utah;

407 (ii) (A) is ordered to active duty and stationed outside of Utah in any of the armed
408 forces of the United States; or

409 (B) is an immediate family member or dependent of [~~a person~~] an individual described
410 in Subsection [~~(21)~~] (22)(a)(ii)(A) and is residing outside of Utah;

411 (iii) has a digitized driver license photo on file with the division;

412 (iv) provides proof to the division of the successful completion of a certified
413 Motorcycle Safety Foundation rider training course; and

414 (v) provides the necessary information and documentary evidence required under
415 Subsection (8).

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

418 (i) establishing the procedures for [~~a person~~] an individual to obtain a motorcycle
419 endorsement under this Subsection [~~(21)~~] (22); and

420 (ii) identifying the applicable restrictions for a motorcycle endorsement issued under
421 this Subsection [~~(21)~~] (22).

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

423 **53-3-216. Change of address -- Duty of licensee to notify division within 10 days**
424 **-- Change of name -- Proof necessary -- Method of giving notice by division.**

425 (1) (a) [~~If a person~~] Except as provided in Subsection (1)(b), if an individual, after
426 applying for or receiving a license, moves from the address named in the application or in the
427 license certificate issued to [~~him, the person~~] the individual, the individual shall, within 10 days
428 [~~of moving~~] after the day on which the individual moves, notify the division in a manner

429 specified by the division of ~~[his]~~ the individual's new address and the number of any license
430 certificate held by ~~[him]~~ the individual.

431 (b) If an individual who is required to register as a sex offender under Title 77, Chapter
432 41, Sex and Kidnap Offender Registry, after applying for or receiving a license, moves from
433 the address named in the application or in the license certificate issued to the individual, the
434 individual shall, within 30 days after the day on which the individual moves, apply for an
435 updated license in-person at a division office.

436 (2) If ~~[a person]~~ an applicant requests to change the surname on the applicant's license,
437 the division shall issue a substitute license with the new name upon receiving an application
438 and fee for a duplicate license and any of the following proofs of the applicant's full legal
439 name:

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

441 (b) a certified copy of a court order under Title 42, Chapter 1, Change of Name,
442 showing the name change;

443 (c) an original or certified copy of a birth certificate issued by a government agency;

444 (d) a certified copy of a divorce decree or annulment granted the applicant that
445 specifies the name change requested; or

446 (e) a certified copy of a divorce decree that does not specify the name change requested
447 together with:

448 (i) an original or certified copy of the applicant's birth certificate;

449 (ii) the applicant's marriage license;

450 (iii) a driver license record showing use of a maiden name; or

451 (iv) other documentation the division finds acceptable.

452 ~~[(3) (a) Except as provided in Subsection (3)(c), if a person has applied for and~~
453 ~~received a license certificate and is currently required to register as a sex offender in~~
454 ~~accordance with Title 77, Chapter 41, Sex and Kidnap Offender Registry:]~~

455 ~~[(i) the person's original license or renewal to an original license expires on the next~~
456 ~~birth date of the licensee beginning on July 1, 2006;]~~

457 ~~[(ii) the person shall surrender the person's license to the division on or before the~~
458 ~~licensee's next birth date beginning on July 1, 2006; and]~~

459 ~~[(iii) the person may apply for a license certificate with an expiration date identified in~~

460 Subsection ~~53-3-205~~(7)(h) by:]

461 [(A) ~~furnishing proper documentation to the division as provided in Section 53-3-205;~~
462 and]

463 [(B) ~~paying the fee for a license required under Section 53-3-105.~~]

464 [(b) ~~Except as provided in Subsection (3)(c), if a person has applied for and received a~~
465 ~~license certificate and is subsequently convicted of any offense listed in Subsection~~
466 ~~77-41-102(17), the person shall surrender the license certificate to the division on the person's~~
467 ~~next birth date following the conviction and may apply for a license certificate with an~~
468 ~~expiration date identified in Subsection 53-3-205(7)(h) by:]~~

469 [(i) ~~furnishing proper documentation to the division as provided in Section 53-3-205;~~
470 and]

471 [(ii) ~~paying the fee for a license required under Section 53-3-105.~~]

472 [(c) ~~A person who is unable to comply with the provisions of Subsection (3)(a) or~~
473 ~~(3)(b) because the person is in the custody of the Department of Corrections or the Division of~~
474 ~~Juvenile Justice Services, confined in a correctional facility not operated by or under contract~~
475 ~~with the Department of Corrections, or committed to a state mental facility, shall comply with~~
476 ~~the provisions of Subsection (3)(a) or (b) within 10 days of being released from confinement.]~~

477 [(4)] (3) (a) If the division is authorized or required to give [any] a notice under this
478 chapter or other law regulating the operation of vehicles, the notice shall, unless otherwise
479 prescribed, be given by:

480 (i) personal delivery to the [person] individual to be notified; or

481 (ii) deposit in the United States mail with postage prepaid, addressed to the [person at
482 his] individual at the individual's address as shown by the records of the division.

483 (b) The giving of notice by mail is complete upon the expiration of four days after the
484 deposit of the notice.

485 (c) Proof of the giving of notice in either manner may be made by the certificate of
486 [any] an officer or employee of the division or affidavit of [any person older than] an individual
487 18 years of age or older, naming the [person] individual to whom the notice was given and
488 specifying the time, place, and manner of giving the notice.

489 [(5)] (4) The division may use state mailing or United States Postal Service
490 information to:

491 (a) verify an address on an application or on records of the division; and

492 (b) correct mailing addresses in the division's records.

493 ~~[(6)(a)]~~ (5) A violation of the provisions of Subsection (1) is an infraction.

494 ~~[(b) A person who knowingly fails to surrender a license certificate under Subsection~~

495 ~~(3) is guilty of a class A misdemeanor.]~~

496 Section 4. Section **53-3-413** is amended to read:

497 **53-3-413. Issuance of CDL by division -- Driving record -- Expiration date --**

498 **Renewal -- Hazardous materials provision.**

499 (1) Before the division may grant a CDL, the division shall obtain the driving record
500 information regarding the applicant through the CDLIS, the NDR, and from each state where
501 the applicant has been licensed.

502 (2) The division shall notify the CDLIS and provide all information required to ensure
503 identification of the CDL holder within 10 days after:

504 (a) issuing a CDL following application for an original, renewal, transfer, or upgrade of
505 the CDL; or

506 (b) any change is made to the identifying information of a CDL holder.

507 (3) (a) The expiration date for a CDL is the birth date of the holder in the fifth year
508 following the year of issuance of the CDL.

509 (b) A limited-term CDL expires on:

510 (i) the expiration date of the period of time of the individual's authorized stay in the
511 United States or on the date provided in Subsection (3)(a), whichever is sooner; or

512 (ii) on the birth date of the applicant in the first year following the year that the
513 limited-term CDL was issued if there is no definite end to the individual's period of authorized
514 stay.

515 ~~[(c) An original CDL or a renewal to an original CDL expires on the birth date of the~~
516 ~~applicant in the first year following the year that the license was issued if the applicant is~~
517 ~~required to register as a sex offender in accordance with Title 77, Chapter 41, Sex and Kidnap~~
518 ~~Offender Registry.]~~

519 ~~[(d)]~~ (c) A CDL held by ~~[a person]~~ an individual ordered to active duty and stationed
520 outside Utah in any of the armed forces of the United States, which expires during the time
521 period the ~~[person]~~ individual is stationed outside of the state, is valid until 90 days after the

522 [person] individual has been discharged or has left the service, unless:

523 (i) the license is suspended, disqualified, denied, or has been cancelled or revoked by
524 the division; or

525 (ii) the licensee updates the information or photograph on the license certificate.

526 (4) (a) The applicant for a renewal of a CDL shall complete the application form
527 required by Section 53-3-410 and provide updated information and required certification.

528 (b) In addition to the requirements under Subsection (4)(a), the applicant for a renewal
529 of a limited-term CDL shall present documentary evidence that the status by which the
530 individual originally qualified for the limited-term CDL has been extended by the United States
531 Citizenship and Immigration Services or other authorized agency of the United States
532 Department of Homeland Security.

533 (5) The division shall distinguish a limited-term CDL by clearly indicating on the
534 document:

535 (a) that it is temporary; and

536 (b) its expiration date.

537 (6) (a) The division may not issue a hazardous materials endorsement on a CDL unless
538 the applicant meets the security threat assessment standards of the federal Transportation
539 Security Administration.

540 (b) The division shall revoke the hazardous materials endorsement on a CDL upon
541 receiving notice from the federal Transportation Security Administration that the [person]
542 individual holding a hazardous materials endorsement does not meet Transportation Security
543 Administration security threat assessment standards.

544 (c) To obtain an original hazardous materials endorsement or retain a hazardous
545 materials endorsement upon CDL renewal or transfer, the applicant must take and pass the
546 knowledge test for hazardous materials endorsement in addition to any other testing required
547 by the division.

548 (7) Unless otherwise provided, the provisions, requirements, classes, endorsements,
549 fees, restrictions, and sanctions under this code apply to a limited-term CDL in the same way as
550 a CDL issued under this chapter.

551 Section 5. Section 53-3-804 is amended to read:

552 **53-3-804. Application for identification card -- Required information -- Release**

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

554 (1) To apply for a regular identification card or limited-term identification card, ~~[the]~~
555 an applicant shall:

556 (a) be a Utah resident;

557 (b) have a Utah residence address; and

558 (c) appear in person at any license examining station.

559 (2) ~~[The]~~ An applicant shall provide the following information to the division:

560 (a) true and full legal name and Utah residence address;

561 (b) date of birth as set forth in a certified copy of the applicant's birth certificate, or
562 other satisfactory evidence of birth, which shall be attached to the application;

563 (c) (i) ~~[Social Security]~~ social security number; or

564 (ii) written proof that the applicant is ineligible to receive a ~~[Social Security]~~ social
565 security number;

566 (d) place of birth;

567 (e) height and weight;

568 (f) color of eyes and hair;

569 (g) signature;

570 (h) photograph;

571 (i) evidence of the applicant's lawful presence in the United States by providing
572 documentary evidence:

573 (i) that ~~[a person]~~ the applicant is:

574 (A) a United States citizen;

575 (B) a United States national; or

576 (C) a legal permanent resident alien; or

577 (ii) of the applicant's:

578 (A) unexpired immigrant or nonimmigrant visa status for admission into the United
579 States;

580 (B) pending or approved application for asylum in the United States;

581 (C) admission into the United States as a refugee;

582 (D) pending or approved application for temporary protected status in the United
583 States;

584 (E) approved deferred action status;

585 (F) pending application for adjustment of status to legal permanent resident or
586 conditional resident; or

587 (G) conditional permanent resident alien status;

588 (j) an indication whether the applicant intends to make an anatomical gift under Title
589 26, Chapter 28, Revised Uniform Anatomical Gift Act;

590 (k) an indication whether the applicant is required to register as a sex offender in
591 accordance with Title 77, Chapter 41, Sex and Kidnap Offender Registry; and

592 (l) an indication whether the applicant is a veteran of the United States Armed Forces,
593 verification that the applicant has received an honorable or general discharge from the United
594 States Armed Forces, and an indication whether the applicant does or does not authorize
595 sharing the information with the state Department of Veterans and Military Affairs.

596 (3) (a) The requirements of Section [53-3-234](#) apply to this section for each [~~person~~]
597 individual, age 16 and older, applying for an identification card.

598 (b) Refusal to consent to the release of information under Section [53-3-234](#) shall result
599 in the denial of the identification card.

600 (4) [~~A person~~] An individual who knowingly fails to provide the information required
601 under Subsection (2)(k) is guilty of a class A misdemeanor.

602 (5) (a) Until December 1, 2014, [~~a person~~] an individual born on or after December 1,
603 1964, may hold both an unexpired Utah license certificate and an unexpired Utah identification
604 card.

605 (b) On or after December 1, 2014, [~~a person~~] an individual born on or after December
606 1, 1964:

607 (i) may not hold both an unexpired Utah license certificate and an unexpired
608 identification card; and

609 (ii) if the [~~person~~] individual has both an unexpired Utah license certificate and an
610 unexpired Utah identification card in the [~~person's~~] individual's possession, the individual shall
611 be required to surrender either the unexpired Utah license certificate or the unexpired Utah
612 identification card.

613 (c) If [~~a person~~] an individual has not surrendered either the Utah license certificate or
614 the Utah identification card as required under this Subsection (5), the division shall cancel the

615 Utah identification card on December 1, 2014.

616 (6) (a) Until December 1, 2017, [~~a person~~] an individual born prior to December 1,
617 1964, may hold both an unexpired Utah license certificate and an unexpired Utah identification
618 card.

619 (b) On or after December 1, 2017, [~~a person~~] an individual born prior to December 1,
620 1964:

621 (i) may not hold both an unexpired Utah license certificate and an unexpired
622 identification card; and

623 (ii) if the [~~person~~] individual has both an unexpired Utah license certificate and an
624 unexpired Utah identification card in the [~~person's~~] individual's possession, the individual shall
625 [~~be required to~~] surrender either the unexpired Utah license certificate or the unexpired Utah
626 identification card.

627 (c) If [~~a person~~] an individual has not surrendered either the Utah license certificate or
628 the Utah identification card as required under this Subsection (6), the division shall cancel the
629 Utah identification card on December 1, 2017.

630 (7) Notwithstanding Title 63G, Chapter 2, Government Records Access and
631 Management Act, the division shall, upon request, release to the Sex and Kidnap Offender
632 Registry office in the Department of Corrections, the names and addresses of all applicants
633 who, under Subsection (2)(k), indicate they are required to register as a sex offender in
634 accordance with Title 77, Chapter 41, Sex and Kidnap Offender Registry.

635 Section 6. Section **53-3-807** is amended to read:

636 **53-3-807. Expiration -- Address and name change -- Extension.**

637 (1) (a) A regular identification card issued on or after July 1, 2006, expires on the birth
638 date of the applicant in the fifth year [~~following~~] after the issuance of the regular identification
639 card.

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

641 (i) the expiration date of the period of time of the individual's authorized stay in the
642 United States or on the birth date of the applicant in the fifth year [~~following~~] after the issuance
643 of the limited-term identification card, whichever is sooner; or

644 (ii) on the date of issuance in the first year [~~following~~] after the year that the
645 limited-term identification card was issued if there is no definite end to the individual's period

646 of authorized stay.

647 (2) (a) ~~[If a person]~~ Except as provided in Subsection (2)(b), if an individual has
648 applied for and received an identification card and subsequently moves from the address shown
649 on the application or on the card, the [person] individual shall, within 10 days after the day on
650 which the individual moves, notify the division in a manner specified by the division of the
651 [person's] individual's new address.

652 (b) If an individual who is required to register as a sex offender under Title 77, Chapter
653 41, Sex and Kidnap Offender Registry, has applied for and received an identification card and
654 subsequently moves from the address shown on the application or on the card, the individual
655 shall, within 30 days after the day on which the individual moves, apply for an updated
656 identification card in-person at a division office.

657 (3) If ~~[a person]~~ an individual has applied for and received an identification card and
658 subsequently changes the ~~[person's]~~ individual's name under Title 42, Chapter 1, Change of
659 Name, the ~~[person]~~ individual:

660 (a) shall surrender the card to the division; and

661 (b) may apply for a new card in the ~~[person's]~~ individual's new name by:

662 (i) furnishing proper documentation to the division as provided in Section 53-3-804;

663 and

664 (ii) paying the fee required under Section 53-3-105.

665 ~~[(4) (a) Except as provided in Subsection (4)(c), if a person has applied for and~~
666 ~~received an identification card and is currently required to register as a sex offender in~~
667 ~~accordance with Title 77, Chapter 41, Sex and Kidnap Offender Registry:]~~

668 ~~[(i) the person's identification card expires annually on the next birth date of the~~
669 ~~cardholder, on and after July 1, 2006;]~~

670 ~~[(ii) the person shall surrender the person's identification card to the division on or~~
671 ~~before the cardholder's next birth date beginning on July 1, 2006; and]~~

672 ~~[(iii) the person may apply for an identification card with an expiration date identified~~
673 ~~in Subsection (8) by:]~~

674 ~~[(A) furnishing proper documentation to the division as provided in Section 53-3-804;~~
675 ~~and]~~

676 ~~[(B) paying the fee for an identification card required under Section 53-3-105.]~~

677 ~~[(b) Except as provided in Subsection (4)(c), if a person has applied for and received~~
678 ~~an identification card and is subsequently convicted of any offense listed in Subsection~~
679 ~~77-41-102(17), the person shall surrender the card to the division on the person's next birth~~
680 ~~date following the conviction and may apply for a new card with an expiration date identified~~
681 ~~in Subsection (8) by:]~~

682 ~~[(i) furnishing proper documentation to the division as provided in Section 53-3-804;~~
683 ~~and]~~

684 ~~[(ii) paying the fee required under Section 53-3-105.]~~

685 ~~[(c) A person who is unable to comply with the provisions of Subsection (4)(a) or~~
686 ~~(4)(b) because the person is in the custody of the Department of Corrections or Division of~~
687 ~~Juvenile Justice Services, confined in a correctional facility not operated by or under contract~~
688 ~~with the Department of Corrections, or committed to a state mental facility, shall comply with~~
689 ~~the provisions of Subsection (4)(a) or (b) within 10 days of being released from confinement.]~~

690 ~~[(5)] (4) A person [~~older than~~] 21 years of age or older with a disability, as defined~~

691 under the Americans with Disabilities Act of 1990, Pub. L. 101-336, may extend the expiration

692 date on an identification card for five years if the person with a disability or an agent of the

693 person with a disability:

694 (a) requests that the division send the application form to obtain the extension or

695 requests an application form in person at the division's offices;

696 (b) completes the application;

697 (c) certifies that the extension is for a person 21 years of age or older with a disability;

698 and

699 (d) returns the application to the division together with the identification card fee

700 required under Section 53-3-105.

701 ~~[(6)] (5) (a) The division may extend a valid regular identification card issued after~~
702 ~~January 1, 2010, for five years[:(a)-(i)] at any time within six months before the day on which~~
703 ~~the identification card expires[; and].~~

704 ~~[(ii) if the identification card was issued after January 1, 2010.]~~

705 (b) The application for an extension of a regular identification card [~~shall be~~] is

706 accompanied by a fee under Section 53-3-105.

707 (c) The division shall allow extensions:

708 (i) by mail, electronic means, or other means as determined by the division at the
709 appropriate extension fee rate under Section ~~53-3-105~~; and

710 (ii) only if the applicant qualifies under this section.

711 ~~[(7)] (6) (a) [(i) Except as prohibited under Subsection (7)(b), a]~~ A regular
712 identification card may only be extended once under Subsections ~~[(5) and (6)]~~ (4) and (5).

713 ~~[(ii)] (b)~~ After an extension an application for an identification card must be applied for
714 in person at the division's offices.

715 ~~[(b) An identification card issued to a person required to register as a sex offender in~~
716 ~~accordance with Title 77, Chapter 41, Sex and Kidnap Offender Registry, may not be~~
717 ~~extended.]~~

718 ~~[(8)] (7)~~ An identification card issued ~~[prior to]~~ before July 1, 2006, to ~~[a person]~~ an
719 individual 65 years of age or older expires on December 1, 2017.

720 ~~[(9) Notwithstanding the provisions of this section, an identification card expires on~~
721 ~~the birth date of the applicant in the first year following the year that the identification card was~~
722 ~~issued if the applicant is required to register as a sex offender in accordance with Title 77,~~
723 ~~Chapter 41, Sex and Kidnap Offender Registry.]~~

724 ~~[(10) A person who knowingly fails to surrender an identification card under~~
725 ~~Subsection (4) is guilty of a class A misdemeanor.]~~

726 Section 7. Section **76-5b-201** is amended to read:

727 **76-5b-201. Sexual exploitation of a minor -- Offenses.**

728 (1) A person is guilty of sexual exploitation of a minor:

729 (a) when the person:

730 (i) knowingly produces, possesses, or possesses with intent to distribute child
731 pornography; or

732 (ii) intentionally distributes or views child pornography; or

733 (b) if the person is a minor's parent or legal guardian and knowingly consents to or
734 permits the minor to be sexually exploited as described in Subsection (1)(a).

735 (2) (a) ~~[Sexual]~~ Except as provided in Subsection (2)(b), sexual exploitation of a minor
736 is a second degree felony.

737 (b) A violation of Subsection (1) for knowingly producing child pornography is a first
738 degree felony if the person produces original child pornography depicting a first degree felony

739 that involves:

740 (i) the person or another person engaging in conduct with the minor that is a violation

741 of:

742 (A) Section 76-5-402.1, rape of a child;

743 (B) Section 76-5-402.3, object rape of a child;

744 (C) Section 76-5-403.1, sodomy on a child; or

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

746 (ii) the minor being physically abused, as defined in Section 78A-6-105.

747 (3) It is a separate offense under this section:

748 (a) for each minor depicted in the child pornography; and

749 (b) for each time the same minor is depicted in different child pornography.

750 (4) It is an affirmative defense to a charge of violating this section that no [person
751 ~~under 18 years of age~~] minor was actually depicted in the visual depiction or used in producing
752 or advertising the visual depiction.

753 (5) In proving a violation of this section in relation to an identifiable minor, proof of
754 the actual identity of the identifiable minor is not required.

755 (6) This section may not be construed to impose criminal or civil liability on:

756 (a) an entity or an employee, director, officer, or agent of an entity when acting within
757 the scope of employment, for the good faith performance of:

758 (i) reporting or data preservation duties required under [~~any~~] federal or state law; or

759 (ii) implementing a policy of attempting to prevent the presence of child pornography
760 on [~~any~~] tangible or intangible property, or of detecting and reporting the presence of child
761 pornography on the property;

762 (b) a law enforcement officer acting within the scope of a criminal investigation;

763 (c) an employee of a court who may be required to view child pornography during the
764 course of and within the scope of the employee's employment;

765 (d) a juror who may be required to view child pornography during the course of the
766 individual's service as a juror;

767 (e) an attorney or employee of an attorney who is required to view child pornography
768 during the course of a judicial process and while acting within the scope of employment;

769 (f) an employee of the Department of Human Services who is required to view child

770 pornography within the scope of the employee's employment; or

771 (g) an attorney who is required to view child pornography within the scope of the
772 attorney's responsibility to represent the Department of Human Services, including the
773 divisions and offices within the Department of Human Services.

774 Section 8. Section **76-10-1206** is amended to read:

775 **76-10-1206. Dealing in material harmful to a minor -- Penalties -- Exemptions for**
776 **Internet service providers and hosting companies.**

777 (1) A person is guilty of dealing in material harmful to minors when, knowing or
778 believing that [~~a person~~] an individual is a minor, or having negligently failed to determine the
779 proper age of a minor, the person intentionally:

780 (a) distributes or offers to distribute, or exhibits or offers to exhibit, to a minor or [~~a~~
781 ~~person the actor~~] an individual whom the person believes to be a minor, any material harmful
782 to minors;

783 (b) produces, performs, or directs any performance, before a minor or [~~a person the~~
784 ~~actor~~] an individual whom the person believes to be a minor, that is harmful to minors; or

785 (c) participates in any performance, before a minor or [~~a person the actor~~] an individual
786 whom the person believes to be a minor, that is harmful to minors.

787 (2) (a) [~~Each~~] Except as provided in Subsection (2)(b), each separate offense under this
788 section committed by a person 18 years of age or older is a third degree felony punishable by:

789 (i) a minimum mandatory fine of not less than \$1,000, plus \$10 for each article
790 exhibited up to the maximum allowed by law; and

791 (ii) incarceration, without suspension of sentence, for a term of not less than 14 days.

792 (b) Each separate offense under this section committed by a person 18 years of age or
793 older against a minor 16 years of age or older, but younger than 18 years of age, is a class A
794 misdemeanor if the person is less than seven years older than the minor at the time of the
795 offense.

796 [~~(b)~~] (c) Each separate offense under this section committed by a person 16 or 17 years
797 of age is a class A misdemeanor.

798 [~~(c)~~] (d) Each separate offense under this section committed by a person younger than
799 16 years of age is a class B misdemeanor.

800 [~~(d)~~] (e) Subsection (2)(a) supersedes Section 77-18-1.

801 (3) (a) [Hf] Except for a defendant described in Subsection (2)(b), if a defendant 18
802 years of age or older has been previously convicted or adjudicated to be under the jurisdiction
803 of the juvenile court under this section, each separate subsequent offense is a second degree
804 felony punishable by:

805 (i) a minimum mandatory fine of not less than \$5,000, plus \$10 for each article
806 exhibited up to the maximum allowed by law; and

807 (ii) incarceration, without suspension of sentence, for a term of not less than one year.

808 (b) If a defendant described in Subsection (2)(b) or a defendant younger than 18 years
809 of age has been previously convicted or adjudicated to be under the jurisdiction of the juvenile
810 court under this section, each separate subsequent offense is a third degree felony.

811 (c) Subsection (3)(a) supersedes Section [77-18-1](#).

812 (d) (i) This section does not apply to an Internet service provider, as defined in Section
813 [76-10-1230](#), a provider of an electronic communications service as defined in 18 U.S.C. Sec.
814 2510, a telecommunications service, information service, or mobile service as defined in 47
815 U.S.C. Sec. 153, including a commercial mobile service as defined in 47 U.S.C. Sec. 332(d), or
816 a cable operator as defined in 47 U.S.C. Sec. 522, if:

817 (A) the distribution of pornographic material by the Internet service provider occurs
818 only incidentally through the provider's function of:

819 (I) transmitting or routing data from one person to another person; or

820 (II) providing a connection between one person and another person;

821 (B) the provider does not intentionally aid or abet in the distribution of the
822 pornographic material; and

823 (C) the provider does not knowingly receive from or through a person who distributes
824 the pornographic material a fee greater than the fee generally charged by the provider, as a
825 specific condition for permitting the person to distribute the pornographic material.

826 (ii) This section does not apply to a hosting company, as defined in Section
827 [76-10-1230](#), if:

828 (A) the distribution of pornographic material by the hosting company occurs only
829 incidentally through the hosting company's function of providing data storage space or data
830 caching to a person;

831 (B) the hosting company does not intentionally engage, aid, or abet in the distribution

832 of the pornographic material; and

833 (C) the hosting company does not knowingly receive from or through a person who
834 distributes the pornographic material a fee greater than the fee generally charged by the
835 provider, as a specific condition for permitting the person to distribute, store, or cache the
836 pornographic material.

837 (4) A service provider, as defined in Section 76-10-1230, is not negligent under this
838 section if ~~it~~ the service provider complies with Section 76-10-1231.

839 (5) A person 18 years of age or older who knowingly solicits, requests, commands,
840 encourages, or intentionally aids another person younger than 18 years of age to engage in
841 conduct in violation of Subsection (1) is guilty of a third degree felony and is subject to the
842 penalties under Subsection (2)(a).

843 Section 9. Section 77-22-2.5 is amended to read:

844 **77-22-2.5. Court orders for criminal investigations for records concerning an**
845 **electronic communications system or service or remote computing service -- Content --**
846 **Fee for providing information.**

847 (1) As used in this section:

848 (a) (i) "Electronic communication" means any transfer of signs, signals, writing,
849 images, sounds, data, or intelligence of any nature transmitted in whole or in part by a wire,
850 radio, electromagnetic, photoelectronic, or photooptical system.

851 (ii) "Electronic communication" does not include:

852 (A) ~~any~~ a wire or oral communication;

853 (B) ~~any~~ a communication made through a tone-only paging device;

854 (C) ~~any~~ a communication from a tracking device; or

855 (D) electronic funds transfer information stored by a financial institution in a
856 communications system used for the electronic storage and transfer of funds.

857 (b) "Electronic communications service" means ~~any~~ a service which provides for
858 users the ability to send or receive wire or electronic communications.

859 (c) "Electronic communications system" means ~~any~~ a wire, radio, electromagnetic,
860 photooptical, or photoelectronic facilities for the transmission of wire or electronic
861 communications, and ~~any~~ a computer facilities or related electronic equipment for the
862 electronic storage of the communication.

863 (d) "Internet service provider" [~~has the same definition as in~~] means the same as that
864 term is defined in Section 76-10-1230.

865 (e) "Prosecutor" [~~has the same definition as in~~] means the same as that term is defined
866 in Section 77-22-2.

867 (f) "Remote computing service" means the provision to the public of computer storage
868 or processing services by means of an electronic communications system.

869 (g) "Sexual offense against a minor" means:

870 (i) sexual exploitation of a minor [~~as defined in Section 76-5b-201~~] or attempted sexual
871 exploitation of a minor in violation of Section 76-5b-201;

872 (ii) a sexual offense or attempted sexual offense committed against a minor in violation
873 of Title 76, Chapter 5, Part 4, Sexual Offenses;

874 (iii) dealing in or attempting to deal in material harmful to a minor in violation of
875 Section 76-10-1206;

876 (iv) enticement of a minor or attempted enticement of a minor in violation of Section
877 76-4-401; [~~or~~]

878 (v) human trafficking of a child in violation of Section 76-5-308.5[~~;~~]; or

879 (vi) aggravated sexual extortion of a child in violation of Section 76-5b-204.

880 (2) When a law enforcement agency is investigating a sexual offense against a minor,
881 an offense of stalking under Section 76-5-106.5, or an offense of child kidnapping under
882 Section 76-5-301.1, and has reasonable suspicion that an electronic communications system or
883 service or remote computing service has been used in the commission of a criminal offense, a
884 law enforcement agent shall:

885 (a) articulate specific facts showing reasonable grounds to believe that the records or
886 other information sought, as designated in Subsections (2)(c)(i) through (v), are relevant and
887 material to an ongoing investigation;

888 (b) present the request to a prosecutor for review and authorization to proceed; and

889 (c) submit the request to a magistrate for a court order, consistent with 18 U.S.C. Sec.
890 2703 and 18 U.S.C. Sec. 2702, to the electronic communications system or service or remote
891 computing service provider that owns or controls the Internet protocol address, websites, email
892 address, or service to a specific telephone number, requiring the production of the following
893 information, if available, upon providing in the court order the Internet protocol address, email

894 address, telephone number, or other identifier, and the dates and times the address, telephone
895 number, or other identifier [~~was~~] is suspected of being used in the commission of the offense:

- 896 (i) names of subscribers, service customers, and users;
897 (ii) addresses of subscribers, service customers, and users;
898 (iii) records of session times and durations;
899 (iv) length of service, including the start date and types of service utilized; and
900 (v) telephone or other instrument subscriber numbers or other subscriber identifiers,
901 including [~~any~~] a temporarily assigned network address.

902 (3) A court order issued under this section shall state that the electronic
903 communications system or service or remote computing service provider shall produce [~~any~~
904 ~~records~~] a record under Subsections (2)(c)(i) through (v) that [~~are~~] is reasonably relevant to the
905 investigation of the suspected criminal activity or offense as described in the court order.

906 (4) (a) An electronic communications system or service or remote computing service
907 provider that provides information in response to a court order issued under this section may
908 charge a fee, not to exceed the actual cost, for providing the information.

909 (b) The law enforcement agency conducting the investigation shall pay the fee.

910 (5) The electronic communications system or service or remote computing service
911 provider served with or responding to the court order may not disclose the court order to the
912 account holder identified pursuant to the court order for a period of 90 days.

913 (6) If the electronic communications system or service or remote computing service
914 provider served with the court order does not own or control the Internet protocol address,
915 websites, or email address, or provide service for the telephone number that is the subject of
916 the court order, the provider shall notify the investigating law enforcement agency that [~~it~~] the
917 provider does not have the information.

918 (7) There is no cause of action against [~~any~~] a provider or wire or electronic
919 communication service, or [~~its~~] the provider or service's officers, employees, agents, or other
920 specified persons, for providing information, facilities, or assistance in accordance with the
921 terms of the court order issued under this section or statutory authorization.

922 (8) (a) A court order issued under this section is subject to the provisions of Title 77,
923 Chapter 23b, Access to Electronic Communications.

924 (b) Rights and remedies for providers and subscribers under Title 77, Chapter 23b,

925 Access to Electronic Communications, apply to providers and subscribers subject to a court
926 order issued under this section.

927 (9) ~~[Every]~~ A prosecutorial agency shall annually on or before February 15 report to
928 the Commission on Criminal and Juvenile Justice:

929 (a) the number of requests for court orders authorized by the prosecutorial agency;

930 (b) the number of orders issued by the court and the criminal offense, pursuant to
931 Subsection (2), each order was used to investigate; and

932 (c) if the court order led to criminal charges being filed, the type and number of
933 offenses charged.

934 Section 10. Section ~~77-41-104~~ is amended to read:

935 **77-41-104. Registration of offenders -- Department and agency requirements.**

936 (1) ~~[An]~~ The department or an agent of the department shall register an offender in the
937 custody of the department ~~[shall be registered by agents of the department]~~ as required under
938 this chapter upon:

939 (a) placement on probation;

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

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

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

946 (e) termination of probation or parole.

947 (2) ~~[An offender who]~~ The sheriff of the county in which an offender is confined shall
948 register an offender with the department, as required under this chapter, if the offender is not in
949 the custody of the department and ~~[who]~~ is confined in a correctional facility not operated by or
950 under contract to the department ~~[shall be registered with the department by the sheriff of the~~
951 ~~county in which the offender is confined,]~~ upon:

952 (a) commitment to the correctional facility; and

953 (b) release from confinement.

954 (3) ~~[An]~~ The division shall register an offender in the custody of the division ~~[shall be~~
955 ~~registered with the department by the division prior to]~~ with the department, as required under

956 this chapter, before the offender's release from custody of the division.

957 (4) ~~[Aa]~~ A state mental hospital shall register an offender committed to [a] the state
958 mental hospital [shall be registered with the department by the hospital] with the department,
959 as required under this chapter, upon the offender's admission and upon the offender's discharge.

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

963 (ii) In order to conduct offender registration under this chapter, the agency shall ensure
964 the agency staff responsible for registration:

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

968 (B) certify annually with the department.

969 (b) (i) When the department receives offender registration information regarding a
970 change of an offender's primary residence location, the department shall within five days after
971 the day on which the department receives the information electronically notify the law
972 enforcement agencies that have jurisdiction over the area where:

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

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

975 (ii) The department shall provide notification under this Subsection (5)(b) if the
976 offender's change of address is between law enforcement agency jurisdictions, or is within one
977 jurisdiction.

978 (c) The department shall make available to offenders required to register under this
979 chapter the name of the agency, whether ~~[it]~~ the agency is a local law enforcement agency or
980 the department, that the offender should contact to register, the location for registering, and the
981 requirements of registration.

982 (6) An agency in the state that registers an offender on probation, an offender who has
983 been released from confinement to parole status or termination, or an offender whose sentence
984 has expired shall inform the offender of the duty to comply with~~[(a)]~~ the continuing
985 registration requirements of this chapter during the period of registration required in Subsection
986 77-41-105(3), including:

987 [(i)] (a) notification to the state agencies in the states where the registrant presently
 988 resides and plans to reside when moving across state lines;

989 [(ii)] (b) verification of address at least every 60 days pursuant to a parole agreement
 990 for lifetime parolees; and

991 [(iii)] (c) notification to the out-of-state agency where the offender is living, regardless
 992 of whether [or not] the offender is a resident of that state[; and].

993 [~~(b) the driver license certificate or identification card surrender requirement under~~
 994 ~~Subsection 53-3-216(3) or 53-3-807(4) and application provisions under Section 53-3-205 or~~
 995 ~~53-3-804.]~~

996 (7) The department may make administrative rules necessary to implement this
 997 chapter, including:

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

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

1000 (8) [~~Any~~] The department shall redact information regarding the identity or location of
 1001 a victim [~~shall be redacted by the department]~~ from information provided under Subsections
 1002 ~~77-41-103(4) and 77-41-105[(8)](7).~~

1003 (9) This chapter does not create or impose any duty on any person to request or obtain
 1004 information regarding any offender from the department.

1005 Section 11. Section **77-41-105** is amended to read:

1006 **77-41-105. Registration of offenders -- Offender responsibilities.**

1007 (1) (a) An offender [~~convicted by any other~~] who enters this state from another
 1008 jurisdiction is required to register under Subsection (3) and Subsection ~~77-41-102(9) or (17).~~

1009 (b) The offender shall register with the department within 10 days [~~of entering]~~ after
 1010 the day on which the offender enters the state, regardless of the offender's length of stay.

1011 (2) (a) An offender required to register under Subsection ~~77-41-102(9) or (17)~~ who is
 1012 under supervision by the department shall register in person with Division of Adult Probation
 1013 and Parole.

1014 (b) An offender required to register under Subsection ~~77-41-102(9) or (17)~~ who is no
 1015 longer under supervision by the department shall register in person with the police department
 1016 or sheriff's office that has jurisdiction over the area where the offender resides.

1017 (3) (a) Except as provided in Subsections (3)(b), (c), and (4), and Section ~~77-41-106,~~

1018 an offender shall, for the duration of the sentence and for 10 years after termination of sentence
1019 or custody of the division, register ~~[every]~~ each year during the month of the offender's date of
1020 birth, during the month that is the sixth month after the offender's birth month, and ~~[also]~~
1021 within three business days ~~[of every]~~ after the day on which there is a change of the offender's
1022 primary residence, any secondary residences, place of employment, vehicle information, or
1023 educational information required to be submitted under Subsection ~~[(8)]~~ (7).

1024 (b) Except as provided in Subsections (3)(c)(iii), (4)₂ and (5), and Section 77-41-106,
1025 an offender who is convicted in another jurisdiction of an offense listed in Subsection
1026 77-41-102(9)(a) or (17)(a), a substantially similar offense, ~~[or any other]~~ another offense that
1027 requires registration in the jurisdiction of conviction, or an offender who is ordered by a court
1028 of another jurisdiction to register as an offender shall:

1029 (i) register for the time period, and in the frequency, required by the jurisdiction where
1030 the offender was convicted or ordered to register if:

1031 (A) that jurisdiction's registration period or registration frequency requirement for the
1032 offense that the offender was convicted of is greater than the ~~[10 years from completion of the~~
1033 ~~sentence]~~ registration period ~~[that is]~~ required under Subsection (3)(a), or is more frequent than
1034 every six months; or

1035 (B) that jurisdiction's court order requires registration for greater than the registration
1036 period required under Subsection (3)(a) or more frequently than every six months; or

1037 (ii) register in accordance with the requirements of Subsection (3)(a), if the
1038 jurisdiction's registration period or frequency requirement for the offense that the offender was
1039 convicted of is less than the registration period required under Subsection (3)(a), or is less
1040 frequent than every six months.

1041 (c) (i) An offender convicted as an adult of ~~[any of the offenses]~~ an offense listed in
1042 Section 77-41-106 shall, for the offender's lifetime, register ~~[every]~~ each year during the month
1043 of the offender's birth, during the month that is the sixth month after the offender's birth month,
1044 and also within three business days ~~[of every]~~ after the day on which there is a change of the
1045 offender's primary residence, any secondary residences, place of employment, vehicle
1046 information, or educational information required to be submitted under Subsection ~~[(8)]~~ (7).

1047 (ii) ~~[This]~~ Except as provided in Subsection (3)(c)(iii), the registration requirement
1048 described in Subsection (3)(c)(i) is not subject to exemptions and may not be terminated or

1049 altered during the offender's lifetime, unless a petition is granted under Section 77-41-112.

1050 (iii) If the sentencing court determines that the offense does not involve force or
1051 coercion, lifetime registration under [~~this Subsection (3)(c)~~] Subsection (3)(c)(i) does not apply
1052 to an offender who commits the offense when the offender is under 21 years of age. For an
1053 offense listed in Section 77-41-106, an offender who commits the offense when the offender is
1054 under 21 years of age [~~is required to~~] shall register [~~in accordance with this chapter for 10 years~~
1055 ~~after termination of sentence or custody of the division~~] for the registration period required
1056 under Subsection (3)(a), unless a petition is granted under Section 77-41-112.

1057 (d) For the purpose of establishing venue for a violation of this Subsection (3), the
1058 violation is considered to be committed:

1059 (i) at the most recent registered primary residence of the offender or at the location of
1060 the offender, if the actual location of the offender at the time of the violation is not known; or

1061 (ii) at the location of the offender at the time the offender is apprehended.

1062 (4) Notwithstanding Subsection (3) and Section 77-41-106, an offender who is
1063 confined in a secure facility or in a state mental hospital is not required to register during the
1064 period of confinement.

1065 (5) (a) [~~In~~] Except as provided in Subsection (5)(b), in the case of an offender
1066 adjudicated in another jurisdiction as a juvenile and required to register under this chapter, the
1067 offender shall register in the time period and in the frequency consistent with the requirements
1068 of [~~this Subsection (5). However, if~~] Subsection (3).

1069 (b) If the jurisdiction of the offender's adjudication does not publish the offender's
1070 information on a public website, the department shall maintain, but not publish the offender's
1071 information on the [~~Sex Offender and Kidnap Offender Registration~~] registration website.

1072 [~~(6) An offender who is required to register under Subsection (3) shall surrender the~~
1073 ~~offender's license, certificate, or identification card as required under Subsection 53-3-216(3)~~
1074 ~~or 53-3-807(4) and may apply for a license certificate or identification card as provided under~~
1075 ~~Section 53-3-205 or 53-3-804.~~]

1076 [(7)] (6) A sex offender who violates Section 77-27-21.8 regarding being in the
1077 presence of a child while required to register under this chapter shall register for an additional
1078 five years subsequent to the registration period otherwise required under this chapter.

1079 [(8)] (7) An offender shall provide the department or the registering entity with the

1080 following information:

1081 (a) all names and aliases by which the offender is or has been known;

1082 (b) the addresses of the offender's primary and secondary residences;

1083 (c) a physical description, including the offender's date of birth, height, weight, eye and
1084 hair color;

1085 (d) the make, model, color, year, plate number, and vehicle identification number of
1086 ~~[any]~~ a vehicle or vehicles the offender owns or regularly drives;

1087 (e) a current photograph of the offender;

1088 (f) a set of fingerprints, if one has not already been provided;

1089 (g) a DNA specimen, taken in accordance with Section 53-10-404, if one has not
1090 already been provided;

1091 (h) telephone numbers and any other designations used by the offender for routing or
1092 self-identification in telephonic communications from fixed locations or cellular telephones;

1093 (i) Internet identifiers and the addresses the offender uses for routing or
1094 self-identification in Internet communications or postings;

1095 (j) the name and Internet address of all websites on which the offender is registered
1096 using an online identifier, including all online identifiers used to access those websites;

1097 (k) a copy of the offender's passport, if a passport has been issued to the offender;

1098 (l) if the offender is an alien, all documents establishing the offender's immigration
1099 status;

1100 (m) all professional licenses that authorize the offender to engage in an occupation or
1101 carry out a trade or business, including any identifiers, such as numbers;

1102 (n) each educational institution in Utah at which the offender is employed, carries on a
1103 vocation, or is a student, and ~~[any]~~ a change of enrollment or employment status of the offender
1104 at ~~[any]~~ an educational institution;

1105 (o) the name, the telephone number, and the address of ~~[any]~~ a place where the
1106 offender is employed or will be employed;

1107 (p) the name, the telephone number, and the address of ~~[any]~~ a place where the
1108 offender works as a volunteer or will work as a volunteer; and

1109 (q) the offender's social security number.

1110 ~~[(9) Notwithstanding Section 42-1-1, an offender:]~~

1111 ~~[(a) may not change the offender's name:]~~
 1112 ~~[(i) while under the jurisdiction of the department; and]~~
 1113 ~~[(ii) until the registration requirements of this statute have expired; and]~~
 1114 ~~[(b) may not change the offender's name at any time, if registration is for life under~~
 1115 ~~Subsection (3)(c).]~~
 1116 (8) (a) An offender may change the offender's name in accordance with Title 42,
 1117 Chapter 1, Change of Name, if the name change is not contrary to the interests of the public.
 1118 (b) Notwithstanding Section 42-1-2, an offender shall provide notice to the department
 1119 at least 30 days before the day on which the hearing for the name change is held.
 1120 (c) The court shall provide a copy of the order granting the offender's name change to
 1121 the department within 10 days after the day on which the court issues the order.
 1122 (d) If the court orders an offender's name changed, the department shall publish on the
 1123 registration website the offender's former name, and the offender's changed name as an alias.
 1124 ~~[(10)]~~ (9) Notwithstanding Subsections [(8)] (7)(i) and (j) and 77-41-103(1)(c), an
 1125 offender is not required to provide the department with:
 1126 (a) the offender's online identifier and password used exclusively for the offender's
 1127 employment on equipment provided by an employer and used to access the employer's private
 1128 network; or
 1129 (b) online identifiers for the offender's financial accounts, including [any] a bank,
 1130 retirement, or investment [accounts] account.
 1131 Section 12. Section 77-41-106 is amended to read:
 1132 **77-41-106. Lifetime registerable offenses.**
 1133 Offenses referred to in Subsection 77-41-105(3)(c)(i) are:
 1134 (1) [any] an offense listed in Subsection 77-41-102(9) or (17) if, at the time of the
 1135 conviction, the offender has previously been convicted of an offense listed in Subsection
 1136 77-41-102(9) or (17) or has previously been required to register as a sex offender for an offense
 1137 committed as a juvenile;
 1138 (2) a conviction for any of the following offenses, including attempting, soliciting, or
 1139 conspiring to commit any felony of:
 1140 (a) Section 76-5-301.1, child kidnapping, except if the offender is a natural parent of
 1141 the victim;

- 1142 (b) Section 76-5-402, rape;
- 1143 (c) Section 76-5-402.1, rape of a child;
- 1144 (d) Section 76-5-402.2, object rape;
- 1145 (e) Section 76-5-402.3, object rape of a child;
- 1146 (f) Section 76-5-403.1, sodomy on a child;
- 1147 (g) Subsection 76-5-404.1(4), aggravated sexual abuse of a child; or
- 1148 (h) Section 76-5-405, aggravated sexual assault;
- 1149 (3) Section 76-4-401, a felony violation of enticing a minor over the Internet;
- 1150 (4) Section 76-5-302, aggravated kidnapping, except if the offender is a natural parent
- 1151 of the victim;
- 1152 (5) Section 76-5-403, forcible sodomy;
- 1153 (6) Section 76-5-404.1, sexual abuse of a child;
- 1154 (7) Section 76-5b-201, sexual exploitation of a minor[;], except if the conviction is
- 1155 only for knowingly possessing child pornography or intentionally viewing child pornography as
- 1156 determined by the sentencing court;
- 1157 (8) Subsection 76-5b-204(4), aggravated sexual extortion; or
- 1158 (9) Section 76-10-1306, aggravated exploitation of prostitution, on or after May 10,
- 1159 2011.

1160 Section 13. Section 77-41-112 is amended to read:

1161 **77-41-112. Removal from registry -- Requirements -- Procedure.**

1162 (1) An offender who is required to register with the Sex and Kidnap Offender Registry

1163 may petition the court [~~where the offender was convicted of the offense requiring registration~~]

1164 for an order removing the offender from the Sex [~~Offender~~] and Kidnap Offender Registry if:

1165 (a) (i) the offender [~~was~~] is convicted of an offense [~~under~~] described in Subsection

1166 (2);

1167 [~~(b)~~] (ii) at least five years have passed [~~since the completion of~~] after the day on which

1168 the offender's sentence for the offense terminates;

1169 [~~(c)~~] (iii) the offense is the only [~~conviction~~] offense for which the offender is required

1170 to register; [~~and~~]

1171 [~~(d) the offender has not been convicted, subsequently to the offense for which the~~

1172 ~~offender was placed on the registry, of a violation listed in:]~~

- 1173 ~~[(i) Subsection 77-41-102(9), which defines a kidnap offender; or]~~
1174 ~~[(ii) Subsection 77-41-102(17), which defines a sex offender.]~~
- 1175 (iv) the offender is not convicted of another offense, excluding a traffic offense, after
1176 the day on which the offender is convicted of the offense for which the offender is required to
1177 register, as evidenced by a certificate of eligibility issued by the bureau;
- 1178 (v) the offender successfully completes all treatment ordered by the court or the Board
1179 of Pardons and Parole relating to the offense;
- 1180 (vi) the offender pays all restitution ordered by the court or the Board of Pardons and
1181 Parole relating to the offense; and
- 1182 (vii) the offender complies with all registration requirements required under this
1183 chapter at all times; or
- 1184 (b) (i) the offender is convicted under Section 76-5b-201, sexual exploitation of a
1185 minor, or the offender is required to register for the registration period described in Subsection
1186 77-41-105(3)(a);
- 1187 (ii) at least 10 years have passed after the later of:
- 1188 (A) the day on which the offender is placed on probation or parole;
1189 (B) the day on which the offender is released from incarceration to parole or whose
1190 sentence is terminated without parole;
- 1191 (C) the day on which the offender enters a community-based residential program; or
1192 (D) for a minor, as defined in Section 78A-6-105, the day on which the division's
1193 custody of the offender is terminated;
- 1194 (iii) the offender is not convicted of another offense that is a class A misdemeanor,
1195 felony, or capital felony within the most recent 10-year period after the date described in
1196 Subsection (1)(b)(ii), as evidenced by a certificate of eligibility issued by the bureau;
- 1197 (iv) the offender successfully completes all treatment ordered by the court or the Board
1198 of Pardons and Parole relating to the offense;
- 1199 (v) the offender pays all restitution ordered by the court or the Board of Pardons and
1200 Parole relating to the offense; and
- 1201 (vi) the offender complies with all registration requirements required under this chapter
1202 at all times.
- 1203 (2) The offenses referred to in Subsection (1)(a)(i) are:

- 1204 (a) Section 76-4-401, [~~Enticing~~] enticing a minor, if the offense is a class A
1205 misdemeanor;
- 1206 (b) Section 76-5-301, [~~Kidnapping, and the conviction of violating Section 76-5-301~~]
1207 kidnapping;
- 1208 (c) Section 76-5-304, [~~Unlawful~~] unlawful detention, [~~and~~] if the conviction of
1209 violating Section 76-5-304 is the only conviction for which the offender is required to register;
- 1210 (d) Section 76-5-401, [~~Unlawful~~] unlawful sexual activity with a minor [~~and~~] if, at the
1211 time of the offense, [~~was~~] the offender is not more than 10 years older than the victim;
- 1212 (e) Section 76-5-401.1, sexual abuse of a minor, if, at the time of the offense, the
1213 offender is not more than 10 years older than the victim;
- 1214 [(e)] (f) Section 76-5-401.2, [~~Unlawful~~] unlawful sexual conduct with a 16 or 17 year
1215 old, and at the time of the offense, [~~was~~] the offender is not more than 15 years older than the
1216 victim; or
- 1217 [(f)] (g) Section 76-9-702.7, [~~Voyeurism~~] voyeurism, if the offense is a class A
1218 misdemeanor.
- 1219 [~~(3) An offender who meets the requirements under Subsection (1) shall also complete~~
1220 ~~all of the following requirements:~~]
- 1221 [~~(a) the offender has successfully completed all treatment ordered by the court or the~~
1222 ~~Board of Pardons and Parole relating to the conviction;~~]
- 1223 [~~(b) (i) the offender has not been convicted of any other crime, excluding traffic~~
1224 ~~offenses, as evidenced by a certificate of eligibility issued by the bureau; and]~~
- 1225 [~~(ii) as used in this section, "traffic offense" does not include a violation of Title 41,~~
1226 ~~Chapter 6a, Part 5, Driving Under the Influence and Reckless Driving;~~]
- 1227 [~~(c) the offender has paid all restitution ordered by the court;~~]
- 1228 [~~(d) the offender has complied with all the registration requirements at all times as~~
1229 ~~required in this chapter, as evidenced by a document obtained by the offender from the Utah~~
1230 ~~Department of Corrections, which confirms compliance; and]~~
- 1231 [~~(e) the office that prosecuted the offender, and the victim, or if the victim is still a~~
1232 ~~minor, the victim's parent, are notified and provided with an opportunity to respond in~~
1233 ~~accordance with Subsection (6)(a).]~~
- 1234 (3) An offender who is convicted of a second offense under Section 76-5b-201, sexual

1235 exploitation of a minor, may not be removed from the registry in accordance with the
1236 procedure in Subsection (1)(b).

1237 (4) (a) (i) An offender seeking removal from the Sex [~~Offender or~~] and Kidnap
1238 Offender Registry under this section shall apply for a certificate of eligibility from the bureau.

1239 (ii) An offender who intentionally or knowingly provides [~~any~~] false or misleading
1240 information to the bureau when applying for a certificate of eligibility is guilty of a class B
1241 misdemeanor and subject to prosecution under Section [76-8-504.6](#).

1242 (iii) Regardless of whether the offender is prosecuted, the bureau may deny a certificate
1243 of eligibility to [~~anyone providing~~] an offender who provides false information on an
1244 application.

1245 (b) (i) The bureau shall perform a check of records of governmental agencies,
1246 including national criminal databases, to determine whether an offender is eligible to receive a
1247 certificate of eligibility [~~under this section~~].

1248 (ii) If the offender meets [~~all of the criteria under Subsections (1), (2), and (3)~~] the
1249 requirements described in Subsection (1)(a) or (b), the bureau shall issue a certificate of
1250 eligibility to the offender, which [~~shall be~~] is valid for a period of 90 days [~~from the date the~~
1251 ~~certificate is issued~~] after the day on which the bureau issues the certificate.

1252 (iii) The bureau shall request information from the department regarding whether the
1253 offender meets the requirements.

1254 (iv) Upon request from the bureau under Subsection (4)(b)(iii), the department shall
1255 issue a document that states whether the offender meets the requirements described in
1256 Subsection (1)(a) or (b), which may be used by the bureau to determine if a certificate of
1257 eligibility is appropriate.

1258 (v) The bureau shall provide a copy of the document provided to the bureau under
1259 Subsection (4)(b)(iv) to the offender upon issuance of a certificate of eligibility.

1260 (5) (a) (i) The bureau shall charge application and issuance fees for a certificate of
1261 eligibility in accordance with the process in Section [63J-1-504](#).

1262 (ii) The application fee shall be paid at the time the offender submits an application for
1263 a certificate of eligibility to the bureau.

1264 (iii) If the bureau determines that the issuance of a certificate of eligibility is
1265 appropriate, the offender will be charged an additional fee for the issuance of a certificate of

1266 eligibility.

1267 (b) Funds generated under this Subsection (5) shall be deposited [~~in~~] into the General
1268 Fund as a dedicated credit by the department to cover the costs incurred in determining
1269 eligibility.

1270 (6) (a) The offender shall file the petition, including original information, [~~and~~] the
1271 court docket, the certificate of eligibility from the bureau, and the document from the
1272 department described in Subsection (4)(b)(iv) with the court, and deliver a copy of the petition
1273 to the office of the prosecutor.

1274 [~~(i)~~] (b) Upon receipt of a petition for removal from the Sex [~~Offender~~] and Kidnap
1275 Offender Registry, the office of the prosecutor shall provide notice of the petition[~~:(A)~~] by
1276 first-class mail to the victim at the most recent address of record on file or, if the victim is still
1277 a minor under 18 years of age, to the parent or guardian of the victim[~~;-and~~].

1278 [~~(B) to the Sex and Kidnap Offender Registry office in the Department of Corrections.]~~

1279 [~~(i)~~] (c) The notice described in Subsection (6)(b) shall include a copy of the petition,
1280 state that the victim has a right to object to the removal of the offender from the registry, and
1281 provide instructions for registering an objection with the court.

1282 [~~(b)~~] (d) The office of the prosecutor shall provide the following, if available, to the
1283 court within 30 days after [~~receiving~~] the day on which the office receives the petition:

1284 (i) presentencing report;

1285 (ii) [~~any~~] an evaluation done as part of sentencing; and

1286 (iii) any other information the office of the prosecutor feels the court should consider.

1287 [~~(e)~~] (e) The victim, or the victim's parent or guardian if the victim is a minor under 18
1288 years of age, may respond to the petition by filing a recommendation or objection with the
1289 court within 45 days after the [~~mailing of the petition~~] day on which the petition is mailed to
1290 the victim.

1291 (7) (a) The court shall:

1292 (i) review the petition and all documents submitted with the petition; and

1293 (ii) hold a hearing if requested by the prosecutor or the victim.

1294 [~~(b) The court shall consider whether the offender has paid all restitution ordered by~~
1295 ~~the court or the Board of Pardons.]~~

1296 [~~(e)~~] (b) [~~If the court~~] The court may grant the petition and order removal of the

1297 offender from the registry if the court determines that [it] ~~the offender has met the requirements~~
1298 described in Subsection (1)(a) or (b) and removal is not contrary to the interests of the public
1299 [to do so, it may grant the petition and order removal of the offender from the registry].

1300 [~~(d)~~] (c) If the court grants the petition, [it] the court shall forward a copy of the order
1301 directing removal of the offender from the registry to the department and the office of the
1302 prosecutor.

1303 [~~(e)~~] (d) If the court denies the petition, the offender may not submit another petition
1304 for three years.

1305 (8) The [~~office of the prosecutor]~~ court shall notify the victim and the Sex and Kidnap
1306 Offender Registry office in the [~~Department of Corrections]~~ department of the court's decision
1307 within three days after the day on which the court issues the court's decision in the same
1308 manner [~~as notification was provided]~~ described in Subsection (6)[~~(a)~~].