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SEX AND KIDNAP OFFENDER REGISTRY AMENDMENTS

2024 GENERAL SESSION

STATE OF UTAH

Chief Sponsor: Andrew Stoddard

Senate Sponsor: Michael K. McKell

LONG TITLE

General Description:

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

Highlighted Provisions:

This bill:

- changes references from the Department of Corrections to the Department of Public Safety;
- clarifies the purpose of the Department of Public Safety keeping certain information for individuals on the Sex and Kidnap Offender Registry; and
- clarifies the requirements the Bureau of Criminal Identification and the Department of Corrections must check for when an individual petitions to be removed from the registry.

Money Appropriated in this Bill:

None

Other Special Clauses:

This bill provides a special effective date.

Utah Code Sections Affected:

AMENDS:

53-3-205, as last amended by Laws of Utah 2023, Chapters 328, 454

53-3-804, as last amended by Laws of Utah 2023, Chapter 328

77-27-5.2, as enacted by Laws of Utah 2021, Chapter 410

H.B. 110

77-27-21.7, as last amended by Laws of Utah 2023, Chapters 18, 117

77-41-103, as last amended by Laws of Utah 2023, Chapters 123, 128

77-41-112, as last amended by Laws of Utah 2023, Chapters 124, 128

80-5-201, as last amended by Laws of Utah 2023, Chapter 123

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

Section 1. Section **53-3-205** is amended to read:

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

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

(a) made upon a form furnished by the division; and

(b) accompanied by a nonrefundable fee set under Section 53-3-105.

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

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

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

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

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

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

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

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

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

(a) not more than two attempts to pass a knowledge test when accompanied by the fee provided in Subsection 53-3-105(18);

(b) not more than two attempts to pass a skills test when accompanied by a fee in Subsection 53-3-105(19) within six months after the date of application;

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

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

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

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

(b) a CDL endorsement when all tests are passed.

(6) (a) If a CDL applicant does not pass a knowledge test, skills test, or an endorsement test within the number of attempts provided in Subsection (4) or (5), each test may be taken two additional times within the six months for the fee provided in Section 53-3-105.

(b) (i) An out-of-state resident who holds a valid CDIP issued by a state or jurisdiction that is compliant with 49 C.F.R. Part 383 may take a skills test administered by the division if the out-of-state resident pays the fee provided in Subsection 53-3-105(19).

(ii) The division shall:

(A) electronically transmit skills test results for an out-of-state resident to the licensing agency in the state or jurisdiction in which the out-of-state resident has obtained a valid CDIP; and

(B) provide the out-of-state resident with documentary evidence upon successful completion of the skills test.

(7) (a) (i) Except as provided under Subsections (7)(a)(ii), (f), and (g), an original class D license expires on the birth date of the applicant in the eighth year after the year the license certificate was issued.

(ii) An original provisional class D license expires on the birth date of the applicant in the fifth year following the year the license certificate was issued.

(iii) Except as provided in Subsection (7)(f), a limited term class D license expires on the birth date of the applicant in the fifth year the license certificate was issued.

(b) Except as provided under Subsections (7)(f) and (g), a renewal or an extension to a license expires on the birth date of the licensee in the eighth year after the expiration date of the license certificate renewed or extended.

(c) Except as provided under Subsections (7)(f) and (g), a duplicate license expires on the same date as the last license certificate issued.

(d) An endorsement to a license expires on the same date as the license certificate regardless of the date the endorsement was granted.

(e) (i) A regular license certificate and an endorsement to the regular license certificate held by an individual described in Subsection (7)(e)(ii), that expires during the time period the individual is stationed outside of the state, is valid until 90 days after the individual's orders are terminated, the individual is discharged, or the individual's assignment is changed or terminated, unless:

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

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

(ii) The provisions in Subsection (7)(e)(i) apply to an individual:

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

(B) who is an immediate family member or dependent of an individual described in Subsection (7)(e)(ii)(A) and is residing outside of Utah;

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

(D) who is an immediate family member or dependent of an individual described in Subsection (7)(e)(ii)(C) and is residing outside of the United States.

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

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

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

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

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

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

(i) provide:

(A) the applicant's full legal name;

(B) the applicant's birth date;

(C) the applicant's sex;

(D) (I) documentary evidence of the applicant's valid social security number;

(II) written proof that the applicant is ineligible to receive a social security number;

(III) the applicant's temporary identification number (ITIN) issued by the Internal Revenue Service for an individual who:

(Aa) does not qualify for a social security number; and

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

(IV) other documentary evidence approved by the division;

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

(F) fingerprints, or a fingerprint confirmation form described in Subsection 53-3-205.5(1)(a)(ii), and a photograph in accordance with Section 53-3-205.5 if the applicant is applying for a driving privilege card;

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

(A) that the applicant is:

(I) a United States citizen;

(II) a United States national; or

(III) a legal permanent resident alien; or

(B) of the applicant's:

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

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

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

(IV) pending or approved application for temporary protected status in the United States;

(V) approved deferred action status;

(VI) pending application for adjustment of status to legal permanent resident or conditional resident; or

(VII) conditional permanent resident alien status;

(iii) provide a description of the applicant;

(iv) state whether the applicant has previously been licensed to drive a motor vehicle and, if so, when and by what state or country;

(v) state whether the applicant has ever had a license suspended, cancelled, revoked, disqualified, or denied in the last 10 years, or whether the applicant has ever had a license application refused, and if so, the date of and reason for the suspension, cancellation, revocation, disqualification, denial, or refusal;

(vi) state whether the applicant intends to make an anatomical gift under Title 26B, Chapter 8, Part 3, Revised Uniform Anatomical Gift Act, in compliance with Subsection (15);

(vii) state whether the applicant is required to register as a sex offender in accordance with Title 77, Chapter 41, Sex and Kidnap Offender Registry;

(viii) state whether the applicant is a veteran of the United States military, provide verification that the applicant was granted an honorable or general discharge from the United States Armed Forces, and state whether the applicant does or does not authorize sharing the information with the Department of Veterans and Military Affairs;

(ix) provide all other information the division requires; and

(x) sign the application which signature may include an electronic signature as defined in Section 46-4-102.

(b) Unless the applicant provides acceptable verification of homelessness as described in rules made by the division, an applicant shall have a Utah residence address, unless the application is for a temporary CDL issued under Subsection 53-3-407(2)(b).

(c) An applicant shall provide evidence of lawful presence in the United States in accordance with Subsection (8)(a)(ii), unless the application is for a driving privilege card.

(d) The division shall maintain on the division's computerized records an applicant's:

(i) (A) social security number;

(B) temporary identification number (ITIN); or

(C) other number assigned by the division if Subsection (8)(a)(i)(D)(IV) applies; and

(ii) indication whether the applicant is required to register as a sex offender in accordance with Title 77, Chapter 41, Sex and Kidnap Offender Registry.

(9) The division shall require proof of an applicant's name, birth date, and birthplace by at least one of the following means:

(a) current license certificate;

(b) birth certificate;

(c) Selective Service registration; or

(d) other proof, including church records, family Bible notations, school records, or other evidence considered acceptable by the division.

(10) (a) Except as provided in Subsection (10)(c), if an applicant receives a license in a higher class than what the applicant originally was issued:

(i) the license application is treated as an original application; and

(ii) license and endorsement fees is assessed under Section 53-3-105.

(b) An applicant that receives a downgraded license in a lower license class during an existing license cycle that has not expired:

(i) may be issued a duplicate license with a lower license classification for the remainder of the existing license cycle; and

(ii) shall be assessed a duplicate license fee under Subsection 53-3-105(25) if a duplicate license is issued under Subsection (10)(b)(i).

(c) An applicant who has received a downgraded license in a lower license class under Subsection (10)(b):

(i) may, when eligible, receive a duplicate license in the highest class previously issued during a license cycle that has not expired for the remainder of the existing license cycle; and

(ii) shall be assessed a duplicate license fee under Subsection 53-3-105(25) if a duplicate license is issued under Subsection (10)(c)(i).

(11) (a) When an application is received from an applicant previously licensed in another state to drive a motor vehicle, the division shall request a copy of the driver's record from the other state.

(b) When received, the driver's record becomes part of the driver's record in this state with the same effect as though entered originally on the driver's record in this state.

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

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

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

(15) (a) A licensee shall authenticate the indication of intent under Subsection (8)(a)(vi) in accordance with division rule.

(b) (i) Notwithstanding Title 63G, Chapter 2, Government Records Access and Management Act, the division may, upon request, release to an organ procurement organization, as defined in Section 26B-8-301, the names and addresses of all applicants who, under Subsection (8)(a)(vi), indicate that they intend to make an anatomical gift.

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

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

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

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

(17) Notwithstanding Title 63G, Chapter 2, Government Records Access and Management Act, the division shall, upon request, release to the Sex and Kidnap Offender Registry office in the Department of [~~Corrections~~] Public Safety, the names and addresses of all applicants who, under Subsection (8)(a)(vii), indicate they are required to register as a sex

offender in accordance with Title 77, Chapter 41, Sex and Kidnap Offender Registry.

(18) The division and its employees are not liable, as a result of false or inaccurate information provided under Subsection (8)(a)(vi) or (viii), for direct or indirect:

(a) loss;

(b) detriment; or

(c) injury.

(19) An applicant who knowingly fails to provide the information required under Subsection (8)(a)(vii) is guilty of a class A misdemeanor.

(20) A person may not hold both an unexpired Utah license certificate and an unexpired identification card.

(21) (a) An applicant who applies for an original motorcycle endorsement to a regular license certificate is exempt from the requirement to pass the knowledge and skills test to be eligible for the motorcycle endorsement if the applicant:

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

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

(B) is an immediate family member or dependent of an individual described in Subsection (21)(a)(ii)(A) and is residing outside of Utah;

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

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

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

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

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

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

Section 2. Section **53-3-804** is amended to read:

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

of anatomical gift information -- Cancellation of identification card.

(1) To apply for a regular identification card or limited-term identification card, an applicant shall:

(a) be a Utah resident;

(b) have a Utah residence address; and

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

(2) An applicant shall provide the following information to the division:

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

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

(c) (i) social security number; or

(ii) written proof that the applicant is ineligible to receive a social security number;

(d) place of birth;

(e) height and weight;

(f) color of eyes and hair;

(g) signature;

(h) photograph;

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

(i) that the applicant is:

(A) a United States citizen;

(B) a United States national; or

(C) a legal permanent resident alien; or

(ii) of the applicant's:

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

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

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

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

(E) approved deferred action status;

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

(G) conditional permanent resident alien status;

(j) an indication whether the applicant intends to make an anatomical gift under Title 26B, Chapter 8, Part 3, Revised Uniform Anatomical Gift Act;

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

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

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

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

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

(5) (a) A person may not hold both an unexpired Utah license certificate and an unexpired identification card.

(b) A person who holds a regular or limited term Utah driver license and chooses to relinquish the person's driving privilege may apply for an identification card under this chapter, provided:

(i) the driver:

(A) no longer qualifies for a driver license for failure to meet the requirement in Section 53-3-304; or

(B) makes a personal decision to permanently discontinue driving; and

(ii) the driver:

(A) submits an application to the division on a form approved by the division in person, through electronic means, or by mail;

(B) affirms their intention to permanently discontinue driving; and

(C) surrenders to the division the driver license certificate; and

(iii) the division possesses a digital photograph of the driver obtained within the preceding 10 years.

(c) (i) The division shall waive the fee under Section 53-3-105 for an identification card for an original identification card application under this Subsection (5).

(ii) The fee waiver described in Subsection (5)(c)(i) does not apply to a person whose driving privilege is suspended or revoked.

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

Section 3. Section **77-27-5.2** is amended to read:

77-27-5.2. Board authority to order removal from Sex and Kidnap Offender Registry.

(1) If the board grants a pardon for a conviction that is the basis for an individual's registration on the Sex and Kidnap Offender Registry, the board shall issue an order directing the Department of [~~Corrections~~] Public Safety to remove the individual's name and personal information relating to the pardoned conviction from the Sex and Kidnap Offender Registry.

(2) An order described in Subsection (1), issued by the board, satisfies the notification requirement described in Subsection 77-41-113(1)(b).

Section 4. Section **77-27-21.7** is amended to read:

77-27-21.7. Sex offender restrictions.

(1) As used in this section:

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

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

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

(A) a licensed day care or preschool facility;

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

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

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

(E) a public playground or a playground maintained, operated, or owned by a homeowners' association, condominium project, or apartment complex, including those areas designed to provide minors with space, recreational equipment, or other amenities intended to allow minors to engage in physical activity; and

(F) except as provided in Subsection (1)(c)(ii), an area that is 1,000 feet or less from the residence of a victim of the sex offender if the sex offender is subject to a victim requested restriction.

(ii) "Protected area" does not include:

(A) the area described in Subsection (1)(c)(i)(F) if the victim is a member of the immediate family of the sex offender and the terms of the sex offender's agreement of probation or parole allow the sex offender to reside in the same residence as the victim;

(B) a park, playground, or swimming pool located on the property of a residential home;

(C) a park or swimming pool that prohibits minors at all times from using the park or swimming pool; or

(D) a park or swimming pool maintained, operated, or owned by a homeowners' association, condominium project, or apartment complex established for residents 55 years old or older if no minors are present at the park or swimming pool at the time the sex offender is present at the park or swimming pool.

(d) "Sex offender" means an adult or juvenile who is required to register in accordance with Title 77, Chapter 41, Sex and Kidnap Offender Registry, due to a conviction for an offense that is committed against a person younger than 18 years old.

(2) For purposes of Subsection (1)(c)(i)(F), a sex offender is subject to a victim requested restriction if:

(a) the sex offender is on probation or parole for an offense that requires the offender to register in accordance with Title 77, Chapter 41, Sex and Kidnap Offender Registry;

(b) the victim or the victim's parent or guardian advises the Department of [~~Corrections~~] Public Safety that the victim elects to restrict the sex offender from the area and authorizes the Department of [~~Corrections~~] Public Safety to advise the sex offender of the area where the victim resides; and

(c) the Department of [~~Corrections~~] Public Safety notifies the sex offender in writing that the sex offender is prohibited from being in the area described in Subsection (1)(c)(i)(F) and provides a description of the location of the protected area to the sex offender.

(3) A sex offender may not:

(a) be in a protected area except:

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

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

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

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

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

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

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

(a) a class A misdemeanor; or

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

Section 5. Section **77-41-103** is amended to read:

77-41-103. Department duties.

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

(a) develop and operate a system to collect, analyze, maintain, and disseminate information on offenders and sex and kidnap offenses;

(b) make information listed in Subsection 77-41-110(4) available to the public; and

(c) share information provided by an offender under this chapter that may not be made available to the public under Subsection 77-41-110(4), but only:

(i) for the purposes under this chapter; or

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

(2) Any law enforcement agency shall, in the manner prescribed by the department, inform the department of:

(a) the receipt of a report or complaint of an offense listed in Subsection 77-41-102(10) or (18), within three business days; and

(b) the arrest of a person suspected of any of the offenses listed in Subsection 77-41-102(10) or (18), within five business days.

(3) Upon convicting a person of any of the offenses listed in Subsection 77-41-102(10) or (18), the convicting court shall within three business days forward a signed copy of the judgment and sentence to the Sex and Kidnap Offender Registry office within the department.

(4) Upon modifying, withdrawing, setting aside, vacating, or otherwise altering a conviction for any offense listed in Subsection 77-41-102(10) or (18), the court shall, within three business days, forward a signed copy of the order to the Sex and Kidnap Offender Registry office within the department.

(5) The department may intervene in any matter, including a criminal action, where the matter purports to affect a person's lawfully entered registration requirement.

(6) The department shall:

(a) provide the following additional information when available:

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

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

(iii) any other relevant identifying information as determined by the department;

(b) maintain the Sex Offender and Kidnap Offender Notification and Registration website; and

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

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

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

and

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

Section 6. Section **77-41-112** is amended to read:

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

(1) An offender who is required to register with the Sex and Kidnap Offender Registry may petition the court for an order removing the offender from the Sex and Kidnap Offender Registry if:

(a) (i) the offender was convicted of an offense described in Subsection (2);

(ii) at least five years have passed after the day on which the offender's sentence for the offense terminated;

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

(iv) the offender has not been convicted of another offense, excluding a traffic offense, since the day on which the offender was convicted of the offense for which the offender is required to register, as evidenced by a certificate of eligibility issued by the bureau;

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

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

(b) (i) if the offender is required to register in accordance with Subsection 77-41-105(3)(a);

(ii) at least 10 years have passed after the later of:

(A) the day on which the offender was placed on probation;

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

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

(D) the day on which the offender entered a community-based residential program; or

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

(iii) the offender has not been convicted of another offense that is a class A misdemeanor, felony, or capital felony within the most recent 10-year period after the date described in Subsection (1)(b)(ii), as evidenced by a certificate of eligibility issued by the bureau;

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

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

(c) (i) the offender is required to register in accordance with Subsection 77-41-105(3)(c);

(ii) at least 20 years have passed after the later of:

(A) the day on which the offender was placed on probation;

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

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

(D) the day on which the offender entered a community-based residential program; or

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

(iii) the offender has not been convicted of another offense that is a class A misdemeanor, felony, or capital felony within the most recent 20-year period after the date described in Subsection (1)(c)(ii), as evidenced by a certificate of eligibility issued by the bureau;

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

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

(vi) the offender submits to an evidence-based risk assessment to the court, with the offender's petition, that:

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

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

(C) describes the evidence-based risk assessment of the current level of risk to the safety of the public posed by the offender.

(2) The offenses referred to in Subsection (1)(a)(i) are:

(a) Section 76-4-401, enticing a minor, if the offense is a class A misdemeanor;

(b) Section 76-5-301, kidnapping;

(c) Section 76-5-304, unlawful detention, if the conviction of violating Section 76-5-304 is the only conviction for which the offender is required to register;

(d) Section 76-5-401, unlawful sexual activity with a minor if, at the time of the offense, the offender is not more than 10 years older than the victim;

(e) Section 76-5-401.1, sexual abuse of a minor, if, at the time of the offense, the offender is not more than 10 years older than the victim;

(f) Section 76-5-401.2, unlawful sexual conduct with a 16 or 17 year old, and at the time of the offense, the offender is not more than 15 years older than the victim;

(g) Section 76-9-702.7, voyeurism, if the offense is a class A misdemeanor; or

(h) an offense for which an individual is required to register under Subsection 77-41-102(10)(c) or 77-41-102(18)(c), if the offense is not substantially equivalent to an offense described in Subsection 77-41-102(10)(a) or 77-41-102(18)(a).

(3) (a) (i) An offender seeking removal from the Sex and Kidnap Offender Registry under this section shall apply for a certificate of eligibility from the bureau.

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

(iii) Regardless of whether the offender is prosecuted, the bureau may deny a certificate of eligibility to an offender who provides false information on an application.

(b) (i) The bureau shall:

(A) perform a check of records of governmental agencies, including national criminal databases, to determine whether an offender is eligible to receive a certificate of eligibility; and

(B) Ĥ→ **[~~request information from the Department of Corrections regarding~~] determine** ←Ĥ whether the offender meets the requirements described in Subsection (1)(a)(ii), (a)(v), (a)(vi), (b)(ii), (b)(iv), (b)(v), [~~or~~] (c)(ii), (c)(iv), or (c)(v).

Ĥ→ **[~~(ii) Upon request from the bureau under Subsection (3)(b)(i)(B), the Department of Corrections shall issue a document reflecting whether the offender meets the requirements described in Subsection (1)(a)(ii), (a)(v), (a)(vi), (b)(ii), (b)(iv), (b)(v), [or] (c)(ii), (c)(iv), or (c)(v).~~]** ←Ĥ

Ĥ→ **[~~(iii)~~] (ii)** ←Ĥ If the offender meets the requirements described in Subsection (1)(a), (b), or (c), the bureau shall issue a certificate of eligibility to the offender, which is valid for a period of 90 days after the day on which the bureau issues the certificate.

Ĥ→ **[~~(iv) The bureau shall provide a copy of the document provided to the bureau under Subsection (3)(b)(ii) to the offender upon issuance of a certificate of eligibility.~~]** ←Ĥ

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

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

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

(b) Funds generated under this Subsection (4) shall be deposited into the General Fund as a dedicated credit by the department to cover the costs incurred in determining eligibility.

(5) (a) The offender shall file the petition, including original information, the court docket, the certificate of eligibility from the bureau, and the document from the department described in Subsection (3)(b)(iv) with the court, and deliver a copy of the petition to the office of the prosecutor.

(b) Upon receipt of a petition for removal from the Sex and Kidnap Offender Registry, the office of the prosecutor shall provide notice of the petition by first-class mail to the victim at the most recent address of record on file or, if the victim is still a minor under 18 years old, to the parent or guardian of the victim.

(c) The notice described in Subsection (5)(b) shall include a copy of the petition, state that the victim has a right to object to the removal of the offender from the registry, and provide instructions for registering an objection with the court.

(d) The office of the prosecutor shall provide the following, if available, to the court within 30 days after the day on which the office receives the petition:

(i) presentencing report;

(ii) an evaluation done as part of sentencing; and

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

(e) The victim, or the victim's parent or guardian if the victim is a minor under 18 years old, may respond to the petition by filing a recommendation or objection with the court within

45 days after the day on which the petition is mailed to the victim.

(6) (a) The court shall:

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

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

(b) (i) Except as provided in Subsections (6)(b)(ii) and (iii), the court may grant the petition and order removal of the offender from the registry if the court determines that the offender has met the requirements described in Subsection (1)(a) or (b) and removal is not contrary to the interests of the public.

(ii) When considering a petition filed under Subsection (1)(c), the court shall determine whether the offender has demonstrated, by clear and convincing evidence, that the offender is rehabilitated and does not pose a threat to the safety of the public.

(iii) In making the determination described in Subsection (6)(b)(ii), the court may consider:

(A) the nature and degree of violence involved in the offense that requires registration;

(B) the age and number of victims of the offense that requires registration;

(C) the age of the offender at the time of the offense that requires registration;

(D) the offender's performance while on supervision for the offense that requires registration;

(E) the offender's stability in employment and housing;

(F) the offender's community and personal support system;

(G) other criminal and relevant noncriminal behavior of the offender both before and after the offense that requires registration;

(H) the level of risk posed by the offender as evidenced by the evidence-based risk assessment described in Subsection (1)(c)(vi); and

(I) any other relevant factors.

(c) In determining whether removal is contrary to the interests of the public, the court may not consider removal unless the offender has substantially complied with all registration requirements under this chapter at all times.

(d) If the court grants the petition, the court shall forward a copy of the order directing removal of the offender from the registry to the department and the office of the prosecutor.

(e) (i) Except as provided in Subsection (6)(e)(ii), if the court denies the petition, the offender may not submit another petition for three years.

(ii) If the offender files a petition under Subsection (1)(c) and the court denies the petition, the offender may not submit another petition for eight years.

(7) The court shall notify the victim and the Sex and Kidnap Offender Registry office in the department of the court's decision within three days after the day on which the court issues the court's decision in the same manner described in Subsection (5).

(8) Except as provided in Subsection (9), an offender required to register under Subsection 77-41-105(3)(b) may petition for early removal from the registry under Subsection (1)(b) if the offender:

(a) meets the requirements of Subsections (1)(b)(ii) through (v);

(b) has resided in this state for at least 183 days in a year for two consecutive years; and

(c) intends to primarily reside in this state.

(9) An offender required to register under Subsection 77-41-105(3)(b) for life may petition for early removal from the registry under Subsection (1)(c) if:

(a) the offense requiring the offender to register is substantially equivalent to an offense listed in Section 77-41-106;

(b) the offender meets the requirements of Subsections (1)(c)(ii) through (vi);

(c) the offender has resided in this state for at least 183 days in a year for two consecutive years; and

(d) the offender intends to primarily reside in this state.

Section 7. Section **80-5-201** is amended to read:

80-5-201. Division responsibilities.

(1) The division is responsible for all minors committed to the division by juvenile courts under Sections 80-6-703 and 80-6-705.

(2) The division shall:

(a) establish and administer a continuum of community, secure, and nonsecure programs for all minors committed to the division;

(b) establish and maintain all detention and secure care facilities and set minimum standards for all detention and secure care facilities;

(c) establish and operate prevention and early intervention youth services programs for nonadjudicated minors placed with the division;

(d) establish observation and assessment programs necessary to serve minors in a nonresidential setting under Subsection 80-6-706(1);

(e) place minors committed to the division under Section 80-6-703 in the most appropriate program for supervision and treatment;

(f) employ staff necessary to:

(i) supervise and control minors committed to the division for secure care or placement in the community;

(ii) supervise and coordinate treatment of minors committed to the division for placement in community-based programs; and

(iii) control and supervise adjudicated and nonadjudicated minors placed with the division for temporary services in juvenile receiving centers, youth services, and other programs established by the division;

(g) control or detain a minor committed to the division, or in the temporary custody of the division, in a manner that is consistent with public safety and rules made by the division;

(h) establish and operate work programs for minors committed to the division by the juvenile court that:

(i) are not residential;

(ii) provide labor to help in the operation, repair, and maintenance of public facilities, parks, highways, and other programs designated by the division;

(iii) provide educational and prevocational programs in cooperation with the State Board of Education for minors placed in the program; and

(iv) provide counseling to minors;

(i) establish minimum standards for the operation of all private residential and nonresidential rehabilitation facilities that provide services to minors who have committed an offense in this state or in any other state;

(j) provide regular training for secure care staff, detention staff, case management staff, and staff of the community-based programs;

(k) designate employees to obtain the saliva DNA specimens required under Section 53-10-403;

(l) ensure that the designated employees receive appropriate training and that the specimens are obtained in accordance with accepted protocol;

(m) register an individual with the Department of [~~Corrections~~] Public Safety who:

(i) is adjudicated for an offense listed in Subsection 77-41-102(18)(a) or 77-43-102(2);

(ii) is committed to the division for secure care; and

(iii) (A) if the individual is a youth offender, remains in the division's custody 30 days before the individual's 21st birthday; or

(B) if the individual is a serious youth offender, remains in the division's custody 30 days before the individual's 25th birthday; and

(n) ensure that a program delivered to a minor under this section is an evidence-based program in accordance with Section 63M-7-208.

(3) (a) The division is authorized to employ special function officers, as defined in Section 53-13-105, to:

(i) locate and apprehend minors who have absconded from division custody;

(ii) transport minors taken into custody in accordance with division policy;

(iii) investigate cases; and

(iv) carry out other duties as assigned by the division.

(b) A special function officer may be:

(i) employed through a contract with the Department of Public Safety, or any law enforcement agency certified by the Peace Officer Standards and Training Division; or

(ii) directly hired by the division.

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

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

Section 8. **Effective date.**

This bill takes effect on July 1, 2024.