

**DRAFT ONLY
NOT APPROVED FOR
INTRODUCTION**

HOUSE BILL NO. _____

Sex offender registration amendments.

Sponsored by: Joint Judiciary Interim Committee

A BILL

for

1 AN ACT relating to sex offender registration and
2 notification; amending the notification requirements
3 regarding the information offenders are required to
4 provide; requiring specified juveniles to register as sex
5 offenders; eliminating exemptions from registration
6 requirements as specified; amending the information that
7 shall be provided to the public; amending the registration
8 requirements for specified offenses; conforming provisions;
9 requiring offenders convicted but not yet sentenced to
10 register as sex offenders; requiring notice by an offender
11 who will travel out the country as specified; eliminating
12 language that may permit an offender who has not registered
13 as required to avoid sanctions after a specified time;
14 clarifying conditions under which an offender may petition

1 a court to be relieved of registration requirements;
2 amending and creating definitions; and providing for an
3 effective date.

4

5 *Be It Enacted by the Legislature of the State of Wyoming:*

6

7 **Section 1.** W.S. 7-13-301(d), 7-19-301(a)(iii) and (x)
8 and by creating new paragraphs (xxii) and (xxiii),
9 7-19-302(a)(v), (viii), (x) and (xi) and by creating new
10 paragraphs (xii) and (xiii), (c)(i), (iii) and (iv), (d),
11 (g) through (j) and by creating new subsections (p) and
12 (q), 7-19-303(c)(iii)(H) and (J) and by creating new
13 subparagraphs (K) and (M), 7-19-304(a)(i) and (ii) and
14 (d)(intro) and 7-19-307(a) are amended to read:

15

***** STAFF COMMENT *****

16

**I make reference in several staff comments in
17 this bill to the SMART Office cover letter, which
18 is the document that was provided to the
19 Committee at the September meeting by Kevin
20 Smith.**

21

22 **7-13-301. Placing person found guilty, but not
23 convicted, on probation.**

24

25 (d) Discharge and dismissal under this section shall
26 be without adjudication of guilt and is not a conviction

1 for any purpose, except as provided in W.S. 7-19-
2 301(a)(iii).

3
4 **7-19-301. Definitions.**

5
6 (a) Unless otherwise provided, for the purposes of
7 this act:

8
9 (iii) "Convicted" includes pleas of guilty, nolo
10 contendere, ~~and~~ verdicts of guilty upon which a judgment of
11 conviction may be rendered and adjudications as a
12 delinquent for offenses specified in W.S. 7-19-302(g) and
13 (h). "Convicted" shall ~~not~~ include dispositions authorized
14 by a court pursuant to W.S. 7-13-301 after July 1, 2011, or
15 an analogous provision from another jurisdiction;

16 ***** STAFF COMMENT *****

17 Because dispositions under W.S. 7-13-301 involve
18 a plea agreement between the state and the first
19 time offender whereby the defendant and the state
20 agree that charges will be dismissed after 5
21 years if the defendant complies with terms and
22 conditions set by the court, a court might find
23 that it would be fundamentally unfair to treat
24 such individual as convicted and required to
25 register as an offender if his agreement to the
26 plea bargain was with the expectation that the
27 discharge and dismissal of charges would be
28 without adjudication of guilt and would not be a
29 conviction for any purpose, especially if the
30 agreement was entered into prior to this proposed
31 change in the law. If the charges against a

1 **defendant include first and second degree sexual**
2 **assault, the defendant would not be eligible for**
3 **disposition under W.S. 7-13-301.**
4

5 (x) "Recidivist" means an offender convicted of
6 an offense requiring registration under this act two (2) or
7 more times. Offenses which would have required registration
8 under this act, ~~but which had a sentencing date prior to~~
9 ~~January 1, 1985~~ regardless of the date of conviction or
10 sentencing, shall be counted as convictions for purposes of
11 this paragraph;
12

13 (xxii) "Vehicle" includes any of the following
14 that is registered under Wyoming law:
15

16 (A) Aircraft as defined in W.S. 10-1-
17 101(a)(i);
18

19 (B) Motor vehicle, commercial vehicle or
20 trailer as defined in W.S. 31-1-101;
21

22 (B) Watercraft as defined in W.S. 41-13-
23 101(a)(vii).
24

1 (xxiii) Words in the plural form include the
2 singular and words in the singular form include the plural.

3
4 **7-19-302. Registration of offenders; procedure;**
5 **verification.**

6
7 (a) Any offender residing in this state or entering
8 this state for the purpose of residing, attending school or
9 being employed in this state shall register with the
10 sheriff of the county in which he resides, attends school
11 or is employed, or other relevant entity specified in
12 subsection (c) of this section. The offender shall be
13 photographed, fingerprinted and palmprinted by the
14 registering entity or another law enforcement agency and
15 shall provide the following additional information when
16 registering:

17
18 (v) Place and physical address of employment;

19
20 (viii) The name and ~~location~~ physical address of
21 each educational institution in this state at which the
22 person is employed or attending school;

23

1 (x) A DNA sample. As used in this paragraph,
2 "DNA" means as defined in W.S. 7-19-401(a)(vi); ~~and~~

3
4 (xi) The age of each victim;~~;~~

5
6 (xii) Internet identifiers, including each email
7 address and other designations used by the offender for
8 self-identification or routing in internet communications
9 or postings. As used in this paragraph, "internet" means
10 as defined in W.S. 9-2-1035(a)(iii); and

11
12 (xiii) Any phone number at which the offender
13 may be reached or which may be used on a frequent basis by
14 the offender to place telephone calls.

15
16 (c) Offenders required to register under this act
17 shall register with the entities specified in this
18 subsection and within the following time periods:

19
20 (i) Offenders who, on or after July 1, 1999, are
21 in custody of the department, local jail or a public or
22 private agency pursuant to a court order, as a result of an
23 offense subjecting them to registration, ~~who are sentenced~~

1 ~~on or after January 1, 1985,~~ shall register prior to
2 release from custody. The agency with custody of the
3 offender immediately prior to release shall register the
4 offender and perform the duties specified in W.S. 7-19-305.
5 If the offender refuses to register or refuses to provide
6 the required information, the agency shall so notify local
7 law enforcement before releasing the offender;

8
9 (iii) Offenders convicted of an offense
10 subjecting them to registration, who are sentenced on or
11 after January 1, 1985, who reside in or enter this state
12 for the purposes of residing and who are under the
13 jurisdiction of the department or state board of parole or
14 other public agency as a result of that offense shall
15 register within three (3) working days of entering this
16 state. ~~or on or before August 1, 1999, if a current~~
17 ~~resident.~~ The Wyoming agency that has jurisdiction over the
18 offender shall notify the offender of the registration
19 requirements before the offender moves to this state. ~~and~~
20 ~~shall register the offender and perform the related duties~~
21 ~~specified in W.S. 7-19-305~~ Within three (3) working days
22 after the offender arrives in this state, the Wyoming
23 agency that has jurisdiction over the offender shall notify

1 the county sheriff of the county in which the offender
2 resides of the offender's presence in the county;

3
4 (iv) Offenders convicted of an offense
5 subjecting them to registration, ~~who are sentenced on or~~
6 ~~after January 1, 1985,~~ who reside in or enter this state
7 and who are not under the jurisdiction or custody of the
8 department, board of parole or other public agency as a
9 result of that offense shall register ~~on or before August~~
10 ~~1, 1999, if a current resident, or~~ within three (3) working
11 days of entering this state if not a current resident.

12 *** STAFF COMMENT ***

13 The "lookback" provision in the preceding
14 paragraphs (c)(i), (iii) and (iv) and in W.S. 7-
15 19-301(a)(x), *supra*, was stricken because the
16 SMART Office cover letter alluded to that
17 provision, but did not specifically direct that
18 it should be deleted from Wyoming law. The
19 deletion of that text would require extensive
20 work by the Division of Criminal Investigation to
21 determine what convictions for sex offenses prior
22 to January 1, 1985 may require the person
23 convicted to register with the State. This change
24 to these provisions may require a significant
25 appropriation to implement for the necessary
26 research and notification to affected
27 individuals. The Wyoming Supreme Court has held
28 that requiring registration under this act for a
29 conviction that occurred prior to the date of
30 enactment of the legislation is not
31 unconstitutional as an *ex post facto* law because
32 an *ex post facto* law is one which punishes as a
33 crime an act previously committed, which was
34 innocent when done, which makes more burdensome
35 the punishment for a crime after its commission,

1 or which deprives one charged with a crime of any
2 defense available according to law at the time
3 when the act was done. The Court held that the
4 sex offender registration act could be applied
5 retroactively because it is not punitive, but
6 regulatory in nature. *Snyder v. State*, 912 P.2d
7 1127 (Wyo. 1996).
8

9 (d) A nonresident who is employed or attends school
10 in this state shall register with the county sheriff of the
11 county in which he is employed or attends school within
12 three (3) working days of beginning employment or starting
13 to attend school. A resident or nonresident who is
14 employed, resides or attends school in more than one (1)
15 location in this state, shall register with the county
16 sheriff of each county in which he is employed, resides or
17 attends school within three (3) working days of beginning
18 employment, establishing a residence in this state or
19 starting to attend school. The registration information
20 accepted under this subsection shall be subject to the
21 provisions of W.S. 7-19-303.
22

23 (g) For an offender convicted of a violation of W.S.
24 6-2-202 if the victim was a minor and the offender is not
25 the victim's parent or guardian, W.S. 6-2-203 if the victim
26 was a minor and the offender is not the victim's parent or
27 guardian, W.S. 6-2-313, ~~6-2-315(a)(iv)~~, 6-2-316(a)(iii) and

1 (iv), ~~6-2-317(a)(i), 6-4-201(a)(iii),~~ 6-4-303(b)(iv) or
2 W.S. 6-4-304(b) if the victim was a minor, 18 U.S.C. §§
3 2252B, 2252C, 2424 and 2425, an offense in another
4 jurisdiction containing the same or similar elements, or
5 arising out of the same or similar facts or circumstances
6 as a criminal offense specified in this subsection or an
7 attempt or conspiracy to commit any of the offenses
8 specified in this subsection, the division shall annually
9 verify the accuracy of the offender's registered address,
10 and the offender shall annually report, in person, his
11 current address to the sheriff in the county in which the
12 offender resides, during the period in which he is required
13 to register. During the annual in-person verification, the
14 sheriff shall photograph the offender. Confirmation of the
15 in-person verification required under this subsection,
16 along with the photograph of the offender, shall be
17 transmitted by the sheriff to the division within three (3)
18 working days. Any person under this subsection who has not
19 established a residence or is transient, and who is
20 reporting to the sheriff as required under subsection (e)
21 of this section, shall be deemed in compliance with the
22 address verification requirements of this section.

23

***** STAFF COMMENT *****

1 There are a number of federal offenses, provided
2 by federal citations, that, according to the
3 SMART Office in its cover letter, should be
4 included within the various tiers of registration
5 requirements. While I will add those citations
6 within subsections (g) through (j) as specified
7 by the SMART Office, there may be a delegation of
8 legislative authority issue with merely cross-
9 referring to the federal citations. Also, the
10 cover letter from the SMART Office indicated that
11 there are a number of sex offenses subject to
12 courts martial that should be addressed by the
13 Wyoming Statutes, but only provides general
14 sources that should be consulted to determine
15 where those offenses should be created within
16 Wyoming law and, the Department of Defense is
17 currently in the process of updating its
18 registration requirements to conform with recent
19 changes in the UCMJ; therefore, it may be
20 impractical to attempt to insert those military
21 offenses within subsections (g) through (j) until
22 specific instructions are provided by the SMART
23 Office with respect to the registration tiers in
24 which each of those offenses should be placed.

26 (h) For an offender convicted of a violation of W.S.
27 6-2-304(a)(iii) if the victim was at least fourteen (14)
28 years of age, W.S. 6-2-314(a)(ii) and (iii), 6-2-
29 315(a)(iii), W.S. 6-2-315(a)(iv) if the victim was between
30 thirteen (13) and sixteen (16) years of age, W.S. 6-2-
31 316(a)(i), ~~6-2-317(a)(ii)~~ 6-2-317(a)(i) and (ii) or 6-2-
32 318, W.S. 6-4-102 if the person solicited was a minor, W.S.
33 6-4-103 if the person enticed or compelled was a minor,
34 W.S. 6-4-302(a)(i) if the offense involves the use of a
35 minor in a sexual performance or W.S. 6-4-303(b)(i) through

1 (iii), 18 U.S.C. § 2251, an offense in another jurisdiction
2 containing the same or similar elements, or arising out of
3 the same or similar facts or circumstances as a criminal
4 offense specified in this subsection, an attempt or
5 conspiracy to commit any of the offenses specified in this
6 subsection, or any ~~felony~~offense enumerated in subsection
7 (g) of this section if the offender was previously
8 convicted of a felony ~~under~~enumerated in subsection (g) of
9 this section, the division shall verify the accuracy of the
10 offender's registered address, and the offender shall
11 report, in person, his current address to the sheriff in
12 the county in which the offender resides, every six (6)
13 months after the date of the initial release or
14 commencement of parole. If the offender's appearance has
15 changed substantially, and in any case at least annually,
16 the sheriff shall photograph the offender. Confirmation of
17 the in-person verification required by this subsection, and
18 any new photographs of the offender, shall be transmitted
19 by the sheriff to the division within three (3) working
20 days. Any person under this subsection who has not
21 established a residence or is transient, and who is
22 reporting to the sheriff as required under subsection (e)

1 of this section, shall be deemed in compliance with the
2 address verification requirements of this section.

3

4 (j) For an offender convicted of a violation of W.S.
5 6-2-201 if the victim was a minor, W.S. 6-2-302 or 6-2-303,
6 W.S. 6-2-304(a)(iii) if the victim was under fourteen (14)
7 years of age, W.S. 6-2-314(a)(i), W.S. 6-2-314 (a)(ii) and
8 (iii) if the victim was under thirteen (13) years of age,
9 W.S. 6-2-315(a)(i) and (ii), W.S. 6-2-315(a)(iii) and (iv)
10 if the victim was under thirteen (13) years of age, W.S. 6-
11 2-316(a)(ii), W.S. 6-2-316(a)(iii) if the victim was under
12 thirteen (13) years of age, 6-4-402, 18 U.S.C. § 2245, an
13 offense in another jurisdiction containing the same or
14 similar elements, or arising out of the same or similar
15 facts or circumstances as a criminal offense specified in
16 this subsection, an attempt or conspiracy to commit any of
17 the offenses specified in this subsection, any felony
18 enumerated in subsection (h) of this section if the
19 offender was previously convicted of a felony enumerated in
20 subsection (g) of this section or any ~~felony~~ offense
21 enumerated in subsection (g) or (h) of this section if the
22 offender was previously convicted of a felony ~~under~~
23 enumerated in subsection (h) of this section, the division

1 shall verify the accuracy of the offender's registered
2 address, and the offender shall report, in person, his
3 current address to the sheriff in the county in which the
4 offender resides every three (3) months after the date of
5 the initial release or commencement of parole. If the
6 offender's appearance has changed substantially, and in any
7 case at least annually, the sheriff shall photograph the
8 offender. Confirmation of the in-person verification
9 required by this subsection, and any new photographs of the
10 offender, shall be transmitted by the sheriff to the
11 division within three (3) working days. Any person under
12 this subsection who has not established a residence or is
13 transient, and who is reporting to the sheriff as required
14 under subsection (e) of this section, shall be deemed in
15 compliance with the address verification requirements of
16 this section.

17

18 (p) Any person convicted of an offense enumerated in
19 subsection (g), (h) or (j) of this section who is released
20 from confinement for any reason before being sentenced
21 shall register as described in this section with the county
22 sheriff for each county in which that person resides, is
23 employed, or attends school.

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(q) Any offender registered pursuant to this act shall notify the county sheriff of each county in which he is registered at least twenty-one (21) days before traveling outside of the United States of America. The notification shall include the name of each country the offender plans to visit, the dates the offender intends to be in each country, the purpose for which the offender is traveling, the offender's means of travel and the offender's country of citizenship, passport number and country of issue. Each county sheriff receiving notification of an offender's intention to travel outside of the United States of America shall forward that information to the division within three (3) working days.

7-19-303. Offenders central registry; dissemination of information.

(c) The division shall provide notification of registration under this act, including all registration information, to the district attorney of the county where the registered offender is residing at the time of

1 registration or to which the offender moves. In addition,
2 the following shall apply:

3

4 (iii) Notification of registration under this
5 act shall be provided to the public through a public
6 registry, as well as to the persons and entities required
7 by paragraph (ii) of this subsection. The division shall
8 make the public registry available to the public through
9 electronic internet technology and shall include:

10

11 (H) History of all criminal convictions
12 subjecting an offender to the registration requirements of
13 this act; ~~and~~

14

15 (J) The license plate or registration
16 number and a description of any vehicle owned or operated
17 by the offender; ~~and~~

18

19 (K) The physical address of any employer
20 that employs the offender; and

21

1 (M) The physical address of each
2 educational institution in this state at which the person
3 is attending school.

4
5 **7-19-304. Termination of duty to register.**

6
7 (a) The duty to register under W.S. 7-19-302 shall
8 begin on the date of sentencing and continue for the
9 duration of the offender's life, subject to the following:

10
11 (i) ~~For~~ An offender specified in W.S. 7-19-
12 302(g), ~~the duty to register shall end fifteen (15) years~~
13 ~~after the offender was released from prison, placed on~~
14 ~~parole, supervised release or probation, provided the~~
15 ~~registration period shall be tolled for subsequent~~ who has
16 been registered for at least ten (10) years, exclusive of
17 periods of confinement. ~~The offender and periods in which~~
18 ~~the offender was not registered as required by law,~~ may
19 petition the district court for the district in the which
20 the offender is registered to ~~reduce the period of~~
21 ~~registration under this paragraph by five (5) years~~ be
22 relieved of the duty to continue to register if the
23 offender ~~maintains~~ has maintained a clean record as

1 provided in subsection (d) of this section. Upon a showing
2 that the offender has maintained a clean record as provided
3 in subsection (d) of this section for ten (10) years, the
4 district court may order the offender relieved of the duty
5 to continue registration;
6

7 (ii) An offender specified in W.S. 7-19-302(h)
8 who has been registered for at least twenty-five (25)
9 years, exclusive of periods of confinement and periods in
10 which the offender was not registered as required by law,
11 may petition the district court for the district in which
12 the offender is registered to be relieved of the duty to
13 continue to register if the offender has maintained a clean
14 record as provided in subsection (d) of this section. Upon
15 a showing that the offender has ~~had no further felony or~~
16 ~~misdemeanor convictions during the period of registration~~
17 maintained a clean record as provided in subsection (d) of
18 this section for twenty-five (25) years, the district court
19 may order the offender relieved of the duty to continue
20 registration; and
21

22 (d) ~~A registration period under subsection (a) of~~
23 ~~this section may be reduced if, after the duty to register~~

1 ~~arises, the offender specified in W.S. 7-19-302(g)~~
2 ~~maintains a clean record for ten (10) years by:~~ An offender
3 seeking a reduction in his registration period as provided
4 in paragraphs (a)(i) or (ii) of this subsection shall
5 demonstrate to the court that he has maintained a clean
6 record by:

7
8 **7-19-307. Penalties.**

9
10 (a) Failure to register or update any registration
11 information within the time required under W.S. 7-19-302
12 constitutes a per se violation of this act and is
13 punishable as provided in subsections (c) and (d) of this
14 section. The division shall notify the appropriate
15 authorities when it discovers that an offender fails to
16 register or update any registration information within the
17 time required under W.S. 7-19-302 or when an offender
18 absconds.

19
20 **Section 2.** This act is effective July 1, 2011.

21
22 (END)