Utah for Rational Sex Offense Laws

32 W 200 S STE 302 • SALT LAKE CITY, UT 84101
(801) 871-5215 • COMMUNICATIONS@UTRSOL.ORG

ANALYTICAL MEMORANDUM — SECTION I OF IV
TO: Members of the Utah State Board of Education; USBE Policy Staff
FROM: Felix Espinoza, Chairman, Utah for Rational Sex Offense Laws (UTRSOL)
DATE: October 1, 2026
RE: Section I: The Statutory Framework, Legislative Request: Parameters for Sex Offenders on School Property or at School-Sponsored Activities (§53-29-306 Amendment Proposal)
SERIES: This is the first of four sections building toward a consolidated legislative proposal. UTRSOL has separately drafted it's own legislation that would amend this same statute, §53-29-306, to add a rigorous, offense-proportionate, evidence-grounded definitional architecture. Section 6 of this memorandum introduces that draft bill in full. Rather than two bills independently amending §53-29-306 in the same session, one from UTRSOL and one from USBE, UTRSOL proposes that its draft bill carry USBE's school-activity fix as an additional subsection, built to the same standard. Each section below compounds on the prior; the complete proposal, including draft subsection language, will be submitted at the January 2027 meeting coinciding with the opening of the General Session, January 19, 2027.

SECTION 1: §53-29-306 AS CURRENTLY WRITTEN

1.1 What the Statute Does

Utah Code §53-29-306, Sex Offender Restrictions, is the operative statute the Legislative Request Form proposes to amend. As currently written, the statute imposes two categories of restriction on covered registrants.

The first category is the protected-area restriction, codified at §53-29-306(3). It prohibits covered registrants from entering or being present in defined "protected areas." The statute defines "protected area" at §53-29-306(1)(c)(i) to include:

(A) Licensed day care or preschool facilities;
(B) Public or HOA-maintained swimming pools;
(C) Public or private primary and secondary schools, except when the school is open and being used for a public activity other than a school-related function that involves a minor;
(D) Community parks open to the public or maintained by an HOA;
(E) Public playgrounds or HOA-maintained playgrounds.

The statute also establishes a victim-requested restriction zone of 1,000 feet from a victim's residence, applicable when the victim was under 18 and the registrant is on probation or

parole. Unlike the protected-area restriction, this zone-based limitation is not tied to the type of location involved, it protects a fixed radius around a specific residence regardless of whether that residence sits within any of the space types §53-29-306(1)(c)(i) otherwise defines as protected areas.

The second category is the role-based restriction, also at §53-29-306(3). It prohibits a covered registrant from serving as an athletic coach, manager, or trainer for a team that includes a minor. This provision is narrowly drawn: it restricts the registrant's own coaching role, not presence alongside a spouse or family member who coaches. The Highland High School incident involved the latter. The Legislature has already addressed the registrant-as-coach scenario directly; its silence on a registrant merely accompanying a coaching spouse is not an oversight to read broadly, but the predictable result of a provision aimed at a role, not a status.

1.2 The Load-Bearing Limitation: The Minor-Victim Qualifier

The most important structural feature of §53-29-306 is its scope qualifier. §53-29-306(3) applies exclusively to registrants whose registrable offense involved a victim under the age of 18. This is not an incidental feature. It is the statute's load-bearing proportionality mechanism, the provision that distinguishes §53-29-306 from a categorical restriction on all registrants regardless of offense history.

The minor-victim qualifier means that Group B registrants — individuals whose offenses involved adult victims — are not subject to §53-29-306's protected-area restrictions under current statute. They may enter community parks, schools during public events, and playgrounds without violating §53-29-306, because the statute was designed to restrict only those whose offense history involved a child victim.

The Legislative Request Form's proposed expansions, the activity-based protected area definition, the new "protected activities" category, and the overnight/out-of-state categorical prohibition, do not explicitly preserve this minor-victim limitation. If enacted without that preservation, the expansions would apply to the full registry population of 10,239 (as of April 21, 2026) regardless of offense type. That is a threshold question the Policy team must resolve before transmitting language to any sponsor.

Source: Utah Code §53-29-306, effective May 7, 2025.
Available at: https://le.utah.gov/xcode/Title53/Chapter29/53-29-S306.html

1.3 What the Statute Does Not Address

The Legislative Request Form correctly identifies one genuine gap in §53-29-306: the statute does not address whether a protected area includes a school-sponsored activity not held at a school. Field trips, athletic competitions, overnight trips, and out-of-state activities are not within the current definition of "protected area" because that definition is

premises-based, it attaches to fixed physical locations, not to activities that travel. Since the current statute's protected-area definitions are all tied to fixed physical premises, that gap also means an off-site school activity currently falls outside §53-29-306 entirely rather than being ambiguously covered, a registrant present at such an activity today faces no restriction under this statute at all, which is presumably the opposite of what USBE's proposed fix intends to close.

This gap is real. The Highland High School incident identified it accurately. The question for the board and any legislative sponsor is not whether the gap exists, it does, but what the correct instrument for closing it is, and how broadly that instrument should be drawn. UTRSOL's position, stated at public comment on August 6, remains that the administrative rulemaking track USBE previously committed to is the correct, proportionate instrument. The board's vote to pursue a statutory amendment is noted; this memorandum series addresses how that amendment should be drafted if it proceeds.

SECTION 2: THE AP&P GROUP A/B/C FRAMEWORK

2.1 The Architecture the Form Does Not Reference

Utah's Division of Adult Probation and Parole (AP&P) administers a tiered supervision condition framework that draws explicit, offense-proportionate distinctions between registrant populations. The Legislative Request Form does not reference this framework at any point across its four pages. Any statutory amendment to §53-29-306 that does not account for this framework will produce outcomes inconsistent with the corrections system's own supervision architecture.

Prior to 2026, AP&P was administered by the Utah Department of Corrections. During the 2026 General Session, H.B. 163 established AP&P as its own distinct division within UDC. The group condition framework described here reflects the current AP&P structure.

2.2 The Three Groups

These three groups largely track whether the underlying offense involved a child victim, an adult victim, or an internet-facilitated offense, and each carries its own set of standard location, contact, and reporting conditions; AP&P assigns supervised registrants to one of three condition groups based on offense type:

Group A: Registrants whose sex offense involved a victim under the age of 18.
Group B: Registrants whose sex offense involved an adult victim.
Group C: Registrants aged 18–22 in consensual relationships with 14–15-year-olds.

Assignment is driven by the offense of conviction, not by the supervising agent's discretion. The conditions that follow from group assignment carry the legal weight of court orders for the duration of supervision.

2.3 The Four Group A-Exclusive Conditions

The following four conditions apply exclusively to Group A registrants and are entirely absent from Group B and Group C condition documents:

- No contact with children under 18 without prior AP&P approval.
- No entering into relationships with adults who have children at home without prior AP&P approval.
- No entering places or events where children gather, including schools, playgrounds, parks, arcades, and family celebrations, without prior AP&P approval.

No possession of items intended to entertain, lure, or attract children under 18 without prior AP&P approval. These conditions exist only for Group A because the corrections system's offense-proportionate logic ties minor-contact restrictions to minor-victim offense histories. Group B registrants are not restricted from presence in spaces where children are present. Group C registrants, despite involving a minor victim by definition, are not subject to a blanket minor-contact prohibition, their conditions reflect the specific nature of a consensual close-in-age relationship rather than a predatory offense.

2.4 The Standard Condition Layer

All three groups share a universal baseline that applies regardless of offense category: residence approval, reporting requirements, employment mandate of 30 hours per week, curfew, full search and seizure consent, weapon prohibition, sex offense evaluation and treatment, electronic monitoring when required, victim contact ban, and polygraph compliance. These standard conditions are not where the framework draws its proportionality distinctions. That differentiation happens entirely in the group-specific layer above.

2.5 What Happens When Supervision Ends

The Group A, B, and C conditions described above apply exclusively to registrants who are actively under AP&P supervision, individuals currently serving a term of probation or parole. Once supervision ends, upon discharge from probation or parole, the AP&P-administered group conditions are no longer enforceable. The individual remains on the Sex, Kidnap, and Child Abuse Offender Registry for the duration required by statute — 10 years or lifetime, depending on offense — but the behavioral restrictions tied to group status expire with supervision.

This creates a two-layer framework. During active supervision, a registrant is subject to both AP&P group conditions and applicable statutory restrictions under Utah Code Title 53, Chapter 29. After supervision ends, only the statutory layer remains. This is the layer the proposed amendment would expand, and it is the layer that, as currently structured, applies only to registrants whose offense involved a minor victim.

The individual in the Highland High School incident was previously supervised under Group B conditions and was no longer under any supervision at the time of the incident. He was subject only to the statutory layer, and under the statutory layer as currently written, Group B registrants are not restricted from the presence at school-sponsored activities the form proposes to prohibit. He was not evading any rule. There was no rule to evade.

SECTION 3: THE §53-29-307 STATUTORY COLLISION

3.1 What §53-29-307 Currently Provides

Utah Code §53-29-307, Sex Offender in Presence of a Child, addresses a specific, narrow scenario: a registrant who requests, invites, or solicits a child, defined as under 14 years old, to accompany them, where the registrant's registrable offense was committed against a child under 14. The statute provides three lawful pathways for a covered registrant to accompany a child:

- Written authorization from a parent or guardian specifying dates and locations;
- Verbal authorization on the child's own residential property; or
- The child is the registrant's own natural child and no court order or supervision provision prohibits contact.

Pathway three, the natural child exception, was included by the Legislature deliberately. It recognizes that registry restrictions which sever parental relationships entirely produce outcomes the evidence does not support and that courts have repeatedly found constitutionally problematic. It is not a loophole. It is a considered legislative judgment about the limits of appropriate restriction.

Source: Utah Code §53-29-307. Available at: https://le.utah.gov/xcode/Title53/Chapter29/53-29-S307.html

3.2 Three Specific Conflicts

The Legislative Request Form's proposed activity-based expansions create three unaddressed conflicts with §53-29-307. The form's Safeguards section, a single line reading "No unintended consequences for specific geographic areas or student populations," does not address any of them.

Conflict 1 — Natural Child Exception Collision. Under §53-29-307, a registrant parent may accompany their own natural child without prior written authorization. The proposed activity-based expansion would cover school-sponsored activities off school grounds, field trips, school plays, graduation ceremonies, athletic events. A registrant parent attending their own child's school field trip, school play, or graduation, activities §53-29-307 currently permits through the natural child exception, could be prohibited by the new expansion. Not because §53-29-307 requires it. Because the expansion was drafted without examining the statute it displaces.

Stakeholders directly affected by §53-29-307 have flagged that legislative sponsors may attempt to resolve this conflict by arguing that the natural child exception permits presence with one's own child but not presence with other minors simultaneously on school time. Under this reading, a registrant parent could attend their child's graduation only if no other children were present, a standard that would effectively nullify the natural child exception in any school-sponsored context. This anticipated workaround underscores why the drafting requirement must explicitly address the school-activity context rather than relying on the existing natural child exception language to carry the load.

Conflict 2 — Age Threshold Mismatch. §53-29-307 applies to registrants whose offense involved a victim under 14 and regulates contact with children under 14. The proposed expansions cover school-sponsored activities inclusive of elementary and secondary students, ages 5 through 18. A registrant whose §53-29-307 obligations are triggered only by contact with children under 14 would find themselves subject to the new activity-based restriction across the full K-12 population. This is a categorical expansion of the statute's practical reach that the form did not address.

Conflict 3 — Initiation vs. Presence Threshold. §53-29-307 is triggered by a registrant who actively requests, invites, or solicits a child to accompany them, it regulates initiated contact. The proposed expansions are triggered by presence, not initiation. A registrant parent attending their own child's school play is not soliciting or inviting anyone. They are present at an institutional event their own child is participating in. The form treats presence and initiation as equivalent. The statute does not.

Conflict 4 — Statutory Vagueness. §53-29-307 as currently written contains significant vagueness that compounds the three conflicts above. The statute's triggering language, "requests, invites, or solicits" a child to accompany them, does not define the threshold for what constitutes a solicitation in incidental public settings. Registrants subject to the statute have noted genuine uncertainty about whether ordinary public presence alongside unrelated children — riding public transit, attending a community event, entering a space where children happen to be present — could trigger the statute's penalties. A class A misdemeanor that carries an additional five-year registration period as a consequence of violation, built on a triggering threshold this vague, raises due process concerns independent of the proposed expansion. Any amendment to §53-29-306 that interacts with §53-29-307 should address this vagueness directly.

3.3 The On-Record Identification of Conflict 1

During the September 4, 2026 board deliberation on the motion to direct staff to work with legislators on this request, Vice Chair Bollinger named the natural child exception conflict independently on the record:

"If a parent is a sex offender and they have a right… the current law where it says that some place could be a protected area except when the sex offender must be in a protected area to perform the sex offender's parental responsibilities… that looks like current code allows that. So I think that is where some of that conflict is coming in."

Vice Chair Bollinger abstained on the motion. Her abstention, following her on-record identification of this conflict, is part of the permanent meeting record of the board that authorized the legislative request. Any legislative sponsor reviewing that record will encounter this conflict before drafting begins.

Source: USBE Board Meeting Transcript, September 4, 2026, Item 9.2.

SECTION 4: THE UNEXAMINED CODE SECTIONS

4.1 §53G-11-402 and §53G-11-405

The Legislative Request Form lists §53G-11-402 and §53G-11-405 under "Other potential Code Sections that may be considered" without providing any analysis of either provision. This is a gap in the form's preparation that any drafting process must address before language is transmitted to a sponsor. §53G-11-402 addresses school safety generally and establishes baseline requirements for Local Education Agency (LEA) safety plans. §53G-11-405 addresses background check requirements for school employees and volunteers. The form's reference to these sections suggests its drafters recognized that the proposed activity-based expansions may intersect with existing school safety statutory architecture, but the form provides no analysis of whether the proposed §53-29-306 amendment would create conflicts with, duplicate, or require coordination with either provision.

UTRSOL recommends that USBE's Policy team conduct a full coordination analysis of §53G-11-402 and §53G-11-405 before any draft language is presented to a sponsor, and that the results of that analysis be shared with the board. The §53G-11 coordination analysis is a prerequisite to any drafting process that claims to have examined its own statutory footprint.

SECTION 5: OVERNIGHT/OUT-OF-STATE PROVISION, CONSTITUTIONAL CONCERNS

The form's proposed categorical prohibition on registrant presence at any overnight or out-of-state school-sponsored activity raises constitutional concerns that the form does not address and that any legislative sponsor will need to resolve before the bill can survive committee scrutiny.

5.1 Right to Interstate Travel

The United States Constitution protects a citizen's fundamental right to travel freely between states. A Utah statute that criminalizes a registrant's presence at an out-of-state school-sponsored activity, where that activity may be entirely lawful in the state where it

occurs, directly implicates this right. The form's overnight/out-of-state provision does not address this constitutional dimension. A registrant parent accompanying their child on a school trip to California is subject to California law in California. Utah cannot constitutionally extend its criminal code to govern conduct occurring within another state's borders that is lawful under that state's law and causes no direct harm to Utah's interests.

5.2 Full Faith and Credit and State Sovereignty

The Full Faith and Credit Clause and the principle of state sovereignty compound this concern. If Idaho permits a registered parent to attend a public park or a youth athletic event under Idaho law, Utah attempting to police that behavior through a categorical prohibition violates Idaho's sovereignty over conduct occurring within its own borders. The form proposes a categorical out-of-state prohibition without addressing whether Utah has the constitutional authority to reach conduct in other states, what the nexus to Utah must be for that reach to be constitutional, or how the provision would interact with the laws of the states where school-sponsored activities occur.

These are not abstract constitutional arguments. They are the specific grounds on which a well-resourced legal challenge to the overnight/out-of-state provision would proceed. A sponsor carrying this bill without resolving them is carrying constitutional vulnerability into the 2027 session.

SECTION 6: WHAT THE STATUTORY RECORD REQUIRES

UTRSOL's draft bill labeled H.B. 3, Community Park Definition Amendments, has not previously been raised in any UTRSOL communication with USBE. It is a separate bill UTRSOL has developed to define the term "community park" as used in the protected-area restriction at §53-29-306(1)(c)(i)(D), the same subsection identified at Section 1.1(D) of this memorandum. It is introduced here for the first time because its definitional architecture supplies a working template for the five requirements below; USBE is not being asked to weigh in on the community-park definition itself, only on whether the same drafting approach should be extended to the school-activity gap.

6.1 Five Requirements the Consolidated Vehicle Must Satisfy

Based on the statutory framework documented in Sections 1 through 5, UTRSOL identifies five specific requirements that any statutory language addressing this gap must satisfy to be proportionate, internally consistent, and legally durable. Section 1(X) of H.B. 3, UTRSOL's pending community-park definition bill, which amends this same section of code, demonstrates a working template for each one. A second, independently drafted bill reaching the same statute has no guarantee of meeting any of them, and creates the risk of two bills competing over the same code section. The practical effect: DPS, BCI, and AP&P would be left implementing whichever bill's language happens to pass first, with no guarantee the other requirements even get addressed that session. The five requirements:

Requirement 1 — Preserve the §53-29-306(3) minor-victim limitation. Every new provision, the activity-based protected area definition, the "protected activities" category, and the overnight/out-of-state prohibition, must explicitly state that it applies only to registrants whose registrable offense involved a victim under 18. Without this preservation, the expansions capture Group B registrants whom neither current statute nor the AP&P supervision framework restricts from minor contact.

Requirement 2 — Cross-reference the AP&P Group A/B/C framework. The statute should reference the offense-proportionate condition framework already administered by AP&P, so that the statutory restriction logic is consistent with the corrections system's own supervision architecture. A statute that contradicts the supervision framework it is meant to complement produces incoherent outcomes for registrants, AP&P agents, school administrators, and courts.

Requirement 3 — Resolve the §53-29-307 conflicts. Any draft language must explicitly address the natural child exception collision, the age threshold mismatch, and the initiation vs. presence threshold identified in Section 3. The simplest resolution is a carve-out stating that the activity-based restrictions do not apply when a covered registrant is present at a school-sponsored activity solely to fulfill parental responsibilities for their own natural child, consistent with the existing §53-29-306(3)(a)(i) parental responsibilities exception.

Requirement 4 — Address the constitutional dimensions of the overnight/out-of-state provision. Any draft language imposing a categorical prohibition on out-of-state activity attendance must address the right to interstate travel, the Full Faith and Credit implications, and the state sovereignty question before transmittal to a sponsor. A provision that cannot answer these questions in committee is a provision that should not be filed.

Requirement 5 — Conduct §53G-11 coordination analysis. The form's own reference to §53G-11-402 and §53G-11-405 signals that the drafters recognized a potential intersection with existing school safety statutory architecture. That intersection must be analyzed and documented before any draft language is finalized.

Attaching USBE's request as a new subsection of UTRSOL's draft bill H.B. 3, rather than advancing a standalone bill, is how these five requirements get satisfied by construction rather than by hope. Section 7 below describes how.

SECTION 7: A CONSOLIDATED PROVISION, NOT A COMPETING BILL

UTRSOL proposes that draft bill H.B. 3, introduced in Section 6 above, drafted to define "community park" at §53-29-306(1)(c)(i)(D), and not yet assigned a sponsor, add a further new subsection to §53-29-306 addressing school-sponsored activities held off school grounds, resolving the Highland High School gap this memorandum's Section 1.3

acknowledges is real, using the same drafting discipline the bill already applies to the community-park definition. UTRSOL is not asking USBE to abandon its Legislative Request; it is proposing that the same statute be amended once, by one bill, rather than twice, by two bills moving on separate, uncoordinated tracks.

A subsection built to that standard would, at minimum:

- Apply only to registrants whose registrable offense involved a victim under 18, preserving the §53-29-306(3) qualifier this memorandum's Section 1.2 identifies as load-bearing, rather than sweeping in the full registry population regardless of offense;
- Cross-reference the AP&P Group A/B/C framework described in Section 2, so the statutory layer and the supervision layer remain consistent once a registrant's supervision ends;
- Carve out presence at a school-sponsored activity solely to fulfill parental responsibility for the registrant's own natural child, resolving the §53-29-307 natural-child collision directly in the statutory text rather than leaving it to committee argument or post-enactment litigation;
- Replace a categorical overnight/out-of-state prohibition with a written-determination or activity-request mechanism consistent with the process AP&P already uses to approve supervised travel, and consistent with the reliance-defense structure of UTRSOL's companion bill, avoiding the interstate travel and Full Faith and Credit exposure identified in Section 5; and
- Be cross-referenced against §53G-11-402 and §53G-11-405 as part of the coordination analysis recommended in Section 4, so the same drafting process that examines the community-park definition's statutory footprint examines this one too.

In the interest of full disclosure: draft bill H.B. 3's community-park definition language has already been shared with several legislators as a potential sponsor prospect, as part of UTRSOL's separate work on defining "community park" under this same section of code. No legislator has yet formally agreed to carry it, though one has indicated to reviewing the bill and considering avenues for advancing it. UTRSOL raises this not to present USBE with a fait accompli, but because it is the reason coordinating now, before either request is assigned to a sponsor, avoids two organizations independently approaching the same legislators to amend the same statute. UTRSOL is glad to share the full bill draft with USBE's Policy staff and General Counsel on request, and welcomes USBE's input on the community-park provisions themselves as part of any joint drafting conversation.

This is not a substitute for USBE's underlying concern; it is a proposal that the same bill correct it, built to the same standard, rather than two bills independently amending §53-29-306 from different directions in the same legislative session. UTRSOL welcomes the opportunity to work with USBE's Policy staff and General Counsel to develop this subsection's language jointly ahead of the January submission.

7.1 Preview of Section II

Section II of this memorandum series, to be delivered at the November 5–6 board meeting, will address the evidence standard, specifically the absence of recidivism research, population risk-profile data, and treatment outcome analysis from the Legislative Request Form's evidence base, and will show how that same evidence base already supports the definitional architecture UTRSOL H.B. 3 applies to "community park," strengthening the case for extending that architecture, rather than a separately-reasoned bill, to school-sponsored activities. It will document UTRSOL's published population research, Utah-specific corrections data, and the research literature consensus on the relationship between registry restrictions, stability, and reoffense. The statutory framework established in this section is the legal architecture against which Section II's evidence standard argument will be applied.