

**Effective 5/12/2015**

**77-42-108 Removal from the Utah White Collar Crime Offender Registry.**

- (1) An offender may petition the court where the offender was convicted of the offense for which registration with the Utah White Collar Crime Offender Registry is required, for an order to remove the offender from the Utah White Collar Crime Offender Registry, if:
  - (a) five years have passed since the completion of the offender's sentence;
  - (b) the offender has successfully completed all treatment ordered by the court or the Board of Pardons and Parole relating to the conviction;
  - (c)
    - (i) the offender has not been convicted of any other crime, excluding traffic offenses, as evidenced by a certificate of eligibility issued by the bureau; and
    - (ii) as used in this section, "traffic offense" does not include a violation of Title 41, Chapter 6a, Part 5, Driving Under the Influence and Reckless Driving;
  - (d) the offender has paid all restitution ordered by the court;
  - (e) notice has been delivered to the victims and the office that prosecuted the offender; and
  - (f) the offender has not been found to be civilly liable in any case in which fraud, misrepresentation, deceit, breach of fiduciary duty, or the misuse or misappropriation of funds is an element.
- (2)
  - (a)
    - (i) An offender seeking removal from the White Collar Crime Offender Registry shall apply for a certificate of eligibility from the bureau.
    - (ii) An offender who intentionally or knowingly provides any 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 anyone providing false information on an application under this Subsection (2).
  - (b)
    - (i) The bureau shall check the records of governmental agencies, including national criminal databases, to determine whether an offender is eligible to receive a certificate of eligibility under this section.
    - (ii) If the offender meets all of the criteria under Subsections (1)(a) through (d), the bureau shall issue a certificate of eligibility to the offender which shall be valid for a period of 90 days from the date the certificate is issued.
  - (c)
    - (i) The bureau shall charge an application fee for the certificate of eligibility in accordance with the process in Section 63J-1-504.
    - (ii) The 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 bureau shall issue to the offender a certificate of eligibility at no additional charge.
  - (d) Funds generated under this Subsection (2) shall be deposited in the General Fund as a dedicated credit by the department to cover the costs incurred in determining eligibility.
- (3) The offender shall:
  - (a) file with the court the following information:
    - (i) the petition;
    - (ii) the original information;
    - (iii) the court docket; and

- (iv) an affidavit certifying that the offender is in compliance with the provisions of Subsection (1); and
  - (b) deliver a copy of the petition to the office of the prosecutor.
- (4)
- (a) Upon receipt of a petition for removal from the Utah White Collar Crime Offender Registry, the office of the prosecutor shall provide notice of the petition by first-class mail to the victims at the most recent addresses of record on file.
  - (b) The notice shall:
    - (i) include a copy of the petition for removal from the registry;
    - (ii) state that the victim has a right to object to the removal of the offender from the registry; and
    - (iii) provide instructions for filing an objection with the court.
- (5) The office of the prosecutor shall provide the following, if available, to the court within 30 days after receiving the petition:
- (a) a presentence report;
  - (b) any evaluation done as part of sentencing; and
  - (c) any other information the office of the prosecutor feels the court should consider.
- (6) The victim may respond to the petition by filing a recommendation or objection with the court within 45 days after the mailing of the petition to the victim.
- (7) The court shall:
- (a) review the petition and all documents submitted with the petition; and
  - (b) hold a hearing if requested by the office of the prosecutor or the victim.
- (8) When considering a petition for removal from the registry, the court shall consider whether the offender has paid all restitution ordered by the court or the Board of Pardons and Parole.
- (9) If the court determines that it is not contrary to the interests of the public to do so, the court may grant the petition and order removal of the offender from the registry.
- (10) 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 attorney general and the office of the prosecutor.
- (11) The office of the prosecutor shall notify the victims of the court's decision in the same manner as the notification required in Subsection (3)(a).
- (12) The attorney general shall remove an offender from the registry upon the offender providing satisfactory evidence to the attorney general that:
- (a) each conviction listed in Section 77-42-105 has either been expunged or reduced in degree below a second degree felony; and
  - (b) the offender has paid all court-ordered restitution to victims.

Enacted by Chapter 131, 2015 General Session