

Senator Kevin T. VanTassell proposes the following substitute bill:

**REPEAL OF CERTAIN REPORTING BY
FINANCIAL INSTITUTIONS**

2008 GENERAL SESSION

STATE OF UTAH

Chief Sponsor: Kevin T. VanTassell

House Sponsor: John G. Mathis

LONG TITLE

General Description:

This bill modifies the Utah Criminal Code to repeal certain provisions regarding reporting.

Highlighted Provisions:

This bill:

- ▶ repeals reporting requirements imposed on financial institutions;
- ▶ addresses interceptions; and
- ▶ makes technical and conforming amendments.

Monies Appropriated in this Bill:

None

Other Special Clauses:

None

Utah Code Sections Affected:

AMENDS:

7-1-1001, as renumbered and amended by Laws of Utah 2008, Chapter 3

76-10-1906, as last amended by Laws of Utah 1998, Chapter 144

77-23a-8, as last amended by Laws of Utah 2004, Chapters 104 and 140



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

Section 1. Section **7-1-1001** is amended to read:

**7-1-1001. Written consent or court order for disclosure by financial institution --
Exception.**

(1) As used in this part:

(a) "Governmental entity" means:

(i) the state, including all departments, institutions, boards, divisions, bureaus, offices, commissions, committees, and elected officials; and

(ii) ~~any~~ a political subdivision of the state, including ~~any~~ a county, city, town, school district, public transit district, redevelopment agency, special improvement, or taxing district.

(b) "Nonprotected record" means a record maintained by the financial institution to facilitate the conduct of its business regarding a person or account, including:

(i) the existence of an account;

(ii) the opening and closing dates of an account;

(iii) the name under which an account is held; and

(iv) the name, address, and telephone number of an account holder.

(c) "Protected record" means a record not defined as a nonprotected record; and

(d) "Record" means information that is:

(i) prepared, owned, received, or retained by a financial institution;

(ii) (A) inscribed on a tangible medium; or

(B) stored in an electronic or other medium; and

(iii) retrievable in perceivable form.

(2) Except as provided in Section 7-1-1006, an individual acting in behalf of a governmental entity may not request, obtain by subpoena, or otherwise obtain information from a state or federally chartered financial institution that constitutes a record reflecting the financial condition of any person without first obtaining:

(a) written permission from the person that is named or referenced in the record to be examined; or

(b) an order from a court of competent jurisdiction permitting access to the record.

57 (3) This section does not apply to~~[(a)]~~ a review made by the commissioner of
 58 financial institutions to determine whether a financial institution is operating in accordance
 59 with law~~;~~ ~~or (b) a report filed as required by Section 76-10-1906].~~

60 Section 2. Section **76-10-1906** is amended to read:

61 **76-10-1906. Reporting by financial institutions -- Criminal and civil penalties --**
 62 **Enforcement.**

63 ~~[(1) (a) All financial institutions in this state required to file reports under Title 31,~~
 64 ~~Sections 5311 through 5313, United States Code Annotated, as prescribed by 31 Code of~~
 65 ~~Federal Regulations Sections 103.21 and 103.22, shall file a duplicate copy of the required~~
 66 ~~report with the Utah Division of Investigation.]~~

67 ~~[(b) All persons]~~

68 (1) (a) A person engaged in a trade or business, except a financial [institutions referred
 69 to in Subsection (1)(a), who receive] institution, who receives more than \$10,000 [in domestic
 70 or foreign currency in one transaction, or who receive this amount through two or more related
 71 transactions during any one business day,] as described in Subsection (1)(b) shall complete and
 72 file with the [Utah Division of Investigation] State Bureau of Investigation the information
 73 required by [Title 26, Section 60501, United States Code Annotated] 26 U.S.C. Sec. 60501,
 74 concerning returns relating to currency received in trade or business.

75 (b) Subsection (1)(a) applies if the person described in Subsection (1) receives more
 76 than \$10,000 in domestic or foreign currency:

77 (i) in one transaction; or

78 (ii) through two or more related transactions during one business day.

79 (c) ~~[Any]~~ A person who knowingly and intentionally fails to comply with the reporting
 80 requirements of this Subsection (1) is:

81 (i) on a first conviction, guilty of a class C misdemeanor; and

82 (ii) on a second or subsequent conviction, guilty of a class A misdemeanor.

83 (d) A person is guilty of a third degree felony who knowingly and intentionally violates
 84 ~~[any part of]~~ this Subsection (1) and the violation is committed either:

85 (i) in furtherance of the commission of any other violation of state law; or

86 (ii) as part of a pattern of illegal activity involving transactions exceeding \$100,000 in
 87 any 12-month period.

88 (2) (a) The [~~Utah Division of Investigation~~] State Bureau of Investigation and the
89 Office of the Attorney General;

90 (i) shall enforce compliance with Subsection (1); and

91 (ii) are custodians of and have access to all information and documents filed under
92 Subsection (1).

93 (b) The information is confidential, except [~~any~~] a law enforcement agency, county
94 attorney, or district attorney, when establishing a clear need for the information for
95 investigative purposes, shall have access to the information and shall maintain the information
96 in a confidential manner except as otherwise provided by the Utah Rules of Criminal
97 Procedure.

98 Section 3. Section **77-23a-8** is amended to read:

99 **77-23a-8. Court order to authorize or approve interception -- Procedure.**

100 (1) The attorney general of the state, any assistant attorney general specially designated
101 by the attorney general, any county attorney, district attorney, deputy county attorney, or deputy
102 district attorney specially designated by the county attorney or by the district attorney, may
103 authorize an application to a judge of competent jurisdiction for an order for an interception of
104 wire, electronic, or oral communications by any law enforcement agency of the state, the
105 federal government or of any political subdivision of the state that is responsible for
106 investigating the type of offense for which the application is made.

107 (2) The judge may grant the order in conformity with the required procedures when the
108 interception sought may provide or has provided evidence of the commission of:

109 (a) any act;

110 (i) prohibited by the criminal provisions of:

111 (A) Title 58, Chapter 37, Utah Controlled Substances Act;

112 (B) Title 58, Chapter 37c, Utah Controlled Substances Precursor Act; or

113 (C) Title 58, Chapter 37d, Clandestine Drug Lab Act; and

114 (ii) punishable by a term of imprisonment of more than one year;

115 (b) any act prohibited by the criminal provisions of [~~the~~] Title 61, Chapter 1, Utah
116 Uniform Securities Act and punishable by a term of imprisonment of more than one year[~~, Title~~
117 ~~61, Chapter 1~~];

118 (c) an offense:

119 (i) of:
120 ~~[(e)]~~ (A) attempt, Section 76-4-101;
121 (B) conspiracy, Section 76-4-201;
122 (C) solicitation, Section 76-4-203; ~~[to commit any of the offenses enumerated above so~~
123 ~~long as the attempt, conspiracy or solicitation offense is]~~ and
124 (ii) punishable by a term of imprisonment of more than one year;
125 (d) terroristic threat offense punishable by a maximum term of imprisonment of more
126 than one year, Section 76-5-107;
127 (e) (i) aggravated murder, Section 76-5-202;
128 (ii) murder, Section 76-5-203; or
129 (iii) manslaughter, Section 76-5-205;
130 (f) (i) kidnapping, Section 76-5-301;
131 (ii) child kidnapping, Section 76-5-301.1; or
132 (iii) aggravated kidnapping, Section 76-5-302;
133 (g) (i) arson, Section 76-6-102; or
134 (ii) aggravated arson, Section 76-6-103;
135 (h) (i) burglary, Section 76-6-202; or
136 (ii) aggravated burglary, Section 76-6-203;
137 (i) (i) robbery, Section 76-6-301; or
138 (ii) aggravated robbery, Section 76-6-302;
139 (j) an offense:
140 (i) of:
141 ~~[(j)]~~ (A) theft, Section 76-6-404;
142 (B) theft by deception, Section 76-6-405; or
143 (C) theft by extortion, Section 76-6-406; ~~[when the theft, theft by deception or theft by~~
144 ~~extortion, is]~~ and
145 (ii) punishable by a maximum term of imprisonment of more than one year;
146 (k) receiving stolen property offense punishable by a maximum term of imprisonment
147 of more than one year, Section 76-6-408;
148 (l) a financial card transaction ~~[offenses]~~ offense punishable by a maximum term of
149 imprisonment of more than one year, Section 76-6-506.1, 76-6-506.2, 76-6-506.3, 76-6-506.4,

- 150 76-6-506.5, or 76-6-506.6;
- 151 (m) bribery of a labor official, Section 76-6-509;
- 152 (n) bribery or threat to influence a publicly exhibited contest, Section 76-6-514;
- 153 (o) a criminal simulation [~~offenses~~] offense punishable by a maximum term of
- 154 imprisonment of more than one year, Section 76-6-518;
- 155 (p) criminal usury, Section 76-6-520;
- 156 (q) a fraudulent insurance act [~~offenses~~] offense punishable by a maximum term of
- 157 imprisonment of more than one year, Section 76-6-521;
- 158 (r) [~~violations~~] a violation of [~~the~~] Chapter 6, Part 7, Computer Crimes Act punishable
- 159 by a maximum term of imprisonment of more than one year, Section 76-6-703;
- 160 (s) bribery to influence official or political actions, Section 76-8-103;
- 161 (t) misusing public moneys, Section 76-8-402;
- 162 (u) tampering with a witness or soliciting or receiving a bribe, Section 76-8-508;
- 163 (v) retaliation against a witness, victim, or informant, Section 76-8-508.3;
- 164 (w) tampering with a juror, retaliation against a juror, Section 76-8-508.5;
- 165 (x) extortion or bribery to dismiss criminal proceeding, Section 76-8-509;
- 166 (y) obstruction of justice, Section 76-8-306;
- 167 (z) destruction of property to interfere with preparation for defense or war, Section
- 168 76-8-802;
- 169 (aa) [~~attempts~~] an attempt to commit crimes of sabotage, Section 76-8-804;
- 170 (bb) conspiracy to commit crimes of sabotage, Section 76-8-805;
- 171 (cc) advocating criminal syndicalism or sabotage, Section 76-8-902;
- 172 (dd) assembly for advocating criminal syndicalism or sabotage, Section 76-8-903;
- 173 (ee) riot punishable by a maximum term of imprisonment of more than one year,
- 174 Section 76-9-101;
- 175 (ff) dog fighting, training dogs for fighting, dog fighting exhibitions punishable by a
- 176 maximum term of imprisonment of more than one year, Section 76-9-301.1;
- 177 (gg) explosive, chemical, or incendiary device and parts, possession, use, or removal,
- 178 Section 76-10-306;
- 179 (hh) explosive, chemical, or incendiary device, delivery to a common carrier or
- 180 mailing, Section 76-10-307;

- 181 (ii) exploiting prostitution, Section 76-10-1305;
- 182 (jj) aggravated exploitation of prostitution, Section 76-10-1306;
- 183 (kk) bus hijacking, assault with intent to commit hijacking, dangerous weapon or
184 firearm, Section 76-10-1504;
- 185 (ll) discharging firearms and hurling missiles, Section 76-10-1505;
- 186 (mm) violations of the Pattern of Unlawful Activity Act and the offenses listed under
187 the definition of unlawful activity in the act, including the offenses not punishable by a
188 maximum term of imprisonment of more than one year when those offenses are investigated as
189 predicates for the offenses prohibited by the act, Section 76-10-1602;
- 190 (nn) communications fraud, Section 76-10-1801;
- 191 (oo) money laundering, Sections 76-10-1903 and 76-10-1904; or
- 192 (pp) reporting by [~~financial institutions~~] a person engaged in a trade or business when
193 the offense is punishable by a maximum term of imprisonment of more than one year, Section
194 76-10-1906.

Fiscal Note

**S.B. 171 1st Sub. (Green) - Repeal of Certain Reporting by Financial
Institutions**

2008 General Session

State of Utah

State Impact

Enactment of this bill will not require additional appropriations.

Individual, Business and/or Local Impact

Enactment of this bill likely will not result in direct, measurable costs and/or benefits for individuals, businesses, or local governments.
