

**WHITE COLLAR CRIME REGISTRY**

2015 GENERAL SESSION

STATE OF UTAH

**Chief Sponsor: Mike K. McKell**

Senate Sponsor: \_\_\_\_\_

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**LONG TITLE**

**General Description:**

This bill modifies the Utah Code of Criminal Procedure to include a registry for persons who commit specified white collar crimes.

**Highlighted Provisions:**

This bill:

- ▶ authorizes the Office of the Attorney General to develop, operate, and maintain the Utah White Collar Crime Offender Registry website;
- ▶ provides the manner and process by which the Office of the Attorney General disseminates information from the Utah White Collar Crime Offender Registry website to the public, including the type of information that will be provided;
- ▶ provides the offenses for which a person must be registered with the Utah White Collar Crime Offender Registry website;
- ▶ provides the duration for which offenders will be placed on the Utah White Collar Crime Offender Registry;
- ▶ provides rulemaking authority for the Office of the Attorney General to implement the Utah White Collar Crime Offender Registry; and
- ▶ provides the process and conditions under which a person may petition to have their name and information removed from the Utah White Collar Crime Offender Registry.

**Money Appropriated in this Bill:**



28 None

29 **Other Special Clauses:**

30 None

31 **Utah Code Sections Affected:**

32 ENACTS:

33 [77-42-101](#), Utah Code Annotated 1953

34 [77-42-102](#), Utah Code Annotated 1953

35 [77-42-103](#), Utah Code Annotated 1953

36 [77-42-104](#), Utah Code Annotated 1953

37 [77-42-105](#), Utah Code Annotated 1953

38 [77-42-106](#), Utah Code Annotated 1953

39 [77-42-107](#), Utah Code Annotated 1953

40 [77-42-108](#), Utah Code Annotated 1953



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

43 Section 1. Section [77-42-101](#) is enacted to read:

44 **CHAPTER 42. UTAH WHITE COLLAR CRIME OFFENDER REGISTRY**

45 **77-42-101. Title.**

46 This chapter is known as the "Utah White Collar Crime Offender Registry."

47 Section 2. Section [77-42-102](#) is enacted to read:

48 **77-42-102. Definitions.**

49 As used in this chapter:

50 (1) "Attorney general" means the Utah attorney general or a deputy attorney general.

51 (2) "Bureau" means the Bureau of Criminal Identification of the Department of Public

52 Safety established in Section [53-10-201](#).

53 (3) "Business day" means a day on which state offices are open for regular business.

54 (4) "Certificate of eligibility" means a document issued by the Bureau of Criminal

55 Identification stating that the offender has met the requirements of Section [77-42-108](#).

56 (5) "Offender" means an individual required to register as provided in Section

57 [77-42-105](#).

58 (6) "Register" means to comply with the requirements of this chapter and rules of the

59 Office of the Attorney General made under this chapter.

60 Section 3. Section **77-42-103** is enacted to read:

61 **77-42-103. Duties.**

62 (1) The attorney general shall:

63 (a) develop and operate a system to collect, analyze, maintain, and disseminate  
64 information on offenders; and

65 (b) make information listed in Section [77-42-104](#) available to the public.

66 (2) Any attorney general, county attorney, or district attorney shall, in the manner  
67 prescribed by the attorney general:

68 (a) inform the attorney general of a person who is convicted of any of the offenses  
69 listed in Section [77-42-105](#) within 45 business days; and

70 (b) forward a copy of the judgment and sentence to the attorney general within 60  
71 business days after the conviction of an individual of any of the offenses listed in Section  
72 [77-42-105](#).

73 (3) The attorney general shall:

74 (a) provide the following additional information when available:

75 (i) the crimes for which the offender has been convicted;

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

77 (iii) any other relevant identifying information as determined by the attorney general;

78 (b) maintain the Utah White Collar Crime Offender Registry website; and

79 (c) ensure that information is entered into the offender registry in a timely manner.

80 Section 4. Section **77-42-104** is enacted to read:

81 **77-42-104. Utah White Collar Crime Offender Registry -- Attorney general to**  
82 **maintain.**

83 (1) The attorney general shall maintain the Utah White Collar Crime Offender Registry  
84 website on the Internet, which shall contain a disclaimer informing the public that:

85 (a) the information contained on the website is obtained from public records and the  
86 attorney general does not guarantee the website's accuracy or completeness;

87 (b) members of the public are not allowed to use the information to harass or threaten  
88 offenders or members of their families; and

89 (c) harassment, stalking, or making threats against offenders or their families is

90 prohibited and may violate Utah criminal laws.

91 (2) The Utah White Collar Crime Offender Registry website shall be indexed by the  
92 surname of the offender.

93 (3) The attorney general shall construct the Utah White Collar Crime Offender Registry  
94 website so that before accessing registry information, users must indicate that they have read  
95 and understand the disclaimer and agree to comply with the disclaimer's terms.

96 (4) Except as provided in Subsection (6), the Utah White Collar Crime Offender  
97 Registry website shall include the following registry information:

98 (a) all names and aliases by which the offender is or has been known, but not including  
99 any online or Internet identifiers;

100 (b) a physical description, including the offender's date of birth, height, weight, and eye  
101 and hair color;

102 (c) a recent photograph of the offender; and

103 (d) the crimes listed in Section 77-42-105 of which the offender has been convicted.

104 (5) The Office of the Attorney General and any individual or entity acting at the request  
105 or upon the direction of the attorney general are immune from civil liability for damages and  
106 will be presumed to have acted in good faith by reporting information.

107 (6) The attorney general shall redact the names, addresses, phone numbers, Social  
108 Security numbers, and other information that, if disclosed, could identify individual victims.

109 Section 5. Section 77-42-105 is enacted to read:

110 **77-42-105. Registerable offenses.**

111 A person shall be required to register with the Office of the Attorney General for a  
112 conviction of any of the following offenses as a second degree felony:

113 (1) Section 61-1-1 or Section 61-1-2, securities fraud;

114 (2) Section 76-6-405, theft by deception;

115 (3) Section 76-6-513, unlawful dealing of property by fiduciary;

116 (4) Section 76-6-521, fraudulent insurance;

117 (5) Section 76-6-1203, mortgage fraud;

118 (6) Section 76-10-1603, pattern of unlawful activity;

119 (7) Section 76-10-1801, communications fraud; and

120 (8) Section 76-10-1903, money laundering.

121 Section 6. Section **77-42-106** is enacted to read:

122 **77-42-106. Registration of offenders -- Utah White Collar Crime Offender**

123 **Registry.**

124 (1) An offender who has been convicted of any offense listed in Section [77-42-105](#)  
125 shall be on the Utah White Collar Crime Offender Registry for:

126 (a) a period of 10 years for a first offense;

127 (b) a second period of 10 years for a second conviction under this section; and

128 (c) a lifetime period if convicted a third time under this section.

129 (2) An offender who has been convicted of any offense listed in Section [77-42-105](#)  
130 after December 31, 2005, shall register with the attorney general to be included in the Utah  
131 White Collar Crime Offender Registry.

132 Section 7. Section **77-42-107** is enacted to read:

133 **77-42-107. Department and agency requirements.**

134 (1) In accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, the  
135 attorney general shall make rules necessary to implement this chapter, including:

136 (a) the method for dissemination of registry information; and

137 (b) instructions to the public regarding acceptable use of the information.

138 (2) Any information regarding the identity or location of a victim may be redacted by  
139 the attorney general from information provided under Subsection [77-42-104\(6\)](#).

140 Section 8. Section **77-42-108** is enacted to read:

141 **77-42-108. Removal from the Utah White Collar Crime Offender Registry.**

142 (1) An offender may petition the court where the offender was convicted of the offense  
143 for which registration with the Utah White Collar Crime Offender Registry is required, for an  
144 order to remove the offender from the Utah White Collar Crime Offender Registry, if:

145 (a) five years have passed since the completion of the offender's sentence;

146 (b) the offender has successfully completed all treatment ordered by the court or the  
147 Board of Pardons and Parole relating to the conviction;

148 (c) (i) the offender has not been convicted of any other crime, excluding traffic  
149 offenses, as evidenced by a certificate of eligibility issued by the bureau; and

150 (ii) as used in this section, "traffic offense" does not include a violation of Title 41,  
151 Chapter 6a, Part 5, Driving Under the Influence and Reckless Driving;

152 (d) the offender has paid all restitution ordered by the court;  
153 (e) notice has been delivered to the victims and the office that prosecuted the offender;  
154 and  
155 (f) the offender has not been found to be civilly liable in any case in which fraud,  
156 misrepresentation, deceit, breach of fiduciary duty, or the misuse or misappropriation of funds  
157 is an element.  
158 (2) The offender shall:  
159 (a) file with the court the following information:  
160 (i) the petition;  
161 (ii) the original information;  
162 (iii) the court docket; and  
163 (iv) an affidavit certifying that the offender is in compliance with the provisions of  
164 Subsection (1); and  
165 (b) deliver a copy of the petition to the office of the prosecutor.  
166 (3) (a) Upon receipt of a petition for removal from the Utah White Collar Crime  
167 Offender Registry, the office of the prosecutor shall provide notice of the petition by first-class  
168 mail to the victims at the most recent addresses of record on file.  
169 (b) The notice shall:  
170 (i) include a copy of the petition for removal from the registry;  
171 (ii) state that the victim has a right to object to the removal of the offender from the  
172 registry; and  
173 (iii) provide instructions for filing an objection with the court.  
174 (4) The office of the prosecutor shall provide the following, if available, to the court  
175 within 30 days after receiving the petition:  
176 (a) a presentence report;  
177 (b) any evaluation done as part of sentencing; and  
178 (c) any other information the office of the prosecutor feels the court should consider.  
179 (5) The victim may respond to the petition by filing a recommendation or objection  
180 with the court within 45 days after the mailing of the petition to the victim.  
181 (6) The court shall:  
182 (a) review the petition and all documents submitted with the petition; and

183 (b) hold a hearing if requested by the office of the prosecutor or the victim.

184 (7) When considering a petition for removal from the registry, the court shall consider  
185 whether the offender has paid all restitution ordered by the court or the Board of Pardons and  
186 Parole.

187 (8) If the court determines that it is not contrary to the interests of the public to do so,  
188 the court may grant the petition and order removal of the offender from the registry.

189 (9) If the court grants the petition, the court shall forward a copy of the order directing  
190 removal of the offender from the registry to the attorney general and the office of the  
191 prosecutor.

192 (10) The office of the prosecutor shall notify the victims of the court's decision in the  
193 same manner as the notification required in Subsection (3)(a).

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**Legislative Review Note**  
as of 2-23-15 9:26 AM

**Office of Legislative Research and General Counsel**