

1 **REPEAL OF CERTAIN REPORTING BY**
2 **FINANCIAL INSTITUTIONS**

3 2008 GENERAL SESSION

4 STATE OF UTAH

5 **Chief Sponsor: Kevin T. VanTassell**

6 House Sponsor: John G. Mathis

8 **LONG TITLE**

9 **General Description:**

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

12 **Highlighted Provisions:**

13 This bill:

- 14 ▶ repeals reporting requirements imposed on financial institutions;
- 15 ▶ addresses interceptions related to certain reporting; and
- 16 ▶ makes technical and conforming amendments.

17 **Monies Appropriated in this Bill:**

18 None

19 **Other Special Clauses:**

20 None

21 **Utah Code Sections Affected:**

22 AMENDS:

23 **7-1-1001**, as renumbered and amended by Laws of Utah 2008, Chapter 3

24 **76-10-1906**, as last amended by Laws of Utah 1998, Chapter 144

25 **77-23a-8**, as last amended by Laws of Utah 2004, Chapters 104 and 140

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

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

29 **7-1-1001. Definitions -- Written consent or court order for disclosure by financial**

30 **institution -- Exception.**

31 (1) As used in this part:

32 (a) "Governmental entity" means:

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

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

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

39 (i) the existence of an account;

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

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

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

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

44 (d) "Record" means information that is:

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

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

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

48 (iii) retrievable in perceivable form.

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

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

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

56 (3) This section does not apply to~~(a)~~ a review made by the commissioner of financial
57 institutions to determine whether a financial institution is operating in accordance with law~~; or~~

58 ~~(b) a report filed as required by Section 76-10-1906].~~

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

60 **76-10-1906. Reporting -- Criminal and civil penalties -- Enforcement.**

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

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

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

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

75 (i) in one transaction; or

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

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

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

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

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

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

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

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

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

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

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

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

96 **77-23a-8. Court order to authorize or approve interception -- Procedure.**

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

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

106 (a) any act;

107 (i) prohibited by the criminal provisions of:

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

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

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

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

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

114 ~~61, Chapter 1];~~
115 (c) an offense:
116 (i) of:
117 ~~[(e)]~~ (A) attempt, Section 76-4-101;
118 (B) conspiracy, Section 76-4-201;
119 (C) solicitation, Section 76-4-203; ~~[to commit any of the offenses enumerated above so~~
120 ~~long as the attempt, conspiracy or solicitation offense is] and~~
121 (ii) punishable by a term of imprisonment of more than one year;
122 (d) terroristic threat offense punishable by a maximum term of imprisonment of more
123 than one year, Section 76-5-107;
124 (e) (i) aggravated murder, Section 76-5-202;
125 (ii) murder, Section 76-5-203; or
126 (iii) manslaughter, Section 76-5-205;
127 (f) (i) kidnapping, Section 76-5-301;
128 (ii) child kidnapping, Section 76-5-301.1; or
129 (iii) aggravated kidnapping, Section 76-5-302;
130 (g) (i) arson, Section 76-6-102; or
131 (ii) aggravated arson, Section 76-6-103;
132 (h) (i) burglary, Section 76-6-202; or
133 (ii) aggravated burglary, Section 76-6-203;
134 (i) (i) robbery, Section 76-6-301; or
135 (ii) aggravated robbery, Section 76-6-302;
136 (j) an offense:
137 (i) of:
138 ~~[(j)]~~ (A) theft, Section 76-6-404;
139 (B) theft by deception, Section 76-6-405; or
140 (C) theft by extortion, Section 76-6-406; ~~[when the theft, theft by deception or theft by~~
141 ~~extortion, is] and~~

- 142 (ii) punishable by a maximum term of imprisonment of more than one year;
- 143 (k) receiving stolen property offense punishable by a maximum term of imprisonment of
- 144 more than one year, Section 76-6-408;
- 145 (l) a financial card transaction [~~offenses~~] offense punishable by a maximum term of
- 146 imprisonment of more than one year, Section 76-6-506.1, 76-6-506.2, 76-6-506.3, 76-6-506.4,
- 147 76-6-506.5, or 76-6-506.6;
- 148 (m) bribery of a labor official, Section 76-6-509;
- 149 (n) bribery or threat to influence a publicly exhibited contest, Section 76-6-514;
- 150 (o) a criminal simulation [~~offenses~~] offense punishable by a maximum term of
- 151 imprisonment of more than one year, Section 76-6-518;
- 152 (p) criminal usury, Section 76-6-520;
- 153 (q) a fraudulent insurance act [~~offenses~~] offense punishable by a maximum term of
- 154 imprisonment of more than one year, Section 76-6-521;
- 155 (r) [~~violations~~] a violation of [~~the~~] Chapter 6, Part 7, Computer Crimes Act, punishable
- 156 by a maximum term of imprisonment of more than one year, Section 76-6-703;
- 157 (s) bribery to influence official or political actions, Section 76-8-103;
- 158 (t) misusing public moneys, Section 76-8-402;
- 159 (u) tampering with a witness or soliciting or receiving a bribe, Section 76-8-508;
- 160 (v) retaliation against a witness, victim, or informant, Section 76-8-508.3;
- 161 (w) tampering with a juror, retaliation against a juror, Section 76-8-508.5;
- 162 (x) extortion or bribery to dismiss criminal proceeding, Section 76-8-509;
- 163 (y) obstruction of justice, Section 76-8-306;
- 164 (z) destruction of property to interfere with preparation for defense or war, Section
- 165 76-8-802;
- 166 (aa) [~~attempts~~] an attempt to commit crimes of sabotage, Section 76-8-804;
- 167 (bb) conspiracy to commit crimes of sabotage, Section 76-8-805;
- 168 (cc) advocating criminal syndicalism or sabotage, Section 76-8-902;
- 169 (dd) assembly for advocating criminal syndicalism or sabotage, Section 76-8-903;

170 (ee) riot punishable by a maximum term of imprisonment of more than one year,
171 Section 76-9-101;

172 (ff) dog fighting, training dogs for fighting, dog fighting exhibitions punishable by a
173 maximum term of imprisonment of more than one year, Section 76-9-301.1;

174 (gg) explosive, chemical, or incendiary device and parts, possession, use, or removal,
175 Section 76-10-306;

176 (hh) explosive, chemical, or incendiary device, delivery to a common carrier or mailing,
177 Section 76-10-307;

178 (ii) exploiting prostitution, Section 76-10-1305;

179 (jj) aggravated exploitation of prostitution, Section 76-10-1306;

180 (kk) bus hijacking, assault with intent to commit hijacking, dangerous weapon or
181 firearm, Section 76-10-1504;

182 (ll) discharging firearms and hurling missiles, Section 76-10-1505;

183 (mm) violations of the Pattern of Unlawful Activity Act and the offenses listed under
184 the definition of unlawful activity in the act, including the offenses not punishable by a maximum
185 term of imprisonment of more than one year when those offenses are investigated as predicates
186 for the offenses prohibited by the act, Section 76-10-1602;

187 (nn) communications fraud, Section 76-10-1801;

188 (oo) money laundering, Sections 76-10-1903 and 76-10-1904; or

189 (pp) reporting by [~~financial institutions~~] a person engaged in a trade or business when
190 the offense is punishable by a maximum term of imprisonment of more than one year, Section
191 76-10-1906.