

30 the Utah White Collar Crime Offender Registry; and
31 ▶ provides the process and conditions under which a person may petition to have his
32 or her name and information removed from the Utah White Collar Crime Offender
33 Registry.

34 **Money Appropriated in this Bill:**

35 None

36 **Other Special Clauses:**

37 None

38 **Utah Code Sections Affected:**

39 AMENDS:

40 **76-8-504.6**, as last amended by Laws of Utah 2010, Chapter 283

41 ENACTS:

42 **77-42-101**, Utah Code Annotated 1953

43 **77-42-102**, Utah Code Annotated 1953

44 **77-42-103**, Utah Code Annotated 1953

45 **77-42-104**, Utah Code Annotated 1953

46 **77-42-105**, Utah Code Annotated 1953

47 **77-42-106**, Utah Code Annotated 1953

48 **77-42-107**, Utah Code Annotated 1953

49 **77-42-108**, Utah Code Annotated 1953



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

52 Section 1. Section **76-8-504.6** is amended to read:

53 **76-8-504.6. False or misleading information.**

54 (1) A person is guilty of a class B misdemeanor if the person, not under oath or
55 affirmation, intentionally or knowingly provides false or misleading material information to:

56 (a) an officer of the court for the purpose of influencing a criminal proceeding; or

57 (b) the Bureau of Criminal Identification for the purpose of obtaining a certificate of

58 eligibility for:

59 (i) expungement[-]; or

60 (ii) removal of the person's name from the White Collar Crime Registry created in Title
61 77, Chapter 42, Utah White Collar Crime Offender Registry.

62 (2) For the purposes of this section "officer of the court" means:

63 (a) prosecutor;

64 (b) judge;

65 (c) court clerk;

66 (d) interpreter;

67 (e) presentence investigator;

68 (f) probation officer;

69 (g) parole officer; and

70 (h) any other person reasonably believed to be gathering information for a criminal
71 proceeding.

72 (3) This section does not apply under circumstances amounting to Section [76-8-306](#) or
73 any other provision of this code carrying a greater penalty.

74 Section 2. Section **77-42-101** is enacted to read:

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

76 **77-42-101. Title.**

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

78 Section 3. Section **77-42-102** is enacted to read:

79 **77-42-102. Definitions.**

80 As used in this chapter:

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

82 (2) "Bureau" means the Bureau of Criminal Identification of the Department of Public
83 Safety established in Section [53-10-201](#).

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

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

86 Identification stating that the offender has met the requirements of Section 77-42-108.

87 (5) "Offender" means an individual required to register as provided in Section
88 77-42-105.

89 (6) "Register" means to comply with the requirements of this chapter and rules of the
90 Office of the Attorney General made under this chapter.

91 Section 4. Section 77-42-103 is enacted to read:

92 **77-42-103. Duties.**

93 (1) The attorney general shall:

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

96 (b) make information listed in Section 77-42-104 available to the public.

97 (2) Any attorney general, county attorney, or district attorney shall, in the manner
98 prescribed by the attorney general, inform the attorney general of a person who is convicted of
99 any of the offenses listed in Section 77-42-105 within 45 business days.

100 (3) The attorney general shall:

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

102 (i) the crimes for which the offender has been convicted, noting cases in which the
103 offender is still awaiting sentencing or has appealed the conviction;

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

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

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

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

108 Section 5. Section 77-42-104 is enacted to read:

109 **77-42-104. Utah White Collar Crime Offender Registry -- Attorney general to**
110 **maintain.**

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

113 (a) the information contained on the website is obtained from public records and the

114 attorney general does not guarantee the website's accuracy or completeness;

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

117 (c) harassment, stalking, or making threats against offenders or their families is
118 prohibited and may violate Utah criminal laws.

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

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

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

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

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

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

131 (d) the crimes listed in Section [77-42-105](#) of which the offender has been convicted.

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

135 (6) The attorney general shall redact the names, addresses, phone numbers, Social
136 Security numbers, and other information that, if disclosed, specifically identifies individual
137 victims.

138 Section 6. Section **77-42-105** is enacted to read:

139 **77-42-105. Registerable offenses.**

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

- 142 (1) Section 61-1-1 or Section 61-1-2, securities fraud;
- 143 (2) Section 76-6-405, theft by deception;
- 144 (3) Section 76-6-513, unlawful dealing of property by fiduciary;
- 145 (4) Section 76-6-521, fraudulent insurance;
- 146 (5) Section 76-6-1203, mortgage fraud;
- 147 (6) Section 76-10-1801, communications fraud; and
- 148 (7) Section 76-10-1903, money laundering.

149 Section 7. Section 77-42-106 is enacted to read:

150 **77-42-106. Registration of offenders -- Utah White Collar Crime Offender**
151 **Registry.**

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

- 154 (a) a period of 10 years for a first offense;
- 155 (b) a second period of 10 years for a second conviction under this section; and
- 156 (c) a lifetime period if convicted a third time under this section.

157 (2) Except as provided in Subsection (3), an offender who has been convicted of any
158 offense listed in Section 77-42-105 after December 31, 2005, shall register with the attorney
159 general to be included in the Utah White Collar Crime Offender Registry.

160 (3) An offender is not required to register as provided in Subsection (2) if the offender:

- 161 (a) has complied with all court orders at the time of sentencing;
- 162 (b) has paid in full all court-ordered amounts of restitution to victims; and
- 163 (c) has not been convicted of any other offense for which registration would be
164 required.

165 Section 8. Section 77-42-107 is enacted to read:

166 **77-42-107. Department and agency requirements.**

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

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

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

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

173 Section 9. Section **77-42-108** is enacted to read:

174 **77-42-108. Removal from the Utah White Collar Crime Offender Registry.**

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

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

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

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

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

185 (d) the offender has paid all restitution ordered by the court;

186 (e) notice has been delivered to the victims and the office that prosecuted the offender;
187 and

188 (f) the offender has not been found to be civilly liable in any case in which fraud,
189 misrepresentation, deceit, breach of fiduciary duty, or the misuse or misappropriation of funds
190 is an element.

191 (2) (a) (i) An offender seeking removal from the White Collar Crime Offender Registry
192 shall apply for a certificate of eligibility from the bureau.

193 (ii) An offender who intentionally or knowingly provides any false or misleading
194 information to the bureau when applying for a certificate of eligibility is guilty of a class B
195 misdemeanor and subject to prosecution under Section [76-8-504.6](#).

196 (iii) Regardless of whether the offender is prosecuted, the bureau may deny a certificate
197 of eligibility to anyone providing false information on an application under this Subsection (2).

198 (b) (i) The bureau shall check the records of governmental agencies, including national
199 criminal databases, to determine whether an offender is eligible to receive a certificate of
200 eligibility under this section.

201 (ii) If the offender meets all of the criteria under Subsections (1)(a) through (d), the
202 bureau shall issue a certificate of eligibility to the offender which shall be valid for a period of
203 90 days from the date the certificate is issued.

204 (c) (i) The bureau shall charge an application fee for the certificate of eligibility in
205 accordance with the process in Section [63J-1-504](#).

206 (ii) The fee shall be paid at the time the offender submits an application for a certificate
207 of eligibility to the bureau.

208 (iii) If the bureau determines that the issuance of a certificate of eligibility is
209 appropriate, the bureau shall issue to the offender a certificate of eligibility at no additional
210 charge.

211 (d) Funds generated under this Subsection (2) shall be deposited in the General Fund as
212 a dedicated credit by the department to cover the costs incurred in determining eligibility.

213 (3) The offender shall:

214 (a) file with the court the following information:

215 (i) the petition;

216 (ii) the original information;

217 (iii) the court docket; and

218 (iv) an affidavit certifying that the offender is in compliance with the provisions of
219 Subsection (1); and

220 (b) deliver a copy of the petition to the office of the prosecutor.

221 (4) (a) Upon receipt of a petition for removal from the Utah White Collar Crime
222 Offender Registry, the office of the prosecutor shall provide notice of the petition by first-class
223 mail to the victims at the most recent addresses of record on file.

224 (b) The notice shall:

225 (i) include a copy of the petition for removal from the registry;

226 (ii) state that the victim has a right to object to the removal of the offender from the
227 registry; and

228 (iii) provide instructions for filing an objection with the court.

229 (5) The office of the prosecutor shall provide the following, if available, to the court
230 within 30 days after receiving the petition:

231 (a) a presentence report;

232 (b) any evaluation done as part of sentencing; and

233 (c) any other information the office of the prosecutor feels the court should consider.

234 (6) The victim may respond to the petition by filing a recommendation or objection
235 with the court within 45 days after the mailing of the petition to the victim.

236 (7) The court shall:

237 (a) review the petition and all documents submitted with the petition; and

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

239 (8) When considering a petition for removal from the registry, the court shall consider
240 whether the offender has paid all restitution ordered by the court or the Board of Pardons and
241 Parole.

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

244 (10) If the court grants the petition, the court shall forward a copy of the order directing
245 removal of the offender from the registry to the attorney general and the office of the
246 prosecutor.

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

249 (12) The attorney general shall remove an offender from the registry upon the offender
250 providing satisfactory evidence to the attorney general that:

251 (a) each conviction listed in Section [77-42-105](#) has either been expunged or reduced in
252 degree below a second degree felony; and

253 (b) the offender has paid all court-ordered restitution to victims.

