

WHITE COLLAR CRIME REGISTRY AMENDMENTS

2016 GENERAL SESSION

STATE OF UTAH

Chief Sponsor: Mike K. McKell

Senate Sponsor: Curtis S. Bramble

LONG TITLE

General Description:

This bill amends the provisions of the Utah White Collar Crime Offender Registry.

Highlighted Provisions:

This bill:

▶ authorizes the disclosure of certain driver license information to the attorney general to be posted to the Utah White Collar Crime Offender Registry **↔** ;

▶ **specifies the situations when a driver license photograph may be posted** **↔** ;

▶ authorizes the attorney general to obtain specified offender information from court records, prison or jail booking records, driver license records, and other sources;

▶ provides that an offender who fails to register as required is considered to have consented to the release of specified information; and

▶ makes technical corrections.

Money Appropriated in this Bill:

None

Other Special Clauses:

None

Utah Code Sections Affected:

AMENDS:

77-42-102, as enacted by Laws of Utah 2015, Chapter 131

77-42-103, as enacted by Laws of Utah 2015, Chapter 131

77-42-104, as enacted by Laws of Utah 2015, Chapter 131

H.B. 311



28 77-42-105, as enacted by Laws of Utah 2015, Chapter 131

29 ENACTS:

30 53-3-221.7, Utah Code Annotated 1953

31

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

33 Section 1. Section 53-3-221.7 is enacted to read:

34 **53-3-221.7. Disclosure of license information for the Utah White Collar Crime**
35 **Offender Registry.**

36 (1) The division shall disclose to the attorney general, if requested, the following
37 information for use in connection with the Utah White Collar Crime Offender Registry
38 established by Title 77, Chapter 42, Utah White Collar Crime Offender Registry:

39 (a) all names and aliases under which an offender has obtained a driver license, but not
40 including any online or Internet identifiers;

41 (b) a physical description of an offender, including the offender's:

42 (i) date of birth;

43 (ii) height;

44 (iii) weight;

45 (iv) eye color; and

46 (v) hair color;

47 (c) the most current driver license photograph of an offender ~~H→~~ , as allowed in

47a Subsection (2)(a)(ii) ~~←H~~ ; and

48 (d) the last known address of an offender.

49 (2) (a) The information in Subsections (1)(a) ~~H→~~ [~~through (e)~~] and (c) ~~←H~~ may be
49a publicly posted on the

50 Utah White Collar Crime Offender Registry, pursuant to Subsection 77-42-104(4), in order to
51 assist the public in the accurate identification of offenders.

52a ~~H→~~ (b) The driver license photograph under Subsection (1)(c) may be publicly posted
52b on the registry only if:

52c (i) the offender has not registered as required under Section 77-42-106;

52d (ii) the attorney general has attempted to contact the offender at the last known
52e address listed in the division's records regarding the failure to register; and

52f (ii) 30 or more days have passed since the most recent attempt to contact the
52g offender.

52 ~~(b)~~ (c) ~~←H~~ The information in Subsection (1)(d) may only be used by the attorney general to

53 assist in locating and communicating with an offender, and may not be publicly posted on the
54 Utah White Collar Crime Offender Registry.

55 Section 2. Section **77-42-102** is amended to read:

56 **77-42-102. Definitions.**

57 As used in this chapter:

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

59 (2) "Bureau" means the Bureau of Criminal Identification of the Department of Public
60 Safety established in Section 53-10-201.

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

62 (4) "Certificate of eligibility" means a document issued by the Bureau of Criminal
63 Identification stating that the offender has met the requirements of Section 77-42-108.

64 (5) "Conviction" means the same as that term defined in Section 76-3-201.

65 [(5)] (6) "Offender" means an individual required to register as provided in Section
66 77-42-105.

67 [(6)] (7) "Register" means to comply with the requirements of this chapter and rules of
68 the Office of the Attorney General made under this chapter.

69 Section 3. Section 77-42-103 is amended to read:

70 **77-42-103. Duties.**

71 (1) The attorney general shall:

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

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

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

78 (3) The attorney general shall:

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

80 (i) the crimes for which the offender has been convicted[~~noting cases in which the~~
81 ~~offender is still awaiting sentencing or has appealed the conviction~~];

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

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

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

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

86 Section 4. Section 77-42-104 is amended to read:

87 **77-42-104. Utah White Collar Crime Offender Registry -- Attorney general to**
88 **maintain.**

89 (1) The attorney general shall maintain the Utah White Collar Crime Offender Registry

90 website on the Internet, which shall contain a disclaimer informing the public that:

91 (a) the information contained on the website is obtained from [~~public~~] government
92 records [~~and~~] where feasible, however, the attorney general does not guarantee the website's
93 accuracy or completeness;

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

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

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

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

103 (4) Except as provided in Subsection (6), the Utah White Collar Crime Offender
104 Registry website shall include the following registry information, which may be obtained from
105 court records, prison or jail booking records, driver license records, or other sources ~~at the~~
106 ~~discretion of~~ **lawfully and appropriately obtained by and available to** ~~the~~ attorney general:

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

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

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

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

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

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

119 (7) An offender is considered to have consented to the public posting of the images or
120 records specified in Subsection (4) if the offender:

121 (a) fails to register as required by Subsection 77-42-106(2) within 30 days of
 122 conviction of a registerable offense, as specified in Section 77-42-105; or
 123 (b) fails to appear at the request of the Office of the Attorney General to have a current
 124 photograph taken.

125 Section 5. Section 77-42-105 is amended to read:

126 **77-42-105. Registerable offenses.**

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

- 129 (1) Section 61-1-1 or Section 61-1-2, securities fraud;
- 130 (2) Section 76-6-405, theft by deception;
- 131 (3) Section 76-6-513, unlawful dealing of property by fiduciary;
- 132 (4) Section 76-6-521, fraudulent insurance;
- 133 (5) Section 76-6-1203, mortgage fraud;
- 134 (6) Section 76-10-1801, communications fraud; ~~[and]~~
- 135 (7) Section 76-10-1903, money laundering[-]; and
- 136 (8) Section 76-10-1603, pattern of unlawful activity, if at least one of the unlawful
 137 activities used to establish the pattern of unlawful activity is an offense listed in Subsections
 138 (1) through (7) ~~Ĥ→ [; regardless of whether the offender was convicted of that offense] ←Ĥ .~~

Legislative Review Note
Office of Legislative Research and General Counsel