

White Collar Crime Registry

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

Submitted as:

Utah

[HB 378](#)

Status: Signed into law on March 24, 2015.

Suggested State Legislation

(Title, enacting clause, etc.)

- 1 Section 1. *[Definitions.]*
 2 As used in this chapter:
 3 (1) “Attorney general” means the [Utah] attorney general or a deputy attorney general.
 4 (2) “Bureau” means the [Bureau of Criminal Identification of the Department of Public Safety].
 5 (3) “Business day” means a day on which state offices are open for regular business.
 6 (4) “Certificate of eligibility” means a document issued by the [Bureau of Criminal
 7 Identification] stating that the offender has met the requirements of section 7.
 8 (5) “Offender” means an individual required to register as provided in section 4.
 9 (6) “Register” means to comply with the requirements of this chapter and rules of the Office of
 10 the Attorney General made under this chapter.
 11
 12 Section 2. *[Duties of the attorney general.]*
 13 (1) The attorney general shall:
 14 (a) develop and operate a system to collect, analyze, maintain, and disseminate information
 15 on offenders; and
 16 (b) make information listed in section 3 available to the public.
 17 (2) Any attorney general, county attorney, or district attorney shall, in the manner prescribed by
 18 the attorney general, inform the attorney general of a person who is convicted of any of the
 19 offenses listed in section 4 within 45 business days.
 20 (3) The attorney general shall:
 21 (a) provide the following additional information when available:
 22 (i) the crimes for which the offender has been convicted, noting cases in which the
 23 offender is still awaiting sentencing or has appealed the conviction;
 24 (ii) a description of the offender's targets; and
 25 (iii) any other relevant identifying information as determined by the attorney general;
 26 (b) maintain the [Utah] White Collar Crime Offender Registry website; and
 27 (c) ensure that information is entered into the offender registry in a timely manner.

1 Section 3. [*White collar crime offender registry – Attorney general to maintain.*]

- 2 (1) The attorney general shall maintain the [Utah] White Collar Crime Offender Registry
3 website on the Internet, which shall contain a disclaimer informing the public that:
4 (a) the information contained on the website is obtained from public records and the attorney
5 general does not guarantee the website's accuracy or completeness;
6 (b) members of the public are not allowed to use the information to harass or threaten
7 offenders or members of their families; and
8 (c) harassment, stalking, or making threats against offenders or their families is prohibited
9 and may violate [Utah] criminal laws.
- 10 (2) The [Utah] White Collar Crime Offender Registry website shall be indexed by the surname
11 of the offender.
- 12 (3) The attorney general shall construct the [Utah] White Collar Crime Offender Registry
13 website so that before accessing registry information, users must indicate that they have read
14 and understand the disclaimer and agree to comply with the disclaimer's terms.
- 15 (4) Except as provided in subsection (6), the [Utah] White Collar Crime Offender Registry
16 website shall include the following registry information:
17 (a) all names and aliases by which the offender is or has been known, but not including
18 any online or Internet identifiers;
19 (b) a physical description, including the offender's date of birth, height, weight, and eye and
20 hair color;
21 (c) a recent photograph of the offender; and
22 (d) the crimes listed in section 4 of which the offender has been convicted.
- 23 (5) The Office of the Attorney General and any individual or entity acting at the request or upon
24 the direction of the attorney general are immune from civil liability for damages and will be
25 presumed to have acted in good faith by reporting information.
- 26 (6) The attorney general shall redact the names, addresses, phone numbers, Social Security
27 numbers, and other information that, if disclosed, specifically identifies individual victims.

28
29 Section 4. [*Registerable offenses.*]

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

- 32 (1) [Insert citation – securities fraud];
33 (2) [Insert citation – theft by deception];
34 (3) [Insert citation – unlawful dealing of property by fiduciary];
35 (4) [Insert citation – fraudulent insurance];
36 (5) [Insert citation – mortgage fraud];
37 (6) [Insert citation – communications fraud]; and
38 (7) [Insert citation – money laundering].
39

40 Section 5. [*Registration of offenders – Utah White Collar Crime Offender Registry.*]

- 41 (1) An offender who has been convicted of any offense listed in section 4 shall be on the [Utah]
42 White Collar Crime Offender Registry for:
43 (a) a period of 10 years for a first offense;
44 (b) a second period of 10 years for a second conviction under this section; and
45 (c) a lifetime period if convicted a third time under this section.

- 1 (2) Except as provided in subsection (3), an offender who has been convicted of any offense
2 listed in section 4 after [Insert effective date], shall register with the attorney general to be
3 included in the [Utah] White Collar Crime Offender Registry.
- 4 (3) An offender is not required to register as provided in subsection (2) if the offender:
5 (a) has complied with all court orders at the time of sentencing;
6 (b) has paid in full all court-ordered amounts of restitution to victims; and
7 (c) has not been convicted of any other offense for which registration would be required.

8
9 Section 6. [*Department and agency requirements.*]

- 10 (1) In accordance with [Insert citation – rulemaking act.], the attorney general shall make rules
11 necessary to implement this chapter, including:
12 (a) the method for dissemination of registry information; and
13 (b) instructions to the public regarding acceptable use of the information.
- 14 (2) Any information regarding the identity or location of a victim may be redacted by the
15 attorney general from information provided under subsection 3(6).

16
17 Section 7. [*Removal from the White Collar Crime Offender Registry.*]

- 18 (1) An offender may petition the court where the offender was convicted of the offense for
19 which registration with the [Utah] White Collar Crime Offender Registry is required, for an
20 order to remove the offender from the [Utah] White Collar Crime Offender Registry, if:
21 (a) five years have passed since the completion of the offender's sentence;
22 (b) the offender has successfully completed all treatment ordered by the court or the Board of
23 Pardons and Parole relating to the conviction;
24 (c)
25 (i) the offender has not been convicted of any other crime, excluding traffic offenses,
26 as evidenced by a certificate of eligibility issued by the bureau; and
27 (ii) as used in this section, “traffic offense” does not include a violation of [Insert
28 citation – driving under the influence and reckless driving.];
29 (iii) the offender has paid all restitution ordered by the court;
30 (d) notice has been delivered to the victims and the office that prosecuted the offender; and
31 (e) the offender has not been found to be civilly liable in any case in which fraud,
32 misrepresentation, deceit, breach of fiduciary duty, or the misuse or misappropriation of
33 funds is an element.
- 34 (2)
35 (a)
36 (i) An offender seeking removal from the White Collar Crime Offender Registry
37 shall apply for a certificate of eligibility from the bureau.
38 (ii) An offender who intentionally or knowingly provides any false or misleading
39 information to the bureau when applying for a certificate of eligibility is guilty of
40 a class B misdemeanor and subject to prosecution under [Insert citation –
41 providing false or misleading information.]
42 (iii) Regardless of whether the offender is prosecuted, the bureau may deny a
43 certificate of eligibility to anyone providing false information on an application
44 under this subsection (2).

- 1 (b)
- 2 (i) The bureau shall check the records of governmental agencies, including national
- 3 criminal databases, to determine whether an offender is eligible to receive a
- 4 certificate of eligibility under this section.
- 5 (ii) If the offender meets all of the criteria under subsections (1)(a) through (d), the
- 6 bureau shall issue a certificate of eligibility to the offender which shall be valid
- 7 for a period of 90 days from the date the certificate is issued.
- 8 (c)
- 9 (i) The bureau shall charge an application fee for the certificate of eligibility in
- 10 accordance with the process in [Insert citation – establishing and assessing fees.]
- 11 (ii) The fee shall be paid at the time the offender submits an application for a
- 12 certificate of eligibility to the bureau.
- 13 (iii) If the bureau determines that the issuance of a certificate of eligibility is
- 14 appropriate, the bureau shall issue to the offender a certificate of eligibility at no
- 15 additional charge.
- 16 (d) Funds generated under this subsection (2) shall be deposited in the General Fund as a
- 17 dedicated credit by the department to cover the costs incurred in determining eligibility.
- 18 (3) The offender shall:
- 19 (a) file with the court the following information:
- 20 (i) the petition;
- 21 (ii) the original information;
- 22 (iii) the court docket; and
- 23 (iv) an affidavit certifying that the offender is in compliance with the provisions of
- 24 subsection (1); and
- 25 (b) deliver a copy of the petition to the office of the prosecutor.
- 26 (4)
- 27 (a) Upon receipt of a petition for removal from the [Utah] White Collar Crime Offender
- 28 Registry, the office of the prosecutor shall provide notice of the petition by first-class
- 29 mail to the victims at the most recent addresses of record on file.
- 30 (b) The notice shall:
- 31 (i) include a copy of the petition for removal from the registry;
- 32 (ii) state that the victim has a right to object to the removal of the offender from the
- 33 registry; and
- 34 (iii) provide instructions for filing an objection with the court.
- 35 (5) The office of the prosecutor shall provide the following, if available, to the court within 30
- 36 days after receiving the petition:
- 37 (a) a presentence report;
- 38 (b) any evaluation done as part of sentencing; and
- 39 (c) any other information the office of the prosecutor feels the court should consider.
- 40 (6) The victim may respond to the petition by filing a recommendation or objection with the
- 41 court within 45 days after the mailing of the petition to the victim.
- 42 (7) The court shall:
- 43 (a) review the petition and all documents submitted with the petition; and
- 44 (b) hold a hearing if requested by the office of the prosecutor or the victim.
- 45 (8) When considering a petition for removal from the registry, the court shall consider whether
- 46 the offender has paid all restitution ordered by the court or the Board of Pardons and Parole.

- 1 (9) If the court determines that it is not contrary to the interests of the public to do so, the court
2 may grant the petition and order removal of the offender from the registry.
- 3 (10) If the court grants the petition, the court shall forward a copy of the order directing
4 removal of the offender from the registry to the attorney general and the office of the
5 prosecutor.
- 6 (11) The office of the prosecutor shall notify the victims of the court's decision in the same
7 manner as the notification required in subsection (3)(a).
- 8 (12) The attorney general shall remove an offender from the registry upon the offender
9 providing satisfactory evidence to the attorney general that:
- 10 (a) each conviction listed in section 4 has either been expunged or reduced in degree below a
11 second degree felony; and
12 (b) the offender has paid all court-ordered restitution to victims.