

FIRST REGULAR SESSION

# HOUSE BILL NO. 990

## 101ST GENERAL ASSEMBLY

INTRODUCED BY REPRESENTATIVE GREGORY (96).

1624H.011

DANA RADEMAN MILLER, Chief Clerk

### AN ACT

To amend chapter 589, RSMo, by adding thereto eight new sections relating to the white collar crime offender registry, with penalty provisions.

*Be it enacted by the General Assembly of the state of Missouri, as follows:*

Section A. Chapter 589, RSMo, is amended by adding thereto eight new sections, to be known as sections 589.440, 589.441, 589.442, 589.443, 589.444, 589.445, 589.446, and 589.447, to read as follows:

**589.440. Sections 589.440 to 589.447 shall be known and may be cited as the "White Collar Crime Offender Registry".**

**589.441. As used in sections 589.440 to 589.447, the following terms mean:**

(1) "Certificate of eligibility", a document issued by the Missouri state highway patrol stating that the offender has satisfied the requirements of section 589.447;

(2) "Offender", an individual required to register under the white collar crime offender registry;

(3) "Register", to comply with the requirements of sections 589.440 to 589.447 and rules of the office of the attorney general made under the white collar crime offender registry.

**589.442. 1. The attorney general shall:**

(1) Develop and operate a system to collect, analyze, maintain, and disseminate information on offenders; and

(2) Make information under section 589.443 available to the public.

EXPLANATION — Matter enclosed in bold-faced brackets [thus] in the above bill is not enacted and is intended to be omitted from the law. Matter in **bold-face** type in the above bill is proposed language.

2. The attorney general shall, in a manner prescribed by the attorney general, be informed of any person who is convicted of any offense under section 589.444 within forty-five business days.

3. The attorney general shall:

(1) Make available to the public the following information if available:

(a) The offenses for which the offender is convicted, noting cases in which the offender is still awaiting sentencing or has appealed the conviction;

(b) A description of the type of victims the offender targeted; and

(c) Any other relevant identifying information as determined by the attorney general;

(2) Create and maintain a white collar crime offender registry website; and

(3) Ensure that information is entered into the white collar crime offender registry no later than thirty days after the offender is convicted.

589.443. 1. The attorney general shall maintain the white collar crime offender registry website. The website shall contain a disclaimer informing the public that:

(1) The information on the website is obtained from public records and the attorney general does not guarantee the website's accuracy or completeness;

(2) Members of the public are prohibited from using the information to harass or threaten an offender or an offender's family; and

(3) Harassment, stalking, or making threats against an offender or an offender's family is prohibited and may violate criminal laws.

2. The white collar crime offender registry website shall be indexed by the surname of the offender.

3. The attorney general shall construct the white collar crime offender registry website so that, before accessing registry information, users shall indicate that they have read and understand the disclaimer and agree to comply with the disclaimer's terms.

4. Except as provided in subsection 6 of this section, the white collar crime offender registry website shall include the following registry information of each offender:

(1) All names and aliases by which an offender is or has been known, excluding any online or internet identifiers;

(2) A physical description including, but not limited to, an offender's date of birth, height, weight, eye color, and hair color;

(3) A recent photograph of an offender; and

(4) The offenses under section 589.444 for which an offender is convicted.

5. The attorney general and any individual or entity acting at the request or upon the direction of the attorney general shall be immune from civil liability for damages

24 resulting from the white collar crime offender registry and shall be presumed to have acted  
25 in good faith by reporting information.

26 6. The attorney general shall redact the names, addresses, phone numbers, Social  
27 Security numbers, and other information that, if disclosed, specifically identify an  
28 individual victim.

589.444. A person shall be required to register with the attorney general for any  
2 conviction of:

3 (1) Securities fraud under section 409.5-501;

4 (2) Mortgage fraud under section 570.310;

5 (3) Money laundering under section 574.105; or

6 (4) Any other offense in which fraud, misrepresentation, deceit, breach of fiduciary  
7 duty, or the misuse or misappropriation of funds is an element.

589.445. 1. The white collar crime offender registry shall include any offender  
2 convicted of any offense listed under section 589.444 for:

3 (1) A period of ten years for the first set of convictions arising out of the same  
4 transaction or occurrence or series of transactions or occurrences;

5 (2) A second period of ten years for a second set of convictions arising out of a  
6 second transaction or occurrence or series of transactions or occurrences; and

7 (3) A period of thirty years from the date of the most recent set of convictions  
8 arising out of a third or subsequent transaction or occurrence or series of transactions or  
9 occurrences.

10 2. Except as provided in subsection 3 of this section, the white collar crime offender  
11 registry shall include any offender convicted of any offense listed under section 589.444 on  
12 or after August 28, 2021. Any such offender shall register with the attorney general.

13 3. An offender shall not be required to register under subsection 2 of this section  
14 if the offender has:

15 (1) Complied with all court orders at the time of sentencing;

16 (2) Paid in full all court-ordered restitution to victims; and

17 (3) Not been convicted of any other offense under section 589.444.

589.446. 1. The attorney general shall make rules necessary to implement sections  
2 589.440 to 589.447 including, but not limited to:

3 (1) The method for dissemination of registry information; and

4 (2) Instructions to the public regarding acceptable use of the information.

5 2. Any information regarding the identity or location of a victim may be redacted  
6 by the attorney general from information provided under subsection 6 of section 589.443.

7           **3. Any rule or portion of a rule, as that term is defined in section 536.010, that is**  
8 **created under the authority delegated in this section shall become effective only if it**  
9 **complies with and is subject to all of the provisions of chapter 536 and, if applicable,**  
10 **section 536.028. This section and chapter 536 are nonseverable, and if any of the powers**  
11 **vested with the general assembly pursuant to chapter 536 to review, to delay the effective**  
12 **date, or to disapprove and annul a rule are subsequently held unconstitutional, then the**  
13 **grant of rulemaking authority and any rule proposed or adopted after August 28, 2021,**  
14 **shall be invalid and void.**

**589.447. 1. An offender may petition the court that delivered the offender's**  
2 **conviction of the offense requiring registration with the white collar crime offender**  
3 **registry for an order to remove the offender from the registry if:**

4           **(1) The offender has not committed a second offense that requires registration with**  
5 **the white collar crime offender registry;**

6           **(2) Five years have passed since the completion of the offender's sentence;**

7           **(3) The offender has successfully completed all treatment relating to the conviction**  
8 **ordered by the court or the division of probation and parole within the department of**  
9 **corrections;**

10          **(4) The offender has not been convicted of any other offense, excluding traffic**  
11 **offenses, as evidenced by a certificate of eligibility issued by the Missouri state highway**  
12 **patrol. As used in this subdivision, "traffic offenses" shall not include driving while**  
13 **intoxicated under section 577.010;**

14          **(5) The offender has paid all restitution ordered by the court;**

15          **(6) The offender has not been found to be civilly liable in any case in which fraud,**  
16 **misrepresentation, deceit, breach of fiduciary duty, or the misuse or misappropriation of**  
17 **funds is an element; and**

18          **(7) The victims and prosecuting attorney that prosecuted the offender have been**  
19 **notified.**

20  
21 **Only first-time offenders may petition the court under this section for removal from the**  
22 **white collar crime offender registry.**

23          **2. (1) (a) An offender seeking removal from the white collar crime offender**  
24 **registry shall apply for a certificate of eligibility from the Missouri state highway patrol.**

25          **(b) An offender who intentionally or knowingly provides any false or misleading**  
26 **information to the Missouri state highway patrol when applying for a certificate of**  
27 **eligibility is guilty of the offense of making a false declaration under section 575.060.**

28           (c) Regardless of whether the offender is prosecuted, the Missouri state highway  
29 patrol may deny a certificate of eligibility to anyone providing false information on an  
30 application under this subsection.

31           (2) (a) The Missouri state highway patrol shall check the records of governmental  
32 agencies, including national criminal databases, to determine whether an offender is  
33 eligible to receive a certificate of eligibility under this section.

34           (b) If the offender satisfies all of the requirements under subdivisions (1) to (5) of  
35 subsection 1 of this section, the Missouri state highway patrol shall issue a certificate of  
36 eligibility to the offender, which shall be valid for a period of ninety days.

37           (3) (a) The Missouri state highway patrol may charge an application fee for the  
38 certificate of eligibility in an amount up to twenty dollars.

39           (b) The fee shall be due at the time the offender submits an application for a  
40 certificate of eligibility to the Missouri state highway patrol.

41           (c) If the Missouri state highway patrol determines that issuing a certificate of  
42 eligibility is appropriate, it shall issue the certificate to the offender at no additional charge.

43           (4) Funds generated under subdivision (3) of this subsection shall be deposited in  
44 a subaccount of the state road fund established under Article IV, Section 30(b) of the  
45 Constitution of Missouri and shall be used to cover the costs incurred in determining  
46 eligibility of offenders.

47           3. To petition for removal from the white collar crime offender registry, the  
48 offender shall:

49           (1) File with the court the following information:

50           (a) The petition;

51           (b) The certificate of eligibility required under subsection 2 of this section;

52           (c) The original information; and

53           (d) The court docket; and

54           (2) Deliver a copy of the petition to the prosecutor's office that has jurisdiction.

55           4. (1) Upon receiving a petition for removal from the white collar crime offender  
56 registry, the prosecutor shall notify by first-class mail the victims at the most recent  
57 addresses of record on file.

58           (2) The notice shall:

59           (a) Include a copy of the petition for removal from the registry;

60           (b) State that the victim has a right to object to the removal of the offender from  
61 the registry; and

62           (c) Provide instructions for filing an objection with the court.

63           **5. The prosecutor shall provide the following, if available, to the court within thirty**  
64 **days of receiving the petition:**

- 65           **(1) A sentencing assessment report;**  
66           **(2) Any evaluation done as part of sentencing; and**  
67           **(3) Any other information the prosecutor deems the court should consider.**

68           **6. The victim may respond to the petition by filing a recommendation or objection**  
69 **with the court within forty-five days of the mailing of the petition to the victim.**

70           **7. The court shall:**

- 71           **(1) Review the petition and all accompanying documents; and**  
72           **(2) If requested by the prosecutor or the victim, hold a hearing.**

73           **8. While considering a petition for removal from the registry, the court shall**  
74 **consider whether the offender has paid all restitution ordered by the court or the parole**  
75 **board within the department of corrections.**

76           **9. If the court determines that it is not contrary to the interests of the public, the**  
77 **court may grant the petition and order removal of the offender from the white collar crime**  
78 **offender registry.**

79           **10. If the court grants the petition, the court shall forward a copy of the order**  
80 **directing removal of the offender from the registry to the attorney general and the**  
81 **prosecutor.**

82           **11. The prosecutor shall notify the victims of the court's decision in the same**  
83 **manner as the notification required under subsection 4 of this section.**

84           **12. The attorney general shall remove an offender from the registry upon the**  
85 **offender providing satisfactory evidence to the attorney general that:**

- 86           **(1) Each conviction of an offense under section 589.444 is either expunged or**  
87 **reduced in a category below a class D felony; and**  
88           **(2) The offender has paid all court-ordered restitution to victims.**

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