

Calvin R. Musselman proposes the following substitute bill:

**Dangerous Weapons Recodification and Cross References**

2025 GENERAL SESSION

STATE OF UTAH

**Chief Sponsor: Matthew H. Gwynn**

Senate Sponsor: Calvin R. Musselman

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**LONG TITLE**

**General Description:**

This bill modifies provisions in the Utah Code addressing dangerous weapons by redrafting statutes into a new structure, reorganizing applicable criminal statutes into a new standardized format, and clarifying existing law.

**Highlighted Provisions:**

This bill:

- restructures and makes technical changes to sections in the Utah Code dealing with dangerous weapons to bring the sections into a standardized format;
- enacts provisions detailing the current law surrounding the carrying of firearms;
- for clarity, places certain contents of Title 76, Chapter 10, Part 5, Weapons, into Title 53, Public Safety Code;
- clarifies criminal provisions regarding who is required to have a concealed carry permit in certain circumstances;
- includes coordination clauses coordinating technical changes between this bill and H.B. 183, Noncitizen Restricted Person Amendments, H.B. 227, Restricted Person Amendments, H.B. 21, Criminal Code Recodification and Cross References, and S.B. 14, Private Sale of a Firearm Sunset Review Amendments; and
- makes technical and conforming changes.

**Money Appropriated in this Bill:**

None

**Other Special Clauses:**

This bill provides coordination clauses.

**Utah Code Sections Affected:**

AMENDS:

**13-74-101**, as enacted by Laws of Utah 2024, Chapter 203

29           **23A-4-1106**, as last amended by Laws of Utah 2023, Chapter 345 and renumbered and  
30           amended by Laws of Utah 2023, Chapter 103  
31           **26B-1-326**, as last amended by Laws of Utah 2024, Chapter 250  
32           **26B-2-120**, as last amended by Laws of Utah 2024, Chapter 234  
33           **26B-5-102**, as last amended by Laws of Utah 2024, Chapters 250, 420  
34           **31A-21-501**, as last amended by Laws of Utah 2022, Chapters 185, 430  
35           **34-45-102**, as enacted by Laws of Utah 2009, Chapter 379  
36           **34-45-107**, as last amended by Laws of Utah 2016, Chapter 348  
37           **36-29-111**, as last amended by Laws of Utah 2024, Chapter 506  
38           **47-3-305**, as last amended by Laws of Utah 2021, Chapter 246  
39           **53-1-104**, as last amended by Laws of Utah 2024, Chapter 506  
40           **53-2a-214**, as renumbered and amended by Laws of Utah 2013, Chapter 295  
41           **53-3-220**, as last amended by Laws of Utah 2024, Chapter 319  
42           **53-5a-102**, as last amended by Laws of Utah 2022, Chapter 428  
43           **53-5a-103**, as last amended by Laws of Utah 2023, Chapter 392  
44           **53-5a-202**, as last amended by Laws of Utah 2024, Chapter 438  
45           **53-5d-102**, as enacted by Laws of Utah 2016, Chapter 155  
46           **53-10-202**, as last amended by Laws of Utah 2023, Chapter 328  
47           **53-10-202.5**, as last amended by Laws of Utah 2022, Chapters 250, 384  
48           **53-10-208.1**, as last amended by Laws of Utah 2023, Chapters 184, 328 and 397  
49           **53-10-403**, as last amended by Laws of Utah 2024, Chapters 96, 153, 187, and 256  
50           **53-11-108**, as last amended by Laws of Utah 1999, Chapter 21  
51           **53-13-116**, as enacted by Laws of Utah 2021, Chapter 164  
52           **53-22-105**, as enacted by Laws of Utah 2024, Chapter 21  
53           **53-22-107**, as enacted by Laws of Utah 2024, Chapter 117  
54           **53-25-103**, as enacted by Laws of Utah 2024, Chapter 332  
55           **53-25-501**, as enacted by Laws of Utah 2024, Chapter 111  
56           **53B-3-103**, as last amended by Laws of Utah 2024, Chapter 378  
57           **53G-8-701.8**, as enacted by Laws of Utah 2024, Chapter 21  
58           **53G-8-704**, as enacted by Laws of Utah 2024, Chapter 21  
59           **58-37-8**, as last amended by Laws of Utah 2024, Chapter 105  
60           **58-63-307**, as last amended by Laws of Utah 2008, Chapter 246  
61           **63G-2-303**, as last amended by Laws of Utah 2024, Chapter 465  
62           **63G-2-801**, as last amended by Laws of Utah 2019, Chapter 254

63        **63I-1-253**, as last amended by Laws of Utah 2024, Third Special Session, Chapter 5  
64        **63I-1-276**, as last amended by Laws of Utah 2024, Third Special Session, Chapter 5  
65        **63I-2-276**, as last amended by Laws of Utah 2024, Third Special Session, Chapter 5  
66        **63M-7-220**, as enacted by Laws of Utah 2024, Chapter 506  
67        **72-10-901**, as renumbered and amended by Laws of Utah 2023, Chapter 216  
68        **73-29-102**, as last amended by Laws of Utah 2023, Chapter 34  
69        **76-3-203.1**, as last amended by Laws of Utah 2024, Chapter 96  
70        **76-3-203.3**, as last amended by Laws of Utah 2024, Chapters 96, 381  
71        **76-3-203.5**, as last amended by Laws of Utah 2024, Chapters 96, 179  
72        **76-3-402**, as last amended by Laws of Utah 2024, Chapter 234  
73        **76-5-102.8**, as last amended by Laws of Utah 2022, Chapter 181  
74        **76-5-202**, as last amended by Laws of Utah 2022, Chapter 181  
75        **76-5-203**, as last amended by Laws of Utah 2024, Chapters 96, 187  
76        **76-8-311.1**, as last amended by Laws of Utah 2024, Chapter 96  
77        **76-8-311.2**, as enacted by Laws of Utah 2024, Chapter 96  
78        **76-8-311.3**, as last amended by Laws of Utah 2024, Chapters 96, 99  
79        **76-8-311.4**, as enacted by Laws of Utah 2024, Chapter 96  
80        **76-8-311.6**, as enacted by Laws of Utah 2024, Chapter 96  
81        **76-8-311.7**, as enacted by Laws of Utah 2024, Chapter 96  
82        **76-9-802**, as last amended by Laws of Utah 2024, Chapter 96  
83        **76-9-804**, as last amended by Laws of Utah 2022, Chapter 181  
84        **76-9-902**, as last amended by Laws of Utah 2024, Chapter 96  
85        **76-10-306**, as last amended by Laws of Utah 2024, Chapter 343  
86        **76-10-1602**, as last amended by Laws of Utah 2024, Chapter 96  
87        **77-11a-402**, as last amended by Laws of Utah 2024, Chapter 332  
88        **77-11a-403**, as renumbered and amended by Laws of Utah 2023, Chapter 448  
89        **77-11b-102**, as last amended by Laws of Utah 2023, Chapters 415, 422 and renumbered  
90        and amended by Laws of Utah 2023, Chapter 448  
91        **77-11d-101**, as last amended by Laws of Utah 2024, Chapter 332  
92        **77-11d-105**, as last amended by Laws of Utah 2024, Chapters 332, 517  
93        **77-36-1**, as last amended by Laws of Utah 2024, Chapter 366  
94        **77-36-2.1**, as last amended by Laws of Utah 2024, Chapter 434  
95        **77-40a-205**, as enacted by Laws of Utah 2024, Chapter 180  
96        **77-40a-403**, as last amended by Laws of Utah 2024, Chapter 180

- 97           **78A-6-209**, as last amended by Laws of Utah 2024, Chapter 235
- 98           **78B-4-511**, as renumbered and amended by Laws of Utah 2008, Chapter 3
- 99           **78B-5-502**, as last amended by Laws of Utah 2021, Chapter 260
- 100          **78B-5-505**, as last amended by Laws of Utah 2021, Chapter 260
- 101          **78B-6-1107**, as last amended by Laws of Utah 2021, Chapter 207
- 102          **78B-6-2301**, as last amended by Laws of Utah 2024, Chapter 438
- 103          **80-6-103**, as last amended by Laws of Utah 2024, Chapter 532
- 104          **80-6-104**, as last amended by Laws of Utah 2024, Chapter 20
- 105          **80-6-303.5**, as last amended by Laws of Utah 2024, Chapter 301
- 106          **80-6-305**, as last amended by Laws of Utah 2023, Chapter 161
- 107          **80-6-503**, as renumbered and amended by Laws of Utah 2021, Chapter 261
- 108          **80-6-605**, as renumbered and amended by Laws of Utah 2021, Chapter 261
- 109          **80-6-712**, as last amended by Laws of Utah 2024, Chapter 153
- 110          **80-6-804**, as last amended by Laws of Utah 2024, Chapter 153
- 111          **80-6-1004.1**, as enacted by Laws of Utah 2023, Chapter 115
- 112          **80-6-1004.5**, as last amended by Laws of Utah 2024, Chapter 301

113 ENACTS:

- 114          **53-5a-101.5**, Utah Code Annotated 1953
- 115          **53-5a-102.1**, Utah Code Annotated 1953
- 116          **53-5a-102.2**, Utah Code Annotated 1953
- 117          **53-5a-601**, Utah Code Annotated 1953
- 118          **76-11-201**, Utah Code Annotated 1953
- 119          **76-11-203**, Utah Code Annotated 1953
- 120          **76-11-205.5**, Utah Code Annotated 1953
- 121          **76-11-206**, Utah Code Annotated 1953
- 122          **76-11-216**, Utah Code Annotated 1953
- 123          **76-11-220**, Utah Code Annotated 1953
- 124          **76-11-301**, Utah Code Annotated 1953
- 125          **76-11-302**, Utah Code Annotated 1953
- 126          **76-11-303**, Utah Code Annotated 1953
- 127          **76-11-304**, Utah Code Annotated 1953
- 128          **76-11-305**, Utah Code Annotated 1953
- 129          **76-11-306**, Utah Code Annotated 1953
- 130          **76-11-307**, Utah Code Annotated 1953

131           **76-11-308**, Utah Code Annotated 1953  
132    RENUMBERS AND AMENDS:  
133           **53-5a-102.3**, (Renumbered from 76-10-511, as last amended by Laws of Utah 2009,  
134    Chapter 362)  
135           **53-5a-105**, (Renumbered from 76-10-520, as last amended by Laws of Utah 1993,  
136    Chapter 234)  
137           **53-5a-106**, (Renumbered from 76-10-522, as last amended by Laws of Utah 1993,  
138    Chapter 234)  
139           **53-5a-107**, (Renumbered from 76-10-523.5, as last amended by Laws of Utah 2008,  
140    Chapter 3)  
141           **53-5a-108**, (Renumbered from 76-10-523, as last amended by Laws of Utah 2021,  
142    Chapter 12)  
143           **53-5a-301**, (Renumbered from 53-5-702, as last amended by Laws of Utah 2024,  
144    Chapter 22)  
145           **53-5a-302**, (Renumbered from 53-5-703, as last amended by Laws of Utah 2010,  
146    Chapters 62, 286 and 324)  
147           **53-5a-303**, (Renumbered from 53-5-704, as last amended by Laws of Utah 2024,  
148    Chapter 195)  
149           **53-5a-304**, (Renumbered from 53-5-704.5, as enacted by Laws of Utah 2017,  
150    Chapter 286)  
151           **53-5a-305**, (Renumbered from 53-5-705, as last amended by Laws of Utah 2010,  
152    Chapter 62)  
153           **53-5a-306**, (Renumbered from 53-5-706, as last amended by Laws of Utah 2018,  
154    Chapter 417)  
155           **53-5a-307**, (Renumbered from 53-5-707, as last amended by Laws of Utah 2023,  
156    Chapters 328, 387)  
157           **53-5a-308**, (Renumbered from 53-5-707.5, as last amended by Laws of Utah 2018,  
158    Chapter 417)  
159           **53-5a-309**, (Renumbered from 53-5-707.6, as last amended by Laws of Utah 2022,  
160    Chapter 255)  
161           **53-5a-310**, (Renumbered from 53-5-708, as last amended by Laws of Utah 2023,  
162    Chapter 16)  
163           **53-5a-311**, (Renumbered from 53-5-711, as last amended by Laws of Utah 2019,  
164    Chapter 39)

165           **53-5a-312**, (Renumbered from 53-5-712, as enacted by Laws of Utah 2014, Chapter  
166           147)  
167           **53-5a-401**, (Renumbered from 53-5b-103, as enacted by Laws of Utah 2010, Chapter  
168           5)  
169           **53-5a-402**, (Renumbered from 53-5b-102, as enacted by Laws of Utah 2010, Chapter  
170           5)  
171           **53-5a-403**, (Renumbered from 53-5b-201, as enacted by Laws of Utah 2010, Chapter  
172           5)  
173           **53-5a-404**, (Renumbered from 53-5b-202, as enacted by Laws of Utah 2010, Chapter  
174           5)  
175           **53-5a-501**, (Renumbered from 53-5c-102, as last amended by Laws of Utah 2023,  
176           Chapters 138, 405)  
177           **53-5a-502**, (Renumbered from 53-5c-201, as last amended by Laws of Utah 2023,  
178           Chapters 138, 448)  
179           **53-5a-503**, (Renumbered from 53-5c-202, as last amended by Laws of Utah 2023,  
180           Chapter 448)  
181           **53-5a-504**, (Renumbered from 53-5c-301, as last amended by Laws of Utah 2024,  
182           Chapter 204)  
183           **53-5a-505**, (Renumbered from 53-5c-302, as last amended by Laws of Utah 2024,  
184           Chapter 204)  
185           **53-5a-602**, (Renumbered from 76-10-526, as last amended by Laws of Utah 2023,  
186           Chapters 330, 397)  
187           **53-5a-603**, (Renumbered from 76-10-526.1, as enacted by Laws of Utah 2023,  
188           Chapter 398)  
189           **53-5a-604**, (Renumbered from 76-10-527, as last amended by Laws of Utah 2009,  
190           Chapter 20)  
191           **53-5a-605**, (Renumbered from 76-10-524, as last amended by Laws of Utah 2004,  
192           Chapter 360)  
193           **76-11-101**, (Renumbered from 76-10-501, as last amended by Laws of Utah 2023,  
194           Chapters 161, 397 and 425)  
195           **76-11-102**, (Renumbered from 76-10-502, as last amended by Laws of Utah 1990,  
196           Chapter 328)  
197           **76-11-202**, (Renumbered from 76-10-504, as last amended by Laws of Utah 2023,  
198           Chapter 34)

199        **76-11-204**, (Renumbered from 76-10-505, as last amended by Laws of Utah 2021,  
200        Chapter 12)  
201        **76-11-205**, (Renumbered from 76-10-505.5, as last amended by Laws of Utah 2024,  
202        Chapters 21, 117 and 301)  
203        **76-11-207**, (Renumbered from 76-10-506, as last amended by Laws of Utah 2019,  
204        Chapters 39, 201)  
205        **76-11-208**, (Renumbered from 76-10-507, as last amended by Laws of Utah 2015,  
206        Chapter 406)  
207        **76-11-209**, (Renumbered from 76-10-508, as last amended by Laws of Utah 2023,  
208        Chapter 34)  
209        **76-11-210**, (Renumbered from 76-10-508.1, as last amended by Laws of Utah 2023,  
210        Chapter 34)  
211        **76-11-211**, (Renumbered from 76-10-509.4, as last amended by Laws of Utah 2024,  
212        Chapter 301)  
213        **76-11-212**, (Renumbered from 76-10-509.5, as last amended by Laws of Utah 2013,  
214        Chapter 301)  
215        **76-11-213**, (Renumbered from 76-10-509.6, as last amended by Laws of Utah 2000,  
216        Chapter 303)  
217        **76-11-214**, (Renumbered from 76-10-509.7, as last amended by Laws of Utah 2024,  
218        Chapter 301)  
219        **76-11-215**, (Renumbered from 76-10-509.9, as enacted by Laws of Utah 1993,  
220        Second Special Session, Chapters 13, 13)  
221        **76-11-217**, (Renumbered from 76-10-528, as last amended by Laws of Utah 2023,  
222        Chapters 330, 386)  
223        **76-11-218**, (Renumbered from 76-10-529, as last amended by Laws of Utah 2024,  
224        Chapter 332)  
225        **76-11-219**, (Renumbered from 76-10-530, as last amended by Laws of Utah 2009,  
226        Chapter 388)  
227        **76-11-309**, (Renumbered from 76-10-503.1, as last amended by Laws of Utah 2023,  
228        Chapter 203)  
229        **76-11-310**, (Renumbered from 76-10-532, as last amended by Laws of Utah 2023,  
230        Chapter 425)  
231        REPEALS:  
232        **53-5-701**, as last amended by Laws of Utah 2010, Chapter 62

233 **53-5-710**, as last amended by Laws of Utah 2021, Chapter 141  
 234 **53-5b-101**, as enacted by Laws of Utah 2010, Chapter 5  
 235 **76-10-500**, as last amended by Laws of Utah 2022, Chapter 428  
 236 **76-10-503**, as last amended by Laws of Utah 2023, First Special Session, Chapter 2  
 237 **76-10-512**, as last amended by Laws of Utah 2024, Chapter 301  
 238 **76-10-521**, as last amended by Laws of Utah 1993, Chapter 234

239 **Utah Code Sections affected by Coordination Clause:**

240 **76-10-503**, as last amended by Laws of Utah 2023, First Special Session, Chapter 2

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

243 Section 1. Section **13-74-101** is amended to read:

244 **13-74-101 . Definitions.**

- 245 (1) "Ammunition" means ammunition or cartridge cases, primers, bullets, or propellant  
 246 powder designed for use in a firearm.
- 247 (2) "Customer" means an individual who presents a payment card to a merchant for the  
 248 purchase of a good or service.
- 249 (3) "Financial entity" means any person involved in facilitating or processing a payment  
 250 card transaction, including:  
 251 (a) a payment card network;  
 252 (b) a merchant acquirer; or  
 253 (c) a payment facilitator.
- 254 (4) "Firearm" means the same as that term is defined in Section [~~76-10-504~~] 76-11-101.
- 255 (5)(a) "Firearm accessory or component" means a device specifically adapted to:  
 256 (i) enable the wearing or carrying about one's person or the storage or mounting in or  
 257 on any conveyance of a firearm; or  
 258 (ii) be inserted into or affixed to a firearm to enable, alter, or improve the functioning  
 259 or capabilities of the firearm.
- 260 (b) "Firearm accessory or component" includes a telescopic or laser sight, magazine,  
 261 flash or sound suppressor, folding or aftermarket stock or grip, speedloader, brace,  
 262 ammunition carrier, or light for target illumination.
- 263 (6) "Firearms code" means the merchant category code 5723, approved in September 2022  
 264 by the International Organization for Standardization, for firearms retailers.
- 265 (7) "Firearms retailer" means a merchant engaged in the lawful business of selling or  
 266 trading firearms, firearm accessories or components, or ammunition.



267 (8) "Merchant" means a person physically located in the state who accepts a payment card  
 268 from a customer for the purchase of a good or service.

269 (9) "Payment card" means a card, code, or other means by which a person may debit a  
 270 deposit account or use a line of credit to purchase a good or service.

271 (10) "Reloading supplies" means any equipment, component, or material designed for the  
 272 reloading of ammunition, including reloading presses, shell holders, powder measures,  
 273 priming tools, reloading manuals, casings, and gunpowder.

274 Section 2. Section **23A-4-1106** is amended to read:

275 **23A-4-1106 . Suspension of license or permit privileges -- Suspension of**  
 276 **certificates of registration.**

277 (1) As used in this section:

278 (a) "License or permit privileges" means the privilege of applying for, purchasing, and  
 279 exercising the benefits conferred by a license or permit issued by the division.

280 (b) "Livestock guardian dog" means the same as that term is defined in Section 76-6-111.

281 (2) A hearing officer, appointed by the division, may suspend a person's license or permit  
 282 privileges if:

283 (a) in a court of law, the person:

284 (i) is convicted of:

285 (A) violating this title or a rule of the Wildlife Board;

286 (B) killing or injuring domestic livestock or a livestock guardian dog while  
 287 engaged in an activity regulated under this title;

288 (C) violating Section 76-6-111; or

289 (D) violating Section [~~76-10-508~~] 76-11-209 while engaged in an activity  
 290 regulated under this title;

291 (ii) enters into a plea in abeyance agreement, in which the person pleads guilty or no  
 292 contest to an offense listed in Subsection (2)(a)(i), and the plea is held in  
 293 abeyance; or

294 (iii) is charged with committing an offense listed in Subsection (2)(a)(i), and the  
 295 person enters into a diversion agreement which suspends the prosecution of the  
 296 offense; and

297 (b) the hearing officer determines the person committed the offense intentionally,  
 298 knowingly, or recklessly, as defined in Section 76-2-103.

299 (3)(a) The Wildlife Board shall make rules establishing guidelines that a hearing officer  
 300 shall consider in determining:

- 301 (i) the type of license or permit privileges to suspend; and  
302 (ii) the duration of the suspension.
- 303 (b) The Wildlife Board shall ensure that the guidelines established under Subsection  
304 (3)(a) are consistent with Subsections (4), (5), and (6).
- 305 (4) Except as provided in Subsections (5) and (6), a hearing officer may suspend a person's  
306 license or permit privileges according to Subsection (2) for a period of time not to  
307 exceed:
- 308 (a) seven years for:
- 309 (i) a felony conviction;  
310 (ii) a plea of guilty or no contest to an offense punishable as a felony, which plea is  
311 held in abeyance pursuant to a plea in abeyance agreement; or  
312 (iii) being charged with an offense punishable as a felony, the prosecution of which is  
313 suspended pursuant to a diversion agreement;
- 314 (b) five years for:
- 315 (i) a class A misdemeanor conviction;  
316 (ii) a plea of guilty or no contest to an offense punishable as a class A misdemeanor,  
317 which plea is held in abeyance pursuant to a plea in abeyance agreement; or  
318 (iii) being charged with an offense punishable as a class A misdemeanor, the  
319 prosecution of which is suspended pursuant to a diversion agreement;
- 320 (c) three years for:
- 321 (i) a class B misdemeanor conviction;  
322 (ii) a plea of guilty or no contest to an offense punishable as a class B misdemeanor  
323 when the plea is held in abeyance according to a plea in abeyance agreement; or  
324 (iii) being charged with an offense punishable as a class B misdemeanor, the  
325 prosecution of which is suspended pursuant to a diversion agreement; and
- 326 (d) one year for:
- 327 (i) a class C misdemeanor conviction;  
328 (ii) a plea of guilty or no contest to an offense punishable as a class C misdemeanor,  
329 when the plea is held in abeyance according to a plea in abeyance agreement; or  
330 (iii) being charged with an offense punishable as a class C misdemeanor, the  
331 prosecution of which is suspended according to a diversion agreement.
- 332 (5) The hearing officer may double a suspension period established in Subsection (4) for  
333 offenses:
- 334 (a) committed in violation of an existing suspension or revocation order issued by the

- 335 courts, division, or Wildlife Board; or
- 336 (b) involving the unlawful taking of a trophy animal, as defined in Section 23A-1-101.
- 337 (6)(a) A hearing officer may suspend, according to Subsection (2), a person's license or
- 338 permit privileges for a particular license or permit only once for each single criminal
- 339 episode, as defined in Section 76-1-401.
- 340 (b) If a hearing officer addresses two or more single criminal episodes in a hearing, the
- 341 suspension periods of license or permit privileges of the same type suspended,
- 342 according to Subsection (2), may run consecutively.
- 343 (c) If a hearing officer suspends, according to Subsection (2), license or permit
- 344 privileges of the type that have been previously suspended by a court, a hearing
- 345 officer, or the Wildlife Board and the suspension period has not expired, the
- 346 suspension periods may run consecutively.
- 347 (7)(a) A hearing officer, appointed by the division, may suspend a person's privilege of
- 348 applying for, purchasing, and exercising the benefits conferred by a certificate of
- 349 registration if:
- 350 (i) the hearing officer determines the person intentionally, knowingly, or recklessly,
- 351 as defined in Section 76-2-103, violated:
- 352 (A) this title;
- 353 (B) a rule or order of the Wildlife Board;
- 354 (C) the terms of a certificate of registration; or
- 355 (D) the terms of a certificate of registration application or agreement; or
- 356 (ii) the person, in a court of law:
- 357 (A) is convicted of an offense that the hearing officer determines bears a
- 358 reasonable relationship to the person's ability to safely and responsibly perform
- 359 the activities authorized by the certificate of registration;
- 360 (B) pleads guilty or no contest to an offense that the hearing officer determines
- 361 bears a reasonable relationship to the person's ability to safely and responsibly
- 362 perform the activities authorized by the certificate of registration, and the plea
- 363 is held in abeyance in accordance with a plea in abeyance agreement; or
- 364 (C) is charged with an offense that the hearing officer determines bears a
- 365 reasonable relationship to the person's ability to safely and responsibly perform
- 366 the activities authorized by the certificate of registration, and prosecution of the
- 367 offense is suspended in accordance with a diversion agreement.
- 368 (b) A hearing officer shall suspend a certificate of registration for the harvesting of brine

- 369 shrimp eggs, as defined in Section 59-23-3, if the hearing officer determines the  
370 holder of the certificate of registration has violated Section 59-23-5.
- 371 (8)(a) The director shall appoint a qualified person as a hearing officer to perform the  
372 adjudicative functions provided in this section.
- 373 (b) The director may not appoint a division employee who investigates or enforces  
374 wildlife violations.
- 375 (9)(a) The courts may suspend, in criminal sentencing, a person's privilege to apply for,  
376 purchase, or exercise the benefits conferred by a license, permit, or certificate of  
377 registration.
- 378 (b) The courts shall promptly notify the division of suspension orders or  
379 recommendations entered.
- 380 (c) The division, upon receiving notification of suspension from the courts, shall prohibit  
381 the person from applying for, purchasing, or exercising the benefits conferred by a  
382 license, permit, or certification of registration for the duration and of the type  
383 specified in the court order.
- 384 (d) The hearing officer shall consider a recommendation made by a sentencing court  
385 concerning suspension before issuing a suspension order.
- 386 (10) Before suspension under this section, the division shall give a person:
- 387 (a) written notice of action the division intends to take; and  
388 (b) an opportunity for a hearing.
- 389 (11)(a) A person may file an appeal of a hearing officer's decision with the Wildlife  
390 Board.
- 391 (b) The Wildlife Board shall review the hearing officer's findings and conclusions and  
392 any written documentation submitted at the hearing.
- 393 (c) The Wildlife Board may:
- 394 (i) take no action;  
395 (ii) vacate or remand the decision; or  
396 (iii) amend the period or type of suspension.
- 397 (12) The division shall suspend and reinstate all hunting, fishing, trapping, and falconry  
398 privileges consistent with Chapter 2, Part 5, Wildlife Violator Compact.
- 399 (13) Within 30 days after the day on which an individual's privilege to hunt or fish is  
400 suspended under this title, the division shall report to the Division of Professional  
401 Licensing the:
- 402 (a) identifying information for the individual; and

403 (b) time period of the suspension.

404 (14) The Wildlife Board may make rules to implement this section in accordance with Title  
405 63G, Chapter 3, Utah Administrative Rulemaking Act.

406 Section 3. Section **26B-1-326** is amended to read:

407 **26B-1-326 . Suicide Prevention and Education Fund.**

408 (1) There is created an expendable special revenue fund known as the Suicide Prevention  
409 and Education Fund.

410 (2) The fund shall consist of funds transferred from the Concealed Weapons Account in  
411 accordance with [~~Subsection 53-5-707(5)(d)~~] Section 53-5a-307.

412 (3) Money in the fund shall be used for suicide prevention efforts that include a focus on  
413 firearm safety as related to suicide prevention.

414 (4) The Office of Substance Use and Mental Health shall establish a process by rule in  
415 accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, for the  
416 expenditure of money from the fund.

417 Section 4. Section **26B-2-120** is amended to read:

418 **26B-2-120 . Background check -- Direct access to children or vulnerable adults.**

419 (1) As used in this section:

420 (a)(i) "Applicant" means an individual who is associated with a certification,  
421 contract, or licensee with the department under this part and has direct access,  
422 including:

423 (A) an adoptive parent or prospective adoptive parent, including an applicant for  
424 an adoption in accordance with Section 78B-6-128;

425 (B) a foster parent or prospective foster parent;

426 (C) an individual who provides respite care to a foster parent or an adoptive parent  
427 on more than one occasion;

428 (D) an individual who transports a child for a youth transportation company;

429 (E) an individual who provides certified peer support, as defined in Section  
430 26B-5-610;

431 (F) an individual who provides peer supports, has a disability or a family member  
432 with a disability, or is in recovery from a mental illness or a substance use  
433 disorder;

434 (G) an individual who has lived experience with the services provided by the  
435 department, and uses that lived experience to provide support, guidance, or  
436 services to promote resiliency and recovery;

- 437 (H) an individual who is identified as a mental health professional, licensed under  
438 Title 58, Chapter 60, Mental Health Professional Practice Act, and engaged in  
439 the practice of mental health therapy, as defined in Section 58-60-102;
- 440 (I) an individual, other than the child or vulnerable adult receiving the service,  
441 who is 12 years old or older and resides in a home, that is licensed or certified  
442 by the division;
- 443 (J) an individual who is 12 years old or older and is associated with a certification,  
444 contract, or licensee with the department under this part and has or will likely  
445 have direct access;
- 446 (K) a foster home licensee that submits an application for an annual background  
447 screening as required by Subsection 26B-2-105(4)(d)(iii); or
- 448 (L) a short-term relief care provider.
- 449 (ii) "Applicant" does not include:
- 450 (A) an individual who is in the custody of the Division of Child and Family  
451 Services or the Division of Juvenile Justice and Youth Services;
- 452 (B) an individual who applies for employment with, or is employed by, the  
453 Department of Health and Human Services;
- 454 (C) a parent of a person receiving services from the Division of Services for  
455 People with Disabilities, if the parent provides direct care to and resides with  
456 the person, including if the parent provides direct care to and resides with the  
457 person pursuant to a court order; or
- 458 (D) an individual or a department contractor who provides services in an adults  
459 only substance use disorder program, as defined by rule adopted by the  
460 Department of Health and Human Services in accordance with Title 63G,  
461 Chapter 3, Utah Administrative Rulemaking Act, and who is not a program  
462 director or a member, as defined by Section 26B-2-105, of the program.
- 463 (b) "Application" means a background check application to the office.
- 464 (c) "Bureau" means the Bureau of Criminal Identification within the Department of  
465 Public Safety, created in Section 53-10-201.
- 466 (d) "Criminal finding" means a record of:
- 467 (i) an arrest for a criminal offense;
- 468 (ii) a warrant for a criminal arrest;
- 469 (iii) charges for a criminal offense; or
- 470 (iv) a criminal conviction.

- 471 (e) "Direct access" means that an individual has, or likely will have:
- 472 (i) contact with or access to a child or vulnerable adult by which the individual will
- 473 have the opportunity for personal communication or touch with the child or
- 474 vulnerable adult; or
- 475 (ii) an opportunity to view medical, financial, or other confidential personal
- 476 identifying information of the child, the child's parent or legal guardian, or the
- 477 vulnerable adult.
- 478 (f)(i) "Direct access qualified" means that the applicant has an eligible determination
- 479 by the office within the license and renewal time period; and
- 480 (ii) no more than 180 days have passed since the date on which the applicant's
- 481 association with a certification, contract, or licensee with the department expires.
- 482 (g) "Incidental care" means occasional care, not in excess of five hours per week and
- 483 never overnight, for a foster child.
- 484 (h) "Licensee" means an individual or a human services program licensed by the
- 485 division.
- 486 (i) "Non-criminal finding" means a record maintained in:
- 487 (i) the Division of Child and Family Services' Management Information System
- 488 described in Section 80-2-1001;
- 489 (ii) the Division of Child and Family Services' Licensing Information System
- 490 described in Section 80-2-1002;
- 491 (iii) the Division of Aging and Adult Services' vulnerable adult abuse, neglect, or
- 492 exploitation database described in Section 26B-6-210;
- 493 (iv) juvenile court arrest, adjudication, and disposition records;
- 494 (v) the Sex, Kidnap, and Child Abuse Offender Registry described in Title 77,
- 495 Chapter 41, Sex, Kidnap, and Child Abuse Offender Registry, or a national sex
- 496 offender registry; or
- 497 (vi) a state child abuse or neglect registry.
- 498 (j) "Office" means the Office of Background Processing within the department.
- 499 (k) "Personal identifying information" means:
- 500 (i) current name, former names, nicknames, and aliases;
- 501 (ii) date of birth;
- 502 (iii) physical address and email address;
- 503 (iv) telephone number;
- 504 (v) driver license or other government-issued identification;

- 505 (vi) social security number;
- 506 (vii) only for applicants who are 18 years old or older, fingerprints, in a form
- 507 specified by the office; and
- 508 (viii) other information specified by the office by rule made in accordance with Title
- 509 63G, Chapter 3, Utah Administrative Rulemaking Act.
- 510 (2) Except as provided in Subsection (12), an applicant or a representative shall submit the
- 511 following to the office:
- 512 (a) personal identifying information;
- 513 (b) a fee established by the office under Section 63J-1-504;
- 514 (c) a disclosure form, specified by the office, for consent for:
- 515 (i) an initial background check upon association with a certification, contract, or
- 516 licensee with the department;
- 517 (ii) ongoing monitoring of fingerprints and registries until no longer associated with a
- 518 certification, contract, or licensee with the department for 180 days;
- 519 (iii) a background check when the office determines that reasonable cause exists; and
- 520 (iv) retention of personal identifying information, including fingerprints, for
- 521 monitoring and notification as described in Subsections (3)(c) and (4);
- 522 (d) if an applicant resided outside of the United States and its territories during the five
- 523 years immediately preceding the day on which the information described in
- 524 Subsections (2)(a) through (c) is submitted to the office, documentation establishing
- 525 whether the applicant was convicted of a crime during the time that the applicant
- 526 resided outside of the United States or its territories; and
- 527 (e) an application showing an applicant's association with a certification, contract, or a
- 528 licensee with the department, for the purpose of the office tracking the direct access
- 529 qualified status of the applicant, which expires 180 days after the date on which the
- 530 applicant is no longer associated with a certification, contract, or a licensee with the
- 531 department.
- 532 (3) The office:
- 533 (a) shall perform the following duties as part of a background check of an applicant
- 534 before the office grants or denies direct access qualified status to an applicant:
- 535 (i) check state and regional criminal background databases for the applicant's
- 536 criminal history by:
- 537 (A) submitting personal identifying information to the bureau for a search; or
- 538 (B) using the applicant's personal identifying information to search state and



- 539 regional criminal background databases as authorized under Section 53-10-108;
- 540 (ii) submit the applicant's personal identifying information and fingerprints to the  
541 bureau for a criminal history search of applicable national criminal background  
542 databases;
- 543 (iii) search the Division of Child and Family Services' Licensing Information System  
544 described in Section 80-2-1002;
- 545 (iv) search the Sex, Kidnap, and Child Abuse Offender Registry described in Title  
546 77, Chapter 41, Sex, Kidnap, and Child Abuse Offender Registry, or a national  
547 sex offender registry for an applicant 18 years old or older;
- 548 (v) if the applicant is associated with a licensee for a prospective foster or adoptive  
549 parent, search the Division of Child and Family Services' Management  
550 Information System described in Section 80-2-1001;
- 551 (vi) search the Division of Aging and Adult Services' vulnerable adult abuse, neglect,  
552 or exploitation database described in Section 26B-6-210;
- 553 (vii) search the juvenile court records for substantiated findings of severe child abuse  
554 or neglect described in Section 80-3-404; and
- 555 (viii) search the juvenile court arrest, adjudication, and disposition records, as  
556 provided under Section 78A-6-209;
- 557 (b) may conduct all or portions of a background check in connection with determining  
558 whether an applicant is direct access qualified, as provided by rule, made by the  
559 office in accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act:
- 560 (i) for an annual renewal; or  
561 (ii) when the office determines that reasonable cause exists;
- 562 (c) may submit an applicant's personal identifying information, including fingerprints, to  
563 the bureau for checking, retaining, and monitoring of state and national criminal  
564 background databases and for notifying the office of new criminal activity associated  
565 with the applicant;
- 566 (d) shall track the status of an applicant under this section to ensure that the applicant is  
567 not required to duplicate the submission of the applicant's fingerprints if the applicant  
568 is associated with more than one certification, contract, or licensee with the  
569 department;
- 570 (e) shall notify the bureau when a direct access qualified individual has not been  
571 associated with a certification, contract, or licensee with the department for a period  
572 of 180 days;

- 573 (f) shall adopt measures to strictly limit access to personal identifying information solely  
574 to the individuals responsible for processing and entering the applications for  
575 background checks and to protect the security of the personal identifying information  
576 the office reviews under this Subsection (3);
- 577 (g) as necessary to comply with the federal requirement to check a state's child abuse  
578 and neglect registry regarding any applicant working in a congregate care program,  
579 shall:
- 580 (i) search the Division of Child and Family Services' Licensing Information System  
581 described in Section 80-2-1002; and
- 582 (ii) require the child abuse and neglect registry be checked in each state where an  
583 applicant resided at any time during the five years immediately preceding the day  
584 on which the application is submitted to the office; and
- 585 (h) shall make rules, in accordance with Title 63G, Chapter 3, Utah Administrative  
586 Rulemaking Act, to implement the provisions of this Subsection (3) relating to  
587 background checks.
- 588 (4)(a) With the personal identifying information the office submits to the bureau under  
589 Subsection (3), the bureau shall check against state and regional criminal background  
590 databases for the applicant's criminal history.
- 591 (b) With the personal identifying information and fingerprints the office submits to the  
592 bureau under Subsection (3), the bureau shall check against national criminal  
593 background databases for the applicant's criminal history.
- 594 (c) Upon direction from the office, and with the personal identifying information and  
595 fingerprints the office submits to the bureau under Subsection (3)(c), the bureau shall:
- 596 (i) maintain a separate file of the fingerprints for search by future submissions to the  
597 local and regional criminal records databases, including latent prints; and
- 598 (ii) monitor state and regional criminal background databases and identify criminal  
599 activity associated with the applicant.
- 600 (d) The bureau is authorized to submit the fingerprints to the Federal Bureau of  
601 Investigation Next Generation Identification System, to be retained in the Federal  
602 Bureau of Investigation Next Generation Identification System for the purpose of:
- 603 (i) being searched by future submissions to the national criminal records databases,  
604 including the Federal Bureau of Investigation Next Generation Identification  
605 System and latent prints; and
- 606 (ii) monitoring national criminal background databases and identifying criminal

- 607 activity associated with the applicant.
- 608 (e) The [~~Bureau~~] bureau shall notify and release to the office all information of criminal  
609 activity associated with the applicant.
- 610 (f) Upon notice that an individual who has direct access qualified status will no longer  
611 be associated with a certification, contract, or licensee with the department, the  
612 bureau shall:
- 613 (i) discard and destroy any retained fingerprints; and
- 614 (ii) notify the Federal Bureau of Investigation when the license has expired or an  
615 individual's direct access to a child or a vulnerable adult has ceased, so that the  
616 Federal Bureau of Investigation will discard and destroy the retained fingerprints  
617 from the Federal Bureau of Investigation Next Generation Identification System.
- 618 (5)(a) Except as provided in Subsection (5)(b), the office shall deny direct access  
619 qualified status to an applicant who, within three years from the date on which the  
620 office conducts the background check, was convicted of:
- 621 (i) a felony or misdemeanor involving conduct that constitutes any of the following:
- 622 (A) an offense identified as domestic violence, lewdness, voyeurism, battery,  
623 cruelty to animals, or bestiality;
- 624 (B) a violation of any pornography law, including sexual exploitation of a minor  
625 or aggravated sexual exploitation of a minor;
- 626 (C) sexual solicitation or prostitution;
- 627 (D) a violent offense committed in the presence of a child, as described in Section  
628 76-3-203.10;
- 629 (E) an offense included in Title 76, Chapter 4, Part 4, Enticement of a Minor;
- 630 (F) an offense included in Title 76, Chapter 5, Offenses Against the Individual;
- 631 (G) an offense included in Title 76, Chapter 5b, Sexual Exploitation Act;
- 632 (H) an offense included in Title 76, Chapter 7, Offenses Against the Family;
- 633 (I) an offense included in Title 76, Chapter 9, Part 4, Offenses Against Privacy;
- 634 (J) an offense included in Title 76, Chapter 10, Part 4, Weapons of Mass  
635 Destruction;
- 636 (K) an offense included in Title 78B, Chapter 7, Protective Orders and Stalking  
637 Injunctions;
- 638 (L) aggravated arson, as described in Section 76-6-103;
- 639 (M) aggravated burglary, as described in Section 76-6-203;
- 640 (N) aggravated exploitation of prostitution, as described in Section 76-10-1306;

- 641 (O) aggravated robbery, as described in Section 76-6-302;
- 642 (P) endangering persons in a human services program, as described in Section  
643 26B-2-113;
- 644 (Q) failure to report, as described in Section 80-2-609;
- 645 (R) identity fraud crime, as described in Section 76-6-1102;
- 646 (S) leaving a child unattended in a motor vehicle, as described in Section  
647 76-10-2202;
- 648 (T) riot, as described in Section 76-9-101;
- 649 (U) sexual battery, as described in Section 76-9-702.1; or
- 650 (V) threatening with or using a dangerous weapon in a fight or quarrel, as  
651 described in Section [~~76-10-506~~] 76-11-207; or
- 652 (ii) a felony or misdemeanor offense committed outside of the state that, if committed  
653 in the state, would constitute a violation of an offense described in Subsection  
654 (5)(a)(i).
- 655 (b)(i) Subsection (5)(a) does not apply to an applicant who is seeking a position as a  
656 peer support provider or a mental health professional, if the applicant provides  
657 services in a program that serves only adults with a primary mental health  
658 diagnosis, with or without a co-occurring substance use disorder.
- 659 (ii) The office shall conduct a comprehensive review of an applicant described in  
660 Subsection (5)(b)(i) in accordance with Subsection (7).
- 661 (c) The office shall deny direct access qualified status to an applicant if the office finds  
662 that a court order prohibits the applicant from having direct access to a child or  
663 vulnerable adult.
- 664 (6) The office shall conduct a comprehensive review of an applicant's background check if  
665 the applicant:
- 666 (a) has a felony or class A misdemeanor conviction that is more than three years from  
667 the date on which the office conducts the background check, for an offense described  
668 in Subsection (5)(a);
- 669 (b) has a felony charge or conviction that is no more than 10 years from the date on  
670 which the office conducts the background check for an offense not described in  
671 Subsection (5)(a);
- 672 (c) has a felony charge or conviction that is more than 10 years from the date on which  
673 the office conducts the background check, for an offense not described in Subsection  
674 (5)(a), with criminal or non-criminal findings after the date of the felony charge or

- 675 conviction;
- 676 (d) has a class B misdemeanor or class C misdemeanor conviction that is more than  
677 three years and no more than 10 years from the date on which the office conducts the  
678 background check for an offense described in Subsection (5)(a);
- 679 (e) has a class B misdemeanor or class C misdemeanor conviction that is more than 10  
680 years from the date on which the office conducts the background check, for an  
681 offense described in Subsection (5)(a), with criminal or non-criminal findings after  
682 the date of conviction;
- 683 (f) has a misdemeanor charge or conviction that is no more than three years from the  
684 date on which the office conducts the background check for an offense not described  
685 in Subsection (5)(a);
- 686 (g) has a misdemeanor charge or conviction that is more than three years from the date  
687 on which the office conducts the background check, for an offense not described in  
688 Subsection (5)(a), with criminal or non-criminal findings after the date of charge or  
689 conviction;
- 690 (h) is currently subject to a plea in abeyance or diversion agreement for an offense  
691 described in Subsection (5)(a);
- 692 (i) appears on the Sex, Kidnap, and Child Abuse Offender Registry described in Title  
693 77, Chapter 41, Sex, Kidnap, and Child Abuse Offender Registry, or a national sex  
694 offender registry;
- 695 (j) has a record of an adjudication in juvenile court for an act that, if committed by an  
696 adult, would be a felony or misdemeanor, if the applicant is:
- 697 (i) under 28 years old; or
- 698 (ii) 28 years old or older and has been convicted of, has pleaded no contest to, or is  
699 currently subject to a plea in abeyance or diversion agreement for a felony or a  
700 misdemeanor offense described in Subsection (5)(a);
- 701 (k) has a pending charge for an offense described in Subsection (5)(a);
- 702 (l) has a listing that occurred no more than 15 years from the date on which the office  
703 conducts the background check in the Division of Child and Family Services'  
704 Licensing Information System described in Section 80-2-1002;
- 705 (m) has a listing that occurred more than 15 years from the date on which the office  
706 conducts the background check in the Division of Child and Family Services'  
707 Licensing Information System described in Section 80-2-1002, with criminal or  
708 non-criminal findings after the date of the listing;

- 709 (n) has a listing that occurred no more than 15 years from the date on which the office  
710 conducts the background check in the Division of Aging and Adult Services'  
711 vulnerable adult abuse, neglect, or exploitation database described in Section  
712 26B-6-210;
- 713 (o) has a listing that occurred more than 15 years from the date on which the office  
714 conducts the background check in the Division of Aging and Adult Services'  
715 vulnerable adult abuse, neglect, or exploitation database described in Section  
716 26B-6-210, with criminal or non-criminal findings after the date of the listing;
- 717 (p) has a substantiated finding that occurred no more than 15 years from the date on  
718 which the office conducts the background check of severe child abuse or neglect  
719 under Section 80-3-404 or 80-3-504[-]; or
- 720 (q) has a substantiated finding that occurred more than 15 years from the date on which  
721 the office conducts the background check of severe child abuse or neglect under  
722 Section 80-3-404 or 80-3-504, with criminal or non-criminal findings after the date of  
723 the listing.
- 724 (7)(a) The comprehensive review shall include an examination of:
- 725 (i) the date of the offense or incident;
- 726 (ii) the nature and seriousness of the offense or incident;
- 727 (iii) the circumstances under which the offense or incident occurred;
- 728 (iv) the age of the perpetrator when the offense or incident occurred;
- 729 (v) whether the offense or incident was an isolated or repeated incident;
- 730 (vi) whether the offense or incident directly relates to abuse of a child or vulnerable  
731 adult, including:
- 732 (A) actual or threatened, nonaccidental physical, mental, or financial harm;
- 733 (B) sexual abuse;
- 734 (C) sexual exploitation; or
- 735 (D) negligent treatment;
- 736 (vii) any evidence provided by the applicant of rehabilitation, counseling, psychiatric  
737 treatment received, or additional academic or vocational schooling completed;
- 738 (viii) the applicant's risk of harm to clientele in the program or in the capacity for  
739 which the applicant is applying; and
- 740 (ix) if the background check of an applicant is being conducted for the purpose of  
741 giving direct access qualified status to an applicant seeking a position in a  
742 congregate care program or to become a prospective foster or adoptive parent, any

- 743 listing in the Division of Child and Family Services' Management Information  
744 System described in Section 80-2-1001.
- 745 (b) At the conclusion of the comprehensive review, the office shall deny direct access  
746 qualified status to an applicant if the office finds the approval would likely create a  
747 risk of harm to a child or vulnerable adult.
- 748 (8) The office shall grant direct access qualified status to an applicant who is not denied  
749 under this section.
- 750 (9)(a) The office may conditionally grant direct access qualified status to an applicant,  
751 for a maximum of 60 days after the day on which the office sends written notice,  
752 without requiring that the applicant be directly supervised, if the office:
- 753 (i) is awaiting the results of the criminal history search of national criminal  
754 background databases; and
- 755 (ii) would otherwise grant direct access qualified status to the applicant under this  
756 section.
- 757 (b) The office may conditionally grant direct access qualified status to an applicant, for a  
758 maximum of one year after the day on which the office sends written notice, without  
759 requiring that the applicant be directly supervised if the office:
- 760 (i) is awaiting the results of an out-of-state registry for providers other than foster and  
761 adoptive parents; and
- 762 (ii) would otherwise grant direct access qualified status to the applicant under this  
763 section.
- 764 (c) Upon receiving the results of the criminal history search of a national criminal  
765 background database, the office shall grant or deny direct access qualified status to  
766 the applicant in accordance with this section.
- 767 (10)(a) Each time an applicant is associated with a licensee, the department shall review  
768 the current status of the applicant's background check to ensure the applicant is still  
769 eligible for direct access qualified status in accordance with this section.
- 770 (b) A licensee may not permit an individual to have direct access to a child or a  
771 vulnerable adult without being directly supervised unless:
- 772 (i) the individual is the parent or guardian of the child, or the guardian of the  
773 vulnerable adult;
- 774 (ii) the individual is approved by the parent or guardian of the child, or the guardian  
775 of the vulnerable adult, to have direct access to the child or the vulnerable adult;
- 776 (iii) the individual is only permitted to have direct access to a vulnerable adult who

- 777 voluntarily invites the individual to visit; or
- 778 (iv) the individual only provides incidental care for a foster child on behalf of a foster  
779 parent who has used reasonable and prudent judgment to select the individual to  
780 provide the incidental care for the foster child.
- 781 (c) Notwithstanding any other provision of this section, an applicant who is denied direct  
782 access qualified status shall not have direct access to a child or vulnerable adult  
783 unless the office grants direct access qualified status to the applicant through a  
784 subsequent application in accordance with this section.
- 785 (11) If the office denies direct access qualified status to an applicant, the applicant may  
786 request a hearing in the department's Office of Administrative Hearings to challenge the  
787 office's decision.
- 788 (12)(a) This Subsection (12) applies to an applicant associated with a certification,  
789 contract, or licensee serving adults only.
- 790 (b) A program director or a member, as defined in Section 26B-2-105, of the licensee  
791 shall comply with this section.
- 792 (c) The office shall conduct a comprehensive review for an applicant if:
- 793 (i) the applicant is seeking a position:
- 794 (A) as a peer support provider;
- 795 (B) as a mental health professional; or
- 796 (C) in a program that serves only adults with a primary mental health diagnosis,  
797 with or without a co-occurring substance use disorder; and
- 798 (ii) within three years from the date on which the office conducts the background  
799 check, the applicant has a felony or misdemeanor charge or conviction or a  
800 non-criminal finding.
- 801 (13)(a) This Subsection (13) applies to an applicant seeking a position in a congregate  
802 care program, an applicant seeking to provide a prospective foster home, an applicant  
803 seeking to provide a prospective adoptive home, and each adult living in the home of  
804 the prospective foster or prospective adoptive home.
- 805 (b) As federally required, the office shall:
- 806 (i) check the child abuse and neglect registry in each state where each applicant  
807 resided in the five years immediately preceding the day on which the applicant  
808 applied to be a foster or adoptive parent, to determine whether the prospective  
809 foster or adoptive parent is listed in the registry as having a substantiated or  
810 supported finding of child abuse or neglect; and



- 811 (ii) except for applicants seeking a position in a congregate care program, check the  
812 child abuse and neglect registry in each state where each adult living in the home  
813 of the prospective foster or adoptive home resided in the five years immediately  
814 preceding the day on which the applicant applied to be a foster or adoptive parent,  
815 to determine whether the adult is listed in the registry as having a substantiated or  
816 supported finding of child abuse or neglect.
- 817 (c) The requirements described in Subsection (13)(b) do not apply to the extent that:
- 818 (i) federal law or rule permits otherwise; or
- 819 (ii) the requirements would prohibit the Division of Child and Family Services or a  
820 court from placing a child with:
- 821 (A) a noncustodial parent under Section 80-2a-301, 80-3-302, or 80-3-303; or
- 822 (B) a relative, other than a noncustodial parent, under Section 80-2a-301, 80-3-302,  
823 or 80-3-303, pending completion of the background check described in  
824 Subsections (5), (6), and (7).
- 825 (d) Notwithstanding Subsections (5) through (10), the office shall deny direct access  
826 qualified status if the applicant has been convicted of:
- 827 (i) a felony involving conduct that constitutes any of the following:
- 828 (A) child abuse, as described in Sections 76-5-109, 76-5-109.2, and 76-5-109.3;
- 829 (B) commission of domestic violence in the presence of a child, as described in  
830 Section 76-5-114;
- 831 (C) abuse or neglect of a child with a disability, as described in Section 76-5-110;
- 832 (D) intentional aggravated abuse of a vulnerable adult, as described in Section  
833 76-5-111;
- 834 (E) endangerment of a child or vulnerable adult, as described in Section  
835 76-5-112.5;
- 836 (F) aggravated murder, as described in Section 76-5-202;
- 837 (G) murder, as described in Section 76-5-203;
- 838 (H) manslaughter, as described in Section 76-5-205;
- 839 (I) child abuse homicide, as described in Section 76-5-208;
- 840 (J) homicide by assault, as described in Section 76-5-209;
- 841 (K) kidnapping, as described in Section 76-5-301;
- 842 (L) child kidnapping, as described in Section 76-5-301.1;
- 843 (M) aggravated kidnapping, as described in Section 76-5-302;
- 844 (N) human trafficking of a child, as described in Section 76-5-308.5;

- 845 (O) an offense described in Title 76, Chapter 5, Part 4, Sexual Offenses;  
846 (P) sexual exploitation of a minor, as described in Title 76, Chapter 5b, Sexual  
847 Exploitation Act;  
848 (Q) aggravated exploitation of a minor, as described in Section 76-5b-201.1;  
849 (R) aggravated arson, as described in Section 76-6-103;  
850 (S) aggravated burglary, as described in Section 76-6-203;  
851 (T) aggravated robbery, as described in Section 76-6-302;  
852 (U) lewdness involving a child, as described in Section 76-9-702.5;  
853 (V) incest, as described in Section 76-7-102; or  
854 (W) domestic violence, as described in Section 77-36-1; or  
855 (ii) an offense committed outside the state that, if committed in the state, would  
856 constitute a violation of an offense described in Subsection (13)(d)(i).
- 857 (e) Notwithstanding Subsections (5) through (10), the office shall deny direct access  
858 qualified status to an applicant if, within the five years from the date on which the  
859 office conducts the background check, the applicant was convicted of a felony  
860 involving conduct that constitutes a violation of any of the following:
- 861 (i) aggravated assault, as described in Section 76-5-103;  
862 (ii) aggravated assault by a prisoner, as described in Section 76-5-103.5;  
863 (iii) mayhem, as described in Section 76-5-105;  
864 (iv) an offense described in Title 58, Chapter 37, Utah Controlled Substances Act;  
865 (v) an offense described in Title 58, Chapter 37a, Utah Drug Paraphernalia Act;  
866 (vi) an offense described in Title 58, Chapter 37b, Imitation Controlled Substances  
867 Act;  
868 (vii) an offense described in Title 58, Chapter 37c, Utah Controlled Substance  
869 Precursor Act; or  
870 (viii) an offense described in Title 58, Chapter 37d, Clandestine Drug Lab Act.
- 871 (f) In addition to the circumstances described in Subsection (6), the office shall conduct  
872 a comprehensive review of an applicant's background check under this section if the  
873 applicant:
- 874 (i) has an offense described in Subsection (5)(a);  
875 (ii) has an infraction conviction entered on a date that is no more than three years  
876 before the date on which the office conducts the background check;  
877 (iii) has a listing in the Division of Child and Family Services' Licensing Information  
878 System described in Section 80-2-1002;

- 879 (iv) has a listing in the Division of Aging and Adult Services' vulnerable adult,  
 880 neglect, or exploitation database described in Section 26B-2-210;  
 881 (v) has a substantiated finding of severe child abuse or neglect under Section  
 882 80-3-404 or 80-3-504; or  
 883 (vi) has a listing on the registry check described in Subsection (13)(b) as having a  
 884 substantiated or supported finding of a severe type of child abuse or neglect, as  
 885 defined in Section 80-1-102.

886 (14) In accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, the  
 887 office may make rules, consistent with this part, to:

- 888 (a) establish procedures for, and information to be examined in, the comprehensive  
 889 review described in Subsections (6), (7), and (13); and  
 890 (b) determine whether to consider an offense or incident that occurred while an  
 891 individual was in the custody of the Division of Child and Family Services or the  
 892 Division of Juvenile Justice and Youth Services for purposes of granting or denying  
 893 direct access qualified status to an applicant.

894 Section 5. Section **26B-5-102** is amended to read:

895 **26B-5-102 . Division of Integrated Healthcare -- Office of Substance Use and**  
 896 **Mental Health -- Creation -- Responsibilities.**

- 897 (1)(a) The Division of Integrated Healthcare shall exercise responsibility over the  
 898 policymaking functions, regulatory and enforcement powers, rights, duties, and  
 899 responsibilities outlined in state law that were previously vested in the Division of  
 900 Substance Abuse and Mental Health within the department, under the administration  
 901 and general supervision of the executive director.  
 902 (b) The division is the substance abuse authority and the mental health authority for this  
 903 state.  
 904 (c) There is created the Office of Substance Use and Mental Health within the division.  
 905 (d) The office shall exercise the responsibilities, powers, rights, duties, and  
 906 responsibilities assigned to the office by the executive director.  
 907 (2) The division shall:  
 908 (a)(i) educate the general public regarding the nature and consequences of substance  
 909 use by promoting school and community-based prevention programs;  
 910 (ii) render support and assistance to public schools through approved school-based  
 911 substance abuse education programs aimed at prevention of substance use;  
 912 (iii) promote or establish programs for the prevention of substance use within the

- 913 community setting through community-based prevention programs;
- 914 (iv) cooperate with and assist treatment centers, recovery residences, and other  
915 organizations that provide services to individuals recovering from a substance use  
916 disorder, by identifying and disseminating information about effective practices  
917 and programs;
- 918 (v) promote integrated programs that address an individual's substance use, mental  
919 health, and physical health;
- 920 (vi) establish and promote an evidence-based continuum of screening, assessment,  
921 prevention, treatment, and recovery support services in the community for  
922 individuals with a substance use disorder or mental illness;
- 923 (vii) evaluate the effectiveness of programs described in this Subsection (2);
- 924 (viii) consider the impact of the programs described in this Subsection (2) on:
- 925 (A) emergency department utilization;
- 926 (B) jail and prison populations;
- 927 (C) the homeless population; and
- 928 (D) the child welfare system; and
- 929 (ix) promote or establish programs for education and certification of instructors to  
930 educate individuals convicted of driving under the influence of alcohol or drugs or  
931 driving with any measurable controlled substance in the body;
- 932 (b)(i) collect and disseminate information pertaining to mental health;
- 933 (ii) provide direction over the state hospital including approval of the state hospital's  
934 budget, administrative policy, and coordination of services with local service  
935 plans;
- 936 (iii) make rules in accordance with Title 63G, Chapter 3, Utah Administrative  
937 Rulemaking Act, to educate families concerning mental illness and promote  
938 family involvement, when appropriate, and with patient consent, in the treatment  
939 program of a family member;
- 940 (iv) make rules in accordance with Title 63G, Chapter 3, Utah Administrative  
941 Rulemaking Act, to direct that an individual receiving services through a local  
942 mental health authority or the Utah State Hospital be informed about and, if  
943 desired by the individual, provided assistance in the completion of a declaration  
944 for mental health treatment in accordance with Section 26B-5-313; and
- 945 (v) to the extent authorized and in accordance with statute, make rules in accordance  
946 with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, that:

- 947 (A) create a certification for targeted case management;
- 948 (B) establish training and certification requirements;
- 949 (C) specify the types of services each certificate holder is qualified to provide;
- 950 (D) specify the type of supervision under which a certificate holder is required to
- 951 operate; and
- 952 (E) specify continuing education and other requirements for maintaining or
- 953 renewing certification;
- 954 (c)(i) consult and coordinate with local substance abuse authorities and local mental
- 955 health authorities regarding programs and services;
- 956 (ii) provide consultation and other assistance to public and private agencies and
- 957 groups working on substance use and mental health issues;
- 958 (iii) promote and establish cooperative relationships with courts, hospitals, clinics,
- 959 medical and social agencies, public health authorities, law enforcement agencies,
- 960 education and research organizations, and other related groups;
- 961 (iv) promote or conduct research on substance use and mental health issues, and
- 962 submit to the governor and the Legislature recommendations for changes in policy
- 963 and legislation;
- 964 (v) receive, distribute, and provide direction over public funds for substance use and
- 965 mental health services;
- 966 (vi) monitor and evaluate programs provided by local substance abuse authorities and
- 967 local mental health authorities;
- 968 (vii) examine expenditures of local, state, and federal funds;
- 969 (viii) monitor the expenditure of public funds by:
- 970 (A) local substance abuse authorities;
- 971 (B) local mental health authorities; and
- 972 (C) in counties where they exist, a private contract provider that has an annual or
- 973 otherwise ongoing contract to provide comprehensive substance abuse or
- 974 mental health programs or services for the local substance abuse authority or
- 975 local mental health authority;
- 976 (ix) contract with local substance abuse authorities and local mental health authorities
- 977 to provide a comprehensive continuum of services that include community-based
- 978 services for individuals involved in the criminal justice system, in accordance with
- 979 division policy, contract provisions, and the local plan;
- 980 (x) contract with private and public entities for special statewide or nonclinical

- 981 services, or services for individuals involved in the criminal justice system,  
982 according to division rules;
- 983 (xi) review and approve each local substance abuse authority's plan and each local  
984 mental health authority's plan in order to ensure:
- 985 (A) a statewide comprehensive continuum of substance use services;  
986 (B) a statewide comprehensive continuum of mental health services;  
987 (C) services result in improved overall health and functioning;  
988 (D) a statewide comprehensive continuum of community-based services designed  
989 to reduce criminal risk factors for individuals who are determined to have  
990 substance use or mental illness conditions or both, and who are involved in the  
991 criminal justice system;
- 992 (E) compliance, where appropriate, with the certification requirements in  
993 Subsection (2)(h); and  
994 (F) appropriate expenditure of public funds;
- 995 (xii) review and make recommendations regarding each local substance abuse  
996 authority's contract with the local substance abuse authority's provider of  
997 substance use programs and services and each local mental health authority's  
998 contract with the local mental health authority's provider of mental health  
999 programs and services to ensure compliance with state and federal law and policy;
- 1000 (xiii) monitor and ensure compliance with division rules and contract requirements;  
1001 and
- 1002 (xiv) withhold funds from local substance abuse authorities, local mental health  
1003 authorities, and public and private providers for contract noncompliance, failure to  
1004 comply with division directives regarding the use of public funds, or for misuse of  
1005 public funds or money;
- 1006 (d) ensure that the requirements of this part are met and applied uniformly by local  
1007 substance abuse authorities and local mental health authorities across the state;
- 1008 (e) require each local substance abuse authority and each local mental health authority,  
1009 in accordance with Subsections 17-43-201(5)(b) and 17-43-301(6)(a)(ii), to submit a  
1010 plan to the division on or before May 15 of each year;
- 1011 (f) conduct an annual program audit and review of each local substance abuse authority  
1012 and each local substance abuse authority's contract provider, and each local mental  
1013 health authority and each local mental health authority's contract provider, including:  
1014 (i) a review and determination regarding whether:

- 1015 (A) public funds allocated to the local substance abuse authority or the local  
1016 mental health authorities are consistent with services rendered by the authority  
1017 or the authority's contract provider, and with outcomes reported by the  
1018 authority's contract provider; and
- 1019 (B) each local substance abuse authority and each local mental health authority is  
1020 exercising sufficient oversight and control over public funds allocated for  
1021 substance use disorder and mental health programs and services; and
- 1022 (ii) items determined by the division to be necessary and appropriate;
- 1023 (g) define "prevention" by rule as required under Title 32B, Chapter 2, Part 4, Alcoholic  
1024 Beverage and Substance Abuse Enforcement and Treatment Restricted Account Act;
- 1025 (h)(i) train and certify an adult as a peer support specialist, qualified to provide peer  
1026 supports services to an individual with:
- 1027 (A) a substance use disorder;
- 1028 (B) a mental health disorder; or
- 1029 (C) a substance use disorder and a mental health disorder;
- 1030 (ii) certify a person to carry out, as needed, the division's duty to train and certify an  
1031 adult as a peer support specialist;
- 1032 (iii) make rules in accordance with Title 63G, Chapter 3, Utah Administrative  
1033 Rulemaking Act, that:
- 1034 (A) establish training and certification requirements for a peer support specialist;
- 1035 (B) specify the types of services a peer support specialist is qualified to provide;
- 1036 (C) specify the type of supervision under which a peer support specialist is  
1037 required to operate; and
- 1038 (D) specify continuing education and other requirements for maintaining or  
1039 renewing certification as a peer support specialist; and
- 1040 (iv) make rules in accordance with Title 63G, Chapter 3, Utah Administrative  
1041 Rulemaking Act, that:
- 1042 (A) establish the requirements for a person to be certified to carry out, as needed,  
1043 the division's duty to train and certify an adult as a peer support specialist; and
- 1044 (B) specify how the division shall provide oversight of a person certified to train  
1045 and certify a peer support specialist;
- 1046 (i) collaborate with the State Commission on Criminal and Juvenile Justice to analyze  
1047 and provide recommendations to the Legislature regarding:
- 1048 (i) pretrial services and the resources needed to reduce recidivism;

- 1049 (ii) county jail and county behavioral health early-assessment resources needed for an  
1050 individual convicted of a class A or class B misdemeanor; and
- 1051 (iii) the replacement of federal dollars associated with drug interdiction law  
1052 enforcement task forces that are reduced;
- 1053 (j) establish performance goals and outcome measurements for a mental health or  
1054 substance use treatment program that is licensed under Chapter 2, Part 1, Human  
1055 Services Programs and Facilities, and contracts with the department, including goals  
1056 and measurements related to employment and reducing recidivism of individuals  
1057 receiving mental health or substance use treatment who are involved with the  
1058 criminal justice system;
- 1059 (k) annually, on or before November 30, submit a written report to the Judiciary Interim  
1060 Committee, the Health and Human Services Interim Committee, and the Law  
1061 Enforcement and Criminal Justice Interim Committee, that includes:
- 1062 (i) a description of the performance goals and outcome measurements described in  
1063 Subsection (2)(j); and
- 1064 (ii) information on the effectiveness of the goals and measurements in ensuring  
1065 appropriate and adequate mental health or substance use treatment is provided in a  
1066 treatment program described in Subsection (2)(j);
- 1067 (l) collaborate with the Administrative Office of the Courts, the Department of  
1068 Corrections, the Department of Workforce Services, and the Board of Pardons and  
1069 Parole to collect data on recidivism in accordance with the metrics and requirements  
1070 described in Section 63M-7-102;
- 1071 (m) at the division's discretion, use the data described in Subsection (2)(l) to make  
1072 decisions regarding the use of funds allocated to the division to provide treatment;
- 1073 (n) annually, on or before August 31, submit the data collected under Subsection (2)(l)  
1074 and any recommendations to improve the data collection to the State Commission on  
1075 Criminal and Juvenile Justice to be included in the report described in Subsection  
1076 63M-7-204(1)(x);
- 1077 (o) publish the following on the division's website:
- 1078 (i) the performance goals and outcome measurements described in Subsection (2)(j);  
1079 and
- 1080 (ii) a description of the services provided and the contact information for the mental  
1081 health and substance use treatment programs described in Subsection (2)(j) and  
1082 residential, vocational and life skills programs, as defined in Section 13-53-102;



- 1083 and
- 1084 (p) consult and coordinate with the Division of Child and Family Services to develop
- 1085 and manage the operation of a program designed to reduce substance use during
- 1086 pregnancy and by parents of a newborn child that includes:
- 1087 (i) providing education and resources to health care providers and individuals in the
- 1088 state regarding prevention of substance use during pregnancy;
- 1089 (ii) providing training to health care providers in the state regarding screening of a
- 1090 pregnant woman or pregnant minor to identify a substance use disorder; and
- 1091 (iii) providing referrals to pregnant women, pregnant minors, or parents of a newborn
- 1092 child in need of substance use treatment services to a facility that has the capacity
- 1093 to provide the treatment services.
- 1094 (3) In addition to the responsibilities described in Subsection (2), the division shall, within
- 1095 funds appropriated by the Legislature for this purpose, implement and manage the
- 1096 operation of a firearm safety and suicide prevention program, in consultation with the
- 1097 Bureau of Criminal Identification created in Section 53-10-201, including:
- 1098 (a) coordinating with local mental health and substance abuse authorities, a nonprofit
- 1099 behavioral health advocacy group, and a representative from a Utah-based nonprofit
- 1100 organization with expertise in the field of firearm use and safety that represents
- 1101 firearm owners, to:
- 1102 (i) produce and periodically review and update a firearm safety brochure and other
- 1103 educational materials with information about the safe handling and use of firearms
- 1104 that includes:
- 1105 (A) information on safe handling, storage, and use of firearms in a home
- 1106 environment;
- 1107 (B) information about at-risk individuals and individuals who are legally
- 1108 prohibited from possessing firearms;
- 1109 (C) information about suicide prevention awareness; and
- 1110 (D) information about the availability of firearm safety packets;
- 1111 (ii) procure cable-style gun locks for distribution under this section;
- 1112 (iii) produce a firearm safety packet that includes the firearm safety brochure and the
- 1113 cable-style gun lock described in this Subsection (3); and
- 1114 (iv) create a suicide prevention education course that:
- 1115 (A) provides information for distribution regarding firearm safety education;
- 1116 (B) incorporates current information on how to recognize suicidal behaviors and

- 1117 identify individuals who may be suicidal; and
- 1118 (C) provides information regarding crisis intervention resources;
- 1119 (b) distributing, free of charge, the firearm safety packet to the following persons, who
- 1120 shall make the firearm safety packet available free of charge:
- 1121 (i) health care providers, including emergency rooms;
- 1122 (ii) mobile crisis outreach teams;
- 1123 (iii) mental health practitioners;
- 1124 (iv) other public health suicide prevention organizations;
- 1125 (v) entities that teach firearm safety courses;
- 1126 (vi) school districts for use in the seminar, described in Section 53G-9-702, for
- 1127 parents of students in the school district; and
- 1128 (vii) firearm dealers to be distributed in accordance with Section ~~[76-10-526]~~
- 1129 53-5a-602;
- 1130 (c) creating and administering a rebate program that includes a rebate that offers
- 1131 between \$10 and \$200 off the purchase price of a firearm safe from a participating
- 1132 firearms dealer or a person engaged in the business of selling firearm safes in Utah,
- 1133 by a Utah resident; and
- 1134 (d) in accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act,
- 1135 making rules that establish procedures for:
- 1136 (i) producing and distributing the suicide prevention education course and the firearm
- 1137 safety brochures and packets;
- 1138 (ii) procuring the cable-style gun locks for distribution; and
- 1139 (iii) administering the rebate program.
- 1140 (4)(a) The division may refuse to contract with and may pursue legal remedies against
- 1141 any local substance abuse authority or local mental health authority that fails, or has
- 1142 failed, to expend public funds in accordance with state law, division policy, contract
- 1143 provisions, or directives issued in accordance with state law.
- 1144 (b) The division may withhold funds from a local substance abuse authority or local
- 1145 mental health authority if the authority's contract provider of substance use or mental
- 1146 health programs or services fails to comply with state and federal law or policy.
- 1147 (5)(a) Before reissuing or renewing a contract with any local substance abuse authority
- 1148 or local mental health authority, the division shall review and determine whether the
- 1149 local substance abuse authority or local mental health authority is complying with the
- 1150 oversight and management responsibilities described in Sections 17-43-201,

- 1151 17-43-203, 17-43-303, and 17-43-309.
- 1152 (b) Nothing in this Subsection (5) may be used as a defense to the responsibility and  
1153 liability described in Section 17-43-303 and to the responsibility and liability  
1154 described in Section 17-43-203.
- 1155 (6) In carrying out the division's duties and responsibilities, the division may not duplicate  
1156 treatment or educational facilities that exist in other divisions or departments of the state,  
1157 but shall work in conjunction with those divisions and departments in rendering the  
1158 treatment or educational services that those divisions and departments are competent and  
1159 able to provide.
- 1160 (7) The division may accept in the name of and on behalf of the state donations, gifts,  
1161 devises, or bequests of real or personal property or services to be used as specified by  
1162 the donor.
- 1163 (8) The division shall annually review with each local substance abuse authority and each  
1164 local mental health authority the authority's statutory and contract responsibilities  
1165 regarding:
- 1166 (a) use of public funds;  
1167 (b) oversight of public funds; and  
1168 (c) governance of substance use disorder and mental health programs and services.
- 1169 (9) The Legislature may refuse to appropriate funds to the division upon the division's  
1170 failure to comply with the provisions of this part.
- 1171 (10) If a local substance abuse authority contacts the division under Subsection 17-43-201  
1172 (10) for assistance in providing treatment services to a pregnant woman or pregnant  
1173 minor, the division shall:
- 1174 (a) refer the pregnant woman or pregnant minor to a treatment facility that has the  
1175 capacity to provide the treatment services; or  
1176 (b) otherwise ensure that treatment services are made available to the pregnant woman  
1177 or pregnant minor.
- 1178 (11) The division shall employ a school-based mental health specialist to be housed at the  
1179 State Board of Education who shall work with the State Board of Education to:
- 1180 (a) provide coordination between a local education agency and local mental health  
1181 authority;  
1182 (b) recommend evidence-based and evidence informed mental health screenings and  
1183 intervention assessments for a local education agency; and  
1184 (c) coordinate with the local community, including local departments of health, to

1185 enhance and expand mental health related resources for a local education agency.

1186 Section 6. Section **31A-21-501** is amended to read:

1187 **31A-21-501 . Definitions.**

1188 For purposes of this part:

1189 (1) "Applicant" means:

1190 (a) in the case of an individual life or accident and health policy, the person who seeks to  
1191 contract for insurance benefits; or

1192 (b) in the case of a group life or accident and health policy, the proposed certificate  
1193 holder.

1194 (2) "Cohabitant" means an emancipated individual pursuant to Section 15-2-1 or an  
1195 individual who is 16 years old or older who:

1196 (a) is or was a spouse of the other party;

1197 (b) is or was living as if a spouse of the other party;

1198 (c) is related by blood or marriage to the other party;

1199 (d) has one or more children in common with the other party; or

1200 (e) resides or has resided in the same residence as the other party.

1201 (3) "Child abuse" means the commission or attempt to commit against a child a criminal  
1202 offense described in:

1203 (a) Title 76, Chapter 5, Part 1, Assault and Related Offenses;

1204 (b) Title 76, Chapter 5, Part 4, Sexual Offenses;

1205 (c) Section 76-9-702, Lewdness;

1206 (d) Section 76-9-702.1, Sexual battery; or

1207 (e) Section 76-9-702.5, Lewdness involving a child.

1208 (4) "Domestic violence" means any criminal offense involving violence or physical harm or  
1209 threat of violence or physical harm, or any attempt, conspiracy, or solicitation to commit  
1210 a criminal offense involving violence or physical harm, when committed by one  
1211 cohabitant against another and includes commission or attempt to commit, any of the  
1212 following offenses by one cohabitant against another:

1213 (a) aggravated assault, as described in Section 76-5-103;

1214 (b) assault, as described in Section 76-5-102;

1215 (c) criminal homicide, as described in Section 76-5-201;

1216 (d) harassment, as described in Section 76-5-106;

1217 (e) electronic communication harassment, as described in Section 76-9-201;

1218 (f) kidnapping, child kidnapping, or aggravated kidnapping, as described in Sections

- 1219 76-5-301, 76-5-301.1, and 76-5-302;
- 1220 (g) mayhem, as described in Section 76-5-105;
- 1221 (h) sexual offenses, as described in Title 76, Chapter 5, Part 4, Sexual Offenses, and
- 1222 Sections 76-5b-201 and 76-5b-201.1;
- 1223 (i) stalking, as described in Section 76-5-106.5;
- 1224 (j) unlawful detention or unlawful detention of a minor, as described in Section 76-5-304;
- 1225 (k) violation of a protective order or ex parte protective order, as described in Section
- 1226 76-5-108;
- 1227 (l) any offense against property described in Title 76, Chapter 6, Part 1, Property
- 1228 Destruction, Part 2, Burglary and Criminal Trespass, or Part 3, Robbery;
- 1229 (m) possession of a [~~deadly~~] dangerous weapon with [~~intent to assault~~] criminal intent, as
- 1230 described in Section [~~76-10-507~~] 76-11-208; or
- 1231 (n) discharge of a firearm from a vehicle, near a highway, or in the direction of any [
- 1232 ~~person~~] individual, building, or vehicle, as described in Section [~~76-10-508~~] 76-11-209.
- 1233 (5) "Subject of domestic abuse" means an individual who is, has been, may currently be, or
- 1234 may have been subject to domestic violence or child abuse.
- 1235 Section 7. Section **34-45-102** is amended to read:
- 1236 **34-45-102 . Definitions.**
- 1237 As used in this chapter:
- 1238 (1) "Firearm" has the same meaning as provided in Section [~~76-10-501~~] 76-11-101.
- 1239 (2) "Motor vehicle" has the same meaning as provided in Section 41-1a-102.
- 1240 (3) "Person" means an individual, property owner, landlord, tenant, employer, business
- 1241 entity, or other legal entity.
- 1242 Section 8. Section **34-45-107** is amended to read:
- 1243 **34-45-107 . Exemptions -- Limitations on chapter -- School premises --**
- 1244 **Government entities -- Religious organizations -- Single family detached residential units.**
- 1245 (1)(a) School premises, as defined in Subsection 76-3-203.2(1), are exempt from the
- 1246 provisions of this chapter.
- 1247 (b) [~~Possession of a firearm on or about school premises~~] Carrying a dangerous weapon
- 1248 at an elementary school or secondary school is subject to the provisions of Section [
- 1249 ~~76-10-505.5~~] 76-11-205.
- 1250 (2) Government entities, including a local authority or state entity, are subject to the
- 1251 requirements of [~~Title 53, Chapter 5a, Firearm Laws~~] Title 53, Chapter 5a, Firearms Laws,
- 1252 but are otherwise exempt from the provisions of this chapter.

- 1253 (3) Religious organizations, including religious organizations acting as an employer, are  
1254 exempt from, and are not subject to the provisions of this chapter.
- 1255 (4) Owner-occupied single family detached residential units and tenant-occupied single  
1256 family detached residential units are exempt from the provisions of this chapter.
- 1257 (5) A person who is subject to federal law that specifically forbids the presence of a firearm  
1258 on property designated for motor vehicle parking, or a person who is subject to Section  
1259 550 of the United States Department of Homeland Security Appropriations Act of 2007,  
1260 Pub. L. No. 109-295 or regulations enacted in accordance with that section, is exempt  
1261 from Section 34-45-103 if:
- 1262 (a) providing alternative parking or a storage location under Subsection 34-45-103(2)(a)  
1263 would pose an undue burden on the person; and
- 1264 (b) the person files a statement with the attorney general citing the federal law that  
1265 forbids the presence of a firearm and detailing the reasons why providing alternative  
1266 parking or a storage location poses an undue burden.
- 1267 (6) A person who is subject to Section 550 of the United States Department of Homeland  
1268 Security Appropriations Act of 2007, Pub. L. No. 109-295 or regulations enacted in  
1269 accordance with that section is exempt from this chapter if:
- 1270 (a) the person has attempted to provide alternative parking or a storage location in  
1271 accordance with Subsection 34-45-103(2)(a);
- 1272 (b) the secretary of the federal Department of Homeland Security notifies the person that  
1273 the provision of alternative parking or a storage location causes the person to be out  
1274 of compliance with Section 550 of the United States Department of Homeland  
1275 Security Appropriations Act of 2007, Pub. L. No. 109-295 or regulations enacted in  
1276 accordance with that section and the person may be subject to punitive measures; and
- 1277 (c) the person files a detailed statement with the attorney general notifying the attorney  
1278 general of the facts under Subsections (6)(a) and (b).
- 1279 Section 9. Section **36-29-111** is amended to read:
- 1280 **36-29-111 . Public Safety Data Management Task Force.**
- 1281 (1) As used in this section:
- 1282 (a) "Cohabitant abuse protective order" means an order issued with or without notice to  
1283 the respondent in accordance with Title 78B, Chapter 7, Part 6, Cohabitant Abuse  
1284 Protective Orders.
- 1285 (b) "Lethality assessment" means an evidence-based assessment that is intended to  
1286 identify a victim of domestic violence who is at a high risk of being killed by the

- 1287 perpetrator.
- 1288 (c) "Task force" means the Public Safety Data Management Task Force created in this  
1289 section.
- 1290 (d) "Victim" means an individual who is a victim of domestic violence, as defined in  
1291 Section 77-36-1.
- 1292 (2) There is created the Public Safety Data Management Task Force consisting of the  
1293 following members:
- 1294 (a) three members of the Senate appointed by the president of the Senate, no more than  
1295 two of whom may be from the same political party;
- 1296 (b) three members of the House of Representatives appointed by the speaker of the  
1297 House of Representatives, no more than two of whom may be from the same political  
1298 party; and
- 1299 (c) representatives from the following organizations as requested by the executive  
1300 director of the State Commission on Criminal and Juvenile Justice:
- 1301 (i) the State Commission on Criminal and Juvenile Justice;
- 1302 (ii) the Judicial Council;
- 1303 (iii) the Statewide Association of Prosecutors;
- 1304 (iv) the Department of Corrections;
- 1305 (v) the Department of Public Safety;
- 1306 (vi) the Utah Association of Counties;
- 1307 (vii) the Utah Chiefs of Police Association;
- 1308 (viii) the Utah Sheriffs Association;
- 1309 (ix) the Board of Pardons and Parole;
- 1310 (x) the Department of Health and Human Services;
- 1311 (xi) the Utah Division of Indian Affairs; and
- 1312 (xii) any other organizations or groups as recommended by the executive director of  
1313 the Commission on Criminal and Juvenile Justice.
- 1314 (3)(a) The president of the Senate shall designate a member of the Senate appointed  
1315 under Subsection (2)(a) as a cochair of the task force.
- 1316 (b) The speaker of the House of Representatives shall designate a member of the House  
1317 of Representatives appointed under Subsection (2)(b) as a cochair of the task force.
- 1318 (4)(a) A majority of the members of the task force present at a meeting constitutes a  
1319 quorum.
- 1320 (b) The action of a majority of a quorum constitutes an action of the task force.

- 1321 (5)(a) Salaries and expenses of the members of the task force who are legislators shall be  
1322 paid in accordance with Section 36-2-2 and Legislative Joint Rules, Title 5, Chapter  
1323 3, Legislator Compensation.
- 1324 (b) A member of the task force who is not a legislator:
- 1325 (i) may not receive compensation for the member's work associated with the task  
1326 force; and
- 1327 (ii) may receive per diem and reimbursement for travel expenses incurred as a  
1328 member of the task force at the rates established by the Division of Finance under  
1329 Sections 63A-3-106 and 63A-3-107.
- 1330 (6) The State Commission on Criminal and Juvenile Justice shall provide staff support to  
1331 the task force.
- 1332 (7) The task force shall review the state's current criminal justice data collection  
1333 requirements and make recommendations regarding:
- 1334 (a) possible ways to connect the various records systems used throughout the state so  
1335 that data can be shared between criminal justice agencies and with policymakers;
- 1336 (b) ways to automate the collection, storage, and dissemination of the data;
- 1337 (c) standardizing the format of data collection and retention;
- 1338 (d) the collection of domestic violence data in the state; and
- 1339 (e) the collection of data not already required related to criminal justice.
- 1340 (8) On or before November 30 of each year, the task force shall provide a report to the Law  
1341 Enforcement and Criminal Justice Interim Committee and the Legislative Management  
1342 Committee that includes:
- 1343 (a) recommendations in accordance with Subsection (7)(a);
- 1344 (b) information on:
- 1345 (i) lethality assessments conducted in the state, including:
- 1346 (A) the type of lethality assessments used by law enforcement agencies and other  
1347 organizations that provide domestic violence services; and
- 1348 (B) training and protocols implemented by law enforcement agencies and the  
1349 organizations described in Subsection (8)(b)(i)(A) regarding the use of lethality  
1350 assessments;
- 1351 (ii) the data collection efforts implemented by law enforcement agencies and the  
1352 organizations described in Subsection (8)(b)(i)(A);
- 1353 (iii) the number of cohabitant abuse protective orders that, in the immediately  
1354 preceding calendar year, were:



- 1355 (A) issued;
- 1356 (B) amended or dismissed before the date of expiration; or
- 1357 (C) dismissed under Section 78B-7-605; and
- 1358 (iv) the prevalence of domestic violence in the state and the prevalence of the
- 1359 following in domestic violence cases:
- 1360 (A) stalking;
- 1361 (B) strangulation;
- 1362 (C) violence in the presence of a child; and
- 1363 (D) threats of suicide or homicide;
- 1364 (c) a review of and feedback on:
- 1365 (i) lethality assessment training and protocols implemented by law enforcement
- 1366 agencies and the organizations described in Subsection (8)(b)(i)(A); and
- 1367 (ii) the collection of domestic violence data in the state, including:
- 1368 (A) the coordination between state, local, and not-for-profit agencies to collect
- 1369 data from lethality assessments and on the prevalence of domestic violence,
- 1370 including the number of voluntary commitments of firearms under Section [
- 1371 53-5c-201] 53-5a-502;
- 1372 (B) efforts to standardize the format for collecting domestic violence and lethality
- 1373 assessment data from state, local, and not-for-profit agencies within federal
- 1374 confidentiality requirements; and
- 1375 (C) the need for any additional data collection requirements or efforts; and
- 1376 (d) any proposed legislation.

1377 Section 10. Section **47-3-305** is amended to read:

1378 **47-3-305 . Exceptions and prohibitions.**

- 1379 (1) This part does not apply to:
- 1380 (a) shooting ranges that are otherwise open to the public;
- 1381 (b) shooting ranges that are operated as a public shooting range staffed by and operated
- 1382 by Division of Wildlife Resources;
- 1383 (c) the Utah National Guard ranges located at Camp Williams and the Salt Lake
- 1384 International Airport;
- 1385 (d) Department of Corrections ranges; and
- 1386 (e) ranges owned, operated, or currently leased as of March 26, 2013, by a state or local
- 1387 public safety agency.
- 1388 (2) Firearms may not be allowed in a school building, except under the provision of Section [

1389 76-10-505.5] 76-11-205 or 76-11-205.5, unless there is an outdoor entrance to the  
1390 shooting range and the most direct access to the range is used. An outdoor entrance to a  
1391 shooting range may not be blocked by fences, structures, or gates for the purpose of  
1392 blocking the outdoor entrance.

1393 (3) Only air guns may be used in public ranges where the ventilation systems do not meet  
1394 current OSHA standards as applied to the duration of exposure of the participants. For  
1395 the purposes of this part, an air gun does not include larger caliber pneumatic weapons,  
1396 paintball guns, or air shotguns.

1397 (4) Group range use is a lawful, approved activity under Subsection [76-10-505.5(4)(a)]  
1398 76-11-205(4)(f) or 76-11-205.5(4)(g).

1399 Section 11. Section **53-1-104** is amended to read:

1400 **53-1-104 . Boards, bureaus, councils, divisions, and offices.**

1401 (1) The following are the policymaking boards and committees within the department:

- 1402 (a) the Trauma System and Emergency Medical Services Committee created in Section  
1403 53-2d-104;
- 1404 (b) the Air Ambulance Committee created in Section 53-2d-107;
- 1405 (c) the Driver License Medical Advisory Board, created in Section 53-3-303;
- 1406 (d) the Concealed Firearm Review Board, created in Section [53-5-703] 53-5a-302;
- 1407 (e) the Utah Fire Prevention Board, created in Section 53-7-203;
- 1408 (f) the Liquified Petroleum Gas Board, created in Section 53-7-304; and
- 1409 (g) the Bail Bond Recovery and Private Investigator Licensure Board created in Section  
1410 53-11-104.

1411 (2) The Peace Officer Standards and Training Council, created in Section 53-6-106, is  
1412 within the department.

1413 (3) The following are the divisions within the department:

- 1414 (a) the Administrative Services Division, created in Section 53-1-203;
- 1415 (b) the Management Information Services Division, created in Section 53-1-303;
- 1416 (c) the Division of Emergency Management, created in Section 53-2a-103;
- 1417 (d) the Driver License Division, created in Section 53-3-103;
- 1418 (e) the Criminal Investigations and Technical Services Division, created in Section  
1419 53-10-103;
- 1420 (f) the Peace Officer Standards and Training Division, created in Section 53-6-103;
- 1421 (g) the State Fire Marshal Division, created in Section 53-7-103; and
- 1422 (h) the Utah Highway Patrol Division, created in Section 53-8-103.

1423 (4) The Office of Executive Protection is created in Section 53-1-112.

1424 (5) The following are the bureaus within the department:

1425 (a) the Bureau of Emergency Medical Services, created in Section 53-2d-102;

1426 (b) the Bureau of Criminal Identification, created in Section 53-10-201;

1427 (c) the State Bureau of Investigation, created in Section 53-10-301;

1428 (d) the Bureau of Forensic Services, created in Section 53-10-401; and

1429 (e) the Bureau of Communications, created in Section 53-10-501.

1430 Section 12. Section **53-2a-214** is amended to read:

1431 **53-2a-214 . Prohibition of restrictions on and confiscation of a firearm or**  
 1432 **ammunition during an emergency.**

1433 (1) As used in this section:

1434 (a)(i) "Confiscate" means for an individual in Utah to intentionally deprive another of  
 1435 a privately owned firearm.

1436 (ii) "Confiscate" does not include the taking of a firearm from an individual:

1437 (A) in self-defense;

1438 (B) possessing a firearm while the individual is committing a felony or  
 1439 misdemeanor; or

1440 (C) who may not, under state or federal law, possess the firearm.

1441 (b) "Firearm" has the same meaning as defined in Section [~~76-10-501~~] 76-11-101.

1442 (2) During a declared state of emergency or local emergency under this part:

1443 (a) neither the governor nor an agency of a governmental entity or political subdivision  
 1444 of the state may impose restrictions, which were not in force before the declared state  
 1445 of emergency, on the lawful possession, transfer, sale, transport, storage, display, or  
 1446 use of a firearm or ammunition; and

1447 (b) an individual, while acting or purporting to act on behalf of the state or a political  
 1448 subdivision of the state, may not confiscate a privately owned firearm of another  
 1449 individual.

1450 (3) A law or regulation passed during a declared state of emergency that does not relate  
 1451 specifically to the lawful possession or use of a firearm and that has attached criminal  
 1452 penalties may not be used to justify the confiscation of a firearm from an individual  
 1453 acting in defense of self, property, or others when on:

1454 (a) the individual's private property; or

1455 (b) the private property of another as an invitee.

1456 (4)(a) An individual who has a firearm confiscated in violation of Subsection (2) may

- 1457 bring a civil action in a court having the appropriate jurisdiction:
- 1458 (i) for damages, in the maximum amount of \$10,000, against a person who violates
- 1459 Subsection (2);
- 1460 (ii) for a civil penalty, in the amount of \$5,000 per violation, against a person who
- 1461 violates Subsection (2); and
- 1462 (iii) for return of the confiscated firearm.
- 1463 (b) As used in this Subsection (4), "person" means an individual, the governmental
- 1464 entity on whose behalf the individual is acting or purporting to act, or both the
- 1465 individual and the governmental entity.
- 1466 (5)(a) A law enforcement officer is not subject to disciplinary action for refusing to
- 1467 confiscate a firearm under this section if:
- 1468 (i) ordered or directed to do so by a superior officer; and
- 1469 (ii) by obeying the order or direction, the law enforcement officer would be
- 1470 committing a violation of this section.
- 1471 (b) For purposes of this Subsection (5), disciplinary action might include:
- 1472 (i) dismissal, suspension, or demotion;
- 1473 (ii) loss of or decrease in benefits, pay, privileges or conditions of employment; and
- 1474 (iii) any type of written or electronic indication, permanent or temporary, on the
- 1475 officer's personnel record of the officer's refusal to obey the unlawful order.
- 1476 (6)(a) If a law enforcement officer commits a violation of this section, the officer's
- 1477 liability in an action brought under Subsection (4)(a) is limited to 5% of the damages
- 1478 and civil penalty allowed under Subsection (4)(a) if the officer can show by clear and
- 1479 convincing evidence that the officer was obeying a direct and unlawful order from a
- 1480 superior officer or authority.
- 1481 (b) The court shall assess the balance of the damages and civil penalty, the remaining
- 1482 95%, against the superior officer or authority who ordered or directed the
- 1483 confiscation in violation of this section.
- 1484 Section 13. Section **53-3-220** is amended to read:
- 1485 **53-3-220 . Offenses requiring mandatory revocation, denial, suspension, or**
- 1486 **disqualification of license -- Offense requiring an extension of period -- Hearing --**
- 1487 **Limited driving privileges.**
- 1488 (1)(a) The division shall immediately revoke or, when this chapter, Title 41, Chapter 6a,
- 1489 Traffic Code, or Section 76-5-303, specifically provides for denial, suspension, or
- 1490 disqualification, the division shall deny, suspend, or disqualify the license of a person

- 1491 upon receiving a record of the person's conviction for:
- 1492 (i) manslaughter or negligent homicide resulting from driving a motor vehicle,  
1493 automobile homicide under Section 76-5-207, or automobile homicide involving  
1494 using a handheld wireless communication device while driving under Section  
1495 76-5-207.5;
  - 1496 (ii) driving or being in actual physical control of a motor vehicle while under the  
1497 influence of alcohol, any drug, or combination of them to a degree that renders the  
1498 person incapable of safely driving a motor vehicle as prohibited in Section  
1499 41-6a-502 or as prohibited in an ordinance that complies with the requirements of  
1500 Subsection 41-6a-510(1);
  - 1501 (iii) driving or being in actual physical control of a motor vehicle while having a  
1502 blood or breath alcohol content as prohibited in Section 41-6a-502 or as prohibited  
1503 in an ordinance that complies with the requirements of Subsection 41-6a-510(1);
  - 1504 (iv) perjury or the making of a false affidavit to the division under this chapter, Title  
1505 41, Motor Vehicles, or any other law of this state requiring the registration of  
1506 motor vehicles or regulating driving on highways;
  - 1507 (v) any felony under the motor vehicle laws of this state;
  - 1508 (vi) any other felony in which a motor vehicle is used to facilitate the offense;
  - 1509 (vii) failure to stop and render aid as required under the laws of this state if a motor  
1510 vehicle accident results in the death or personal injury of another;
  - 1511 (viii) two charges of reckless driving, impaired driving, or any combination of  
1512 reckless driving and impaired driving committed within a period of 12 months;  
1513 but if upon a first conviction of reckless driving or impaired driving the judge or  
1514 justice recommends suspension of the convicted person's license, the division may  
1515 after a hearing suspend the license for a period of three months;
  - 1516 (ix) failure to bring a motor vehicle to a stop at the command of a law enforcement  
1517 officer as required in Section 41-6a-210;
  - 1518 (x) any offense specified in Part 4, Uniform Commercial Driver License Act, that  
1519 requires disqualification;
  - 1520 (xi) a felony violation of Section ~~[76-10-508]~~ 76-11-209 or ~~[76-10-508.1]~~ 76-11-210  
1521 involving discharging or allowing the discharge of a firearm from a vehicle;
  - 1522 (xii) using, allowing the use of, or causing to be used any explosive, chemical, or  
1523 incendiary device from a vehicle in violation of Subsection 76-10-306(4)(b);
  - 1524 (xiii) operating or being in actual physical control of a motor vehicle while having

- 1525 any measurable controlled substance or metabolite of a controlled substance in the  
1526 person's body in violation of Section 41-6a-517;
- 1527 (xiv) operating or being in actual physical control of a motor vehicle while having  
1528 any measurable or detectable amount of alcohol in the person's body in violation  
1529 of Section 41-6a-530;
- 1530 (xv) engaging in a motor vehicle speed contest or exhibition of speed on a highway in  
1531 violation of Section 41-6a-606;
- 1532 (xvi) operating or being in actual physical control of a motor vehicle in this state  
1533 without an ignition interlock system in violation of Section 41-6a-518.2;
- 1534 (xvii) refusal of a chemical test under Subsection 41-6a-520.1(1); or
- 1535 (xviii) two or more offenses that:
- 1536 (A) are committed within a period of one year;
- 1537 (B) are enhanced under Section 76-3-203.17; and
- 1538 (C) arose from separate incidents.
- 1539 (b) The division shall immediately revoke the license of a person upon receiving a  
1540 record of an adjudication under Section 80-6-701 for:
- 1541 (i) a felony violation of Section ~~[76-10-508]~~ 76-11-209 or ~~[76-10-508.1]~~ 76-11-210  
1542 involving discharging or allowing the discharge of a firearm from a vehicle; or
- 1543 (ii) using, allowing the use of, or causing to be used any explosive, chemical, or  
1544 incendiary device from a vehicle in violation of Subsection 76-10-306(4)(b).
- 1545 (c)(i) Except when action is taken under Section 53-3-219 for the same offense, upon  
1546 receiving a record of conviction, the division shall immediately suspend for six  
1547 months the license of the convicted person if the person was convicted of  
1548 violating any one of the following offenses while the person was an operator of a  
1549 motor vehicle, and the court finds that a driver license suspension is likely to  
1550 reduce recidivism and is in the interest of public safety:
- 1551 (A) Title 58, Chapter 37, Utah Controlled Substances Act;
- 1552 (B) Title 58, Chapter 37a, Utah Drug Paraphernalia Act;
- 1553 (C) Title 58, Chapter 37b, Imitation Controlled Substances Act;
- 1554 (D) Title 58, Chapter 37c, Utah Controlled Substance Precursor Act;
- 1555 (E) Title 58, Chapter 37d, Clandestine Drug Lab Act; or
- 1556 (F) any criminal offense that prohibits possession, distribution, manufacture,  
1557 cultivation, sale, or transfer of any substance that is prohibited under the acts  
1558 described in Subsections (1)(c)(i)(A) through (E), or the attempt or conspiracy

- 1559 to possess, distribute, manufacture, cultivate, sell, or transfer any substance that  
1560 is prohibited under the acts described in Subsections (1)(c)(i)(A) through (E).
- 1561 (ii) Notwithstanding the provisions in Subsection (1)(c)(i), the division shall reinstate  
1562 a person's driving privilege before completion of the suspension period imposed  
1563 under Subsection (1)(c)(i) if the reporting court notifies the Driver License  
1564 Division, in a manner specified by the division, that the defendant is participating  
1565 in or has successfully completed a drug court program as defined in Section  
1566 78A-5-201.
- 1567 (iii) If a person's driving privilege is reinstated under Subsection (1)(c)(ii), the person  
1568 is required to pay the license reinstatement fees under Subsection 53-3-105(26).
- 1569 (iv) The court shall notify the division, in a manner specified by the division, if a  
1570 person fails to complete all requirements of the drug court program.
- 1571 (v) Upon receiving the notification described in Subsection (1)(c)(iv), the division  
1572 shall suspend the person's driving privilege for a period of six months from the  
1573 date of the notice, and no days shall be subtracted from the six-month suspension  
1574 period for which a driving privilege was previously suspended under Subsection  
1575 (1)(c)(i).
- 1576 (d)(i) The division shall immediately suspend a person's driver license for conviction  
1577 of the offense of theft of motor vehicle fuel under Section 76-6-404.7 if the  
1578 division receives:
- 1579 (A) an order from the sentencing court requiring that the person's driver license be  
1580 suspended; and  
1581 (B) a record of the conviction.
- 1582 (ii) An order of suspension under this section is at the discretion of the sentencing  
1583 court, and may not be for more than 90 days for each offense.
- 1584 (e)(i) The division shall immediately suspend for one year the license of a person  
1585 upon receiving a record of:
- 1586 (A) conviction for the first time for a violation under Section 32B-4-411; or  
1587 (B) an adjudication under Section 80-6-701 for a violation under Section  
1588 32B-4-411.
- 1589 (ii) The division shall immediately suspend for a period of two years the license of a  
1590 person upon receiving a record of:
- 1591 (A)(I) conviction for a second or subsequent violation under Section 32B-4-411;  
1592 and

- 1593 (II) the violation described in Subsection (1)(e)(ii)(A)(I) is within 10 years of a  
1594 prior conviction for a violation under Section 32B-4-411; or  
1595 (B)(I) a second or subsequent adjudication under Section 80-6-701 for a  
1596 violation under Section 32B-4-411; and  
1597 (II) the adjudication described in Subsection (1)(e)(ii)(B)(I) is within 10 years  
1598 of a prior adjudication under Section 80-6-701 for a violation under Section  
1599 32B-4-411.
- 1600 (iii) Upon receipt of a record under Subsection (1)(e)(i) or (ii), the division shall:  
1601 (A) for a conviction or adjudication described in Subsection (1)(e)(i):  
1602 (I) impose a suspension for one year beginning on the date of conviction; or  
1603 (II) if the person is under the age of eligibility for a driver license, impose a  
1604 suspension that begins on the date of conviction and continues for one year  
1605 beginning on the date of eligibility for a driver license; or  
1606 (B) for a conviction or adjudication described in Subsection (1)(e)(ii):  
1607 (I) impose a suspension for a period of two years; or  
1608 (II) if the person is under the age of eligibility for a driver license, impose a  
1609 suspension that begins on the date of conviction and continues for two years  
1610 beginning on the date of eligibility for a driver license.
- 1611 (iv) Upon receipt of the first order suspending a person's driving privileges under  
1612 Section 32B-4-411, the division shall reduce the suspension period under  
1613 Subsection (1)(e)(i) if ordered by the court in accordance with Subsection  
1614 32B-4-411(3)(a).
- 1615 (v) Upon receipt of the second or subsequent order suspending a person's driving  
1616 privileges under Section 32B-4-411, the division shall reduce the suspension  
1617 period under Subsection (1)(e)(ii) if ordered by the court in accordance with  
1618 Subsection 32B-4-411(3)(b).
- 1619 (f) The division shall immediately suspend a person's driver license for the conviction of  
1620 an offense that is enhanced under Section 76-3-203.17 if the division receives:  
1621 (i) an order from the sentencing court requiring the person's driver license to be  
1622 suspended; and  
1623 (ii) a record of the conviction.
- 1624 (2) The division shall extend the period of the first denial, suspension, revocation, or  
1625 disqualification for an additional like period, to a maximum of one year for each  
1626 subsequent occurrence, upon receiving:



- 1627 (a) a record of the conviction of any person on a charge of driving a motor vehicle while  
1628 the person's license is denied, suspended, revoked, or disqualified;
- 1629 (b) a record of a conviction of the person for any violation of the motor vehicle law in  
1630 which the person was involved as a driver;
- 1631 (c) a report of an arrest of the person for any violation of the motor vehicle law in which  
1632 the person was involved as a driver; or
- 1633 (d) a report of an accident in which the person was involved as a driver.
- 1634 (3) When the division receives a report under Subsection (2)(c) or (d) that a person is  
1635 driving while the person's license is denied, suspended, disqualified, or revoked, the  
1636 person is entitled to a hearing regarding the extension of the time of denial, suspension,  
1637 disqualification, or revocation originally imposed under Section 53-3-221.
- 1638 (4)(a) The division may extend to a person the limited privilege of driving a motor  
1639 vehicle to and from the person's place of employment or within other specified limits  
1640 on recommendation of the judge in any case where a person is convicted of any of  
1641 the offenses referred to in Subsections (1) and (2) except:
- 1642 (i) those offenses referred to in Subsections (1)(a)(i), (ii), (iii), (xi), (xii), (xiii), (1)(b),  
1643 and (1)(c)(i); and
- 1644 (ii) those offenses referred to in Subsection (2) when the original denial, suspension,  
1645 revocation, or disqualification was imposed because of a violation of Section  
1646 41-6a-502, 41-6a-517, a local ordinance that complies with the requirements of  
1647 Subsection 41-6a-510(1), Section 41-6a-520, 41-6a-520.1, 76-5-102.1, or 76-5-207,  
1648 or a criminal prohibition that the person was charged with violating as a result of a  
1649 plea bargain after having been originally charged with violating one or more of  
1650 these sections or ordinances, unless:
- 1651 (A) the person has had the period of the first denial, suspension, revocation, or  
1652 disqualification extended for a period of at least three years;
- 1653 (B) the division receives written verification from the person's primary care  
1654 physician or physician assistant that:
- 1655 (I) to the physician's or physician assistant's knowledge the person has not used  
1656 any narcotic drug or other controlled substance except as prescribed by a  
1657 licensed medical practitioner within the last three years; and
- 1658 (II) the physician or physician assistant is not aware of any physical,  
1659 emotional, or mental impairment that would affect the person's ability to  
1660 operate a motor vehicle safely; and

- 1661 (C) for a period of one year prior to the date of the request for a limited driving  
 1662 privilege:
- 1663 (I) the person has not been convicted of a violation of any motor vehicle law in  
 1664 which the person was involved as the operator of the vehicle;
- 1665 (II) the division has not received a report of an arrest for a violation of any  
 1666 motor vehicle law in which the person was involved as the operator of the  
 1667 vehicle; and
- 1668 (III) the division has not received a report of an accident in which the person  
 1669 was involved as an operator of a vehicle.
- 1670 (b)(i) Except as provided in Subsection (4)(b)(ii), the discretionary privilege  
 1671 authorized in this Subsection (4):
- 1672 (A) is limited to when undue hardship would result from a failure to grant the  
 1673 privilege; and
- 1674 (B) may be granted only once to any person during any single period of denial,  
 1675 suspension, revocation, or disqualification, or extension of that denial,  
 1676 suspension, revocation, or disqualification.
- 1677 (ii) The discretionary privilege authorized in Subsection (4)(a)(ii):
- 1678 (A) is limited to when the limited privilege is necessary for the person to commute  
 1679 to school or work; and
- 1680 (B) may be granted only once to any person during any single period of denial,  
 1681 suspension, revocation, or disqualification, or extension of that denial,  
 1682 suspension, revocation, or disqualification.
- 1683 (c) A limited CDL may not be granted to a person disqualified under Part 4, Uniform  
 1684 Commercial Driver License Act, or whose license has been revoked, suspended,  
 1685 cancelled, or denied under this chapter.

1686 Section 14. Section **53-5a-101.5** is enacted to read:

1687 **CHAPTER 5a. FIREARM LAWS**

1688 **Part 1. General Firearm Laws**

1689 **53-5a-101.5 . Definitions.**

1690 As used in this part:

1691 (1) "Ammunition" means the same as that term is defined in Section 53-5d-102.

1692 (2)(a) "Antique firearm" means:

1693 (i) a firearm, including a firearm with a matchlock, flintlock, percussion cap, or

- 1694 similar type of ignition system, manufactured in or before 1898;
- 1695 (ii) a firearm that is a replica of a firearm described in this Subsection (2)(a), if the
- 1696 replica:
- 1697 (A) is not designed or redesigned for using rimfire or conventional centerfire fixed
- 1698 ammunition; or
- 1699 (B) uses rimfire or centerfire fixed ammunition which is no longer manufactured
- 1700 in the United States and is not readily available in ordinary channels of
- 1701 commercial trade; or
- 1702 (iii) a firearm that:
- 1703 (A) is a muzzle loading rifle, shotgun, or pistol; and
- 1704 (B) is designed to use black powder, or a black powder substitute, and cannot use
- 1705 fixed ammunition.
- 1706 (b) "Antique firearm" does not include:
- 1707 (i) a weapon that incorporates a firearm frame or receiver;
- 1708 (ii) a firearm that is converted into a muzzle loading weapon; or
- 1709 (iii) a muzzle loading weapon that can be readily converted to fire fixed ammunition
- 1710 by replacing the:
- 1711 (A) barrel;
- 1712 (B) bolt;
- 1713 (C) breechblock; or
- 1714 (D) any combination of Subsection (2)(b)(iii)(A), (B), or (C).
- 1715 (3) "Bureau" means the Bureau of Criminal Identification created in Section 53-10-201
- 1716 within the department.
- 1717 (4)(a) "Concealed firearm" means a firearm that is:
- 1718 (i) covered, hidden, or secreted in a manner that the public would not be aware of the
- 1719 firearm's presence; and
- 1720 (ii) readily accessible for immediate use.
- 1721 (b) "Concealed firearm" does not include a firearm that is unloaded and securely encased.
- 1722 (5) "Court commissioner" means an individual appointed under Section 78A-5-107.
- 1723 (6) "Dangerous weapon" means the same as that term is defined in Section 76-11-101.
- 1724 (7) "Directive" means the same as that term is defined in Section 78B-6-2301.
- 1725 (8) "Firearm" means a pistol, revolver, shotgun, short barreled shotgun, rifle or short
- 1726 barreled rifle, or a device that could be used as a dangerous weapon from which is
- 1727 expelled a projectile by action of an explosive.

- 1728 (9) "Firearm accessory" means the same as that term is defined in Section 53-5a-401.
- 1729 (10) "Handgun" means a pistol, revolver, or other firearm of any description, from which a
- 1730 shot, bullet, or other missile can be discharged, the length of which, not including any
- 1731 revolving, detachable, or magazine breech, does not exceed 12 inches.
- 1732 (11) "Judge" means the same as that term is defined in Section 53-5a-311.
- 1733 (12) "Law enforcement official" means the same as that term is defined in Section
- 1734 53-5a-311.
- 1735 (13) "Local or state governmental entity" means the same as that term is defined in Section
- 1736 78B-6-2301.
- 1737 (14) "Readily accessible for immediate use" means that a firearm or other dangerous
- 1738 weapon is carried on the person or within such close proximity and in such a manner
- 1739 that the weapon can be retrieved and used as readily as if carried on the person.
- 1740 (15) "Securely encased firearm" means the same as that term is defined in Section
- 1741 76-11-201.
- 1742 (16) "Short barreled rifle" means the same as that term is defined in Section 53-5a-601.
- 1743 (17) "Short barreled shotgun" means the same as that term is defined in Section 53-5a-601.
- 1744 (18) "Shotgun" means the same as that term is defined in Section 53-5a-601.
- 1745 (19) "Slug" means the same as that term is defined in Section 53-5a-601.
- 1746 Section 15. Section **53-5a-102** is amended to read:
- 1747 **53-5a-102 . Uniform firearms laws.**
- 1748 [(1) As used in this section:]
- 1749 [(a) "Ammunition" means the same as that term is defined in Section 53-5d-102.]
- 1750 [(b) "Dangerous weapon" means the same as that term is defined in Section 76-10-501.]
- 1751 [(c) "Firearm" means:]
- 1752 [(i) a pistol, revolver, shotgun, short barreled shotgun, rifle or short barreled rifle, or a
- 1753 device that could be used as a dangerous weapon from which is expelled a
- 1754 projectile by action of an explosive;]
- 1755 [(ii) ammunition; and]
- 1756 [(iii) a firearm accessory.];
- 1757 [(d) "Firearm accessory" means the same as that term is defined in Section 53-5b-103.]
- 1758 [(e) "Local or state governmental entity" means the same as that term is defined in
- 1759 Section 78B-6-2301.];
- 1760 [(f) "Short barreled shotgun" or "short barreled rifle" means the same as that term is
- 1761 defined in Section 76-10-501.]

1762 ~~[(g)]~~ "Shotgun" means the same as that term is defined in Section 76-10-501.]

1763 ~~[(2)]~~ (1) The individual right to keep and bear arms being a constitutionally protected right

1764 under Utah Constitution, Article I, Section 6 ~~[of the Utah Constitution]~~ , and the Second

1765 Amendment to the United States Constitution, the Legislature finds the need to provide

1766 uniform civil and criminal firearm laws throughout the state and declares that the

1767 Legislature occupies the whole field of state regulation of firearms.

1768 ~~[(3)]~~ (2) Except as specifically provided by state law, a local or state governmental entity

1769 may not:

1770 (a) prohibit an individual from owning, possessing, purchasing, selling, transferring,

1771 transporting, or keeping a firearm, ammunition, or a firearm accessory at the

1772 individual's place of residence, property, business, or in any vehicle ~~[lawfully in the~~

1773 ~~individual's possession or lawfully under the individual's control]~~ in which the

1774 individual is lawfully present; or

1775 (b) require an individual to have a permit or license to purchase, own, possess, transport,

1776 or keep a firearm, ammunition, or a firearm accessory.

1777 ~~[(4)]~~ (3) ~~[In conjunction with Title 76, Chapter 10, Part 5, Weapons, this section is]~~ This part

1778 and Title 76, Chapter 11, Weapons, are uniformly applicable throughout ~~[this]~~ the state

1779 and in all the ~~[state's]~~ political subdivisions of the state.

1780 ~~[(5)]~~ (4) Authority to regulate firearms, ammunition, and firearm accessories is reserved to

1781 the state except where the Legislature specifically delegates responsibility to local or

1782 state governmental entities.

1783 ~~[(6)]~~ (5) Unless specifically authorized by the Legislature by statute, a local or state

1784 governmental entity may not enact, establish, or enforce ~~[any ordinance, regulation, rule,~~

1785 ~~or policy]~~ a directive pertaining to firearms, ammunition, or firearm accessories that in

1786 any way inhibits or restricts the possession, ownership, purchase, sale, transfer,

1787 transport, or use of firearms, ammunition, or firearm accessories on either public or

1788 private property.

1789 ~~[(7)]~~ (6) This section does not restrict or expand private property rights.

1790 ~~[(8)]~~ (7) A violation of this section is subject to Title 78B, Chapter 6, Part 23, Firearm

1791 Preemption Enforcement Act.

1792 Section 16. Section **53-5a-102.1** is enacted to read:

1793 **53-5a-102.1 . When a firearm is considered to be loaded.**

1794 For the purpose of this chapter, a firearm is considered to be loaded if the firearm meets

1795 the conditions described in Subsection 76-11-102(1).

1796 Section 17. Section **53-5a-102.2** is enacted to read:

1797 **53-5a-102.2 . Open and concealed carry of a firearm outside of an individual's**  
1798 **residence.**

1799 (1) To effectuate the Second Amendment to the United States Constitution and Utah  
1800 Constitution, Article I, Section 6, that prohibit the infringement of the right of the people  
1801 of Utah to keep and bear arms for security and defense of self, family, others, property,  
1802 or the state, as well as for other lawful purposes, and consistent with the Legislature's  
1803 ability to define the lawful use of arms:

1804 (a) subject to Subsections (2)(a) and (b), an individual 18 years old or older but younger  
1805 than 21 years old without a provisional carry permit issued under Section 53-5a-305  
1806 may only carry in an open manner:

1807 (i) an unloaded rifle, shotgun, or muzzle-loading rifle in a vehicle in which the  
1808 individual is lawfully present;

1809 (ii) an unloaded or loaded handgun in a vehicle in which the individual is lawfully  
1810 present; and

1811 (iii) an unloaded firearm that the individual may otherwise lawfully carry, on a public  
1812 street;

1813 (b) subject to Subsections (2)(a) and (b), an individual 21 years old or older may open or  
1814 conceal carry, without a conceal carry permit:

1815 (i) an unloaded or loaded firearm:

1816 (A) on a public street; or

1817 (B) in any other place not prohibited by, or pursuant to, state statute or federal law;

1818 (ii) an unloaded or loaded handgun in a vehicle in which the individual is lawfully  
1819 present; and

1820 (iii) an unloaded rifle, shotgun, or muzzle-loading rifle in a vehicle in which the  
1821 individual is lawfully present; and

1822 (c) subject to Subsections (2)(c) and (d), an individual 18 years old or older with a  
1823 concealed carry permit issued under Section 53-5a-303, a temporary concealed carry  
1824 permit issued under Section 53-5a-304, a provisional concealed carry permit issued  
1825 under Section 53-5a-305, or a concealed carry permit lawfully issued by or in another  
1826 state, may open or conceal carry a loaded or unloaded firearm:

1827 (i) in a vehicle in which the individual is lawfully present;

1828 (ii) on a public street; or

1829 (iii) in any other place not prohibited by, or pursuant to, state statute or federal law.

- 1830 (2)(a) An individual openly carrying a firearm under Subsection (1)(a) or (b) without a  
1831 concealed carry permit may not carry the firearm:
- 1832 (i) in a secure area established in accordance with Section 76-8-311.1 in which  
1833 dangerous weapons are prohibited and notice of the prohibition is posted;
  - 1834 (ii) on or about the premises of a public or private elementary school or secondary  
1835 school as described in Section 76-11-205;
  - 1836 (iii) on or about the premises of an institution of higher education as described in  
1837 Section 76-11-205.5;
  - 1838 (iv) on or about the premises of a daycare as described in Section 76-11-206;
  - 1839 (v) in an airport secure area as described in Section 76-11-218;
  - 1840 (vi) in a house of worship or in any private residence where dangerous weapons are  
1841 prohibited as described in Section 76-11-219; or
  - 1842 (vii) in any other place prohibited by, or pursuant to, another state statute or federal  
1843 law.
- 1844 (b) An individual 21 years old or older concealing a firearm without a concealed carry  
1845 permit under Subsection (1)(b) may not carry the firearm:
- 1846 (i) in a secure area established in accordance with Section 76-8-311.1 in which  
1847 dangerous weapons are prohibited and notice of the prohibition is posted;
  - 1848 (ii) on or about the school premises of a public or private elementary school or  
1849 secondary school as described in Section 76-11-205;
  - 1850 (iii) on or about the premises of an institution of higher education as described in  
1851 Section 76-11-205.5;
  - 1852 (iv) on or about a daycare premises as described in Section 76-11-206;
  - 1853 (v) in an airport secure area as described in Section 76-11-218;
  - 1854 (vi) in a house of worship or in any private residence where dangerous weapons are  
1855 prohibited as described in Section 76-11-219; or
  - 1856 (vii) in any other place prohibited by, or pursuant to, another state statute or federal  
1857 law.
- 1858 (c) Subject to Subsection (2)(d), an individual with a concealed carry permit under  
1859 Subsection (1)(c) may not carry the firearm in any manner:
- 1860 (i) in a secure area established in accordance with Section 76-8-311.1 in which  
1861 dangerous weapons are prohibited and notice of the prohibition posted;
  - 1862 (ii) in an airport secure area as described in Section 76-11-218;
  - 1863 (iii) in a house of worship or in any private residence where dangerous weapons are

- 1864 prohibited as described in Section 76-11-219; or  
 1865 (iv) in any other place prohibited by, or pursuant to, another state statute or federal  
 1866 law.
- 1867 (d) In addition to the locations described in Subsection (2)(c):  
 1868 (i) an individual 18 years old but younger than 21 years old with a provisional  
 1869 concealed carry permit under Section 53-5a-304 may not carry the firearm in any  
 1870 manner on or about the premises of a public or private elementary school or  
 1871 secondary school as described in Section 76-11-205; and  
 1872 (ii) an individual concealing a firearm only with a concealed carry permit lawfully  
 1873 issued by or in another state may not carry the firearm in any manner:  
 1874 (A) on or about the premises of a public or private elementary school or secondary  
 1875 school as described in Section 76-11-205;  
 1876 (B) on or about the premises of an institution of higher education as described in  
 1877 Section 76-11-205.5; or  
 1878 (C) on or about the premises of a daycare as described in Section 76-11-206.

1879 (3) This section does not prohibit:

- 1880 (a) the owner or lawful possessor of a vehicle from prohibiting another individual from  
 1881 carrying a firearm in the owner or lawful possessor's vehicle; or  
 1882 (b) except as provided in Section 53-5a-102.3, the owner or lawful lessee of private real  
 1883 property from prohibiting another individual from possessing a firearm on the  
 1884 property.

1885 (4) An individual is lawfully present in a vehicle while carrying a firearm under this section  
 1886 if:

- 1887 (a) the vehicle is in the lawful possession of the individual; or  
 1888 (b) the individual has the consent of the person lawfully in possession of the vehicle to  
 1889 carry the firearm in the vehicle.

1890 Section 18. Section **53-5a-102.3**, which is renumbered from Section 76-10-511 is renumbered  
 1891 and amended to read:

1892 **[76-10-511] 53-5a-102.3 . Possession of a firearm at a residence or on real**  
 1893 **property.**

- 1894 (1) Except for [~~persons described in Section 76-10-503 and~~] an individual categorized  
 1895 as a restricted person under Section 76-11-302, Section 76-11-303, or 18 U.S.C. Sec.  
 1896 922(g)[~~and as~~] , or an individual otherwise [~~prescribed in this part, a person~~] prohibited  
 1897 by law, an individual 18 years old or older may have, and cannot be restricted from



1898 ~~having~~, a loaded or unloaded firearm:

1899 ~~[(1)] (a) at the [person's] individual's place of residence[, including any temporary~~  
1900 ~~residence or camp]; or~~

1901 ~~[(2)] (b) on the [person's] individual's real property.~~

1902 (2) An individual's place of residence described in Subsection (1)(a) includes:

1903 (a) a temporary residence or camp; or

1904 (b) a residence that the individual has been granted the lawful right of possession to rent  
1905 or lease.

1906 Section 19. Section **53-5a-103** is amended to read:

1907 **53-5a-103 . Discharge of a firearm on private property -- Liability.**

1908 (1) As used in this section:

1909 (a) "Firearm possessor" means an individual who may lawfully possess a firearm.

1910 (b) "Property occupant" means:

1911 (i) a private property owner; or

1912 (ii) ~~[a person]~~ an individual who has the right to occupy a private property under an  
1913 agreement.

1914 (2) Except as provided under Subsection (3), a property occupant, who knowingly allows a  
1915 firearm possessor to lawfully bring a firearm onto the property occupant's property, is  
1916 not civilly or criminally liable for any damage or harm resulting from the discharge of  
1917 the firearm by the firearm possessor while on the property occupant's property.

1918 (3) Subsection (2) does not apply if the property occupant solicits, requests, commands,  
1919 encourages, or intentionally aids the firearm possessor in discharging the firearm while  
1920 on the property occupant's property for a purpose other than the lawful defense of an  
1921 individual on the property.

1922 (4) This section does not alter the responsibilities a tenant owes to a landlord under the  
1923 terms of the lease agreement entered into between the tenant and landlord.

1924 Section 20. Section **53-5a-105**, which is renumbered from Section 76-10-520 is renumbered  
1925 and amended to read:

1926 ~~[76-10-520]~~ **53-5a-105 . Number or mark assigned to a handgun by the**  
1927 **department.**

1928 (1) The ~~[Department of Public Safety]~~ department, upon request, may assign a  
1929 distinguishing number or mark of identification to ~~[any pistol or revolver]~~ a handgun  
1930 whenever it is without a manufacturer's number, or other mark of identification or  
1931 whenever the manufacturer's number or other mark of identification or the

1932 distinguishing number or mark assigned by the ~~[Department of Public Safety]~~ department  
 1933 has been destroyed or obliterated.

1934 (2) Except as provided in Subsection (3), an individual who places or stamps a mark of  
 1935 identification or distinguishing number on a handgun except one assigned to the  
 1936 handgun by the department is guilty of a class A misdemeanor.

1937 (3) This section does not:

1938 (a) prohibit restoration by the owner of the name of the maker, model, or of the original  
 1939 manufacturer's number or other mark of identification when the restoration is  
 1940 authorized by the department;

1941 (b) prohibit a manufacturer from placing in the ordinary course of business the name of  
 1942 the make, model, manufacturer's number, or other mark of identification upon a new  
 1943 handgun; or

1944 (c) apply to a handgun that is an antique firearm.

1945 Section 21. Section **53-5a-106**, which is renumbered from Section 76-10-522 is renumbered  
 1946 and amended to read:

1947 **[76-10-522] 53-5a-106 . Alteration of number or mark on a handgun.**

1948 (1) ~~[Any person who changes, alters, removes, or obliterates]~~ An individual may not  
 1949 change, alter, remove, or obliterate the name of the maker, the model, manufacturer's  
 1950 number, or other mark of identification, including any distinguishing number or mark  
 1951 assigned by the ~~[Department of Public Safety]~~ department, on ~~[any pistol or revolver]~~ a  
 1952 handgun, without first having secured written permission from the ~~[Department of~~  
 1953 ~~Public Safety]~~ department to make the change, alteration, ~~[or]~~ removal, ~~[is guilty of a~~  
 1954 ~~class A misdemeanor]~~ or obliteration.

1955 (2) Except as provided in Subsection (3), a violation of Subsection (1) is a class A  
 1956 misdemeanor.

1957 (3) This section does not apply to a handgun that is an antique firearm.

1958 Section 22. Section **53-5a-107**, which is renumbered from Section 76-10-523.5 is renumbered  
 1959 and amended to read:

1960 **[76-10-523.5] 53-5a-107 . Compliance with firearms prohibitions in secure**  
 1961 **facilities.**

1962 ~~[Any person]~~ An individual, including ~~[a person licensed to carry]~~ an individual with a  
 1963 concealed firearm permit issued under [Title 53, Chapter 5, Part 7, Concealed Firearm Act] Part  
 1964 3, Concealed Firearm Permits, or possessing a concealed firearm without a permit in  
 1965 accordance with Section 53-5a-102.2, shall comply with any rule established for [secure

facilities] a secure facility pursuant to [Sections 53B-3-103,] Section 76-8-311.1[, 76-8-311.3, and 78A-2-203] and [shall be] is subject to any penalty provided [in those sections] for violating the established rule.

Section 23. Section **53-5a-108**, which is renumbered from Section 76-10-523 is renumbered and amended to read:

**[76-10-523] 53-5a-108 . Individuals who are exempt from certain weapons laws.**

(1) Except [for Sections 76-10-506, 76-10-508, and 76-10-508.1, this part and Title 53, Chapter 5, Part 7, Concealed Firearm Act,] as provided in Subsections (2) and (3), this part, Part 3, Concealed Firearm Permits, and Title 76, Chapter 11, Weapons, do not apply to any of the following:

- (a) a United States marshal;
- (b) a federal official required to carry a firearm;
- (c) a peace officer of [~~this or~~] any [~~other~~] jurisdiction;
- (d) a law enforcement official [~~as defined and qualified under Section 53-5-711~~];
- (e) a judge [~~as defined and qualified under Section 53-5-711~~];
- (f) a court commissioner [~~as defined and qualified under Section 53-5-711~~]; or
- (g) a common carrier while engaged in the regular and ordinary transport of firearms as merchandise.

(2) Subsection (1) does not apply to Section 76-11-207, 76-11-209, or 76-11-210.

~~[(2)]~~ (3) Notwithstanding Subsection (1), the provisions of Section [~~76-10-528~~] 76-11-217 apply to any individual listed in Subsection (1) who is not employed by a state or federal agency or political subdivision that has adopted a policy or rule regarding the use of dangerous weapons.

~~[(3) Subsections 76-10-504(1) and (2), and Section 76-10-505 do not apply to:]~~

~~[(a) an individual to whom a permit to carry a concealed firearm has been issued:]~~

~~[(i) pursuant to Section 53-5-704; or]~~

~~[(ii) by another state or county; or]~~

~~[(b) a person who is issued a protective order under Subsection 78B-7-603(1)(b) or 78B-7-404(1)(b), unless the person is a restricted person as described in Subsection 76-10-503(1), for a period of 120 days after the day on which the person is issued the protective order.]~~

~~[(4) Except for Sections 76-10-503, 76-10-506, 76-10-508, and 76-10-508.1, this part and Title 53, Chapter 5, Part 7, Concealed Firearm Act, do not apply to a nonresident traveling in or though the state, provided that any firearm is:]~~

2000 [(a) unloaded; and]  
 2001 [(b) securely encased as defined in Section 76-10-501.]  
 2002 [~~(5) Subsections 76-10-504(1) and (2), and 76-10-505(1)(b) do not apply to a person 21~~  
 2003 ~~years old or older who may otherwise lawfully possess a firearm.~~]

2004 Section 24. Section **53-5a-202** is amended to read:

2005 **53-5a-202 . Definitions.**

2006 As used in this part:

2007 (1)(a) "Federal regulation" means a federal executive order, rule, or regulation that  
 2008 infringes upon, prohibits, restricts, or requires individual licensure for, or registration  
 2009 of, the purchase, ownership, possession, transfer, or use of a firearm, ammunition, or  
 2010 firearm accessory.

2011 (b) "Federal regulation" does not include:

2012 (i) a federal firearm statute; or

2013 (ii) a federal executive order, rule, or regulation that is incorporated into the Utah  
 2014 Code by reference.

2015 (2) "Firearm" means the same as that term is defined in Section ~~[76-10-501]~~ 76-11-101.

2016 (3) "Law enforcement officer" means the same as that term is defined in Section 53-13-103.

2017 (4) "Political subdivision" means a city, town, county, special district, or water conservancy  
 2018 district.

2019 Section 25. Section **53-5a-301**, which is renumbered from Section 53-5-702 is renumbered  
 2020 and amended to read:

2021 **Part 3. Concealed Firearm Permits**

2022 ~~[53-5-702]~~ **53-5a-301 . Definitions.**

2023 ~~[In addition to the definitions in Section 76-10-501, as]~~ As used in this part:

2024 (1) "Active duty service member" means ~~[a person]~~ an individual on active military duty  
 2025 with the United States military and includes full time military active duty, military  
 2026 reserve active duty, and national guard military active duty service members stationed in  
 2027 Utah.

2028 (2) "Active duty service member spouse" means ~~[a person]~~ an individual recognized by the  
 2029 military as the spouse of an active duty service member and who resides with the active  
 2030 duty service member in Utah.

2031 (3) "Board" means the Concealed Firearm Review Board created in Section ~~[53-5-703]~~  
 2032 53-5a-302.

2033 (4) "Bureau" means the Bureau of Criminal Identification created in Section 53-10-201

- 2034 within the ~~[Department of Public Safety]~~ department.
- 2035 (5) "Concealed firearm" means the same as that term is defined in Section 53-5a-101.5.
- 2036 ~~[(5) "Commissioner" means the commissioner of the Department of Public Safety.]~~
- 2037 (6) "Conviction" means criminal conduct ~~[where]~~ in which the filing of a criminal charge
- 2038 has resulted in:
- 2039 (a) a finding of guilt based on evidence presented to a judge or jury;
- 2040 (b) a guilty plea;
- 2041 (c) a plea of nolo contendere;
- 2042 (d) a plea of guilty or nolo contendere ~~[which]~~ that is held in abeyance pending the
- 2043 successful completion of probation;
- 2044 (e) a pending diversion agreement; or
- 2045 (f) a conviction ~~[which]~~ that has been reduced in accordance with Section 76-3-402.
- 2046 (7) "Dangerous weapon" means the same as that term is defined in Section 76-11-101.
- 2047 (8) "Domestic violence" means the same as that term is defined in Section 77-36-1.
- 2048 (9) "Firearm" means the same as that term is defined in Section 53-5a-101.5.
- 2049 ~~[(7)]~~ (10)(a) "School employee" means an employee of a public school district, charter
- 2050 school, or private school whose duties, responsibilities, or assignments require the
- 2051 employee to be physically present on a school's campus at least half of the days on
- 2052 which school is held during a school year.
- 2053 (b) "School employee" also means a substitute teacher, as defined in Section 53E-6-901.
- 2054 ~~[(8)]~~ (11) "School year" means the period of time designated by a local school board, charter
- 2055 school governing board, or private school as the school year for high school, middle
- 2056 school, or elementary school students.
- 2057 Section 26. Section **53-5a-302**, which is renumbered from Section 53-5-703 is renumbered
- 2058 and amended to read:
- 2059 **[53-5-703] 53-5a-302 . Concealed Firearm Review Board -- Membership --**
- 2060 **Compensation -- Terms -- Duties.**
- 2061 (1) There is created within the bureau the Concealed Firearm Review Board.
- 2062 (2)(a) The board is comprised of not more than five members appointed by the
- 2063 commissioner on a bipartisan basis.
- 2064 (b) The board shall include a member representing law enforcement and at least two
- 2065 citizens, one of whom represents sporting interests.
- 2066 (3)(a) Except as required by Subsection (3)(b), as terms of current board members
- 2067 expire, the commissioner shall appoint each new member or reappointed member to a

2068 four-year term.  
 2069 (b) Notwithstanding the requirements of Subsection (3)(a), the commissioner shall, at  
 2070 the time of appointment or reappointment, adjust the length of terms to ensure that  
 2071 the terms of board members are staggered so that approximately half of the board is  
 2072 appointed every two years.

2073 (4) When a vacancy occurs in the membership for any reason, the replacement shall be  
 2074 appointed for the unexpired term.

2075 (5) A member may not receive compensation or benefits for the member's service, but may  
 2076 receive per diem and travel expenses in accordance with:

2077 (a) Section 63A-3-106;

2078 (b) Section 63A-3-107; and

2079 (c) rules made by the Division of Finance pursuant to Sections 63A-3-106 and  
 2080 63A-3-107.

2081 (6) The board shall meet at least quarterly, unless the board has no business to conduct  
 2082 during that quarter.

2083 (7) The board, upon receiving a timely filed petition for review, shall review within a  
 2084 reasonable time the denial, suspension, or revocation of a permit or a temporary permit  
 2085 to carry a concealed firearm.

2086 Section 27. Section **53-5a-303**, which is renumbered from Section 53-5-704 is renumbered  
 2087 and amended to read:

2088 **[53-5-704] 53-5a-303 . Bureau duties -- Permit to carry concealed firearm --**  
 2089 **Certification for concealed firearms instructor -- Requirements for issuance -- Violation**  
 2090 **-- Denial, suspension, or revocation -- Appeal procedure.**

2091 (1)(a) Except as provided in Subsection (1)(b), the bureau shall issue a concealed carry  
 2092 permit ~~[to carry]~~ allowing the carrying of a concealed firearm for lawful self defense  
 2093 to an applicant who is 21 years old or older within 60 days after receiving an  
 2094 application, unless the bureau finds proof that the applicant is not qualified to hold a  
 2095 permit under Subsection (2) or (3).

2096 (b)(i) Within 90 days before the day on which a provisional permit holder under  
 2097 Section ~~[53-5-704.5]~~ 53-5a-304 reaches 21 years old, the provisional permit holder  
 2098 may apply under this section for a permit to carry a concealed firearm for lawful  
 2099 self defense.

2100 (ii) The bureau shall issue a permit for an applicant under Subsection (1)(b)(i) within  
 2101 60 days after receiving an application, unless the bureau finds proof that the

- 2102 applicant is not qualified to hold a permit under Subsection (2) or (3).
- 2103 (iii) A permit issued under this Subsection (1)(b):
- 2104 (A) is not valid until an applicant is 21 years old; and
- 2105 (B) requires a \$10 application fee.
- 2106 (iv) ~~[A person]~~ An individual who applies for a permit under this Subsection (1)(b) is
- 2107 not required to retake the firearms training described in Subsection ~~[53-5-704(8)]~~
- 2108 53-5a-303(8).
- 2109 (c) ~~[The]~~ A concealed firearm permit issued in accordance with this section is valid
- 2110 throughout the state for five years, without restriction, except as otherwise provided
- 2111 by Section ~~[53-5-710]~~ 53-5a-102.2.
- 2112 ~~[(d) The provisions of Subsections 76-10-504(1) and (2), and Section 76-10-505 do not~~
- 2113 ~~apply to an individual issued a permit under Subsection (1)(a) or (b).]~~
- 2114 ~~[(e)]~~ (d) Subsection (4)(a) does not apply to a nonresident:
- 2115 (i) active duty service member, who presents to the bureau orders requiring the active
- 2116 duty service member to report for duty in this state; or
- 2117 (ii) active duty service member's spouse, stationed with the active duty service
- 2118 member, who presents to the bureau the active duty service member's orders
- 2119 requiring the service member to report for duty in this state.
- 2120 (2)(a) The bureau may deny, suspend, or revoke a concealed firearm permit if the
- 2121 applicant or permit holder:
- 2122 (i) has been or is convicted of a felony;
- 2123 (ii) has been or is convicted of a crime of violence;
- 2124 (iii) has been or is convicted of an offense involving the use of alcohol;
- 2125 (iv) has been or is convicted of an offense involving the unlawful use of narcotics or
- 2126 other controlled substances;
- 2127 (v) has been or is convicted of an offense involving moral turpitude;
- 2128 (vi) has been or is convicted of an offense involving domestic violence;
- 2129 (vii) has been or is adjudicated by a state or federal court as mentally incompetent,
- 2130 unless the adjudication has been withdrawn or reversed; ~~[and]~~ or
- 2131 (viii) is not qualified to purchase and possess a firearm pursuant ~~[to Section~~
- 2132 76-10-503 and] to Title 76, Chapter 11, Part 3, Persons Restricted Regarding
- 2133 Dangerous Weapons, or federal law.
- 2134 (b) In determining whether an applicant or permit holder is qualified to hold a concealed
- 2135 firearm permit under Subsection (2)(a), the bureau shall consider mitigating

- 2136 circumstances.
- 2137 (3)(a) The bureau may deny, suspend, or revoke a concealed firearm permit if [it] the  
2138 bureau has reasonable cause to believe that the applicant or concealed firearm permit  
2139 holder has been or is a danger to self or others as demonstrated by evidence,  
2140 including:
- 2141 (i) past pattern of behavior involving unlawful violence or threats of unlawful  
2142 violence;
  - 2143 (ii) past participation in incidents involving unlawful violence or threats of unlawful  
2144 violence; or
  - 2145 (iii) conviction of an offense in [~~violation of Title 76, Chapter 10, Part 5, Weapons~~]  
2146 Title 76, Chapter 11, Weapons.
- 2147 (b) The bureau may not deny, suspend, or revoke a concealed firearm permit solely for a  
2148 single conviction of an infraction violation of [~~Title 76, Chapter 10, Part 5, Weapons~~]  
2149 an offense in Title 76, Chapter 11, Weapons.
- 2150 (c) In determining whether the applicant or concealed firearm permit holder has been or  
2151 is a danger to self or others, the bureau may inspect:
- 2152 (i) expunged records of arrests and convictions of adults as provided in Section  
2153 77-40a-403; and
  - 2154 (ii) juvenile court records as provided in Section 78A-6-209.
- 2155 (d)(i) The bureau shall suspend a concealed firearm permit if [a] the permit holder  
2156 becomes a temporarily restricted person in accordance with Section [~~53-5e-301~~]  
2157 53-5a-504.
- 2158 (ii) Upon removal from the temporary restricted list described in Section 53-5a-504,  
2159 the concealed firearm permit holder's permit shall be reinstated unless:
    - 2160 (A) the concealed firearm permit has been revoked, been suspended for a reason  
2161 other than the restriction described in Subsection (3)(d)(i), or expired; or
    - 2162 (B) the concealed firearm permit holder has become a restricted person under  
2163 Section [~~76-10-503~~] 76-11-302 or 76-11-303.
- 2164 (4)(a) In addition to meeting the other qualifications for the issuance of a concealed  
2165 firearm permit under this section, a nonresident applicant who resides in a state that  
2166 recognizes the validity of the Utah permit or has reciprocity with Utah's concealed  
2167 firearm permit law shall:
- 2168 (i) hold a current concealed firearm or concealed weapon permit issued by the  
2169 appropriate permitting authority of the nonresident applicant's state of residency;



- 2170 and
- 2171 (ii) submit a photocopy or electronic copy of the nonresident applicant's current
- 2172 concealed firearm or concealed weapon permit referred to in Subsection (4)(a)(i).
- 2173 (b) A nonresident applicant who knowingly and willfully provides false information to
- 2174 the bureau under Subsection (4)(a) is prohibited from holding a Utah concealed
- 2175 firearm permit for a period of 10 years.
- 2176 (c) Subsection (4)(a) applies to:
- 2177 (i) ~~[-]all applications for the issuance of a concealed firearm permit [that are]received~~
- 2178 ~~by the bureau[-after May 10, 2011.] ; and~~
- 2179 ~~[(d) Beginning January 1, 2012, Subsection (4)(a) also applies to]~~
- 2180 (ii) ~~[-]an application for renewal of a concealed firearm permit by a nonresident.~~
- 2181 (5) The bureau shall issue a concealed firearm permit to a former peace officer who departs
- 2182 full-time employment as a peace officer, in an honorable manner, within five years of
- 2183 that departure if the officer meets the requirements of this section.
- 2184 (6) Except as provided in Subsection (7), the bureau shall also require the applicant to
- 2185 provide:
- 2186 (a) the address of the applicant's permanent residence;
- 2187 (b) one recent dated photograph;
- 2188 (c) one set of fingerprints; and
- 2189 (d) evidence of general familiarity with the types of firearms to be concealed as defined
- 2190 in Subsection (8).
- 2191 (7) An applicant who is a law enforcement officer under Section 53-13-103 may provide a
- 2192 letter of good standing from the officer's commanding officer in place of the evidence
- 2193 required by Subsection (6)(d).
- 2194 (8)(a) General familiarity with the types of firearms to be concealed includes training in:
- 2195 (i) the safe loading, unloading, storage, and carrying of the types of firearms to be
- 2196 concealed; and
- 2197 (ii) current laws defining lawful use of a firearm by a private citizen, including lawful
- 2198 self-defense, use of force by a private citizen, including use of deadly force,
- 2199 transportation, and concealment.
- 2200 (b) An applicant may satisfy the general familiarity requirement of Subsection (8)(a) by
- 2201 one of the following:
- 2202 (i) completion of a course of instruction conducted by a national, state, or local
- 2203 firearms training organization approved by the bureau;

- 2204 (ii) certification of general familiarity by an individual who has been certified by the  
2205 bureau, which may include a law enforcement officer, military or civilian firearms  
2206 instructor, or hunter safety instructor; or
- 2207 (iii) equivalent experience with a firearm through participation in an organized  
2208 shooting competition, law enforcement, or military service.
- 2209 (c) Instruction taken by a student under this Subsection (8) shall be in person and not  
2210 through electronic means.
- 2211 (d) ~~[A person]~~ An individual applying for a renewal permit is not required to retake the  
2212 firearms training described in this Subsection ~~[53-5-704(8)-]~~ (8) if the ~~[person]~~  
2213 individual:
- 2214 (i) has an unexpired permit; or
- 2215 (ii) has a permit that expired less than one year before the date on which the renewal  
2216 application was submitted.
- 2217 (9)(a) An applicant for certification as a Utah concealed firearms instructor shall:
- 2218 (i) be at least 21 years old;
- 2219 (ii) be currently eligible to possess a firearm under Section ~~[76-10-503]~~ 76-11-302 or  
2220 76-11-303;
- 2221 (iii) have:
- 2222 (A) completed a firearm instruction training course from the National Rifle  
2223 Association or another nationally recognized firearm training organization that  
2224 customarily offers firearm safety and firearm law instructor training or the  
2225 Department of Public Safety, Division of Peace Officer Safety Standards and  
2226 Training; or
- 2227 (B) received training equivalent to one of the courses referred to in Subsection  
2228 (9)(a)(iii)(A) as determined by the bureau;
- 2229 (iv) have taken a course of instruction and passed a certification test as described in  
2230 Subsection (9)(c); and
- 2231 (v) possess a Utah concealed firearm permit.
- 2232 (b) An instructor's certification is valid for three years from the date of issuance, unless  
2233 revoked by the bureau.
- 2234 (c)(i) In order to obtain initial certification or renew a certification, an instructor shall  
2235 attend an instructional course and pass a test under the direction of the bureau.
- 2236 (ii)(A) The bureau shall provide or contract to provide the course referred to in  
2237 Subsection (9)(c)(i) twice every year.

- 2238 (B) The course shall include instruction on current Utah law related to firearms,  
2239 including concealed carry statutes and rules, and the use of deadly force by  
2240 private citizens.
- 2241 (d)(i) Each applicant for certification under this Subsection (9) shall pay a fee of  
2242 \$50.00 at the time of application for initial certification.
- 2243 (ii) The renewal fee for the certificate is \$25.
- 2244 (iii) The bureau may use a fee paid under Subsections (9)(d)(i) and (ii) as a dedicated  
2245 credit to cover the cost incurred in maintaining and improving the instruction  
2246 program required for concealed firearm instructors under this Subsection (9).
- 2247 (10) A certified concealed firearms instructor shall provide each of the instructor's students  
2248 with the required course of instruction outline approved by the bureau.
- 2249 (11)(a)(i) A concealed firearms instructor shall provide a signed certificate to an  
2250 individual successfully completing the offered course of instruction.
- 2251 (ii) The instructor shall sign the certificate with the exact name indicated on the  
2252 instructor's certification issued by the bureau under Subsection (9).
- 2253 (iii)(A) The certificate shall also have affixed to it the instructor's official seal,  
2254 which is the exclusive property of the instructor and may not be used by any  
2255 other individual.
- 2256 (B) The instructor shall destroy the seal upon revocation or expiration of the  
2257 instructor's certification under Subsection (9).
- 2258 (C) The bureau shall determine the design and content of the seal to include at  
2259 least the following:
- 2260 (I) the instructor's name as it appears on the instructor's certification;
- 2261 (II) the words "Utah Certified Concealed Firearms Instructor," "state of Utah,"  
2262 and "my certification expires on (the instructor's certification expiration  
2263 date)"; and
- 2264 (III) the instructor's business or residence address.
- 2265 (D) The seal shall be affixed to each student certificate issued by the instructor in  
2266 a manner that does not obscure or render illegible any information or  
2267 signatures contained in the document.
- 2268 (b) The applicant shall provide the certificate to the bureau in compliance with  
2269 Subsection (6)(d).
- 2270 (12) The bureau may deny, suspend, or revoke the certification of an applicant or a  
2271 concealed firearms instructor if it has reason to believe the applicant or the instructor has:

- 2272 (a) become ineligible to possess a firearm under Section [~~76-10-503~~] 76-11-302 or  
2273 76-11-303, or federal law; or
- 2274 (b) knowingly and willfully provided false information to the bureau.
- 2275 (13) An applicant for certification or a concealed firearms instructor has the same appeal  
2276 rights as described in Subsection (16).
- 2277 (14) In providing instruction and issuing a permit under this part, the concealed firearms  
2278 instructor and the bureau are not vicariously liable for damages caused by the permit  
2279 holder.
- 2280 (15) An individual who knowingly and willfully provides false information on an  
2281 application filed under this part is guilty of a class B misdemeanor, and the application  
2282 may be denied, or the permit may be suspended or revoked.
- 2283 (16)(a) In the event of a denial, suspension, or revocation of a permit, the applicant or  
2284 permit holder may file a petition for review with the board within 60 days from the  
2285 date the denial, suspension, or revocation is received by the applicant or permit  
2286 holder by certified mail, return receipt requested.
- 2287 (b) The bureau's denial of a permit shall be in writing and shall include the general  
2288 reasons for the action.
- 2289 (c) If an applicant or permit holder appeals the denial to the review board, the applicant  
2290 or permit holder may have access to the evidence upon which the denial is based in  
2291 accordance with Title 63G, Chapter 2, Government Records Access and Management  
2292 Act.
- 2293 (d) On appeal to the board, the bureau has the burden of proof by a preponderance of the  
2294 evidence.
- 2295 (e)(i) Upon a ruling by the board on the appeal of a denial, the board shall issue a  
2296 final order within 30 days stating the board's decision.
- 2297 (ii) The final order shall be in the form prescribed by Subsection 63G-4-203(1)(i).
- 2298 (iii) The final order is final bureau action for purposes of judicial review under  
2299 Section 63G-4-402.
- 2300 (17) The commissioner may make rules in accordance with Title 63G, Chapter 3, Utah  
2301 Administrative Rulemaking Act, necessary to administer this chapter.
- 2302 Section 28. Section **53-5a-304**, which is renumbered from Section 53-5-704.5 is renumbered  
2303 and amended to read:
- 2304 **[53-5-704.5] 53-5a-304 . Provisional permit to carry concealed firearm.**
- 2305 (1)(a) The bureau shall issue a provisional permit to carry a concealed firearm for lawful

- 2306 self-defense to an applicant who is 18 years [~~of age, but is no older than 20 years of~~  
2307 ~~age] old but younger than 21 years old, within 60 days after receiving an application,  
2308 unless the bureau finds proof that the applicant does not meet the qualifications set  
2309 forth in Subsection [~~53-5-704(2)~~] 53-5a-303(2).~~
- 2310 (b) [~~The~~] Except as provided in Subsection (2), a provisional concealed carry permit is  
2311 valid throughout the state until the applicant reaches the age of 21, without  
2312 restriction, except as otherwise provided by Section [~~53-5-710~~] 53-5a-102.2.
- 2313 (2) The bureau may deny, suspend, or revoke a provisional concealed carry permit issued  
2314 under this section as [~~set forth~~] described in Subsections [~~53-5-704(2) and (3)~~]  
2315 53-5a-303(2) and (3).
- 2316 (3)(a) In addition to meeting the other qualifications for the issuance of a provisional  
2317 concealed carry permit under this section, a nonresident applicant who resides in a  
2318 state that recognizes the validity of the Utah provisional concealed carry permit or  
2319 has reciprocity with Utah's provisional concealed firearm permit law shall:
- 2320 (i) hold a current applicable concealed firearm or concealed weapon permit issued by  
2321 the appropriate permitting authority of the nonresident applicant's state of  
2322 residency; and
- 2323 (ii) submit a photocopy or electronic copy of the nonresident applicant's current  
2324 concealed firearm or concealed weapon permit referred to in Subsection (3)(a)(i).
- 2325 (b) A nonresident applicant who knowingly and willfully provides false information to  
2326 the bureau under Subsection (3)(a) is prohibited from holding a Utah concealed  
2327 firearm permit of any kind for a period of 10 years.
- 2328 (4) The bureau shall also require the applicant to provide:
- 2329 (a) the address of the applicant's permanent residence;
- 2330 (b) one recent dated photograph;
- 2331 (c) one set of fingerprints; and
- 2332 (d) evidence of general familiarity with the types of firearms to be concealed as defined  
2333 in [~~Subsection 53-5-704(8)~~] Section 53-5-303.
- 2334 (5) In the event of a decision to deny, suspend, or revoke a provisional concealed firearm  
2335 permit, the applicant or permit holder under this section may appeal the decision through  
2336 the same process set forth in Subsection [~~53-5-704(16)~~] 53-5a-303(16).
- 2337 (6) The applicant or permit holder of the provisional concealed firearm permit under this  
2338 section must meet the eligibility requirements of another state, including age  
2339 requirements, to carry a concealed firearm in that state.

2340 Section 29. Section **53-5a-305**, which is renumbered from Section 53-5-705 is renumbered  
2341 and amended to read:

2342 **[53-5-705] 53-5a-305 . Temporary permit to carry concealed firearm -- Denial,**  
2343 **suspension, or revocation -- Appeal.**

2344 (1) The bureau or [its] the bureau's designated agent may issue a temporary permit to carry a  
2345 concealed firearm to [a-person] an individual who:

2346 (a) has applied for a permit under Section [53-5-704] 53-5a-303;

2347 (b) has applied for a temporary permit under this section; and

2348 (c) meets the criteria required in Subsections (2) and (3).

2349 (2) To receive a temporary permit under this section, the applicant shall demonstrate in  
2350 writing to the satisfaction of the bureau extenuating circumstances that would justify  
2351 issuing a temporary permit.

2352 (3) A temporary permit may not be issued under this section until preliminary record  
2353 checks regarding the applicant have been made with the National Crime Information  
2354 Center and the bureau to determine any criminal history.

2355 (4)[(a)] A temporary permit is valid only for a maximum of 90 days or any lesser period  
2356 specified by the bureau, or until a permit under Section 53-5-704 is issued to the  
2357 holder of the temporary permit, whichever period is shorter.

2358 [~~(b) The provisions of Subsections 76-10-504(1) and (2) and Section 76-10-505 do not~~  
2359 ~~apply to a person issued a temporary permit under this section during the time period~~  
2360 ~~for which the temporary permit is valid.]~~

2361 (5) The bureau may deny, suspend, or revoke a temporary permit prior to expiration if the  
2362 commissioner determines:

2363 (a) the circumstances justifying the temporary permit no longer exist; or

2364 (b) the holder of the temporary permit does not meet the requirements for a permit under  
2365 Section [53-5-704] 53-5a-303.

2366 (6)(a) The denial, suspension, or revocation of a temporary permit shall be in writing  
2367 and shall include the reasons for the action.

2368 (b) The bureau's decision to deny, suspend, or revoke a temporary permit may not be  
2369 appealed to the board.

2370 (c) Denial, suspension, or revocation under this subsection is final action for purposes of  
2371 judicial review under Section 63G-4-402.

2372 Section 30. Section **53-5a-306**, which is renumbered from Section 53-5-706 is renumbered  
2373 and amended to read:

2374 **[53-5-706] 53-5a-306 . Permit -- Fingerprints transmitted to bureau -- Report**  
 2375 **from bureau.**

2376 (1)(a) Except as provided in Subsection (2), the fingerprints of each applicant for a  
 2377 permit under Section [53-5-707] 53-5a-307 or [53-5-707.5] 53-5a-308 shall be taken  
 2378 on a form prescribed by the bureau.

2379 (b) Upon receipt of the fingerprints, the applicant fingerprint card fee prescribed in  
 2380 Section 53-10-108, and the fee prescribed in Section [53-5-707] 53-5a-307 or [  
 2381 53-5-707.5] 53-5a-308, the bureau shall conduct a search of [its] the bureau's files for  
 2382 criminal history information pertaining to the applicant, and shall request the Federal  
 2383 Bureau of Investigation to conduct a similar search through [its] the Federal Bureau of  
 2384 Investigation's files.

2385 (c) If the fingerprints are insufficient for the Federal Bureau of Investigation to conduct  
 2386 a search of [its] the Federal Bureau of Investigation's files for criminal history  
 2387 information, the application or concealed firearm permit may be denied, suspended,  
 2388 or revoked until sufficient fingerprints are submitted by the applicant.

2389 (2)(a) If the permit applicant has previously applied to the bureau for a permit to carry  
 2390 concealed firearms, the bureau shall note the previous identification numbers and  
 2391 other data [which] that would provide positive identification in the files of the bureau  
 2392 on the copy of any subsequent permit submitted to the bureau in accordance with this  
 2393 section.

2394 (b) No additional application form, fingerprints, or fee are required under this  
 2395 Subsection (2).

2396 Section 31. Section **53-5a-307**, which is renumbered from Section 53-5-707 is renumbered  
 2397 and amended to read:

2398 **[53-5-707] 53-5a-307 . Concealed firearm permit -- Fees -- Concealed Weapons**  
 2399 **Account.**

2400 (1)(a) An applicant for a concealed firearm permit shall pay a fee of \$25 at the time of  
 2401 filing an application.

2402 (b) A nonresident applicant shall pay an additional \$10 for the additional cost of  
 2403 processing a nonresident application.

2404 (c) The bureau shall waive the initial fee for an applicant who is:

2405 (i) a law enforcement officer under Section 53-13-103;

2406 (ii) an active duty service member;

2407 (iii) the spouse of an active duty service member; or

2408 (iv) a school employee.

2409 (2)(a) The renewal fee for the permit is \$20.

2410 (b) A nonresident shall pay an additional \$5 for the additional cost of processing a  
2411 nonresidential renewal.

2412 (3) The replacement fee for the permit is \$10.

2413 (4)(a) The late fee for the renewal permit is \$7.50.

2414 (b) As used in this section, "late fee" means the fee charged by the bureau for a renewal  
2415 submitted on a permit that has been expired for more than 30 days but less than one  
2416 year.

2417 (5)(a) There is created a restricted account within the General Fund known as the  
2418 "Concealed Weapons Account."

2419 (b) The account shall be funded from fees collected under this section and Section [  
2420 53-5-707.5] 53-5a-308.

2421 (c) Funds in the account may only be used to cover costs relating to:

2422 (i) the issuance of concealed firearm permits under this part; or

2423 (ii) the programs described in Subsection 26B-5-102(3) and Section 26B-5-611.

2424 (d) No later than 90 days after the end of the fiscal year, 50% of the fund balance shall  
2425 be transferred to the Suicide Prevention and Education Fund, created in Section  
2426 26B-1-326.

2427 (6)(a) The bureau may collect any fees charged by an outside agency for additional  
2428 services required by statute as a prerequisite for issuance of a permit.

2429 (b) The bureau shall promptly forward any fees collected under Subsection (6)(a) to the  
2430 appropriate agency.

2431 (7) The bureau shall make an annual report in writing to the Legislature's Law Enforcement  
2432 and Criminal Justice Interim Committee on the amount and use of the fees collected  
2433 under this section and Section 53-5-707.5.

2434 Section 32. Section **53-5a-308**, which is renumbered from Section 53-5-707.5 is renumbered  
2435 and amended to read:

2436 **[~~53-5-707.5~~] 53-5a-308 . Provisional concealed firearm permit -- Fees --**  
2437 **Disposition of fees.**

2438 (1)(a) An applicant for a provisional concealed firearm permit, as described in Section [  
2439 ~~53-5-704.5~~] 53-5a-304, shall pay a fee of \$25 at the time of filing an application.

2440 (b) A nonresident applicant shall pay an additional \$10 for the additional cost of  
2441 processing a nonresident application.



2442 (2) The replacement fee for the permit is \$10.

2443 (3) Fees collected under this section shall be remitted to the Concealed Weapons Account,  
2444 as described in [~~Subsection 53-5-707(5)~~] Section 53-5a-307.

2445 (4)(a) The bureau may collect any fees charged by an outside agency for additional  
2446 services required by statute as a prerequisite for issuance of a permit.

2447 (b) The bureau shall promptly forward any fees collected under Subsection (4)(a) to the  
2448 appropriate agency.

2449 Section 33. Section **53-5a-309**, which is renumbered from Section 53-5-707.6 is renumbered  
2450 and amended to read:

2451 **[~~53-5-707.6~~] 53-5a-309 . Concealed firearm permit renewal -- Firearm safety and**  
2452 **suicide prevention video.**

2453 (1) The bureau, in conjunction with the Division of Integrated Healthcare created in Section  
2454 26B-1-204, shall create a firearm safety and suicide prevention video that:

2455 (a) is [~~web-accessible~~] Internet-accessible;

2456 (b) is no longer than 10 minutes in length; and

2457 (c) includes information about:

2458 (i) safe handling, storage, and use of firearms in a home environment;

2459 (ii) at-risk individuals and individuals who are legally prohibited from possessing  
2460 firearms; and

2461 (iii) suicide prevention awareness.

2462 (2) Before renewing a firearm permit, an individual shall view the firearm safety and  
2463 suicide prevention video and submit proof in the form required by the bureau.

2464 (3) In accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, the  
2465 bureau shall make rules that establish procedures for:

2466 (a) producing and distributing the firearm safety and suicide prevention video; and

2467 (b) providing access to the video to an applicant seeking renewal of a firearm permit.

2468 Section 34. Section **53-5a-310**, which is renumbered from Section 53-5-708 is renumbered  
2469 and amended to read:

2470 **[~~53-5-708~~] 53-5a-310 . Permit -- Names private.**

2471 (1)(a) The bureau shall maintain a record in [~~its~~] the bureau's office of any permit issued  
2472 under this part.

2473 (b) Notwithstanding the requirements of Subsection 63G-2-301(2)(b), the names,  
2474 addresses, telephone numbers, dates of birth, and [~~Social Security~~] social security  
2475 numbers of [~~persons~~] individuals receiving permits are protected records under

- 2476 Subsection 63G-2-305(11).
- 2477 (c) Notwithstanding Section 63G-2-206, [~~a person~~] an individual may not share any of
- 2478 the information listed in Subsection (1)(b) with any office, department, division, or
- 2479 other agency of the federal government unless:
- 2480 (i) the disclosure is necessary to conduct a criminal background check on the
- 2481 individual who is the subject of the information;
- 2482 (ii) the disclosure of information is made pursuant to a court order directly associated
- 2483 with an active investigation or prosecution of the individual who is the subject of
- 2484 the information;
- 2485 (iii) the disclosure is made to a criminal justice agency in a criminal investigation or
- 2486 prosecution;
- 2487 (iv) the disclosure is made by a law enforcement agency within the state to another
- 2488 law enforcement agency in the state or in another state in connection with an
- 2489 investigation, including a preliminary investigation, or a prosecution of the
- 2490 individual who is the subject of the information;
- 2491 (v) the disclosure is made by a law enforcement agency within the state to an
- 2492 employee of a federal law enforcement agency in the course of a combined law
- 2493 enforcement effort involving the law enforcement agency within the state and the
- 2494 federal law enforcement agency; or
- 2495 (vi) the disclosure is made in response to a routine request that a federal law
- 2496 enforcement officer makes to obtain information on an individual whom the
- 2497 federal law enforcement officer detains, including for a traffic stop, or questions
- 2498 because of the individual's suspected violation of state law.
- 2499 (d) [~~A person~~] An individual is guilty of a class A misdemeanor if the [~~person~~] individual
- 2500 knowingly:
- 2501 (i) discloses information listed in Subsection (1)(b) in violation of the provisions
- 2502 under Title 63G, Chapter 2, Government Records Access and Management Act,
- 2503 applicable to protected records; or
- 2504 (ii) shares information in violation of Subsection (1)(c).
- 2505 (e)(i) As used in this Subsection (1)(e), "governmental agency" means:
- 2506 (A) the state or any department, division, agency, or other instrumentality of the
- 2507 state; or
- 2508 (B) a political subdivision of the state, including a county, city, town, school
- 2509 district, special district, and special service district.

2510 (ii) A governmental agency may not compel or attempt to compel an individual who  
 2511 has been issued a concealed firearm permit to divulge whether the individual:  
 2512 (A) has been issued a concealed firearm permit; or  
 2513 (B) is carrying a concealed firearm.

2514 (iii) Subsection (1)(e)(ii) does not apply to a law enforcement officer.

2515 (2) The bureau shall immediately file a copy of each permit [it] the bureau issues under this  
 2516 part.

2517 Section 35. Section **53-5a-311**, which is renumbered from Section 53-5-711 is renumbered  
 2518 and amended to read:

2519 **~~[53-5-711]~~ 53-5a-311 . Law enforcement officials, judges, and court  
 2520 commissioners exempt -- Training requirements -- Qualification -- Revocation.**

2521 (1) As used in this section~~[and Section 76-10-523]~~:

2522 (a) "Court commissioner" means an individual appointed under Section 78A-5-107.

2523 (b)(i) "Judge" means a judge or justice of a court of record or a court not of record.

2524 (ii) "Judge" does not include a judge pro tem or senior judge.

2525 (c) "Law enforcement official" means:

2526 (i) a member of the Board of Pardons and Parole;

2527 (ii) a district attorney, deputy district attorney, county attorney or deputy county  
 2528 attorney of a county not in a prosecution district;

2529 (iii) the attorney general;

2530 (iv) an assistant attorney general designated as a criminal prosecutor; or

2531 (v) a city attorney or a deputy city attorney designated as a criminal prosecutor.

2532 (2) To qualify for an exemption in Section ~~[76-10-523]~~ 53-5a-108, a law enforcement  
 2533 official, judge, or court commissioner shall complete the following training  
 2534 requirements:

2535 (a) meet the requirements of Sections ~~[53-5-704, 53-5-706, and 53-5-707]~~ 53-5a-303,  
 2536 53-5a-306, and 53-5a-307; and

2537 (b) successfully complete an additional course of training as established by the  
 2538 commissioner ~~[of public safety]~~ designed to assist ~~[them while]~~ with carrying out [  
 2539 ~~their~~] official law enforcement, judicial, or court commissioner duties as agents for  
 2540 the state or ~~[its]~~ the state's political subdivisions.

2541 (3) Annual requalification requirements for law enforcement officials, judges, or court  
 2542 commissioners shall be established by the commissioner ~~[of public safety. Additional~~  
 2543 ~~requalification requirements]~~ and may be established by the:

- 2544 (a) Board of Pardons and Parole by rule for [its] the Board of Pardons and Parole's  
 2545 members;
- 2546 (b) Judicial Council by rule for judges and court commissioners; and
- 2547 (c) the district attorney, county attorney in a county not in a prosecution district, the  
 2548 attorney general, or city attorney by policy for prosecutors under their jurisdiction.
- 2549 (4) The bureau may:
- 2550 (a) issue a certificate of qualification to a judge, law enforcement official, or court  
 2551 commissioner who has completed the requirements of Subsection (2), which  
 2552 certificate of qualification is valid until revoked;
- 2553 (b) revoke the certificate of qualification of a judge, law enforcement official, or court  
 2554 commissioner who:
- 2555 (i) fails to meet the annual requalification criteria established pursuant to Subsection  
 2556 (3);
- 2557 (ii) would be subject to revocation of a concealed firearm permit under Subsection [   
 2558 53-5-704(2)(a)] 53-5a-303(2)(a); or
- 2559 (iii) is no longer employed as a judge, law enforcement official, or court  
 2560 commissioner as defined in Subsection (1); and
- 2561 (c) certify instructors for the training requirements of this section.

2562 Section 36. Section **53-5a-312**, which is renumbered from Section 53-5-712 is renumbered  
 2563 and amended to read:

2564 **[53-5-712] 53-5a-312 . Armed Forces -- Permit requirements -- Exemptions.**

2565 An active duty servicemember of the United States Armed Forces who possesses a Utah  
 2566 concealed firearm permit is exempt from the requirement in Subsection [53-5-704(4)(a)]  
 2567 53-5a-303(4)(a) when renewing a Utah concealed firearm permit.

2568 Section 37. Section **53-5a-401**, which is renumbered from Section 53-5b-103 is renumbered  
 2569 and amended to read:

2570 **Part 4. Utah State-Made Firearms Protections**

2571 **[53-5b-103] 53-5a-401 . Definitions.**

2572 As used in this [chapter] part:

- 2573 (1) "Firearm" means a device from which is expelled a projectile by action of an explosive.
- 2574 (2) "Firearm accessory" means an item that is used in conjunction with or mounted upon a  
 2575 firearm, firearm action, or firearm receiver but is not essential to the basic function of a  
 2576 firearm, including:
- 2577 (a) a telescopic or laser sight;

- 2578 (b) a magazine;
- 2579 (c) a flash or sound suppressor;
- 2580 (d) a folding or aftermarket stock or grip;
- 2581 (e) a speed-loader;
- 2582 (f) an ammunition carrier; and
- 2583 (g) a light for target illumination.
- 2584 (3) "Generic and insignificant parts:"
- 2585 (a) means parts that have other manufacturing or consumer product applications; and
- 2586 (b) includes:
- 2587 (i) springs;
- 2588 (ii) screws;
- 2589 (iii) nuts; and
- 2590 (iv) pins.

- 2591 (4) "Manufactured" means creating a firearm, a firearm action or receiver, a firearm
- 2592 accessory, or ammunition from basic materials for functional usefulness, including:
- 2593 (a) forging;
- 2594 (b) casting;
- 2595 (c) machining; and
- 2596 (d) another process for working materials.

2597 Section 38. Section **53-5a-402**, which is renumbered from Section 53-5b-102 is renumbered

2598 and amended to read:

2599 **[53-5b-102] 53-5a-402 . Legal considerations.**

2600 In reviewing any matter covered by this [~~chapter~~] part, a court shall consider the

2601 following:

- 2602 (1) The Tenth Amendment to the United States Constitution guarantees to the state and its
- 2603 people all powers not granted to the federal government elsewhere in the Constitution
- 2604 and reserves to the state and people of Utah certain powers as they were understood at
- 2605 the time that Utah was admitted to statehood.
- 2606 (2) The guarantee of powers to the state and its people under the Tenth Amendment is a
- 2607 matter of contract between the state and people of Utah and the United States as of the
- 2608 time of statehood.
- 2609 (3) The Ninth Amendment to the United States Constitution guarantees to the people rights
- 2610 not granted in the Constitution and reserves to the people of Utah certain rights as they
- 2611 were understood at the time that Utah was admitted to statehood.

- 2612 (4) The guarantee of rights to the people under the Ninth Amendment is a matter of contract  
2613 between the state and people of Utah and the United States as of the time of statehood.
- 2614 (5) The regulation of intrastate commerce is vested in the state under the Ninth and Tenth  
2615 Amendments to the United States Constitution.
- 2616 (6) The Second Amendment to the United States Constitution reserves to the people the  
2617 right to keep and bear arms as that right was understood at the time that Utah was  
2618 admitted to statehood, and the guarantee of the right is a matter of contract between the  
2619 state and people of Utah and the United States as of the time of statehood.
- 2620 (7) The Utah Constitution clearly secures to Utah citizens, and prohibits government  
2621 interference with, the right of individual Utah citizens to keep and bear arms.
- 2622 (8) A personal firearm, a firearm action or receiver, a firearm accessory, or ammunition that  
2623 is manufactured commercially or privately in the state to be used or sold within the state  
2624 is not subject to federal law or federal regulation, including registration, under the  
2625 authority of congress to regulate interstate commerce.
- 2626 (9) The Legislature declares that a firearm, a firearm action or receiver, a firearm accessory,  
2627 and ammunition described in Subsection (8) does not travel in interstate commerce.
- 2628 (10) The importation into the state of generic and insignificant parts and those parts'  
2629 incorporation into a firearm, a firearm action or receiver, a firearm accessory, or  
2630 ammunition manufactured in the state does not subject the firearm, firearm accessory,  
2631 firearm action or receiver, or ammunition to federal law or regulation.
- 2632 (11) Basic materials, including unmachined steel and unshaped wood, are not firearms,  
2633 firearm actions or receivers, firearms accessories, or ammunition.
- 2634 (12) Trade in basic materials is not subject to congressional authority to regulate firearms,  
2635 firearm actions or receivers, firearms accessories, and ammunition as if the basic  
2636 materials were actually firearms, firearm actions or receivers, firearms accessories, or  
2637 ammunition.
- 2638 (13) Congress's authority to regulate interstate commerce in basic materials does not  
2639 include authority to regulate firearms, firearm actions or receivers, firearms accessories,  
2640 and ammunition made in the state from basic materials.
- 2641 (14) The attachment or use of firearms accessories in conjunction with a firearm  
2642 manufactured in the state does not subject the firearm to federal regulation under  
2643 Congress's power to regulate interstate commerce, without regard to whether the  
2644 firearms accessories are themselves subject to federal regulation.

2645 Section 39. Section **53-5a-403**, which is renumbered from Section 53-5b-201 is renumbered

2646 and amended to read:

2647 **[53-5b-201] 53-5a-403 . Intrastate firearm manufacturing.**

2648 (1) This chapter applies to a firearm, a firearm action or receiver, a firearm accessory, or  
2649 ammunition that is manufactured in the state to remain in the state from basic materials  
2650 that can be manufactured without the inclusion of any significant parts imported into the  
2651 state.

2652 (2) This chapter does not apply to:

2653 (a) a firearm that cannot be carried and used by one [person] individual;

2654 (b) a firearm that has a bore diameter greater than 1-1/2 inches and that uses smokeless  
2655 powder, not black powder, as a propellant;

2656 (c) a firearm that discharges two or more projectiles with one activation of the trigger or  
2657 other firing device, other than a shotgun; or

2658 (d) ammunition with a projectile that explodes using an explosion of chemical energy  
2659 after the projectile leaves the firearm.

2660 Section 40. Section **53-5a-404**, which is renumbered from Section 53-5b-202 is renumbered  
2661 and amended to read:

2662 **[53-5b-202] 53-5a-404 . Required markings.**

2663 A firearm, firearm action, or firearm receiver manufactured or sold in Utah under this [  
-2664 chapter] part must have the words "Made in Utah" or "Made in UT" clearly stamped on a  
2665 central metallic part, such as the receiver or frame.

2666 Section 41. Section **53-5a-501**, which is renumbered from Section 53-5c-102 is renumbered  
2667 and amended to read:

2668 **Part 5. Firearms Safe Harbor**

2669 **[53-5c-102] 53-5a-501 . Definitions.**

2670 As used in this [chapter] part:

2671 (1) "Bureau" means the Bureau of Criminal Identification created in Section 53-10-201.

2672 (2) "Cohabitant" means an individual who:

2673 (a) is 18 years old or older;

2674 (b) resides in the same home with another individual; and

2675 (c)(i) is living as if a spouse of the individual;

2676 (ii) is related by blood or marriage to the individual;

2677 (iii) has one or more children in common with the individual; or

2678 (iv) has an interest in the safety and well-being of the individual.

2679 (3) "Domestic violence" means the same as that term is defined in Section 77-36-1.

- 2680 (4) "Firearm" means a pistol, revolver, shotgun, short barrel shotgun, rifle or short barrel  
2681 rifle, or a device that could be used as a dangerous weapon from which is expelled a  
2682 projectile by action of an explosive.
- 2683 (5) "Health care provider" means a person:  
2684 (a) who provides health care or professional services related to health care; and  
2685 (b) is acting within the scope of the person's license, certification, practice, education, or  
2686 training.
- 2687 (6) "Illegal firearm" means a firearm the ownership or possession of which is prohibited  
2688 under state or federal law.
- 2689 (7) "Jail release agreement" means the same as that term is defined in Section 78B-7-801.
- 2690 (8) "Jail release court order" means the same as that term is defined in Section 78B-7-801.
- 2691 (9) "Law enforcement agency" means a municipal or county police agency or an officer of  
2692 that agency.
- 2693 (10) "Owner cohabitant" means a cohabitant who:  
2694 (a) is 18 years old or older; and  
2695 (b) owns a firearm.

2696 Section 42. Section **53-5a-502**, which is renumbered from Section 53-5c-201 is renumbered  
2697 and amended to read:

2698 **[53-5c-201] 53-5a-502 . Voluntary commitment of a firearm by cohabitant -- Law**  
2699 **enforcement to hold firearm.**

- 2700 (1)(a) A cohabitant or owner cohabitant may voluntarily commit a firearm to a law  
2701 enforcement agency or request that a law enforcement officer receive a firearm for  
2702 safekeeping if the owner cohabitant or cohabitant believes that the owner cohabitant  
2703 or another cohabitant with access to the firearm is an immediate threat to:  
2704 (i) a cohabitant;  
2705 (ii) the owner cohabitant; or  
2706 (iii) another individual.
- 2707 (b) Except as provided in Subsection (2), if the owner of a firearm requests return of the  
2708 firearm in person at the law enforcement agency's office, the law enforcement agency:  
2709 (i) may not hold the firearm under this section; and  
2710 (ii) shall return the firearm to the owner.
- 2711 (2) A law enforcement agency may not return a firearm to an owner under Subsection (1)(b)  
2712 if the owner of the firearm:  
2713 (a) is a restricted person under Section ~~[76-10-503]~~ 76-11-302 or 76-11-303; or



- 2714 (b)(i) has been arrested and booked into a county jail on a class A misdemeanor or  
2715 felony domestic violence offense;
- 2716 (ii) has had a court:
- 2717 (A) review the probable cause statement detailing the incident leading to the  
2718 owner's arrest; and
- 2719 (B) determine that probable cause existed for the arrest; and
- 2720 (iii) is subject to a jail release agreement or a jail release court order arising out of the  
2721 domestic violence offense.
- 2722 (3) Unless a firearm is an illegal firearm subject to Section [~~53-5e-202~~] 53-5a-503, a law  
2723 enforcement agency that receives a firearm in accordance with this chapter shall:
- 2724 (a) record:
- 2725 (i) the owner cohabitant's name, address, and phone number;
- 2726 (ii) the firearm serial number and the make and model of each firearm committed; and
- 2727 (iii) the date that the firearm was voluntarily committed;
- 2728 (b) require the cohabitant to sign a document attesting that the cohabitant resides in the  
2729 home;
- 2730 (c) hold the firearm in safe custody:
- 2731 (i) for 60 days after the day on which the firearm is voluntarily committed; or
- 2732 (ii)(A) for an owner described in Subsection (2)(b), during the time the jail release  
2733 agreement or jail release court order is in effect; and
- 2734 (B) for 60 days after the day on which the jail release agreement or jail release  
2735 court order expires; and
- 2736 (d) upon proof of identification, return the firearm to:
- 2737 (i)(A) the owner cohabitant after the expiration of the 60-day period; or
- 2738 (B) if the owner cohabitant requests return of the firearm before the expiration of  
2739 the 60-day period, at the time of the request; or
- 2740 (ii) an owner other than the owner cohabitant in accordance with Section [~~53-5e-202~~]  
2741 53-5a-503.
- 2742 (4) The law enforcement agency shall hold the firearm for an additional 60 days:
- 2743 (a) if the initial 60-day period expires; and
- 2744 (b) the cohabitant or owner cohabitant requests that the law enforcement agency hold the  
2745 firearm for an additional 60 days.
- 2746 (5) A law enforcement agency may not request or require that the owner cohabitant provide  
2747 the name or other information of the cohabitant who poses an immediate threat or any

- 2748 other cohabitant.
- 2749 (6) Notwithstanding an ordinance or policy to the contrary adopted in accordance with  
 2750 Section 63G-2-701, a law enforcement agency shall destroy a record created under  
 2751 Subsection (3), Subsection [~~53-5c-202(3)(b)(iii)~~] 53-5a-503(3)(b)(iii), or any other  
 2752 record created in the application of this chapter immediately, if practicable, but no later  
 2753 than five days after immediately upon the:
- 2754 (a) return of a firearm in accordance with Subsection (3)(d); or  
 2755 (b) disposal of the firearm in accordance with Section [~~53-5c-202~~] 53-5a-503.
- 2756 (7) Unless otherwise provided, the provisions of Title 77, Chapter 11d, Lost or Mislaid  
 2757 Property, do not apply to a firearm received by a law enforcement agency in accordance  
 2758 with this [~~chapter~~] part.
- 2759 (8) A law enforcement agency shall adopt a policy for the safekeeping of a firearm held in  
 2760 accordance with this [~~chapter~~] part.
- 2761 (9) The department shall create a pamphlet to be distributed by a law enforcement officer  
 2762 under Section 77-36-2.1 that includes information about a cohabitant's or owner  
 2763 cohabitant's ability to have the owner cohabitant's firearm committed to a law  
 2764 enforcement agency for safekeeping in accordance with this section.

2765 Section 43. Section **53-5a-503**, which is renumbered from Section 53-5c-202 is renumbered  
 2766 and amended to read:

2767 **[~~53-5c-202~~] 53-5a-503 . Illegal firearms confiscated -- Disposition of unclaimed**  
 2768 **firearm.**

- 2769 (1) If a law enforcement agency receives a firearm in accordance with Section 53-5c-201,  
 2770 and the firearm is an illegal firearm, the law enforcement agency shall:
- 2771 (a) notify the owner cohabitant attempting to voluntarily commit the firearm that the  
 2772 firearm is an illegal firearm; and  
 2773 (b) confiscate the firearm and dispose of the firearm in accordance with Section  
 2774 77-11a-403.
- 2775 (2)(a) If a law enforcement agency cannot, after a reasonable attempt, locate an owner  
 2776 cohabitant to return a firearm in accordance with Section [~~53-5c-201~~] 53-5a-502, the  
 2777 law enforcement agency shall dispose of the firearm in accordance with Section  
 2778 77-11a-403.
- 2779 (b) A law enforcement agency may not dispose of a firearm under Subsection (2)(a)  
 2780 before one year after the day on which the cohabitant initially voluntarily committed  
 2781 the firearm in accordance with Section [~~53-5c-201~~] 53-5a-502.

- 2782 (3)(a) If [~~a person~~] an individual other than an owner cohabitant claims ownership of the  
 2783 firearm, the [~~person~~] individual may:
- 2784 (i) request that the law enforcement agency return the firearm in accordance with  
 2785 Subsection (3)(b); or
- 2786 (ii) petition the court for the firearm's return in accordance with Subsection (3)(c).
- 2787 (b) Except as provided in Section [~~53-5e-201~~] 53-5a-502, the law enforcement agency  
 2788 shall return a firearm to [~~a person~~] an individual other than an owner cohabitant who  
 2789 claims ownership of the firearm if:
- 2790 (i) the 60-day period described in Section [~~53-5e-201~~] 53-5a-502 has expired;
- 2791 (ii) the [~~person~~] individual provides identification; and
- 2792 (iii) the [~~person~~] individual signs a document attesting that the [~~person~~] individual has  
 2793 an ownership interest in the firearm.
- 2794 (c) After sufficient notice is given to the prosecutor, the court may order that the firearm  
 2795 be:
- 2796 (i) returned to the rightful owner as determined by the court; or
- 2797 (ii) disposed of in accordance with Section 77-11a-403.
- 2798 (d) A law enforcement agency shall return a firearm ordered returned to the rightful  
 2799 owner as expeditiously as possible after a court determination.

2800 Section 44. Section **53-5a-504**, which is renumbered from Section 53-5c-301 is renumbered  
 2801 and amended to read:

2802 **[~~53-5e-301~~] 53-5a-504 . Voluntary restrictions on firearm purchase and**  
 2803 **possession.**

- 2804 (1) An individual who is not a restricted person under Section [~~76-10-503~~] 76-11-302 or  
 2805 76-11-303 may voluntarily request to be restricted from the purchase or possession of  
 2806 firearms.
- 2807 (2) An individual requesting to be restricted under Subsection (1) may request placement on  
 2808 one of the following restricted lists:
- 2809 (a) a restricted list that:
- 2810 (i) restricts the individual from purchasing or possessing a firearm for 180 days with  
 2811 automatic removal of the individual from the restricted list at the end of the 180  
 2812 days; and
- 2813 (ii) allows the individual to request removal 30 days after the day on which the  
 2814 individual is added to the restricted list; or
- 2815 (b) a restricted list that:

- 2816 (i) restricts the individual from purchasing or possessing a firearm indefinitely; and  
2817 (ii) allows the individual to request removal 90 days after the day on which the  
2818 individual is added to the restricted list.
- 2819 (3)(a) Subject to Subsections (8) and (9), the bureau shall develop a process and forms  
2820 for inclusion on, and removal from, a restricted list as described in Subsection (2) to  
2821 be maintained by the bureau.
- 2822 (b) The bureau shall make the forms for inclusion and removal available by download  
2823 through the bureau's website and require, at a minimum, the following information  
2824 for the individual described in Subsection (1):
- 2825 (i) name;  
2826 (ii) address;  
2827 (iii) date of birth;  
2828 (iv) contact information;  
2829 (v) signature; and  
2830 (vi)(A) if the individual is entered on the restricted list as described in Subsection  
2831 (2)(a), an acknowledgment of the statement in Subsection (8)(a); or  
2832 (B) if the individual is entered on the restricted list as described in Subsection  
2833 (2)(b), an acknowledgment of the statement in Subsection (8)(b).
- 2834 (4)(a) An individual requesting inclusion on a restricted list under Subsection (2) shall:  
2835 (i) deliver the completed form in person to a law enforcement agency; or  
2836 (ii) direct the individual's health care provider under Section ~~[53-5e-302]~~ 53-5a-505  
2837 to electronically deliver the individual's request to the bureau.
- 2838 (b) The law enforcement agency described in Subsection (4)(a)(i):  
2839 (i) shall verify the individual's identity before accepting the form;  
2840 (ii) may not accept a form from someone other than the individual named on the  
2841 form; and  
2842 (iii) shall transmit the form electronically to the bureau through the Utah Criminal  
2843 Justice Information System.
- 2844 (5) Upon receipt of a verified form provided under this section or Section ~~[53-5e-302]~~  
2845 53-5a-505 requesting inclusion on a restricted list, the bureau shall, within 24 hours, add  
2846 the individual's name to the restricted list.
- 2847 (6)(a) For an individual added to the restricted list described in Subsection (2)(a):  
2848 (i) the individual may not request removal from the restricted list unless the  
2849 individual has been on the restricted list for at least 30 days;

- 2850 (ii) the bureau shall remove the individual from the restricted list 180 days after the  
2851 day on which the individual was added to the restricted list, unless the individual:  
2852 (A) requests to be removed from the restricted list after 30 days;  
2853 (B) requests to remain on the restricted list; or  
2854 (C) directs the individual's health care provider to request that the individual  
2855 remain on the restricted list;
- 2856 (iii) a request for an extension shall be made in the same manner as the original  
2857 request; and
- 2858 (iv) the individual may continue to request, or direct the individual's health care  
2859 provider to continue to request, extensions every 180 days.

- 2860 (b) For an individual added to a restricted list under Subsection (2)(b), the individual:  
2861 (i) may not request removal from the restricted list unless the individual has been on  
2862 the restricted list for at least 90 days; and  
2863 (ii) shall remain on the restricted list, unless the bureau receives a request from the  
2864 individual to have the individual's name removed from the restricted list.

2865 (7) If an individual restricted under this section is a concealed firearm permit holder, the  
2866 individual's permit shall be:

- 2867 (a) suspended upon entry on the restricted list; and  
2868 (b) reinstated upon removal from the restricted list, unless:  
2869 (i) the permit has been revoked, been suspended for a reason other than under this  
2870 section, or has expired; or  
2871 (ii) the individual has become a restricted person under Section [76-10-503] 76-11-302  
2872 or 76-11-303.

2873 (8)(a) The form for an individual seeking to be placed on the restricted list described in  
2874 Subsection (2)(a) shall have the following language prominently displayed before the signature:

2875 "ACKNOWLEDGMENT

2876 By presenting this completed form to a law enforcement agency, I understand that I am  
2877 requesting that my name be placed on a restricted list that restricts my ability to purchase or  
2878 possess firearms for a minimum of 30 days, and up to 6 months. I understand that by  
2879 voluntarily making myself a temporarily restricted person, I may not have a firearm in my  
2880 possession and any attempt to purchase a firearm while I am on the restricted list will be  
2881 declined. I also understand that any time after 30 days, I may request removal from the  
2882 restricted list and all previous rights will be restored. In addition, if I am in possession of a  
2883 valid concealed firearm permit, my permit will be suspended during the time I am on the

2884 restricted list, but will be reinstated upon my removal, unless the permit has expired, been  
 2885 revoked, been suspended for another reason, or I become ineligible to possess a firearm.  
 2886 Additionally, I acknowledge that if I possess a firearm or attempt to purchase a firearm while  
 2887 outside Utah, I will be subject to the law of that location regarding restricted persons."

- 2888 (b) The form for an individual seeking to be placed on the restricted list described in  
 2889 Subsection (2)(b) shall have the following language prominently displayed before the  
 2890 signature:

2891 "ACKNOWLEDGMENT

2892 By presenting this completed form to a law enforcement agency, I understand that I am  
 2893 requesting that my name be placed on a restricted list that restricts my ability to purchase or  
 2894 possess firearms indefinitely. I understand that by voluntarily making myself a temporarily  
 2895 restricted person, I may not have a firearm in my possession and any attempt to purchase a  
 2896 firearm while I am on the restricted list will be declined. I also understand that any time after  
 2897 90 days, I may request removal from the restricted list and all previous rights will be restored.  
 2898 In addition, if I am in possession of a valid concealed firearm permit, my permit will be  
 2899 suspended during the time I am on the restricted list, but will be reinstated upon my removal,  
 2900 unless the permit has expired, been revoked, been suspended for another reason, or I become  
 2901 ineligible to possess a firearm. Additionally, I acknowledge that if I possess a firearm or  
 2902 attempt to purchase a firearm while outside Utah, I will be subject to the law of that location  
 2903 regarding restricted persons."

- 2904 (9)(a) An individual requesting removal from a restricted list shall deliver a completed  
 2905 removal form in person to:

- 2906 (i) the law enforcement agency that processed the inclusion form if the individual  
 2907 was placed on the restricted list under Subsection (4)(a)(i); or  
 2908 (ii) the individual's local law enforcement agency if the individual was placed on the  
 2909 restricted list under Subsection (4)(a)(ii).

- 2910 (b) The law enforcement agency described in Subsection (9)(a):

- 2911 (i) shall verify the individual's identity before accepting the form;  
 2912 (ii) may not accept a removal form from someone other than the individual named on  
 2913 the form; and  
 2914 (iii) shall transmit the removal form electronically to the bureau through the Utah  
 2915 Criminal Justice Information System.

- 2916 (10) Upon receipt of a verified removal form, the bureau shall, after three business days,  
 2917 remove the individual from the restricted list and remove the information from the

2918 National Instant Criminal Background Check System.

2919 (11) For an individual added to the restricted list under Subsection (2)(a), within 30 days  
 2920 before the 180-day removal deadline, the bureau shall notify the individual at the  
 2921 address listed on the inclusion form described in Subsection (4) and, if applicable, the  
 2922 law enforcement agency that processed the inclusion form, that the individual is due to  
 2923 be removed from the restricted list, and the date on which the removal will occur, unless  
 2924 the individual requests an extension of up to 180 days.

2925 (12)(a) A law enforcement agency that receives a request for inclusion under Subsection  
 2926 (4)(a)(i) shall:

2927 (i) maintain the completed form and all subsequent completed forms in a separate  
 2928 file; and

2929 (ii) for an individual added to the restricted list under Subsection (2)(a), destroy the  
 2930 entire file within five days after the date indicated in the notification if the  
 2931 individual does not request an extension after notification in accordance with  
 2932 Subsection (11).

2933 (b) A law enforcement agency that receives a removal request under Subsection (9) shall  
 2934 destroy the entire file associated with the individual within five days after the day on  
 2935 which the information is transmitted to the bureau.

2936 (c) Upon removal of an individual from a restricted list, the bureau shall destroy all  
 2937 records related to the inclusion and removal of the individual within five days after  
 2938 the day on which the individual was removed.

2939 (d) All forms and records created in accordance with this section are classified as private  
 2940 records in accordance with Title 63G, Chapter 2, Government Records Access and  
 2941 Management Act.

2942 (13) The bureau may make rules in accordance with Title 63G, Chapter 3, Utah  
 2943 Administrative Rulemaking Act, to develop the process and forms to implement this  
 2944 section.

2945 Section 45. Section **53-5a-505**, which is renumbered from Section 53-5c-302 is renumbered  
 2946 and amended to read:

2947 **[53-5e-302] 53-5a-505 . Assistance from a health care provider -- Restricted list.**

2948 (1) An individual who is not a restricted person under Section ~~[76-10-503]~~ 76-11-302 or  
 2949 76-11-303 and is seeking inclusion on a restricted list under Section ~~[53-5e-301]~~  
 2950 53-5a-504 may direct the individual's health care provider to electronically deliver the  
 2951 individual's inclusion request described in Section ~~[53-5e-301]~~ 53-5a-504 to the bureau.

2952 (2) In addition to the inclusion form described in Section [~~53-5e-301~~] 53-5a-504, the bureau  
2953 shall create a form, available by download through the bureau's website, for:

2954 (a) an individual who is directing a health care provider to electronically deliver the  
2955 individual's inclusion request and require, at a minimum, the following information:

2956 (i) the individual's signature;

2957 (ii) the name of the individual's health care provider; and

2958 (iii) the individual's acknowledgment of the statement in Subsection (4)(a); and

2959 (b) a health care provider who is delivering an individual's inclusion request and require,  
2960 at a minimum, the following information for the health care provider:

2961 (i) the health care provider's name;

2962 (ii) the name of the health care provider's organization;

2963 (iii) the health care provider's license or certification, including the license or  
2964 certification number;

2965 (iv) the health care provider's signature; and

2966 (v) the health care provider's acknowledgment of the statement in Subsection (4)(b).

2967 (3)(a) An individual who is directing a health care provider to electronically deliver the  
2968 individual's request to be included on a restricted list shall, in the presence of the  
2969 health care provider, complete the forms described in Section [~~53-5e-301~~] 53-5a-504  
2970 and Subsection (2)(a).

2971 (b) The health care provider:

2972 (i) shall verify the individual's identity before accepting the forms;

2973 (ii) may not accept forms from someone other than the individual named on the  
2974 forms;

2975 (iii) shall complete the form described in Subsection (2)(b); and

2976 (iv) shall deliver the request to the bureau electronically and maintain a copy of the  
2977 completed request in the individual's health record.

2978 (4)(a) The form described in Subsection (2)(a) shall have the following language prominently  
2979 displayed before the signature:

2980 "ACKNOWLEDGMENT

2981 By presenting this completed form to my health care provider, I understand that I am  
2982 requesting that my health care provider present my name to the Bureau of Criminal  
2983 Identification to be placed on a restricted list that restricts my ability to purchase or possess  
2984 firearms."

2985 (b) The form described in Subsection (2)(b) shall have the following language prominently



2986 displayed before the signature:

2987 "ACKNOWLEDGMENT

2988 By presenting this completed form to the Bureau of Criminal Identification, I understand  
 2989 that I am acknowledging that I have verified the identity of [name of individual seeking  
 2990 inclusion on a restricted list] and have witnessed [name of individual] sign the form requesting  
 2991 that [name of individual] be placed on a restricted list that restricts [name of individual]'s  
 2992 ability to purchase or possess firearms. I affirm that [name of individual] is currently my  
 2993 patient, and I am a licensed health care provider acting within the scope of my license,  
 2994 certification, practice, education, or training."

2995 (5) The bureau may make rules in accordance with Title 63G, Chapter 3, Utah  
 2996 Administrative Rulemaking Act, to develop the process and forms to implement this  
 2997 section.

2998 Section 46. Section **53-5a-601** is enacted to read:

2999 **Part 6. Sale and Purchase of a Firearm**

3000 **53-5a-601 . Definitions.**

3001 As used in this part:

- 3002 (1) "Antique firearm" means the same as that term is defined in Section 53-5a-101.5.
- 3003 (2) "Bureau" means the Bureau of Criminal Identification created in Section 53-10-201  
 3004 within the department.
- 3005 (3) "Criminal history background check" means a criminal background check conducted  
 3006 through the bureau or a local law enforcement agency.
- 3007 (4) "Dangerous weapon" means the same as that term is defined in Section 76-11-101.
- 3008 (5) "Dealer" means a person who is:
- 3009 (a) licensed under 18 U.S.C. Sec. 923; and
- 3010 (b) engaged in the business of selling, leasing, or otherwise transferring a firearm,  
 3011 whether the person is a retail or wholesale dealer, pawnbroker, or other type of  
 3012 merchant or seller.
- 3013 (6) "Domestic violence" means the same as that term is defined in Section 77-36-1.
- 3014 (7) "Federal firearms licensee" means a person who:
- 3015 (a) holds a valid federal firearms license issued under 18 U.S.C. Sec. 923; and
- 3016 (b) is engaged in the activities authorized by the specific category of license held.
- 3017 (8)(a) "Firearm" means a pistol, revolver, shotgun, short barreled shotgun, rifle, or short  
 3018 barreled rifle, or a device that could be used as a dangerous weapon from which is  
 3019 expelled a projectile by action of an explosive.

3020 (b) "Firearm" does not include an antique firearm.

3021 (9)(a) "Short barreled rifle" means a rifle having a barrel or barrels of fewer than 16  
 3022 inches in length.

3023 (b) "Short barreled rifle" includes a dangerous weapon made from a rifle by alteration,  
 3024 modification, or otherwise, if the weapon as modified has an overall length of fewer  
 3025 than 26 inches.

3026 (10)(a) "Short barreled shotgun" means a shotgun having a barrel or barrels of fewer  
 3027 than 18 inches in length.

3028 (b) "Short barreled shotgun" includes a dangerous weapon made from a shotgun by  
 3029 alteration, modification, or otherwise, if the weapon as modified has an overall length  
 3030 of fewer than 26 inches.

3031 (11) "Shotgun" means a smooth bore firearm designed to fire cartridges containing pellets  
 3032 or a single slug.

3033 (12) "Slug" means a single projectile discharged from a shotgun shell.

3034 Section 47. Section **53-5a-602**, which is renumbered from Section 76-10-526 is renumbered  
 3035 and amended to read:

3036 **[76-10-526] 53-5a-602 . Criminal background check prior to purchase of a**  
 3037 **firearm -- Fee -- Exemption for concealed firearm permit holders and law enforcement**  
 3038 **officers.**

3039 [~~(1)~~] For purposes of this section, "~~valid permit to carry a concealed firearm~~" does not  
 3040 include a temporary permit issued under Section ~~53-5-705.~~]

3041 [~~(2)~~] (1)(a) To establish personal identification and residence in this state for purposes of  
 3042 this part, a dealer shall require an individual receiving a firearm to present one photo  
 3043 identification on a form issued by a governmental agency of the state.

3044 (b) A dealer may not accept a driving privilege card issued under Section 53-3-207 as  
 3045 proof of identification for the purpose of establishing personal identification and  
 3046 residence in this state as required under this Subsection [~~(2)~~] (1).

3047 [~~(3)~~] (2)(a) A criminal history background check is required for the sale of a firearm by a  
 3048 licensed firearm dealer in the state.

3049 (b) Subsection [~~(3)(a)~~] (2)(a) does not apply to the sale of a firearm to a Federal Firearms  
 3050 Licensee.

3051 [~~(4)~~] (3)(a) An individual purchasing a firearm from a dealer shall consent in writing to a  
 3052 criminal background check, on a form provided by the bureau.

3053 (b) The form shall contain the following information:

- 3054 (i) the dealer identification number;
- 3055 (ii) the name and address of the individual receiving the firearm;
- 3056 (iii) the date of birth, height, weight, eye color, and hair color of the individual
- 3057 receiving the firearm; and
- 3058 (iv) the social security number or any other identification number of the individual
- 3059 receiving the firearm.
- 3060 ~~[(5)]~~ (4)(a) The dealer shall send the information required by Subsection ~~[(4)]~~ (3) to the
- 3061 bureau immediately upon its receipt by the dealer.
- 3062 (b) A dealer may not sell or transfer a firearm to an individual until the dealer has
- 3063 provided the bureau with the information in Subsection ~~[(4)]~~ (3) and has received
- 3064 approval from the bureau under Subsection ~~[(7)]~~ (6).
- 3065 ~~[(6)]~~ (5) The dealer shall make a request for criminal history background information by
- 3066 telephone or other electronic means to the bureau and shall receive approval or denial of
- 3067 the inquiry by telephone or other electronic means.
- 3068 ~~[(7)]~~ (6) When the dealer calls for or requests a criminal history background check, the
- 3069 bureau shall:
- 3070 (a) review the criminal history files, including juvenile court records, and the temporary
- 3071 restricted file created under Section ~~[53-5e-301]~~ 53-5a-504, to determine if the
- 3072 individual is prohibited from purchasing, possessing, or transferring a firearm by
- 3073 state or federal law;
- 3074 (b) inform the dealer that:
- 3075 (i) the records indicate the individual is prohibited; or
- 3076 (ii) the individual is approved for purchasing, possessing, or transferring a firearm;
- 3077 (c) provide the dealer with a unique transaction number for that inquiry; and
- 3078 (d) provide a response to the requesting dealer during the call for a criminal background
- 3079 check, or by return call, or other electronic means, without delay, except in case of
- 3080 electronic failure or other circumstances beyond the control of the bureau, the bureau
- 3081 shall advise the dealer of the reason for the delay and give the dealer an estimate of
- 3082 the length of the delay.
- 3083 ~~[(8)]~~ (7)(a) The bureau may not maintain any records of the criminal history background
- 3084 check longer than 20 days from the date of the dealer's request, if the bureau
- 3085 determines that the individual receiving the firearm is not prohibited from
- 3086 purchasing, possessing, or transferring the firearm under state or federal law.
- 3087 (b) However, the bureau shall maintain a log of requests containing the dealer's federal

3088 firearms number, the transaction number, and the transaction date for a period of 12  
3089 months.

3090 ~~[(9)]~~ (8)(a) If the criminal history background check discloses information indicating that  
3091 the individual attempting to purchase the firearm is prohibited from purchasing,  
3092 possessing, or transferring a firearm, the bureau shall:

3093 (i) within 24 hours after determining that the purchaser is prohibited from purchasing,  
3094 possessing, or transferring a firearm, notify the law enforcement agency in the  
3095 jurisdiction where the dealer is located; and

3096 (ii) inform the law enforcement agency in the jurisdiction where the individual  
3097 resides.

3098 (b) Subsection ~~[(9)(a)]~~ (8)(a) does not apply to an individual prohibited from purchasing  
3099 a firearm solely due to placement on the temporary restricted list under Section [  
3100 ~~53-5e-301~~] 53-5a-504.

3101 (c) A law enforcement agency that receives information from the bureau under  
3102 Subsection ~~[(9)(a)]~~ (8)(a) shall provide a report before August 1 of each year to the  
3103 bureau that includes:

3104 (i) based on the information the bureau provides to the law enforcement agency under  
3105 Subsection ~~[(9)(a)]~~ (8)(a), the number of cases that involve an individual who is  
3106 prohibited from purchasing, possessing, or transferring a firearm as a result of a  
3107 conviction for an offense involving domestic violence; and

3108 (ii) of the cases described in Subsection ~~[(9)(e)(i)]~~ (8)(c)(i):

3109 (A) the number of cases the law enforcement agency investigates; and

3110 (B) the number of cases the law enforcement agency investigates that result in a  
3111 criminal charge.

3112 (d) The bureau shall:

3113 (i) compile the information from the reports described in Subsection ~~[(9)(e)]~~ (8)(c);

3114 (ii) omit or redact any identifying information in the compilation; and

3115 (iii) submit the compilation to the Law Enforcement and Criminal Justice Interim  
3116 Committee before November 1 of each year.

3117 ~~[(10)]~~ (9) If an individual is denied the right to purchase a firearm under this section, the  
3118 individual may review the individual's criminal history information and may challenge  
3119 or amend the information as provided in Section 53-10-108.

3120 ~~[(11)]~~ (10) The bureau shall make rules in accordance with Title 63G, Chapter 3, Utah  
3121 Administrative Rulemaking Act, to ensure the identity, confidentiality, and security of

3122 all records provided by the bureau under this part are in conformance with the  
3123 requirements of the Brady Handgun Violence Prevention Act, Pub. L. No. 103-159, 107  
3124 Stat. 1536 (1993).

3125 ~~[(12)]~~ (11)(a) A dealer shall collect a criminal history background check fee for the sale  
3126 of a firearm under this section.

3127 (b) The fee described under Subsection ~~[(12)(a)]~~ (11)(a) remains in effect until changed  
3128 by the bureau through the process described in Section 63J-1-504.

3129 (c)(i) The dealer shall forward at one time all fees collected for criminal history  
3130 background checks performed during the month to the bureau by the last day of  
3131 the month following the sale of a firearm.

3132 (ii) The bureau shall deposit the fees in the General Fund as dedicated credits to  
3133 cover the cost of administering and conducting the criminal history background  
3134 check program.

3135 ~~[(13)]~~ (12)(a) An individual with a concealed firearm permit issued under Section  
3136 53-5a-303 or a provisional concealed firearm permit issued under ~~[Title 53, Chapter~~  
3137 ~~5, Part 7, Concealed Firearm Act,]~~ Section 53-5a-304 is exempt from the background  
3138 check and corresponding fee required in this section for the purchase of a firearm if:

3139 ~~[(a)]~~ (i) the individual presents the individual's concealed firearm permit to the dealer  
3140 prior to purchase of the firearm; and

3141 ~~[(b)]~~ (ii) the dealer verifies with the bureau that the individual's concealed firearm  
3142 permit is valid.

3143 (b) An individual with a temporary permit to carry a concealed firearm issued under  
3144 Section 53-5a-305 is not exempt from a background check and the corresponding fee  
3145 required in this section for the purchase of a firearm.

3146 ~~[(14)]~~ (13)(a) A law enforcement officer, as defined in Section 53-13-103, is exempt  
3147 from the background check fee required in this section for the purchase of a personal  
3148 firearm to be carried while off-duty if the law enforcement officer verifies current  
3149 employment by providing a letter of good standing from the officer's commanding  
3150 officer and current law enforcement photo identification.

3151 (b) Subsection ~~[(14)(a)]~~ (13)(a) may only be used by a law enforcement officer to  
3152 purchase a personal firearm once in a 24-month period.

3153 ~~[(15)]~~ (14) A dealer engaged in the business of selling, leasing, or otherwise transferring a  
3154 firearm shall:

3155 (a) make the firearm safety brochure described in Subsection 26B-5-211(3) available to

3156 a customer free of charge; and

3157 (b) at the time of purchase, distribute a cable-style gun lock provided to the dealer under  
3158 Subsection 26B-5-211(3) to a customer purchasing a shotgun, short barreled shotgun,  
3159 short barreled rifle, rifle, or another firearm that federal law does not require be  
3160 accompanied by a gun lock at the time of purchase.

3161 Section 48. Section **53-5a-603**, which is renumbered from Section 76-10-526.1 is renumbered  
3162 and amended to read:

3163 **[76-10-526.1] 53-5a-603 . Information check before private sale of firearm.**

3164 (1) As used in this section:

3165 (a) "Governmental entity" means the state and the state's political subdivisions.

3166 (b) "Law enforcement agency" means the same as that term is defined in Section  
3167 53-1-102.

3168 (c) "Personally identifiable information" means the same as that term is defined in  
3169 Section 63D-2-102.

3170 (2) Subject to Subsections (3) and (4), the bureau shall create an online process that allows  
3171 an individual who is selling or purchasing a firearm to voluntarily determine:

3172 (a) if the other individual involved in the sale of the firearm has a valid concealed carry  
3173 permit issued under Section 53-5a-303, a provisional concealed carry permit issued  
3174 under Section 53-5a-304, or a temporary concealed carry permit issued under Section  
3175 53-5a-305; or

3176 (b) based on the serial number of the firearm, if the firearm is reported as stolen.

3177 (3) Subsection (2) does not apply to a federal firearms licensee or dealer.

3178 (4) The bureau may not:

3179 (a) provide information related to a request under Subsection (2) to a law enforcement  
3180 agency; or

3181 (b) collect a user's personally identifiable information under Subsection (2).

3182 (5) A governmental entity may not require an individual who is selling or purchasing a  
3183 firearm to use the process under Subsection (2).

3184 (6) If an individual uses the process under Subsection (2), the individual is not required,  
3185 based on the information the individual receives from the bureau, to make a report to a  
3186 law enforcement agency.

3187 (7) After responding to a request under Subsection (2), the bureau shall immediately  
3188 dispose of all information related to the request.

3189 (8)(a) This section does not create a civil cause of action arising from the sale or

3190 purchase of a firearm under this section.

3191 (b) An individual's failure to use the process under Subsection (2) is not evidence of the  
3192 individual's negligence in a civil cause of action.

3193 Section 49. Section **53-5a-604**, which is renumbered from Section 76-10-527 is renumbered  
3194 and amended to read:

3195 **[76-10-527] 53-5a-604 . Penalties.**

3196 (1) A dealer is guilty of a class A misdemeanor [~~who~~] if the dealer willfully and  
3197 intentionally:

3198 (a) requests, obtains, or seeks to obtain criminal history background information under  
3199 false pretenses;

3200 (b) disseminates criminal history background information; or

3201 (c) violates Section [~~76-10-526~~] 53-5a-602.

3202 (2) [~~A person~~] An individual who purchases or transfers a firearm is guilty of a [~~felony of~~  
3203 ~~the~~]third degree felony if the [~~person~~] individual willfully and intentionally makes a  
3204 false statement of the information required for a criminal background check in Section [~~76-10-526~~]  
3205 53-5a-602.

3206 (3) Except as otherwise provided in Subsection (1), a dealer is guilty of a [~~felony of the~~]  
3207 third degree felony if the dealer willfully and intentionally sells or transfers a firearm in  
3208 violation of this part or Title 76, Chapter 11, Weapons.

3209 (4) [~~A person~~] An individual is guilty of a [~~felony of the~~]third degree felony if the [~~person~~]  
3210 individual purchases a firearm with the intent to:

3211 (a) resell or otherwise provide a firearm to [~~a person~~] an individual who is ineligible to  
3212 purchase or receive a firearm from a dealer; or

3213 (b) transport a firearm out of this state to be resold to an ineligible [~~person~~] individual.

3214 Section 50. Section **53-5a-605**, which is renumbered from Section 76-10-524 is renumbered  
3215 and amended to read:

3216 **[76-10-524] 53-5a-605 . Purchase of firearms pursuant to federal law.**

3217 This part [~~will allow purchases~~] allows the purchase of firearms and ammunition  
3218 pursuant to U.S.C. Title 18 Chapter 44 Sec. 922b(3).

3219 Section 51. Section **53-5d-102** is amended to read:

3220 **53-5d-102 . Definitions.**

3221 As used in this chapter:

3222 (1) "Ammunition" means a bullet, a cartridge case, primer, propellant powder, or other  
3223 ammunition designed for use in any firearm, either as an individual component part or in

- 3224 a completely assembled cartridge.
- 3225 (2) "Manufacturer" means, with respect to a qualified product, a person who is engaged in  
3226 the business of manufacturing a qualified product and who is licensed to engage in  
3227 business as a manufacturer under 18 U.S.C. Chapter 44.
- 3228 (3) "Negligent entrustment" means the supplying of a qualified product by a seller for use  
3229 by another person when the seller knows, or reasonably should know, the person to  
3230 whom the product is supplied is likely to, and does, use the product in a manner  
3231 involving unreasonable risk of physical injury to the person or others.
- 3232 (4) "Person" means the same as that term is defined in Section 68-3-12.5.
- 3233 (5)(a) "Qualified civil liability action" means a civil action or proceeding or an  
3234 administrative proceeding brought by any person against a manufacturer or seller of a  
3235 qualified product, or a trade association, for damages, punitive damages, injunctive or  
3236 declaratory relief, abatement, restitution, fines, or penalties, or other relief, resulting  
3237 from the criminal or unlawful misuse of a qualified product by the person or a third  
3238 party.
- 3239 (b) "Qualified civil liability action" does not include:
- 3240 (i) an action brought against a transferor convicted under 18 U.S.C. Sec. 924(h) or  
3241 Section 76-10-503 by a party directly harmed by the conduct of which the  
3242 transferee was convicted;
- 3243 (ii) an action brought against a seller for negligent entrustment or negligence per se;
- 3244 (iii) an action in which a manufacturer or seller of a qualified product knowingly  
3245 violated a state or federal statute applicable to the sale or marketing of the  
3246 product, and the violation was a proximate cause of the harm for which relief is  
3247 sought, including:
- 3248 (A) any incident in which the manufacturer or seller knowingly made any false  
3249 entry in, or failed to make appropriate entry in, any record required to be kept  
3250 under federal or state law with respect to the qualified product, or aided,  
3251 abetted, or conspired with any person in making any false or fictitious oral or  
3252 written statement with respect to any fact material to the lawfulness of the sale  
3253 or other disposition of a qualified product; or
- 3254 (B) any case in which the manufacturer or seller aided, abetted, or conspired with  
3255 any other person to sell or otherwise dispose of a qualified product, knowing,  
3256 or having reasonable cause to believe, that the actual buyer of the qualified  
3257 product was prohibited from possessing or receiving a firearm or ammunition



3258 under 18 U.S.C. Sec. 922(g) or (n) or [~~Section 76-10-503~~] Title 76, Chapter 11,  
 3259 Part 3, Persons Restricted Regarding Dangerous Weapons;

3260 (iv) an action for breach of contract or warranty in connection with the purchase of  
 3261 the product;

3262 (v) an action for death, physical injuries, or property damage resulting directly from a  
 3263 defect in design or manufacture of the product, when used as intended or in a  
 3264 reasonably foreseeable manner, except that where the discharge of the product  
 3265 was caused by a volitional act that constituted a criminal offense, then the act shall  
 3266 be considered the sole proximate cause of any resulting death, personal injuries, or  
 3267 property damage; or

3268 (vi) an action or proceeding commenced to enforce the provisions of 18 U.S.C.  
 3269 Chapter 44, 26 U.S.C. Chapter 53, or [~~Title 76, Chapter 10, Part 5, Weapons~~] Title  
 3270 76, Chapter 11, Weapons.

3271 (6) "Qualified product" means a firearm or antique firearm, as defined in Section [~~76-10-501~~]  
 3272 76-11-101, ammunition, or a component part of a firearm or ammunition.

3273 (7) "Seller" means, with respect to a qualified product, a federal firearms licensee, as  
 3274 defined in Section [~~76-10-501~~] 53-5a-601.

3275 (8) "Trade association" means:

3276 (a) any corporation, unincorporated association, federation, business league, or  
 3277 professional or business organization not organized or operated for profit and no part  
 3278 of the net earnings of which inures to the benefit of any private shareholder or  
 3279 individual;

3280 (b) an organization described in 26 U.S.C. Sec. 501(c)(6) and exempt from tax under 26  
 3281 U.S.C. Sec. 501(a); and

3282 (c) an organization, two or more members of which are manufacturers or sellers of a  
 3283 qualified product.

3284 (9) "Unlawful misuse" means conduct that violates a statute, ordinance, or regulation as it  
 3285 relates to the use of a qualified product.

3286 Section 52. Section **53-10-202** is amended to read:

3287 **53-10-202 . Criminal identification -- Duties of bureau.**

3288 The bureau shall:

3289 (1) procure and file information relating to identification and activities of persons who:

3290 (a) are fugitives from justice;

3291 (b) are wanted or missing;

- 3292 (c) have been arrested for or convicted of a crime under the laws of any state or nation;  
3293 and
- 3294 (d) are believed to be involved in racketeering, organized crime, or a dangerous offense;
- 3295 (2) establish a statewide uniform crime reporting system that shall include:
- 3296 (a) statistics concerning general categories of criminal activities;
- 3297 (b) statistics concerning crimes that exhibit evidence of prejudice based on race,  
3298 religion, ancestry, national origin, ethnicity, or other categories that the division finds  
3299 appropriate;
- 3300 (c) statistics concerning the use of force by law enforcement officers in accordance with  
3301 the Federal Bureau of Investigation's standards; and
- 3302 (d) other statistics required by the Federal Bureau of Investigation;
- 3303 (3) make a complete and systematic record and index of the information obtained under this  
3304 part;
- 3305 (4) subject to the restrictions in this part, establish policy concerning the use and  
3306 dissemination of data obtained under this part;
- 3307 (5) publish an annual report concerning the extent, fluctuation, distribution, and nature of  
3308 crime in Utah;
- 3309 (6) establish a statewide central register for the identification and location of missing  
3310 persons, which may include:
- 3311 (a) identifying data including fingerprints of each missing person;
- 3312 (b) identifying data of any missing person who is reported as missing to a law  
3313 enforcement agency having jurisdiction;
- 3314 (c) dates and circumstances of any persons requesting or receiving information from the  
3315 register; and
- 3316 (d) any other information, including blood types and photographs found necessary in  
3317 furthering the purposes of this part;
- 3318 (7) publish a quarterly directory of missing persons for distribution to persons or entities  
3319 likely to be instrumental in the identification and location of missing persons;
- 3320 (8) list the name of every missing person with the appropriate nationally maintained  
3321 missing persons lists;
- 3322 (9) establish and operate a 24-hour communication network for reports of missing persons  
3323 and reports of sightings of missing persons;
- 3324 (10) coordinate with the National Center for Missing and Exploited Children and other  
3325 agencies to facilitate the identification and location of missing persons and the

- 3326 identification of unidentified persons and bodies;
- 3327 (11) receive information regarding missing persons as provided in Sections 26B-8-130 and
- 3328 53G-6-602, and stolen vehicles, vessels, and outboard motors, as provided in Section
- 3329 41-1a-1401;
- 3330 (12) adopt systems of identification, including the fingerprint system, to be used by the
- 3331 division to facilitate law enforcement;
- 3332 (13) assign a distinguishing number or mark of identification to any pistol or revolver, as
- 3333 provided in Section [~~76-10-520~~] 53-5a-105;
- 3334 (14) check certain criminal records databases for information regarding motor vehicle
- 3335 salesperson applicants, maintain a separate file of fingerprints for motor vehicle
- 3336 salespersons, and inform the Motor Vehicle Enforcement Division when new entries are
- 3337 made for certain criminal offenses for motor vehicle salespersons in accordance with the
- 3338 requirements of Section 41-3-205.5;
- 3339 (15) check certain criminal records databases for information regarding driving privilege
- 3340 card applicants or cardholders and maintain a separate file of fingerprints for driving
- 3341 privilege applicants and cardholders and inform the federal Immigration and Customs
- 3342 Enforcement Agency of the United States Department of Homeland Security when new
- 3343 entries are made in accordance with the requirements of Section 53-3-205.5;
- 3344 (16) review and approve or disapprove applications for license renewal that meet the
- 3345 requirements for renewal; and
- 3346 (17) forward to the board those applications for renewal under Subsection (16) that do not
- 3347 meet the requirements for renewal.

3348 Section 53. Section **53-10-202.5** is amended to read:

3349 **53-10-202.5 . Bureau services -- Fees.**

3350 The bureau shall collect fees for the following services:

- 3351 (1) applicant fingerprint card as determined by Section 53-10-108;
- 3352 (2) bail enforcement licensing as determined by Section 53-11-115;
- 3353 (3) concealed firearm permit as determined by Section [~~53-5-707~~] 53-5a-307;
- 3354 (4) provisional concealed firearm permit as determined by Section [~~53-5-707.5~~] 53-5a-308;
- 3355 (5) a certificate of eligibility for expungement as described in Section 77-40a-304;
- 3356 (6) firearm purchase background check as determined by Section [~~76-10-526~~] 53-5a-602;
- 3357 (7) name check as determined by Section 53-10-108;
- 3358 (8) private investigator licensing as determined by Section 53-9-111; and
- 3359 (9) right of access as determined by Section 53-10-108.

3360 Section 54. Section **53-10-208.1** is amended to read:

3361 **53-10-208.1 . Magistrates and court clerks to supply information.**

3362 (1) Every magistrate or clerk of a court responsible for court records in this state shall,  
3363 within 30 days after the day of the disposition and on forms and in the manner provided  
3364 by the division, furnish the division with information pertaining to:

3365 (a) all dispositions of criminal matters, including:

3366 (i) guilty pleas;

3367 (ii) convictions;

3368 (iii) dismissals;

3369 (iv) acquittals;

3370 (v) pleas in abeyance;

3371 (vi) judgments of not guilty by reason of insanity;

3372 (vii) judgments of guilty with a mental condition;

3373 (viii) finding of mental incompetence to stand trial; and

3374 (ix) probations granted;

3375 (b) orders of civil commitment under the terms of Section 26B-5-332;

3376 (c) the issuance, recall, cancellation, or modification of all warrants of arrest or  
3377 commitment as described in Rule 6, Utah Rules of Criminal Procedure and Section  
3378 78B-6-303, within one day of the action and in a manner provided by the division;  
3379 and

3380 (d) protective orders issued after notice and hearing, pursuant to:

3381 (i) Title 77, Chapter 36, Cohabitant Abuse Procedures Act;

3382 (ii) Title 78B, Chapter 7, Part 4, Dating Violence Protective Orders;

3383 (iii) Title 78B, Chapter 7, Part 5, Sexual Violence Protective Orders;

3384 (iv) Title 78B, Chapter 7, Part 6, Cohabitant Abuse Protective Orders; or

3385 (v) Title 78B, Chapter 7, Part 8, Criminal Protective Orders.

3386 (2) When transmitting information on a criminal matter under Subsection (1)(a)(i), (ii), (v),  
3387 or (vii) for a conviction of misdemeanor assault under Section 76-5-102, the magistrate  
3388 or clerk of a court shall include available information regarding whether the conviction  
3389 for assault resulted from an assault against an individual:

3390 (a) who is included in at least one of the relationship categories described in Subsection [  
3391 ~~76-10-503(1)(b)(xii)] 76-11-303(13); or~~

3392 (b) with whom none of the relationships described in Subsection [~~76-10-503(1)(b)(xii)]  
3393 76-11-303(13) apply.~~

- 3394 (3) The court in the county where a determination or finding was made shall transmit a  
3395 record of the determination or finding to the bureau no later than 48 hours after the  
3396 determination is made, excluding Saturdays, Sundays, and legal holidays, if an  
3397 individual is:
- 3398 (a) adjudicated as a mental defective; or
  - 3399 (b) involuntarily committed to a mental institution in accordance with Subsection  
3400 26B-5-332(16).
- 3401 (4) The record described in Subsection (3) shall include:
- 3402 (a) an agency record identifier;
  - 3403 (b) the individual's name, sex, race, and date of birth; and
  - 3404 (c) the individual's social security number, government issued driver license or  
3405 identification number, alien registration number, government passport number, state  
3406 identification number, or FBI number.

3407 Section 55. Section **53-10-403** is amended to read:

3408 **53-10-403 . DNA specimen analysis -- Application to offenders, including minors.**

- 3409 (1) Sections 53-10-403.6, 53-10-404, 53-10-404.5, 53-10-405, and 53-10-406 apply to:
- 3410 (a) a person who has pled guilty to or has been convicted of any of the offenses under  
3411 Subsection (2)(a) or (b) on or after July 1, 2002;
  - 3412 (b) a person who has pled guilty to or has been convicted by any other state or by the  
3413 United States government of an offense which if committed in this state would be  
3414 punishable as one or more of the offenses listed in Subsection (2)(a) or (b) on or after  
3415 July 1, 2003;
  - 3416 (c) a person who has been booked on or after January 1, 2011, through December 31,  
3417 2014, for any offense under Subsection (2)(c);
  - 3418 (d) a person who has been booked:
    - 3419 (i) by a law enforcement agency that is obtaining a DNA specimen on or after May  
3420 13, 2014, through December 31, 2014, under Subsection 53-10-404(4)(b) for any  
3421 felony offense; or
    - 3422 (ii) on or after January 1, 2015, for any felony offense; or
  - 3423 (e) a minor:
    - 3424 (i)(A) who is adjudicated by the juvenile court for an offense described in  
3425 Subsection (2) that is within the jurisdiction of the juvenile court on or after  
3426 July 1, 2002; or
    - 3427 (B) who is adjudicated by the juvenile court for an offense described in

- 3428                    Subsection (2) and is in the legal custody of the Division of Juvenile Justice  
3429                    and Youth Services for the offense on or after July 1, 2002; and
- 3430                    (ii) who is 14 years old or older at the time of the commission of the offense  
3431                    described in Subsection (2).
- 3432                    (2) Offenses referred to in Subsection (1) are:
- 3433                    (a) any felony or class A misdemeanor under the Utah Code;
- 3434                    (b) any offense under Subsection (2)(a):
- 3435                    (i) for which the court enters a judgment for conviction to a lower degree of offense  
3436                    under Section 76-3-402; or
- 3437                    (ii) regarding which the court allows the defendant to enter a plea in abeyance as  
3438                    defined in Section 77-2a-1; or
- 3439                    (c)(i) any violent felony as defined in Section 53-10-403.5;
- 3440                    (ii) sale or use of body parts, Section 26B-8-315;
- 3441                    (iii) failure to stop at an accident that resulted in death, Section 41-6a-401.5;
- 3442                    (iv) operating a motor vehicle with any amount of a controlled substance in an  
3443                    individual's body and causing serious bodily injury or death, as codified before  
3444                    May 4, 2022, Laws of Utah 2021, Chapter 236, Section 1, Subsection 58-37-8  
3445                    (2)(g);
- 3446                    (v) a felony violation of enticing a minor, Section 76-4-401;
- 3447                    (vi) negligently operating a vehicle resulting in injury, Subsection 76-5-102.1(2)(b);
- 3448                    (vii) a felony violation of propelling a substance or object at a correctional officer, a  
3449                    peace officer, or an employee or a volunteer, including health care providers,  
3450                    Section 76-5-102.6;
- 3451                    (viii) automobile homicide, Subsection 76-5-207(2)(b);
- 3452                    (ix) aggravated human trafficking, Section 76-5-310, and aggravated human  
3453                    smuggling, Section 76-5-310.1;
- 3454                    (x) a felony violation of unlawful sexual activity with a minor, Section 76-5-401;
- 3455                    (xi) a felony violation of sexual abuse of a minor, Section 76-5-401.1;
- 3456                    (xii) unlawful sexual contact with a 16 or 17-year old, Section 76-5-401.2;
- 3457                    (xiii) sale of a child, Section 76-7-203;
- 3458                    (xiv) aggravated escape, Section 76-8-309.3;
- 3459                    (xv) a felony violation of threatened or attempted assault on an elected official,  
3460                    Section 76-8-313;
- 3461                    (xvi) threat with intent to impede, intimidate, interfere, or retaliate against a judge or

3462 a member of the Board of Pardons and Parole or acting against a family member  
3463 of a judge or a member of the Board of Pardons and Parole, Section 76-8-316;  
3464 (xvii) assault with intent to impede, intimidate, interfere, or retaliate against a judge  
3465 or a member of the Board of Pardons and Parole or acting against a family  
3466 member of a judge or a member of the Board of Pardons and Parole, Section  
3467 76-8-316.2;  
3468 (xviii) aggravated assault with intent to impede, intimidate, interfere, or retaliate  
3469 against a judge or a member of the Board of Pardons and Parole or acting against  
3470 a family member of a judge or a member of the Board of Pardons and Parole,  
3471 Section 76-8-316.4;  
3472 (xix) attempted murder with intent to impede, intimidate, interfere, or retaliate  
3473 against a judge or a member of the Board of Pardons and Parole or acting against  
3474 a family member of a judge or a member of the Board of Pardons and Parole,  
3475 Section 76-8-316.6;  
3476 (xx) advocating criminal syndicalism or sabotage, Section 76-8-902;  
3477 (xxi) assembling for advocating criminal syndicalism or sabotage, Section 76-8-903;  
3478 (xxii) a felony violation of sexual battery, Section 76-9-702.1;  
3479 (xxiii) a felony violation of lewdness involving a child, Section 76-9-702.5;  
3480 (xxiv) a felony violation of abuse or desecration of a dead human body, Section  
3481 76-9-704;  
3482 (xxv) manufacture, possession, sale, or use of a weapon of mass destruction, Section  
3483 76-10-402;  
3484 (xxvi) manufacture, possession, sale, or use of a hoax weapon of mass destruction,  
3485 Section 76-10-403;  
3486 (xxvii) possession of a concealed firearm in the commission of a violent felony,  
3487 Subsection [~~76-10-504(4)~~] 76-11-202(3)(c);  
3488 (xxviii) assault with the intent to commit bus hijacking with a dangerous weapon,  
3489 Subsection 76-10-1504(3);  
3490 (xxix) commercial obstruction, Subsection 76-10-2402(2);  
3491 (xxx) a felony violation of failure to register as a sex or kidnap offender, Section  
3492 77-41-107;  
3493 (xxxii) repeat violation of a protective order, Subsection 77-36-1.1(4); or  
3494 (xxxii) violation of condition for release after arrest under Section 78B-7-802.  
3495 Section 56. Section **53-11-108** is amended to read:

3496 **53-11-108 . Licensure -- Basic qualifications.**

3497 An applicant for licensure under this chapter shall meet the following qualifications:

3498 (1) An applicant shall be:

3499 (a) at least 21 years of age;

3500 (b) a citizen or legal resident of the United States; and

3501 (c) of good moral character.

3502 (2) An applicant may not:

3503 (a) have been convicted of:

3504 (i) a felony;

3505 (ii) any act involving illegally using, carrying, or possessing a dangerous weapon;

3506 (iii) any act of personal violence or force on any person or convicted of threatening to  
3507 commit any act of personal violence or force against another person;

3508 (iv) any act constituting dishonesty or fraud;

3509 (v) impersonating a peace officer; or

3510 (vi) any act involving moral turpitude;

3511 (b) be on probation, parole, community supervision, or named in an outstanding arrest  
3512 warrant; or

3513 (c) be employed as a peace officer.

3514 (3) If previously or currently licensed in another state or jurisdiction, the applicant shall be  
3515 in good standing within that state or jurisdiction.3516 (4)(a) The applicant shall also have completed a training program of not less than 16  
3517 hours that is approved by the board and includes:3518 (i) instruction on the duties and responsibilities of a licensee under this chapter,  
3519 including:

3520 (A) search, seizure, and arrest procedure;

3521 (B) pursuit, arrest, detainment, and transportation of a bail bond suspect; and

3522 (C) specific duties and responsibilities regarding entering an occupied structure to  
3523 carry out functions under this chapter;

3524 (ii) the laws and rules relating to the bail bond business;

3525 (iii) the rights of the accused; and

3526 (iv) ethics.

3527 (b) The program may be completed after the licensure application is submitted, but shall  
3528 be completed before a license may be issued under this chapter.

3529 (5) If the applicant desires to carry a firearm as a licensee, the applicant shall:



- 3530 (a) successfully complete a course regarding the specified types of weapons he plans to  
 3531 carry. The course shall:
- 3532 (i) be not less than 16 hours;
- 3533 (ii) be conducted by any national, state, or local firearms training organization  
 3534 approved by the Criminal Investigations and Technical Services Division created  
 3535 in Section 53-10-103; and
- 3536 (iii) provide training regarding general familiarity with the types of firearms to be  
 3537 carried, including:
- 3538 (A) the safe loading, unloading, storage, and carrying of the types of firearms to  
 3539 be concealed; and
- 3540 (B) current laws defining lawful use of a firearm by a private citizen, including  
 3541 lawful self-defense, use of deadly force, transportation, and concealment; and
- 3542 (b) shall hold a valid license to carry a concealed weapon, issued under Section [  
 3543 ~~53-5-704~~] 53-5a-303.
- 3544 Section 57. Section **53-13-116** is amended to read:
- 3545 **53-13-116 . Report required after pointing a firearm at an individual.**
- 3546 (1) As used in this section:
- 3547 (a) "Conductive energy device" means a weapon that uses electrical current to disrupt  
 3548 voluntary control of muscles.
- 3549 (b) "Firearm" means the same as that term is defined in Section [~~76-10-501~~] 76-11-101.
- 3550 (c) "Law enforcement officer" means the same as that term is defined in Section  
 3551 53-13-103.
- 3552 (d) "Officer-involved critical incident" means the same as that term is defined in Section  
 3553 76-2-408.
- 3554 (2) A law enforcement officer shall file a report described in Subsection (3) if, during the  
 3555 performance of the officer's duties:
- 3556 (a) the officer points a firearm at an individual; or
- 3557 (b) the officer aims a conductive energy device at an individual and displays the  
 3558 electrical current.
- 3559 (3)(a) A report described in Subsection (2) shall include:
- 3560 (i) a description of the incident;
- 3561 (ii) the identification of the individuals involved in the incident; and
- 3562 (iii) any other information required by the law enforcement agency.
- 3563 (b) A law enforcement officer shall submit a report required under Subsection (2) to the

3564 officer's law enforcement agency within 48 hours after the incident.

3565 (4) A supervisory law enforcement officer shall review a report submitted under Subsection  
3566 (3)(b).

3567 (5) This section does not apply to:

3568 (a) law enforcement training exercises; or

3569 (b) an officer who, as part of an officer-involved critical incident, engaged in conduct  
3570 described under Subsection (2)(a) or (2)(b).

3571 Section 58. Section **53-22-105** is amended to read:

3572 **53-22-105 . School guardian program.**

3573 (1) As used in this section:

3574 (a) "Annual training" means an annual four-hour training that:

3575 (i) a county security chief or a designee administers;

3576 (ii) the state security chief approves;

3577 (iii) can be tailored to local needs;

3578 (iv) allows an individual to practice and demonstrate firearms proficiency at a  
3579 firearms range using the firearm the individual carries for self defense and defense  
3580 of others;

3581 (v) includes the following components:

3582 (A) firearm safety, including safe storage of a firearm;

3583 (B) de-escalation tactics;

3584 (C) the role of mental health in incidents; and

3585 (D) disability awareness and interactions; and

3586 (vi) contains other training needs as determined by the state security chief.

3587 (b) "Biannual training" means a twice-yearly training that:

3588 (i) is at least four hours, unless otherwise approved by the state security chief;

3589 (ii) a county security chief or a designee administers;

3590 (iii) the state security chief approves;

3591 (iv) can be tailored to local needs; and

3592 (v) through which a school guardian at a school or simulated school environment:

3593 (A) receives training on the specifics of the building or buildings of the school,  
3594 including the location of emergency supplies and security infrastructure; and

3595 (B) participates in a live-action practice plan with school administrators in  
3596 responding to active threats at the school; and

3597 (vi) shall be taken with at least three months in between the two trainings.

- 3598 (c) "Firearm" means the same as that term is defined in Section [~~76-10-501~~] 76-11-101.
- 3599 (d) "Initial training" means an in-person training that:
- 3600 (i) a county security chief or a designee administers;
- 3601 (ii) the state security chief approves;
- 3602 (iii) can be tailored to local needs; and
- 3603 (iv) provides:
- 3604 (A) training on general familiarity with the types of firearms that can be concealed
- 3605 for self-defense and defense of others;
- 3606 (B) training on the safe loading, unloading, storage, and carrying of firearms in a
- 3607 school setting;
- 3608 (C) training at a firearms range with instruction regarding firearms fundamentals,
- 3609 marksmanship, the demonstration and explanation of the difference between
- 3610 sight picture, sight alignment, and trigger control, and a recognized pistol
- 3611 course;
- 3612 (D) current laws dealing with the lawful use of a firearm by a private citizen,
- 3613 including laws on self-defense, defense of others, transportation of firearms,
- 3614 and concealment of firearms;
- 3615 (E) coordination with law enforcement officers in the event of an active threat;
- 3616 (F) basic trauma first aid;
- 3617 (G) the appropriate use of force, emphasizing the de-escalation of force and
- 3618 alternatives to using force; and
- 3619 (H) situational response evaluations, including:
- 3620 (I) protecting and securing a crime or accident scene;
- 3621 (II) notifying law enforcement;
- 3622 (III) controlling information; and
- 3623 (IV) other training that the county sheriff, designee, or department deems
- 3624 appropriate.
- 3625 (e) "Program" means the school guardian program created in this section.
- 3626 (f)(i) "School employee" means an employee of a school whose duties and
- 3627 responsibilities require the employee to be physically present at a school's campus
- 3628 while school is in session.
- 3629 (ii) "School employee" does not include a principal, teacher, or individual whose
- 3630 primary responsibilities require the employee to be primarily present in a
- 3631 classroom to teach, care for, or interact with students, unless:

- 3632 (A) the principal, teacher, or individual is employed at a school with 100 or fewer  
 3633 students;
- 3634 (B) the principal, teacher, or individual is employed at a school with adjacent  
 3635 campuses as determined by the state security chief; or
- 3636 (C) as provided in Subsection 53G-8-701.5(3).
- 3637 (g) "School guardian" means a school employee who meets the requirements of  
 3638 Subsection (3).
- 3639 (2)(a)(i) There is created within the department the school guardian program[;] .
- 3640 (ii) [the] The state security chief shall oversee the school guardian program[;] .
- 3641 (iii) [the] The applicable county security chief shall administer the school guardian  
 3642 program in each county.
- 3643 (b) The state security chief shall ensure that the school guardian program includes:
- 3644 (i) initial training;
- 3645 (ii) biannual training; and
- 3646 (iii) annual training.
- 3647 (c) A county sheriff may partner or contract with:
- 3648 (i) another county sheriff to support the respective county security chiefs in jointly  
 3649 administering the school guardian program in the relevant counties; and
- 3650 (ii) a local law enforcement agency of relevant jurisdiction to provide the:
- 3651 (A) initial training;
- 3652 (B) biannual training; and
- 3653 (C) annual training.
- 3654 (3)(a) A school employee that volunteers to participate is eligible to join the program as  
 3655 a school guardian if:
- 3656 (i) the school administrator approves the volunteer school employee to be designated  
 3657 as a school guardian;
- 3658 (ii) the school employee satisfactorily completes initial training within six months  
 3659 before the day on which the school employee joins the program;
- 3660 (iii) the school employee holds a valid concealed carry permit issued under [~~Title 53,~~  
 3661 ~~Chapter 5, Part 7, Concealed Firearm Act~~] Title 53, Chapter 5a, Part 3, Concealed  
 3662 Firearm Permits;
- 3663 (iv) the school employee certifies to the sheriff of the county where the school is  
 3664 located that the school employee has undergone the training in accordance with  
 3665 Subsection (3)(a)(ii) and intends to serve as a school guardian; and

- 3666 (v) the school employee successfully completes a mental health screening selected by  
3667 the state security chief in collaboration with the Office of Substance Abuse and  
3668 Mental Health established in Section 26B-5-102.
- 3669 (b) After joining the program a school guardian shall complete annual training and  
3670 biannual training to retain the designation of a school guardian in the program.
- 3671 (4) The state security chief shall:
- 3672 (a) for each school that participates in the program, track each school guardian at the  
3673 school by collecting the photograph and the name and contact information for each  
3674 guardian;
- 3675 (b) make the information described in Subsection (4)(a) readily available to each law  
3676 enforcement agency in the state categorized by school; and
- 3677 (c) provide each school guardian with a one-time stipend of \$500.
- 3678 (5) A school guardian:
- 3679 (a) may store the school guardian's firearm on the grounds of a school only if:
- 3680 (i) the firearm is stored in a biometric gun safe;
- 3681 (ii) the biometric gun safe is located in the school guardian's office; and
- 3682 (iii) the school guardian is physically present on the grounds of the school while the  
3683 firearm is stored in the safe;
- 3684 (b) shall carry the school guardian's firearm in a concealed manner; and
- 3685 (c) may not, unless during an active threat, display or open carry a firearm while on  
3686 school grounds.
- 3687 (6) Except as provided in Subsection (5)(c), this section does not prohibit an individual who  
3688 has a valid concealed carry permit but is not participating in the program from carrying a  
3689 firearm on the grounds of a public school or charter school under Subsection [   
3690 76-10-505.5(4)] 76-11-205(4).
- 3691 (7) A school guardian:
- 3692 (a) does not have authority to act in a law enforcement capacity; and
- 3693 (b) may, at the school where the school guardian is employed:
- 3694 (i) take actions necessary to prevent or abate an active threat; and
- 3695 (ii) temporarily detain an individual when the school guardian has reasonable cause  
3696 to believe the individual has committed or is about to commit a forcible felony, as  
3697 that term is defined in Section 76-2-402.
- 3698 (8) A school may designate a single volunteer or multiple volunteers to participate in the  
3699 school guardian program to satisfy the school safety personnel requirements of Section

- 3700 53G-8-701.5.
- 3701 (9) The department may adopt, according to Title 63G, Chapter 3, Utah Administrative  
3702 Rulemaking Act, rules to administer this section.
- 3703 (10) A school guardian who has active status in the guardian program is not liable for any  
3704 civil damages or penalties if the school guardian:
- 3705 (a) when carrying or storing a firearm:
- 3706 (i) is acting in good faith; and  
3707 (ii) is not grossly negligent; or
- 3708 (b) threatens, draws, or otherwise uses a firearm reasonably believing the action to be  
3709 necessary in compliance with Section 76-2-402.
- 3710 (11) A school guardian shall file a report described in Subsection (12) if, during the  
3711 performance of the school guardian's duties, the school guardian points a firearm at an  
3712 individual.
- 3713 (12)(a) A report described in Subsection (11) shall include:
- 3714 (i) a description of the incident;  
3715 (ii) the identification of the individuals involved in the incident; and  
3716 (iii) any other information required by the state security chief.
- 3717 (b) A school guardian shall submit a report required under Subsection (11) to the school  
3718 administrator, school safety and security director, and the state security chief within  
3719 48 hours after the incident.
- 3720 (c) The school administrator, school safety and security director, and the state security  
3721 chief shall consult and review the report submitted under Subsection (12)(b).
- 3722 (13) The requirements of Subsections (11) and (12) do not apply to a training exercise.
- 3723 (14) A school guardian may have the designation of school guardian revoked at any time by  
3724 the school principal, county sheriff, or state security chief.
- 3725 (15)(a) Any information or record created detailing a school guardian's participation in  
3726 the program is:
- 3727 (i) a private, controlled, or protected record under Title 63G, Chapter 2, Government  
3728 Records Access and Management Act; and  
3729 (ii) available only to:
- 3730 (A) the state security chief;  
3731 (B) administrators at the school guardian's school;  
3732 (C) if applicable, other school safety personnel described in Section 53G-8-701.5;  
3733 (D) a local law enforcement agency that would respond to the school in case of an

3734 emergency; and  
 3735 (E) the individual designated by the county sheriff in accordance with Section  
 3736 53-22-103 of the county of the school where the school guardian in the  
 3737 program is located.

3738 (b) The information or record described in Subsection (15)(a) includes information  
 3739 related to the school guardian's identity and activity within the program as described  
 3740 in this section and any personal identifying information of a school guardian  
 3741 participating in the program collected or obtained during initial training, annual  
 3742 training, and biannual training.

3743 (c) An individual who intentionally or knowingly provides the information described in  
 3744 Subsection (15)(a) to an individual or entity not listed in Subsection (15)(a)(ii) is  
 3745 guilty of a class B misdemeanor.

3746 Section 59. Section **53-22-107** is amended to read:

3747 **53-22-107 . Educator-Protector Program.**

3748 (1) As used in this section:

3749 (a) "Annual classroom response training" means a training for a teacher:

3750 (i) that is held at least once a year and is administered, at no cost to a teacher, by the  
 3751 individual identified by the county sheriff as described in Section 53-22-103; and

3752 (ii) where the teacher is trained:

3753 (A) on how to defend a classroom against active threats emphasizing the teacher's  
 3754 role in stationary defense; and

3755 (B) on the safe loading, unloading, storage, and carrying of firearms in a school  
 3756 setting.

3757 (b) "Bureau" means the Bureau of Criminal Identification created in Section 53-10-201.

3758 (c) "Local education agency" means the same as that term is defined in Section  
 3759 53E-1-102.

3760 (d) "Program" means the Educator-Protector Program created under this section.

3761 (e) "Teacher" means an individual employed by a local education agency who has an  
 3762 assignment to teach in a classroom.

3763 (2) There is created the Educator-Protector Program to incentivize a teacher to responsibly  
 3764 secure or carry a firearm on the grounds of the school where the teacher is employed.

3765 (3)(a) To participate in the program, a teacher shall:

3766 (i) have completed an annual classroom response training within six months before  
 3767 the day on which the teacher joins the program;

- 3768 (ii) have a valid concealed carry permit issued under [~~Title 53, Chapter 5, Part 7,~~  
3769 ~~Concealed Firearm Act~~] Title 53, Chapter 5a, Part 3, Concealed Firearm Permits;  
3770 and
- 3771 (iii) certify to the department that:
- 3772 (A) the teacher satisfies the requirements described in Subsections (3)(a)(i) and  
3773 (3)(a)(ii); and
- 3774 (B) if applicable, intends to securely store or carry a firearm on the grounds of a  
3775 school where the teacher is employed.
- 3776 (b) After joining the program, to retain the teacher's active status in the program, a  
3777 teacher shall:
- 3778 (i) participate in annual classroom response training; and
- 3779 (ii) comply with any rules established by the department in accordance with  
3780 Subsection (10).
- 3781 (4)(a) The state security chief shall:
- 3782 (i) track each teacher that participates in the program by collecting a photograph,  
3783 name, and contact information for each teacher;
- 3784 (ii) make the information described in Subsection (4)(a) readily available to each law  
3785 enforcement agency in the state; and
- 3786 (iii) provide reasonable reimbursement, using funds appropriated by the Legislature,  
3787 to a county sheriff for providing a teacher with annual classroom response training.
- 3788 (b) The state security chief shall categorize the information described in Subsection  
3789 (4)(a)(i) by school.
- 3790 (5) A teacher participating in the program:
- 3791 (a) may store the teacher's firearm on the grounds of a school only if:
- 3792 (i) the firearm is stored in a biometric gun safe;
- 3793 (ii) the biometric gun safe is located in the teacher's classroom or office; and
- 3794 (iii) the teacher is physically present on the grounds of the school while the firearm is  
3795 stored in the biometric gun safe; and
- 3796 (b) shall carry the teacher's firearm in a concealed manner unless during an active threat.
- 3797 (6) This section does not prohibit an individual who has a valid concealed carry permit but  
3798 is not participating in the program from carrying firearms on the grounds of a school as  
3799 described in Subsection [~~76-10-505.5(4)~~] 76-11-205(4).
- 3800 (7)(a) A teacher who has active status in the program is not liable for any civil damages  
3801 or penalties if the teacher:



- 3802 (i) when carrying or storing a firearm:  
3803 (A) is acting in good faith; and  
3804 (B) is not grossly negligent; or  
3805 (ii) threatens, draws, or otherwise uses a firearm reasonably believing the action to be  
3806 necessary in compliance with Section 76-2-402.
- 3807 (b) A local education agency is not liable for civil damages or penalties resulting from a  
3808 teacher who is participating in the program carrying, using, or storing a firearm at a  
3809 school.
- 3810 (8) A local education agency may not prevent a teacher from participating in the program  
3811 under this section.
- 3812 (9)(a) Any information or record created detailing a teacher's participation in the  
3813 program is:
- 3814 (i) a private, controlled, or protected record under Title 63G, Chapter 2, Government  
3815 Records Access and Management Act; and  
3816 (ii) available only to:  
3817 (A) the state security chief;  
3818 (B) a local law enforcement agency that would respond to the school in case of an  
3819 emergency; and  
3820 (C) the individual identified by the county sheriff as described in Section  
3821 53-22-103.
- 3822 (b) The information or record described in Subsection (9)(a) includes the information  
3823 described in Subsection (4)(a)(i) and any personal identifying information of a  
3824 teacher participating in the program collected or obtained during annual classroom  
3825 response training.
- 3826 (c) An individual who intentionally or knowingly provides the information described in  
3827 Subsection (9)(a) to an individual or entity not listed in Subsection (9)(a)(ii) is guilty  
3828 of a class A misdemeanor.
- 3829 (10) In accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, the  
3830 department may adopt rules to administer this section.  
3831 Section 60. Section **53-25-103** is amended to read:  
3832 **53-25-103 . Airport dangerous weapon possession reporting requirements.**
- 3833 (1) As used in this section, "commission" means the State Commission on Criminal and  
3834 Juvenile Justice created in Section 63M-7-201.
- 3835 (2) Beginning on January 1, 2026, a law enforcement agency having law enforcement

- 3836 jurisdiction over an airport shall annually, on or before April 30, submit a report to the  
 3837 commission detailing:
- 3838 (a) for an offense described in Subsection [~~76-10-529(2)(a)(i)~~] 76-11-218(2)(a):
- 3839 (i) the number of issued written warnings;
- 3840 (ii) the number of issued citations;
- 3841 (iii) the number of referrals to a detective; and
- 3842 (iv) the number of referrals to a prosecutor; and
- 3843 (b) for an offense described in Subsection [~~76-10-529(2)(a)(ii)~~] 76-11-218(2)(b):
- 3844 (i) the number of issued written warnings; and
- 3845 (ii) if applicable, the number of issued citations, including the number of individuals  
 3846 who have received more than one citation for the offense.
- 3847 (3) The commission shall:
- 3848 (a) develop a standardized format for reporting the data described in Subsection (2);
- 3849 (b) compile the data submitted under Subsection (2); and
- 3850 (c) annually on or before August 1, publish a report of the data described in Subsection  
 3851 (2) on the commission's website.
- 3852 Section 61. Section ~~53-25-501~~ is amended to read:
- 3853 **53-25-501 . Reporting requirements for seized firearms.**
- 3854 (1) As used in this section:
- 3855 (a) "Commission" means the State Commission on Criminal and Juvenile Justice created  
 3856 in Section 63M-7-201.
- 3857 (b) "Firearm" means the same as that term is defined in Section [~~76-10-501~~] 76-11-101.
- 3858 (c) "Restricted person" means a Category I or Category II restricted person [~~as defined~~  
 3859 ~~in Section 76-10-503~~] under Section 76-11-302 or 76-11-303.
- 3860 (2) Beginning on July 1, 2026, a law enforcement agency, not including the Department of  
 3861 Corrections, shall annually on or before April 30 report to the commission the following  
 3862 data for the previous calendar year:
- 3863 (a) the number of firearms the law enforcement agency lawfully seized from restricted  
 3864 persons;
- 3865 (b) the types of firearms the law enforcement agency lawfully seized from restricted  
 3866 persons;
- 3867 (c) information on where the restricted persons obtained the firearms seized by the law  
 3868 enforcement agency if the information is known or discoverable by the law  
 3869 enforcement agency; and

3870 (d) the reasons under Subsection 76-10-503(1)(a) or (b) that made the individuals who  
3871 had weapons seized restricted persons.

3872 Section 62. Section **53B-3-103** is amended to read:

3873 **53B-3-103 . Power of board and institutions to adopt rules and enact regulations.**

3874 (1) As used in this section[;] :

3875 (a) "Face covering" means the same as that term is defined in Section 53G-9-210.

3876 (b) [~~"institution"~~] "Institution" means an institution listed in Section 53B-1-102.

3877 (2)(a) The board may enact regulations governing the conduct of university and college  
3878 students, faculty, and employees.

3879 (b) A president in consultation with the board of trustees, may enact policies governing  
3880 the conduct of university and college students, faculty, and employees.

3881 (3)(a) An institution may enact traffic, parking, and related policies governing all  
3882 individuals on campus and facilities owned or controlled by the institution.

3883 (b)(i) The board and an institution may not require proof of vaccination as a  
3884 condition for enrollment or attendance within the system of higher education  
3885 unless the board or an institution allows for the following exemptions:

3886 (A) a medical exemption if the student provides to the institution a statement that  
3887 the claimed exemption is for a medical reason; and

3888 (B) a personal exemption if the student provides to the institution a statement that  
3889 the claimed exemption is for a personal or religious belief.

3890 (ii) An institution that offers both remote and in-person learning options may not  
3891 deny a student who is exempt from a requirement to receive a vaccine under  
3892 Subsection [~~(2)(b)(i)~~] (3)(b)(i) to participate in an in-person learning option based  
3893 upon the student's vaccination status.

3894 (iii) Subsections [~~(2)(b)(i)~~] (3)(b)(i) and (ii) do not apply to a student studying in a  
3895 medical setting at an institution of higher education.

3896 (iv) Nothing in this section restricts a state or local health department from acting  
3897 under applicable law to contain the spread of an infectious disease.

3898 [~~(e)(i) For purposes of this Subsection (2)(c), "face covering" means the same as that~~  
3899 ~~term is defined in Section 53G-9-210.~~]

3900 [~~(ii)~~] (c)(i) The board or an institution may not require an individual to wear a face  
3901 covering as a condition of attendance for in-person instruction,  
3902 institution-sponsored athletics, institution-sponsored extracurricular activities, in  
3903 dormitories, or in any other place on a campus of an institution within the system

- 3904 of higher education at any time after the end of the spring semester in 2021.
- 3905 [(iii)] (ii) Subsection [(2)(e)(ii)] (3)(c)(i) does not apply to an individual in a medical  
3906 setting at an institution of higher education.
- 3907 (4) The board shall enact regulations that require all testimony be given under oath during  
3908 an employee grievance hearing for a non-faculty employee of an institution of higher  
3909 education if the grievance hearing relates to the non-faculty employee's:
- 3910 (a) demotion; or  
3911 (b) termination.
- 3912 (5) Acknowledging that the Legislature has the authority to regulate, by law, firearms at  
3913 higher education institutions, the board may:
- 3914 (a) authorize higher education institutions to establish no more than one secure area at  
3915 each institution as a hearing room in accordance with Section 76-8-311.1, but not  
3916 otherwise restrict the lawful possession or carrying of firearms; and  
3917 (b) authorize a higher education institution to make a policy that allows a resident of a  
3918 dormitory located at the institution to request only roommates who are not licensed to  
3919 carry a concealed firearm under[ ~~Section 53-5-704 or 53-5-705~~ ] Section 53-5a-303 or  
3920 Section 53-5a-305.
- 3921 (6) In addition to the requirements and penalty prescribed in Sections 76-8-311.1 and  
3922 76-8-311.2, the board shall make rules to ensure:
- 3923 (a) the use of reasonable means such as mechanical, electronic, x-ray, or similar devices,  
3924 to detect firearms, ammunition, or dangerous weapons contained in the personal  
3925 property of or on the person of any individual attempting to enter a secure area  
3926 hearing room;
- 3927 (b) that an individual required or requested to attend a hearing in a secure area hearing  
3928 room is notified in writing of the requirements related to entering a secure area  
3929 hearing room under this Subsection (6)(b) and Section 76-8-311.1;
- 3930 (c) that the restriction of firearms, ammunition, or dangerous weapons in the secure area  
3931 hearing room is in effect only during the time the secure area hearing room is in use  
3932 for hearings and for a reasonable time before and after the hearing; and  
3933 (d) the application of reasonable space limitations to the secure area hearing room as the  
3934 number of individuals involved in a typical hearing warrants.
- 3935 (7) The board and institutions may enforce the rules, regulations, and policies described in  
3936 this section in any reasonable manner, including the assessment of fees, fines, and  
3937 forfeitures, through:

- 3938 (a) withholding from money owed the violator;
- 3939 (b) the imposition of probation, suspension, or expulsion from the institution;
- 3940 (c) the revocation of privileges;
- 3941 (d) the refusal to issue certificates, degrees, and diplomas;
- 3942 (e) judicial process; or
- 3943 (f) any reasonable combination of the alternatives described in this Subsection (7).
- 3944 Section 63. Section **53G-8-701.8** is amended to read:
- 3945 **53G-8-701.8 . School safety and security director.**
- 3946 (1) Except as provided in Subsection 53G-8-701.5(3), an LEA shall designate a school
- 3947 safety and security director as the LEA point of contact for the county security chief,
- 3948 local law enforcement, and the state security chief.
- 3949 (2) A school safety and security director shall:
- 3950 (a) participate in and satisfy the training requirements, including the annual and biannual
- 3951 requirements, described in:
- 3952 (i) Section 53-22-105 for school guardians;
- 3953 (ii) Section 53G-8-702 for school resource officers; and
- 3954 (iii) Section 53G-8-704 for armed school security guards;
- 3955 (b) have a valid concealed carry permit issued under [~~Title 53, Chapter 5, Part 7,~~
- 3956 ~~Concealed Firearm Act~~] Title 53, Chapter 5a, Part 3, Concealed Firearm Permits;
- 3957 (c) if the designee is an employee of an LEA, participate on the multidisciplinary team
- 3958 the LEA establishes;
- 3959 (d) coordinate security responses among, if applicable, the following individuals in the
- 3960 LEA that employs the school safety and security director:
- 3961 (i) school safety and security specialists;
- 3962 (ii) school resource officers;
- 3963 (iii) armed school security guards; and
- 3964 (iv) school guardians; and
- 3965 (e) collaborate and maintain effective communications with local law enforcement, a
- 3966 county security chief, the LEA, and school-based behavioral and mental health
- 3967 professionals to ensure adherence with all policies, procedures, protocols, rules, and
- 3968 regulations relating to school safety and security.
- 3969 (3) A school safety and security director:
- 3970 (a) does not have authority to act in a law enforcement capacity; and
- 3971 (b) may, at the LEA that employs the director:

- 3972 (i) take actions necessary to prevent or abate an active threat; and  
 3973 (ii) temporarily detain an individual when the school safety and security director has  
 3974 reasonable cause to believe the individual has committed or is about to commit a  
 3975 forcible felony, as that term is defined in Section 76-2-402[;] .
- 3976 (4) Notwithstanding Subsection [~~76-10-505.5(4)~~] 76-11-205(4), if a school safety and  
 3977 security director is carrying a firearm, the school safety and security director shall carry  
 3978 the school safety and security director's firearm in a concealed manner and may not,  
 3979 unless during an active threat, display or open carry a firearm while on school grounds.
- 3980 (5) A school may use the services of the school safety and security director on a temporary  
 3981 basis to satisfy the school safety personnel requirement of Subsection 53G-8-701.5(2).
- 3982 (6) The state security chief shall:
- 3983 (a) for each school safety and security director, track each school safety and security  
 3984 director by collecting the photograph and the name and contact information for each  
 3985 school safety and security director; and
- 3986 (b) make the information described in Subsection (6)(a) readily available to each law  
 3987 enforcement agency in the state categorized by LEA.

3988 Section 64. Section **53G-8-704** is amended to read:

3989 **53G-8-704 . Contracts between an LEA and a contract security company for**  
 3990 **armed school security guards.**

- 3991 (1) As used in this section:
- 3992 (a) "Armed private security officer" means the same as that term is defined in Section  
 3993 58-63-102.
- 3994 (b) "Armed school security guard" means an armed private security officer who is:
- 3995 (i) licensed as an armed private security officer under Title 58, Chapter 63, Security  
 3996 Personnel Licensing Act; and
- 3997 (ii) has met the requirements described in Subsection (4)(a).
- 3998 (c) "Contract security company" means the same as that term is defined in Section  
 3999 58-63-102.
- 4000 (d) "State security chief" means the same as that term is defined in Section 53-22-102.
- 4001 (2)(a) An LEA may use an armed school security guard to satisfy the school safety  
 4002 personnel requirements of Section 53G-8-701.5.
- 4003 (b) An LEA that uses an armed school security guard under Subsection (2)(a) shall  
 4004 contract with a contract security company to provide armed school security guards at  
 4005 each school within the LEA.

- 4006 (3) The contract described in Subsection (2)(b) shall include a detailed description of:
- 4007 (a) the rights of a student under state and federal law with regard to:
- 4008 (i) searches;
- 4009 (ii) questioning;
- 4010 (iii) arrests; and
- 4011 (iv) information privacy;
- 4012 (b) job assignment and duties of an armed school security guard, including:
- 4013 (i) the school to which an armed school security guard will be assigned;
- 4014 (ii) the hours an armed school security guard is present at the school;
- 4015 (iii) the point of contact at the school that an armed school security guard will contact
- 4016 in case of an emergency;
- 4017 (iv) specific responsibilities for providing and receiving information;
- 4018 (v) types of records to be kept, and by whom; and
- 4019 (vi) training requirements; and
- 4020 (c) other expectations of the contract security company in relation to school security at
- 4021 the LEA.
- 4022 (4)(a) In addition to the requirements for licensure under Title 58, Chapter 63, Security
- 4023 Personnel Licensing Act, an armed private security officer may only serve as an
- 4024 armed school security guard under a contract described in Subsection (2)(b) if the
- 4025 armed private security officer:
- 4026 (i) has a valid concealed carry permit issued under [~~Title 53, Chapter 5, Part 7,~~
- 4027 ~~Concealed Firearm Act~~] Title 53, Chapter 5a, Part 3, Concealed Firearm Permits;
- 4028 and
- 4029 (ii) has undergone training from a county security chief regarding:
- 4030 (A) the safe loading, unloading, storage, and carrying of firearms in a school
- 4031 setting;
- 4032 (B) the role of armed security guards in a school setting; and
- 4033 (C) coordination with law enforcement and school officials during an active threat.
- 4034 (b) An armed school security guard that meets the requirements of Subsection (4)(a)
- 4035 shall, in order to remain eligible to be assigned as an armed school security guard at
- 4036 any school under a contract described in Subsection (2)(b), participate in and satisfy
- 4037 the training requirements of the initial, annual, and biannual trainings as defined in
- 4038 Section 53-22-105.
- 4039 (5) An armed school security guard may conceal or openly carry a firearm at the school at

- 4040 which the armed school security guard is employed under the contract described in  
4041 Subsection (2)(b).
- 4042 (6) An LEA that enters a contract under this section shall inform the state security chief and  
4043 the relevant county security chief of the contract and provide the contact information of  
4044 the contract security company employing the armed security guard for use during an  
4045 emergency.
- 4046 (7) The state security chief shall:
- 4047 (a) for each LEA that contracts with a contract security company under this section,  
4048 track each contract security company providing armed school security guards by  
4049 name and the contact information for use in case of an emergency; and
- 4050 (b) make the information described in Subsection (7)(a) readily available to each law  
4051 enforcement agency in the state by school.
- 4052 (8) An armed school security guard shall file a report described in Subsection (9) if, during  
4053 the performance of the armed school security guard's duties, the armed school security  
4054 guard:
- 4055 (a) points a firearm at an individual; or
- 4056 (b) aims a conductive energy device at an individual and displays the electrical current.
- 4057 (9)(a) A report described in Subsection (8) shall include:
- 4058 (i) a description of the incident;
- 4059 (ii) the identification of the individuals involved in the incident; and
- 4060 (iii) any other information required by the state security chief.
- 4061 (b) An armed school security guard shall submit a report required under Subsection (8)  
4062 to the school administrator, school safety and security director, and the state security  
4063 chief within 48 hours after the incident.
- 4064 (c) The school administrator, school safety and security director, and the state security  
4065 chief shall consult and review the report submitted under Subsection (9)(b).
- 4066 Section 65. Section **58-37-8** is amended to read:
- 4067 **58-37-8 . Prohibited acts -- Penalties.**
- 4068 (1) Prohibited acts A -- Penalties and reporting:
- 4069 (a) Except as authorized by this chapter, it is unlawful for a person to knowingly and  
4070 intentionally:
- 4071 (i) produce, manufacture, or dispense, or to possess with intent to produce,  
4072 manufacture, or dispense, a controlled or counterfeit substance;
- 4073 (ii) distribute a controlled or counterfeit substance, or to agree, consent, offer, or



- 4074 arrange to distribute a controlled or counterfeit substance;
- 4075 (iii) possess a controlled or counterfeit substance with intent to distribute; or
- 4076 (iv) engage in a continuing criminal enterprise where:
- 4077 (A) the person participates, directs, or engages in conduct that results in a
- 4078 violation of this chapter, Chapter 37a, Utah Drug Paraphernalia Act, Chapter
- 4079 37b, Imitation Controlled Substances Act, Chapter 37c, Utah Controlled
- 4080 Substance Precursor Act, or Chapter 37d, Clandestine Drug Lab Act, that is a
- 4081 felony; and
- 4082 (B) the violation is a part of a continuing series of two or more violations of this
- 4083 chapter, Chapter 37a, Utah Drug Paraphernalia Act, Chapter 37b, Imitation
- 4084 Controlled Substances Act, Chapter 37c, Utah Controlled Substance Precursor
- 4085 Act, or Chapter 37d, Clandestine Drug Lab Act, on separate occasions that are
- 4086 undertaken in concert with five or more persons with respect to whom the
- 4087 person occupies a position of organizer, supervisor, or any other position of
- 4088 management.
- 4089 (b) A person convicted of violating Subsection (1)(a) with respect to:
- 4090 (i) a substance or a counterfeit of a substance classified in Schedule I or II, a
- 4091 controlled substance analog, or gammahydroxybutyric acid as listed in Schedule
- 4092 III is guilty of a second degree felony, punishable by imprisonment for not more
- 4093 than 15 years, and upon a second or subsequent conviction is guilty of a first
- 4094 degree felony;
- 4095 (ii) a substance or a counterfeit of a substance classified in Schedule III or IV, or
- 4096 marijuana, or a substance listed in Section 58-37-4.2 is guilty of a third degree
- 4097 felony, and upon a second or subsequent conviction is guilty of a second degree
- 4098 felony; or
- 4099 (iii) a substance or a counterfeit of a substance classified in Schedule V is guilty of a
- 4100 class A misdemeanor and upon a second or subsequent conviction is guilty of a
- 4101 third degree felony.
- 4102 (c)(i) Except as provided in Subsection (1)(c)(ii), a person who has been convicted of
- 4103 a violation of Subsection (1)(a)(ii) or (iii) may be sentenced to imprisonment for
- 4104 an indeterminate term as described in Subsection (1)(b) and Title 76, Chapter 3,
- 4105 Punishments.
- 4106 (ii) The court shall impose an indeterminate prison term for a person who has been
- 4107 convicted of a violation of Subsection (1)(a)(ii) or (iii) that is a first degree felony

- 4108 or a second degree felony if the trier of fact finds beyond a reasonable doubt that,  
4109 during the commission or furtherance of the violation, the person intentionally or  
4110 knowingly:
- 4111 (A) used, drew, or exhibited a dangerous weapon, as that term is defined in  
4112 Section ~~[76-10-504]~~ 76-11-101, that is not a firearm, in an angry, threatening,  
4113 intimidating, or coercive manner;
- 4114 (B) used a firearm, as that term is defined in Section 76-11-101, or had a firearm  
4115 readily accessible for immediate use, as ~~[those terms are]~~ that term is defined in  
4116 Section ~~[76-10-504]~~ 76-11-201; or
- 4117 (C) distributed a firearm, as that term is defined in Section ~~[76-10-504]~~ 76-11-101,  
4118 or possessed a firearm with intent to distribute the firearm.
- 4119 (iii) Notwithstanding Subsection (1)(c)(ii), a court may suspend the indeterminate  
4120 prison term for a person convicted under Subsection (1)(c)(ii) if the court:
- 4121 (A) details on the record the reasons why it is in the interests of justice not to  
4122 impose the indeterminate prison term;
- 4123 (B) makes a finding on the record that the person does not pose a significant  
4124 safety risk to the public; and
- 4125 (C) orders the person to complete the terms and conditions of supervised  
4126 probation provided by the Department of Corrections.
- 4127 (d)(i) A person convicted of violating Subsection (1)(a)(iv) is guilty of a first degree  
4128 felony punishable by imprisonment for an indeterminate term of not less than:
- 4129 (A) seven years and which may be for life; or
- 4130 (B) 15 years and which may be for life if the trier of fact determined that the  
4131 defendant knew or reasonably should have known that any subordinate under  
4132 Subsection (1)(a)(iv)(B) was under 18 years old.
- 4133 (ii) Imposition or execution of the sentence may not be suspended, and the person is  
4134 not eligible for probation.
- 4135 (iii) Subsection (1)(d)(i)(B) does not apply to any defendant who, at the time of the  
4136 offense, was under 18 years old.
- 4137 (e) The Administrative Office of the Courts shall report to the Division of Professional  
4138 Licensing the name, case number, date of conviction, and if known, the date of birth  
4139 of each person convicted of violating Subsection (1)(a).
- 4140 (2) Prohibited acts B -- Penalties and reporting:
- 4141 (a) It is unlawful:

- 4142 (i) for a person knowingly and intentionally to possess or use a controlled substance  
4143 analog or a controlled substance, unless it was obtained under a valid prescription  
4144 or order, directly from a practitioner while acting in the course of the person's  
4145 professional practice, or as otherwise authorized by this chapter;
- 4146 (ii) for an owner, tenant, licensee, or person in control of a building, room, tenement,  
4147 vehicle, boat, aircraft, or other place knowingly and intentionally to permit them  
4148 to be occupied by persons unlawfully possessing, using, or distributing controlled  
4149 substances in any of those locations; or
- 4150 (iii) for a person knowingly and intentionally to possess an altered or forged  
4151 prescription or written order for a controlled substance.
- 4152 (b) A person convicted of violating Subsection (2)(a)(i) with respect to:
- 4153 (i) marijuana, if the amount is 100 pounds or more, is guilty of a second degree  
4154 felony; or
- 4155 (ii) a substance classified in Schedule I or II, or a controlled substance analog, is  
4156 guilty of a class A misdemeanor on a first or second conviction, and on a third or  
4157 subsequent conviction if each prior offense was committed within seven years  
4158 before the date of the offense upon which the current conviction is based is guilty  
4159 of a third degree felony.
- 4160 (c) Upon a person's conviction of a violation of this Subsection (2) subsequent to a  
4161 conviction under Subsection (1)(a), that person shall be sentenced to a one degree  
4162 greater penalty than provided in this Subsection (2).
- 4163 (d) A person who violates Subsection (2)(a)(i) with respect to all other controlled  
4164 substances not included in Subsection (2)(b)(i) or (ii), including a substance listed in  
4165 Section 58-37-4.2, or marijuana, is guilty of a class B misdemeanor.
- 4166 (i) Upon a third conviction the person is guilty of a class A misdemeanor, if each  
4167 prior offense was committed within seven years before the date of the offense  
4168 upon which the current conviction is based.
- 4169 (ii) Upon a fourth or subsequent conviction the person is guilty of a third degree  
4170 felony if each prior offense was committed within seven years before the date of  
4171 the offense upon which the current conviction is based.
- 4172 (e) A person convicted of violating Subsection (2)(a)(i) while inside the exterior  
4173 boundaries of property occupied by a correctional facility as defined in Section  
4174 64-13-1 or a public jail or other place of confinement shall be sentenced to a penalty  
4175 one degree greater than provided in Subsection (2)(b), and if the conviction is with

- 4176 respect to controlled substances as listed in:
- 4177 (i) Subsection (2)(b), the person may be sentenced to imprisonment for an  
4178 indeterminate term as provided by law, and:
- 4179 (A) the court shall additionally sentence the person convicted to a term of one year  
4180 to run consecutively and not concurrently; and
- 4181 (B) the court may additionally sentence the person convicted for an indeterminate  
4182 term not to exceed five years to run consecutively and not concurrently; and
- 4183 (ii) Subsection (2)(d), the person may be sentenced to imprisonment for an  
4184 indeterminate term as provided by law, and the court shall additionally sentence  
4185 the person convicted to a term of six months to run consecutively and not  
4186 concurrently.
- 4187 (f) A person convicted of violating Subsection (2)(a)(ii) or (iii) is:
- 4188 (i) on a first conviction, guilty of a class B misdemeanor;
- 4189 (ii) on a second conviction, guilty of a class A misdemeanor; and
- 4190 (iii) on a third or subsequent conviction, guilty of a third degree felony.
- 4191 (g) The Administrative Office of the Courts shall report to the Division of Professional  
4192 Licensing the name, case number, date of conviction, and if known, the date of birth  
4193 of each person convicted of violating Subsection (2)(a).
- 4194 (3) Prohibited acts C -- Penalties:
- 4195 (a) It is unlawful for a person knowingly and intentionally:
- 4196 (i) to use in the course of the manufacture or distribution of a controlled substance a  
4197 license number which is fictitious, revoked, suspended, or issued to another  
4198 person or, for the purpose of obtaining a controlled substance, to assume the title  
4199 of, or represent oneself to be, a manufacturer, wholesaler, apothecary, physician,  
4200 dentist, veterinarian, or other authorized person;
- 4201 (ii) to acquire or obtain possession of, to procure or attempt to procure the  
4202 administration of, to obtain a prescription for, to prescribe or dispense to a person  
4203 known to be attempting to acquire or obtain possession of, or to procure the  
4204 administration of a controlled substance by misrepresentation or failure by the  
4205 person to disclose receiving a controlled substance from another source, fraud,  
4206 forgery, deception, subterfuge, alteration of a prescription or written order for a  
4207 controlled substance, or the use of a false name or address;
- 4208 (iii) to make a false or forged prescription or written order for a controlled substance,  
4209 or to utter the same, or to alter a prescription or written order issued or written

- 4210 under the terms of this chapter; or
- 4211 (iv) to make, distribute, or possess a punch, die, plate, stone, or other thing designed
- 4212 to print, imprint, or reproduce the trademark, trade name, or other identifying
- 4213 mark, imprint, or device of another or any likeness of any of the foregoing upon
- 4214 any drug or container or labeling so as to render a drug a counterfeit controlled
- 4215 substance.
- 4216 (b)(i) A first or second conviction under Subsection (3)(a)(i), (ii), or (iii) is a class A
- 4217 misdemeanor.
- 4218 (ii) A third or subsequent conviction under Subsection (3)(a)(i), (ii), or (iii) is a third
- 4219 degree felony.
- 4220 (c) A violation of Subsection (3)(a)(iv) is a third degree felony.
- 4221 (4) Prohibited acts D -- Penalties:
- 4222 (a) Notwithstanding other provisions of this section, a person not authorized under this
- 4223 chapter who commits any act that is unlawful under Subsection (1)(a) or Section
- 4224 58-37b-4 is upon conviction subject to the penalties and classifications under this
- 4225 Subsection (4) if the trier of fact finds the act is committed:
- 4226 (i) in a public or private elementary or secondary school or on the grounds of any of
- 4227 those schools during the hours of 6 a.m. through 10 p.m.;
- 4228 (ii) in a public or private vocational school or postsecondary institution or on the
- 4229 grounds of any of those schools or institutions during the hours of 6 a.m. through
- 4230 10 p.m.;
- 4231 (iii) in or on the grounds of a preschool or child-care facility during the preschool's or
- 4232 facility's hours of operation;
- 4233 (iv) in a public park, amusement park, arcade, or recreation center when the public or
- 4234 amusement park, arcade, or recreation center is open to the public;
- 4235 (v) in or on the grounds of a house of worship as defined in Section ~~[76-10-501]~~
- 4236 76-11-201;
- 4237 (vi) in or on the grounds of a library when the library is open to the public;
- 4238 (vii) within an area that is within 100 feet of any structure, facility, or grounds
- 4239 included in Subsections (4)(a)(i) through (vi);
- 4240 (viii) in the presence of a person younger than 18 years old, regardless of where the
- 4241 act occurs; or
- 4242 (ix) for the purpose of facilitating, arranging, or causing the transport, delivery, or
- 4243 distribution of a substance in violation of this section to an inmate or on the

- 4244 grounds of a correctional facility as defined in Section 76-8-311.3.
- 4245 (b)(i) A person convicted under this Subsection (4) is guilty of a first degree felony  
4246 and shall be imprisoned for a term of not less than five years if the penalty that  
4247 would otherwise have been established but for this Subsection (4) would have  
4248 been a first degree felony.
- 4249 (ii) Imposition or execution of the sentence may not be suspended, and the person is  
4250 not eligible for probation.
- 4251 (c) If the classification that would otherwise have been established would have been less  
4252 than a first degree felony but for this Subsection (4), a person convicted under this  
4253 Subsection (4) is guilty of one degree more than the maximum penalty prescribed for  
4254 that offense.
- 4255 (d)(i) If the violation is of Subsection (4)(a)(ix):
- 4256 (A) the person may be sentenced to imprisonment for an indeterminate term as  
4257 provided by law, and the court shall additionally sentence the person convicted  
4258 for a term of one year to run consecutively and not concurrently; and
- 4259 (B) the court may additionally sentence the person convicted for an indeterminate  
4260 term not to exceed five years to run consecutively and not concurrently; and
- 4261 (ii) the penalties under this Subsection (4)(d) apply also to a person who, acting with  
4262 the mental state required for the commission of an offense, directly or indirectly  
4263 solicits, requests, commands, coerces, encourages, or intentionally aids another  
4264 person to commit a violation of Subsection (4)(a)(ix).
- 4265 (e) It is not a defense to a prosecution under this Subsection (4) that:
- 4266 (i) the actor mistakenly believed the individual to be 18 years old or older at the time  
4267 of the offense or was unaware of the individual's true age; or
- 4268 (ii) the actor mistakenly believed that the location where the act occurred was not as  
4269 described in Subsection (4)(a) or was unaware that the location where the act  
4270 occurred was as described in Subsection (4)(a).
- 4271 (5) A violation of this chapter for which no penalty is specified is a class B misdemeanor.
- 4272 (6)(a) For purposes of penalty enhancement under Subsections (1) and (2), a plea of  
4273 guilty or no contest to a violation or attempted violation of this section or a plea  
4274 which is held in abeyance under Title 77, Chapter 2a, Pleas in Abeyance, is the  
4275 equivalent of a conviction, even if the charge has been subsequently reduced or  
4276 dismissed in accordance with the plea in abeyance agreement.
- 4277 (b) A prior conviction used for a penalty enhancement under Subsection (2) shall be a

- 4278 conviction that is:
- 4279 (i) from a separate criminal episode than the current charge; and
- 4280 (ii) from a conviction that is separate from any other conviction used to enhance the
- 4281 current charge.
- 4282 (7) A person may be charged and sentenced for a violation of this section, notwithstanding
- 4283 a charge and sentence for a violation of any other section of this chapter.
- 4284 (8)(a) A penalty imposed for violation of this section is in addition to, and not in lieu of,
- 4285 a civil or administrative penalty or sanction authorized by law.
- 4286 (b) When a violation of this chapter violates a federal law or the law of another state,
- 4287 conviction or acquittal under federal law or the law of another state for the same act
- 4288 is a bar to prosecution in this state.
- 4289 (9) In any prosecution for a violation of this chapter, evidence or proof that shows a person
- 4290 or persons produced, manufactured, possessed, distributed, or dispensed a controlled
- 4291 substance or substances, is prima facie evidence that the person or persons did so with
- 4292 knowledge of the character of the substance or substances.
- 4293 (10) This section does not prohibit a veterinarian, in good faith and in the course of the
- 4294 veterinarian's professional practice only and not for humans, from prescribing,
- 4295 dispensing, or administering controlled substances or from causing the substances to be
- 4296 administered by an assistant or orderly under the veterinarian's direction and supervision.
- 4297 (11) Civil or criminal liability may not be imposed under this section on:
- 4298 (a) a person registered under this chapter who manufactures, distributes, or possesses an
- 4299 imitation controlled substance for use as a placebo or investigational new drug by a
- 4300 registered practitioner in the ordinary course of professional practice or research;
- 4301 (b) a law enforcement officer acting in the course and legitimate scope of the officer's
- 4302 employment;\_or
- 4303 (c) a healthcare facility, substance use harm reduction services program, or drug
- 4304 addiction treatment facility that temporarily possesses a controlled or counterfeit
- 4305 substance to conduct a test or analysis on the controlled or counterfeit substance to
- 4306 identify or analyze the strength, effectiveness, or purity of the substance for a public
- 4307 health or safety reason.
- 4308 (12)(a) Civil or criminal liability may not be imposed under this section on any Indian,
- 4309 as defined in Section 58-37-2, who uses, possesses, or transports peyote for bona fide
- 4310 traditional ceremonial purposes in connection with the practice of a traditional Indian
- 4311 religion as defined in Section 58-37-2.

- 4312 (b) In a prosecution alleging violation of this section regarding peyote as defined in  
4313 Section 58-37-4, it is an affirmative defense that the peyote was used, possessed, or  
4314 transported by an Indian for bona fide traditional ceremonial purposes in connection  
4315 with the practice of a traditional Indian religion.
- 4316 (c)(i) The defendant shall provide written notice of intent to claim an affirmative  
4317 defense under this Subsection (12) as soon as practicable, but not later than 10  
4318 days before trial.
- 4319 (ii) The notice shall include the specific claims of the affirmative defense.
- 4320 (iii) The court may waive the notice requirement in the interest of justice for good  
4321 cause shown, if the prosecutor is not unfairly prejudiced by the lack of timely  
4322 notice.
- 4323 (d) The defendant shall establish the affirmative defense under this Subsection (12) by a  
4324 preponderance of the evidence. If the defense is established, it is a complete defense  
4325 to the charges.
- 4326 (13)(a) It is an affirmative defense that the person produced, possessed, or administered  
4327 a controlled substance listed in Section 58-37-4.2 if the person was:
- 4328 (i) engaged in medical research; and
- 4329 (ii) a holder of a valid license to possess controlled substances under Section 58-37-6.
- 4330 (b) It is not a defense under Subsection (13)(a) that the person prescribed or dispensed a  
4331 controlled substance listed in Section 58-37-4.2.
- 4332 (14) It is an affirmative defense that the person possessed, in the person's body, a controlled  
4333 substance listed in Section 58-37-4.2 if:
- 4334 (a) the person was the subject of medical research conducted by a holder of a valid  
4335 license to possess controlled substances under Section 58-37-6; and
- 4336 (b) the substance was administered to the person by the medical researcher.
- 4337 (15) The application of any increase in penalty under this section to a violation of  
4338 Subsection (2)(a)(i) may not result in any greater penalty than a second degree felony.  
4339 This Subsection (15) takes precedence over any conflicting provision of this section.
- 4340 (16)(a) It is an affirmative defense to an allegation of the commission of an offense  
4341 listed in Subsection (16)(b) that the person or bystander:
- 4342 (i) reasonably believes that the person or another person is experiencing an overdose  
4343 event due to the ingestion, injection, inhalation, or other introduction into the  
4344 human body of a controlled substance or other substance;
- 4345 (ii) reports, or assists a person who reports, in good faith the overdose event to a



- 4346 medical provider, an emergency medical service provider as defined in Section  
4347 53-2d-101, a law enforcement officer, a 911 emergency call system, or an  
4348 emergency dispatch system, or the person is the subject of a report made under  
4349 this Subsection (16);
- 4350 (iii) provides in the report under Subsection (16)(a)(ii) a functional description of the  
4351 actual location of the overdose event that facilitates responding to the person  
4352 experiencing the overdose event;
- 4353 (iv) remains at the location of the person experiencing the overdose event until a  
4354 responding law enforcement officer or emergency medical service provider  
4355 arrives, or remains at the medical care facility where the person experiencing an  
4356 overdose event is located until a responding law enforcement officer arrives;
- 4357 (v) cooperates with the responding medical provider, emergency medical service  
4358 provider, and law enforcement officer, including providing information regarding  
4359 the person experiencing the overdose event and any substances the person may  
4360 have injected, inhaled, or otherwise introduced into the person's body; and
- 4361 (vi) is alleged to have committed the offense in the same course of events from which  
4362 the reported overdose arose.
- 4363 (b) The offenses referred to in Subsection (16)(a) are:
- 4364 (i) the possession or use of less than 16 ounces of marijuana;
- 4365 (ii) the possession or use of a scheduled or listed controlled substance other than  
4366 marijuana; and
- 4367 (iii) any violation of Chapter 37a, Utah Drug Paraphernalia Act, or Chapter 37b,  
4368 Imitation Controlled Substances Act.
- 4369 (c) As used in this Subsection (16) and in Section 76-3-203.11, "good faith" does not  
4370 include seeking medical assistance under this section during the course of a law  
4371 enforcement agency's execution of a search warrant, execution of an arrest warrant,  
4372 or other lawful search.
- 4373 (17) If any provision of this chapter, or the application of any provision to any person or  
4374 circumstances, is held invalid, the remainder of this chapter shall be given effect without  
4375 the invalid provision or application.
- 4376 (18) A legislative body of a political subdivision may not enact an ordinance that is less  
4377 restrictive than any provision of this chapter.
- 4378 (19) If a minor who is under 18 years old is found by a court to have violated this section or  
4379 Subsection 76-5-102.1(2)(b) or 76-5-207(2)(b), the court may order the minor to

4380 complete:

- 4381 (a) a screening as defined in Section 41-6a-501;
- 4382 (b) an assessment as defined in Section 41-6a-501 if the screening indicates an
- 4383 assessment to be appropriate; and
- 4384 (c) an educational series as defined in Section 41-6a-501 or substance use disorder
- 4385 treatment as indicated by an assessment.

4386 Section 66. Section **58-63-307** is amended to read:

4387 **58-63-307 . Use of firearms.**

- 4388 (1) An individual licensed as an armored car security officer or an armed private security
- 4389 officer may carry a firearm only while acting as an armored car security officer or an
- 4390 armed private security officer in accordance with this chapter and rules made under this
- 4391 chapter.
- 4392 (2) An individual licensed as an armored car security officer or an armed private security
- 4393 officer is exempt from the provisions of [~~Section 76-10-505 and Title 53, Chapter 5, Part~~
- 4394 ~~7, Concealed Firearm Act~~] Title 53, Chapter 5a, Part 3, Concealed Firearm Permits,
- 4395 while acting as an armored car security officer or an armed private security officer in
- 4396 accordance with this chapter and rules made under this chapter.

4397 Section 67. Section **63G-2-303** is amended to read:

4398 **63G-2-303 . Private information concerning certain government employees.**

- 4399 (1) As used in this section:
- 4400 (a) "At-risk government employee" means a current or former:
- 4401 (i) peace officer as specified in Section 53-13-102;
- 4402 (ii) state or federal judge of an appellate, district, justice, or juvenile court, or court
- 4403 commissioner;
- 4404 (iii) judge authorized by Title 39A, Chapter 5, Utah Code of Military Justice;
- 4405 (iv) judge authorized by Armed Forces, Title 10, United States Code;
- 4406 (v) federal prosecutor;
- 4407 (vi) prosecutor appointed pursuant to Armed Forces, Title 10, United States Code;
- 4408 (vii) law enforcement official as defined in Section [~~53-5-711~~] 53-5a-311;
- 4409 (viii) prosecutor authorized by Title 39A, Chapter 5, Utah Code of Military Justice; or
- 4410 (ix) state or local government employee who, because of the unique nature of the
- 4411 employee's regular work assignments or because of one or more recent credible
- 4412 threats directed to or against the employee, would be at immediate and substantial
- 4413 risk of physical harm if the employee's personal information is disclosed.

- 4414 (b) "Family member" means the spouse, child, sibling, parent, or grandparent of an  
4415 at-risk government employee who is living with the employee.
- 4416 (c) "Personal information" means the employee's or the employee's family member's  
4417 home address, home telephone number, personal mobile telephone number, personal  
4418 pager number, personal email address, social security number, insurance coverage,  
4419 marital status, or payroll deductions.
- 4420 (2)(a) Pursuant to Subsection 63G-2-302(1)(h), an at-risk government employee may  
4421 file a written application that:
- 4422 (i) gives notice of the employee's status as an at-risk government employee to each  
4423 agency of a government entity holding a record or a part of a record that would  
4424 disclose the employee's personal information; and
- 4425 (ii) requests that the government agency classify those records or parts of records as  
4426 private.
- 4427 (b) An at-risk government employee desiring to file an application under this section  
4428 may request assistance from the government agency to identify the individual records  
4429 containing personal information.
- 4430 (c) Each government agency shall develop a form that:
- 4431 (i) requires the at-risk government employee to designate each specific record or part  
4432 of a record containing the employee's personal information that the applicant  
4433 desires to be classified as private;
- 4434 (ii) affirmatively requests that the government entity holding those records classify  
4435 them as private;
- 4436 (iii) informs the employee that by submitting a completed form the employee may  
4437 not receive official announcements affecting the employee's property, including  
4438 notices about proposed municipal annexations, incorporations, or zoning  
4439 modifications; and
- 4440 (iv) contains a place for the signature required under Subsection (2)(d).
- 4441 (d) A form submitted by an employee under Subsection (2)(c) shall be signed by the  
4442 highest ranking elected or appointed official in the employee's chain of command  
4443 certifying that the employee submitting the form is an at-risk government employee.
- 4444 (3) A county recorder, county treasurer, county auditor, or a county tax assessor may fully  
4445 satisfy the requirements of this section by:
- 4446 (a) providing a method for the assessment roll and index and the tax roll and index that  
4447 will block public access to the home address, home telephone number, situs address,

- 4448 and Social Security number; and
- 4449 (b) providing the at-risk government employee requesting the classification with a  
4450 disclaimer informing the employee that the employee may not receive official  
4451 announcements affecting the employee's property, including notices about proposed  
4452 annexations, incorporations, or zoning modifications.
- 4453 (4) A government agency holding records of an at-risk government employee classified as  
4454 private under this section may release the record or part of the record if:
- 4455 (a) the employee or former employee gives written consent;
- 4456 (b) a court orders release of the records;
- 4457 (c) the government agency receives a certified death certificate for the employee or  
4458 former employee; or
- 4459 (d) as it relates to the employee's voter registration record:
- 4460 (i) the person to whom the record or part of the record is released is a qualified  
4461 person under Subsection 20A-2-104(4)(n); and
- 4462 (ii) the government agency's release of the record or part of the record complies with  
4463 the requirements of Subsection 20A-2-104(4)(o).
- 4464 (5)(a) If the government agency holding the private record receives a subpoena for the  
4465 records, the government agency shall attempt to notify the at-risk government  
4466 employee or former employee by mailing a copy of the subpoena to the employee's  
4467 last-known mailing address together with a request that the employee either:
- 4468 (i) authorize release of the record; or
- 4469 (ii) within 10 days of the date that the copy and request are mailed, deliver to the  
4470 government agency holding the private record a copy of a motion to quash filed  
4471 with the court who issued the subpoena.
- 4472 (b) The government agency shall comply with the subpoena if the government agency  
4473 has:
- 4474 (i) received permission from the at-risk government employee or former employee to  
4475 comply with the subpoena;
- 4476 (ii) not received a copy of a motion to quash within 10 days of the date that the copy  
4477 of the subpoena was mailed; or
- 4478 (iii) received a court order requiring release of the records.
- 4479 (6)(a) Except as provided in Subsection (6)(b), a form submitted under this section  
4480 remains in effect until the earlier of:
- 4481 (i) four years after the date the employee signs the form, whether or not the

4482 employee's employment terminates before the end of the four-year period; and  
 4483 (ii) one year after the government agency receives official notice of the death of the  
 4484 employee.

4485 (b) A form submitted under this section may be rescinded at any time by:

4486 (i) the at-risk government employee who submitted the form; or  
 4487 (ii) if the at-risk government employee is deceased, a member of the employee's  
 4488 immediate family.

4489 Section 68. Section **63G-2-801** is amended to read:

4490 **63G-2-801 . Criminal penalties.**

4491 (1)(a) A public employee or other person who has lawful access to any private,  
 4492 controlled, or protected record under this chapter, and who intentionally discloses,  
 4493 provides a copy of, or improperly uses a private, controlled, or protected record  
 4494 knowing that the disclosure or use is prohibited under this chapter, is, except as  
 4495 provided in Subsection [~~53-5-708(1)(e)~~] 53-5a-310(1)(c), guilty of a class B  
 4496 misdemeanor.

4497 (b) It is a defense to prosecution under Subsection (1)(a) that the actor used or released  
 4498 private, controlled, or protected information in the reasonable belief that the use or  
 4499 disclosure of the information was necessary to expose a violation of law involving  
 4500 government corruption, abuse of office, or misappropriation of public funds or  
 4501 property.

4502 (c) It is a defense to prosecution under Subsection (1)(a) that the record could have  
 4503 lawfully been released to the recipient if it had been properly classified.

4504 (d) It is a defense to prosecution under Subsection (1)(a) that the public employee or  
 4505 other person disclosed, provided, or used the record based on a good faith belief that  
 4506 the disclosure, provision, or use was in accordance with the law.

4507 (2)(a) A person who by false pretenses, bribery, or theft, gains access to or obtains a  
 4508 copy of any private, controlled, or protected record to which the person is not legally  
 4509 entitled is guilty of a class B misdemeanor.

4510 (b) No person shall be guilty under Subsection (2)(a) who receives the record,  
 4511 information, or copy after the fact and without prior knowledge of or participation in  
 4512 the false pretenses, bribery, or theft.

4513 (3)(a) A public employee who intentionally refuses to release a record, the disclosure of  
 4514 which the employee knows is required by law, is guilty of a class B misdemeanor.

4515 (b) It is a defense to prosecution under Subsection (3)(a) that the public employee's

4516 failure to release the record was based on a good faith belief that the public employee  
4517 was acting in accordance with the requirements of law.

4518 (c) A public employee who intentionally refuses to release a record, the disclosure of  
4519 which the employee knows is required by a final unappealed order from a  
4520 government entity, the State Records Committee, or a court is guilty of a class B  
4521 misdemeanor.

4522 *The following section is affected by a coordination clause at the end of this bill.*

4523 Section 69. Section **63I-1-253** is amended to read:

4524 **63I-1-253 . Repeal dates: Titles 53 through 53G.**

- 4525 (1) Section 53-1-122, Road Rage Awareness and Prevention Restricted Account, is  
4526 repealed July 1, 2028.
- 4527 (2) Section 53-2a-105, Emergency Management Administration Council created --  
4528 Function -- Composition -- Expenses, is repealed July 1, 2029.
- 4529 (3) Section 53-2a-1103, Search and Rescue Advisory Board -- Members -- Compensation,  
4530 is repealed July 1, 2027.
- 4531 (4) Section 53-2a-1104, General duties of the Search and Rescue Advisory Board, is  
4532 repealed July 1, 2027.
- 4533 (5) Title 53, Chapter 2a, Part 15, Grid Resilience Committee, is repealed July 1, 2027.
- 4534 (6) Section 53-2d-104, State Emergency Medical Services Committee -- Membership --  
4535 Expenses, is repealed July 1, 2029.
- 4536 (7) Section 53-2d-703, Volunteer Emergency Medical Service Personnel Health Insurance  
4537 Program -- Creation -- Administration -- Eligibility -- Benefits -- Rulemaking --  
4538 Advisory board, is repealed July 1, 2027.
- 4539 (8) Section [~~53-5-703~~] 53-5a-302, Concealed Firearm Review Board -- Membership --  
4540 Compensation -- Terms -- Duties, is repealed July 1, 2029.
- 4541 (9) Section 53-5a-603, Information check before private sale of firearm, is repealed July 1,  
4542 2025.
- 4543 [~~(9)~~] (10) Section 53-11-104, Board, is repealed July 1, 2029.
- 4544 [~~(10)~~] (11) Section 53-22-104.1, School Security Task Force -- Membership -- Duties -- Per  
4545 diem -- Report -- Expiration, is repealed December 31, 2025.
- 4546 [~~(11)~~] (12) Section 53-22-104.2, The School Security Task Force -- Education Advisory  
4547 Board, is repealed December 31, 2025.
- 4548 [~~(12)~~] (13) Subsection 53B-1-301(1)(j), regarding the Higher Education and Corrections  
4549 Council, is repealed July 1, 2027.

- 4550     ~~[(13)]~~ (14) Section 53B-7-709, Five-year performance goals, is repealed July 1, 2027.
- 4551     ~~[(14)]~~ (15) Title 53B, Chapter 8a, Part 3, Education Savings Incentive Program, is repealed  
4552         July 1, 2028.
- 4553     ~~[(15)]~~ (16) Title 53B, Chapter 17, Part 11, USTAR Researchers, is repealed July 1, 2028.
- 4554     ~~[(16)]~~ (17) Section 53B-17-1203, SafeUT and School Safety Commission established --  
4555         Members, is repealed January 1, 2030.
- 4556     ~~[(17)]~~ (18) Title 53B, Chapter 18, Part 16, USTAR Researchers, is repealed July 1, 2028.
- 4557     ~~[(18)]~~ (19) Title 53B, Chapter 18, Part 17, Food Security Council, is repealed July 1, 2027.
- 4558     ~~[(19)]~~ (20) Title 53B, Chapter 18, Part 18, Electrification of Transportation Infrastructure  
4559         Research Center, is repealed July 1, 2028.
- 4560     ~~[(20)]~~ (21) Title 53B, Chapter 35, Higher Education and Corrections Council, is repealed  
4561         July 1, 2027.
- 4562     ~~[(21)]~~ (22) Subsection 53C-3-203(4)(b)(vii), regarding the distribution of money from the  
4563         Land Exchange Distribution Account to the Geological Survey for test wells and other  
4564         hydrologic studies in the West Desert, is repealed July 1, 2030.
- 4565     ~~[(22)]~~ (23) Subsection 53E-1-201(1)(q), regarding the Higher Education and Corrections  
4566         Council, is repealed July 1, 2027.
- 4567     ~~[(23)]~~ (24) Subsection 53E-2-304(6), regarding foreclosing a private right of action or  
4568         waiver of governmental immunity, is repealed July 1, 2027.
- 4569     ~~[(24)]~~ (25) Subsection 53E-3-503(5), regarding coordinating councils for youth in care, is  
4570         repealed July 1, 2027.
- 4571     ~~[(25)]~~ (26) Subsection 53E-3-503(6), regarding coordinating councils for youth in care, is  
4572         repealed July 1, 2027.
- 4573     ~~[(26)]~~ (27) Subsection 53E-4-202(8)(b), regarding a standards review committee, is repealed  
4574         January 1, 2028.
- 4575     ~~[(27)]~~ (28) Section 53E-4-203, Standards review committee, is repealed January 1, 2028.
- 4576     ~~[(28)]~~ (29) Title 53E, Chapter 6, Part 5, Utah Professional Practices Advisory Commission,  
4577         is repealed July 1, 2033.
- 4578     ~~[(29)]~~ (30) Subsection 53E-7-207(7), regarding a private right of action or waiver of  
4579         governmental immunity, is repealed July 1, 2027.
- 4580     ~~[(30)]~~ (31) Section 53F-2-420, Intensive Services Special Education Pilot Program, is  
4581         repealed July 1, 2024.
- 4582     ~~[(31)]~~ (32) Section 53F-5-214, Grant for professional learning, is repealed July 1, 2025.
- 4583     ~~[(32)]~~ (33) Section 53F-5-215, Elementary teacher preparation grant, is repealed July 1,

- 4584 2025.
- 4585 [(33)] (34) Section 53F-5-219, Local Innovations Civics Education Pilot Program, is  
4586 repealed July 1, 2025.
- 4587 [(34)] (35) Title 53F, Chapter 10, Part 2, Capital Projects Evaluation Panel, is repealed July  
4588 1, 2027.
- 4589 [(35)] (36) Subsection 53G-4-608(2)(b), regarding the Utah Seismic Safety Commission, is  
4590 repealed January 1, 2025.
- 4591 [(36)] (37) Subsection 53G-4-608(4)(b), regarding the Utah Seismic Safety Commission, is  
4592 repealed January 1, 2025.
- 4593 [(37)] (38) Section 53G-9-212, Drinking water quality in schools, is repealed July 1, 2027.  
4594 Section 70. Section **63I-1-276** is amended to read:  
4595 **63I-1-276 . Repeal dates: Title 76.**
- 4596 [(4)] Subsection 76-7-313(6), regarding a report provided by the Department of Health and  
4597 Human Services, is repealed July 1, 2027.
- 4598 [(2) Section 76-10-526.1, Information check before private sale of firearm, is repealed July  
4599 1, 2025.]
- 4600 Section 71. Section **63I-2-276** is amended to read:  
4601 **63I-2-276 . Repeal dates: Title 76.**
- 4602 (1) Subsection 76-5-102.7(2)(b), regarding assault or threat of violence against an employee  
4603 of a health facility, is repealed January 1, 2027.
- 4604 (2) Subsection [76-10-529(9)] 76-11-218(10), regarding data collection requirements for a  
4605 law enforcement agency that issues a written warning, citation, or referral, is repealed  
4606 December 31, 2031.
- 4607 Section 72. Section **63M-7-220** is amended to read:  
4608 **63M-7-220 . Domestic violence data collection.**
- 4609 (1) As used in this section:
- 4610 (a) "Commission" means the State Commission on Criminal and Juvenile Justice created  
4611 in Section 63M-7-201.
- 4612 (b) "Cohabitant abuse protective order" means an order issued with or without notice to  
4613 the respondent in accordance with Title 78B, Chapter 7, Part 6, Cohabitant Abuse  
4614 Protective Orders.
- 4615 (c) "Lethality assessment" means an evidence-based assessment that is intended to  
4616 identify a victim of domestic violence who is at a high risk of being killed by the  
4617 perpetrator.



- 4618 (d) "Victim" means the same as that term is defined in Section 77-36-1.
- 4619 (2) Beginning July 1, 2025, each law enforcement agency and other organizations that  
4620 provide domestic violence services within the state shall submit the following data to the  
4621 commission for compilation and analysis in collaboration with the data collected by the  
4622 Department of Public Safety in accordance with Section 77-36-2.1 and the  
4623 Administrative Office of the Courts:
- 4624 (a) lethality assessments conducted in the state, including:
- 4625 (i) the type of lethality assessments used by law enforcement agencies and other  
4626 organizations that provide domestic violence services; and
- 4627 (ii) training and protocols implemented by law enforcement agencies and the  
4628 organizations described in Subsection (2)(a)(i) regarding the use of lethality  
4629 assessments;
- 4630 (b) the data collection efforts implemented by law enforcement agencies and the  
4631 organizations described in Subsection (2)(a)(i);
- 4632 (c) the number of cohabitant abuse protective orders that, in the immediately preceding  
4633 calendar year, were:
- 4634 (i) issued;
- 4635 (ii) amended or dismissed before the date of expiration; and
- 4636 (iii) dismissed under Section 78B-7-605; and
- 4637 (d) the prevalence of domestic violence in the state and the prevalence of the following  
4638 in domestic violence cases:
- 4639 (i) stalking;
- 4640 (ii) strangulation;
- 4641 (iii) violence in the presence of children; and
- 4642 (iv) threats of suicide or homicide.
- 4643 (3) The commission, in collaboration with domestic violence organizations and other  
4644 related stakeholders, shall conduct a review of and provide feedback on:
- 4645 (a) lethality assessment training and protocols implemented by law enforcement  
4646 agencies and the organizations described in Subsection (2)(a)(i); and
- 4647 (b) the collection of domestic violence data in the state, including:
- 4648 (i) coordination between state, local, and not-for-profit agencies to collect data from  
4649 lethality assessments and on the prevalence of domestic violence, including the  
4650 number of voluntary commitments of firearms under Section ~~53-5e-201~~  
4651 53-5a-502;

- 4652 (ii) efforts to standardize the format for collecting domestic violence and lethality  
4653 assessment data from state, local, and not-for-profit agencies subject to federal  
4654 confidentiality requirements; and  
4655 (iii) the need for any additional data collection requirements or efforts.

4656 (4) On or before November 30 of each year, the commission shall provide a written report  
4657 to the Law Enforcement and Criminal Justice Interim Committee describing:

- 4658 (a) the information gathered under Subsections (2) and (3); or  
4659 (b) the progress and assessment of available data under Subsections (2) and (3).

4660 Section 73. Section **72-10-901** is amended to read:

4661 **72-10-901 . Definitions.**

4662 As used in this part, "weapon" means:

- 4663 (1) a firearm as that term is defined in Section [~~76-10-504~~] 76-11-101; or  
4664 (2) an object that in the manner of the object's use or intended use is capable of causing  
4665 death, bodily injury, or damage to property, as determined according to the following  
4666 factors:  
4667 (a) the location and circumstances in which the object is used or possessed;  
4668 (b) the primary purpose for which the object is made;  
4669 (c) the character of the damage, if any, the object is likely to cause;  
4670 (d) the manner in which the object is used;  
4671 (e) whether the manner in which the object is used or possessed constitutes a potential  
4672 imminent threat to public safety; and  
4673 (f) the lawful purposes for which the object may be used.

4674 Section 74. Section **73-29-102** is amended to read:

4675 **73-29-102 . Definitions.**

4676 As used in this chapter:

- 4677 (1) "Division" means the Division of Wildlife Resources.  
4678 (2) "Floating access" means the right to access public water flowing over private property  
4679 for floating and fishing while floating upon the water.  
4680 (3) "Impounded wetlands" means a wetland or wetland pond that is formed or the level of  
4681 which is controlled by a dike, berm, or headgate that retains or manages the flow or  
4682 depth of water, including connecting channels.  
4683 (4) "Navigable water" means a water course that in its natural state without the aid of  
4684 artificial means is useful for commerce and has a useful capacity as a public highway of  
4685 transportation.

- 4686 (5) "Private property to which access is restricted" means privately owned real property:
- 4687 (a) that is cultivated land, as defined in Section 23A-5-317;
- 4688 (b) that is:
- 4689 (i) properly posted, as defined in Section 23A-5-317;
- 4690 (ii) posted as described in Subsection 76-6-206(2)(b)(iii); or
- 4691 (iii) posted as described in Subsection 76-6-206.3(2)(c);
- 4692 (c) that is fenced or enclosed as described in:
- 4693 (i) Subsection 76-6-206(2)(b)(ii); or
- 4694 (ii) Subsection 76-6-206.3(2)(b); or
- 4695 (d) that the owner or a person authorized to act on the owner's behalf has requested a
- 4696 person to leave as provided by:
- 4697 (i) Section 23A-5-317;
- 4698 (ii) Subsection 76-6-206(2)(b)(i); or
- 4699 (iii) Subsection 76-6-206.3(2)(a).
- 4700 (6) "Public access area" means the limited part of privately owned property that:
- 4701 (a) lies beneath or within three feet of a public water or that is the most direct, least
- 4702 invasive, and closest means of portage around an obstruction in a public water; and
- 4703 (b) is open to public recreational access under Section 73-29-203; and
- 4704 (c) can be accessed from an adjoining public access area or public right-of-way.
- 4705 (7) "Public recreational access" means the right to engage in recreational access established
- 4706 in accordance with Section 73-29-203.
- 4707 (8)(a) "Public water" means water:
- 4708 (i) described in Section 73-1-1; and
- 4709 (ii) flowing or collecting on the surface:
- 4710 (A) within a natural or realigned channel; or
- 4711 (B) in a natural lake, pond, or reservoir on a natural or realigned channel.
- 4712 (b) "Public water" does not include water flowing or collecting:
- 4713 (i) on impounded wetland;
- 4714 (ii) on a migratory bird production area, as defined in Section 23A-13-101;
- 4715 (iii) on private property in a manmade:
- 4716 (A) irrigation canal;
- 4717 (B) irrigation ditch; or
- 4718 (C) impoundment or reservoir constructed outside of a natural or realigned
- 4719 channel; or

- 4720 (iv) on a jurisdictional wetland described in 33 C.F.R. 328.3.
- 4721 (9)(a) "Recreational access" means to use a public water and to touch a public access  
4722 area incidental to the use of the public water for:
- 4723 (i) floating;
- 4724 (ii) fishing; or
- 4725 (iii) waterfowl hunting conducted:
- 4726 (A) in compliance with applicable law or rule, including Sections 23A-5-314,  
4727 73-29-203, and [~~76-10-508~~] 76-11-209; and
- 4728 (B) so that the individual who engages in the waterfowl hunting shoots a firearm  
4729 only while within a public access area and no closer than 600 feet of any  
4730 dwelling.
- 4731 (b) "Recreational access" does not include:
- 4732 (i) hunting, except as provided in Subsection (9)(a)(iii);
- 4733 (ii) wading without engaging in activity described in Subsection (9)(a); or
- 4734 (iii) any other activity.
- 4735 Section 75. Section **76-3-203.1** is amended to read:
- 4736 **76-3-203.1 . Offenses committed in concert with three or more persons or in**  
4737 **relation to a criminal street gang -- Notice -- Enhanced penalties.**
- 4738 (1) As used in this section:
- 4739 (a) "Criminal street gang" means the same as that term is defined in Section 76-9-802.
- 4740 (b) "In concert with three or more persons" means:
- 4741 (i) the defendant was aided or encouraged by at least three other persons in  
4742 committing the offense and was aware of this aid or encouragement; and
- 4743 (ii) each of the other persons:
- 4744 (A) was physically present; and
- 4745 (B) participated as a party to any offense listed in Subsection (4), (5), or (6).
- 4746 (c) "In concert with three or more persons" means, regarding intent:
- 4747 (i) other persons participating as parties need not have the intent to engage in the  
4748 same offense or degree of offense as the defendant; and
- 4749 (ii) a minor is a party if the minor's actions would cause the minor to be a party if the  
4750 minor were an adult.
- 4751 (2) A person who commits any offense in accordance with this section is subject to an  
4752 enhanced penalty as provided in Subsection (4), (5), or (6) if the trier of fact finds  
4753 beyond a reasonable doubt that the person acted:

- 4754 (a) in concert with three or more persons;
- 4755 (b) for the benefit of, at the direction of, or in association with any criminal street gang  
4756 as defined in Section 76-9-802; or
- 4757 (c) to gain recognition, acceptance, membership, or increased status with a criminal  
4758 street gang as defined in Section 76-9-802.
- 4759 (3) The prosecuting attorney, or grand jury if an indictment is returned, shall cause to be  
4760 subscribed upon the information or indictment notice that the defendant is subject to the  
4761 enhanced penalties provided under this section.
- 4762 (4)(a) For an offense listed in Subsection (4)(b), a person may be charged as follows:
- 4763 (i) for a class B misdemeanor, as a class A misdemeanor; and  
4764 (ii) for a class A misdemeanor, as a third degree felony.
- 4765 (b) The following offenses are subject to Subsection (4)(a):
- 4766 (i) criminal mischief as described in Section 76-6-106;  
4767 (ii) property damage or destruction as described in Section 76-6-106.1; and  
4768 (iii) defacement by graffiti as described in Section 76-6-107.
- 4769 (5)(a) For an offense listed in Subsection (5)(b), a person may be charged as follows:
- 4770 (i) for a class B misdemeanor, as a class A misdemeanor;  
4771 (ii) for a class A misdemeanor, as a third degree felony; and  
4772 (iii) for a third degree felony, as a second degree felony.
- 4773 (b) The following offenses are subject to Subsection (5)(a):
- 4774 (i) burglary, if committed in a dwelling as defined in Subsection 76-6-202(3)(b);  
4775 (ii) any offense of obstructing government operations under Chapter 8, Part 3,  
4776 Obstructing Governmental Operations, except Sections 76-8-302, 76-8-303,  
4777 76-8-307, 76-8-308, and 76-8-312;  
4778 (iii) tampering with a witness under Section 76-8-508;  
4779 (iv) retaliation against a witness, victim, or informant, or other violation of Section  
4780 76-8-508.3;  
4781 (v) receiving or soliciting a bribe as a witness under Section 76-8-508.7;  
4782 (vi) extortion or bribery to dismiss a criminal proceeding as defined in Section  
4783 76-8-509;
- 4784 [~~(vii) any weapons offense under Chapter 10, Part 5, Weapons; and]~~  
4785 [~~(viii)] (vii) any violation of Chapter 10, Part 16, Pattern of Unlawful Activity Act;~~  
4786 and  
4787 (viii) any weapons offense under Title 76, Chapter 11, Weapons.

- 4788 (6)(a) For an offense listed in Subsection (6)(b), a person may be charged as follows:
- 4789 (i) for a class B misdemeanor, as a class A misdemeanor;
- 4790 (ii) for a class A misdemeanor, as a third degree felony;
- 4791 (iii) for a third degree felony, as a second degree felony; and
- 4792 (iv) for a second degree felony, as a first degree felony.
- 4793 (b) The following offenses are subject to Subsection (6)(a):
- 4794 (i) assault and related offenses under Chapter 5, Part 1, Assault and Related Offenses;
- 4795 (ii) any criminal homicide offense under Chapter 5, Part 2, Criminal Homicide;
- 4796 (iii) kidnapping and related offenses under Chapter 5, Part 3, Kidnapping,
- 4797 Trafficking, and Smuggling;
- 4798 (iv) any felony sexual offense under Chapter 5, Part 4, Sexual Offenses;
- 4799 (v) sexual exploitation of a minor as defined in Section 76-5b-201;
- 4800 (vi) aggravated sexual exploitation of a minor as defined in Section 76-5b-201.1;
- 4801 (vii) robbery and aggravated robbery under Chapter 6, Part 3, Robbery; and
- 4802 (viii) aggravated exploitation of prostitution under Section 76-10-1306.
- 4803 (7) The sentence imposed under Subsection (4), (5), or (6) may be suspended and the
- 4804 individual placed on probation for the higher level of offense.
- 4805 (8) It is not a bar to imposing the enhanced penalties under this section that the persons with
- 4806 whom the actor is alleged to have acted in concert are not identified, apprehended,
- 4807 charged, or convicted, or that any of those persons are charged with or convicted of a
- 4808 different or lesser offense.
- 4809 Section 76. Section **76-3-203.3** is amended to read:
- 4810 **76-3-203.3 . Penalty for hate crimes -- Civil rights violation.**
- 4811 As used in this section:
- 4812 (1) "Primary offense" means those offenses provided in Subsection (4).
- 4813 (2)(a) A person who commits any primary offense with the intent to intimidate or
- 4814 terrorize another person or with reason to believe that his action would intimidate or
- 4815 terrorize that person is subject to Subsection (2)(b).
- 4816 (b)(i) A class C misdemeanor primary offense is a class B misdemeanor; and
- 4817 (ii) a class B misdemeanor primary offense is a class A misdemeanor.
- 4818 (3) "Intimidate or terrorize" means an act which causes the person to fear for his physical
- 4819 safety or damages the property of that person or another. The act must be accompanied
- 4820 with the intent to cause or has the effect of causing a person to reasonably fear to freely
- 4821 exercise or enjoy any right secured by the Constitution or laws of the state or by the

- 4822 Constitution or laws of the United States.
- 4823 (4) Primary offenses referred to in Subsection (1) are the misdemeanor offenses for:
- 4824 (a) assault and related offenses under Sections 76-5-102, 76-5-102.4, 76-5-106, 76-5-107,
- 4825 and 76-5-108;
- 4826 (b) any misdemeanor property destruction offense under Sections 76-6-102 and 76-6-104,
- 4827 and Subsection 76-6-106(2)(a);
- 4828 (c) any criminal trespass offense under Sections 76-6-204 and 76-6-206;
- 4829 (d) any misdemeanor theft offense under Chapter 6, Offenses Against Property;
- 4830 (e) any offense of obstructing government operations under Sections 76-8-301,
- 4831 76-8-301.2, 76-8-302, 76-8-305, 76-8-306, 76-8-307, 76-8-308, 76-8-309.2, and
- 4832 76-8-313;
- 4833 (f) any offense of interfering or intending to interfere with activities of colleges and
- 4834 universities under [~~Title 76,~~]Chapter 8, Part 7, Colleges and Universities;
- 4835 (g) any misdemeanor offense against public order and decency as defined in [~~Title 76,~~]
- 4836 Chapter 9, Part 1, Breaches of the Peace and Related Offenses;
- 4837 (h) any telephone abuse offense under [~~Title 76,~~]Chapter 9, Part 2, Electronic
- 4838 Communication and Telephone Abuse;
- 4839 (i) any cruelty to animals offense under Section 76-9-301;
- 4840 (j) any weapons offense under Section [~~76-10-506~~] 76-11-207; or
- 4841 (k) a violation of Section 76-9-102, if the violation occurs at an official meeting.
- 4842 (5) This section does not affect or limit any individual's constitutional right to the lawful
- 4843 expression of free speech or other recognized rights secured by the Constitution or laws
- 4844 of the state or by the Constitution or laws of the United States.

4845 Section 77. Section **76-3-203.5** is amended to read:

4846 **76-3-203.5 . Habitual violent offender -- Definition -- Procedure -- Penalty.**

- 4847 (1) As used in this section:
- 4848 (a) "Felony" means any violation of a criminal statute of the state, any other state, the
- 4849 United States, or any district, possession, or territory of the United States for which
- 4850 the maximum punishment the offender may be subjected to exceeds one year in
- 4851 prison.
- 4852 (b) "Habitual violent offender" means a person convicted within the state of any violent
- 4853 felony and who on at least two previous occasions has been convicted of a violent
- 4854 felony and committed to either prison in Utah or an equivalent correctional institution
- 4855 of another state or of the United States either at initial sentencing or after revocation

4856 of probation.

4857 (c) "Violent felony" means:

4858 (i) any of the following offenses, or any attempt, solicitation, or conspiracy to  
4859 commit any of the following offenses punishable as a felony:

4860 (A) arson as described in Section 76-6-102;

4861 (B) causing a catastrophe as described in Subsection 76-6-105(3)(a) or (3)(b);

4862 (C) criminal mischief as described in Section 76-6-106;

4863 (D) aggravated arson as described in Section 76-6-103;

4864 (E) assault by prisoner as described in Section 76-5-102.5;

4865 (F) disarming a police officer as described in Section 76-5-102.8;

4866 (G) aggravated assault as described in Section 76-5-103;

4867 (H) aggravated assault by prisoner as described in Section 76-5-103.5;

4868 (I) mayhem as described in Section 76-5-105;

4869 (J) stalking as described in Subsection 76-5-106.5(2);

4870 (K) threat of terrorism as described in Section 76-5-107.3;

4871 (L) aggravated child abuse as described in Subsection 76-5-109.2(3)(a) or (b);

4872 (M) commission of domestic violence in the presence of a child as described in  
4873 Section 76-5-114;

4874 (N) abuse or neglect of a child with a disability as described in Section 76-5-110;

4875 (O) abuse or exploitation of a vulnerable adult as described in Section 76-5-111,  
4876 76-5-111.2, 76-5-111.3, or 76-5-111.4;

4877 (P) endangerment of a child or vulnerable adult as described in Section 76-5-112.5;

4878 (Q) an offense described in Chapter 5, Part 2, Criminal Homicide;

4879 (R) kidnapping as described in Section 76-5-301;

4880 (S) child kidnapping as described in Section 76-5-301.1;

4881 (T) aggravated kidnapping as described in Section 76-5-302;

4882 (U) rape as described in Section 76-5-402;

4883 (V) rape of a child as described in Section 76-5-402.1;

4884 (W) object rape as described in Section 76-5-402.2;

4885 (X) object rape of a child as described in Section 76-5-402.3;

4886 (Y) forcible sodomy as described in Section 76-5-403;

4887 (Z) sodomy on a child as described in Section 76-5-403.1;

4888 (AA) forcible sexual abuse as described in Section 76-5-404;

4889 (BB) sexual abuse of a child as described in Section 76-5-404.1;



- 4890 (CC) aggravated sexual abuse of a child as described in Section 76-5-404.3;
- 4891 (DD) aggravated sexual assault as described in Section 76-5-405;
- 4892 (EE) sexual exploitation of a minor as described in Section 76-5b-201;
- 4893 (FF) aggravated sexual exploitation of a minor as described in Section 76-5b-201.1;
- 4894 (GG) sexual exploitation of a vulnerable adult as described in Section 76-5b-202;
- 4895 (HH) burglary as described in Subsection 76-6-202(3)(b);
- 4896 (II) aggravated burglary as described in Section 76-6-203;
- 4897 (JJ) robbery as described in Section 76-6-301;
- 4898 (KK) aggravated robbery as described in Section 76-6-302;
- 4899 (LL) theft by extortion as described in Subsection 76-6-406(1)(a)(i) or (1)(a)(ii);
- 4900 (MM) tampering with a witness as described in Section 76-8-508;
- 4901 (NN) retaliation against a witness, victim, or informant as described in Section
- 4902 76-8-508.3;
- 4903 (OO) tampering or retaliating against a juror as described in Subsection 76-8-508.5
- 4904 (2)(a)(iii);
- 4905 (PP) extortion to dismiss a criminal proceeding as described in Subsection
- 4906 76-6-406(1)(a)(i), (ii), or (ix);
- 4907 (QQ) possession, use, or removal of explosive, chemical, or incendiary devices as
- 4908 described in Subsections 76-10-306(3) through (6);
- 4909 (RR) unlawful delivery of explosive, chemical, or incendiary devices as described
- 4910 in Section 76-10-307;
- 4911 (SS) purchase or possession of a dangerous weapon or handgun by a restricted
- 4912 person as described in Section 76-10-503;
- 4913 (TT) aggravated exploitation of prostitution as described in Subsection 76-10-1306
- 4914 (1)(a);
- 4915 (UU) bus hijacking as described in Section 76-10-1504;[~~and~~]
- 4916 (VV) discharging firearms and hurling missiles as described in Section 76-10-1505;[
- 4917 ~~or~~] and
- 4918 (WW) felony discharge of a firearm as described in Section 76-11-210.
- 4919 (ii) any felony violation of a criminal statute of any other state, the United States, or
- 4920 any district, possession, or territory of the United States which would constitute a
- 4921 violent felony as defined in this Subsection (1) if committed in this state.
- 4922 (2) If a person is convicted in this state of a violent felony by plea or by verdict and the trier
- 4923 of fact determines beyond a reasonable doubt that the person is a habitual violent

- 4924 offender under this section, the penalty for a:
- 4925 (a) third degree felony is as if the conviction were for a first degree felony;
- 4926 (b) second degree felony is as if the conviction were for a first degree felony; or
- 4927 (c) first degree felony remains the penalty for a first degree penalty except:
- 4928 (i) the convicted person is not eligible for probation; and
- 4929 (ii) the Board of Pardons and Parole shall consider that the convicted person is a
- 4930 habitual violent offender as an aggravating factor in determining the length of
- 4931 incarceration.
- 4932 (3)(a) The prosecuting attorney, or grand jury if an indictment is returned, shall provide
- 4933 notice in the information or indictment that the defendant is subject to punishment as
- 4934 a habitual violent offender under this section. Notice shall include the case number,
- 4935 court, and date of conviction or commitment of any case relied upon by the
- 4936 prosecution.
- 4937 (b)(i) The defendant shall serve notice in writing upon the prosecutor if the defendant
- 4938 intends to deny that:
- 4939 (A) the defendant is the person who was convicted or committed;
- 4940 (B) the defendant was represented by counsel or had waived counsel; or
- 4941 (C) the defendant's plea was understandingly or voluntarily entered.
- 4942 (ii) The notice of denial shall be served not later than five days prior to trial and shall
- 4943 state in detail the defendant's contention regarding the previous conviction and
- 4944 commitment.
- 4945 (4)(a) If the defendant enters a denial under Subsection (3)(b) and if the case is tried to a
- 4946 jury, the jury may not be told, until after it returns its verdict on the underlying felony
- 4947 charge, of the:
- 4948 (i) defendant's previous convictions for violent felonies, except as otherwise provided
- 4949 in the Utah Rules of Evidence; or
- 4950 (ii) allegation against the defendant of being a habitual violent offender.
- 4951 (b) If the jury's verdict is guilty, the defendant shall be tried regarding the allegation of
- 4952 being an habitual violent offender by the same jury, if practicable, unless the
- 4953 defendant waives the jury, in which case the allegation shall be tried immediately to
- 4954 the court.
- 4955 (c)(i) Before or at the time of sentencing the trier of fact shall determine if this
- 4956 section applies.
- 4957 (ii) The trier of fact shall consider any evidence presented at trial and the prosecution

- 4958 and the defendant shall be afforded an opportunity to present any necessary  
 4959 additional evidence.
- 4960 (iii) Before sentencing under this section, the trier of fact shall determine whether this  
 4961 section is applicable beyond a reasonable doubt.
- 4962 (d) If any previous conviction and commitment is based upon a plea of guilty or no  
 4963 contest, there is a rebuttable presumption that the conviction and commitment were  
 4964 regular and lawful in all respects if the conviction and commitment occurred after  
 4965 January 1, 1970. If the conviction and commitment occurred prior to January 1,  
 4966 1970, the burden is on the prosecution to establish by a preponderance of the  
 4967 evidence that the defendant was then represented by counsel or had lawfully waived  
 4968 the right to have counsel present, and that the defendant's plea was understandingly  
 4969 and voluntarily entered.
- 4970 (e) If the trier of fact finds this section applicable, the court shall enter that specific  
 4971 finding on the record and shall indicate in the order of judgment and commitment  
 4972 that the defendant has been found by the trier of fact to be a habitual violent offender  
 4973 and is sentenced under this section.
- 4974 (5)(a) The sentencing enhancement provisions of Section 76-3-407 supersede the  
 4975 provisions of this section.
- 4976 (b) Notwithstanding Subsection (5)(a), the "violent felony" offense defined in  
 4977 Subsection (1)(c) shall include any felony sexual offense violation of Chapter 5, Part  
 4978 4, Sexual Offenses, to determine if the convicted person is a habitual violent offender.
- 4979 (6) The sentencing enhancement described in this section does not apply if:
- 4980 (a) the offense for which the person is being sentenced is:
- 4981 (i) a grievous sexual offense;
- 4982 (ii) child kidnapping, Section 76-5-301.1;
- 4983 (iii) aggravated kidnapping, Section 76-5-302; or
- 4984 (iv) forcible sexual abuse, Section 76-5-404; and
- 4985 (b) applying the sentencing enhancement provided for in this section would result in a  
 4986 lower maximum penalty than the penalty provided for under the section that  
 4987 describes the offense for which the person is being sentenced.
- 4988 Section 78. Section **76-3-402** is amended to read:
- 4989 **76-3-402 . Conviction of lower degree of offense -- Procedure and limitations.**
- 4990 (1) As used in this section:
- 4991 (a) "Lower degree of offense" includes an offense for which:

- 4992 (i) a statutory enhancement is charged in the information or indictment that would  
4993 increase either the maximum or the minimum sentence; and  
4994 (ii) the court removes the statutory enhancement in accordance with this section.
- 4995 (b) "Minor regulatory offense" means the same as that term is defined in Section  
4996 77-40a-101.
- 4997 (c)(i) "Rehabilitation program" means a program designed to reduce criminogenic  
4998 and recidivism risks.
- 4999 (ii) "Rehabilitation program" includes:
- 5000 (A) a domestic violence treatment program, as that term is defined in Section  
5001 26B-2-101;
- 5002 (B) a residential, vocational, and life skills program, as that term is defined in  
5003 Section 13-53-102;
- 5004 (C) a substance abuse treatment program, as that term is defined in Section  
5005 26B-2-101;
- 5006 (D) a substance use disorder treatment program, as that term is defined in Section  
5007 26B-2-101;
- 5008 (E) a youth program, as that term is defined in Section 26B-2-101;
- 5009 (F) a program that meets the standards established by the Department of  
5010 Corrections under Section 64-13-25;
- 5011 (G) a drug court, a veterans court, or a mental health court certified by the Judicial  
5012 Council; or
- 5013 (H) a program that is substantially similar to a program described in Subsections  
5014 (1)(c)(ii)(A) through (G).
- 5015 (d) "Serious offense" means a felony or misdemeanor offense that is not a minor  
5016 regulatory offense or a traffic offense.
- 5017 (e) "Traffic offense" means the same as that term is defined in Section 77-40a-101.
- 5018 (f)(i) Except as provided in Subsection (1)(f)(ii), "violent felony" means the same as  
5019 that term is defined in Section 76-3-203.5.
- 5020 (ii) "Violent felony" does not include an offense, or any attempt, solicitation, or  
5021 conspiracy to commit an offense, for:
- 5022 (A) the possession, use, or removal of explosive, chemical, or incendiary devices  
5023 under Subsection 76-10-306(3), (5), or (6); or
- 5024 (B) the purchase or possession of a dangerous weapon or ~~handgun~~ firearm by a  
5025 restricted person under ~~[Section 76-10-503]~~ Section 76-11-305 or 76-11-306.

- 5026 (2) The court may enter a judgment of conviction for a lower degree of offense than  
5027 established by statute and impose a sentence at the time of sentencing for the lower  
5028 degree of offense if the court:
- 5029 (a) takes into account:
- 5030 (i) the nature and circumstances of the offense of which the defendant was found  
5031 guilty; and
- 5032 (ii) the history and character of the defendant;
- 5033 (b) gives any victim present at the sentencing and the prosecuting attorney an  
5034 opportunity to be heard; and
- 5035 (c) concludes that the degree of offense established by statute would be unduly harsh to  
5036 record as a conviction on the record for the defendant.
- 5037 (3) Upon a motion from the prosecuting attorney or the defendant, the court may enter a  
5038 judgment of conviction for a lower degree of offense than established by statute:
- 5039 (a) after the defendant is successfully discharged from probation or parole for the  
5040 conviction; and
- 5041 (b) if the court finds that entering a judgment of conviction for a lower degree of offense  
5042 is in the interest of justice in accordance with Subsection (7).
- 5043 (4) Upon a motion from the prosecuting attorney or the defendant, the court may enter a  
5044 judgment of conviction for a lower degree of offense than established by statute if:
- 5045 (a) the defendant's probation or parole for the conviction did not result in a successful  
5046 discharge but the defendant is successfully discharged from probation or parole for a  
5047 subsequent conviction of an offense;
- 5048 (b)(i) at least five years have passed after the day on which the defendant is sentenced  
5049 for the subsequent conviction; or
- 5050 (ii) at least three years have passed after the day on which the defendant is sentenced  
5051 for the subsequent conviction and the prosecuting attorney consents to the  
5052 reduction;
- 5053 (c) the defendant is not convicted of a serious offense during the time period described  
5054 in Subsection (4)(b);
- 5055 (d) there are no criminal proceedings pending against the defendant;
- 5056 (e) the defendant is not on probation, on parole, or currently incarcerated for any other  
5057 offense;
- 5058 (f) if the offense for which the reduction is sought is a violent felony, the prosecuting  
5059 attorney consents to the reduction; and

- 5060 (g) the court finds that entering a judgment of conviction for a lower degree of offense is  
5061 in the interest of justice in accordance with Subsection (7).
- 5062 (5) Upon a motion from the prosecuting attorney or the defendant, the court may enter a  
5063 judgment of conviction for a lower degree of offense than established by statute if:  
5064 (a) the defendant's probation or parole for the conviction did not result in a successful  
5065 discharge but the defendant is successfully discharged from a rehabilitation program;  
5066 (b) at least three years have passed after the day on which the defendant is successfully  
5067 discharged from the rehabilitation program;  
5068 (c) the defendant is not convicted of a serious offense during the time period described  
5069 in Subsection (5)(b);  
5070 (d) there are no criminal proceedings pending against the defendant;  
5071 (e) the defendant is not on probation, on parole, or currently incarcerated for any other  
5072 offense;  
5073 (f) if the offense for which the reduction is sought is a violent felony, the prosecuting  
5074 attorney consents to the reduction; and  
5075 (g) the court finds that entering a judgment of conviction for a lower degree of offense is  
5076 in the interest of justice in accordance with Subsection (7).
- 5077 (6) Upon a motion from the prosecuting attorney or the defendant, the court may enter a  
5078 judgment of conviction for a lower degree of offense than established by statute if:  
5079 (a) at least five years have passed after the day on which the defendant's probation or  
5080 parole for the conviction did not result in a successful discharge;  
5081 (b) the defendant is not convicted of a serious offense during the time period described  
5082 in Subsection (6)(a);  
5083 (c) there are no criminal proceedings pending against the defendant;  
5084 (d) the defendant is not on probation, on parole, or currently incarcerated for any other  
5085 offense;  
5086 (e) if the offense for which the reduction is sought is a violent felony, the prosecuting  
5087 attorney consents to the reduction; and  
5088 (f) the court finds that entering a judgment of conviction for a lower degree of offense is  
5089 in the interest of justice in accordance with Subsection (7).
- 5090 (7) In determining whether entering a judgment of a conviction for a lower degree of  
5091 offense is in the interest of justice under Subsection (3), (4), (5), or (6):  
5092 (a) the court shall consider:  
5093 (i) the nature, circumstances, and severity of the offense for which a reduction is

- 5094 sought;
- 5095 (ii) the physical, emotional, or other harm that the defendant caused any victim of the
- 5096 offense for which the reduction is sought; and
- 5097 (iii) any input from a victim of the offense; and
- 5098 (b) the court may consider:
- 5099 (i) any special characteristics or circumstances of the defendant, including the
- 5100 defendant's criminogenic risks and needs;
- 5101 (ii) the defendant's criminal history;
- 5102 (iii) the defendant's employment and community service history;
- 5103 (iv) whether the defendant participated in a rehabilitative program and successfully
- 5104 completed the program;
- 5105 (v) any effect that a reduction would have on the defendant's ability to obtain or
- 5106 reapply for a professional license from the Department of Commerce;
- 5107 (vi) whether the level of the offense has been reduced by law after the defendant's
- 5108 conviction;
- 5109 (vii) any potential impact that the reduction would have on public safety; or
- 5110 (viii) any other circumstances that are reasonably related to the defendant or the
- 5111 offense for which the reduction is sought.
- 5112 (8)(a) A court may only enter a judgment of conviction for a lower degree of offense
- 5113 under Subsection (3), (4), (5), or (6) after:
- 5114 (i) notice is provided to the other party;
- 5115 (ii) reasonable efforts have been made by the prosecuting attorney to provide notice
- 5116 to any victims; and
- 5117 (iii) a hearing is held if a hearing is requested by either party.
- 5118 (b) A prosecuting attorney is entitled to a hearing on a motion seeking to reduce a
- 5119 judgment of conviction for a lower degree of offense under Subsection (3), (4), (5),
- 5120 or (6).
- 5121 (c) In a motion under Subsection (3), (4), (5), or (6) and at a requested hearing on the
- 5122 motion, the moving party has the burden to provide evidence sufficient to
- 5123 demonstrate that the requirements under Subsection (3), (4), (5), or (6) are met.
- 5124 (d) If a defendant files a motion under this section, the prosecuting attorney shall
- 5125 respond to the motion within 35 days after the day on which the motion is filed with
- 5126 the court.
- 5127 (9) A court has jurisdiction to consider and enter a judgment of conviction for a lower

- 5128 degree of offense under Subsection (3), (4), (5), or (6) regardless of whether the  
5129 defendant is committed to jail as a condition of probation or is sentenced to prison.
- 5130 (10)(a) An offense may be reduced only one degree under this section, unless the  
5131 prosecuting attorney specifically agrees in writing or on the court record that the  
5132 offense may be reduced two degrees.
- 5133 (b) An offense may not be reduced under this section by more than two degrees.
- 5134 (11) This section does not preclude an individual from obtaining or being granted an  
5135 expungement of the individual's record in accordance with [~~Title 44, Chapter 40A,~~  
5136 ~~Expungement of Criminal Records~~] Title 77, Chapter 40a, Expungement of Criminal  
5137 Records.
- 5138 (12) The court may not enter a judgment for a conviction for a lower degree of offense  
5139 under this section if:
- 5140 (a) the reduction is specifically precluded by law; or
- 5141 (b) any unpaid balance remains on court-ordered restitution for the offense for which the  
5142 reduction is sought.
- 5143 (13) When the court enters a judgment for a lower degree of offense under this section, the  
5144 actual title of the offense for which the reduction is made may not be altered.
- 5145 (14)(a) An individual may not obtain a reduction under this section of a conviction that  
5146 requires the individual to register as a sex offender, kidnap offender, or child abuse  
5147 offender until the registration requirements under Title 77, Chapter 41, Sex, Kidnap,  
5148 and Child Abuse Offender Registry, have expired.
- 5149 (b) An individual required to register as a sex offender, kidnap offender, or child abuse  
5150 offender for the individual's lifetime under Subsection 77-41-105(3)(c) may not be  
5151 granted a reduction of the conviction for the offense or offenses that require the  
5152 individual to register as a sex offender, kidnap offender, or child abuse offender.
- 5153 Section 79. Section **76-5-102.8** is amended to read:
- 5154 **76-5-102.8 . Disarming a peace officer -- Penalties.**
- 5155 (1)(a) As used in this section:
- 5156 (i) "Conductive energy device" means a weapon that uses electrical current to disrupt  
5157 voluntary control of muscles.
- 5158 (ii) "Firearm" means the same as that term is defined in Section [~~76-10-501~~]  
5159 76-11-101.
- 5160 (b) Terms defined in Section 76-1-101.5 apply to this section.
- 5161 (2) An actor commits disarming a peace officer if the actor intentionally takes or removes,



5162 or attempts to take or remove a firearm or a conductive energy device from an individual  
5163 or immediate presence of an individual who the actor knows is a peace officer:

5164 (a) without the consent of the peace officer; and

5165 (b) while the peace officer is acting within the scope of the peace officer's authority as a  
5166 peace officer.

5167 (3)(a) A violation of Subsection (2) regarding a firearm is a first degree felony.

5168 (b) A violation of Subsection (2) regarding a conductive energy device is a third degree  
5169 felony.

5170 Section 80. Section **76-5-202** is amended to read:

5171 **76-5-202 . Aggravated murder -- Penalties -- Affirmative defense and special**  
5172 **mitigation -- Separate offense.**

5173 (1)(a) As used in this section:

5174 (i) "Correctional officer" means the same as that term is defined in Section 53-13-104.

5175 (ii) "Emergency responder" means the same as that term is defined in Section  
5176 53-2b-102.

5177 (iii) "Federal officer" means the same as that term is defined in Section 53-13-106.

5178 (iv) "Law enforcement officer" means the same as that term is defined in Section  
5179 53-13-103.

5180 (v) "Peace officer" means:

5181 (A) a correctional officer, federal officer, law enforcement officer, or special  
5182 function officer; or

5183 (B) any other person who may exercise peace officer authority in accordance with  
5184 Title 53, Chapter 13, Peace Officer Classifications.

5185 (vi) "Special function officer" means the same as that term is defined in Section  
5186 53-13-105.

5187 (vii) "Target a law enforcement officer" means an act:

5188 (A) involving the unlawful use of force and violence against a law enforcement  
5189 officer;

5190 (B) that causes serious bodily injury or death; and

5191 (C) that is in furtherance of political or social objectives in order to intimidate or  
5192 coerce a civilian population or to influence or affect the conduct of a  
5193 government or a unit of government.

5194 (viii) "Weapon of mass destruction" means the same as that term is defined in Section  
5195 76-10-401.

- 5196 (b) Terms defined in Section 76-1-101.5 apply to this section.
- 5197 (2)(a) An actor commits aggravated murder if the actor intentionally or knowingly  
5198 causes the death of another individual under any of the following circumstances:
- 5199 (i) the actor committed homicide while confined in a jail or other correctional  
5200 institution;
- 5201 (ii)(A) the actor committed homicide incident to one act, scheme, course of  
5202 conduct, or criminal episode during which two or more individuals other than  
5203 the actor were killed; or
- 5204 (B) the actor, during commission of the homicide, attempted to kill one or more  
5205 other individuals in addition to the deceased individual;
- 5206 (iii) the actor knowingly created a great risk of death to another individual other than  
5207 the deceased individual and the actor;
- 5208 (iv) the actor committed homicide incident to an act, scheme, course of conduct, or  
5209 criminal episode during which the actor committed or attempted to commit  
5210 aggravated robbery, robbery, rape, rape of a child, object rape, object rape of a  
5211 child, forcible sodomy, sodomy upon a child, forcible sexual abuse, sexual abuse  
5212 of a child, aggravated sexual abuse of a child, aggravated child abuse as described  
5213 in Subsection 76-5-109.2(3)(a), or aggravated sexual assault, aggravated arson,  
5214 arson, aggravated burglary, burglary, aggravated kidnapping, or kidnapping, or  
5215 child kidnapping;
- 5216 (v) the actor committed homicide incident to one act, scheme, course of conduct, or  
5217 criminal episode during which the actor committed the crime of abuse or  
5218 desecration of a dead human body as described in Subsection 76-9-704(2)(e);
- 5219 (vi) the actor committed homicide for the purpose of avoiding or preventing an arrest  
5220 of the actor or another individual by a peace officer acting under color of legal  
5221 authority or for the purpose of effecting the actor's or another individual's escape  
5222 from lawful custody;
- 5223 (vii) the actor committed homicide for pecuniary gain;
- 5224 (viii) the actor committed, engaged, or employed another person to commit the  
5225 homicide subject to an agreement or contract for remuneration or the promise of  
5226 remuneration for commission of the homicide;
- 5227 (ix) the actor previously committed or was convicted of:
- 5228 (A) aggravated murder under this section;
- 5229 (B) attempted aggravated murder under this section;

- 5230 (C) murder, under Section 76-5-203;
- 5231 (D) attempted murder, under Section 76-5-203; or
- 5232 (E) an offense committed in another jurisdiction which if committed in this state
- 5233 would be a violation of a crime listed in this Subsection (2)(a)(ix);
- 5234 (x) the actor was previously convicted of:
- 5235 (A) aggravated assault, under Section 76-5-103;
- 5236 (B) mayhem, under Section 76-5-105;
- 5237 (C) kidnapping, under Section 76-5-301;
- 5238 (D) child kidnapping, under Section 76-5-301.1;
- 5239 (E) aggravated kidnapping, under Section 76-5-302;
- 5240 (F) rape, under Section 76-5-402;
- 5241 (G) rape of a child, under Section 76-5-402.1;
- 5242 (H) object rape, under Section 76-5-402.2;
- 5243 (I) object rape of a child, under Section 76-5-402.3;
- 5244 (J) forcible sodomy, under Section 76-5-403;
- 5245 (K) sodomy on a child, under Section 76-5-403.1;
- 5246 (L) aggravated sexual abuse of a child, under Section 76-5-404.3;
- 5247 (M) aggravated sexual assault, under Section 76-5-405;
- 5248 (N) aggravated arson, under Section 76-6-103;
- 5249 (O) aggravated burglary, under Section 76-6-203;
- 5250 (P) aggravated robbery, under Section 76-6-302;
- 5251 (Q) felony discharge of a firearm, under Section [~~76-10-508.1~~] 76-11-210; or
- 5252 (R) an offense committed in another jurisdiction which if committed in this state
- 5253 would be a violation of a crime listed in this Subsection (2)(a)(x);
- 5254 (xi) the actor committed homicide for the purpose of:
- 5255 (A) preventing a witness from testifying;
- 5256 (B) preventing a person from providing evidence or participating in any legal
- 5257 proceedings or official investigation;
- 5258 (C) retaliating against a person for testifying, providing evidence, or participating
- 5259 in any legal proceedings or official investigation; or
- 5260 (D) disrupting or hindering any lawful governmental function or enforcement of
- 5261 laws;
- 5262 (xii) the deceased individual was a local, state, or federal public official, or a
- 5263 candidate for public office, and the homicide is based on, is caused by, or is

- 5264 related to that official position, act, capacity, or candidacy;
- 5265 (xiii) the deceased individual was on duty in a verified position or the homicide is
- 5266 based on, is caused by, or is related to the deceased individual's position, and the
- 5267 actor knew, or reasonably should have known, that the deceased individual holds
- 5268 or has held the position of:
- 5269 (A) a peace officer;
- 5270 (B) an executive officer, prosecuting officer, jailer, or prison official;
- 5271 (C) a firefighter, search and rescue personnel, emergency medical personnel,
- 5272 ambulance personnel, or any other emergency responder;
- 5273 (D) a judge or other court official, juror, probation officer, or parole officer; or
- 5274 (E) a security officer contracted to secure, guard, or otherwise protect tangible
- 5275 personal property, real property, or the life and well-being of human or animal
- 5276 life in the area of the offense;
- 5277 (xiv) the actor committed homicide:
- 5278 (A) by means of a destructive device, bomb, explosive, incendiary device, or
- 5279 similar device which was planted, hidden, or concealed in any place, area,
- 5280 dwelling, building, or structure, or was mailed or delivered;
- 5281 (B) by means of any weapon of mass destruction; or
- 5282 (C) to target a law enforcement officer;
- 5283 (xv) the actor committed homicide during the act of unlawfully assuming control of
- 5284 an aircraft, train, or other public conveyance by use of threats or force with intent
- 5285 to:
- 5286 (A) obtain any valuable consideration for the release of the public conveyance or
- 5287 any passenger, crew member, or any other person aboard;
- 5288 (B) direct the route or movement of the public conveyance; or
- 5289 (C) otherwise exert control over the public conveyance;
- 5290 (xvi) the actor committed homicide by means of the administration of a poison or of
- 5291 any lethal substance or of any substance administered in a lethal amount, dosage,
- 5292 or quantity;
- 5293 (xvii) the deceased individual was held or otherwise detained as a shield, hostage, or
- 5294 for ransom;
- 5295 (xviii) the actor committed homicide in an especially heinous, atrocious, cruel, or
- 5296 exceptionally depraved manner, any of which must be demonstrated by physical
- 5297 torture, serious physical abuse, or serious bodily injury of the deceased individual

- 5298 before death;
- 5299 (xix) the actor dismembers, mutilates, or disfigures the deceased individual's body,  
5300 whether before or after death, in a manner demonstrating the actor's depravity of  
5301 mind; or
- 5302 (xx) the deceased individual, at the time of the death of the deceased individual:  
5303 (A) was younger than 14 years old; and  
5304 (B) was not an unborn child.
- 5305 (b) An actor commits aggravated murder if the actor, with reckless indifference to  
5306 human life, causes the death of another individual incident to an act, scheme, course  
5307 of conduct, or criminal episode during which the actor is a major participant in the  
5308 commission or attempted commission of:
- 5309 (i) aggravated child abuse, punishable as a felony of the second degree under  
5310 Subsection 76-5-109.2(3)(a);
- 5311 (ii) child kidnapping, under Section 76-5-301.1;
- 5312 (iii) rape of a child, under Section 76-5-402.1;
- 5313 (iv) object rape of a child, under Section 76-5-402.3;
- 5314 (v) sodomy on a child, under Section 76-5-403.1; or
- 5315 (vi) sexual abuse or aggravated sexual abuse of a child, under Section 76-5-404.1.
- 5316 (3)(a) If a notice of intent to seek the death penalty has been filed, a violation of  
5317 Subsection (2) is a capital felony.
- 5318 (b) If a notice of intent to seek the death penalty has not been filed, aggravated murder is  
5319 a noncapital first degree felony punishable as provided in Section 76-3-207.7.
- 5320 (c)(i) Within 60 days after arraignment of the defendant, the prosecutor may file  
5321 notice of intent to seek the death penalty.
- 5322 (ii) The notice shall be served on the defendant or defense counsel and filed with the  
5323 court.
- 5324 (iii) Notice of intent to seek the death penalty may be served and filed more than 60  
5325 days after the arraignment upon written stipulation of the parties or upon a finding  
5326 by the court of good cause.
- 5327 (d) Without the consent of the prosecutor, the court may not accept a plea of guilty to  
5328 noncapital first degree felony aggravated murder during the period in which the  
5329 prosecutor may file a notice of intent to seek the death penalty under Subsection  
5330 (3)(c)(i).
- 5331 (e) If the defendant was younger than 18 years old at the time the offense was

5332 committed, aggravated murder is a noncapital first degree felony punishable as  
5333 provided in Section 76-3-207.7.

5334 (f) Notwithstanding Subsection (3)(a) or (3)(b), if the trier of fact finds the elements of  
5335 aggravated murder, or alternatively, attempted aggravated murder, as described in  
5336 this section, are proved beyond a reasonable doubt, and also finds that the existence  
5337 of special mitigation is established by a preponderance of the evidence and in  
5338 accordance with Section 76-5-205.5, the court shall enter a judgment of conviction as  
5339 follows:

5340 (i) if the trier of fact finds the defendant guilty of aggravated murder, the court shall  
5341 enter a judgment of conviction for murder; or

5342 (ii) if the trier of fact finds the defendant guilty of attempted aggravated murder, the  
5343 court shall enter a judgment of conviction for attempted murder.

5344 (4)(a) It is an affirmative defense to a charge of aggravated murder or attempted  
5345 aggravated murder that the actor caused the death of another or attempted to cause  
5346 the death of another under a reasonable belief that the circumstances provided a legal  
5347 justification or excuse for the conduct although the conduct was not legally justifiable  
5348 or excusable under the existing circumstances.

5349 (b) The reasonable belief of the actor under Subsection (4)(a) shall be determined from  
5350 the viewpoint of a reasonable person under the then existing circumstances.

5351 (c) Notwithstanding Subsection (3)(a) or (3)(b), if the trier of fact finds the elements of  
5352 aggravated murder, or alternatively, attempted aggravated murder, as described in  
5353 this section, are proved beyond a reasonable doubt, and also finds the affirmative  
5354 defense described in this Subsection (4) is not disproven beyond a reasonable doubt,  
5355 the court shall enter a judgment of conviction as follows:

5356 (i) if the trier of fact finds the defendant guilty of aggravated murder, the court shall  
5357 enter a judgment of conviction for murder; or

5358 (ii) if the trier of fact finds the defendant guilty of attempted aggravated murder, the  
5359 court shall enter a judgment of conviction for attempted murder.

5360 (5)(a) Any aggravating circumstance described in Subsection (2) that constitutes a  
5361 separate offense does not merge with the crime of aggravated murder.

5362 (b) An actor who is convicted of aggravated murder, based on an aggravating  
5363 circumstance described in Subsection (2) that constitutes a separate offense, may also  
5364 be convicted of, and punished for, the separate offense.

5365 Section 81. Section **76-5-203** is amended to read:

5366 **76-5-203 . Murder -- Penalties-- Affirmative defense and special mitigation --**  
 5367 **Separate offenses.**

5368 (1)(a) As used in this section, "predicate offense" means:

- 5369 (i) a clandestine drug lab violation under Section 58-37d-4 or 58-37d-5;
- 5370 (ii) aggravated child abuse, under Subsection 76-5-109.2(3)(a), when the abused  
 5371 individual is younger than 18 years old;
- 5372 (iii) kidnapping under Section 76-5-301;
- 5373 (iv) child kidnapping under Section 76-5-301.1;
- 5374 (v) aggravated kidnapping under Section 76-5-302;
- 5375 (vi) rape under Section 76-5-402;
- 5376 (vii) rape of a child under Section 76-5-402.1;
- 5377 (viii) object rape under Section 76-5-402.2;
- 5378 (ix) object rape of a child under Section 76-5-402.3;
- 5379 (x) forcible sodomy under Section 76-5-403;
- 5380 (xi) sodomy upon a child under Section 76-5-403.1;
- 5381 (xii) forcible sexual abuse under Section 76-5-404;
- 5382 (xiii) sexual abuse of a child under Section 76-5-404.1;
- 5383 (xiv) aggravated sexual abuse of a child under Section 76-5-404.3;
- 5384 (xv) aggravated sexual assault under Section 76-5-405;
- 5385 (xvi) arson under Section 76-6-102;
- 5386 (xvii) aggravated arson under Section 76-6-103;
- 5387 (xviii) burglary under Section 76-6-202;
- 5388 (xix) aggravated burglary under Section 76-6-203;
- 5389 (xx) robbery under Section 76-6-301;
- 5390 (xxi) aggravated robbery under Section 76-6-302;
- 5391 (xxii) escape under Section 76-8-309;
- 5392 (xxiii) aggravated escape under Section 76-8-309.3; or
- 5393 (xxiv) a felony violation of Section ~~[76-10-508]~~ 76-11-209 or ~~[76-10-508.1]~~ 76-11-210  
 5394 regarding discharge of a firearm or dangerous weapon.

5395 (b) Terms defined in Section 76-1-101.5 apply to this section.

5396 (2) An actor commits murder if:

- 5397 (a) the actor intentionally or knowingly causes the death of another individual;
- 5398 (b) intending to cause serious bodily injury to another individual, the actor commits an  
 5399 act clearly dangerous to human life that causes the death of the other individual;

- 5400 (c) acting under circumstances evidencing a depraved indifference to human life, the  
5401 actor knowingly engages in conduct that creates a grave risk of death to another  
5402 individual and thereby causes the death of the other individual;
- 5403 (d)(i) the actor is engaged in the commission, attempted commission, or immediate  
5404 flight from the commission or attempted commission of any predicate offense, or  
5405 is a party to the predicate offense;
- 5406 (ii) an individual other than a party described in Section 76-2-202 is killed in the  
5407 course of the commission, attempted commission, or immediate flight from the  
5408 commission or attempted commission of any predicate offense; and
- 5409 (iii) the actor acted with the intent required as an element of the predicate offense;
- 5410 (e) the actor recklessly causes the death of a peace officer or military service member in  
5411 uniform while in the commission or attempted commission of:
- 5412 (i) an assault against a peace officer under Section 76-5-102.4;
- 5413 (ii) interference with a peace officer while making a lawful arrest under Section  
5414 76-8-305 if the actor uses force against the peace officer; or
- 5415 (iii) an assault against a military service member in uniform under Section 76-5-102.4;
- 5416 or
- 5417 (f) the actor commits a homicide that would be aggravated murder, but the offense is  
5418 reduced in accordance with Subsection 76-5-202(4).
- 5419 (3)(a)(i) A violation of Subsection (2) is a first degree felony.
- 5420 (ii) A defendant who is convicted of murder shall be sentenced to imprisonment for  
5421 an indeterminate term of not less than 15 years and which may be for life.
- 5422 (b) Notwithstanding Subsection (3)(a), if the trier of fact finds the elements of murder,  
5423 or alternatively, attempted murder, as described in this section are proved beyond a  
5424 reasonable doubt, and also finds that the existence of special mitigation is established  
5425 by a preponderance of the evidence and in accordance with Section 76-5-205.5, the  
5426 court shall enter a judgment of conviction as follows:
- 5427 (i) if the trier of fact finds the defendant guilty of murder, the court shall enter a  
5428 judgment of conviction for manslaughter; or
- 5429 (ii) if the trier of fact finds the defendant guilty of attempted murder, the court shall,  
5430 notwithstanding Subsection 76-4-102(1)(b) or 76-4-102(1)(c)(i), enter a judgment  
5431 of conviction for attempted manslaughter.
- 5432 (4)(a) It is an affirmative defense to a charge of murder or attempted murder that the  
5433 defendant caused the death of another individual or attempted to cause the death of



- 5434 another individual under a reasonable belief that the circumstances provided a legal  
5435 justification or excuse for the conduct although the conduct was not legally justifiable  
5436 or excusable under the existing circumstances.
- 5437 (b) The reasonable belief of the actor under Subsection (4)(a) shall be determined from  
5438 the viewpoint of a reasonable person under the then existing circumstances.
- 5439 (c) Notwithstanding Subsection (3)(a), if the trier of fact finds the elements of murder, or  
5440 alternatively, attempted murder, as described in this section are proved beyond a  
5441 reasonable doubt, and also finds the affirmative defense described in this Subsection  
5442 (4) is not disproven beyond a reasonable doubt, the court shall enter a judgment of  
5443 conviction as follows:
- 5444 (i) if the trier of fact finds the defendant guilty of murder, the court shall enter a  
5445 judgment of conviction for manslaughter; or
- 5446 (ii) if the trier of fact finds the defendant guilty of attempted murder, the court shall  
5447 enter a judgment of conviction for attempted manslaughter.
- 5448 (5)(a) Any predicate offense that constitutes a separate offense does not merge with the  
5449 crime of murder.
- 5450 (b) An actor who is convicted of murder, based on a predicate offense that constitutes a  
5451 separate offense, may also be convicted of, and punished for, the separate offense.
- 5452 Section 82. Section **76-8-311.1** is amended to read:
- 5453 **76-8-311.1 . Establishment of secure areas -- Items prohibited -- References to**  
5454 **penalty provisions.**
- 5455 (1)(a) As used in this section:
- 5456 (i) "Correctional facility" means the same as that term is defined in Section  
5457 76-8-311.3.
- 5458 (ii) "Dangerous weapon" means the same as that term is defined in Section [  
5459 ~~76-10-501~~] 76-11-101.
- 5460 (iii) "Explosive" means the same as the term "explosive, chemical, or incendiary  
5461 device" defined in Section 76-10-306.
- 5462 (iv) "Firearm" means the same as that term is defined in Section [~~76-10-501~~]  
5463 76-11-101.
- 5464 (v) "Law enforcement facility" means a facility that is owned, leased, or operated by  
5465 a law enforcement agency.
- 5466 (vi) "Mental health facility" means the same as that term is defined in Section  
5467 26B-5-301.

- 5468 (vii)(A) "Secure area" means an area created under this section into which certain [  
5469 persons] individuals are restricted from transporting a firearm or other  
5470 dangerous weapon, ammunition, or explosive.
- 5471 (B) [~~A "secure area" may~~] "Secure area" does not include any area normally  
5472 accessible to the public.
- 5473 (b) Terms defined in Sections 76-1-101.5 and 76-8-101 apply to this section.
- 5474 (2)(a) The State Tax Commission or a correctional, law enforcement, or mental health  
5475 facility may establish secure areas within the facility and may prohibit or control by  
5476 rule any firearm or other dangerous weapon, ammunition, or explosive.
- 5477 (b) [~~Subsections (2)(a), (3), (4), and (5) apply~~] This section applies to:
- 5478 (i) [~~a higher education secure area hearing room [referred to in Subsections~~  
5479 ~~53B-3-103(2)(a)(ii) and (b)] established in accordance with Section 53B-3-103; and~~  
5480 (ii) a secure area established by the Judicial Council in accordance with Section  
5481 78A-2-203.
- 5482 (3) An entity that creates a secure area under this section shall ensure that at least one notice  
5483 is prominently displayed at each entrance to the secure area in which a firearm,  
5484 ammunition, dangerous weapon, or explosive is restricted.
- 5485 (4)(a) An entity that creates a secure area under this section shall provide a secure  
5486 weapons storage area so that an individual entering the secure area may store the  
5487 individual's weapon before entering the secure area.
- 5488 (b) The entity operating the facility shall be responsible for a weapon while the weapon  
5489 is stored in the storage area described in Subsection (4)(a).
- 5490 (5)(a) An actor who transports a firearm or other dangerous weapon or ammunition into  
5491 a secure area created under this section or a higher education secure area hearing  
5492 room created under this section may be punished under Section 76-8-311.2.
- 5493 (b) An actor who knowingly or intentionally transports, possesses, distributes, or sells an  
5494 explosive in a secure area or a higher education secure area hearing room created  
5495 under this section may be punished under Section 76-10-306.
- 5496 (c) It is a defense to a prosecution related to this section that the actor acted in  
5497 conformity with the facility's rule or policy established pursuant to this section.
- 5498 Section 83. Section **76-8-311.2** is amended to read:
- 5499 **76-8-311.2 . Prohibited dangerous weapon or ammunition in a secure area.**
- 5500 (1)(a) As used in this section:
- 5501 (i) "Correctional facility" means the same as that term is defined in Section

- 5502 76-8-311.3.
- 5503 (ii) "Dangerous weapon" means the same as that term is defined in Section [  
5504 ~~76-10-501~~] 76-11-101.
- 5505 (iii) "Firearm" means the same as that term is defined in Section [~~76-10-501~~]  
5506 76-11-101.
- 5507 (iv) "Higher education secure area" means a higher education secure area hearing  
5508 room created under Section 76-8-311.1.
- 5509 (v) "Law enforcement facility" means the same as that term is defined in Section  
5510 76-8-311.1.
- 5511 (vi) "Secure area" means the same as that term is defined in Section 76-8-311.1.
- 5512 (b) Terms defined in Sections 76-1-101.5 and 76-8-101 apply to this section.
- 5513 (2) An actor commits prohibited dangerous weapon or ammunition in a secure area if the  
5514 actor knowingly or intentionally transports a firearm or other dangerous weapon or  
5515 ammunition into:
- 5516 (a) a correctional facility;
- 5517 (b) a secure area created by the State Tax Commission;
- 5518 (c) a secure area in a law enforcement facility or a mental health facility; or  
5519 (d) a higher education secure area.
- 5520 (3) Except as provided in Section 76-8-311.4, 76-8-311.6, or 76-8-311.7, a violation of  
5521 Subsection (2) is a third degree felony.
- 5522 (4) It is a defense to a prosecution under this section that the actor acted in conformity with  
5523 the facility's rule or policy established under Section 76-8-311.1.
- 5524 Section 84. Section **76-8-311.3** is amended to read:
- 5525 **76-8-311.3 . Establishment of prohibited item policy in a correctional or mental**  
5526 **health facility -- Reference to penalty provisions -- Exceptions -- Rulemaking.**
- 5527 (1)(a) As used in this section:
- 5528 (i) "Communication device" means a device designed to receive or transmit an  
5529 image, text message, email, video, location information, or voice communication,  
5530 or another device that can be used to communicate electronically.
- 5531 (ii) "Controlled substance" means a substance defined as a controlled substance under  
5532 Title 58, Chapter 37, Utah Controlled Substances Act.
- 5533 (iii) "Correctional facility" means:
- 5534 (A) a facility operated by or contracting with the Department of Corrections to  
5535 house an offender in either a secure or nonsecure setting;

- 5536 (B) a facility operated by a municipality or a county to house or detain an offender;  
5537 (C) a juvenile detention facility; or  
5538 (D) a building or grounds appurtenant to a facility or land granted to the state,  
5539 municipality, or county for use as a correctional facility.

5540 (iv) "Dangerous weapon" means the same as that term is defined in Section [  
5541 ~~76-10-501~~] 76-11-101.

5542 (v) "Electronic cigarette product" means the same as that term is defined in Section  
5543 76-10-101.

5544 (vi) "Firearm" means the same as that term is defined in Section [~~76-10-501~~]  
5545 76-11-101.

5546 (vii) "Medicine" means a prescription drug as defined in Title 58, Chapter 17b,  
5547 Pharmacy Practice Act, but does not include a controlled substance as defined in  
5548 Title 58, Chapter 37, Utah Controlled Substances Act.

5549 (viii) "Mental health facility" means the same as that term is defined in Section  
5550 26B-5-301.

5551 (ix) "Nicotine product" means the same as that term is defined in Section 76-10-101.

5552 (x) "Offender" means an individual in custody at a correctional facility.

5553 (xi) "Secure area" means the same as that term is defined in Section 76-8-311.1.

5554 (xii) "Tobacco product" means the same as that term is defined in Section 76-10-101.

5555 (b) Terms defined in Sections 76-1-101.5 and 76-8-101 apply to this section.

5556 (2)(a) Notwithstanding Section [~~76-10-500~~] 53-5a-102, a correctional facility or mental  
5557 health facility may prohibit a firearm, ammunition, a dangerous weapon, an  
5558 implement of escape, an explosive, a controlled substance, spirituous or fermented  
5559 liquor, medicine, or poison from being:

5560 (i) transported to or within a correctional facility or mental health facility;

5561 (ii) sold or given away to an offender at a correctional facility or mental health  
5562 facility; or

5563 (iii) possessed by an offender or another individual at a correctional facility or mental  
5564 health facility.

5565 (b) A correctional facility may prohibit a communication device from being:

5566 (i) transported within the correctional facility for the purpose of being sold to an  
5567 offender in the correctional facility;

5568 (ii) sold or given away to an offender in the correctional facility; or

5569 (iii) possessed by an offender or another individual at the correctional facility.

- 5570 (3) It is a defense to a prosecution related to this section that the actor, in committing the act  
 5571 made criminal by this section with respect to:
- 5572 (a) a correctional facility operated by the Department of Corrections, acted in conformity  
 5573 with departmental rule or policy;
- 5574 (b) a correctional facility operated by a municipality, acted in conformity with the policy  
 5575 of the municipality;
- 5576 (c) a correctional facility operated by a county, acted in conformity with the policy of  
 5577 the county; or
- 5578 (d) a mental health facility, acted in conformity with the policy of the mental health  
 5579 facility.
- 5580 (4)(a) Except as provided by Subsection (4)(b) or (4)(c), an actor may be charged under  
 5581 Section 76-8-311.4, 76-8-311.6, 76-8-311.7, 76-8-311.8, 76-8-311.9, 76-8-311.10, or  
 5582 76-8-311.11 for a violation of a policy or rule created under this section.
- 5583 (b) An actor who knowingly or intentionally transports, possesses, distributes, or sells an  
 5584 explosive in a correctional facility or a mental health facility may be punished under  
 5585 Section 76-10-306.
- 5586 (c) The possession, distribution, or use of a controlled substance at a correctional facility  
 5587 or in a secure area of a mental health facility shall be charged under Title 58, Chapter  
 5588 37, Utah Controlled Substances Act.
- 5589 Section 85. Section **76-8-311.4** is amended to read:
- 5590 **76-8-311.4 . Prohibited item in correctional or mental health facility for use by**  
 5591 **offender or detainee.**
- 5592 (1)(a) As used in this section:
- 5593 (i) "Correctional facility" means the same as that term is defined in Section  
 5594 76-8-311.3.
- 5595 (ii) "Dangerous weapon" means the same as that term is defined in Section [  
 5596 ~~76-10-501~~] 76-11-101.
- 5597 (iii) "Mental health facility" means the same as that term is defined in Section  
 5598 76-8-311.3.
- 5599 (iv) "Offender" means the same as that term is defined in Section 76-8-311.3.
- 5600 (v) "Secure area" means the same as that term is defined in Section 76-8-311.1.
- 5601 (b) Terms defined in Sections 76-1-101.5 and 76-8-101 apply to this section.
- 5602 (2) An actor commits prohibited item in correctional or mental health facility for use by  
 5603 offender or detainee if the actor:

- 5604 (a) transports a dangerous weapon, ammunition, or implement of escape to or within a  
5605 correctional facility, or into a secure area of a mental health facility, with the intent to  
5606 provide or sell to an offender or detainee the dangerous weapon, ammunition, or  
5607 implement of escape; or
- 5608 (b) provides or sells a dangerous weapon, ammunition, or implement of escape to:  
5609 (i) an offender at a correctional facility; or  
5610 (ii) a detainee at a secure area of a mental health facility.
- 5611 (3) Except as provided in Subsection (4), a violation of Subsection (2) is a second degree  
5612 felony.
- 5613 (4) The defenses provided in Section 76-8-311.3 apply to this section.

5614 Section 86. Section **76-8-311.6** is amended to read:

5615 **76-8-311.6 . Possession of prohibited item by offender or detainee in correctional**  
5616 **or mental health facility.**

5617 (1)(a) As used in this section:

- 5618 (i) "Correctional facility" means the same as that term is defined in Section  
5619 76-8-311.3.
- 5620 (ii) "Dangerous weapon" means the same as that term is defined in Section [  
5621 ~~76-10-501~~] 76-11-101.
- 5622 (iii) "Mental health facility" means the same as that term is defined in Section  
5623 76-8-311.3.
- 5624 (iv) "Offender" means the same as that term is defined in Section 76-8-311.3.
- 5625 (v) "Secure area" means the same as that term is defined in Section 76-8-311.1.

5626 (b) Terms defined in Sections 76-1-101.5 and 76-8-101 apply to this section.

5627 (2) An actor commits possession of prohibited item by offender or detainee in correctional  
5628 or mental health facility if the actor:

- 5629 (a)(i) is an offender at a correctional facility; or  
5630 (ii) is a detainee at a mental health facility; and

5631 (b) possesses a dangerous weapon, ammunition, or an implement of escape.

5632 (3) Except as provided in Subsection (4), a violation of Subsection (2) is a second degree  
5633 felony.

5634 (4) The defenses provided in Section 76-8-311.3 apply to this section.

5635 Section 87. Section **76-8-311.7** is amended to read:

5636 **76-8-311.7 . Possession of prohibited item in correctional facility or secure area**  
5637 **of mental health facility.**

- 5638 (1)(a) As used in this section:
- 5639 (i) "Correctional facility" means the same as that term is defined in Section
- 5640 76-8-311.3.
- 5641 (ii) "Dangerous weapon" means the same as that term is defined in Section [
- 5642 ~~76-10-501~~] 76-11-101.
- 5643 (iii) "Mental health facility" means the same as that term is defined in Section
- 5644 76-8-311.3.
- 5645 (iv) "Secure area" means the same as that term is defined in Section 76-8-311.1.
- 5646 (b) Terms defined in Sections 76-1-101.5 and 76-8-101 apply to this section.
- 5647 (2) An actor commits possession of prohibited item in correctional facility or secure area of
- 5648 mental health facility if the actor, without the permission of the authority operating the
- 5649 correctional facility or the secure area of a mental health facility, knowingly possesses a
- 5650 dangerous weapon, ammunition, or implement of escape at a correctional facility or in a
- 5651 secure area of a mental health facility.
- 5652 (3) Except as provided in Section 76-8-311.6 or Subsection (4), a violation of Subsection
- 5653 (2) is a third degree felony.
- 5654 (4) The defenses provided in Section 76-8-311.3 apply to this section.
- 5655 Section 88. Section **76-9-802** is amended to read:
- 5656 **76-9-802 . Definitions.**
- 5657 As used in this part:
- 5658 (1) "Criminal street gang" means an organization, association in fact, or group of three or
- 5659 more persons, whether operated formally or informally:
- 5660 (a) that is currently in operation;
- 5661 (b) that has as one of its primary activities the commission of one or more predicate
- 5662 gang crimes;
- 5663 (c) that has, as a group, an identifying name or identifying sign or symbol, or both; and
- 5664 (d) whose members, acting individually or in concert with other members, engage in or
- 5665 have engaged in a pattern of criminal gang activity.
- 5666 (2) "Intimidate" means the use of force, duress, violence, coercion, menace, or threat of
- 5667 harm for the purpose of causing an individual to act or refrain from acting.
- 5668 (3) "Minor" means a person younger than 18 years old.
- 5669 (4) "Pattern of criminal gang activity" means:
- 5670 (a) committing, attempting to commit, conspiring to commit, or soliciting the
- 5671 commission of two or more predicate gang crimes within five years;

- 5672 (b) the predicate gang crimes are:
- 5673 (i) committed by two or more persons; or
- 5674 (ii) committed by an individual at the direction of, or in association with a criminal
- 5675 street gang; and
- 5676 (c) the criminal activity was committed with the specific intent to promote, further, or
- 5677 assist in any criminal conduct by members of the criminal street gang.
- 5678 (5)(a) "Predicate gang crime" means any of the following offenses:
- 5679 (i) Title 41, Chapter 1a, Motor Vehicle Act:
- 5680 (A) Section 41-1a-1313, regarding possession of a motor vehicle without an
- 5681 identification number;
- 5682 (B) Section 41-1a-1315, regarding false evidence of title and registration;
- 5683 (C) Section 41-1a-1316, regarding receiving or transferring stolen vehicles;
- 5684 (D) Section 41-1a-1317, regarding selling or buying a motor vehicle without an
- 5685 identification number; or
- 5686 (E) Section 41-1a-1318, regarding the fraudulent alteration of an identification
- 5687 number;
- 5688 (ii) any criminal violation of the following provisions:
- 5689 (A) Title 58, Chapter 37, Utah Controlled Substances Act;
- 5690 (B) Title 58, Chapter 37a, Utah Drug Paraphernalia Act;
- 5691 (C) Title 58, Chapter 37b, Imitation Controlled Substances Act; or
- 5692 (D) Title 58, Chapter 37c, Utah Controlled Substance Precursor Act;
- 5693 (iii) Sections 76-5-102 through 76-5-103.5, which address assault offenses;
- 5694 (iv) [~~Title 76,~~]Chapter 5, Part 2, Criminal Homicide;
- 5695 (v) Sections 76-5-301 through 76-5-304, which address kidnapping and related
- 5696 offenses;
- 5697 (vi) a felony offense under Title 76, Chapter 5, Part 4, Sexual Offenses;
- 5698 (vii) [~~Title 76,~~]Chapter 6, Part 1, Property Destruction;
- 5699 (viii) [~~Title 76,~~]Chapter 6, Part 2, Burglary and Criminal Trespass;
- 5700 (ix) [~~Title 76,~~]Chapter 6, Part 3, Robbery;
- 5701 (x) a felony offense under [~~Title 76,~~]Chapter 6, Part 4, Theft, or under [~~Title 76,~~]
- 5702 Chapter 6, Part 6, Retail Theft, except Sections 76-6-404.5, 76-6-405, 76-6-407,
- 5703 76-6-408, 76-6-409, 76-6-409.1, 76-6-409.3, 76-6-409.6, 76-6-409.7, 76-6-409.8,
- 5704 76-6-409.9, 76-6-410, and 76-6-410.5;
- 5705 (xi) [~~Title 76,~~]Chapter 6, Part 5, Fraud, except Sections 76-6-504, 76-6-505, 76-6-507,



5706 76-6-508, 76-6-509, 76-6-510, 76-6-511, 76-6-512, 76-6-513, 76-6-514, 76-6-516,  
5707 76-6-517, 76-6-518, and 76-6-520;

5708 (xii) [~~Title 76,~~]Chapter 6, Part 11, Identity Fraud Act;

5709 (xiii) [~~Title 76,~~]Chapter 8, Part 3, Obstructing Governmental Operations, except  
5710 Sections 76-8-302, 76-8-303, 76-8-307, 76-8-308, and 76-8-312;

5711 (xiv) tampering with a witness under Section 76-8-508;

5712 (xv) retaliation against a witness, victim, or informant under Section 76-8-509.3;

5713 (xvi) receiving or soliciting a bribe as a witness under Section 76-8-508.7;

5714 (xvii) extortion or bribery to dismiss a criminal proceeding under Section 76-8-509;

5715 (xviii) a misdemeanor violation of disorderly conduct under Section 76-9-102, if the  
5716 violation occurs at an official meeting;

5717 (xix) [~~Title 76,~~]Chapter 10, Part 3, Explosives;

5718 [~~(xx) Title 76, Chapter 10, Part 5, Weapons;~~]

5719 [~~(xxi)~~] (xx) [~~Title 76,~~]Chapter 10, Part 15, Bus Passenger Safety Act;

5720 [~~(xxii)~~] (xxi) [~~Title 76,~~]Chapter 10, Part 16, Pattern of Unlawful Activity Act;

5721 [~~(xxiii)~~] (xxii) communications fraud under Section 76-10-1801;

5722 [~~(xxiv)~~] (xxiii) [~~Title 76,~~]Chapter 10, Part 19, Money Laundering and Currency  
5723 Transaction Reporting Act;[~~or~~]

5724 [~~(xxv)~~] (xxiv) burglary of a research facility under Section 76-10-2002; or

5725 (xxv) Chapter 11, Weapons.

5726 (b) "Predicate gang crime" also includes:

5727 (i) any state or federal criminal offense that by its nature involves a substantial risk  
5728 that physical force may be used against another in the course of committing the  
5729 offense; and

5730 (ii) any felony violation of a criminal statute of any other state, the United States, or  
5731 any district, possession, or territory of the United States which would constitute a  
5732 violation of any offense in Subsection (4)(a) if committed in this state.

5733 Section 89. Section **76-9-804** is amended to read:

5734 **76-9-804 . Convicted criminal gang offender -- Prohibition.**

5735 (1) A person who has been convicted of a crime for which the penalty was enhanced under  
5736 Section 76-3-203.1 may not, except where a greater penalty is applicable under this title,  
5737 possess a dangerous weapon as defined in either Section 76-1-101.5 or [~~76-10-501~~]  
5738 76-11-101, ammunition, or a facsimile of a firearm within five years after the conviction.

5739 (2) A violation of Subsection (1) is a class A misdemeanor.

5740 Section 90. Section **76-9-902** is amended to read:

5741 **76-9-902 . Definitions.**

5742 As used in this part:

- 5743 (1) "Criminal street gang" means an organization, association in fact, or group of three or  
5744 more persons, whether operated formally or informally:
- 5745 (a) that is currently in operation;
  - 5746 (b) that has as one of its substantial activities the commission of one or more predicate  
5747 gang crimes;
  - 5748 (c) that has, as a group, an identifying name or an identifying sign or symbol, or both;  
5749 and
  - 5750 (d) whose members, acting individually or in concert with other members, engage in or  
5751 have engaged in a pattern of criminal gang activity.
- 5752 (2) "Gang loitering" means a person remains in one place under circumstances that would  
5753 cause a reasonable person to believe that the purpose or effect of that behavior is to  
5754 enable or facilitate a criminal street gang to:
- 5755 (a) establish control over one or more identifiable areas;
  - 5756 (b) intimidate others from entering those areas; or
  - 5757 (c) conceal illegal activities.
- 5758 (3) "Pattern of criminal gang activity" means committing, attempting to commit, conspiring  
5759 to commit, or soliciting the commission of two or more predicate gang crimes within  
5760 five years, if the predicate gang crimes are committed:
- 5761 (a)(i) by two or more persons; or
  - 5762 (ii) by an individual at the direction of or in association with a criminal street gang;  
5763 and
  - 5764 (b) with the specific intent to promote, further, or assist in any criminal conduct by  
5765 members of a criminal street gang.
- 5766 (4)(a) "Predicate gang crime" means any of the following offenses:
- 5767 (i) a criminal violation of:
    - 5768 (A) Title 58, Chapter 37, Utah Controlled Substances Act;
    - 5769 (B) Title 58, Chapter 37a, Utah Drug Paraphernalia Act;
    - 5770 (C) Title 58, Chapter 37b, Imitation Controlled Substances Act; or
    - 5771 (D) Title 58, Chapter 37c, Utah Controlled Substance Precursor Act;
  - 5772 (ii) Sections 76-5-102 through 76-5-103.5, which address assault offenses;
  - 5773 (iii) [~~Title 76,~~]Chapter 5, Part 2, Criminal Homicide;

- 5774 (iv) Sections 76-5-301 through 76-5-304, which address kidnapping and related  
5775 offenses;
- 5776 (v) a felony offense under [~~Title 76,~~]Chapter 5, Part 4, Sexual Offenses;
- 5777 (vi) [~~Title 76,~~]Chapter 6, Part 1, Property Destruction;
- 5778 (vii) [~~Title 76,~~]Chapter 6, Part 2, Burglary and Criminal Trespass;
- 5779 (viii) [~~Title 76,~~]Chapter 6, Part 3, Robbery;
- 5780 (ix) a felony offense under [~~Title 76,~~]Chapter 6, Part 4, Theft, except Sections  
5781 76-6-404.5, 76-6-405, 76-6-407, 76-6-408, 76-6-409, 76-6-409.1, 76-6-409.3,  
5782 76-6-409.6, 76-6-409.7, 76-6-409.8, 76-6-409.9, 76-6-410, and 76-6-410.5;
- 5783 (x) [~~Title 76,~~]Chapter 6, Part 5, Fraud, except Sections 76-6-504, 76-6-505, 76-6-507,  
5784 76-6-508, 76-6-509, 76-6-510, 76-6-511, 76-6-512, 76-6-513, 76-6-514, 76-6-516,  
5785 76-6-517, 76-6-518, and 76-6-520;
- 5786 (xi) [~~Title 76,~~]Chapter 6, Part 11, Identity Fraud Act;
- 5787 (xii) [~~Title 76,~~]Chapter 8, Part 3, Obstructing Governmental Operations, except  
5788 Sections 76-8-302, 76-8-303, 76-8-307, 76-8-308, and 76-8-312;
- 5789 (xiii) tampering with a witness under Section 76-8-508;
- 5790 (xiv) retaliation against a witness, victim, or informant under Section 76-8-508.3;
- 5791 (xv) receiving or soliciting a bribe as a witness under Section 76-8-508.7;
- 5792 (xvi) extortion or bribery to dismiss a criminal proceeding under Section 76-8-509;
- 5793 (xvii) a misdemeanor violation of disorderly conduct under Section 76-9-102, if the  
5794 violation occurs at an official meeting;
- 5795 (xviii) [~~Title 76,~~]Chapter 10, Part 3, Explosives;
- 5796 [~~(xix) Title 76, Chapter 10, Part 5, Weapons;~~]
- 5797 [~~(xx)~~] (xix) [~~Title 76,~~]Chapter 10, Part 15, Bus Passenger Safety Act;
- 5798 [~~(xxi)~~] (xx) [~~Title 76,~~]Chapter 10, Part 16, Pattern of Unlawful Activity Act;
- 5799 [~~(xxii)~~] (xxi) communications fraud under Section 76-10-1801;
- 5800 [~~(xxiii)~~] (xxii) [~~Title 76,~~]Chapter 10, Part 19, Money Laundering and Currency  
5801 Transaction Reporting Act;
- 5802 [~~(xxiv)~~] (xxiii) burglary of a research facility under Section 76-10-2002;
- 5803 (xxiv) Chapter 11, Weapons; or
- 5804 (xxv) Title 41, Chapter 1a, Motor Vehicle Act:
- 5805 (A) Section 41-1a-1313, regarding possession of a motor vehicle without an  
5806 identification number;
- 5807 (B) Section 41-1a-1315, regarding false evidence of title and registration;

- 5808 (C) Section 41-1a-1316, regarding receiving or transferring stolen vehicles;  
5809 (D) Section 41-1a-1317, regarding selling or buying a vehicle without an  
5810 identification number; and  
5811 (E) Section 41-1a-1318, regarding the fraudulent alteration of an identification  
5812 number.

5813 (b) "Predicate gang crime" also includes:

- 5814 (i) any state or federal criminal offense that by its nature involves a substantial risk  
5815 that physical force may be used against another in the course of committing the  
5816 offense; and  
5817 (ii) any felony violation of a criminal statute of any other state, the United States, or  
5818 any district, possession, or territory of the United States which would constitute  
5819 any offense in Subsection (4)(a) if committed in this state.

5820 (5)(a) "Public place" means any location or structure to which the public or a substantial  
5821 group of the public has access, and includes:

- 5822 (i) a sidewalk, street, or highway;  
5823 (ii) a public park, public recreation facility, or any other area open to the public;  
5824 (iii) a shopping mall, sports facility, stadium, arena, theater, movie house, or  
5825 playhouse, or the parking lot or structure adjacent to any of these; and  
5826 (iv) the common areas of schools, hospitals, apartment houses, office buildings,  
5827 transport facilities, and businesses.

5828 (b) "Public place" includes the lobbies, hallways, elevators, restaurants and other dining  
5829 areas, and restrooms of any of the locations or structures under Subsection (5)(a).

5830 Section 91. Section **76-10-306** is amended to read:

5831 **76-10-306 . Explosive, chemical, or incendiary device and parts -- Definitions --**

5832 **Persons exempted -- Penalties.**

5833 (1) As used in this section:

5834 (a) "Explosive, chemical, or incendiary device" means:

- 5835 (i) dynamite and all other forms of high explosives, including water gel, slurry,  
5836 military C-4 (plastic explosives), blasting agents to include nitro-carbon-nitrate,  
5837 ammonium nitrate, fuel oil mixtures, cast primers and boosters, R.D.X., P.E.T.N.,  
5838 electric and nonelectric blasting caps, exploding cords commonly called  
5839 detonating cord, detcord, or primacord, picric acid explosives, T.N.T. and T.N.T.  
5840 mixtures, nitroglycerin and nitroglycerin mixtures, or any other chemical mixture  
5841 intended to explode with fire or force;

- 5842 (ii) any explosive bomb, grenade, missile, or similar device; and  
5843 (iii) any incendiary bomb, grenade, fire bomb, chemical bomb, or similar device,  
5844 including any device, except kerosene lamps, if criminal intent has not been  
5845 established, which consists of or includes a breakable container including a  
5846 flammable liquid or compound and a wick composed of any material which, when  
5847 ignited, is capable of igniting the flammable liquid or compound or any breakable  
5848 container which consists of, or includes a chemical mixture that explodes with fire  
5849 or force and can be carried, thrown, or placed.
- 5850 (b) "Explosive, chemical, or incendiary device" does not include rifle, pistol, or shotgun  
5851 ammunition, reloading components, or muzzleloading equipment.
- 5852 (c) "Explosive, chemical, or incendiary parts" means any substances or materials or  
5853 combinations which have been prepared or altered for use in the creation of an  
5854 explosive, chemical, or incendiary device. These substances or materials include:  
5855 (i) timing device, clock, or watch which has been altered in such a manner as to be  
5856 used as the arming device in an explosive;  
5857 (ii) pipe, end caps, or metal tubing which has been prepared for a pipe bomb; and  
5858 (iii) mechanical timers, mechanical triggers, chemical time delays, electronic time  
5859 delays, or commercially made or improvised items which, when used singly or in  
5860 combination, may be used in the construction of a timing delay mechanism, booby  
5861 trap, or activating mechanism for any explosive, chemical, or incendiary device.
- 5862 (d) "Explosive, chemical, or incendiary parts" does not include rifle, pistol, or shotgun  
5863 ammunition, or any signaling device customarily used in operation of railroad  
5864 equipment.
- 5865 (2) The provisions in Subsections (3) and (6) do not apply to:  
5866 (a) any public safety officer while acting in an official capacity transporting or otherwise  
5867 handling explosives, chemical, or incendiary devices;  
5868 (b) any member of the armed forces of the United States or Utah National Guard while  
5869 acting in an official capacity;  
5870 (c) any person possessing a valid permit issued under the provisions of the International  
5871 Fire Code, Section 105 and Chapter 56, or any employee of the permittee acting  
5872 within the scope of employment;  
5873 (d) any person possessing a valid license as an importer, wholesaler, display operator,  
5874 special effects operator, or flame effects operator under the provisions of Sections  
5875 11-3-3.5 and 53-7-223; and

- 5876 (e) any person or entity possessing or controlling an explosive, chemical, or incendiary  
5877 device as part of its lawful business operations.
- 5878 (3) Any person is guilty of a second degree felony who, under circumstances not amounting  
5879 to a violation of Part 4, Weapons of Mass Destruction, knowingly, intentionally, or  
5880 recklessly possesses or controls an explosive, chemical, or incendiary device.
- 5881 (4) Any person is guilty of a first degree felony who, under circumstances not amounting to  
5882 a violation of Part 4, Weapons of Mass Destruction, knowingly or intentionally:
- 5883 (a) uses or causes to be used an explosive, chemical, or incendiary device in the  
5884 commission of or an attempt to commit a felony;
- 5885 (b) injures another or attempts to injure another person or another person's property  
5886 through the use of an explosive, chemical, or incendiary device; or
- 5887 (c) transports, possesses, distributes, or sells any explosive, chemical, or incendiary  
5888 device in a secure area established pursuant to Section 76-8-311.1, 76-8-311.3, [  
5889 ~~76-10-529~~] 76-11-218, or 78A-2-203.
- 5890 (5) Any person who, under circumstances not amounting to a violation of Part 4, Weapons  
5891 of Mass Destruction, knowingly, intentionally, or recklessly removes or causes to be  
5892 removed or carries away any explosive, chemical, or incendiary device from the  
5893 premises where the explosive, chemical, or incendiary device is kept by the lawful user,  
5894 vendor, transporter, or manufacturer without the consent or direction of the lawful  
5895 possessor is guilty of a second degree felony.
- 5896 (6) Any person who, under circumstances not amounting to a violation of Part 4, Weapons  
5897 of Mass Destruction, knowingly, intentionally, or recklessly possesses any explosive,  
5898 chemical, or incendiary parts is guilty of a third degree felony.

5899 Section 92. Section **76-10-1602** is amended to read:

5900 **76-10-1602 . Definitions.**

5901 As used in this part:

- 5902 (1) "Enterprise" means any individual, sole proprietorship, partnership, corporation,  
5903 business trust, association, or other legal entity, and any union or group of individuals  
5904 associated in fact although not a legal entity, and includes illicit as well as licit entities.
- 5905 (2) "Pattern of unlawful activity" means engaging in conduct which constitutes the  
5906 commission of at least three episodes of unlawful activity, which episodes are not  
5907 isolated, but have the same or similar purposes, results, participants, victims, or methods  
5908 of commission, or otherwise are interrelated by distinguishing characteristics. Taken  
5909 together, the episodes shall demonstrate continuing unlawful conduct and be related

5910 either to each other or to the enterprise. At least one of the episodes comprising a  
 5911 pattern of unlawful activity shall have occurred after July 31, 1981. The most recent act  
 5912 constituting part of a pattern of unlawful activity as defined by this part shall have  
 5913 occurred within five years of the commission of the next preceding act alleged as part of  
 5914 the pattern.

5915 (3) "Person" includes any individual or entity capable of holding a legal or beneficial  
 5916 interest in property, including state, county, and local governmental entities.

5917 (4) "Unlawful activity" means to directly engage in conduct or to solicit, request, command,  
 5918 encourage, or intentionally aid another person to engage in conduct which would  
 5919 constitute any offense described by the following crimes or categories of crimes, or to  
 5920 attempt or conspire to engage in an act which would constitute any of those offenses,  
 5921 regardless of whether the act is in fact charged or indicted by any authority or is  
 5922 classified as a misdemeanor or a felony:

5923 (a) an act prohibited by the criminal provisions under Title 13, Chapter 10, Unauthorized  
 5924 Recording Practices Act;

5925 (b) an act prohibited by the criminal provisions under Title 19, Environmental Quality  
 5926 Code, Sections 19-1-101 through 19-7-109;

5927 (c) taking, destroying, or possessing wildlife or parts of wildlife for the primary purpose  
 5928 of sale, trade, or other pecuniary gain under Title 23A, Wildlife Resources Act, or  
 5929 Section 23A-5-311;

5930 (d) false claims for medical benefits, kickbacks, or other acts prohibited under Title 26B,  
 5931 Chapter 3, Part 11, Utah False Claims Act, Sections 26B-3-1101 through 26B-3-1112;

5932 (e) an act prohibited by the criminal provisions under Title 32B, Chapter 4, Criminal  
 5933 Offenses and Procedure Act;

5934 (f) unlawful marking of pistol or revolver under Section 53-5a-105;

5935 (g) alteration of number or mark on pistol or revolver under Section 53-5a-106;

5936 [(f)] (h) an act prohibited by the criminal provisions under Title 57, Chapter 11, Utah  
 5937 Uniform Land Sales Practices Act;

5938 [(g)] (i) an act prohibited by the criminal provisions under Title 58, Chapter 37, Utah  
 5939 Controlled Substances Act, or Title 58, Chapter 37b, Imitation Controlled Substances  
 5940 Act, Title 58, Chapter 37c, Utah Controlled Substance Precursor Act, or Title 58,  
 5941 Chapter 37d, Clandestine Drug Lab Act;

5942 [(h)] (j) an act prohibited by the criminal provisions under Title 61, Chapter 1, Utah  
 5943 Uniform Securities Act;

5944 [~~(i)~~] (k) an act prohibited by the criminal provisions under Title 63G, Chapter 6a, Utah  
5945 Procurement Code;

5946 [~~(j)~~] (l) assault under Section\_76-5-102;

5947 [~~(k)~~] (m) aggravated assault under Section 76-5-103;

5948 [~~(l)~~] (n) a threat of terrorism under Section 76-5-107.3;

5949 [~~(m)~~] (o) a criminal homicide offense under Section 76-5-201;

5950 [~~(n)~~] (p) kidnapping under Section\_76-5-301;

5951 [~~(o)~~] (q) aggravated kidnapping under Section\_76-5-302;

5952 [~~(p)~~] (r) human trafficking for labor under Section 76-5-308;

5953 [~~(q)~~] (s) human trafficking for sexual exploitation under Section 76-5-308.1;

5954 [~~(r)~~] (t) human smuggling under Section 76-5-308.3;

5955 [~~(s)~~] (u) human trafficking of a child under Section\_76-5-308.5;

5956 [~~(t)~~] (v) benefiting from trafficking and human smuggling under Section\_76-5-309;

5957 [~~(u)~~] (w) aggravated human trafficking under Section\_76-5-310;

5958 [~~(v)~~] (x) sexual exploitation of a minor under Section 76-5b-201;

5959 [~~(w)~~] (y) aggravated sexual exploitation of a minor under Section\_76-5b-201.1;

5960 [~~(x)~~] (z) arson under Section 76-6-102;

5961 [~~(y)~~] (aa) aggravated arson under Section76-6-103;

5962 [~~(z)~~] (bb) causing a catastrophe under Section 76-6-105;

5963 [~~(aa)~~] (cc) burglary under Section 76-6-202;

5964 [~~(bb)~~] (dd) aggravated burglary under Section\_76-6-203;

5965 [~~(cc)~~] (ee) burglary of a vehicle under Section 76-6-204;

5966 [~~(dd)~~] (ff) manufacture or possession of an instrument for burglary or theft under Section  
5967 76-6-205;

5968 [~~(ee)~~] (gg) robbery under Section 76-6-301;

5969 [~~(ff)~~] (hh) aggravated robbery under Section\_76-6-302;

5970 [~~(gg)~~] (ii) theft under Section 76-6-404;

5971 [~~(hh)~~] (jj) theft by deception under Section 76-6-405;

5972 [~~(ii)~~] (kk) theft by extortion under Section 76-6-406;

5973 [~~(jj)~~] (ll) receiving stolen property under Section 76-6-408;

5974 [~~(kk)~~] (mm) theft of services under Section 76-6-409;

5975 [~~(ll)~~] (nn) forgery under Section 76-6-501;

5976 [~~(mm)~~] (oo) unlawful use of financial transaction card under Section\_76-6-506.2;

5977 [~~(nn)~~] (pp) unlawful acquisition, possession, or transfer of financial transaction card



5978 under Section 76-6-506.3;  
 5979 [~~(oo)~~] (qq) financial transaction card offenses under Section 76-6-506.6;  
 5980 [~~(pp)~~] (rr) deceptive business practices under Section 76-6-507;  
 5981 [~~(qq)~~] (ss) bribery or receiving bribe by person in the business of selection, appraisal, or  
 5982 criticism of goods under Section 76-6-508;  
 5983 [~~(rr)~~] (tt) bribery of a labor official under Section 76-6-509;  
 5984 [~~(ss)~~] (uu) defrauding creditors under Section 76-6-511;  
 5985 [~~(tt)~~] (vv) acceptance of deposit by insolvent financial institution under Section 76-6-512;  
 5986 [~~(uu)~~] (ww) unlawful dealing with property by fiduciary under Section 76-6-513;  
 5987 [~~(vv)~~] (xx) bribery or threat to influence contest under Section 76-6-514;  
 5988 [~~(ww)~~] (yy) making a false credit report under Section 76-6-517;  
 5989 [~~(xx)~~] (zz) criminal simulation under Section 76-6-518;  
 5990 [~~(yy)~~] (aaa) criminal usury under Section 76-6-520;  
 5991 [~~(zz)~~] (bbb) insurance fraud under Section 76-6-521;  
 5992 [~~(aaa)~~] (ccc) retail theft under Section 76-6-602;  
 5993 [~~(bbb)~~] (ddd) computer crimes under Section 76-6-703;  
 5994 [~~(ccc)~~] (eee) identity fraud under Section 76-6-1102;  
 5995 [~~(ddd)~~] (fff) mortgage fraud under Section 76-6-1203;  
 5996 [~~(eee)~~] (ggg) sale of a child under Section 76-7-203;  
 5997 [~~(fff)~~] (hhh) bribery to influence official or political actions under Section 76-8-103;  
 5998 [~~(ggg)~~] (iii) threat to influence official or political action under Section 76-8-104;  
 5999 [~~(hhh)~~] (jjj) receiving bribe or bribery by public servant under Section 76-8-105;  
 6000 [~~(iii)~~] (kkk) receiving bribe for endorsement of person as a public servant under Section  
 6001 76-8-106;  
 6002 [~~(jjj)~~] (lll) bribery for endorsement of person as public servant under Section 76-8-106.1;  
 6003 [~~(kkk)~~] (mmm) official misconduct based on unauthorized act or failure of duty under  
 6004 Section 76-8-201;  
 6005 [~~(lll)~~] (nnn) official misconduct concerning inside information under Section 76-8-202;  
 6006 [~~(mmm)~~] (ooo) obstruction of justice in a criminal investigation or proceeding under  
 6007 Section 76-8-306;  
 6008 [~~(nnn)~~] (ppp) acceptance of bribe or bribery to prevent criminal prosecution under  
 6009 Section 76-8-308;  
 6010 [~~(ooo)~~] (qqq) harboring or concealing offender who has escaped from official custody  
 6011 under Section 76-8-309.2;

6012 [(ppp)] (rrr) making a false or inconsistent material statement under Section 76-8-502;  
6013 [(qqq)] (sss) making a false or inconsistent statement under Section 76-8-503;  
6014 [(rrr)] (ttt) making a written false statement under Section 76-8-504;  
6015 [(sss)] (uuu) tampering with a witness under Section 76-8-508;  
6016 [(ttt)] (vvv) retaliation against a witness, victim, or informant under Section 76-8-508.3;  
6017 [(uuu)] (www) receiving or soliciting a bribe as a witness under Section 76-8-508.7;  
6018 [(vvv)] (xxx) extortion or bribery to dismiss a criminal proceeding under Section  
6019 76-8-509;  
6020 [(www)] (yyy) tampering with evidence under Section 76-8-510.5;  
6021 [(xxx)] (zzz) falsification or alteration of a government record under Section 76-8-511, if  
6022 the record is a record described in Title 20A, Election Code, or Title 36, Chapter 11,  
6023 Lobbyist Disclosure and Regulation Act;  
6024 [(yyy)] (aaa) public assistance fraud by an applicant for public assistance under Section  
6025 76-8-1203.1;  
6026 [(zzz)] (bbb) public assistance fraud by a recipient of public assistance under Section  
6027 76-8-1203.3;  
6028 [(aaa)] (ccc) public assistance fraud by a provider under Section 76-8-1203.5;  
6029 [(bbb)] (ddd) fraudulently misappropriating public assistance funds under Section  
6030 76-8-1203.7;  
6031 [(eee)] (eee) false statement to obtain or increase unemployment compensation under  
6032 Section 76-8-1301;  
6033 [(ddd)] (fff) false statement to prevent or reduce unemployment compensation or  
6034 liability under Section 76-8-1302;  
6035 [(eee)] (ggg) unlawful failure to comply with Employment Security Act requirements  
6036 under Section 76-8-1303;  
6037 [(fff)] (hhh) unlawful use or disclosure of employment information under Section  
6038 76-8-1304;  
6039 [(ggg)] (iii) intentionally or knowingly causing one animal to fight with another under  
6040 Subsection 76-9-301(2)(d) or (e), or Section 76-9-301.1;  
6041 [(hhh)] (jjj) possession, use, or removal of explosives, chemical, or incendiary devices  
6042 or parts under Section 76-10-306;  
6043 [(iii)] (kkk) delivery to common carrier, mailing, or placement on premises of an  
6044 incendiary device under Section 76-10-307;  
6045 [(jjj)] possession of a deadly weapon with intent to assault under Section 76-10-507;]

6046 [(kkkk) unlawful marking of pistol or revolver under Section 76-10-521;]  
6047 [(hhh) alteration of number or mark on pistol or revolver under Section 76-10-522;]  
6048 [(mmmm)] (llll) forging or counterfeiting trademarks, trade name, or trade device under  
6049 Section 76-10-1002;  
6050 [(nnnn)] (mmmm) selling goods under counterfeited trademark, trade name, or trade  
6051 devices under Section 76-10-1003;  
6052 [(oooo)] (nnnn) sales in containers bearing registered trademark of substituted articles  
6053 under Section 76-10-1004;  
6054 [(pppp)] (oooo) selling or dealing with article bearing registered trademark or service  
6055 mark with intent to defraud under Section 76-10-1006;  
6056 [(qqqq)] (pppp) gambling under Section 76-10-1102;  
6057 [(rrrr)] (qqqq) gambling fraud under Section 76-10-1103;  
6058 [(ssss)] (rrrr) gambling promotion under Section 76-10-1104;  
6059 [(tttt)] (ssss) possessing a gambling device or record under Section 76-10-1105;  
6060 [(uuuu)] (tttt) confidence game under Section 76-10-1109;  
6061 [(vvvv)] (uuuu) distributing pornographic material under Section 76-10-1204;  
6062 [(wwww)] (vvvv) inducing acceptance of pornographic material under Section  
6063 76-10-1205;  
6064 [(xxxx)] (wwww) dealing in harmful material to a minor under Section 76-10-1206;  
6065 [(yyyy)] (xxxx) distribution of pornographic films under Section 76-10-1222;  
6066 [(zzzz)] (yyyy) indecent public displays under Section 76-10-1228;  
6067 [(aaaaa)] (zzzz) prostitution under Section 76-10-1302;  
6068 [(bbbbbb)] (aaaaa) aiding prostitution under Section 76-10-1304;  
6069 [(eeeeee)] (bbbbbb) exploiting prostitution under Section 76-10-1305;  
6070 [(dddddd)] (cccccc) aggravated exploitation of prostitution under Section 76-10-1306;  
6071 [(eeeeee)] (dddddd) communications fraud under Section 76-10-1801;  
6072 (eeeeee) possession of a dangerous weapon with criminal intent under Section 76-11-208;  
6073 (fffff) an act prohibited by the criminal provisions of Part 19, Money Laundering and  
6074 Currency Transaction Reporting Act;  
6075 (ggggg) vehicle compartment for contraband under Section 76-10-2801;  
6076 (hhhhh) an act prohibited by the criminal provisions of the laws governing taxation in  
6077 this state; or  
6078 (iiiiii) an act illegal under the laws of the United States and enumerated in 18 U.S.C. Sec.  
6079 1961(1)(B), (C), and (D).

6080 Section 93. Section **76-11-101**, which is renumbered from Section 76-10-501 is renumbered  
6081 and amended to read:

6082 **CHAPTER 11. WEAPONS**

6083 **Part 1. General Provisions**

6084 **~~[76-10-501]~~ 76-11-101 . Definitions.**

6085 As used in this ~~[part]~~ chapter:

6086 (1)(a) "Antique firearm" means:

6087 (i) any firearm, including any firearm with a matchlock, flintlock, percussion cap, or  
6088 similar type of ignition system, manufactured in or before 1898;

6089 (ii) a firearm that is a replica of any firearm described in this Subsection (1)(a), if the  
6090 replica:

6091 (A) is not designed or redesigned for using rimfire or conventional centerfire fixed  
6092 ammunition; or

6093 (B) uses rimfire or centerfire fixed ammunition ~~[which is:]~~ that is  
6094 ~~[(H)]~~ no longer manufactured in the United States~~[:]~~ and

6095 ~~[(H)]~~ is not readily available in ordinary channels of commercial trade; or

6096 (iii)(A) that is a muzzle loading rifle, shotgun, or pistol; and

6097 (B) is designed to use black powder, or a black powder substitute, and cannot use  
6098 fixed ammunition.

6099 (b) "Antique firearm" does not include:

6100 (i) a weapon that incorporates a firearm frame or receiver;

6101 (ii) a firearm that is converted into a muzzle loading weapon; or

6102 (iii) a muzzle loading weapon that can be readily converted to fire fixed ammunition

6103 by replacing the:

6104 (A) barrel;

6105 (B) bolt;

6106 (C) breechblock; or

6107 (D) any combination of Subsection (1)(b)(iii)(A), (B), or (C).

6108 (2) "Bureau" means the Bureau of Criminal Identification created in Section 53-10-201

6109 within the Department of Public Safety.

6110 ~~[(3)(a) "Concealed firearm" means a firearm that is:]~~

6111 ~~[(i) covered, hidden, or secreted in a manner that the public would not be aware of its~~  
6112 ~~presence; and]~~

- 6113            [(ii) readily accessible for immediate use.]
- 6114            [(b) A firearm that is unloaded and securely encased is not a concealed firearm for the
- 6115            purposes of this part.]
- 6116            [(4) "Criminal history background check" means a criminal background check conducted
- 6117            by a licensed firearms dealer on every purchaser of a handgun, except a Federal
- 6118            Firearms Licensee, through the bureau or the local law enforcement agency where the
- 6119            firearms dealer conducts business.]
- 6120            [(5) "Curio or relic firearm" means a firearm that:]
- 6121            [(a) is of special interest to a collector because of a quality that is not associated with
- 6122            firearms intended for:]
- 6123            [(i) sporting use;]
- 6124            [(ii) use as an offensive weapon; or]
- 6125            [(iii) use as a defensive weapon;]
- 6126            [(b)(i) was manufactured at least 50 years before the current date; and]
- 6127            [(ii) is not a replica of a firearm described in Subsection (5)(b)(i);]
- 6128            [(c) is certified by the curator of a municipal, state, or federal museum that exhibits
- 6129            firearms to be a curio or relic of museum interest;]
- 6130            [(d) derives a substantial part of its monetary value:]
- 6131            [(i) from the fact that the firearm is:]
- 6132            [(A) novel;]
- 6133            [(B) rare; or]
- 6134            [(C) bizarre; or]
- 6135            [(ii) because of the firearm's association with an historical:]
- 6136            [(A) figure;]
- 6137            [(B) period; or]
- 6138            [(C) event; and]
- 6139            [(e) has been designated as a curio or relic firearm by the director of the United States
- 6140            Treasury Department Bureau of Alcohol, Tobacco, and Firearms under 27 C.F.R.
- 6141            Sec. 478.11.]
- 6142            [(6)] (3)(a) "Dangerous weapon" means:
- 6143            (i) a firearm; or
- 6144            (ii) an object that in the manner of its use or intended use is capable of causing death
- 6145            or serious bodily injury.
- 6146            (b) The following factors are used in determining whether any object, other than a

- 6147 firearm, is a dangerous weapon:
- 6148 (i) the location and circumstances in which the object was used or possessed;
- 6149 (ii) the primary purpose for which the object was made;
- 6150 (iii) the character of the wound, if any, produced by the object's unlawful use;
- 6151 (iv) the manner in which the object was unlawfully used;
- 6152 (v) whether the manner in which the object is used or possessed constitutes a
- 6153 potential imminent threat to public safety; and
- 6154 (vi) the lawful purposes for which the object may be used.
- 6155 (c) "Dangerous weapon" does not include an explosive, chemical, or incendiary device
- 6156 as defined by Section 76-10-306.
- 6157 ~~[(7)(a) "Dating relationship" means a romantic or intimate relationship between~~
- 6158 ~~individuals.]~~
- 6159 ~~[(b) "Dating relationship" does not include a casual acquaintanceship or ordinary~~
- 6160 ~~fraternization in a business or social context.]~~
- 6161 ~~[(8) "Dealer" means a person who is:]~~
- 6162 ~~[(a) licensed under 18 U.S.C. Sec. 923; and]~~
- 6163 ~~[(b) engaged in the business of selling, leasing, or otherwise transferring a handgun,~~
- 6164 ~~whether the person is a retail or wholesale dealer, pawnbroker, or otherwise.]~~
- 6165 ~~[(9) "Domestic violence" means the same as that term is defined in Section 77-36-1.]~~
- 6166 ~~[(10) "Enter" means intrusion of the entire body.]~~
- 6167 ~~[(11) "Federal Firearms Licensee" means a person who:]~~
- 6168 ~~[(a) holds a valid Federal Firearms License issued under 18 U.S.C. Sec. 923; and]~~
- 6169 ~~[(b) is engaged in the activities authorized by the specific category of license held.]~~
- 6170 ~~[(12) (4)(a)] "Firearm" means:~~
- 6171 ~~(a) [-]a pistol, revolver, shotgun, short barreled shotgun, rifle, or short barreled rifle[-]; or~~
- 6172 ~~(b) [-]a device that could be used as a dangerous weapon from which a projectile is~~
- 6173 ~~expelled [a projectile] by an explosive action[-of an explosive].~~
- 6174 ~~[(b) As used in Sections 76-10-526 and 76-10-527, "firearm" does not include an antique~~
- 6175 ~~firearm.]~~
- 6176 ~~[(13) "Firearms transaction record form" means a form created by the bureau to be~~
- 6177 ~~completed by a person purchasing, selling, or transferring a handgun from a dealer in the~~
- 6178 ~~state.]~~
- 6179 ~~[(14) "Fully automatic weapon" means a firearm which fires, is designed to fire, or can be~~
- 6180 ~~readily restored to fire, automatically more than one shot without manual reloading by a~~

- 6181 single function of the trigger.]
- 6182 [(15)] (5)[(a)] "Handgun" means a pistol, revolver, or other firearm of any description, [  
 6183 loaded or unloaded,] from which a shot, bullet, or other missile can be discharged,  
 6184 the length of which, not including any revolving, detachable, or magazine breech,  
 6185 does not exceed 12 inches.
- 6186 [(b) As used in Sections 76-10-520, 76-10-521, and 76-10-522, "handgun" and "pistol or  
 6187 revolver" do not include an antique firearm.]
- 6188 [(16) "House of worship" means a church, temple, synagogue, mosque, or other building set  
 6189 apart primarily for the purpose of worship in which religious services are held and the  
 6190 main body of which is kept for that use and not put to any other use inconsistent with its  
 6191 primary purpose.]
- 6192 [(17) "Machinegun firearm attachment" means any part or combination of parts added to a  
 6193 semiautomatic firearm that allows the firearm to fire as a fully automatic weapon.]
- 6194 [(18) "Prohibited area" means a place where it is unlawful to discharge a firearm.]
- 6195 [(19) "Readily accessible for immediate use" means that a firearm or other dangerous  
 6196 weapon is carried on the person or within such close proximity and in such a manner  
 6197 that it can be retrieved and used as readily as if carried on the person.]
- 6198 [(20) "Residence" means an improvement to real property used or occupied as a primary or  
 6199 secondary residence.]
- 6200 [(21) "Securely encased" means not readily accessible for immediate use, such as held in a  
 6201 gun rack, or in a closed case or container, whether or not locked, or in a trunk or other  
 6202 storage area of a motor vehicle, not including a glove box or console box.]
- 6203 [(22)] (6) "Minor" means an individual under 18 years old.
- 6204 (7)(a) "Short barreled rifle" means a rifle having a barrel or barrels of fewer than 16  
 6205 inches in length.
- 6206 (b) "Short barreled rifle" includes a dangerous weapon made from a rifle by alteration,  
 6207 modification, or otherwise, if the weapon as modified has an overall length of fewer  
 6208 than 26 inches.
- 6209 (8)(a) "Short barreled shotgun" [~~or "short barreled rifle"~~] means a shotgun having a  
 6210 barrel or barrels of fewer than 18 inches in length[, or in the case of a rifle, having a  
 6211 barrel or barrels of fewer than 16 inches in length, or a dangerous weapon made from  
 6212 a rifle or shotgun by alteration, modification, or otherwise, if the weapon as modified  
 6213 has an overall length of fewer than 26 inches.] .
- 6214 (b) "Short barreled shotgun" includes a dangerous weapon made from a shotgun by

6215 alteration, modification, or otherwise, if the weapon as modified has an overall length  
 6216 of fewer than 26 inches.

6217 [(23)] (9) "Shotgun" means a smooth bore firearm designed to fire cartridges containing  
 6218 pellets or a single slug.

6219 [(24) "Shoulder arm" means a firearm that is designed to be fired while braced against the  
 6220 shoulder.]

6221 [(25) "Single criminal episode" means the same as that term is defined in Section 76-1-401.]

6222 [(26)] (10) "Slug" means a single projectile discharged from a shotgun shell.

6223 [(27) "State entity" means a department, commission, board, council, agency, institution,  
 6224 officer, corporation, fund, division, office, committee, authority, laboratory, library, unit,  
 6225 bureau, panel, or other administrative unit of the state.]

6226 [(28)] (11) "Violent felony" means the same as that term is defined in Section 76-3-203.5.

6227 Section 94. Section **76-11-102**, which is renumbered from Section 76-10-502 is renumbered  
 6228 and amended to read:

6229 **[76-10-502] 76-11-102 . When a firearm is considered to be loaded.**

6230 (1) For the purpose of this chapter[, any pistol, revolver, shotgun, rifle, or other weapon  
 6231 described in this part shall be deemed to be] :

6232 (a) a firearm is considered to be loaded when there is an unexpended cartridge, shell, or  
 6233 projectile in the firing position[-] ;

6234 [(2)] (b) [~~Pistols and revolvers shall also be deemed to be~~] handguns are also considered  
 6235 to be loaded when an unexpended cartridge, shell, or projectile is in a position  
 6236 whereby the manual operation of any mechanism once would cause the unexpended  
 6237 cartridge, shell, or projectile to be fired[-] ; and

6238 [(3)] (c) [A] a muzzle loading firearm [shall be deemed to be] is considered loaded when [  
 6239 it] the muzzle loading firearm is capped or primed and has a powder charge and ball  
 6240 or shot in the barrel or cylinders.

6241 (2) If a provision of this chapter does not specify that the firearm in the prohibited or  
 6242 allowed conduct is loaded or unloaded, the prohibited or allowed conduct includes if the  
 6243 firearm is either loaded or unloaded.

6244 Section 95. Section **76-11-201** is enacted to read:

## 6245 **Part 2. General Weapons Violations**

### 6246 **76-11-201 . Definitions.**

6247 As used in this part:

6248 (1) "Enter" means intrusion of the entire body.



- 6249 (2) "Fully automatic weapon" means a firearm that fires, is designed to fire, or can be  
 6250 readily restored to fire, automatically more than one shot without manual reloading by a  
 6251 single function of the trigger.
- 6252 (3) "House of worship" means a church, temple, synagogue, mosque, or other building set  
 6253 apart primarily for the purpose of worship in which religious services are held and the  
 6254 main body of which is kept for that use and not put to any other use inconsistent with the  
 6255 building's primary purpose.
- 6256 (4) "Machinegun firearm attachment" means any part or combination of parts added to a  
 6257 semiautomatic firearm that allows the firearm to fire as a fully automatic weapon.
- 6258 (5)(a) "Readily accessible for immediate use" means that a firearm or other dangerous  
 6259 weapon is carried on an individual's person or within such close proximity and in  
 6260 such a manner that it can be retrieved and used as readily as if carried on the  
 6261 individual's person.
- 6262 (b) "Readily accessible for immediate use" does not include a securely encased firearm.
- 6263 (6)(a) "Securely encased firearm" means a firearm that is not readily accessible for  
 6264 immediate use.
- 6265 (b) "Securely encased firearm" includes a loaded or unloaded firearm located in a gun  
 6266 rack, in a closed locked or unlocked case or container, or in a trunk or other storage  
 6267 area of a motor vehicle.
- 6268 (c) "Securely encased firearm" does not include a firearm in a glove box or console box  
 6269 unless the firearm is also in a holster or other case which covers the trigger  
 6270 mechanism.

6271 Section 96. Section **76-11-202**, which is renumbered from Section 76-10-504 is renumbered  
 6272 and amended to read:

6273 **[76-10-504] 76-11-202 . Unlawful carrying of a concealed firearm by an**  
 6274 **individual under 21 years old.**

6275 ~~[(1) Except as provided in Sections 76-10-503 and 76-10-523 and in Subsections (2), (3),~~  
 6276 ~~and (4), a person who carries a concealed firearm, as defined in Section 76-10-501,~~  
 6277 ~~including an unloaded firearm on his or her person or one that is readily accessible for~~  
 6278 ~~immediate use which is not securely encased, as defined in this part, in or on a place~~  
 6279 ~~other than the person's residence, property, a vehicle in the person's lawful possession,~~  
 6280 ~~or a vehicle, with the consent of the individual who is lawfully in possession of the~~  
 6281 ~~vehicle, or business under the person's control is guilty of a class B misdemeanor.]~~

6282 ~~[(2) A person who carries a concealed firearm that is a loaded firearm in violation of~~

- 6283 Subsection (1) is guilty of a class A misdemeanor.]
- 6284 [~~(3) A person who carries concealed an unlawfully possessed short barreled shotgun or a~~
- 6285 ~~short barreled rifle is guilty of a second degree felony.]~~
- 6286 [~~(4) If the concealed firearm is used in the commission of a violent felony as defined in~~
- 6287 ~~Section 76-3-203.5, and the person is a party to the offense, the person is guilty of a~~
- 6288 ~~second degree felony.]~~
- 6289 [~~(5) Nothing in Subsection (1) or (2) prohibits a person engaged in the lawful taking of~~
- 6290 ~~protected or unprotected wildlife as defined in Title 23A, Wildlife Resources Act, from~~
- 6291 ~~carrying a concealed firearm as long as the taking of wildlife does not occur:]~~
- 6292 [~~(a) within the limits of a municipality in violation of that municipality's ordinances; or]~~
- 6293 [~~(b) upon the highways of the state as defined in Section 41-6a-102.]~~
- 6294 (1) Terms defined in Sections 76-1-101.5, 76-11-101, and 76-11-201 apply to this section.
- 6295 (2) An actor commits unlawful carrying of a concealed firearm by an individual under 21
- 6296 years old if:
- 6297 (a) the actor is younger than 21 years old;
- 6298 (b) the actor does not have a provisional concealed carry permit issued in accordance
- 6299 with Section 53-5a-304 or a concealed carry permit lawfully issued by or in another
- 6300 state;
- 6301 (c) the actor conceals a firearm in a covered, hidden, or secreted manner that the public
- 6302 would not be aware of the firearm's presence;
- 6303 (d) the firearm described in Subsection (2)(c) is readily accessible for immediate use by
- 6304 the actor; and
- 6305 (e) the actor is in a location that is not:
- 6306 (i) the actor's residence;
- 6307 (ii) the actor's real property;
- 6308 (iii) a vehicle that the actor is lawfully present in; or
- 6309 (iv) a business under the actor's control.
- 6310 (3)(a) Except as provided in Subsection (3)(b) or (3)(c), a violation of Subsection (2) is a
- 6311 class B misdemeanor.
- 6312 (b) Except as provided in Subsection (3)(c), a violation of Subsection (2) is a class A
- 6313 misdemeanor if the firearm was loaded at the time of the violation.
- 6314 (c) A violation of Subsection (2) is a second degree felony if the firearm was used in the
- 6315 commission of a violent felony and the actor was a party to the offense.
- 6316 (4) This section does not:

- 6317 (a) apply to an individual who is categorized as a restricted person under Section  
 6318 76-11-302 or 76-11-303 and may not possess a firearm in any manner or location and  
 6319 is subject to the penalties described in Part 3, Persons Restricted Regarding  
 6320 Dangerous Weapons;
- 6321 (b) prohibit an individual engaged in the lawful taking of protected or unprotected  
 6322 wildlife as defined in Title 23A, Wildlife Resources Act, from carrying a concealed  
 6323 firearm while performing an act to take the wildlife if the taking of wildlife does not  
 6324 occur:
- 6325 (i) within the limits of a municipality in violation of that municipality's ordinances; or  
 6326 (ii) upon the highways of the state as defined in Section 41-6a-102;
- 6327 (c) apply to an individual who is not a restricted person as described in Section  
 6328 76-11-302 or 76-11-303 or 18 U.S.C. Sec. 922(g) and is issued a protective order  
 6329 under Subsection 78B-7-404(1)(b) or 78B-7-603(1)(b), for a period of 120 days after  
 6330 the day on which the individual is issued the protective order; or
- 6331 (d) prohibit the owner or lawful possessor of a vehicle from prohibiting another  
 6332 individual from carrying a firearm in the owner's or lawful possessor's vehicle.
- 6333 (5) An actor is lawfully present in a vehicle while carrying a firearm under this section if:  
 6334 (a) the vehicle is in the lawful possession of the actor; or  
 6335 (b) the actor has the consent of the person lawfully in possession of the vehicle to carry  
 6336 the firearm in the vehicle.

6337 Section 97. Section **76-11-203** is enacted to read:

6338 **76-11-203 . Concealing an unlawfully possessed short barreled shotgun or short**  
 6339 **barreled rifle.**

- 6340 (1) Terms defined in Sections 76-1-101.5, 76-11-101, and 76-11-201 apply to this section.
- 6341 (2) An actor commits concealing an unlawfully possessed short barreled shotgun or short  
 6342 barreled rifle if:
- 6343 (a) the actor unlawfully possesses a short barreled shotgun or short barreled rifle;  
 6344 (b) the actor conceals the unlawfully possessed short barreled shotgun or short barreled  
 6345 rifle in a covered, hidden, or secreted manner that the public would not be aware of  
 6346 the short barreled shotgun's or short barreled rifle's presence; and
- 6347 (c) the short barreled shotgun or short barreled rifle is readily accessible for immediate  
 6348 use by the actor.
- 6349 (3) A violation of Subsection (2) is a second degree felony.

6350 Section 98. Section **76-11-204**, which is renumbered from Section 76-10-505 is renumbered

6351 and amended to read:

6352 **[76-10-505] 76-11-204 . Unlawfully carrying a firearm in a vehicle .**

6353 [(1) ~~Unless otherwise authorized by law, a person may not carry a loaded firearm:]~~

6354 ~~[(a) in or on a vehicle, unless:]~~

6355 ~~[(i) the vehicle is in the person's lawful possession; or]~~

6356 ~~[(ii) the person is carrying the loaded firearm in a vehicle with the consent of the~~  
6357 ~~person lawfully in possession of the vehicle;]~~

6358 ~~[(b) on a public street; or]~~

6359 ~~[(c) in a posted prohibited area.]~~

6360 [(2) ~~Subsection (1)(a) does not apply to a minor under 18 years of age, since a minor under~~  
6361 ~~18 years of age may not carry a loaded firearm in or on a vehicle.]~~

6362 [(3) ~~Notwithstanding Subsections (1)(a)(i) and (ii), and Subsection 76-10-523(5), a person~~  
6363 ~~may not possess a loaded rifle, shotgun, or muzzle-loading rifle in a vehicle.]~~

6364 [(4)] (1) Terms defined in Sections 76-1-101.5, 76-11-101, and 76-11-201 apply to this  
6365 section.

6366 (2) An actor commits unlawfully carrying a firearm in a vehicle if the actor:

6367 (a) is 18 years old or older; and

6368 (b)(i)(A) is carrying a firearm that is readily accessible by the actor for immediate  
6369 use; and

6370 (B) is in a vehicle in which the actor is not lawfully present; or

6371 (ii) is carrying a loaded rifle, shotgun, or muzzle-loading rifle in any vehicle.

6372 (3) A violation of [this section] Subsection (2) is a class B misdemeanor.

6373 (4) This section does not prohibit the owner or lawful possessor of a vehicle from  
6374 prohibiting another individual who may otherwise lawfully carry a firearm from  
6375 carrying a firearm in the owner's or lawful possessor's vehicle.

6376 (5) An actor is lawfully present in a vehicle while carrying a firearm under this section if:

6377 (a) the vehicle is in the lawful possession of the actor; or

6378 (b) the actor has the consent of the person lawfully in possession of the vehicle to carry  
6379 the firearm in the vehicle.

6380 (6) This section does not apply if the actor has a concealed carry permit issued under  
6381 Section 53-5a-303, a temporary concealed carry permit issued under Section 53-5a-304,  
6382 a provisional concealed carry permit issued under Section 53-5a-305, or a concealed  
6383 carry permit lawfully issued by or in another state.

6384 Section 99. Section **76-11-205**, which is renumbered from Section 76-10-505.5 is renumbered

6385 and amended to read:

6386 **[76-10-505.5] 76-11-205 . Carrying a dangerous weapon at an elementary school**  
 6387 **or secondary school.**

6388 (1)(a) As used in this section, "on or about school premises" means:

6389 ~~[(a)]~~(i) in a public or private elementary school or secondary school; or

6390 (ii) on the grounds of ~~[any of those schools;]~~ a private elementary school or secondary  
 6391 school.

6392 ~~[(b)]~~(i) in a public or private institution of higher education; or]

6393 ~~[(ii) on the grounds of a public or private institution of higher education; or]~~

6394 ~~[(c)]~~(i) inside the building where a preschool or child care is being held, if the entire  
 6395 building is being used for the operation of the preschool or child care; or]

6396 ~~[(ii) if only a portion of a building is being used to operate a preschool or child care,~~  
 6397 ~~in that room or rooms where the preschool or child care operation is being held.]~~

6398 (b) Terms defined in Sections 76-1-101.5, 76-11-101, and 76-11-201 apply to this  
 6399 section.

6400 (2) ~~[An actor who is 18 years old or older may not possess a dangerous weapon, firearm, or~~  
 6401 ~~short barreled shotgun at a place that the actor knows, or has reasonable cause to~~  
 6402 ~~believe, is on or about school premises]~~ An actor commits carrying a dangerous weapon  
 6403 at an elementary school or secondary school if the actor:

6404 (a) is not an individual listed in Subsection (4);

6405 (b) carries a dangerous weapon on or about school premises; and

6406 (c) knows or reasonably believes that the actor is on or about school premises at the time  
 6407 the actor carries the dangerous weapon.

6408 (3)(a) ~~[Possession of a dangerous weapon on or about school premises is a class B~~  
 6409 ~~misdemeanor.]~~ A violation of Subsection (2) is a class B misdemeanor if the  
 6410 dangerous weapon carried by the actor is not a firearm.

6411 (b) ~~[Possession of a firearm or short barreled shotgun on or about school premises is a~~  
 6412 ~~class A misdemeanor.]~~ A violation of Subsection (2) is a class A misdemeanor if the  
 6413 dangerous weapon carried by the actor is a firearm.

6414 (4) This section does not apply if:

6415 (a) the actor is ~~[authorized to possess a firearm as described in Section 53-5-704,~~  
 6416 ~~53-5-705, 76-10-511, or 76-10-523, or as otherwise authorized by law]~~ an individual  
 6417 exempt from certain weapons laws as described in Section 53-5a-108;

6418 (b) the actor is 21 years old or older and has a concealed carry permit as described in

6419 Section 53-5a-303;

6420 ~~[(b) the actor is authorized to possess a firearm as described in Section 53-5-704.5,~~  
 6421 ~~unless the actor is in a location where the actor is prohibited from carrying a firearm~~  
 6422 ~~under Subsection 53-5-710(2);]~~

6423 (c) the actor is 21 years old or older and has a temporary concealed carry permit issued  
 6424 under Section 53-5a-305;

6425 (d) the actor is carrying the dangerous weapon at the actor's place of residence or on the  
 6426 actor's real property;

6427 ~~[(e)]~~ (e) the possession of the dangerous weapon is approved by the responsible school  
 6428 administrator;

6429 ~~[(d)]~~ (f) the [item] dangerous weapon is present or to be used in connection with a lawful,  
 6430 approved activity and is in the possession or under the control of the actor  
 6431 responsible for the [item's] dangerous weapon's possession or use;

6432 ~~[(e)]~~ (g) the actor is an armed school security guard as described in Section 53G-8-704; or

6433 ~~[(f)]~~ (h) the [possession is:] actor is carrying the dangerous weapon

6434 ~~[(i) at the actor's place of residence or on the actor's property; or]~~

6435 ~~[(ii)]~~ in [any] a vehicle lawfully under the actor's control, [other than] not including a  
 6436 vehicle owned by the school or used by the school to transport students.

6437 (5) This section does not[-]:

6438 (a) prohibit prosecution of ~~[a more serious weapons]~~ another criminal offense that may  
 6439 occur on or about school premises; or

6440 (b) prevent an actor from securely storing a firearm on the grounds of a school if the  
 6441 actor:

6442 (i) participates in:

6443 (A) the school guardian program created in Section 53-22-105; ~~[and]~~ or

6444 (B) the Educator-Protector Program created in Section 53-22-107; and

6445 (ii) complies with the requirements for securely storing the firearm described in  
 6446 Subsection 53-22-107(5)(a) ~~[; or]~~ .

6447 ~~[(e) prohibit the prosecution of possession of a dangerous weapon by a minor, as~~  
 6448 ~~described in Section 76-10-509.4, that occurs on or about school premises.]~~

6449 Section 100. Section **76-11-205.5** is enacted to read:

6450 **76-11-205.5 . Carrying a dangerous weapon at an institution of higher education.**

6451 (1) As used in this section, "on or about school premises" means:

6452 (a) in a public or private institution of higher education; or

- 6453           (b) on the grounds of a public or private institution of higher education.
- 6454           (2) An actor commits carrying a dangerous weapon at an institution of higher education if  
6455           the actor:
- 6456           (a) is not an individual listed in Subsection (4);
- 6457           (b) carries a dangerous weapon on or about school premises; and
- 6458           (c) knows or reasonably believes that the actor is on or about school premises at the time  
6459           the actor carries the dangerous weapon.
- 6460           (3)(a) A violation of Subsection (2) is a class B misdemeanor if the dangerous weapon  
6461           carried by the actor is not a firearm.
- 6462           (b) A violation of Subsection (2) is a class A misdemeanor if the dangerous weapon  
6463           carried by the actor is a firearm.
- 6464           (4) This section does not apply if:
- 6465           (a) the actor is an individual exempt from certain weapons laws as described in Section  
6466           53-5a-108;
- 6467           (b) the actor has a concealed carry permit as described in Section 53-5a-303;
- 6468           (c) the actor has a provisional concealed carry permit as described in Section 53-5a-304;
- 6469           (d) the actor has a temporary concealed carry permit issued under Section 53-5a-305;
- 6470           (e) the actor is carrying the dangerous weapon at the actor's place of residence or on the  
6471           actor's real property;
- 6472           (f) the possession of the dangerous weapon is approved by the responsible school  
6473           administrator;
- 6474           (g) the dangerous weapon is present or to be used in connection with a lawful, approved  
6475           activity and is in the possession or under the control of the actor responsible for the  
6476           dangerous weapon's possession or use; or
- 6477           (h) the actor is carrying the dangerous weapon in a vehicle lawfully under the actor's  
6478           control, not including a vehicle owned by the school or used by the school to  
6479           transport students.
- 6480           (5) This section does not prohibit prosecution of another criminal offense that may occur on  
6481           or about school premises.
- 6482           Section 101. Section **76-11-206** is enacted to read:
- 6483           **76-11-206 . Carrying a dangerous weapon at a daycare.**
- 6484           (1)(a) As used in this section:
- 6485           (i) "Daycare" means a preschool or child care center.
- 6486           (ii) "On or about daycare premises" means:

- 6487            (A) inside the building where a daycare is being held, if the entire building is  
6488            being used for the operation of the daycare; or  
6489            (B) if only a portion of a building is being used to operate a daycare, in the room  
6490            or rooms where the daycare operation is being held.
- 6491            (b) Terms defined in Sections 76-1-101.5, 76-11-101, and 76-11-201 apply to this  
6492            section.
- 6493            (2) An actor commits carrying a dangerous weapon at a daycare if the actor:  
6494            (a) is not an individual listed in Subsection (4);  
6495            (b) carries a dangerous weapon on or about daycare premises; and  
6496            (c) has reasonable cause to believe that the actor is on or about daycare premises at the  
6497            time the actor carried the dangerous weapon.
- 6498            (3)(a) A violation of Subsection (2) is a class B misdemeanor if the dangerous weapon  
6499            carried by the actor is not a firearm.
- 6500            (b) A violation of Subsection (2) is a class A misdemeanor if the dangerous weapon  
6501            carried by the actor is a firearm.
- 6502            (4) This section does not apply if:  
6503            (a) the actor is an individual exempted from certain weapons laws as described in  
6504            Section 53-5a-108;  
6505            (b) the actor has a concealed carry permit as described in Section 53-5a-303;  
6506            (c) the actor has a provisional concealed carry permit as described in Section 53-5a-304;  
6507            (d) the actor has a temporary concealed carry permit issued under Section 53-5a-305;  
6508            (e) the actor is carrying the dangerous weapon at the actor's place of residence or on the  
6509            actor's real property;  
6510            (f) the actor's carrying of the dangerous weapon is approved by the responsible daycare  
6511            administrator;  
6512            (g) the dangerous weapon is present or to be used in connection with a lawful, approved  
6513            activity and is in the possession or under the control of the actor responsible for the  
6514            dangerous weapon's possession or use; or  
6515            (h) the actor is carrying the dangerous weapon in a vehicle lawfully under the actor's  
6516            control, not including a vehicle owned by the daycare or used by the daycare to  
6517            transport minors enrolled in the daycare.
- 6518            (5) This section does not prohibit the prosecution of another criminal offense that may  
6519            occur on or about daycare premises.

6520            Section 102. Section **76-11-207**, which is renumbered from Section 76-10-506 is renumbered



6521 and amended to read:

6522 **[76-10-506] 76-11-207 . Threatening with or using a dangerous weapon in a fight**  
 6523 **or quarrel.**

6524 ~~[(1) As used in this section:]~~

6525 ~~[(a) "Dangerous weapon" means an item that in the manner of its use or intended use is~~  
 6526 ~~capable of causing death or serious bodily injury. The following factors shall be used~~  
 6527 ~~in determining whether an item, object, or thing is a dangerous weapon:]~~

6528 ~~[(i) the character of the instrument, object, or thing;]~~

6529 ~~[(ii) the character of the wound produced, if any; and]~~

6530 ~~[(iii) the manner in which the instrument, object, or thing was exhibited or used.]~~

6531 ~~[(b) "Threatening manner" does not include:]~~

6532 ~~[(i) the possession of a dangerous weapon, whether visible or concealed, without~~  
 6533 ~~additional behavior which is threatening; or]~~

6534 ~~[(ii) informing another of the actor's possession of a deadly weapon to prevent what~~  
 6535 ~~the actor reasonably perceives as a possible use of unlawful force by the other and~~  
 6536 ~~the actor is not engaged in any activity described in Subsection 76-2-402(3)(a).]~~

6537 ~~[(2) Except as otherwise provided in Section 76-2-402 and for an individual described in~~  
 6538 ~~Section 76-10-503, an individual who, in the presence of two or more individuals, and~~  
 6539 ~~not amounting to a violation of Section 76-5-103,]~~

6540 ~~(1) Terms defined in Sections 76-1-101.5, 76-11-101, and 76-11-201 apply to this section.~~

6541 ~~(2) An actor commits threatening with or using a dangerous weapon in a fight or quarrel if~~  
 6542 ~~the actor, in the presence of two or more individuals:~~

6543 ~~(a) unlawfully draws or exhibits a dangerous weapon in an angry and threatening manner;~~  
 6544 ~~or~~

6545 ~~(b) [-]unlawfully uses a dangerous weapon in a fight or quarrel[- is guilty of a class A~~  
 6546 ~~misdemeanor].~~

6547 ~~(3) A violation of Subsection (2) is a class A misdemeanor.~~

6548 ~~[(3)] (4) This section does not apply to:~~

6549 ~~(a) [-]an individual who, reasonably believing the action to be necessary in compliance~~  
 6550 ~~with Section 76-2-402, with purpose to prevent another's use of unlawful force:~~

6551 ~~[(a)] (i) threatens the use of a dangerous weapon; or~~

6552 ~~[(b)] (ii) draws or exhibits a dangerous weapon[-]; or~~

6553 ~~[(4)] (b) [This section does not apply to an individual listed in Subsections~~

6554 ~~76-10-523(1)(a) through (f)] an individual exempted from certain weapons laws as~~

6555 described in Subsections 53-5a-108(1)(a) through (f) acting in performance of the  
 6556 individual's duties.

6557 (5) For purposes of this section, the following conduct by an actor does not constitute  
 6558 drawing or exhibiting a dangerous weapon in an angry and threatening manner as  
 6559 described in Subsection (2):

6560 (a) possession of a dangerous weapon, whether visible or concealed, without additional  
 6561 threatening behavior; or

6562 (b)(i) informing another individual of the actor's possession of a dangerous weapon to  
 6563 prevent what the actor reasonably perceives as a possible use of unlawful force by  
 6564 the individual; and

6565 (ii) the actor is not engaged in any activity described in Subsection 76-2-402(3)(a).

6566 Section 103. Section **76-11-208**, which is renumbered from Section 76-10-507 is renumbered  
 6567 and amended to read:

6568 **[76-10-507] 76-11-208 . Possession of a dangerous weapon with criminal intent.**

6570 (1) Terms defined in Sections 76-1-101.5, 76-11-101, and 76-11-201 apply to this section.

6571 (2) ~~[Every person having upon his person any]~~ An actor commits possession of a  
 6572 dangerous weapon with criminal intent if the actor possesses a dangerous weapon with  
 6573 the intent to use [it] the dangerous weapon to commit a criminal offense.

6574 (3) A violation of Subsection (2) is [guilty of] a class A misdemeanor.

6575 Section 104. Section **76-11-209**, which is renumbered from Section 76-10-508 is renumbered  
 6576 and amended to read:

6577 **[76-10-508] 76-11-209 . Improper discharging of a dangerous weapon.**

6578 (1) Terms defined in Sections 76-1-101.5, 76-11-101, and 76-11-201 apply to this section.

6579 ~~[(1)] (2)[(a) An individual may not discharge]~~ An actor commits improper discharging of  
 6580 a dangerous weapon [or firearm] if the actor discharges a dangerous weapon:

6581 ~~[(i)]~~ (a) from [an automobile or other] a vehicle;

6582 ~~[(ii)]~~ (b) from, upon, or across a highway;

6583 ~~[(iii)]~~ (c) at a road sign placed [upon a highway of the] on a state highway;

6584 ~~[(iv)]~~ (d) at communications equipment or property of public utilities including facilities,  
 6585 lines, poles, or devices of transmission or distribution;

6586 ~~[(v)]~~ (e) at railroad equipment or facilities including a sign or signal;

6587 ~~[(vi)]~~ (f) within a Utah State Park building, designated camp or picnic sites, overlooks,  
 6588 golf courses, boat ramps, and developed beaches; or

6589 ~~[(vii)]~~ (g) without written permission to discharge the dangerous weapon from the owner

6590 or person in charge of the property within 600 feet of:

6591 ~~[(A)]~~ (i) a house, dwelling, or ~~any~~ other building; or

6592 ~~[(B)]~~ (ii) ~~any~~ a structure in which a domestic animal is kept or fed, including a barn,  
6593 poultry yard, corral, feeding pen, or stockyard.

6594 ~~[(b) It is a defense to any charge for violating this section that the individual being~~  
6595 ~~accused had actual permission of the owner or person in charge of the property at the~~  
6596 ~~time in question.]~~

6597 ~~[(2)]~~ (3) A violation of ~~any provision of~~ Subsection ~~[(1)]~~ (2) is a class B misdemeanor.

6598 ~~[(3)]~~ (4) In addition to any other penalties, the court shall:

6599 (a) notify the Driver License Division of the conviction for purposes of any revocation,  
6600 denial, suspension, or disqualification of a driver license under Subsection  
6601 53-3-220(1)(a)(xi); and

6602 (b) specify in court at the time of sentencing the length of the revocation under  
6603 Subsection 53-3-225(1)(c).

6604 ~~[(4)]~~ (5) This section does not apply to an ~~individual~~ actor who:

6605 (a) discharges a ~~firearm when that individual is~~ dangerous weapon in the lawful defense  
6606 of [self or others] the actor or another individual;

6607 (b) is an individual listed in Subsections 53-5a-108(1)(a) through (f) and is performing  
6608 official duties as provided in Section 23A-5-202 [and Subsections 76-10-523(1)(a)  
6609 through (f) and] or as otherwise provided by law; or

6610 (c) discharges a dangerous weapon ~~or firearm~~ from an automobile or other vehicle, if:

6611 (i) the discharge occurs at a firing range or training ground;

6612 (ii) at no time after the discharge does the projectile that is discharged cross over or  
6613 stop at a location other than within the boundaries of the firing range or training  
6614 ground described in Subsection ~~[(4)(e)(i)]~~ (5)(c)(i);

6615 (iii) the discharge is made as practice or training for a lawful purpose;

6616 (iv) the discharge and the location, time, and manner of the discharge are approved  
6617 by the owner or operator of the firing range or training ground before the  
6618 discharge; and

6619 (v) the discharge is not made in violation of Subsection ~~[(1)]~~ (2).

6620 (6) It is a defense to a charge for violating this section that the actor had actual permission  
6621 of the person in charge of the property at the time the actor discharged the dangerous  
6622 weapon as described in Subsection (2).

6623 Section 105. Section **76-11-210**, which is renumbered from Section 76-10-508.1 is renumbered

6624 and amended to read:

6625 **[76-10-508.1] 76-11-210 . Felony discharge of a firearm.**

6626 (1)(a) As used in this section, "habitable structure" means the same as that term is  
 6627 defined in Section 76-6-101.

6628 (b) Terms defined in Sections 76-1-101.5, 76-11-101, and 76-11-201 apply to this  
 6629 section.

6630 (2) ~~[Except as provided under Subsection (2) or (3), an individual who discharges a firearm~~  
 6631 ~~is guilty of a third degree felony punishable by imprisonment for a term of not less than~~  
 6632 ~~three years nor more than five years.] An actor commits felony discharge of a firearm if:~~

6633 (a) the actor discharges a firearm in the direction of ~~[one or more individuals]~~ an  
 6634 individual, knowing or having reason to believe that ~~[any]~~ an individual may be  
 6635 endangered by the discharge of the firearm;

6636 (b) the actor, with intent to intimidate or harass another individual or with intent to  
 6637 damage a habitable structure~~[ as defined in Section 76-6-101]~~, discharges a firearm in  
 6638 the direction of ~~[any]~~ an individual or a habitable structure; or

6639 (c) the actor, with intent to intimidate or harass another individual, discharges a firearm  
 6640 in the direction of ~~[any]~~ a vehicle.

6641 ~~[(2)] (3)(a) [A] Except as provided in Subsection (3)(b) or (3)(c), a violation of~~  
 6642 ~~Subsection [(1)-] (2) is a third degree felony punishable by a term of imprisonment of~~  
 6643 ~~not less than three years nor more than five years.~~

6644 (b) Except as provided in Subsection (3)(c), a violation of Subsection (2) that causes  
 6645 bodily injury to any individual is a second degree felony punishable by imprisonment  
 6646 for a term of not less than three years nor more than 15 years.

6647 ~~[(3)] (c) A violation of Subsection [(1)] (2) that causes serious bodily injury to [any] an~~  
 6648 ~~individual is a first degree felony.~~

6649 (4) In addition to any other penalties for a violation of this section, the court shall:

6650 (a) notify the Driver License Division of the conviction for purposes of any revocation,  
 6651 denial, suspension, or disqualification of a driver license under Subsection  
 6652 53-3-220(1)(a)(xi); and

6653 (b) specify in court at the time of sentencing the length of the revocation under  
 6654 Subsection 53-3-225(1)(c).

6655 (5) This section does not apply to an ~~[individual]~~ actor:

6656 (a) who discharges a firearm ~~[when that individual is]~~ in the lawful defense of [self] the  
 6657 actor or [others] another individual;

- 6658 (b) who is an individual listed in Subsections 53-5a-108(1)(a) through (f) and is  
 6659 performing official duties as provided in Section 23A-5-202[~~or Subsections~~  
 6660 ~~76-10-523(1)(a) through (f)~~ ], or as otherwise authorized by law; or  
 6661 (c) who discharges a dangerous weapon[~~or firearm~~] from an automobile or other  
 6662 vehicle, if:  
 6663 (i) the discharge occurs at a firing range or training ground;  
 6664 (ii) at no time after the discharge does the projectile that is discharged cross over or  
 6665 stop at a location other than within the boundaries of the firing range or training  
 6666 ground described in Subsection (5)(c)(i);  
 6667 (iii) the discharge is made as practice or training for a lawful purpose;  
 6668 (iv) the discharge and the location, time, and manner of the discharge are approved  
 6669 by the owner or operator of the firing range or training ground before the  
 6670 discharge; and  
 6671 (v) the discharge is not made in violation of Subsection [(1)] (2).

6672 Section 106. Section **76-11-211**, which is renumbered from Section 76-10-509.4 is renumbered  
 6673 and amended to read:

6674 **[76-10-509.4] 76-11-211 . Possession of a dangerous weapon by a minor.**

- 6675 (1)(a) As used in this section, "responsible adult" means an individual:  
 6676 [(a)] (i) who is 18 years old or older; and  
 6677 [(b)] (ii) who may lawfully possess a dangerous weapon.  
 6678 (b) Terms defined in Sections 76-1-101.5, 76-11-101, and 76-11-201 apply to this  
 6679 section.  
 6680 (2) An actor [~~who is under 18 years old may not possess a dangerous weapon~~] commits  
 6681 possession of a dangerous weapon by a minor if the actor:  
 6682 (a) is a minor; and  
 6683 (b) possesses a dangerous weapon.  
 6684 (3)(a) Except as provided in Subsection (3)(b), a violation of Subsection (2) is:  
 6685 (i) a class B misdemeanor for a first offense; and  
 6686 (ii) a class A misdemeanor for each subsequent offense.  
 6687 (b) A violation of Subsection (2) is a third degree felony if the dangerous weapon is:  
 6688 (i) a handgun;  
 6689 (ii) a short barreled rifle;  
 6690 (iii) a short barreled shotgun;  
 6691 (iv) a fully automatic weapon; or

- 6692 (v) a machinegun firearm attachment.
- 6693 (4) For an actor who is younger than 14 years old, this section does not apply if the actor:
- 6694 (a) possesses a dangerous weapon;
- 6695 (b) has permission from the actor's parent or guardian to possess the dangerous weapon;
- 6696 (c) is accompanied by the actor's parent or guardian, or a responsible adult, while the
- 6697 actor has the dangerous weapon in the actor's possession; and
- 6698 (d) does not use the dangerous weapon in the commission of a crime.
- 6699 (5) For an actor who is 14 years old or older but younger than 18 years old, this section
- 6700 does not apply if the actor:
- 6701 (a) possesses a dangerous weapon;
- 6702 (b) has permission from the actor's parent or guardian to possess the dangerous weapon;
- 6703 and
- 6704 (c) does not use the dangerous weapon in the commission of a crime.
- 6705 (6) This section does not apply to the following minors who are otherwise complying with
- 6706 Subsection (4) or (5):
- 6707 (a) a minor who is a patron at an amusement park, pier, or similar location and is
- 6708 possessing a firearm to participate in lawfully operated target concessions if the
- 6709 firearm to be used is firmly chained or affixed to the counters;
- 6710 (b) a minor attending a hunter's safety course or a firearms safety course and possessing
- 6711 a weapon as part of the course;
- 6712 (c) a minor using a firearm at an established range or other area where the discharge of a
- 6713 firearm is not prohibited by state or local law;
- 6714 (d) a minor participating in an organized competition involving the use of a firearm, or
- 6715 practicing for the competition;
- 6716 (e) a minor who is on real property with the permission of the owner, licensee, or lessee
- 6717 of the property and who has the permission of a parent or legal guardian or the
- 6718 owner, licensee, or lessee of the property to possess a firearm not otherwise in
- 6719 violation of law;
- 6720 (f) a minor who has a valid hunting license and is possessing a firearm to lawfully
- 6721 engage in hunting; or
- 6722 (g) a minor traveling to or from an activity described in Subsections (6)(a) through (f)
- 6723 with an unloaded firearm in the minor's possession.

6724 Section 107. Section **76-11-212**, which is renumbered from Section 76-10-509.5 is renumbered

6725 and amended to read:

6726 **[76-10-509.5] 76-11-212 . Transferring a handgun, short barreled rifle, short**  
 6727 **barreled shotgun, or fully automatic weapon to a minor.**

6728 [(1) Any person who provides a handgun to a minor when the possession of the handgun by  
 6729 the minor is a violation of Section 76-10-509.4 is guilty of:]

6730 [(a) a class B misdemeanor upon the first offense; and]

6731 [(b) a class A misdemeanor for each subsequent offense.]

6732 [(2) Any person who transfers in violation of applicable state or federal law a short barreled  
 6733 rifle, short barreled shotgun, or fully automatic weapon to a minor is guilty of a third  
 6734 degree felony.]

6735 (1) Terms defined in Sections 76-1-101.5, 76-11-101, and 76-11-201 apply to this section.

6736 (2) An actor is guilty of transferring a handgun, short barreled rifle, short barreled shotgun,  
 6737 or fully automatic weapon to a minor if:

6738 (a) the actor transfers:

6739 (i) a handgun to a minor; or

6740 (ii) a short barreled rifle, short barreled shotgun, or fully automatic weapon to a  
 6741 minor; and

6742 (b) the transferring of the firearm described in Subsection (2)(a):

6743 (i) would result in the minor committing a violation of Section 76-11-211, Possession  
 6744 of a dangerous weapon by a minor; or

6745 (ii) is in violation of any other applicable state or federal law.

6746 (3) A violation of Subsection (2)(a) is:

6747 (a) if the violation is the result of transferring a handgun:

6748 (i) a class B misdemeanor upon the first offense; and

6749 (ii) a class A misdemeanor for each subsequent offense; or

6750 (b) a third degree felony if the violation is the result of transferring a short barreled rifle,  
 6751 short barreled shotgun, or fully automatic weapon to a minor.

6752 Section 108. Section **76-11-213**, which is renumbered from Section 76-10-509.6 is renumbered  
 6753 and amended to read:

6754 **[76-10-509.6] 76-11-213 . Parent or guardian providing a firearm to a violent**  
 6755 **minor.**

6756 (1) Terms defined in Sections 76-1-101.5, 76-11-101, and 76-11-201 apply to this section.

6757 (2) ~~[A parent or guardian may not]~~ An actor is guilty of a parent or guardian providing a  
 6758 firearm to a violent minor if:

6759 (a) ~~[-]~~ the actor intentionally or knowingly [provide] provides a firearm to, or [permit]

- 6760 permits the possession of a firearm by, [any] a minor;  
 6761 (b) [-] the minor is the actor's biological or adopted child or the actor is the legal guardian  
 6762 of the minor; and  
 6763 (c) [who] the minor has previously been:  
 6764 (i) [-]convicted of a violent felony[-as defined in Section 76-3-203.5] ; or  
 6765 (ii) [-any minor who has been-]adjudicated in juvenile court for an offense which  
 6766 would constitute a violent felony if the minor were an adult.

6767 ~~[(2)]~~ (3) ~~[Any person who violates this section is guilty of]~~ A violation of Subsection (2) is:

- 6768 (a) a class A misdemeanor upon the first offense; and  
 6769 (b) a third degree felony for each subsequent offense.

6770 Section 109. Section **76-11-214**, which is renumbered from Section 76-10-509.7 is renumbered  
 6771 and amended to read:

6772 **[76-10-509.7] 76-11-214 . Parent or guardian knowing a minor is in possession of**  
 6773 **a dangerous weapon.**

6774 (1) Terms defined in Sections 76-1-101.5, 76-11-101, and 76-11-201 apply to this section.

6775 (2) ~~[ Any parent or guardian of a minor who knows that the minor is in ]~~ An actor is guilty  
 6776 of parent or guardian knowing a minor is in possession of a dangerous weapon if:

- 6777 (a) the actor knows a minor is in possession of a dangerous weapon in violation of  
 6778 Section~~[76-10-509.4]~~ 76-11-211, Possession of a dangerous weapon by a minor;  
 6779 (b) the minor is the actor's biological or adopted child or the actor is the legal guardian  
 6780 of the minor; and  
 6781 (c) the actor fails to make reasonable efforts to remove the dangerous weapon from the  
 6782 minor's possession.

6783 (3) ~~[is guilty of]~~ A violation of Subsection (2) is a class B misdemeanor.

6784 Section 110. Section **76-11-215**, which is renumbered from Section 76-10-509.9 is renumbered  
 6785 and amended to read:

6786 **[76-10-509.9] 76-11-215 . Selling a firearm to a minor.**

6787 (1) Terms defined in Sections 76-1-101.5, 76-11-101, and 76-11-201 apply to this section.

6788 (2) ~~[A person may not sell any-]~~ An actor commits selling a firearm to a minor [under 18  
 6789 years of age unless] if:

- 6790 (a) the actor sells a firearm to a minor; and  
 6791 (b) at the time the actor sells the weapon to a minor, the minor is not accompanied by a  
 6792 parent of the minor or a legal guardian of the minor.

6793 ~~[(2)]~~ (3) ~~[Any person who violates this section is guilty of]~~ A violation of Subsection (2) is a



6794 third degree felony.

6795 Section 111. Section **76-11-216** is enacted to read:

6796 **76-11-216 . Prohibited conduct in the sale of a dangerous weapon.**

6797 (1)(a) As used in this section, "materially false information" means information that  
 6798 portrays an illegal dangerous weapon transaction as legal or a legal dangerous  
 6799 weapon transaction as illegal.

6800 (b) Terms defined in Sections 76-1-101.5, 76-11-101, and 76-11-201 apply to this  
 6801 section.

6802 (2) An actor commits prohibited conduct in the sale of a dangerous weapon if the actor:

6803 (a)(i) knowingly solicits, persuades, encourages, or entices a person to sell, transfer,  
 6804 or otherwise provide a dangerous weapon to the actor or another individual; and

6805 (ii) knows that the sale, transfer, or providing of the dangerous weapon to the actor or  
 6806 other individual would be a violation of state or federal law; or

6807 (b)(i) provides information that the actor knows is materially false information to a  
 6808 person; and

6809 (ii) knowingly provides the materially false information to the person with intent to  
 6810 deceive the person about the lawfulness of a sale, transfer, or providing of a  
 6811 dangerous weapon to the actor or another individual.

6812 (3)(a) A violation of Subsection (2) is a class A misdemeanor if the dangerous weapon  
 6813 sold, transferred, or provided is not a firearm.

6814 (b) A violation of Subsection (2) is a third degree felony if the dangerous weapon sold,  
 6815 transferred, or provided is a firearm.

6816 Section 112. Section **76-11-217**, which is renumbered from Section 76-10-528 is renumbered  
 6817 and amended to read:

6818 **[76-10-528] 76-11-217 . Carrying a dangerous weapon while under the influence**  
 6819 **of alcohol or drugs.**

6820 (1) Terms defined in Sections 76-1-101.5, 76-11-101, and 76-11-201 apply to this section.

6821 (2) ~~[It is a class B misdemeanor for an actor to carry]~~ An actor commits carrying a  
 6822 dangerous weapon while under the influence of alcohol or drugs if the actor:

6823 (a) carries a dangerous weapon that is readily accessible by the actor for immediate use;  
 6824 and

6825 (b) is under the influence of:

6826 [(a)](i) alcohol as determined by the actor's blood or breath alcohol concentration in  
 6827 accordance with Subsections 41-6a-502(1)(a) through (c); or

6828                    ~~[(b)]~~ (ii) a controlled substance as defined in Section 58-37-2.

6829                    (3) A violation of Subsection (2) is a class B misdemeanor.

6830                    ~~[(2)]~~ (4) This section does not apply to:

6831                    ~~[(a)]~~ (a) ~~an actor carrying a dangerous weapon that is either securely encased, as defined in~~  
6832                    ~~this part, or not within such close proximity and in such a manner that it can be~~  
6833                    ~~retrieved and used as readily as if carried on the person;]~~

6834                    ~~[(b)]~~ (a) an actor who uses or threatens to use force in compliance with Section 76-2-402;

6835                    ~~[(e)]~~ (b) an actor carrying a dangerous weapon in the actor's residence or the residence of  
6836                    another individual with the consent of the individual who is lawfully in possession of  
6837                    the residence;

6838                    ~~[(d)]~~ (c) an actor under the influence of cannabis or a cannabis product, as those terms  
6839                    are defined in Section 26B-4-201, if the actor's use of the cannabis or cannabis  
6840                    product complies with Title 26B, Chapter 4, Part 2, Cannabinoid Research and  
6841                    Medical Cannabis; or

6842                    ~~[(e)]~~ (d) an actor who:

6843                    (i) has a valid prescription for a controlled substance;

6844                    (ii) takes the controlled substance described in Subsection ~~[(2)(e)(i)]~~ (4)(d)(i) as  
6845                    prescribed; and

6846                    (iii) after taking the controlled substance, the actor:

6847                    (A) is not a danger to the actor or another individual; or

6848                    (B) is capable of safely handling a dangerous weapon.

6849                    ~~[(3)]~~ (5) It is not a defense to prosecution under this section that the actor:

6850                    (a) is licensed in the pursuit of wildlife of any kind;~~[-or]~~

6851                    (b) has a ~~[valid]~~ concealed carry permit ~~[to carry a concealed firearm.]~~ as described in  
6852                    Section 53-5a-303;

6853                    (c) has a provisional concealed carry permit as described in Section 53-5a-304;

6854                    (d) has a temporary concealed carry permit issued under Section 53-5a-305;

6855                    (e) has a concealed carry permit lawfully issued by or in another state; or

6856                    (f) is 21 years old or older and may otherwise lawfully possess a concealed loaded  
6857                    firearm without a concealed carry permit as described in Section 53-5a-101.5.

6858                    Section 113. Section **76-11-218**, which is renumbered from Section 76-10-529 is renumbered  
6859                    and amended to read:

6860                    **[76-10-529] 76-11-218 . Possession of a dangerous weapon in an airport secure**  
6861                    **area -- Reporting requirements.**

- 6862 (1)(a) As used in this section:
- 6863 (i) "Airport authority" has the same meaning as defined in Section 72-10-102.
- 6864 (ii) "Explosive" is the same as defined for "explosive, chemical, or incendiary  
6865 device" in Section 76-10-306.
- 6866 (iii) "Law enforcement officer" means the same as that term is defined in Section  
6867 53-13-103.
- 6868 (b) ~~[Terms defined in Sections 76-1-101.5 and 76-10-501 apply to this section]~~ Terms  
6869 defined in Sections 76-1-101.5, 76-11-101, and 76-11-201 apply to this section.
- 6870 (2)~~[(a) Within a secure area of an airport established pursuant to this section, an actor,]~~  
6871 Except as provided in Subsection (4), an actor commits possession of a dangerous  
6872 weapon in an airport secure area if the actor, including an actor [licensed to carry a]  
6873 with a concealed firearm permit issued under [Title 53, Chapter 5, Part 7, Concealed  
6874 Firearm Act, is guilty of] Title 53, Chapter 5a, Part 3, Concealed Firearm Permits:
- 6875 (a) intentionally or knowingly possesses a dangerous weapon within the secure area of  
6876 an airport established under Subsection (5); or
- 6877 (b) recklessly or with criminal negligence possesses a dangerous weapon within the  
6878 secure area of an airport established under Subsection (5).
- 6879 [(i) a class A misdemeanor if the actor knowingly or intentionally possesses a firearm  
6880 or other dangerous weapon;]
- 6881 [(ii) subject to Subsection (5), an infraction if the actor recklessly or with criminal  
6882 negligence possesses a firearm or other dangerous weapon; or]
- 6883 [(iii) a violation of Section 76-10-306 if the actor transports, possesses, distributes, or  
6884 sells an explosive, chemical, or incendiary device.]
- 6885 [(b) Subsection (2)(a) does not apply to:]
- 6886 [(i) individuals exempted under Section 76-10-523; and]
- 6887 [(ii) a member of the state or federal military forces while engaged in the  
6888 performance of the member's official duties.]
- 6889 (3)(a) A violation of Subsection (2)(a) is a class A misdemeanor.
- 6890 (b) Subject to Subsection (6), a violation of Subsection (2)(b) is an infraction.
- 6891 (4) Subsection (2) does not apply to:
- 6892 (a) an individual exempted from certain weapons laws as described in Section 53-5a-108;  
6893 or
- 6894 (b) a member of the state or federal military forces while engaged in the performance of  
6895 the member's official duties.

- 6896     ~~[(3)]~~ (5)(a) An airport authority, county, municipality, or other entity regulating an  
6897     airport may:
- 6898             ~~[(a)]~~ (i) establish a secure area located beyond the main area where the public  
6899             generally buys tickets, checks and retrieves luggage; and
- 6900             ~~[(b)]~~ (ii) use reasonable means, including mechanical, electronic, x-ray, or another  
6901             device, to detect firearms, other dangerous weapons, or explosives concealed in  
6902             baggage or upon the person of an individual attempting to enter the secure area.
- 6903     ~~[(4)]~~ (b) At least one notice shall be prominently displayed at each entrance to a secure  
6904     area in which a firearm, other dangerous weapon, or explosive is restricted.
- 6905     (c) An actor who transports, possesses, distributes, or sells an explosive, chemical, or  
6906     incendiary device within the secure area of an airport commits a violation of Section  
6907     76-10-306.
- 6908     ~~[(5)]~~ (6)(a) An actor who violates Subsection ~~[(2)(a)(ii)]~~ (2)(b) on a first offense may  
6909     receive a written warning for the offense and may not receive a citation or any other  
6910     form of punishment.
- 6911     (b) An actor who violates Subsection ~~[(2)(a)(ii)]~~ (2)(b) on a second or subsequent  
6912     offense may receive a written warning or a citation.
- 6913     ~~[(6)]~~ (7)(a) Except as provided in Subsection ~~[(6)(d)]~~ (7)(d), if a law enforcement officer  
6914     issues a citation to an actor for an infraction as a result of the actor's conduct  
6915     described in Subsection ~~[(2)(a)(ii)]~~ (2)(b), or provides an oral or written warning for  
6916     that conduct, the law enforcement officer shall:
- 6917             (i) if the law enforcement officer is able to confirm that the actor may lawfully  
6918             possess the ~~[firearm or other]~~ dangerous weapon, allow the actor, at the actor's  
6919             option, to:
- 6920                 (A) temporarily surrender custody of the ~~[firearm or other]~~ dangerous weapon into  
6921                 the custody of the law enforcement agency so that the ~~[firearm or other]~~  
6922                 dangerous weapon may be retrieved by the actor at a later date; or
- 6923                 (B) exit the secure area of the airport with the ~~[firearm or other]~~ dangerous  
6924                 weapon; or
- 6925             (ii) if the law enforcement officer is unable to confirm that the actor may lawfully  
6926             possess the ~~[firearm or other]~~ dangerous weapon, or the airport authority under  
6927             Subsection ~~[(6)(d)]~~ (7)(d) prohibits the procedure described in Subsection ~~[(6)(a)(i)]~~  
6928             (7)(a)(i), take temporary custody of the ~~[firearm or other]~~ dangerous weapon so  
6929             that the ~~[firearm or other]~~ dangerous weapon may be retrieved by the actor at a

- 6930 later date if legally permitted to do so.
- 6931 (b) If a law enforcement officer takes temporary custody of a [~~firearm or other~~]
- 6932 dangerous weapon under Subsection [~~(6)(a)~~] (7)(a):
- 6933 (i) at the time the [~~firearm or other~~] dangerous weapon is obtained from the actor, the
- 6934 law enforcement officer, or another law enforcement officer, or an employee who
- 6935 works in the secure area of the airport, shall provide the actor with written
- 6936 instructions on how, when, and where the actor may retrieve the actor's [~~firearm or~~
- 6937 ~~other~~] dangerous weapon; and
- 6938 (ii) within three business days from the time when the law enforcement officer
- 6939 receives the [~~firearm or other~~] dangerous weapon, the law enforcement agency
- 6940 shall determine whether the actor is legally permitted to possess the [~~firearm or~~
- 6941 ~~other~~] dangerous weapon, and if so, ensure that the [~~firearm or other~~] dangerous
- 6942 weapon is available for the actor to retrieve.
- 6943 (c) An unclaimed [~~firearm or other~~] dangerous weapon that is surrendered into the
- 6944 custody of a law enforcement agency under this Subsection [~~(6)~~] (7) may be disposed
- 6945 of pursuant to Section 77-11d-105, disposition of unclaimed property.
- 6946 (d) An airport authority may implement a policy that prohibits the law enforcement
- 6947 agency with jurisdiction over the airport from utilizing the procedure described in
- 6948 Subsection [~~(6)(a)(i)~~] (7)(a)(i).
- 6949 [(7)] (8)(a) An actor's firearm that is confiscated based on a violation of Subsection [
- 6950 ~~(2)(a)(i)~~] (2)(a) shall be returned to the actor in accordance with Subsection
- 6951 77-11a-402(1)(b)[-].
- 6952 (b) In accordance with Subsection 77-11b-102(5), a firearm seized under Subsection [
- 6953 ~~(2)(a)(i)~~] (2)(a) is not subject to forfeiture if the actor may lawfully possess the
- 6954 firearm.
- 6955 (c) In a prosecution brought under this section, a prosecutor may not condition a plea on
- 6956 the forfeiture of a firearm.
- 6957 [(8)] (9) An airport authority, county, municipality, or other entity regulating an airport or
- 6958 with local jurisdiction over an airport may not:
- 6959 (a) charge, cite, or prosecute an actor with a different offense under the Utah Code, local
- 6960 ordinance, or another state or local law or regulation for conduct described in
- 6961 Subsection [~~(2)(a)(ii)~~] (2)(b);
- 6962 (b) assess a civil penalty for conduct described in Subsection [~~(2)(a)(i) or (ii)~~] (2); or
- 6963 (c) enact a regulation, ordinance, or law covering conduct described in Subsection (2).

6964 [(9)] (10) A law enforcement agency that issues a written warning, citation, or referral for  
 6965 prosecution under this section shall record and report the information as required under  
 6966 Section 53-25-103.

6967 Section 114. Section **76-11-219**, which is renumbered from Section 76-10-530 is renumbered  
 6968 and amended to read:

6969 **[76-10-530] 76-11-219 . Trespass with a firearm in a house of worship or a**  
 6970 **private residence.**

6971 (1) Terms defined in Sections 76-1-101.5, 76-11-101, and 76-11-201 apply to this section.

6972 [(1)] (2) ~~[A person, including a person licensed to carry a concealed firearm pursuant to~~  
 6973 ~~Title 53, Chapter 5, Part 7, Concealed Firearm Act,] An actor is guilty of trespass with a~~  
 6974 ~~firearm in a house of worship or a private residence if the actor:~~

6975 (a) ~~[-after notice-]has been given notice as [provided] described in Subsection [(2)] (4)~~  
 6976 ~~that firearms are prohibited[;] in the house or worship or the private residence; and~~

6977 (b) ~~[-may not-]knowingly and intentionally:~~

6978 [(a)] (i) ~~[transport] transports a firearm into[:] the house of worship or private~~  
 6979 ~~residence; or~~

6980 [(i) ~~a house of worship; or]~~

6981 [(ii) ~~a private residence; or]~~

6982 [(b)] (ii) ~~while in possession of a firearm, [enter or remain in:] enters or remains in the~~  
 6983 ~~house of worship or private residence.~~

6984 [(i) ~~a house of worship; or]~~

6985 [(ii) ~~a private residence.]~~

6986 (3) A violation of Subsection (2) is an infraction.

6987 [(2)] (4) Notice that firearms are prohibited may be given by:

6988 (a) personal communication to the actor by:

6989 (i) the church or organization operating the house of worship;

6990 (ii) the owner, lessee, or person with lawful right of possession of the private  
 6991 residence; or

6992 (iii) a person with authority to act for the person or entity in Subsections [(2)(a)(i)]  
 6993 (4)(a)(i) and (ii);

6994 (b) posting of signs reasonably likely to come to the attention of persons entering the  
 6995 house of worship or private residence;

6996 (c) announcement, by a person with authority to act for the church or organization  
 6997 operating the house of worship, in a regular congregational meeting in the house of

- 6998 worship;
- 6999 (d) publication in a bulletin, newsletter, worship program, or similar document generally
- 7000 circulated or available to the members of the congregation regularly meeting in the
- 7001 house of worship; or
- 7002 (e) publication:
- 7003 (i) in a newspaper of general circulation in the county in which the house of worship
- 7004 is located or the church or organization operating the house of worship has its
- 7005 principal office in this state; and
- 7006 (ii) as required in Section 45-1-101.
- 7007 ~~[(3)]~~ (5) A church or organization operating a house of worship and giving notice that
- 7008 firearms are prohibited may:
- 7009 (a) revoke the notice, with or without supersedure, by giving further notice in any
- 7010 manner provided in Subsection ~~[(2)]~~ (4); and
- 7011 (b) provide or allow exceptions to the prohibition as the church or organization
- 7012 considers advisable.
- 7013 ~~[(4)]~~ (6)(a)(i) Within 30 days of giving or revoking any notice pursuant to Subsection [
- 7014 ~~(2)(e)]~~ (4)(c), (d), or (e), a church or organization operating a house of worship
- 7015 shall notify the division on a form and in a manner as the division shall prescribe.
- 7016 (ii) The division shall post on its website a list of the churches and organizations
- 7017 operating houses of worship who have given notice under Subsection ~~[(4)(a)(i)]~~
- 7018 (6)(a)(i).
- 7019 (b) Any notice given pursuant to Subsection ~~[(2)(e)]~~ (4)(c), (d), or (e) shall remain in
- 7020 effect until revoked or for a period of one year from the date the notice was originally
- 7021 given, whichever occurs first.
- 7022 ~~[(5)]~~ (7) ~~[Nothing in this section permits-]~~ This section does not permit an owner who has
- 7023 granted the lawful right of possession to a renter or lessee to restrict the renter or lessee
- 7024 from lawfully possessing a firearm in the residence.
- 7025 ~~[(6) A violation of this section is an infraction.]~~
- 7026 Section 115. Section **76-11-220** is enacted to read:
- 7027 **76-11-220 . Carrying a loaded firearm on a public street by an 18 to 20 year old.**
- 7028 (1) Terms defined in Sections 76-1-101.5, 76-11-101, and 76-11-201 apply to this section.
- 7029 (2) An actor commits carrying a loaded firearm on a public street by an 18 to 20 year old if
- 7030 the actor:
- 7031 (a) is 18 years old or older but younger than 21 years old; and

- 7032 (b) carries a loaded firearm on a public street.
- 7033 (3) A violation of Subsection (2) is a class B misdemeanor.
- 7034 (4) This section does not apply if the actor has a provisional concealed carry permit issued
- 7035 under Section 53-5a-305.

7036 Section 116. Section **76-11-301** is enacted to read:

7037 **Part 3. Persons Restricted Regarding Dangerous Weapons**

7038 **76-11-301 . Definitions.**

7039 As used in this part:

- 7040 (1) "Adjudicated" means a judgment has been entered against a minor for an offense by a
- 7041 juvenile court under Section 80-6-701.
- 7042 (2) "Category I restricted person" means an individual described in Section 76-11-302.
- 7043 (3) "Category II restricted person" means an individual described in Section 76-11-304.
- 7044 (4) "Carry" means for an individual to have an item under the individual's custody or
- 7045 control.
- 7046 (5) "Controlled substance" means the same as that term is defined in Section 58-37-2.
- 7047 (6)(a) "Dating relationship" means a romantic or intimate relationship between
- 7048 individuals.
- 7049 (b) "Dating relationship" does not include a casual acquaintanceship or ordinary
- 7050 fraternization in a business or social context.
- 7051 (7) "Dealer" means a person who is:
- 7052 (a) licensed under 18 U.S.C. Sec. 923; and
- 7053 (b) engaged in the business of selling, leasing, or otherwise transferring a firearm,
- 7054 whether the person is a retail or wholesale dealer, pawnbroker, or other type of
- 7055 merchant or seller.
- 7056 (8) "Domestic violence" means the same as that term is defined in Section 77-36-1.
- 7057 (9) "Intimate partner" means the same as that term is defined in 18 U.S.C. Sec. 921.
- 7058 (10) "Schedule I controlled substance" means a substance listed as a schedule I controlled
- 7059 substance in Section 58-37-4.
- 7060 (11) "Schedule II controlled substance" means a substance listed as a schedule II controlled
- 7061 substance in Section 58-37-4.
- 7062 (12) "Secure care" means the same as that term is defined in Section 80-1-102.
- 7063 (13) "Single criminal episode" means the same as that term is defined in Section 76-1-401.

7064 Section 117. Section **76-11-302** is enacted to read:

7065 **76-11-302 . Category I restricted person established.**



7066 Except as provided in Section 76-11-304, Exceptions, limitations, and exclusions to  
 7067 restricted person categories, an individual is categorized as a category I restricted person and  
 7068 subject to the restrictions and penalties described in Section 76-11-305:

- 7069 (1) if the individual has been convicted of a violent felony;  
 7070 (2) if the individual is on probation or parole for a felony;  
 7071 (3) if the individual is on parole from secure care;  
 7072 (4) for 10 years after the day on which the individual was adjudicated for an offense which  
 7073 if committed by an adult would have been a violent felony;  
 7074 (5) if the individual is an alien who is illegally or unlawfully in the United States; or  
 7075 (6) if the individual is on probation for a conviction of possessing:  
 7076 (a) a substance classified in Section 58-37-4 as a Schedule I or II controlled substance;  
 7077 (b) a controlled substance analog; or  
 7078 (c) a substance listed in Section 58-37-4.2.

7079 Section 118. Section **76-11-303** is enacted to read:

7080 **76-11-303 . Category II restricted person established.**

7081 Except as provided in Section 76-11-304, Exceptions, limitations, and exclusions to  
 7082 restricted person categories, an individual is categorized as a category II restricted person and  
 7083 subject to the restrictions and penalties described in Section 76-11-306:

- 7084 (1) if the individual has been convicted of:  
 7085 (a) a domestic violence offense that is a felony; or  
 7086 (b) multiple felonies that are not part of a single criminal episode;  
 7087 (2) if the individual has:  
 7088 (a) been convicted of:  
 7089 (i) a felony that is not a domestic violence offense or a violent felony; or  
 7090 (ii) multiple felonies that are part of a single criminal episode and are not domestic  
 7091 violence offenses or violent felonies; and  
 7092 (b) within seven years after completing the sentence for the conviction described in  
 7093 Subsection (2)(a), been convicted of, or charged with, another felony or class A  
 7094 misdemeanor;  
 7095 (3) for seven years after the day on which the individual completes a sentence for:  
 7096 (a) a conviction for a felony that is not a domestic violence offense or a violent felony; or  
 7097 (b) convictions for multiple felonies that are part of a single criminal episode and are not  
 7098 domestic violence offenses or violent felonies;  
 7099 (4) for seven years after the day on which the individual was an adjudicated delinquent for

- 7100 an offense which if committed by an adult would have been a felony;
- 7101 (5) if the individual is an unlawful user of a controlled substance;
- 7102 (6) if the individual is in possession of a dangerous weapon while knowingly and
- 7103 intentionally being in unlawful possession of a schedule I controlled substance or a
- 7104 schedule II controlled substance;
- 7105 (7) if the individual has been found not guilty by reason of insanity for a felony offense;
- 7106 (8) if the individual has been found mentally incompetent to stand trial for a felony offense;
- 7107 (9) if the individual has been adjudicated as mentally defective as provided in the Brady
- 7108 Handgun Violence Prevention Act, Pub. L. No. 103-159, 107 Stat. 1536 (1993), or
- 7109 having been committed to a mental institution;
- 7110 (10) if the individual has been dishonorably discharged from the armed forces;
- 7111 (11) if the individual has renounced the individual's citizenship after having been a citizen
- 7112 of the United States;
- 7113 (12) if the individual is a respondent or defendant subject to a protective order or child
- 7114 protective order that:
- 7115 (a) is issued after a hearing for which the individual received actual notice and at which
- 7116 the individual had an opportunity to participate;
- 7117 (b) restrains the individual from harassing, stalking, threatening, or engaging in other
- 7118 conduct that would place an intimate partner, or a child of the intimate partner, in
- 7119 reasonable fear of bodily injury to the intimate partner or child of the intimate
- 7120 partner; and
- 7121 (c)(i) includes a finding that the individual represents a credible threat to the physical
- 7122 safety of an intimate partner or the child of the intimate partner; or
- 7123 (ii) explicitly prohibits the use, attempted use, or threatened use of physical force that
- 7124 would reasonably be expected to cause bodily harm against an intimate partner or
- 7125 the child of an intimate partner; or
- 7126 (13) except as provided in Subsection 76-11-304(2), if the individual has been convicted of
- 7127 the commission or attempted commission of misdemeanor assault under Section
- 7128 76-5-102, or aggravated assault under Section 76-5-103, against a victim:
- 7129 (a) who is a current or former spouse, parent, or guardian of the individual;
- 7130 (b) with whom the individual shares a child in common;
- 7131 (c) who is cohabitating or has cohabitated with the individual as a spouse, parent, or
- 7132 guardian;
- 7133 (d) involved in a dating relationship with the individual within the last five years; or

7134 (e) similarly situated to a spouse, parent, or guardian of the individual.

7135 Section 119. Section **76-11-304** is enacted to read:

7136 **76-11-304 . Exceptions, limitations, and exclusions to restricted person categories**

7137 **-- Burden on defendant to prove exception.**

7138 (1)(a) Subject to Subsection (1)(c), an individual convicted of a felony, or adjudicated  
7139 for an offense which would be a felony if committed by an adult, is not a category I  
7140 restricted person, or a category II restricted person, if:

7141 (i) the felony or adjudication has, in accordance with the law of the jurisdiction in  
7142 which the conviction or adjudication occurred, been:

7143 (A) expunged;

7144 (B) set aside;

7145 (C) reduced to a misdemeanor by court order; or

7146 (D) pardoned;

7147 (ii) the individual has had the individual's civil rights that had been limited by the  
7148 conviction or adjudication restored in accordance with the law of the jurisdiction  
7149 in which the conviction or adjudication occurred; or

7150 (iii) the felony or adjudication is an offense pertaining to antitrust violations, unfair  
7151 trade practices, restraint of trade, or other similar offenses relating to the  
7152 regulation of business practices not involving theft or fraud.

7153 (b) Subject to Subsection (1)(c), an individual convicted of a misdemeanor assault under  
7154 Subsection 76-11-303(13) that qualifies to make the individual a category II  
7155 restricted person is otherwise not a category II restricted person, if, in accordance  
7156 with the law of the jurisdiction in which the conviction occurred:

7157 (i) the misdemeanor has been:

7158 (A) expunged;

7159 (B) set aside;

7160 (C) reduced to an infraction by court order; or

7161 (D) pardoned; or

7162 (ii) the individual has had the individual's civil rights that had been limited by the  
7163 conviction restored.

7164 (c) An individual who has received a pardon, reduction, expungement, setting aside, or  
7165 restoration of civil rights as described in Subsection (1)(a) or (b) remains a category I  
7166 or category II restricted person that corresponds with the individual's conviction if the  
7167 pardon, reduction, expungement, setting aside, or restoration of civil rights expressly

- 7168 provides that the person may not ship, transport, possess, or receive firearms.
- 7169 (2) An individual is not a category II restricted person resulting from a conviction for a
- 7170 misdemeanor assault committed against an individual involved in a dating relationship
- 7171 as described in Subsection 76-11-303(13)(d) if:
- 7172 (a) five years have elapsed from the later of:
- 7173 (i) the day on which the conviction is entered;
- 7174 (ii) the day on which the individual is released from incarceration following the
- 7175 conviction; or
- 7176 (iii) the day on which the individual's probation for the conviction is successfully
- 7177 terminated;
- 7178 (b) the individual only has a single conviction for misdemeanor assault as described in
- 7179 Subsection 76-11-303(12)(d); and
- 7180 (c) the individual is not otherwise a category I restricted person or a category II
- 7181 restricted person.
- 7182 (3)(a) In a criminal case brought against the defendant in which the question of whether
- 7183 the defendant meets an exception, limitation, or exclusion under this section arises
- 7184 and therefore makes the defendant not a category I or category II restricted person,
- 7185 the defendant has the burden to provide evidence that an exception, limitation, or
- 7186 exclusion described in Subsection (1) or (2) applies.
- 7187 (b) If the defendant satisfies the defendant's burden to provide evidence described in
- 7188 Subsection (3)(a), the burden shifts to the state to prove beyond a reasonable doubt
- 7189 that the defendant's conviction or adjudication is not subject to an exception,
- 7190 limitation, or exclusion described in Subsection (1) or (2).
- 7191 Section 120. Section **76-11-305** is enacted to read:
- 7192 **76-11-305 . Category I restricted person participating in prohibited dangerous**
- 7193 **weapon conduct.**
- 7194 (1) Terms defined in Sections 76-1-101.5, 76-11-101, and 76-11-301 apply to this section.
- 7195 (2) An actor commits category I restricted person participating in prohibited dangerous
- 7196 weapon conduct if the actor:
- 7197 (a) is a category I restricted person; and
- 7198 (b) intentionally or knowingly:
- 7199 (i) agrees, consents, offers, or arranges to:
- 7200 (A) purchase a dangerous weapon;
- 7201 (B) transfer a dangerous weapon;

- 7202                   (C) use a dangerous weapon; or
- 7203                   (D) carry or otherwise possess a dangerous weapon; or
- 7204                   (ii) purchases, transfers, uses, carries, or otherwise possesses a dangerous weapon.
- 7205           (3)(a) A violation of Subsection (2) is a third degree felony if the dangerous weapon is  
7206                   not a firearm.
- 7207                   (b) A violation of Subsection (2) is a second degree felony if the dangerous weapon is a  
7208                   firearm.
- 7209           (4) For purposes of this section, using a dangerous weapon includes using an antique  
7210                   firearm for an activity regulated under Title 23A, Wildlife Resources Act.
- 7211           (5) It is an affirmative defense to a prosecution for transferring a dangerous weapon by an  
7212                   actor under Subsection (2) that the dangerous weapon:
- 7213                   (a) was possessed by the actor or was under the actor's custody or control before the  
7214                   actor became a restricted person;
- 7215                   (b) was not used in or possessed during the commission of a crime or subject to  
7216                   disposition under Title 77, Chapter 11a, Part 4, Disposal of Seized Property and  
7217                   Contraband;
- 7218                   (c) is not being held as evidence by a court or law enforcement agency;
- 7219                   (d) was transferred to an individual not legally prohibited from possessing the weapon;  
7220                   and
- 7221                   (e) unless a different time is ordered by the court, was transferred within 10 days after  
7222                   the day on which the actor became a restricted person.
- 7223           (6)(a) It is not a violation of this section for an actor who is a category I restricted person  
7224                   to own, carry, or otherwise possess, archery equipment, including crossbows, for the  
7225                   purpose of lawful hunting and lawful target shooting.
- 7226                   (b) Notwithstanding Subsection (6)(a), this section applies if the owning, carrying, or  
7227                   otherwise possessing archery equipment, including crossbows, is prohibited by:
- 7228                   (i) a court, as a condition of pre-trial release or probation; or
- 7229                   (ii) the Board of Pardons and Parole, as a condition of parole.
- 7230                   Section 121. Section **76-11-306** is enacted to read:
- 7231                   **76-11-306 . Category II restricted person participating in prohibited dangerous**  
7232                   **weapon conduct.**
- 7233                   (1) Terms defined in Sections 76-1-101.5, 76-11-101, and 76-11-301 apply to this section.
- 7234                   (2) An actor commits category II restricted person participating in prohibited dangerous  
7235                   weapon conduct if the actor:

- 7236 (a) is a category II restricted person; and  
7237 (b) intentionally or knowingly:  
7238 (i) purchases a dangerous weapon;  
7239 (ii) transfers a dangerous weapon;  
7240 (iii) uses a dangerous weapon; or  
7241 (iv) carries or otherwise possesses a dangerous weapon.
- 7242 (3)(a) A violation of Subsection (2) is a class A misdemeanor if the dangerous weapon is  
7243 not a firearm.
- 7244 (b) A violation of Subsection (2) is a third degree felony if the dangerous weapon is a  
7245 firearm.
- 7246 (4) For purposes of this section using a dangerous weapon includes using an antique  
7247 firearm for an activity regulated under Title 23A, Wildlife Resources Act.
- 7248 (5) It is an affirmative defense to:
- 7249 (a) a prosecution under this section that is based on proving that an actor is a category II  
7250 restricted person as a result of being in possession of a dangerous weapon while  
7251 knowingly and intentionally being in unlawful possession of a schedule I controlled  
7252 substance or a schedule II controlled substance as described in Subsection  
7253 76-11-303(6) that the actor was:
- 7254 (i) in possession of the controlled substance pursuant to a lawful order of a  
7255 practitioner for use of a member of the person's household or for administration to  
7256 an animal owned by the person or a member of the person's household; or  
7257 (ii) otherwise authorized by law to possess the controlled substance; and
- 7258 (b) a prosecution for transferring a dangerous weapon by an actor under Subsection (2)  
7259 that the dangerous weapon:
- 7260 (i) was possessed by the actor or was under the actor's custody or control before the  
7261 actor became a restricted person;
- 7262 (ii) was not used in or possessed during the commission of a crime or subject to  
7263 disposition under Title 77, Chapter 11a, Part 4, Disposal of Seized Property and  
7264 Contraband;
- 7265 (iii) is not being held as evidence by a court or law enforcement agency;  
7266 (iv) was transferred to an individual not legally prohibited from possessing the  
7267 weapon; and
- 7268 (v) unless a different time is ordered by the court, was transferred within 10 days  
7269 after the day on which the actor became a restricted person.

- 7270 (6)(a) It is not a violation of this section for an actor who is a category II restricted  
 7271 person to own, carry, or otherwise possess, archery equipment, including crossbows,  
 7272 for the purpose of lawful hunting and lawful target shooting.
- 7273 (b) Notwithstanding Subsection (6)(a), this section applies if the owning, carrying, or  
 7274 otherwise possessing of archery equipment, including crossbows, is prohibited by:  
 7275 (i) a court, as a condition of pre-trial release or probation; or  
 7276 (ii) the Board of Pardons and Parole, as a condition of parole.
- 7277 Section 122. Section **76-11-307** is enacted to read:
- 7278 **76-11-307 . Selling a dangerous weapon to a category I restricted person.**
- 7279 (1) Terms defined in Sections 76-1-101.5, 76-11-101, and 76-11-301 apply to this section.
- 7280 (2) An actor commits selling a dangerous weapon to a category I restricted person if the  
 7281 actor:
- 7282 (a) sells, transfers, or otherwise provides a dangerous weapon to an individual who is a  
 7283 category I restricted person; and
- 7284 (b) knows the individual that the actor has sold, transferred, or provided the dangerous  
 7285 weapon to is a category I restricted person.
- 7286 (3)(a) A violation of Subsection (2) is a second degree felony if the dangerous weapon  
 7287 sold, transferred, or provided is a firearm.
- 7288 (b) A violation of Subsection (2) is a third degree felony if the dangerous weapon sold,  
 7289 transferred, or provided is not a firearm and the actor knew that the recipient intended  
 7290 to use the dangerous weapon for an unlawful purpose.
- 7291 Section 123. Section **76-11-308** is enacted to read:
- 7292 **76-11-308 . Selling a dangerous weapon to a category II restricted person.**
- 7293 (1) Terms defined in Sections 76-1-101.5, 76-11-101, and 76-11-301 apply to this section.
- 7294 (2) An actor commits selling a dangerous weapon to a category II restricted person if the  
 7295 actor:
- 7296 (a) sells, transfers, or otherwise provides a dangerous weapon to an individual who is a  
 7297 category II restricted person; and
- 7298 (b) knows the individual that the actor has sold, transferred, or provided the dangerous  
 7299 weapon to is a category II restricted person.
- 7300 (3)(a) A violation of Subsection (2) is a third degree felony if the dangerous weapon  
 7301 sold, transferred, or provided is a firearm.
- 7302 (b) A violation of Subsection (2) is a class A misdemeanor if the dangerous weapon  
 7303 sold, transferred, or provided is not a firearm and the actor knew that the recipient

7304 intended to use the dangerous weapon for an unlawful purpose.

7305 Section 124. Section **76-11-309**, which is renumbered from Section 76-10-503.1 is renumbered  
7306 and amended to read:

7307 **[76-10-503.1] 76-11-309 . Firearm restriction notification requirement for**  
7308 **restricted persons.**

7309 (1) As used in this section:

7310 (a) "Peace officer" means an officer described Section 53-13-102.

7311 ~~[(b) "Possess" means actual physical possession, actual or purported ownership, or~~  
7312 ~~exercising control of an item.]~~

7313 ~~[(c)]~~ (b) "Restricted person" means an individual who is restricted from ~~[possessing,]~~  
7314 ~~purchasing, transferring, [or owning]~~ using, or otherwise possessing a firearm under  
7315 Section ~~[76-10-503]~~ 76-11-302 or 76-11-303 or federal law.

7316 (2) A defendant intending to plead guilty or no contest to a criminal charge that will, upon  
7317 conviction, cause the defendant to become a restricted person shall, before entering a  
7318 plea before a court, sign an acknowledgment that states:

7319 (a) the defendant's attorney or the prosecuting attorney has informed the defendant:

7320 (i) that conviction of the charge will classify the defendant as a restricted person;

7321 (ii) that a restricted person may not ~~[possess]~~ purchase, transfer, use, or otherwise  
7322 possess a firearm; and

7323 (iii) of the criminal penalties associated with ~~[possession of]~~ purchasing, transferring,  
7324 using, or otherwise possessing a firearm by a restricted person of the same  
7325 category the defendant will become upon entering a plea for the criminal charge;  
7326 and

7327 (b) the defendant acknowledges and understands that, by pleading guilty or no contest to  
7328 the criminal charge, the defendant:

7329 (i) will be a restricted person;

7330 (ii) upon conviction, shall forfeit possession of each firearm currently ~~[possessed by~~  
7331 ~~the defendant]~~ in the defendant's possession; and

7332 (iii) will be in violation of federal and state law if the defendant purchases, transfers,  
7333 uses, or otherwise possesses a firearm.

7334 (3) The prosecuting attorney or the defendant's attorney shall provide the acknowledgment  
7335 described in Subsection (2) to the court before the defendant's entry of a plea, if the  
7336 defendant pleads guilty or no contest.

7337 (4) A defendant who is convicted by trial of a criminal charge resulting in the defendant



- 7338 becoming a restricted person shall, at the time of sentencing:
- 7339 (a) be verbally informed by the court, prosecuting attorney, or defendant's attorney:
- 7340 (i) that the defendant is a restricted person;
- 7341 (ii) that, as a restricted person, the defendant may not purchase, transfer, use, or
- 7342 otherwise possess a firearm; and
- 7343 (iii) of the criminal penalties associated with [~~possession of~~] purchasing, transferring,
- 7344 using, or otherwise possessing a firearm by a restricted person of the defendant's
- 7345 category; and
- 7346 (b) sign an acknowledgment in the presence of the court attesting that the defendant
- 7347 acknowledges and understands that the defendant:
- 7348 (i) is a restricted person;
- 7349 (ii) shall forfeit possession of each firearm; and
- 7350 (iii) will be in violation of federal and state law if the defendant purchases, transfers,
- 7351 uses, or otherwise possesses a firearm.
- 7352 (5) The prosecuting attorney and the defendant's attorney shall inform the court at the
- 7353 preliminary hearing if a charge filed against the defendant would qualify the defendant
- 7354 as a restricted person if the defendant is convicted of the charge.
- 7355 (6) The failure to inform or obtain a signed acknowledgment from the defendant may not
- 7356 render the plea invalid, form the basis for withdrawal of the plea, or create a basis to
- 7357 challenge a conviction or sentence.
- 7358 (7) An individual who becomes a restricted person as a result of being served with a pretrial
- 7359 protective order in accordance with Section 78B-7-803, a sentencing protective order in
- 7360 accordance with Section 77-36-5, or a continuous protective order in accordance with
- 7361 Section 77-36-5, shall, at the time of service of the protective order:
- 7362 (a) be verbally informed by the court, prosecuting attorney, defendant's attorney, or, if a
- 7363 peace officer is serving the protective order, the peace officer:
- 7364 (i) that the individual is a restricted person;
- 7365 (ii) that, as a restricted person, the individual may not purchase, transfer, use, or
- 7366 otherwise possess a firearm; and
- 7367 (iii) of the criminal penalties associated with [~~possession of~~] purchasing, transferring,
- 7368 using, or otherwise possessing a firearm by a restricted person of the individual's
- 7369 category; and
- 7370 (b) sign, in the presence of the court or, if a peace officer serves the protective order, in
- 7371 the presence of the peace officer, an acknowledgment contained within the protective

- 7372 order document attesting that the individual acknowledges and understands that the  
 7373 individual:
- 7374 (i) is a restricted person;
- 7375 (ii) is required to relinquish possession of each firearm in the individual's possession;
- 7376 (iii) will be in violation of federal and state law if the individual purchases, transfers,  
 7377 uses, or otherwise possesses a firearm; and
- 7378 (iv) may be eligible for an affirmative defense to a state-law prosecution for [  
 7379 ~~possession of~~] transferring a firearm under Section [~~76-10-503~~] 76-11-305 or  
 7380 76-11-306 if the individual lawfully transfers the individual's firearms within 10  
 7381 days [~~of becoming~~] after the day on which the individual became a restricted  
 7382 person.

7383 Section 125. Section **76-11-310**, which is renumbered from Section 76-10-532 is renumbered  
 7384 and amended to read:

7385 **[76-10-532] 76-11-310 . Removal from National Instant Check System database**  
 7386 **for certain category II restricted persons.**

- 7387 (1) [~~A person~~] An individual who is subject to the restrictions in Subsection [  
 7388 ~~76-10-503(1)(b)(vi), (vii), or (viii)]~~ 76-11-303(7), (8), or (9), or 18 U.S.C. 922(d)(4) and  
 7389 (g)(4) based on a commitment, finding, or adjudication that occurred in this state may  
 7390 petition the district court in the county in which the commitment, finding, or  
 7391 adjudication occurred to remove the disability imposed.
- 7392 (2) The petition shall be filed in the district court in the county where the commitment,  
 7393 finding, or adjudication occurred[~~. The petition~~] and shall include:
- 7394 (a) a listing of facilities, with their addresses, where the petitioner has ever received  
 7395 mental health treatment;
- 7396 (b) a release signed by the petitioner to allow the prosecutor or county attorney to obtain  
 7397 the petitioner's mental health records;
- 7398 (c) a verified report of a mental health evaluation conducted by a licensed psychiatrist  
 7399 occurring within 30 days prior to the filing of the petition, which shall include a  
 7400 statement regarding:
- 7401 (i) the nature of the commitment, finding, or adjudication that resulted in the  
 7402 restriction on the petitioner's ability to purchase or possess a dangerous weapon;
- 7403 (ii) the petitioner's previous and current mental health treatment;
- 7404 (iii) the petitioner's previous violent behavior, if any;
- 7405 (iv) the petitioner's current mental health medications and medication management;

- 7406 (v) the length of time the petitioner has been stable;
- 7407 (vi) external factors that may influence the petitioner's stability;
- 7408 (vii) the ability of the petitioner to maintain stability with or without medication; and
- 7409 (viii) whether the petitioner is dangerous to public safety; and
- 7410 (d) a copy of the petitioner's state and federal criminal history record.
- 7411 (3) The petitioner shall serve the petition on the prosecuting entity that prosecuted the case
- 7412 or, if the disability is not based on a criminal case, on the county or district attorney's
- 7413 office having jurisdiction where the petition was filed and the individual who filed the
- 7414 original action which resulted in the disability.
- 7415 (4)(a) The court shall schedule a hearing as soon as practicable~~[-The]~~ in which the
- 7416 petitioner may present evidence and subpoena witnesses to appear at the hearing.~~[-]~~
- 7417 (b) The prosecuting, county attorney, or the individual who filed the original action
- 7418 which resulted in the disability may object to the petition and present evidence in
- 7419 support of the objection.
- 7420 (5) The court shall consider the following evidence:
- 7421 (a) the facts and circumstances that resulted in the commitment, finding, or adjudication;
- 7422 (b) the ~~[person's]~~ petitioner's mental health and criminal history records; and
- 7423 (c) the ~~[person's]~~ petitioner's reputation, including the testimony of character witnesses.
- 7424 (6) The court shall grant the relief if the court finds by clear and convincing evidence that:
- 7425 (a) the ~~[person]~~ petitioner is not a danger to the ~~[person]~~ petitioner or to ~~[others]~~ another
- 7426 individual;
- 7427 (b) the ~~[person]~~ petitioner is not likely to act in a manner dangerous to public safety; and
- 7428 (c) the requested relief would not be contrary to the public interest.
- 7429 (7) The court shall issue an order with its findings and send a copy to the bureau.
- 7430 (8)(a) The bureau, upon receipt of a court order removing ~~[a person's]~~ a petitioner's
- 7431 disability under Subsection ~~[76-10-503(1)(b)(viii),]~~ 76-11-303(9), shall send a copy
- 7432 of the court order to the National Instant Check System requesting removal of the [~~person's]~~
- 7433 petitioner's name from the database.~~[-]~~
- 7434 (b) In addition to the action described in Subsection (8)(a), if the ~~[person]~~ petitioner is
- 7435 listed in a state database utilized by the bureau to determine eligibility for the
- 7436 purchase or possession of a firearm or to obtain a concealed firearm permit under
- 7437 Title 53, Chapter 5a, Part 3, Concealed Firearm Permits, the bureau shall remove the
- 7438 petitioner's name or send a copy of the court's order to the agency responsible for the
- 7439 database for removal of the petitioner's name.

7440 (9) If the court denies the petition, the petitioner may not petition again for relief until at  
7441 least two years after the date of the court's final order.

7442 (10) The petitioner may appeal a denial of the requested relief[~~-The~~] and the review on  
7443 appeal shall be de novo.

7444 Section 126. Section **77-11a-402** is amended to read:

7445 **77-11a-402 . Disposition of seized property and contraband -- Return of seized**  
7446 **property.**

7447 (1)(a) Except as provided in Subsection (1)(b), if a prosecuting attorney determines that  
7448 seized property no longer needs to be retained as evidence under Chapter 11c,  
7449 Retention of Evidence, the prosecuting attorney may:

7450 (i) petition the court to apply the property that is money towards restitution, fines,  
7451 fees, or monetary judgments owed by the owner of the property;

7452 (ii) petition the court for an order transferring ownership of weapons to the agency  
7453 with custody for the agency's use and disposal in accordance with Section  
7454 77-11a-403 if the owner:

7455 (A) is the individual who committed the offense for which the weapon was seized;

7456 or

7457 (B) may not lawfully possess the weapon; or

7458 (iii) notify the agency with custody of the property or contraband that:

7459 (A) the property may be returned to the owner in accordance with Section

7460 77-11a-301 if the owner may lawfully possess the property; or

7461 (B) the contraband may be disposed of or destroyed.

7462 (b) If a prosecuting attorney determines that a firearm seized from an individual as a  
7463 result of an offense committed under Subsection [~~76-10-529(2)(a)(i)~~] 76-11-218(2)(a)  
7464 no longer needs to be retained for court proceedings, the prosecuting attorney shall  
7465 notify the agency with custody of the firearm that the property shall be returned to the  
7466 individual if the individual may lawfully possess the firearm.

7467 (2) Before returning a firearm to an individual, the agency returning the firearm shall  
7468 confirm, through the Bureau of Criminal Identification, that the individual is eligible to  
7469 lawfully possess and receive firearms.

7470 (3)(a) Except as provided in Subsection (3)(b), if the agency is unable to locate the  
7471 owner of the property or the owner is not entitled to lawfully possess the property,  
7472 the agency may:

7473 (i) apply the property to a public interest use;

- 7474 (ii) sell the property at public auction and apply the proceeds of the sale to a public  
7475 interest use; or
- 7476 (iii) destroy the property if the property is unfit for a public interest use or for sale.
- 7477 (b) If the property described in Subsection (3)(a) is a firearm, the agency shall dispose of  
7478 the firearm in accordance with Section 77-11a-403.

- 7479 (4) Before applying the property or the proceeds from the sale of the property to a public  
7480 interest use, the agency shall obtain from the legislative body of the agency's jurisdiction:
- 7481 (a) permission to apply the property or the proceeds to public interest use; and
- 7482 (b) the designation and approval of the public interest use of the property or the proceeds.
- 7483 (5) If a peace officer seizes property that at the time of seizure is held by a pawn or  
7484 secondhand business in the course of the pawn or secondhand business's business, the  
7485 provisions of Section 13-32a-116 shall apply to the disposition of the property.

7486 Section 127. Section **77-11a-403** is amended to read:

7487 **77-11a-403 . Disposition of firearms no longer needed as evidence.**

- 7488 (1) As used in this section:
- 7489 (a) "Confiscated or unclaimed firearm" means a firearm that is subject to disposal by an  
7490 agency under Section [~~53-5c-202~~] 53-5a-503 or 77-11a-402.
- 7491 (b) "Department" means the Department of Public Safety created in Section 53-1-103.
- 7492 (c) "Federally licensed firearms dealer" means a person:
- 7493 (i) licensed as a dealer under 18 U.S.C. Sec. 923; and
- 7494 (ii) engaged in the business of selling firearms.
- 7495 (d) "State-approved dealer" means the federally licensed firearms dealer that contracts  
7496 with the department under Subsection (4).
- 7497 (2) An agency shall dispose of a confiscated or unclaimed firearm by:
- 7498 (a) selling or destroying the confiscated or unclaimed firearm in accordance with  
7499 Subsection (3);
- 7500 (b) giving the confiscated or unclaimed firearm to the state-approved dealer to sell or  
7501 destroy in accordance with Subsection (4) and the agreement between the  
7502 state-approved dealer and the department; or
- 7503 (c) after the agency obtains approval from the legislative body of the agency's  
7504 jurisdiction, transferring the confiscated or unclaimed firearm to the Bureau of  
7505 Forensic Services, created in Section 53-10-401, or another public forensic laboratory  
7506 for testing.
- 7507 (3)(a) An agency that elects to dispose of a confiscated or unclaimed firearm under

- 7508 Subsection (2)(a) shall:
- 7509 (i) sell the confiscated or unclaimed firearm to a federally licensed firearms dealer
- 7510 and apply the proceeds from the sale to a public interest use; or
- 7511 (ii) destroy the firearm, if the agency determines that:
- 7512 (A) the condition of a confiscated or unclaimed firearm makes the firearm unfit
- 7513 for sale; or
- 7514 (B) the confiscated or unclaimed firearm is associated with a notorious crime.
- 7515 (b) Before an agency applies the proceeds of a sale of a confiscated or unclaimed firearm
- 7516 to a public interest use, the agency shall obtain from the legislative body of the
- 7517 agency's jurisdiction:
- 7518 (i) permission to apply the proceeds of the sale to a public interest use; and
- 7519 (ii) the designation and approval of the public interest use to which the agency
- 7520 applies the proceeds.
- 7521 (4)(a)(i) The department shall, in accordance with Title 63G, Chapter 6a, Utah
- 7522 Procurement Code, contract with a federally licensed firearms dealer to sell or
- 7523 destroy all confiscated or unclaimed firearms in the state.
- 7524 (ii) The term of an agreement executed in accordance with this Subsection (4) may
- 7525 not exceed five years.
- 7526 (iii) Nothing in this Subsection (4) prevents the department from contracting with the
- 7527 same federally licensed firearms dealer more than once.
- 7528 (b) An agreement executed in accordance with Subsection (4)(a) shall:
- 7529 (i) address the amount of money that the federally licensed firearms dealer is entitled
- 7530 to retain from the sale of each confiscated or unclaimed firearm as compensation
- 7531 for the federally licensed firearms dealer's performance under the agreement;
- 7532 (ii) require the federally licensed firearms dealer to donate, on behalf of the state, all
- 7533 proceeds from the sale of a confiscated or unclaimed firearm, except the amount
- 7534 described in Subsection (4)(b)(i), to an organization that:
- 7535 (A) is exempt from taxation under Section 501(c)(3), Internal Revenue Code;
- 7536 (B) complies with any applicable licensing or registration requirements in the state;
- 7537 (C) primarily helps the families of law enforcement officers in the state who die in
- 7538 the line of duty;
- 7539 (D) gives financial assistance to the families of law enforcement officers in the
- 7540 state who die in the line of duty; and
- 7541 (E) provides other assistance to children of active law enforcement officers,

- 7542 including scholarships;
- 7543 (iii) state that if the federally licensed firearms dealer determines that the condition of
- 7544 a confiscated or unclaimed firearm makes the firearm unfit for sale, the federally
- 7545 licensed firearms dealer shall destroy the firearm; and
- 7546 (iv) provide a procedure by which the department can ensure that the federally
- 7547 licensed firearms dealer complies with the provisions of the agreement and
- 7548 applicable law.

7549 Section 128. Section **77-11b-102** is amended to read:

7550 **77-11b-102 . Property subject to forfeiture.**

- 7551 (1)(a) Except as provided in Subsection (2), (3), (4), or (5), an agency may seek to
- 7552 forfeit:
- 7553 (i) seized property that was used to facilitate the commission of an offense that is a
- 7554 violation of federal or state law; or
- 7555 (ii) seized proceeds.
- 7556 (b) An agency, or the prosecuting attorney, may not forfeit the seized property of an
- 7557 innocent owner or an interest holder.
- 7558 (2) If seized property is used to facilitate an offense that is a violation of Section 76-10-1204,
- 7559 76-10-1205, 76-10-1206, or 76-10-1222, an agency may not forfeit the property if the
- 7560 forfeiture would constitute a prior restraint on the exercise of an affected party's rights
- 7561 under the First Amendment to the Constitution of the United States or Utah Constitution,
- 7562 Article I, Section 15, or would otherwise unlawfully interfere with the exercise of the
- 7563 party's rights under the First Amendment to the Constitution of the United States or Utah
- 7564 Constitution, Article I, Section 15.
- 7565 (3) If a motor vehicle is used in an offense that is a violation of Section 41-6a-502,
- 7566 41-6a-517, a local ordinance that complies with the requirements of Subsection
- 7567 41-6a-510(1), Subsection 76-5-102.1(2)(b), or Section 76-5-207, an agency may not
- 7568 seek forfeiture of the motor vehicle, unless:
- 7569 (a) the operator of the vehicle has previously been convicted of an offense committed
- 7570 after May 12, 2009, that is:
- 7571 (i) a felony driving under the influence violation under Section 41-6a-502 or
- 7572 Subsection 76-5-102.1(2)(a);
- 7573 (ii) a felony violation under Subsection 76-5-102.1(2)(b);
- 7574 (iii) a violation under Section 76-5-207; or
- 7575 (iv) operating a motor vehicle with any amount of a controlled substance in an

- 7576 individual's body and causing serious bodily injury or death, as codified before  
7577 May 4, 2022, Laws of Utah 2021, Chapter 236, Section 1, Subsection  
7578 58-37-8(2)(g); or
- 7579 (b) the operator of the vehicle was driving on a denied, suspended, revoked, or  
7580 disqualified license and:
- 7581 (i) the denial, suspension, revocation, or disqualification under Subsection (3)(b)(ii)  
7582 was imposed because of a violation under:
- 7583 (A) Section 41-6a-502;  
7584 (B) Section 41-6a-517;  
7585 (C) a local ordinance that complies with the requirements of Subsection  
7586 41-6a-510(1);  
7587 (D) Section 41-6a-520.1;  
7588 (E) operating a motor vehicle with any amount of a controlled substance in an  
7589 individual's body and causing serious bodily injury or death, as codified before  
7590 May 4, 2022, Laws of Utah 2021, Chapter 236, Section 1, Subsection  
7591 58-37-8(2)(g);  
7592 (F) Section 76-5-102.1;  
7593 (G) Section 76-5-207; or  
7594 (H) a criminal prohibition as a result of a plea bargain after having been originally  
7595 charged with violating one or more of the sections or ordinances described in  
7596 Subsections (3)(b)(i)(A) through (G); or
- 7597 (ii) the denial, suspension, revocation, or disqualification described in Subsection  
7598 (3)(b)(i):
- 7599 (A) is an extension imposed under Subsection 53-3-220(2) of a denial, suspension,  
7600 revocation, or disqualification; and  
7601 (B) the original denial, suspension, revocation, or disqualification was imposed  
7602 because of a violation described in Subsection (3)(b)(i).
- 7603 (4) If a peace officer seizes property incident to an arrest solely for possession of a  
7604 controlled substance under Subsection 58-37-8(2)(a)(i) but not Subsection  
7605 58-37-8(2)(b)(i), an agency may not seek to forfeit the property that was seized in  
7606 accordance with the arrest.
- 7607 (5) If a peace officer seizes an individual's firearm as the result of an offense under Section [  
7608 ~~76-10-529~~] 76-11-218, an agency may not seek to forfeit the individual's firearm if the  
7609 individual may lawfully possess the firearm.



7610 Section 129. Section **77-11d-101** is amended to read:

7611 **77-11d-101 . Definitions.**

7612 As used in this chapter:

7613 (1) "Interest holder" means the same as that term is defined in Section 77-11a-101.

7614 (2)(a) "Lost or mislaid property":

7615 (i) means any property that comes into the possession of a peace officer or law  
7616 enforcement agency:

7617 (A) that is not claimed by anyone who is identified as the owner of the property; or

7618 (B) for which no owner or interest holder can be found after a reasonable and  
7619 diligent search;

7620 (ii) includes any property received by a peace officer or law enforcement agency  
7621 from a person claiming to have found the property; and

7622 (iii) does not include property seized by a peace officer in accordance with Chapter  
7623 11a, Seizure of Property and Contraband.

7624 (b) "Lost or mislaid property" includes a firearm or other dangerous weapon received by  
7625 a law enforcement agency at an airport under Subsection [~~76-10-529(6)~~] 76-11-218(7).

7626 (3) "Owner" means the same as that term is defined in Section 77-11a-101.

7627 (4) "Public interest use" means:

7628 (a) use by a governmental agency as determined by the agency's legislative body; or

7629 (b) donation to a nonprofit charity registered with the state.

7630 Section 130. Section **77-11d-105** is amended to read:

7631 **77-11d-105 . Disposition of unclaimed property.**

7632 (1)(a) Except as provided in Subsection (6), if the owner of any lost or mislaid property  
7633 cannot be determined or notified, or if the owner of the property is determined and  
7634 notified, and fails to appear and claim the property after three months of the  
7635 property's receipt by the local law enforcement agency, the agency shall:

7636 (i) publish notice of the intent to dispose of the unclaimed property on Utah's Public  
7637 Legal Notice Website established in Subsection 45-1-101(2)(b);

7638 (ii) post a similar notice on the public website of the political subdivision within  
7639 which the law enforcement agency is located; and

7640 (iii) post a similar notice in a public place designated for notice within the law  
7641 enforcement agency.

7642 (b) The notice shall:

7643 (i) give a general description of the item; and

- 7644 (ii) the date of intended disposition.
- 7645 (c) The agency may not dispose of the lost or mislaid property until at least eight days  
7646 after the date of publication and posting.
- 7647 (2)(a) If no claim is made for the lost or mislaid property within nine days of publication  
7648 and posting, the agency shall notify the person who turned the property over to the  
7649 local law enforcement agency, if it was turned over by a person under Section  
7650 77-11d-103.
- 7651 (b) Except as provided in Subsection (4), if that person has complied with the provisions  
7652 of this chapter, the person may take the lost or mislaid property if the person:  
7653 (i) pays the costs incurred for advertising and storage; and  
7654 (ii) signs a receipt for the item.
- 7655 (3) If the person who found the lost or mislaid property fails to take the property under the  
7656 provisions of this chapter, the agency shall:  
7657 (a) apply the property to a public interest use as provided in Subsection (4);  
7658 (b) sell the property at public auction and apply the proceeds of the sale to a public  
7659 interest use; or  
7660 (c) destroy the property if it is unfit for a public interest use or sale.
- 7661 (4)(a) Before applying the lost or mislaid property to a public interest use, the agency  
7662 having possession of the property shall obtain from the agency's legislative body:  
7663 (i) permission to apply the property to a public interest use; and  
7664 (ii) the designation and approval of the public interest use of the property.
- 7665 (b) If the agency is a private law enforcement agency as defined in Subsection 53-19-102  
7666 (4), the agency may apply the lost or mislaid property to a public interest use as  
7667 provided in Subsection (4)(a) after obtaining the permission, designation, and  
7668 approval of the legislative body of the municipality in which the agency is located.
- 7669 (5) Any person employed by a law enforcement agency who finds property may not claim  
7670 or receive property under this section.
- 7671 (6)(a) If the lost or mislaid property is a firearm or other dangerous weapon received by  
7672 a law enforcement agency under Subsection [~~76-10-529(6)~~] 76-11-218(7), the law  
7673 enforcement agency may dispose of the firearm or other dangerous weapon three  
7674 months after the property's receipt by the law enforcement agency if the owner of the  
7675 firearm or other dangerous weapon, or the owner's agent:  
7676 (i) fails to retrieve the firearm or other dangerous weapon; or  
7677 (ii) is legally prohibited from possessing the firearm or other dangerous weapon.

7678 (b) A law enforcement agency may dispose of a firearm under Subsection (6)(a) by  
7679 following the procedures described in Section 77-11a-403, disposition of firearms no  
7680 longer needed as evidence.

7681 Section 131. Section **77-36-1** is amended to read:

7682 **77-36-1 . Definitions.**

7683 As used in this chapter:

7684 (1) "Cohabitant" means the same as that term is defined in Section 78B-7-102.

7685 (2) "Department" means the Department of Public Safety.

7686 (3) "Divorced" means an individual who has obtained a divorce under Title 81, Chapter 4,  
7687 Part 4, Divorce.

7688 (4)(a) "Domestic violence" or "domestic violence offense" means any criminal offense  
7689 involving violence or physical harm or threat of violence or physical harm, or any  
7690 attempt, conspiracy, or solicitation to commit a criminal offense involving violence  
7691 or physical harm, when committed by one cohabitant against another.

7692 (b) "Domestic violence" or "domestic violence offense" includes the commission of or  
7693 attempt to commit, any of the following offenses by one cohabitant against another:

7694 (i) aggravated assault under Section 76-5-103;

7695 (ii) aggravated cruelty to an animal under Subsection 76-9-301(4), with the intent to  
7696 harass or threaten the other cohabitant;

7697 (iii) assault under Section 76-5-102;

7698 (iv) criminal homicide under Section 76-5-201;

7699 (v) harassment under Section 76-5-106;

7700 (vi) electronic communication harassment under Section 76-9-201;

7701 (vii) kidnapping, child kidnapping, or aggravated kidnapping under Sections 76-5-301,  
7702 76-5-301.1, and 76-5-302;

7703 (viii) mayhem under Section 76-5-105;

7704 (ix) propelling a bodily substance or material, as described in Section 76-5-102.9

7705 (x) sexual offenses under Title 76, Chapter 5, Part 4, Sexual Offenses, and [-]sexual  
7706 exploitation of a minor and aggravated sexual exploitation of a minor, as

7707 described in Sections 76-5b-201 and 76-5b-201.1;

7708 (xi) stalking under Section 76-5-106.5;

7709 (xii) unlawful detention and unlawful detention of a minor under Section 76-5-304;

7710 (xiii) violation of a protective order or ex parte protective order under Section  
7711 76-5-108;

7712 (xiv) an offense against property under Title 76, Chapter 6, Part 1, Property  
7713 Destruction, Title 76, Chapter 6, Part 2, Burglary and Criminal Trespass, or Title  
7714 76, Chapter 6, Part 3, Robbery;

7715 [~~(xv) possession of a deadly weapon with criminal intent under Section 76-10-507;~~]  
7716 [~~(xvi) discharge of a firearm from a vehicle, near a highway, or in the direction of any~~  
7717 ~~person, building, or vehicle under Section 76-10-508;~~]

7718 [(~~xvii~~) (xv) disorderly conduct under Section 76-9-102, if a conviction or  
7719 adjudication of disorderly conduct is the result of a plea agreement in which the  
7720 perpetrator was originally charged with a domestic violence offense otherwise  
7721 described in this Subsection (4), except that a conviction or adjudication of  
7722 disorderly conduct as a domestic violence offense, in the manner described in this  
7723 Subsection [~~(4)(p)~~] (4)(b)(xv), does not constitute a misdemeanor crime of  
7724 domestic violence under 18 U.S.C. Sec. 921, and is exempt from the federal  
7725 Firearms Act, 18 U.S.C. Sec. 921 et seq.;

7726 [(~~xviii~~) (xvi) child abuse under Section 76-5-114;  
7727 [~~(xix) threatening use of a dangerous weapon under Section 76-10-506;~~]  
7728 [(~~xx~~) (xvii) threatening violence under Section 76-5-107;  
7729 [(~~xxi~~) (xviii) tampering with a witness under Section 76-8-508;  
7730 [(~~xxii~~) (xix) retaliation against a witness, victim, or informant under Section  
7731 76-8-508.3;  
7732 [(~~xxiii~~) (xx) receiving or soliciting a bribe as a witness under Section 76-8-508.7;  
7733 [(~~xxiv~~) (xxi) unlawful distribution of an intimate image under Section 76-5b-203;  
7734 [(~~xxv~~) (xxii) unlawful distribution of a counterfeit intimate image under Section  
7735 76-5b-205;  
7736 [(~~xxvi~~) (xxiii) sexual battery under Section 76-9-702.1;  
7737 [(~~xxvii~~) (xxiv) voyeurism under Section 76-9-702.7;  
7738 [(~~xxviii~~) (xxv) damage to or interruption of a communication device under Section  
7739 76-6-108;[~~or~~]  
7740 (xxvi) threatening with or using a dangerous weapon in a fight or quarrel under  
7741 Section 76-11-207;  
7742 (xxvii) possession of a dangerous weapon with criminal intent under Section  
7743 76-11-208;  
7744 (xxviii) improper discharging of a dangerous weapon under Section 76-11-209; or  
7745 (xxix) an offense under Subsection 78B-7-806(1).

- 7746 (5) "Jail release agreement" means the same as that term is defined in Section 78B-7-801.  
 7747 (6) "Jail release court order" means the same as that term is defined in Section 78B-7-801.  
 7748 (7) "Marital status" means married and living together, divorced, separated, or not married.  
 7749 (8) "Married and living together" means a couple whose marriage was solemnized under  
 7750 Section 81-2-305 or 81-2-407 and who are living in the same residence.  
 7751 (9) "Not married" means any living arrangement other than married and living together,  
 7752 divorced, or separated.  
 7753 (10) "Protective order" includes an order issued under Subsection 78B-7-804(3).  
 7754 (11) "Pretrial protective order" means a written order:  
 7755 (a) specifying and limiting the contact a person who has been charged with a domestic  
 7756 violence offense may have with an alleged victim or other specified individuals; and  
 7757 (b) specifying other conditions of release under Section 78B-7-802 or 78B-7-803,  
 7758 pending trial in the criminal case.  
 7759 (12) "Sentencing protective order" means a written order of the court as part of sentencing  
 7760 in a domestic violence case that limits the contact an individual who is convicted or  
 7761 adjudicated of a domestic violence offense may have with a victim or other specified  
 7762 individuals under Section 78B-7-804.  
 7763 (13) "Separated" means a couple who have had their marriage solemnized under Section  
 7764 81-2-305 or 81-2-407 and who are not living in the same residence.  
 7765 (14) "Victim" means a cohabitant who has been subjected to domestic violence.  
 7766 Section 132. Section **77-36-2.1** is amended to read:  
 7767 **77-36-2.1 . Duties of law enforcement officers -- Notice to victims -- Lethality**  
 7768 **assessments.**  
 7769 (1) As used in this section:[}]  
 7770 (a) "Criminal justice system victim advocate" means the same as that term is defined in  
 7771 Section 77-38-403.  
 7772 (b)(i) "Dating relationship" means a social relationship of a romantic or intimate  
 7773 nature, or a relationship which has romance or intimacy as a goal by one or both  
 7774 parties, regardless of whether the relationship involves sexual intimacy.  
 7775 (ii) "Dating relationship" does not include casual fraternization in a business,  
 7776 educational, or social context.  
 7777 (c) "Intimate partner" means an emancipated individual under Section 15-2-1 or an  
 7778 individual who is 16 years old or older who:  
 7779 (i) is or was a spouse of the other party;

- 7780 (ii) is or was living as if a spouse of the other party;
- 7781 (iii) has or had one or more children in common with the other party;
- 7782 (iv) is the biological parent of the other party's unborn child;
- 7783 (v) is or was in a consensual sexual relationship with the other party; or
- 7784 (vi) is or was in a dating relationship with the other party.
- 7785 (d) "Nongovernment organization victim advocate" means the same as that term is
- 7786 defined in Section 77-38-403.
- 7787 (e) "Primary purpose domestic violence organization" means a contract provider of
- 7788 domestic violence services as described in Section 80-2-301.
- 7789 (2) A law enforcement officer who responds to an allegation of domestic violence shall:
- 7790 (a) use all reasonable means to protect the victim and prevent further violence, including:
- 7791 (i) taking the action that, in the officer's discretion, is reasonably necessary to provide
- 7792 for the safety of the victim and any family or household member;
- 7793 (ii) confiscating the weapon or weapons involved in the alleged domestic violence;
- 7794 (iii) making arrangements for the victim and any child to obtain emergency housing
- 7795 or shelter;
- 7796 (iv) providing protection while the victim removes essential personal effects;
- 7797 (v) arrange, facilitate, or provide for the victim and any child to obtain medical
- 7798 treatment;
- 7799 (vi) arrange, facilitate, or provide the victim with immediate and adequate notice of
- 7800 the rights of victims and of the remedies and services available to victims of
- 7801 domestic violence, in accordance with Subsection (3); and
- 7802 (vii) providing the pamphlet created by the department under Section [~~53-5e-201~~
- 7803 53-5a-502 to the victim if the allegation of domestic violence:
- 7804 (A) includes a threat of violence as described in Section 76-5-107;
- 7805 (B) results, or would result, in the owner cohabitant becoming a restricted person
- 7806 under Section [~~76-10-503~~] 76-11-302 or 76-11-303; or
- 7807 (C) is accompanied by a completed lethality assessment that demonstrates the
- 7808 cohabitant is at high risk of being further victimized; and
- 7809 (b) if the allegation of domestic violence is against an intimate partner, complete the
- 7810 lethality assessment protocols described in this section.
- 7811 (3)(a) A law enforcement officer shall give written notice to the victim in simple
- 7812 language, describing the rights and remedies available under this chapter, Title 78B,
- 7813 Chapter 7, Part 6, Cohabitant Abuse Protective Orders, and Title 78B, Chapter 7, Part

- 7814 2, Child Protective Orders.
- 7815 (b) The written notice shall include:
- 7816 (i) a statement that the forms needed in order to obtain an order for protection are
- 7817 available from the court clerk's office in the judicial district where the victim
- 7818 resides or is temporarily domiciled;
- 7819 (ii) a list of shelters, services, and resources available in the appropriate community,
- 7820 together with telephone numbers, to assist the victim in accessing any needed
- 7821 assistance; and
- 7822 (iii) the information required to be provided to both parties in accordance with
- 7823 Subsections 78B-7-802(8) and (9) .
- 7824 (4) If a weapon is confiscated under this section, the law enforcement agency shall return
- 7825 the weapon to the individual from whom the weapon is confiscated if a domestic
- 7826 violence protective order is not issued or once the domestic violence protective order is
- 7827 terminated.
- 7828 (5) A law enforcement officer shall complete a lethality assessment form by asking the
- 7829 victim:
- 7830 (a) if the aggressor has ever used a weapon against the victim or threatened the victim
- 7831 with a weapon;
- 7832 (b) if the aggressor has ever threatened to kill the victim or the victim's children;
- 7833 (c) if the victim believes the aggressor will try to kill the victim;
- 7834 (d) if the aggressor has ever tried to choke the victim;
- 7835 (e) if the aggressor has a gun or could easily get a gun;
- 7836 (f) if the aggressor is violently or constantly jealous, or controls most of the daily
- 7837 activities of the victim;
- 7838 (g) if the victim left or separated from the aggressor after they were living together or
- 7839 married;
- 7840 (h) if the aggressor is unemployed;
- 7841 (i) if the aggressor has ever attempted suicide, to the best of the victim's knowledge;
- 7842 (j) if the victim has a child that the aggressor believes is not the aggressor's biological
- 7843 child;
- 7844 (k) if the aggressor follows or spies on the victim, or leaves threatening messages for the
- 7845 victim; and
- 7846 (l) if there is anything else that worries the victim about the victim's safety and, if so,
- 7847 what worries the victim.

- 7848 (6) A law enforcement officer shall comply with Subsection (7) if:
- 7849 (a) the victim answers affirmatively to any of the questions in Subsections (5)(a) through
- 7850 (d);
- 7851 (b) the victim answers negatively to the questions in Subsections (5)(a) through (d), but
- 7852 affirmatively to at least four of the questions in Subsections (5)(e) through (k); or
- 7853 (c) as a result of the victim's response to the question in Subsection (5)(l), the law
- 7854 enforcement officer believes the victim is in a potentially lethal situation.
- 7855 (7) If the criteria in Subsections (6)(a), (b), or (c) are met, the law enforcement officer shall:
- 7856 (a) advise the victim of the results of the assessment;
- 7857 (b) refer the victim to a nongovernment organization victim advocate at a primary
- 7858 purpose domestic violence organization; and
- 7859 (c) refer the victim to a criminal justice system victim advocate if the responding law
- 7860 enforcement agency has a criminal justice system victim advocate available.
- 7861 (8) If a victim does not or is unable to provide information to a law enforcement officer
- 7862 sufficient to allow the law enforcement officer to complete a lethality assessment form,
- 7863 or does not speak or is unable to speak with a nongovernment organization victim
- 7864 advocate, the law enforcement officer shall document this information on the lethality
- 7865 assessment form and submit the information to the Department of Public Safety under
- 7866 Subsection (9).
- 7867 (9)(a) Except as provided in Subsection (9)(b), a law enforcement officer shall submit
- 7868 the results of a lethality assessment to the Department of Public Safety while on
- 7869 scene.
- 7870 (b) If a law enforcement officer is not reasonably able to submit the results of a lethality
- 7871 assessment while on scene, the law enforcement officer shall submit the results of the
- 7872 lethality assessment to the Department of Public Safety as soon as practicable.
- 7873 (c)(i) Before the reporting mechanism described in Subsection (10)(a) is developed, a
- 7874 law enforcement officer shall submit the results of a lethality assessment to the
- 7875 Department of Public Safety using means prescribed by the Department of Public
- 7876 Safety.
- 7877 (ii) After the reporting mechanism described in Subsection (10)(a) is developed, a
- 7878 law enforcement officer shall submit the results of a lethality assessment to the
- 7879 Department of Public Safety using that reporting mechanism.
- 7880 (10) The Department of Public Safety shall:
- 7881 (a) as soon as practicable, develop and maintain a reporting mechanism by which a law



7882 enforcement officer will submit the results of a lethality assessment as required by  
7883 Subsection (9);

7884 (b) provide prompt analytical support to a law enforcement officer who submits the  
7885 results of a lethality assessment using the reporting mechanism described in  
7886 Subsection (10)(a); and

7887 (c) create and maintain a database of lethality assessment data provided under this  
7888 section.

7889 (11)(a) Subject to Subsection (11)(b), a law enforcement officer shall include the results  
7890 of a lethality assessment and any related, relevant analysis provided by the  
7891 Department of Public Safety under Subsection (10), with:

7892 (i) a probable cause statement submitted in accordance with Rule 9 of the Utah Rules  
7893 of Criminal Procedure; and

7894 (ii) an incident report prepared in accordance with Section 77-36-2.2.

7895 (b) In a probable cause statement or incident report, a law enforcement officer may not  
7896 include information about how or where a victim was referred under Subsection  
7897 (7)(b).

7898 Section 133. Section **77-40a-205** is amended to read:

7899 **77-40a-205 . Automatic expungement of state records for a clean slate case.**

7900 (1) A court shall issue an order of expungement, without the filing of a petition, for all  
7901 records of the case that are held by the court and the bureau if:

7902 (a) on and after October 1, 2024, but before January 1, 2026, the individual submitted a  
7903 form requesting expungement of a case as described in Section 77-40a-204;

7904 (b) the case is eligible for expungement under this section; and

7905 (c) the prosecuting agency does not object to the expungement of the case as described  
7906 in Subsection (6).

7907 (2) Except as otherwise provided in Subsection (3), a case is eligible for expungement  
7908 under this section if:

7909 (a)(i) each conviction within the case is a conviction for:

7910 (A) a misdemeanor offense for possession of a controlled substance in violation of  
7911 Subsection 58-37-8(2)(a)(i);

7912 (B) a class B misdemeanor offense;

7913 (C) a class C misdemeanor offense; or

7914 (D) an infraction; and

7915 (ii) the following time periods have passed after the day on which the individual is

- 7916 adjudicated:
- 7917 (A) at least five years for the conviction of a class C misdemeanor offense or an
- 7918 infraction;
- 7919 (B) at least six years for the conviction of a class B misdemeanor offense; or
- 7920 (C) at least seven years for the conviction of a class A misdemeanor offense for
- 7921 possession of a controlled substance in violation of Subsection 58-37-8
- 7922 (2)(a)(i); or
- 7923 (b)(i) the case is dismissed as a result of a successful completion of a plea in
- 7924 abeyance agreement governed by Subsection 77-2a-3(2)(b) or the case is
- 7925 dismissed without prejudice;
- 7926 (ii) each charge within the case is:
- 7927 (A) a misdemeanor offense for possession of a controlled substance in violation of
- 7928 Subsection 58-37-8(2)(a)(i);
- 7929 (B) a class B misdemeanor offense;
- 7930 (C) a class C misdemeanor offense; or
- 7931 (D) an infraction; and
- 7932 (iii) the following time periods have passed after the day on which the case is
- 7933 dismissed:
- 7934 (A) at least five years for a charge in the case for a class C misdemeanor offense
- 7935 or an infraction;
- 7936 (B) at least six years for a charge in the case for a class B misdemeanor offense; or
- 7937 (C) at least seven years for a charge in the case for a class A misdemeanor offense
- 7938 for possession of a controlled substance in violation of Subsection 58-37-8
- 7939 (2)(a)(i).
- 7940 (3) A case is not eligible for expungement under this section if:
- 7941 (a) the individual has a total number of convictions in courts of this state that exceed the
- 7942 limits under Subsection 77-40a-303(4) or (5) without taking into consideration:
- 7943 (i) the exception in Subsection 77-40a-303(7); or
- 7944 (ii) any infraction, traffic offense, or minor regulatory offense;
- 7945 (b) there is a criminal proceeding for a misdemeanor or felony offense pending in a
- 7946 court of this state against the individual, unless the proceeding is for a traffic offense;
- 7947 (c) for an individual seeking an automatic expungement on and after January 1, 2025,
- 7948 the individual is incarcerated in the state prison or on probation or parole that is
- 7949 supervised by the Department of Corrections;

- 7950 (d) the case resulted in the individual being found not guilty by reason of insanity;
- 7951 (e) the case establishes a criminal accounts receivable that:
- 7952 (i) has been entered as a civil accounts receivable or a civil judgment of restitution
- 7953 and transferred to the Office of State Debt Collection under Section 77-18-114; or
- 7954 (ii) has not been satisfied according to court records; or
- 7955 (f) the case resulted in a plea held in abeyance or a conviction for the following offenses:
- 7956 (i) any of the offenses listed in Subsection 77-40a-303(2)(a);
- 7957 (ii) an offense against the person in violation of Title 76, Chapter 5, Offenses Against
- 7958 the Individual;
- 7959 (iii) a weapons offense in violation of [~~Title 76, Chapter 10, Part 5, Weapons~~] Title
- 7960 76, Chapter 11, Weapons;
- 7961 (iv) sexual battery in violation of Section 76-9-702.1;
- 7962 (v) an act of lewdness in violation of Section 76-9-702 or 76-9-702.5;
- 7963 (vi) an offense in violation of Title 41, Chapter 6a, Part 5, Driving Under the
- 7964 Influence and Reckless Driving;
- 7965 (vii) damage to or interruption of a communication device in violation of Section
- 7966 76-6-108;
- 7967 (viii) a domestic violence offense as defined in Section 77-36-1; or
- 7968 (ix) any other offense classified in the Utah Code as a felony or a class A
- 7969 misdemeanor other than a class A misdemeanor conviction for possession of a
- 7970 controlled substance in violation of Subsection 58-37-8(2)(a)(i).
- 7971 (4) A prosecuting agency that has complied with Rule 42 of the Utah Rules of Criminal
- 7972 Procedure shall receive notice on a monthly basis for any case prosecuted by that agency
- 7973 that appears to be eligible for automatic expungement under this section.
- 7974 (5) Within 35 days after the day on which the notice described in Subsection (4) is sent, the
- 7975 prosecuting agency shall provide written notice in accordance with Rule 42 of the Utah
- 7976 Rules of Criminal Procedure if the prosecuting agency objects to an automatic
- 7977 expungement for any of the following reasons:
- 7978 (a) the prosecuting agency believes that the case is not eligible for expungement under
- 7979 this section after reviewing the agency record;
- 7980 (b) the individual has not paid restitution to the victim as ordered by the court; or
- 7981 (c) the prosecuting agency has a reasonable belief, grounded in supporting facts, that an
- 7982 individual involved in the case is continuing to engage in criminal activity within or
- 7983 outside of the state.

- 7984 (6) If a prosecuting agency provides written notice of an objection for a reason described in  
7985 Subsection (5) within 35 days after the day on which the notice under Subsection (4) is  
7986 sent, the court may not proceed with automatic expungement of the case.
- 7987 (7) If 35 days pass after the day on which the notice described in Subsection (4) is sent  
7988 without the prosecuting agency providing written notice of an objection under  
7989 Subsection (5), the court shall proceed with automatic expungement of the case.
- 7990 (8) If a court issues an order of expungement under Subsection (1), the court shall:  
7991 (a) expunge all records of the case held by the court in accordance with Section  
7992 77-40a-401; and  
7993 (b) notify the bureau and the prosecuting agency identified in the case, based on  
7994 information available to the court, of the order of expungement.
- 7995 Section 134. Section **77-40a-403** is amended to read:  
7996 **77-40a-403 . Release and use of expunged records -- Agencies.**
- 7997 (1)(a) An agency with an expunged record, or any employee of an agency with an  
7998 expunged record, may not knowingly or intentionally divulge any information  
7999 contained in the expunged record to any person, or another agency, without a court  
8000 order unless:  
8001 (i) specifically authorized by Subsection (4) or Section 77-40a-404; or  
8002 (ii) subject to Subsection (1)(b), the information in an expunged record is being  
8003 shared with another agency through a records management system that both  
8004 agencies use for the purpose of record management.
- 8005 (b) An agency with a records management system may not disclose any information in  
8006 an expunged record to another agency or person, or allow another agency or person  
8007 access to an expunged record, if that agency or person does not use the records  
8008 management system for the purpose of record management.
- 8009 (2) The following entities or agencies may receive information contained in expunged  
8010 records upon specific request:  
8011 (a) the Board of Pardons and Parole;  
8012 (b) Peace Officer Standards and Training;  
8013 (c) federal authorities if required by federal law;  
8014 (d) the State Board of Education;  
8015 (e) the Commission on Criminal and Juvenile Justice, for purposes of investigating  
8016 applicants for judicial office; and  
8017 (f) a research institution or an agency engaged in research regarding the criminal justice

- 8018 system if:
- 8019 (i) the research institution or agency provides a legitimate research purpose for
- 8020 gathering information from the expunged records;
- 8021 (ii) the research institution or agency enters into a data sharing agreement with the
- 8022 court or agency with custody of the expunged records that protects the
- 8023 confidentiality of any identifying information in the expunged records;
- 8024 (iii) any research using expunged records does not include any individual's name or
- 8025 identifying information in any product of that research; and
- 8026 (iv) any product resulting from research using expunged records includes a disclosure
- 8027 that expunged records were used for research purposes.
- 8028 (3) Except as otherwise provided by this section or by court order, a person, an agency, or
- 8029 an entity authorized by this section to view expunged records may not reveal or release
- 8030 any information obtained from the expunged records to anyone outside the specific
- 8031 request, including distribution on a public website.
- 8032 (4) A prosecuting attorney may communicate with another prosecuting attorney, or another
- 8033 prosecutorial agency, regarding information in an expunged record that includes a
- 8034 conviction, or a charge dismissed as a result of a successful completion of a plea in
- 8035 abeyance agreement, for:
- 8036 (a) stalking as described in Section 76-5-106.5;
- 8037 (b) a domestic violence offense as defined in Section 77-36-1;
- 8038 (c) an offense that would require the individual to register as a sex offender, kidnap
- 8039 offender, or child abuse offender as defined in Section 77-41-102; or
- 8040 (d) a weapons offense under [~~Title 76, Chapter 10, Part 5, Weapons~~] Title 76, Chapter
- 8041 11, Weapons.
- 8042 (5) Except as provided in Subsection (7), a prosecuting attorney may not use an expunged
- 8043 record for the purpose of a sentencing enhancement or as a basis for charging an
- 8044 individual with an offense that requires a prior conviction.
- 8045 (6) The bureau may also use the information in the bureau's index as provided in Section [~~53-5-704~~] 53-5a-303.
- 8046
- 8047 (7) If an individual is charged with a felony, or an offense eligible for enhancement based
- 8048 on a prior conviction, after obtaining an order of expungement, the prosecuting attorney
- 8049 may petition the court in which the individual is charged to open the expunged records
- 8050 upon a showing of good cause.
- 8051 (8)(a) For judicial sentencing, a court may order any records expunged under this

- 8052 chapter or Section 77-27-5.1 to be opened and admitted into evidence.
- 8053 (b) The records are confidential and are available for inspection only by the court,  
8054 parties, counsel for the parties, and any other person who is authorized by the court to  
8055 inspect them.
- 8056 (c) At the end of the action or proceeding, the court shall order the records expunged  
8057 again.
- 8058 (d) Any person authorized by this Subsection (8) to view expunged records may not  
8059 reveal or release any information obtained from the expunged records to anyone  
8060 outside the court.
- 8061 (9) Records released under this chapter are classified as protected under Section 63G-2-305  
8062 and are accessible only as provided under Title 63G, Chapter 2, Part 2, Access to  
8063 Records, and Subsection 53-10-108(2)(k) for records held by the bureau.  
8064 Section 135. Section **78A-6-209** is amended to read:  
8065 **78A-6-209 . Court records -- Inspection.**
- 8066 (1) The juvenile court and the juvenile court's probation department shall keep records as  
8067 required by the board and the presiding judge.
- 8068 (2) A court record shall be open to inspection by:
- 8069 (a) the parents or guardian of a child, a minor who is at least 18 years old, other parties  
8070 in the case, the attorneys, and agencies to which custody of a minor has been  
8071 transferred;
- 8072 (b) for information relating to adult offenders alleged to have committed a sexual  
8073 offense, a felony or class A misdemeanor drug offense, or an offense against the  
8074 person under Title 76, Chapter 5, Offenses Against the Individual, the State Board of  
8075 Education for the purpose of evaluating whether an individual should be permitted to  
8076 obtain or retain a license as an educator or serve as an employee or volunteer in a  
8077 school, with the understanding that the State Board of Education must provide the  
8078 individual with an opportunity to respond to any information gathered from the State  
8079 Board of Education's inspection of the records before the State Board of Education  
8080 makes a decision concerning licensure or employment;
- 8081 (c) the Criminal Investigations and Technical Services Division, established in Section  
8082 53-10-103, for the purpose of a criminal history background check for the purchase  
8083 of a firearm and establishing good character for issuance of a concealed firearm  
8084 permit as provided in Section [53-5-704] 53-5a-303;
- 8085 (d) the Division of Child and Family Services for the purpose of Child Protective

- 8086 Services Investigations in accordance with Sections 80-2-602 and 80-2-701 and  
8087 administrative hearings in accordance with Section 80-2-707;
- 8088 (e) the Division of Licensing and Background Checks for the purpose of conducting a  
8089 background check in accordance with Section 26B-2-120;
- 8090 (f) for information related to a minor who has committed a sexual offense, a felony, or  
8091 an offense that if committed by an adult would be a misdemeanor, the Department of  
8092 Health and Human Services for the purpose of evaluating under the provisions of  
8093 Subsection 26B-2-406(3) whether a person should be permitted to operate a  
8094 residential child care without a license or a certificate or to obtain or retain a license  
8095 to provide child care, with the understanding that the department must provide the  
8096 individual who committed the offense with an opportunity to respond to any  
8097 information gathered from the Department of Health and Human Services' inspection  
8098 of records before the Department of Health and Human Services makes a decision  
8099 concerning licensure;
- 8100 (g) for information related to a minor who has committed a sexual offense, a felony, or  
8101 an offense that if committed by an adult would be a misdemeanor, the Department of  
8102 Health and Human Services to determine whether an individual meets the  
8103 background screening requirements of Sections 26B-2-238 through 26B-2-241, with  
8104 the understanding that the department must provide the individual who committed the  
8105 offense an opportunity to respond to any information gathered from the Department  
8106 of Health and Human Services' inspection of records before the Department of Health  
8107 and Human Services makes a decision under that part; and
- 8108 (h) for information related to a minor who has committed a sexual offense, a felony, or  
8109 an offense that if committed by an adult would be a misdemeanor, the Bureau of  
8110 Emergency Medical Services to determine whether to grant, deny, or revoke  
8111 background clearance under Section 53-2d-410 for an individual who is seeking or  
8112 who has obtained an emergency medical service personnel license under Section  
8113 53-2d-402, with the understanding that the Bureau of Emergency Medical Services  
8114 must provide the individual who committed the offense an opportunity to respond to  
8115 any information gathered from the inspection of records before the Bureau of  
8116 Emergency Medical Services makes a determination.
- 8117 (3) With the consent of the juvenile court, a court record may be inspected by the child, by  
8118 persons having a legitimate interest in the proceedings, and by persons conducting  
8119 pertinent research studies.

8120 (4)(a) Except as provided in Subsection (4)(b), if a petition is filed charging a minor who  
8121 is 14 years old or older with an offense that would be a felony if committed by an  
8122 adult, the juvenile court shall make available to any person upon request the petition,  
8123 any adjudication or disposition orders, and the delinquency history summary for the  
8124 minor.

8125 (b) A juvenile court may close the records described in Subsection (4)(a) to the public if  
8126 the juvenile court finds, on the record, that the records are closed for good cause.

8127 (5) A juvenile probation officer's records and reports of social and clinical studies are not  
8128 open to inspection, except by consent of the juvenile court, given under rules adopted by  
8129 the board.

8130 (6) The juvenile court may charge a reasonable fee to cover the costs associated with  
8131 retrieving a requested record that has been archived.

8132 Section 136. Section **78B-4-511** is amended to read:

8133 **78B-4-511 . Regulation of firearms reserved to state -- Lawsuits prohibited.**

8134 (1) As prescribed by Section [~~76-10-500~~] 53-5a-102, all authority to regulate firearms is  
8135 reserved to the state through the Legislature.

8136 (2) A person who lawfully designs, manufactures, markets, advertises, transports, or sells  
8137 firearms or ammunition to the public may not be sued by the state or any of its political  
8138 subdivisions for the subsequent use, whether lawfully or unlawfully, of the firearm or  
8139 ammunition, unless the suit is based on the breach of a contract or warranty for a firearm  
8140 or ammunition purchased by the state or political subdivision.

8141 Section 137. Section **78B-5-502** is amended to read:

8142 **78B-5-502 . Definitions.**

8143 As used in this part:

8144 (1) "Civil accounts receivable" means the same as that term is defined in Section  
8145 77-32b-102.

8146 (2) "Civil judgment of restitution" means the same as that term is defined in Section  
8147 77-32b-102.

8148 (3) "Curio or relic firearm" means a firearm that:

8149 (a) is of special interest to a collector because of a quality that is not associated with  
8150 firearms intended for:

8151 (i) sporting use;

8152 (ii) use as an offensive weapon; or

8153 (iii) use as a defensive weapon;



- 8154 (b)(i) was manufactured at least 50 years before the current date; and  
 8155 (ii) is not a replica of a firearm described in Subsection (3)(b)(i);  
 8156 (c) is certified by the curator of a municipal, state, or federal museum that exhibits  
 8157 firearms to be a curio or relic of museum interest;  
 8158 (d) derives a substantial part of the firearm's monetary value:  
 8159 (i) from the fact that the firearm is:  
 8160 (A) novel;  
 8161 (B) rare; or  
 8162 (C) bizarre; or  
 8163 (ii) because of the firearm's association with an historical:  
 8164 (A) figure;  
 8165 (B) period; or  
 8166 (C) event; and  
 8167 (e) has been designated as a curio or relic firearm by the director of the United States  
 8168 Treasury Department Bureau of Alcohol, Tobacco, and Firearms under 27 C.F.R.  
 8169 Sec. 478.11.
- 8170 [~~(3)~~] (4) "Debt" means a legally enforceable monetary obligation or liability of an  
 8171 individual, whether arising out of contract, tort, or otherwise.
- 8172 [~~(4)~~] (5) "Dependent" means the spouse of an individual, and the grandchild or the natural or  
 8173 adoptive child of an individual who derives support primarily from that individual.
- 8174 [~~(5)~~] (6) "Exempt" means protected, and "exemption" means protection from subjection to a  
 8175 judicial process to collect an unsecured debt.
- 8176 (7) "Firearm" means the same as that term is defined in Section 76-11-101.
- 8177 [~~(6)~~] (8) "Judicial lien" means a lien on property obtained by judgment or other legal process  
 8178 instituted for the purpose of collecting an unsecured debt.
- 8179 [~~(7)~~] (9) "Levy" means the seizure of property pursuant to any legal process issued for the  
 8180 purpose of collecting an unsecured debt.
- 8181 [~~(8)~~] (10) "Lien" means a judicial, or statutory lien, in property securing payment of a debt  
 8182 or performance of an obligation.
- 8183 [~~(9)~~] (11) "Liquid assets" means deposits, securities, notes, drafts, unpaid earnings not  
 8184 otherwise exempt, accrued vacation pay, refunds, prepayments, and other receivables.
- 8185 [~~(10)~~] (12) "Security interest" means an interest in property created by contract to secure  
 8186 payment or performance of an obligation.
- 8187 [~~(11)~~] (13) "Statutory lien" means a lien arising by force of a statute, but does not include a

8188 security interest or a judicial lien.

8189 [~~(12)~~] (14) "Value" means fair market value of an individual's interest in property, exclusive  
8190 of valid liens.

8191 Section 138. Section **78B-5-505** is amended to read:

8192 **78B-5-505 . Property exempt from execution.**

8193 (1)(a) An individual is entitled to exemption of the following property:

8194 (i) a burial plot for the individual and the individual's family;

8195 (ii) health aids reasonably necessary to enable the individual or a dependent to work  
8196 or sustain health;

8197 (iii) benefits that the individual or the individual's dependent have received or are  
8198 entitled to receive from any source because of:

8199 (A) disability;

8200 (B) illness; or

8201 (C) unemployment;

8202 (iv) benefits paid or payable for medical, surgical, or hospital care to the extent that  
8203 the benefits are used by an individual or the individual's dependent to pay for that  
8204 care;

8205 (v) veterans benefits;

8206 (vi) money or property received, and rights to receive money or property for child  
8207 support;

8208 (vii) money or property received, and rights to receive money or property for alimony  
8209 or separate maintenance, to the extent reasonably necessary for the support of the  
8210 individual and the individual's dependents;

8211 (viii)(A) one:

8212 (I) clothes washer and dryer;

8213 (II) refrigerator;

8214 (III) freezer;

8215 (IV) stove;

8216 (V) microwave oven; and

8217 (VI) sewing machine;

8218 (B) all carpets in use;

8219 (C) provisions sufficient for 12 months actually provided for individual or family  
8220 use;

8221 (D) all wearing apparel of every individual and dependent, not including jewelry

- 8222 or furs; and
- 8223 (E) all beds and bedding for every individual or dependent;
- 8224 (ix) except for works of art held by the debtor as part of a trade or business, works of
- 8225 art:
- 8226 (A) depicting the debtor or the debtor and the debtor's resident family; or
- 8227 (B) produced by the debtor or the debtor and the debtor's resident family;
- 8228 (x) proceeds of insurance, a judgment, or a settlement, or other rights accruing as a
- 8229 result of bodily injury of the individual or of the wrongful death or bodily injury
- 8230 of another individual of whom the individual was or is a dependent to the extent
- 8231 that those proceeds are compensatory;
- 8232 (xi) the proceeds or benefits of any life insurance contracts or policies paid or
- 8233 payable to the debtor or any trust of which the debtor is a beneficiary upon the
- 8234 death of the spouse or children of the debtor, provided that the contract or policy
- 8235 has been owned by the debtor for a continuous unexpired period of one year;
- 8236 (xii) the proceeds or benefits of any life insurance contracts or policies paid or
- 8237 payable to the spouse or children of the debtor or any trust of which the spouse or
- 8238 children are beneficiaries upon the death of the debtor, provided that the contract
- 8239 or policy has been in existence for a continuous unexpired period of one year;
- 8240 (xiii) proceeds and avails of any unexpired life insurance contracts owned by the
- 8241 debtor or any revocable grantor trust created by the debtor, excluding any
- 8242 payments made on the contract during the one year immediately preceding a
- 8243 creditor's levy or execution;
- 8244 (xiv) except as provided in Subsection (1)(b), and except for a judgment described in
- 8245 Subsection 75-7-503(2)(c), any money or other assets held for or payable to the
- 8246 individual as an owner, participant, or beneficiary from or an interest of the
- 8247 individual as an owner, participant, or beneficiary in a fund or account, including
- 8248 an inherited fund or account, in a retirement plan or arrangement that is described
- 8249 in Section 401(a), 401(h), 401(k), 403(a), 403(b), 408, 408A, 409, 414(d), 414(e),
- 8250 or 457, Internal Revenue Code, including an owner's, a participant's, or a
- 8251 beneficiary's interest that arises by inheritance, designation, appointment, or
- 8252 otherwise;
- 8253 (xv) the interest of or any money or other assets payable to an alternate payee under a
- 8254 qualified domestic relations order as those terms are defined in Section 414(p),
- 8255 Internal Revenue Code;

- 8256 (xvi) unpaid earnings of the household of the filing individual due as of the date of  
8257 the filing of a bankruptcy petition in the amount of 1/24 of the Utah State annual  
8258 median family income for the household size of the filing individual as  
8259 determined by the Utah State Annual Median Family Income reported by the  
8260 United States Census Bureau and as adjusted based upon the Consumer Price  
8261 Index for All Urban Consumers for an individual whose unpaid earnings are paid  
8262 more often than once a month or, if unpaid earnings are not paid more often than  
8263 once a month, then in the amount of 1/12 of the Utah State annual median family  
8264 income for the household size of the individual as determined by the Utah State  
8265 Annual Median Family Income reported by the United States Census Bureau and  
8266 as adjusted based upon the Consumer Price Index for All Urban Consumers;
- 8267 (xvii) except for curio or relic firearms[~~, as defined in Section 76-10-501,~~] any three  
8268 of the following:
- 8269 (A) one handgun and ammunition for the handgun not exceeding 1,000 rounds;  
8270 (B) one shotgun and ammunition for the shotgun not exceeding 1,000 rounds; and  
8271 (C) one shoulder arm and ammunition for the shoulder arm not exceeding 1,000  
8272 rounds; and
- 8273 (xviii) money, not exceeding \$200,000, in the aggregate, that an individual deposits,  
8274 more than 18 months before the day on which the individual files a petition for  
8275 bankruptcy or an action is filed by a creditor against the individual, as applicable,  
8276 in all tax-advantaged accounts for saving for higher education costs on behalf of a  
8277 particular individual that meets the requirements of Section 529, Internal Revenue  
8278 Code.
- 8279 (b)(i) Any money, asset, or other interest in a fund or account that is exempt from a  
8280 claim of a creditor of the owner, beneficiary, or participant under Subsection  
8281 (1)(a)(xiv) does not cease to be exempt after the owner's, participant's, or  
8282 beneficiary's death by reason of a direct transfer or eligible rollover to an inherited  
8283 individual retirement account as defined in Section 408(d)(3), Internal Revenue  
8284 Code.
- 8285 (ii) Subsections (1)(a)(xiv) and (1)(b)(i) apply to all inherited individual retirement  
8286 accounts without regard to the date on which the account was created.
- 8287 (c)(i) The exemption granted by Subsection (1)(a)(xiv) does not apply to:
- 8288 (A) an alternate payee under a qualified domestic relations order, as those terms  
8289 are defined in Section 414(p), Internal Revenue Code; or

8290 (B) amounts contributed or benefits accrued by or on behalf of a debtor within one  
 8291 year before the debtor files for bankruptcy, except amounts directly rolled over  
 8292 from other funds that are exempt from attachment under this section.

8293 (ii) The exemptions in Subsections (1)(a)(xi), (xii), and (xiii) do not apply to the  
 8294 secured creditor's interest in proceeds and avails of any matured or unmatured life  
 8295 insurance contract assigned or pledged as collateral for repayment of a loan or  
 8296 other legal obligation.

8297 (2)(a) Disability benefits, as described in Subsection (1)(a)(iii)(A), and veterans benefits,  
 8298 as described in Subsection (1)(a)(v), may be garnished on behalf of a victim who is a  
 8299 child if the person receiving the benefits has been convicted of a felony sex offense  
 8300 against the victim and ordered by the sentencing court to pay restitution to the victim.

8301 (b) The exemption from execution under this Subsection (2) shall be reinstated upon  
 8302 payment of the restitution in full.

8303 (3) The exemptions under this section do not limit items that may be claimed as exempt  
 8304 under Section 78B-5-506.

8305 (4)(a) The exemptions described in Subsections (1)(a)(iii), (iv), (vi), (vii), (x), (xii), (xiii),  
 8306 (xiv), (xv), (xvii), and (xviii) do not apply to a civil accounts receivable or a civil  
 8307 judgment of restitution for an individual who is found in contempt under Section  
 8308 78B-6-317.

8309 (b) Subsection (4)(a) does not apply to the benefits described in Subsection (1)(a)(iii) if  
 8310 the individual's dependent received, or is entitled to receive, the benefits.

8311 Section 139. Section **78B-6-1107** is amended to read:

8312 **78B-6-1107 . Nuisance -- Drug houses and drug dealing -- Gambling -- Group**  
 8313 **criminal activity -- Party house -- Prostitution -- Weapons -- Abatement by eviction.**

8314 (1) Every building or place is a nuisance where:

8315 (a) the unlawful sale, manufacture, service, storage, distribution, dispensing, or  
 8316 acquisition occurs of any controlled substance, precursor, or analog specified in Title  
 8317 58, Chapter 37, Utah Controlled Substances Act;

8318 (b) gambling is permitted to be played, conducted, or dealt upon as prohibited in Title  
 8319 76, Chapter 10, Part 11, Gambling, which creates the conditions of a nuisance as  
 8320 defined in Subsection 78B-6-1101(1);

8321 (c) criminal activity is committed in concert with three or more persons as provided in  
 8322 Section 76-3-203.1;

8323 (d) criminal activity is committed for the benefit of, at the direction of, or in association

- 8324 with any criminal street gang as defined in Section 76-9-802;
- 8325 (e) criminal activity is committed to gain recognition, acceptance, membership, or
- 8326 increased status with a criminal street gang as defined in Section 76-9-802;
- 8327 (f) parties occur frequently which create the conditions of a nuisance as defined in
- 8328 Subsection 78B-6-1101(1);
- 8329 (g) prostitution or promotion of prostitution is regularly carried on by one or more
- 8330 persons as provided in Title 76, Chapter 10, Part 13, Prostitution; and
- 8331 (h) a violation of [~~Title 76, Chapter 10, Part 5, Weapons~~] an offense under Title 76,
- 8332 Chapter 11, Weapons, occurs on the premises.

- 8333 (2) It is a defense to nuisance under Subsection (1)(a) if the defendant can prove that the
- 8334 defendant is lawfully entitled to possession of a controlled substance.
- 8335 (3) Sections 78B-6-1108 through 78B-6-1114 govern only an abatement by eviction of the
- 8336 nuisance as defined in Subsection (1).

8337 Section 140. Section **78B-6-2301** is amended to read:

8338 **78B-6-2301 . Definitions.**

8339 As used in this part:

- 8340 (1) "Directive" means an ordinance, regulation, measure, rule, enactment, order, or policy
- 8341 issued, enacted, or required by a local or state governmental entity.
- 8342 (2) "Firearm" means the same as that term is defined in Section 53-5a-102.
- 8343 (3) "Legislative firearm preemption" means the preemption provided for in [~~Sections~~]
- 8344 Section 53-5a-102[~~and 76-10-500~~].
- 8345 (4) "Local or state governmental entity" means:
- 8346 (a) a department, commission, board, council, agency, institution, officer, corporation,
- 8347 fund, division, office, committee, authority, laboratory, library, unit, bureau, panel, or
- 8348 other administrative unit of the state, including the Utah Board of Higher Education,
- 8349 each institution of higher education, and the boards of trustees of each higher
- 8350 education institution; or
- 8351 (b) a county, city, town, special district, local education agency, public school, school
- 8352 district, charter school, special service district under Title 17D, Chapter 1, Special
- 8353 Service District Act, an entity created by interlocal cooperation agreement under Title
- 8354 11, Chapter 13, Interlocal Cooperation Act, or any other governmental entity
- 8355 designated in statute as a political subdivision of the state.

8356 Section 141. Section **80-6-103** is amended to read:

8357 **80-6-103 . Notification to a school -- Civil and criminal liability.**

- 8358 (1) As used in this section:
- 8359 (a) "School" means a school in a local education agency.
- 8360 (b) "Local education agency" means a school district, a charter school, or the Utah
- 8361 Schools for the Deaf and the Blind.
- 8362 (c) "School official" means the superintendent of a school district or the director of a
- 8363 charter school or designee in which the minor resides or attends school.
- 8364 (d) "Serious offense" means:
- 8365 (i) a violent felony as defined in Section 76-3-203.5;
- 8366 (ii) an offense that is a violation of an offense under Title 76, Chapter 6, Part 4, Theft,
- 8367 and the property stolen is a firearm; or
- 8368 (iii) an offense that is a violation of [~~Title 76, Chapter 10, Part 5, Weapons~~] an offense
- 8369 under Title 76, Chapter 11, Weapons.
- 8370 (e) "Transferee school official" means the superintendent of a school district or the
- 8371 director of a charter school or designee in which the minor resides or attends school if
- 8372 the minor is admitted to home detention.
- 8373 (2) A notification under this section is provided for a minor's supervision and student safety.
- 8374 (3)(a) If a minor is taken into temporary custody under Section 80-6-201 for a serious
- 8375 offense, the peace officer, or other person who has taken the minor into temporary
- 8376 custody, shall notify a school official within five days after the day on which the
- 8377 minor is taken into temporary custody.
- 8378 (b) A notification under this Subsection (3) shall only disclose:
- 8379 (i) the name of the minor;
- 8380 (ii) the offense for which the minor was taken into temporary custody or admitted to
- 8381 detention; and
- 8382 (iii) if available, the name of the victim if the victim resides in the same school
- 8383 district as the minor or attends the same school as the minor.
- 8384 (4) After a detention hearing for a minor who is alleged to have committed a serious
- 8385 offense, the juvenile court shall order a juvenile probation officer to notify a school
- 8386 official, or a transferee school official, and the appropriate local law enforcement agency
- 8387 of the juvenile court's decision, including any disposition, order, or no-contact order.
- 8388 (5) If a designated staff member of a detention facility admits a minor to home detention
- 8389 under Section 80-6-205 and notifies the juvenile court of that admission, the juvenile
- 8390 court shall order a juvenile probation officer to notify a school official, or a transferee
- 8391 school official, and the appropriate local law enforcement agency that the minor has

- 8392           been admitted to home detention.
- 8393           (6)(a) If the juvenile court adjudicates a minor for a serious offense, the juvenile court  
8394           shall order a juvenile probation officer to notify a school official, or a transferee  
8395           school official, of the adjudication.
- 8396           (b) A notification under this Subsection (6) shall be given to a school official, or a  
8397           transferee school official, within three days after the day on which the minor is  
8398           adjudicated.
- 8399           (c) A notification under this section shall include:
- 8400               (i) the name of the minor;
- 8401               (ii) the offense for which the minor was adjudicated; and
- 8402               (iii) if available, the name of the victim if the victim:
- 8403                   (A) resides in the same school district as the minor; or
- 8404                   (B) attends the same school as the minor.
- 8405           (7) If the juvenile court orders formal probation under Section 80-6-702, the juvenile court  
8406           shall order a juvenile probation officer to notify the appropriate local law enforcement  
8407           agency and the school official of the juvenile court's order for formal probation.
- 8408           (8)(a) An employee of the local law enforcement agency, or the school the minor  
8409           attends, who discloses a notification under this section is not:
- 8410               (i) civilly liable except when the disclosure constitutes fraud or willful misconduct as  
8411               provided in Section 63G-7-202; and
- 8412               (ii) civilly or criminally liable except when the disclosure constitutes a knowing  
8413               violation of Section 63G-2-801.
- 8414           (b) An employee of a governmental agency is immune from any criminal liability for  
8415           failing to provide the information required by this section, unless the employee fails  
8416           to act due to malice, gross negligence, or deliberate indifference to the consequences.
- 8417           (9)(a) A notification under this section shall be classified as a protected record under  
8418           Section 63G-2-305.
- 8419           (b) All other records of disclosures under this section are governed by Title 63G,  
8420           Chapter 2, Government Records Access and Management Act, and the Family  
8421           Educational Rights and Privacy Act, 20 U.S.C. Sec. 1232g.  
8422           Section 142. Section **80-6-104** is amended to read:
- 8423               **80-6-104 . Data collection on offenses committed by minors -- Reporting**  
8424               **requirement.**
- 8425           (1) As used in this section:



- 8426 (a) "Firearm" means the same as that term is defined in Section [~~76-10-501~~] 76-11-101.
- 8427 (b) "Firearm-related offense" means a criminal offense involving a firearm.
- 8428 (c) "School is in session" means the same as that term is defined in Section 53E-3-516.
- 8429 (d) "School-sponsored activity" means the same as that term is defined in Section
- 8430 53E-3-516.
- 8431 (2) Before July 1 of each year, the Administrative Office of the Courts shall submit the
- 8432 following data to the State Commission on Criminal and Juvenile Justice, broken down
- 8433 by judicial district, for the preceding calendar year:
- 8434 (a) the number of referrals to the juvenile court;
- 8435 (b) the number of minors diverted to a nonjudicial adjustment;
- 8436 (c) the number of minors that satisfy the conditions of a nonjudicial adjustment;
- 8437 (d) the number of minors for whom a petition for an offense is filed in the juvenile court;
- 8438 (e) the number of minors for whom an information is filed in the juvenile court;
- 8439 (f) the number of minors bound over to the district court by the juvenile court;
- 8440 (g) the number of petitions for offenses committed by minors that were dismissed by the
- 8441 juvenile court;
- 8442 (h) the number of adjudications in the juvenile court for offenses committed by minors;
- 8443 (i) the number of guilty pleas entered into by minors in the juvenile court;
- 8444 (j) the number of dispositions resulting in secure care, community-based placement,
- 8445 formal probation, and intake probation; and
- 8446 (k) for each minor charged in the juvenile court with a firearm-related offense:
- 8447 (i) the minor's age at the time the offense was committed or allegedly committed;
- 8448 (ii) the minor's zip code at the time that the offense was referred to the juvenile court;
- 8449 (iii) whether the minor is a restricted person under [~~Subsection 76-10-503(1)(a)(iv) or~~
- 8450 ~~(1)(b)(iii)] Subsection 76-11-302(4) or 76-11-303(4);~~
- 8451 (iv) the type of offense for which the minor is charged;
- 8452 (v) the outcome of the minor's case in juvenile court, including whether the minor
- 8453 was bound over to the district court or adjudicated by the juvenile court; and
- 8454 (vi) if a disposition was entered by the juvenile court, whether the disposition
- 8455 resulted in secure care, community-based placement, formal probation, or intake
- 8456 probation.
- 8457 (3) The State Commission on Criminal and Juvenile Justice shall track the disposition of a
- 8458 case resulting from a firearm-related offense committed, or allegedly committed, by a
- 8459 minor when the minor is found in possession of a firearm while school is in session or

- 8460 during a school-sponsored activity.
- 8461 (4) In collaboration with the Administrative Office of the Courts, the division, and other  
8462 agencies, the State Commission on Criminal and Juvenile Justice shall collect data for  
8463 the preceding calendar year on:
- 8464 (a) the length of time that minors spend in the juvenile justice system, including the total  
8465 amount of time minors spend under juvenile court jurisdiction, on community  
8466 supervision, and in each out-of-home placement;
- 8467 (b) recidivism of minors who are diverted to a nonjudicial adjustment and minors for  
8468 whom dispositions are ordered by the juvenile court, including tracking minors into  
8469 the adult corrections system;
- 8470 (c) changes in aggregate risk levels from the time minors receive services, are under  
8471 supervision, and are in out-of-home placement; and
- 8472 (d) dosages of programming.
- 8473 (5) On and before October 1 of each year, the State Commission on Criminal and Juvenile  
8474 Justice shall prepare and submit a written report to the Judiciary Interim Committee and  
8475 the Law Enforcement and Criminal Justice Interim Committee that includes:
- 8476 (a) data collected by the State Commission on Criminal and Juvenile Justice under this  
8477 section;
- 8478 (b) data collected by the State Board of Education under Section 53E-3-516; and
- 8479 (c) recommendations for legislative action with respect to the data described in this  
8480 Subsection (5).
- 8481 (6) After submitting the written report described in Subsection (5), the State Commission  
8482 on Criminal and Juvenile Justice may supplement the report at a later time with updated  
8483 data and information the State Board of Education collects under Section 53E-3-516.
- 8484 (7) Nothing in this section shall be construed to require the disclosure of information or  
8485 data that is classified as controlled, private, or protected under Title 63G, Chapter 2,  
8486 Government Records Access and Management Act.
- 8487 Section 143. Section **80-6-303.5** is amended to read:
- 8488 **80-6-303.5 . Preliminary inquiry by juvenile probation officer -- Eligibility for**  
8489 **nonjudicial adjustment.**
- 8490 (1) If the juvenile court receives a referral for an offense committed by a minor that is, or  
8491 appears to be, within the juvenile court's jurisdiction, or for the minor being a habitual  
8492 truant, a juvenile probation officer shall make a preliminary inquiry in accordance with  
8493 this section to determine whether the minor is eligible to enter into a nonjudicial

- 8494 adjustment.
- 8495 (2) If a minor is referred to the juvenile court for multiple offenses arising from a single  
8496 criminal episode, and the minor is eligible under this section for a nonjudicial  
8497 adjustment, the juvenile probation officer shall offer the minor one nonjudicial  
8498 adjustment for all offenses arising from the single criminal episode.
- 8499 (3)(a) The juvenile probation officer may:
- 8500 (i) conduct a validated risk and needs assessment; and
- 8501 (ii) request that a prosecuting attorney review a referral in accordance with Section  
8502 80-6-304.5 if:
- 8503 (A) the results of the validated risk and needs assessment indicate the minor is  
8504 high risk; or
- 8505 (B) the results of the validated risk and needs assessment indicate the minor is  
8506 moderate risk and the referral is for a class A misdemeanor violation under  
8507 Title 76, Chapter 5, Offenses Against the Individual, or Title 76, Chapter 9,  
8508 Part 7, Miscellaneous Provisions.
- 8509 (b) If the referral involves an offense that is a violation of Section 41-6a-502, the minor  
8510 shall:
- 8511 (i) undergo a drug and alcohol screening;
- 8512 (ii) if found appropriate by the screening, participate in an assessment; and
- 8513 (iii) if warranted by the screening and assessment, follow the recommendations of the  
8514 assessment.
- 8515 (4) Except for an offense that is not eligible under Subsection (8), the juvenile probation  
8516 officer shall offer a nonjudicial adjustment to a minor if:
- 8517 (a) the minor:
- 8518 (i) is referred for an offense that is a misdemeanor, infraction, or status offense;
- 8519 (ii) has no more than two prior adjudications; and
- 8520 (iii) has no more than two prior unsuccessful nonjudicial adjustment attempts;
- 8521 (b) the minor is referred for an offense that is alleged to have occurred before the minor  
8522 was 12 years old; or
- 8523 (c) the minor is referred for being a habitual truant.
- 8524 (5) For purposes of determining a minor's eligibility for a nonjudicial adjustment under  
8525 Subsection (4), the juvenile probation officer shall treat all offenses arising out of a  
8526 single criminal episode that resulted in a nonjudicial adjustment as one prior nonjudicial  
8527 adjustment.

- 8528 (6) For purposes of determining a minor's eligibility for a nonjudicial adjustment under  
8529 Subsection (4), the juvenile probation officer shall treat all offenses arising out of a  
8530 single criminal episode that resulted in one or more prior adjudications as a single  
8531 adjudication.
- 8532 (7) Except for a referral that involves an offense described in Subsection (8), the juvenile  
8533 probation officer may offer a nonjudicial adjustment to a minor who does not meet the  
8534 criteria described in Subsection (4)(a).
- 8535 (8) The juvenile probation officer may not offer a minor a nonjudicial adjustment if the  
8536 referral involves:
- 8537 (a) an offense alleged to have occurred when the minor was 12 years old or older that is:
- 8538 (i) a felony offense; or
- 8539 (ii) a misdemeanor violation of:
- 8540 (A) Section 41-6a-502, driving under the influence;
- 8541 (B) Section 76-5-107, threat of violence;
- 8542 (C) Section 76-5-107.1, threats against schools;
- 8543 (D) Section 76-5-112, reckless endangerment creating a substantial risk of death  
8544 or serious bodily injury;
- 8545 (E) Section 76-5-206, negligent homicide;
- 8546 (F) Section 76-9-702.1, sexual battery;
- 8547 [~~(G) Section 76-10-505.5, possession of a dangerous weapon, firearm, or short~~  
8548 ~~barreled shotgun on or about school premises;~~]
- 8549 [~~(H) Section 76-10-506, threatening with or using a dangerous weapon in fight or~~  
8550 ~~quarrel;~~]
- 8551 [~~(I) Section 76-10-507, possession of a deadly weapon with criminal intent; or]~~
- 8552 [~~(J) Section 76-10-509.4, possession of a dangerous weapon by a minor;~~]
- 8553 (G) Section 76-11-205, carrying a dangerous weapon at an elementary school or  
8554 secondary school;
- 8555 (H) Section 76-11-206, carrying a dangerous weapon at a daycare;
- 8556 (I) Section 76-11-207, threatening with or using a dangerous weapon in a fight or  
8557 quarrel;
- 8558 (J) Section 76-11-208, possession of a dangerous weapon with criminal intent; or
- 8559 (K) Section 76-11-211, possession of a dangerous weapon by a minor; or
- 8560 (b) an offense alleged to have occurred before the minor is 12 years old that is a felony  
8561 violation of:

- 8562 (i) Section 76-5-103, aggravated assault resulting in serious bodily injury to another;  
 8563 (ii) Section 76-5-202, aggravated murder or attempted aggravated murder;  
 8564 (iii) Section 76-5-203, murder or attempted murder;  
 8565 (iv) Section 76-5-302, aggravated kidnapping;  
 8566 (v) Section 76-5-405, aggravated sexual assault;  
 8567 (vi) Section 76-6-103, aggravated arson;  
 8568 (vii) Section 76-6-203, aggravated burglary;  
 8569 (viii) Section 76-6-302, aggravated robbery; or  
 8570 (ix) Section [~~76-10-508.1~~] 76-11-210, felony discharge of a firearm.

8571 (9) The juvenile probation officer shall request that a prosecuting attorney review a referral  
 8572 if:

- 8573 (a) the referral involves an offense described in Subsection (8); or  
 8574 (b) the minor has a current suspended order for custody under Section 80-6-711.

8575 Section 144. Section **80-6-305** is amended to read:

8576 **80-6-305 . Petition for a delinquency proceeding -- Amending a petition --**

8577 **Continuance.**

8578 (1) A prosecuting attorney shall file a petition, in accordance with Utah Rules of Juvenile  
 8579 Procedure, Rule 17, to commence a proceeding against a minor for an adjudication of an  
 8580 alleged offense, except as provided in:

- 8581 (a) Subsection (2);  
 8582 (b) Section 80-6-302;  
 8583 (c) Section 80-6-502; and  
 8584 (d) Section 80-6-503.

8585 (2) A prosecuting attorney may not file a petition under Subsection (1) against an individual  
 8586 for an offense alleged to have occurred before the individual was 12 years old, unless:

- 8587 (a) the individual is alleged to have committed a felony violation of:  
 8588 (i) Section 76-5-103, aggravated assault resulting in serious bodily injury to another;  
 8589 (ii) Section 76-5-202, aggravated murder or attempted aggravated murder;  
 8590 (iii) Section 76-5-203, murder or attempted murder;  
 8591 (iv) Section 76-5-302, aggravated kidnapping;  
 8592 (v) Section 76-5-405, aggravated sexual assault;  
 8593 (vi) Section 76-6-103, aggravated arson;  
 8594 (vii) Section 76-6-203, aggravated burglary;  
 8595 (viii) Section 76-6-302, aggravated robbery; or

- 8596 (ix) Section [~~76-10-508.1~~] 76-11-210, felony discharge of a firearm; or
- 8597 (b) an offer for a nonjudicial adjustment is made under Section 80-6-303.5 and the
- 8598 minor:
- 8599 (i) declines to accept the offer for the nonjudicial adjustment; or
- 8600 (ii) fails to substantially comply with the conditions agreed upon as part of the
- 8601 nonjudicial adjustment.
- 8602 (3) A juvenile court may dismiss a petition under this section at any stage of the
- 8603 proceedings.
- 8604 (4)(a) When evidence is presented during any proceeding in a minor's case that points to
- 8605 material facts not alleged in the petition, the juvenile court may consider the
- 8606 additional or different material facts raised by the evidence if the parties consent.
- 8607 (b) The juvenile court, on a motion from any interested party or on the court's own
- 8608 motion, shall direct that the petition be amended to conform to the evidence.
- 8609 (c) If an amended petition under Subsection (4)(b) results in a substantial departure from
- 8610 the material facts originally alleged, the juvenile court shall grant a continuance as
- 8611 justice may require in accordance with Utah Rules of Juvenile Procedure, Rule 54.
- 8612 Section 145. Section **80-6-503** is amended to read:
- 8613 **80-6-503 . Criminal information for a minor in juvenile court -- Extending**
- 8614 **juvenile court jurisdiction.**
- 8615 (1) If a prosecuting attorney charges a minor with a felony, the prosecuting attorney may
- 8616 file a criminal information in the juvenile court if the minor was a principal actor in an
- 8617 offense and the information alleges:
- 8618 (a)(i) the minor was 16 or 17 years old at the time of the offense; and
- 8619 (ii) the offense for which the minor is being charged is a felony violation of:
- 8620 (A) Section 76-5-103, aggravated assault resulting in serious bodily injury to
- 8621 another;
- 8622 (B) Section 76-5-202, attempted aggravated murder;
- 8623 (C) Section 76-5-203, attempted murder;
- 8624 (D) Section 76-5-302, aggravated kidnapping;
- 8625 (E) Section 76-5-405, aggravated sexual assault;
- 8626 (F) Section 76-6-103, aggravated arson;
- 8627 (G) Section 76-6-203, aggravated burglary;
- 8628 (H) Section 76-6-302, aggravated robbery;
- 8629 (I) Section [~~76-10-508.1~~] 76-11-210, felony discharge of a firearm; or

8630 (J) an offense other than an offense listed in Subsections (1)(a)(ii)(A) through (I)  
 8631 involving the use of a dangerous weapon if the offense would be a felony had  
 8632 an adult committed the offense, and the minor has been previously adjudicated  
 8633 or convicted of an offense involving the use of a dangerous weapon that would  
 8634 have been a felony if committed by an adult; or

8635 (b)(i) the minor was 14 or 15 years old at the time of the offense; and

8636 (ii) the offense for which the minor is being charged is a felony violation of:

8637 (A) Section 76-5-202, aggravated murder or attempted aggravated murder; or

8638 (B) Section 76-5-203, murder or attempted murder.

8639 (2) At the time that a prosecuting attorney files an information under this section, a party  
 8640 may file a motion to extend the juvenile court's continuing jurisdiction in accordance  
 8641 with Section 80-6-605.

8642 Section 146. Section **80-6-605** is amended to read:

8643 **80-6-605 . Extension of juvenile court jurisdiction -- Procedure.**

8644 (1) At the time that a prosecuting attorney files a petition under Section 80-6-305, or a  
 8645 criminal information under Section 80-6-503, for a felony offense alleged to have been  
 8646 committed by a minor who is 14 years old or older, either party may file a motion to  
 8647 extend the juvenile court's continuing jurisdiction over the minor's case until the minor is  
 8648 25 years old if:

8649 (a) the minor was the principal actor in the offense; and

8650 (b) the petition or information alleges a felony violation of:

8651 (i) Section 76-5-103, aggravated assault resulting in serious bodily injury to another;

8652 (ii) Section 76-5-202, aggravated murder or attempted aggravated murder;

8653 (iii) Section 76-5-203, murder or attempted murder;

8654 (iv) Section 76-5-302, aggravated kidnapping;

8655 (v) Section 76-5-405, aggravated sexual assault;

8656 (vi) Section 76-6-103, aggravated arson;

8657 (vii) Section 76-6-203, aggravated burglary;

8658 (viii) Section 76-6-302, aggravated robbery;

8659 (ix) Section [~~76-10-508.1~~] 76-11-210, felony discharge of a firearm; or

8660 (x)(A) an offense other than the offenses listed in Subsections (1)(b)(i) through (ix)  
 8661 involving the use of a dangerous weapon that would be a felony if committed  
 8662 by an adult; and

8663 (B) the minor has been previously adjudicated or convicted of an offense

8664 involving the use of a dangerous weapon that would have been a felony if  
8665 committed by an adult.

8666 (2)(a) Notwithstanding Subsection (1), either party may file a motion to extend the  
8667 juvenile[-] court's continuing jurisdiction after a determination by the juvenile court  
8668 that the minor will not be bound over to the district court under Section 80-6-504.

8669 (3) The juvenile[-] court shall make a determination on a motion under Subsection (1) or (2)  
8670 at the time of disposition.

8671 (4) The juvenile[-] court shall extend the continuing jurisdiction over the minor's case until  
8672 the minor is 25 years old if the juvenile[-] court finds, by a preponderance of the  
8673 evidence, that extending continuing jurisdiction is in the best interest of the minor and  
8674 the public.

8675 (5) In considering whether it is in the best interest of the minor and the public for the court  
8676 to extend jurisdiction over the minor's case until the minor is 25 years old, the juvenile[-]  
8677 court shall consider and base the juvenile[-] court's decision on:

8678 (a) whether the protection of the community requires an extension of jurisdiction beyond  
8679 the age of 21;

8680 (b) the extent to which the minor's actions in the offense were committed in an  
8681 aggressive, violent, premeditated, or willful manner;

8682 (c) the minor's mental, physical, educational, trauma, and social history; and

8683 (d) the criminal record and previous history of the minor.

8684 (6) The amount of weight that each factor in Subsection (5) is given is in the juvenile[-]  
8685 court's discretion.

8686 (7)(a) The juvenile[-] court may consider written reports and other materials relating to  
8687 the minor's mental, physical, educational, trauma, and social history.

8688 (b) Upon request by the minor, the minor's parent, guardian, or other interested party, the  
8689 juvenile[-] court shall require the person preparing the report or other material to  
8690 appear and be subject to both direct and cross-examination.

8691 (8) A minor may testify under oath, call witnesses, cross-examine witnesses, and present  
8692 evidence on the factors described in Subsection (5).

8693 Section 147. Section **80-6-712** is amended to read:

8694 **80-6-712 . Time periods for supervision of probation or placement --**

8695 **Termination of continuing jurisdiction.**

8696 (1) If the juvenile court places a minor on probation under Section 80-6-702, the juvenile  
8697 court shall establish a period of time for supervision for the minor that is:



- 8698 (a) if the minor is placed on intake probation, no more than three months; or  
8699 (b) if the minor is placed on formal probation, from four to six months, but may not  
8700 exceed six months.
- 8701 (2)(a) If the juvenile court commits a minor to the division under Section 80-6-703, and  
8702 the minor's case is under the jurisdiction of the court, the juvenile court shall  
8703 establish:
- 8704 (i) for a minor placed out of the home, a period of custody from three to six months,  
8705 but may not exceed six months; and
- 8706 (ii) for aftercare services if the minor was placed out of the home, a period of  
8707 supervision from three to four months, but may not exceed four months.
- 8708 (b) A minor may be supervised for aftercare services under Subsection (2)(a)(ii):
- 8709 (i) in the home of a qualifying relative or guardian;
- 8710 (ii) at an independent living program contracted or operated by the division; or
- 8711 (iii) in a family-based setting with approval by the director or the director's designee  
8712 if the minor does not qualify for an independent living program due to age,  
8713 disability, or another reason or the minor cannot be placed with a qualifying  
8714 relative or guardian.
- 8715 (3) If the juvenile court orders a minor to secure care, the authority shall:
- 8716 (a) have jurisdiction over the minor's case; and
- 8717 (b) apply the provisions of Part 8, Commitment and Parole.
- 8718 (4)(a) The juvenile court shall terminate continuing jurisdiction over a minor's case at  
8719 the end of the time period described in Subsection (1) for probation or Subsection (2)  
8720 for commitment to the division, unless:
- 8721 (i) termination would interrupt the completion of the treatment program determined  
8722 to be necessary by the results of a validated risk and needs assessment under  
8723 Section 80-6-606;
- 8724 (ii) the minor commits a new misdemeanor or felony offense;
- 8725 (iii) the minor has not completed community or compensatory service hours;
- 8726 (iv) there is an outstanding fine; or
- 8727 (v) the minor has not paid restitution in full.
- 8728 (b) The juvenile court shall determine whether a minor has completed a treatment  
8729 program under Subsection (4)(a)(i) by considering:
- 8730 (i) the recommendations of the licensed service provider for the treatment program;
- 8731 (ii) the minor's record in the treatment program; and

- 8732 (iii) the minor's completion of the goals of the treatment program.
- 8733 (5) Subject to Subsections (6) and (7), if one of the circumstances under Subsection (4)
- 8734 exists the juvenile court may extend supervision for the time needed to address the
- 8735 specific circumstance.
- 8736 (6) If the juvenile court extends supervision solely on the ground that the minor has not yet
- 8737 completed community or compensatory service hours under Subsection (4)(a)(iii), the
- 8738 juvenile court may only extend supervision:
- 8739 (a) one time for no more than three months; and
- 8740 (b) as intake probation.
- 8741 (7)(a) If the juvenile court extends jurisdiction solely on the ground that the minor has
- 8742 not paid restitution in full as described in Subsection (4)(a)(v):
- 8743 (i) the juvenile court may only:
- 8744 (A) extend jurisdiction up to four times for no more than three months at a time;
- 8745 (B) consider the efforts of the minor to pay restitution in full when determining
- 8746 whether to extend jurisdiction under Subsection (7)(a)(i); and
- 8747 (C) make orders concerning the payment of restitution during the period for which
- 8748 jurisdiction is extended;
- 8749 (ii) the juvenile court shall terminate any intake probation or formal probation of the
- 8750 minor; and
- 8751 (iii) a designated staff member of the juvenile court shall submit a report to the
- 8752 juvenile court every three months regarding the minor's efforts to pay restitution.
- 8753 (b) If the juvenile court finds that a minor is not making an effort to pay restitution, the
- 8754 juvenile court shall:
- 8755 (i) terminate jurisdiction over the minor's case; and
- 8756 (ii) record the amount of unpaid restitution as a civil judgment in accordance with
- 8757 Subsection 80-6-709(8).
- 8758 (8) If the juvenile court extends supervision or jurisdiction under this section, the grounds
- 8759 for the extension and the length of any extension shall be recorded in the court records
- 8760 and tracked in the data system used by the Administrative Office of the Courts and the
- 8761 division.
- 8762 (9) If a minor leaves supervision without authorization for more than 24 hours, the
- 8763 supervision period for the minor shall toll until the minor returns.
- 8764 (10) This section does not apply to any minor adjudicated under this chapter for:
- 8765 (a) Section 76-5-103, aggravated assault resulting in serious bodily injury to another;

- 8766 (b) Section 76-5-202, aggravated murder or attempted aggravated murder;
- 8767 (c) Section 76-5-203, murder or attempted murder;
- 8768 (d) Section 76-5-205, manslaughter;
- 8769 (e) Section 76-5-206, negligent homicide;
- 8770 (f) Section 76-5-207, automobile homicide;
- 8771 (g) Section 76-5-207.5, automobile homicide involving using a wireless communication
- 8772 device while operating a motor vehicle;
- 8773 (h) Section 76-5-208, child abuse homicide;
- 8774 (i) Section 76-5-209, homicide by assault;
- 8775 (j) Section 76-5-302, aggravated kidnapping;
- 8776 (k) Section 76-5-405, aggravated sexual assault;
- 8777 (l) a felony violation of Section 76-6-103, aggravated arson;
- 8778 (m) Section 76-6-203, aggravated burglary;
- 8779 (n) Section 76-6-302, aggravated robbery;
- 8780 (o) Section [~~76-10-508.1~~] 76-11-210, felony discharge of a firearm;
- 8781 (p)(i) an offense other than an offense listed in Subsections (10)(a) through (o)
- 8782 involving the use of a dangerous weapon, as defined in Section 76-1-101.5, that is
- 8783 a felony; and
- 8784 (ii) the minor has been previously adjudicated or convicted of an offense involving
- 8785 the use of a dangerous weapon; or
- 8786 (q) a felony offense other than an offense listed in Subsections (10)(a) through (p) and
- 8787 the minor has been previously committed to the division for secure care.

8788 Section 148. Section **80-6-804** is amended to read:

8789 **80-6-804 . Review and termination of secure care.**

- 8790 (1) If a juvenile offender is ordered to secure care under Section 80-6-705, the juvenile
- 8791 offender shall appear before the authority within 45 days after the day on which the
- 8792 juvenile offender is ordered to secure care for review of a treatment plan and to establish
- 8793 parole release guidelines.
- 8794 (2)(a) Except as provided in Subsections (2)(b) and (2)(h), if a juvenile offender is
- 8795 ordered to secure care under Section 80-6-705, the authority shall set a presumptive
- 8796 term of secure care for the juvenile offender from three to six months, but the
- 8797 presumptive term may not exceed six months.
- 8798 (b) If a juvenile offender is ordered to secure care for a misdemeanor offense, the
- 8799 authority may immediately release the juvenile offender on parole if there is a

- 8800 treatment program available for the juvenile offender in a community-based setting.
- 8801 (c) Except as provided in Subsection (2)(h), the authority shall release the juvenile  
8802 offender on parole at the end of the presumptive term of secure care unless:
- 8803 (i) termination would interrupt the completion of a treatment program determined to  
8804 be necessary by the results of a validated risk and needs assessment under Section  
8805 80-6-606; or
- 8806 (ii) the juvenile offender commits a new misdemeanor or felony offense.
- 8807 (d) The authority shall determine whether a juvenile offender has completed a treatment  
8808 program under Subsection (2)(c)(i) by considering:
- 8809 (i) the recommendations of the licensed service provider for the treatment program;  
8810 (ii) the juvenile offender's record in the treatment program; and  
8811 (iii) the juvenile offender's completion of the goals of the treatment program.
- 8812 (e) Except as provided in Subsection (2)(h), the authority may extend the length of  
8813 secure care and delay parole release for the time needed to address the specific  
8814 circumstance if one of the circumstances under Subsection (2)(c) exists.
- 8815 (f) The authority shall:
- 8816 (i) record the length of the extension and the grounds for the extension; and  
8817 (ii) report annually the length and grounds of extension to the commission.
- 8818 (g) Records under Subsection (2)(f) shall be tracked in the data system used by the  
8819 juvenile court and the division.
- 8820 (h) If a juvenile offender is ordered to secure care for a misdemeanor offense, the  
8821 authority may not:
- 8822 (i) set a juvenile offender's presumptive term of secure care under Subsection (2)(a)  
8823 that would result in a term of secure care that exceeds a term of incarceration for  
8824 an adult under Section 76-3-204 for the same misdemeanor offense; or
- 8825 (ii) extend the juvenile offender's term of secure care under Subsections (2)(c) and (e)  
8826 if the extension would result in a term of secure care that exceeds the term of  
8827 incarceration for an adult under Section 76-3-204 for the same misdemeanor  
8828 offense.
- 8829 (3)(a) If a juvenile offender is ordered to secure care, the authority shall set a  
8830 presumptive term of parole supervision, including aftercare services, from three to  
8831 four months, but the presumptive term may not exceed four months.
- 8832 (b) If the authority determines that a juvenile offender is unable to return home  
8833 immediately upon release, the juvenile offender may serve the term of parole:

- 8834 (i) in the home of a qualifying relative or guardian;
- 8835 (ii) at an independent living program contracted or operated by the division; or
- 8836 (iii) in a family-based setting with approval by the director or the director's designee
- 8837 if the minor does not qualify for an independent living program due to age,
- 8838 disability, or another reason or the minor cannot be placed with a qualifying
- 8839 relative or guardian.
- 8840 (c) The authority shall release a juvenile offender from parole and terminate the
- 8841 authority's jurisdiction at the end of the presumptive term of parole, unless:
- 8842 (i) termination would interrupt the completion of a treatment program that is
- 8843 determined to be necessary by the results of a validated risk and needs assessment
- 8844 under Section 80-6-606;
- 8845 (ii) the juvenile offender commits a new misdemeanor or felony offense; or
- 8846 (iii) restitution has not been completed.
- 8847 (d) The authority shall determine whether a juvenile offender has completed a treatment
- 8848 program under Subsection (3)(c)(i) by considering:
- 8849 (i) the recommendations of the licensed service provider;
- 8850 (ii) the juvenile offender's record in the treatment program; and
- 8851 (iii) the juvenile offender's completion of the goals of the treatment program.
- 8852 (e) If one of the circumstances under Subsection (3)(c) exists, the authority may delay
- 8853 parole release only for the time needed to address the specific circumstance.
- 8854 (f) The authority shall:
- 8855 (i) record the grounds for extension of the presumptive length of parole and the
- 8856 length of the extension; and
- 8857 (ii) report annually the extension and the length of the extension to the commission.
- 8858 (g) Records under Subsection (3)(f) shall be tracked in the data system used by the
- 8859 juvenile court and the division.
- 8860 (h) If a juvenile offender leaves parole supervision without authorization for more than
- 8861 24 hours, the term of parole shall toll until the juvenile offender returns.
- 8862 (4) Subsections (2) and (3) do not apply to a juvenile offender ordered to secure care for:
- 8863 (a) Section 76-5-103, aggravated assault resulting in serious bodily injury to another;
- 8864 (b) Section 76-5-202, aggravated murder or attempted aggravated murder;
- 8865 (c) Section 76-5-203, murder or attempted murder;
- 8866 (d) Section 76-5-205, manslaughter;
- 8867 (e) Section 76-5-206, negligent homicide;

- 8868 (f) Section 76-5-207, automobile homicide;
- 8869 (g) Section 76-5-207.5, automobile homicide involving using a wireless communication  
8870 device while operating a motor vehicle;
- 8871 (h) Section 76-5-208, child abuse homicide;
- 8872 (i) Section 76-5-209, homicide by assault;
- 8873 (j) Section 76-5-302, aggravated kidnapping;
- 8874 (k) Section 76-5-405, aggravated sexual assault;
- 8875 (l) a felony violation of Section 76-6-103, aggravated arson;
- 8876 (m) Section 76-6-203, aggravated burglary;
- 8877 (n) Section 76-6-302, aggravated robbery;
- 8878 (o) Section [~~76-10-508.1~~] 76-11-210, felony discharge of a firearm;
- 8879 (p)(i) an offense other than an offense listed in Subsections (4)(a) through (o)  
8880 involving the use of a dangerous weapon, as defined in Section 76-1-101.5, that is  
8881 a felony; and
- 8882 (ii) the juvenile offender has been previously adjudicated or convicted of an offense  
8883 involving the use of a dangerous weapon, as defined in Section 76-1-101.5; or
- 8884 (q) an offense other than an offense listed in Subsections (4)(a) through (p) and the  
8885 juvenile offender has been previously ordered to secure care.
- 8886 Section 149. Section **80-6-1004.1** is amended to read:
- 8887 **80-6-1004.1 . Petition to expunge adjudication -- Hearing and notice -- Waiver --**  
8888 **Order.**
- 8889 (1) An individual may petition the juvenile court for an order to expunge the individual's  
8890 juvenile record if:
- 8891 (a) the individual was adjudicated for an offense in the juvenile court;
- 8892 (b) the individual has reached 18 years old; and
- 8893 (c) at least one year has passed from the day on which:
- 8894 (i) the juvenile court's continuing jurisdiction was terminated; or
- 8895 (ii) if the individual was committed to secure care, the individual was unconditionally  
8896 released from the custody of the division.
- 8897 (2) If a petitioner is 18 years old or older and seeks an expungement under Subsection (1),  
8898 the petition shall include a criminal history report obtained from the Bureau of Criminal  
8899 Identification in accordance with Section 53-10-108.
- 8900 (3) If the juvenile court finds and states on the record the reason why the waiver is  
8901 appropriate, the juvenile court may waive:

- 8902 (a) the age requirement under Subsection (1)(b) for a petition; or  
8903 (b) the one-year requirement under Subsection (1)(c) for a petition.
- 8904 (4)(a) Upon the filing of a petition described in Subsection [~~(1)(a)~~] (1), the juvenile court  
8905 shall:
- 8906 (i) set a date for a hearing; and  
8907 (ii) at least 30 days before the day on which the hearing on the petition is scheduled,  
8908 notify the prosecuting attorney and any affected agency identified in the  
8909 petitioner's juvenile record:  
8910 (A) that the petition has been filed; and  
8911 (B) of the date of the hearing.
- 8912 (b)(i) The juvenile court shall provide a victim with the opportunity to request notice  
8913 of a petition described in Subsection (1).  
8914 (ii) Upon the victim's request under Subsection (4)(b)(i), the victim shall receive  
8915 notice of the petition at least 30 days before the day on which the hearing is  
8916 scheduled if, before the day on which an expungement order is made, the victim,  
8917 or the victim's next of kin or authorized representative if the victim is a child or an  
8918 individual who is incapacitated or deceased, submits a written and signed request  
8919 for notice to the juvenile court in the judicial district in which the offense occurred  
8920 or judgment is entered.  
8921 (iii) The notice described in Subsection (4)(b)(ii) shall include a copy of the petition  
8922 and any statutes and rules applicable to the petition.
- 8923 (c) At the hearing, the prosecuting attorney, a victim, and any other individual who may  
8924 have relevant information about the petitioner may testify.
- 8925 (d) The juvenile court may waive the hearing for the petition if:  
8926 (i)(A) there is no victim; or  
8927 (B) if there is a victim, the victim agrees to the waiver; and  
8928 (ii) the prosecuting attorney agrees to the waiver.
- 8929 (5)(a) Except as provided in Subsection (6), the juvenile court may grant a petition  
8930 described in Subsection (1) and order expungement of the petitioner's juvenile record  
8931 if the juvenile court finds that the petitioner is rehabilitated to the satisfaction of the  
8932 court in accordance with Subsection (5)(b).
- 8933 (b) In deciding whether to grant a petition described in Subsection (1), the juvenile court  
8934 shall consider:  
8935 (i) whether expungement of the petitioner's juvenile record is in the best interest of

- 8936 the petitioner;
- 8937 (ii) the petitioner's response to programs and treatment;
- 8938 (iii) the nature and seriousness of the conduct for which the petitioner was
- 8939 adjudicated;
- 8940 (iv) the petitioner's behavior subsequent to adjudication;
- 8941 (v) the petitioner's reason for seeking expungement of the petitioner's juvenile record;
- 8942 and
- 8943 (vi) if the petitioner is a restricted person under Subsection [~~76-10-503(1)(a)(iv) or~~
- 8944 ~~(b)(iii)] 76-11-302(4) or 76-11-303(4):~~
- 8945 (A) whether the offense for which the petitioner is a restricted person was
- 8946 committed with a weapon;
- 8947 (B) whether expungement of the petitioner's juvenile record poses an unreasonable
- 8948 risk to public safety; and
- 8949 (C) the amount of time that has passed since the adjudication of the offense for
- 8950 which the petitioner is a restricted person.

- 8951 (6) The juvenile court may not grant a petition described in Subsection (1) and order
- 8952 expungement of the petitioner's juvenile record if:
- 8953 (a) the petitioner has been convicted of a violent felony within five years before the day
- 8954 on which the petition for expungement is filed;
- 8955 (b) there are delinquency or criminal proceedings pending against the petitioner;
- 8956 (c) the petitioner has not satisfied a judgment of restitution entered by the juvenile court
- 8957 for an adjudication in the petitioner's juvenile record;
- 8958 (d) the petitioner has not satisfied restitution that was a condition of a nonjudicial
- 8959 adjustment in the petitioner's juvenile record; or
- 8960 (e) the petitioner's juvenile record contains an adjudication for a violation of:
- 8961 (i) Section 76-5-202, aggravated murder; or
- 8962 (ii) Section 76-5-203, murder.

8963 Section 150. Section **80-6-1004.5** is amended to read:

8964 **80-6-1004.5 . Automatic expungement of successful nonjudicial adjustment --**

8965 **Effect of successful nonjudicial adjustment.**

- 8966 (1) Except as provided in Subsection (2), the juvenile court shall issue, without a petition,
- 8967 an order to expunge an individual's juvenile record if:
- 8968 (a) the individual has reached 18 years old;
- 8969 (b) the individual's juvenile record consists solely of nonjudicial adjustments;



- 8970 (c) the individual has successfully completed each nonjudicial adjustment; and  
 8971 (d) all nonjudicial adjustments were completed on or after October 1, 2023.
- 8972 (2) An individual's juvenile record is not eligible for expungement under Subsection (1) if  
 8973 the individual's juvenile record contains a nonjudicial adjustment for a violation of:  
 8974 (a) Section 41-6a-502, driving under the influence;  
 8975 (b) Section 76-5-112, reckless endangerment creating a substantial risk of death or  
 8976 serious bodily injury;  
 8977 (c) Section 76-5-206, negligent homicide;  
 8978 (d) Section 76-9-702.1, sexual battery;  
 8979 (e) Section ~~[76-10-505.5, possession of a dangerous weapon, firearm, or short barreled~~  
 8980 ~~shotgun on or about school premises]~~ 76-11-205, carrying a dangerous weapon at an  
 8981 elementary school or secondary school;  
 8982 (f) Section 76-11-206, carrying a dangerous weapon at a daycare; or  
 8983 ~~[(f)]~~ (g) Section ~~[76-10-509.4]~~ 76-11-211, possession of a dangerous weapon by a minor.
- 8984 (3) If an individual's juvenile record consists solely of nonjudicial adjustments that were  
 8985 completed before October 1, 2023:  
 8986 (a) any nonjudicial adjustment in the individual's juvenile record is considered to never  
 8987 have occurred if:  
 8988 (i) the individual has reached 18 years old;  
 8989 (ii) the individual has satisfied restitution that was a condition of any nonjudicial  
 8990 adjustment in the individual's juvenile record; and  
 8991 (iii) the nonjudicial adjustment was for an offense that is not an offense described in  
 8992 Subsection (2); and  
 8993 (b) the individual may reply to any inquiry about the nonjudicial adjustment as though  
 8994 there never was a nonjudicial adjustment.

8995 Section 151. **Repealer.**

8996 This bill repeals:

8997 Section **53-5-701, Title.**

8998 Section **53-5-710, Cross-references to concealed firearm permit restrictions.**

8999 Section **53-5b-101, Title.**

9000 Section **76-10-500, Uniform law.**

9001 Section **76-10-503, Restrictions on possession, purchase, transfer, and ownership of**

9002 Section **76-10-512, Target concessions, shooting ranges, competitions, and hunting**

9003 Section **76-10-521, Unlawful marking of pistol or revolver.**

9004 Section 152. **Effective Date.**

9005 This bill takes effect on May 7, 2025.

9006 Section 153. **Coordinating H.B. 128 with H.B. 183.**

9007 If H.B. 128, Dangerous Weapons Recodification and Cross References, and H.B. 183,  
9008 Noncitizen Restricted Person Amendments, both pass and become law, the Legislature intends  
9009 that, on May 7, 2025, Subsection 76-11-302(5), enacted in H.B. 128, be amended to read:

9010 "(5) if the individual is an alien who is illegally or unlawfully in the United States,  
9011 including an alien who has:

9012 (a) submitted an asylum application in accordance with 8 U.S.C. Sec. 1158 and is  
9013 waiting for a disposition on the application; or

9014 (b) submitted a temporary protected status application in accordance with 8 U.S.C.  
9015 Sec. 1254a and is waiting for a disposition on the application; or".

9016 Section 154. **Coordinating H.B. 128 with H.B. 227.**

9017 If H.B. 128, Dangerous Weapons Recodification and Cross References, and H.B. 227,  
9018 Restricted Person Amendments, both pass and become law, the Legislature intends that, on  
9019 May 7, 2025:

9020 (1) Subsection 76-11-303(7), enacted in H.B. 128, be amended to read:

9021 "(7) if the individual has been found not guilty by reason of insanity for a criminal  
9022 offense;" and

9023 (2) Subsection 76-11-303(8), enacted in H.B. 128, be amended to read:

9024 "(8) if the individual has been found mentally incompetent to stand trial for a  
9025 criminal offense;".

9026 Section 155. **Coordinating H.B. 128 with H.B. 21.**

9027 If H.B. 128, Dangerous Weapons Recodification and Cross References, and H.B. 21,  
9028 Criminal Code Recodification and Cross References, both pass and become law, the  
9029 Legislature intends that, on May 7, 2025:

9030 (1) the amendments to the following sections or subsections in H.B. 128 supersede the  
9031 amendments to those sections or subsections in H.B. 21:

9032 (a) Section 23A-4-1106;

9033 (b) Subsection 26B-2-120(5)(a)(i)(V);

9034 (c) Subsections 31A-21-501(4)(m) and (4)(n);

9035 (d) Subsection 34-45-107(1);

9036 (e) Section 47-3-305;

9037 (f) Subsections 53-3-220(1)(a)(xi) and (1)(b)(i);

- \_9038 (g) Subsections 53-5d-102(5)(b)(iii) and (7);  
 \_9039 (h) Section 53-10-208.1;  
 \_9040 (i) Subsection 53-10-403(2)(c)(xxvii);  
 \_9041 (j) Subsection 53-22-105(6);  
 \_9042 (k) Subsection 53-22-107(6);  
 \_9043 (l) Subsection 53-25-103(2);  
 \_9044 (m) Subsection 53G-8-701.8(4);  
 \_9045 (n) Section 58-63-307;  
 \_9046 (o) Section 63I-2-276;  
 \_9047 (p) Section 73-29-102;  
 \_9048 (q) Subsection 76-3-203.3(4)(j);  
 \_9049 (r) Subsection 76-3-402(1)(f)(ii)(B);  
 \_9050 (s) Subsection 76-5-202(2)(a)(x)(Q);  
 \_9051 (t) Section 76-5-203;  
 \_9052 (u) Section 76-11-101 (renumbered from Section 76-10-501);  
 \_9053 (v) Section 76-11-309 (renumbered from Section 76-10-503.1);  
 \_9054 (w) Section 76-11-310 (renumbered from Section 76-10-532);  
 \_9055 (x) subject to the coordination clause in H.B. 195, Firearm Retention Amendments,  
 \_9056 which coordinates H.B. 195 with H.B. 128 and H.B. 21, Section 77-11a-402;  
 \_9057 (y) Subsection 77-11b-102(5);  
 \_9058 (z) Section 77-11d-101;  
 \_9059 (aa) Section 77-11d-105;  
 \_9060 (bb) Section 78B-5-505;  
 \_9061 (cc) Section 80-6-104;  
 \_9062 (dd) Section 80-6-305;  
 \_9063 (ee) Section 80-6-503;  
 \_9064 (ff) Section 80-6-605;  
 \_9065 (gg) Section 80-6-712;  
 \_9066 (hh) Section 80-6-804;  
 \_9067 (ii) Section 80-6-1004.1;  
 \_9068 (jj) Subsections 80-6-1004.5(2)(e) and (2)(f); and  
 \_9069 (kk) Section 53-5a-108 (renumbered from Section 76-10-523).

\_9070 (2) Subsection 76-3-203.5(1)(c)(i)(TT) enacted in H.B. 21 be amended to read:

\_9071 "(TT) purchase or possession of a dangerous weapon or firearm by a restricted person as

- \_9072 described in Section 76-11-305 or 76-11-306;";
- \_9073 (3) Section 76-11-204 (renumbered from Section 76-10-505) in H.B. 128 supersede the
- \_9074 amendments to Section 76-10-505 in H.B. 21;
- \_9075 (4) Section 76-11-205 (renumbered from Section 76-10-505.5) in H.B. 128 supersede the
- \_9076 amendments to Section 76-10-505.5 in H.B. 21;
- \_9077 (5) Section 76-11-207 (renumbered from Section 76-10-506) in H.B. 128 supersede the
- \_9078 amendments to Section 76-10-506 in H.B. 21;
- \_9079 (6) Section 76-11-208 (renumbered from Section 76-10-507) in H.B. 128 supersede the
- \_9080 amendments to Section 76-10-507 in H.B. 21;
- \_9081 (7) Section 76-11-209 (renumbered from Section 76-10-508) in H.B. 128 supersede the
- \_9082 amendments to Section 76-10-508 in H.B. 21;
- \_9083 (8) Section 76-11-210 (renumbered from Section 76-10-508.1) in H.B. 128 supersede the
- \_9084 amendments to Section 76-10-508.1 in H.B. 21;
- \_9085 (9) Section 76-11-211 (renumbered from Section 76-10-509.4) in H.B. 128 supersede the
- \_9086 amendments to Section 76-10-509.4 in H.B. 21;
- \_9087 (10) Section 76-11-212 (renumbered from Section 76-10-509.5) in H.B. 128 supersede the
- \_9088 amendments to Section 76-10-509.5 in H.B. 21;
- \_9089 (11) Section 76-11-213 (renumbered from Section 76-10-509.6) in H.B. 128 supersede the
- \_9090 amendments to Section 76-10-509.6 in H.B. 21;
- \_9091 (12) Section 76-11-214 (renumbered from Section 76-10-509.7) in H.B. 128 supersede the
- \_9092 amendments to Section 76-10-509.7 in H.B. 21;
- \_9093 (13) Section 76-11-215 (renumbered from Section 76-10-509.9) in H.B. 128 supersede the
- \_9094 amendments to Section 76-10-509.9 in H.B. 21;
- \_9095 (14) Section 53-5a-605 (renumbered from Section 76-10-524) in H.B. 128 supersede the
- \_9096 amendments to Section 76-10-524 in H.B. 21;
- \_9097 (15) Section 53-5a-602 (renumbered from Section 76-10-526) in H.B. 128 supersede the
- \_9098 amendments to Section 76-10-526 in H.B. 21;
- \_9099 (16) Section 53-5a-603 (renumbered from Section 76-10-526.1) in H.B. 128 supersede the
- \_9100 amendments to Section 76-10-526.1 in H.B. 21;
- \_9101 (17) Section 53-5a-604 (renumbered from Section 76-10-527) in H.B. 128 supersede the
- \_9102 amendments to Section 76-10-527 in H.B. 21;
- \_9103 (18) Section 76-11-217 (renumbered from Section 76-10-528) in H.B. 128 supersede the
- \_9104 amendments to Section 76-10-528 in H.B. 21;
- \_9105 (19) (a) Section 76-11-218 (renumbered from Section 76-10-529) in H.B. 128 supersede the

amendments to Section 76-10-529 in H.B. 21;

(b) Subsection 76-11-218(1)(a)(ii) in H.B. 128 be amended to read:

"(ii) "Explosive is the same as defined for "explosive, chemical, or incendiary device" in Section [76-10-306] 76-15-210."; and

(c) Subsection 76-11-218(5)(c) enacted in H.B. 128 be amended to read:

"(c) An actor who transports, possesses, distributes, or sells an explosive, chemical, or incendiary device within the secure area of an airport commits a violation of Section 76-15-210.";

(20) Section 76-11-219 (renumbered from Section 76-10-530) in H.B. 128 supersede the amendments to Section 76-10-530 in H.B. 21;

(21) (a) Section 76-15-210 (renumbered from Section 76-10-306) in H.B. 21 supersede the amendments to Section 76-10-306 in H.B. 128; and

(b) Subsection 76-15-210(2)(b)(iii) in H.B. 21 be amended to read:

"(iii) transports, possesses, distributes, or sells any explosive, chemical, or incendiary device in a secure area established pursuant to Section 76-8-311.1, 76-8-311.3, 76-11-218, or 78A-2-203.";

(22) the amendments to Section 76-11-201 enacted in H.B. 128 supersede the amendments to Section 76-11-201 enacted in H.B. 21;

(23) the amendments to Section 76-11-301 enacted in H.B. 128 supersede the amendments to Section 76-11-301 enacted in H.B. 21; and

(24) the amendments to Section 53-5a-102.1 enacted in H.B. 128 supersede the amendments to Section 53-5a-102.1 enacted in H.B. 21.

**Section 156. Coordinating H.B. 128 with S.B. 14.**

If H.B. 128, Dangerous Weapons Recodification and Cross References, and S.B. 14, Private Sale of a Firearm Sunset Review Amendments, both pass and become law, the Legislature intends that, on May 7, 2025, Subsection 63I-1-253(9) enacted by H.B. 128 be deleted and the remaining subsections renumbered accordingly.