

1 **FIREARM RECORDS PROTECTION AMENDMENTS**

2 2017 GENERAL SESSION

3 STATE OF UTAH

4 **Chief Sponsor: Val K. Potter**

5 Senate Sponsor: _____

7 **LONG TITLE**

8 **General Description:**

9 This bill modifies provisions related to firearm transfer certifications and notifications.

10 **Highlighted Provisions:**

11 This bill:

- 12 ▶ defines terms;
- 13 ▶ addresses the retention of certain federally required firearm transfer certifications
- 14 and notifications;
- 15 ▶ classifies as a private record:
 - 16 • any firearm transfer certification or notification; and
 - 17 • any record or portion of a record that contains information from a firearm
- 18 transfer certification or notification; and
- 19 ▶ makes technical changes.

20 **Money Appropriated in this Bill:**

21 None

22 **Other Special Clauses:**

23 None

24 **Utah Code Sections Affected:**

25 AMENDS:

26 **53-5a-104**, as last amended by Laws of Utah 2015, Chapters 258 and 406



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

29 Section 1. Section **53-5a-104** is amended to read:

30 **53-5a-104. Firearm transfer certification or notification.**

31 (1) As used in this section:

32 (a) "Certification" means the participation and assent of the chief law enforcement
33 officer necessary under federal law for the approval of the application to transfer or make a
34 firearm.

35 (b) "Chief law enforcement officer" means any official ~~that~~ the Bureau of
35a Alcohol,
36 Tobacco, Firearms and Explosives, or any successor agency, ~~that~~ identifies ~~that~~
36a by

37 regulation or otherwise as eligible to provide any required certification for the making or
38 transfer of a firearm.

39 (c) "Firearm" means the same as that term is defined in the National Firearms Act, 26
40 U.S.C. Sec. 5845(a).

41 (d) "Local law enforcement agency" means the same as that term is described in 18
42 U.S.C. Sec. 923.

43 (e) "Notification" means any form or record that is subject to 18 U.S.C. Sec.
44 923(g)(3)(B).

45 (2) A chief law enforcement officer may not make a certification under this section that
46 the chief law enforcement officer knows to be untrue. The chief law enforcement officer may
47 not refuse to provide certification based on a generalized objection to private persons or entities
48 making, possessing, or receiving firearms or any certain type of firearm, the possession of
49 which is not prohibited by law.

50 (3) Upon receiving a federal firearm transfer form a chief law enforcement officer or
51 the chief law enforcement officer's designee shall provide certification if the applicant:

52 (a) is not prohibited by law from receiving or possessing the firearm; or

53 (b) is not the subject of a proceeding that could result in the applicant being prohibited
54 by law from receiving or possessing the firearm.

55 (4) The chief law enforcement officer, the chief law enforcement officer's designee, or
56 official signing the federal transfer form shall:

57 (a) return the federal transfer form to the applicant within 15 calendar days; or

58 (b) if the applicant is denied, provide to the applicant the reasons for denial in writing

59 within 15 calendar days.

60 (5) Chief law enforcement officers and their employees who act in good faith when
61 acting within the scope of their duties are immune from liability arising from any act or
62 omission in making a certification as required by this section. Any action taken against a chief
63 law enforcement officer or an employee shall be in accordance with Title 63G, Chapter 7,
64 Governmental Immunity Act of Utah.

65 (6) A chief law enforcement officer ~~H→~~ **[who] or local law enforcement agency that** ~~←H~~
65a receives a certification or notification shall
66 destroy and delete the certification or notification and any other record that contains
67 information obtained from the certification or notification within 15 days after the day on
68 which the chief law enforcement officer ~~H→~~ **or local law enforcement agency** ~~←H~~ receives the
68a certification or notification.

69 (7) A certification or notification and any other record or portion of a record that
70 contains information gathered from the certification or notification is classified as a private
71 record in accordance with Title 63G, Chapter 2, Government Records Access and Management
72 Act.

Legislative Review Note
Office of Legislative Research and General Counsel