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**FIREARM COMMITMENT AMENDMENTS**

2020 GENERAL SESSION

STATE OF UTAH

**Chief Sponsor: Daniel W. Thatcher**

House Sponsor: \_\_\_\_\_

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**LONG TITLE**

**General Description:**

This bill modifies provisions regarding the commitment of firearms.

**Highlighted Provisions:**

This bill:

- ▶ provides for circumstances where a cohabitant may commit the firearm of a firearm owner cohabitant without the permission of the owner cohabitant;
- ▶ sets procedures for law enforcement to follow when accepting a firearm committed by a cohabitant without the owner cohabitant's permission; and
- ▶ makes technical changes.

**Money Appropriated in this Bill:**

None

**Other Special Clauses:**

None

**Utah Code Sections Affected:**

AMENDS:

**53-5c-201**, as last amended by Laws of Utah 2019, Chapters 136 and 369

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

Section 1. Section **53-5c-201** is amended to read:

**53-5c-201. Voluntary commitment of a firearm by owner cohabitant -- Law**



28 **enforcement to hold firearm -- Commitment of a firearm by cohabitant.**

29 (1) As used in this section, "cohabitant" means any individual 18 years of age or older  
30 residing in the home who:

- 31 (a) is living as if a spouse of the owner cohabitant;
- 32 (b) is related by blood or marriage to the owner cohabitant;
- 33 (c) has one or more children in common with the owner cohabitant; or
- 34 (d) has an interest in the safety and wellbeing of the owner cohabitant.

35 (2) ~~[(a)]~~ A cohabitant may voluntarily commit a firearm to a law enforcement agency  
36 for safekeeping if the cohabitant believes that the owner cohabitant or another cohabitant with  
37 access to the firearm is an immediate threat to:

- 38 ~~[(i)]~~ (a) himself or herself;
- 39 ~~[(ii)]~~ (b) the owner cohabitant; or
- 40 ~~[(iii)]~~ (c) any other person.

41 ~~[(b) A law enforcement agency may not hold a firearm under this section if the law  
42 enforcement agency obtains the firearm in a manner other than the owner cohabitant  
43 voluntarily presenting, of the owner cohabitant's own free will, the firearm to the law  
44 enforcement agency at the agency's office.]~~

45 (3) Unless a firearm is an illegal firearm subject to Section 53-5c-202, a law  
46 enforcement agency that receives a firearm in accordance with this chapter shall:

- 47 (a) record:
- 48 (i) the owner cohabitant's name, address, and phone number;
- 49 (ii) the firearm serial number and the make and model of each firearm committed;

50 [and]

- 51 (iii) the date that the firearm was ~~[voluntarily]~~ committed;
- 52 (iv) if the law enforcement agency receives documentation under Subsection (8), a  
53 notation of the pending determination of which the owner cohabitant is the subject; and
- 54 (v) any other information the law enforcement agency has been made aware of and  
55 determines is relevant to the commitment of the firearm;

56 (b) require the cohabitant to sign a document attesting that the cohabitant resides in the  
57 home; and

58 (c) hold the firearm in safe custody for 60 days after the day on which the firearm is

59 ~~[voluntarily]~~ committed~~;~~ and or for a longer period of time if properly requested or required  
60 under this section.

61 ~~[(d)]~~ (4) [upon proof of identification,] Except as provided in Subsection (6), and after  
62 complying with Subsection (7), a law enforcement agency that receives a firearm in accordance  
63 with this section shall return the firearm to:

64 ~~[(i)]~~ (a) the owner cohabitant after the expiration of the 60-day period or, if the owner  
65 cohabitant requests return of the firearm before the expiration of the 60-day period, at the time  
66 of the request; or

67 ~~[(ii)]~~ (b) an owner other than the owner cohabitant in accordance with Section  
68 [53-5c-202](#).

69 ~~[(4)]~~ (5) The law enforcement agency shall hold the firearm for an additional 60 days  
70 if:

71 (a) [if] the initial 60-day period expires; and

72 (b) the cohabitant or owner cohabitant requests that the law enforcement agency hold  
73 the firearm for an additional 60 days.

74 (6) A law enforcement agency may not return a firearm to an owner cohabitant  
75 requesting return of the firearm if the owner cohabitant is the subject of any pending  
76 determination that may result in the owner cohabitant becoming a restricted person under  
77 Section [76-10-503](#).

78 (7) Before returning a firearm to an owner cohabitant under Subsection (4), a law  
79 enforcement agency shall take reasonable measures to verify that the owner cohabitant seeking  
80 return of the owner cohabitant's firearm is not the subject of a pending determination described  
81 in Subsection (6) and is not currently a restricted person under Section [76-10-503](#) by  
82 reviewing:

83 (a) all accessible and relevant databases;

84 (b) any documentation provided by a cohabitant or owner cohabitant; or

85 (c) any other resources available to the law enforcement agency.

86 (8) A cohabitant who commits, to a law enforcement agency, the firearm of an owner  
87 cohabitant who is awaiting a determination for commitment to a mental health authority shall  
88 provide the law enforcement agency with documentation supporting that the owner cohabitant  
89 is awaiting a determination for commitment to a mental health authority.

90           ~~[(5) A]~~ (9) Except as provided in Subsection (8), a law enforcement agency may not  
91 request or require that the ~~[owner]~~ cohabitant provide the name or other information of the  
92 owner cohabitant who poses an immediate threat or of any other owner cohabitant.

93           ~~[(6)]~~ (10) Notwithstanding an ordinance or policy to the contrary adopted in  
94 accordance with Section 63G-2-701, a law enforcement agency shall destroy a record created  
95 under Subsection (3), Subsection 53-5c-202(3)(b)(iii), or any other record created in the  
96 application of this chapter immediately, if practicable, but no later than five days after  
97 immediately upon the:

- 98           (a) return of a firearm in accordance with Subsection ~~[(3)(d)]~~ (4); or
- 99           (b) disposal of the firearm in accordance with Section 53-5c-202.

100           ~~[(7)]~~ (11) Unless otherwise provided, the provisions of Title 77, Chapter 24a, Lost or  
101 Mislaid Personal Property, do not apply to a firearm received by a law enforcement agency in  
102 accordance with this chapter.

103           ~~[(8)]~~ (12) A law enforcement agency shall adopt a policy for the safekeeping of a  
104 firearm held in accordance with this chapter.