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FIREARM POSSESSION AMENDMENTS

2023 GENERAL SESSION

STATE OF UTAH

Chief Sponsor: Ryan D. Wilcox

Senate Sponsor: _____

LONG TITLE

General Description:

This bill addresses provisions regarding firearm restrictions.

Highlighted Provisions:

This bill:

- ▶ requires agencies to run a background check when returning a firearm to an individual from evidence;
- ▶ requires a court that reports criminal information to the Criminal Investigations and Technical Service Division to provide the relationship between the victim and the perpetrator in certain circumstances;
- ▶ amends the definition of a "restricted person";
- ▶ classifies an alien in the state on a nonimmigrant visa in certain circumstances as a restricted person not able to possess, own, or purchase a firearm;
- ▶ requires the Bureau of Criminal Identification to inform the local law enforcement agency with jurisdiction over a firearms dealer when a restricted person attempts to purchase a firearm from that dealer; and
- ▶ makes technical changes.

Money Appropriated in this Bill:

None

Other Special Clauses:

None



28 **Utah Code Sections Affected:**

29 AMENDS:

- 30 **24-3-103**, as last amended by Laws of Utah 2021, Chapter 230
- 31 **53-10-208.1**, as last amended by Laws of Utah 2021, Chapter 159
- 32 **53-10-213**, as last amended by Laws of Utah 2020, Chapter 142
- 33 **76-10-501**, as last amended by Laws of Utah 2015, Chapters 212, 406
- 34 **76-10-503**, as last amended by Laws of Utah 2021, Chapter 262
- 35 **76-10-526**, as last amended by Laws of Utah 2021, Chapters 166, 277



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

38 Section 1. Section **24-3-103** is amended to read:

39 **24-3-103. Disposition of property.**

40 (1) If a prosecuting attorney determines that seized property no longer needs to be
41 retained for court proceedings, the prosecuting attorney may:

42 (a) petition the court to apply the property that is money towards restitution, fines, fees,
43 or monetary judgments owed by the owner of the property;

44 (b) petition the court for an order transferring ownership of [~~any~~] weapons to the
45 agency with custody for the agency's use and disposal in accordance with Section **24-3-103.5**,
46 if the owner:

47 (i) is the individual who committed the offense for which the weapon was seized; or

48 (ii) may not lawfully possess the weapon; or

49 (c) notify the agency with custody of the property or contraband that:

50 (i) the property may be returned to the rightful owner if the rightful owner may
51 lawfully possess the property; or

52 (ii) the contraband may be disposed of or destroyed.

53 (2) Before returning a firearm to an individual, the agency returning the firearm shall
54 confirm, through the Bureau of Criminal Identification, that the individual is eligible to
55 lawfully possess and receive firearms.

56 [~~(2)~~] (3) The agency shall exercise due diligence in attempting to notify the rightful
57 owner of the property to advise the owner that the property is to be returned.

58 [~~(3)~~] (4) (a) For a computer determined to be contraband, a court may order the

59 reasonable extraction and return of specifically described personal digital data to the rightful
60 owner.

61 (b) The law enforcement agency shall determine a reasonable cost to extract the data.

62 (c) At the time of the request to extract the data, the owner of the computer shall pay
63 the agency the cost to extract the data.

64 ~~[(4)]~~ (5) (a) Before an agency may release seized property to a person claiming
65 ownership of the property, the person shall establish in accordance with Subsection ~~[(4)(b)]~~
66 (5)(b) that the person:

67 (i) is the rightful owner; and

68 (ii) may lawfully possess the property.

69 (b) The person shall establish ownership under Subsection ~~[(4)(a)]~~ (5)(a) by providing
70 to the agency:

71 (i) identifying proof or documentation of ownership of the property; or

72 (ii) a notarized statement if proof or documentation is not available.

73 ~~[(5)]~~ (6) (a) When seized property is returned to the owner, the owner shall sign a
74 receipt listing in detail the property that is returned.

75 (b) The agency shall:

76 (i) retain a copy of the receipt; and

77 (ii) provide a copy of the receipt to the owner.

78 ~~[(6)]~~ (7) (a) Except as provided in Subsection ~~[(6)(b)]~~ (7)(b), if the agency is unable to
79 locate the rightful owner of the property or the rightful owner is not entitled to lawfully possess
80 the property, the agency may:

81 (i) apply the property to a public interest use;

82 (ii) sell the property at public auction and apply the proceeds of the sale to a public
83 interest use; or

84 (iii) destroy the property if the property is unfit for a public interest use or for sale.

85 (b) If the property described in Subsection ~~[(6)(a)]~~ (7)(a) is a firearm, the agency shall
86 dispose of the firearm in accordance with Section [24-3-103.5](#).

87 ~~[(7)]~~ (8) Before applying the property or the proceeds from the sale of the property to a
88 public interest use, the agency shall obtain from the legislative body of the agency's
89 jurisdiction:

- 90 (a) permission to apply the property or the proceeds to public interest use; and
- 91 (b) the designation and approval of the public interest use of the property or the
- 92 proceeds.

93 [~~8~~] (9) If a peace officer seizes property that at the time of seizure is held by a pawn
94 or secondhand business in the course of the pawn or secondhand business's business, the
95 provisions of Section 13-32a-116 shall apply to the disposition of the property.

96 Section 2. Section 53-10-208.1 is amended to read:

97 **53-10-208.1. Magistrates and court clerks to supply information.**

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

- 101 (a) all dispositions of criminal matters, including:
 - 102 (i) guilty pleas;
 - 103 (ii) convictions;
 - 104 (iii) dismissals;
 - 105 (iv) acquittals;
 - 106 (v) pleas held in abeyance;
 - 107 (vi) judgments of not guilty by reason of insanity;
 - 108 (vii) judgments of guilty with a mental illness;
 - 109 (viii) finding of mental incompetence to stand trial; and
 - 110 (ix) probations granted;
- 111 (b) orders of civil commitment under the terms of Section 62A-15-631;
- 112 (c) the issuance, recall, cancellation, or modification of all warrants of arrest or
113 commitment as described in Rule 6, Utah Rules of Criminal Procedure and Section 78B-6-303,
114 within one day of the action and in a manner provided by the division; and
- 115 (d) protective orders issued after notice and hearing, pursuant to:
 - 116 (i) Title 77, Chapter 36, Cohabitant Abuse Procedures Act;
 - 117 (ii) Title 78B, Chapter 7, Part 4, Dating Violence Protective Orders;
 - 118 (iii) Title 78B, Chapter 7, Part 5, Sexual Violence Protective Orders;
 - 119 (iv) Title 78B, Chapter 7, Part 6, Cohabitant Abuse Protective Orders; or
 - 120 (v) Title 78B, Chapter 7, Part 8, Criminal Protective Orders.

121 (2) When transmitting information on a criminal matter under Subsection (1), if the
 122 criminal matter is the result of misdemeanor assault under Section 76-5-102, the magistrate or
 123 clerk of a court shall, as described in Subsection 76-10-503(1)(b)(xi), include information
 124 regarding whether the assault committed by the perpetrator was against an individual:

- 125 (a) who is the perpetrator's current or former spouse, parent, or guardian;
 126 (b) with whom the perpetrator shares a child in common;
 127 (c) who is cohabitating or has cohabitated with the perpetrator as a spouse, parent, or
 128 guardian;
 129 (d) similarly situated to a spouse, parent, or guardian of the perpetrator;
 130 (e) involved in a dating relationship, as defined in Section 76-10-501, with the
 131 perpetrator within the last five years; or
 132 (f) with whom none of the relationships described in Subsections (2)(a) through (e)
 133 apply.

134 ~~[(2)]~~ (3) The court in the county where a determination or finding was made shall
 135 transmit a record of the determination or finding to the bureau no later than 48 hours after the
 136 determination is made, excluding Saturdays, Sundays, and legal holidays, if an individual is:

- 137 (a) adjudicated as a mental defective; or
 138 (b) involuntarily committed to a mental institution in accordance with Subsection
 139 62A-15-631(16).

140 ~~[(3)]~~ (4) The record described in Subsection ~~[(2)]~~ (3) shall include:

- 141 (a) an agency record identifier;
 142 (b) the individual's name, sex, race, and date of birth; and
 143 (c) the individual's social security number, government issued driver license or
 144 identification number, alien registration number, government passport number, state
 145 identification number, or FBI number.

146 Section 3. Section 53-10-213 is amended to read:

147 **53-10-213. Reporting requirements.**

148 (1) The bureau shall submit the record received from the court in accordance with
 149 Subsection 78B-7-603(5)(e) to the National Crime Information Center within 48 hours of
 150 receipt, excluding Saturdays, Sundays, and legal holidays.

151 (2) The bureau shall submit the record received from the court in accordance with

152 Subsection [~~53-10-208.1(2)~~] 53-10-208.1(3) to the National Instant Criminal Background
153 Check System within 48 hours of receipt, excluding Saturdays, Sundays, and legal holidays.

154 Section 4. Section **76-10-501** is amended to read:

155 **76-10-501. Definitions.**

156 As used in this part:

157 (1) (a) "Antique firearm" means:

158 (i) any firearm, including any firearm with a matchlock, flintlock, percussion cap, or
159 similar type of ignition system, manufactured in or before 1898; or

160 (ii) a firearm that is a replica of any firearm described in this Subsection (1)(a), if the
161 replica:

162 (A) is not designed or redesigned for using rimfire or conventional centerfire fixed
163 ammunition; or

164 (B) uses rimfire or centerfire fixed ammunition which is:

165 (I) no longer manufactured in the United States; and

166 (II) is not readily available in ordinary channels of commercial trade; or

167 (iii) (A) that is a muzzle loading rifle, shotgun, or pistol; and

168 (B) is designed to use black powder, or a black powder substitute, and cannot use fixed
169 ammunition.

170 (b) "Antique firearm" does not include:

171 (i) a weapon that incorporates a firearm frame or receiver;

172 (ii) a firearm that is converted into a muzzle loading weapon; or

173 (iii) a muzzle loading weapon that can be readily converted to fire fixed ammunition by
174 replacing the:

175 (A) barrel;

176 (B) bolt;

177 (C) breechblock; or

178 (D) any combination of Subsection (1)(b)(iii)(A), (B), or (C).

179 (2) "Bureau" means the Bureau of Criminal Identification created in Section 53-10-201
180 within the Department of Public Safety.

181 (3) (a) "Concealed firearm" means a firearm that is:

182 (i) covered, hidden, or secreted in a manner that the public would not be aware of its

183 presence; and

184 (ii) readily accessible for immediate use.

185 (b) A firearm that is unloaded and securely encased is not a concealed firearm for the
186 purposes of this part.

187 (4) "Criminal history background check" means a criminal background check
188 conducted by a licensed firearms dealer on every purchaser of a handgun, except a Federal
189 Firearms Licensee, through the bureau or the local law enforcement agency where the firearms
190 dealer conducts business.

191 (5) "Curio or relic firearm" means a firearm that:

192 (a) is of special interest to a collector because of a quality that is not associated with
193 firearms intended for:

194 (i) sporting use;

195 (ii) use as an offensive weapon; or

196 (iii) use as a defensive weapon;

197 (b) (i) was manufactured at least 50 years before the current date; and

198 (ii) is not a replica of a firearm described in Subsection (5)(b)(i);

199 (c) is certified by the curator of a municipal, state, or federal museum that exhibits
200 firearms to be a curio or relic of museum interest;

201 (d) derives a substantial part of its monetary value:

202 (i) from the fact that the firearm is:

203 (A) novel;

204 (B) rare; or

205 (C) bizarre; or

206 (ii) because of the firearm's association with an historical:

207 (A) figure;

208 (B) period; or

209 (C) event; and

210 (e) has been designated as a curio or relic firearm by the director of the United States
211 Treasury Department Bureau of Alcohol, Tobacco, and Firearms under 27 C.F.R. Sec. 478.11.

212 (6) (a) "Dangerous weapon" means:

213 (i) a firearm; or

214 (ii) an object that in the manner of its use or intended use is capable of causing death or
215 serious bodily injury.

216 (b) The following factors are used in determining whether any object, other than a
217 firearm, is a dangerous weapon:

218 (i) the location and circumstances in which the object was used or possessed;

219 (ii) the primary purpose for which the object was made;

220 (iii) the character of the wound, if any, produced by the object's unlawful use;

221 (iv) the manner in which the object was unlawfully used;

222 (v) whether the manner in which the object is used or possessed constitutes a potential
223 imminent threat to public safety; and

224 (vi) the lawful purposes for which the object may be used.

225 (c) "Dangerous weapon" does not include an explosive, chemical, or incendiary device
226 as defined by Section 76-10-306.

227 (7) (a) "Dating relationship" means a romantic or intimate relationship between
228 individuals.

229 (b) "Dating relationship" does not include a casual acquaintanceship or ordinary
230 fraternization in a business or social context.

231 [~~7~~] (8) "Dealer" means a person who is:

232 (a) licensed under 18 U.S.C. Sec. 923; and

233 (b) engaged in the business of selling, leasing, or otherwise transferring a handgun,
234 whether the person is a retail or wholesale dealer, pawnbroker, or otherwise.

235 [~~8~~] (9) "Enter" means intrusion of the entire body.

236 [~~9~~] (10) "Federal Firearms Licensee" means a person who:

237 (a) holds a valid Federal Firearms License issued under 18 U.S.C. Sec. 923; and

238 (b) is engaged in the activities authorized by the specific category of license held.

239 [~~10~~] (11) (a) "Firearm" means a pistol, revolver, shotgun, short barreled shotgun, rifle
240 or short barreled rifle, or a device that could be used as a dangerous weapon from which is
241 expelled a projectile by action of an explosive.

242 (b) As used in Sections 76-10-526 and 76-10-527, "firearm" does not include an
243 antique firearm.

244 [~~11~~] (12) "Firearms transaction record form" means a form created by the bureau to

245 be completed by a person purchasing, selling, or transferring a handgun from a dealer in the
246 state.

247 ~~[(12)]~~ (13) "Fully automatic weapon" means a firearm which fires, is designed to fire,
248 or can be readily restored to fire, automatically more than one shot without manual reloading
249 by a single function of the trigger.

250 ~~[(13)]~~ (14) (a) "Handgun" means a pistol, revolver, or other firearm of any description,
251 loaded or unloaded, from which a shot, bullet, or other missile can be discharged, the length of
252 which, not including any revolving, detachable, or magazine breech, does not exceed 12 inches.

253 (b) As used in Sections [76-10-520](#), [76-10-521](#), and [76-10-522](#), "handgun" and "pistol
254 or revolver" do not include an antique firearm.

255 ~~[(14)]~~ (15) "House of worship" means a church, temple, synagogue, mosque, or other
256 building set apart primarily for the purpose of worship in which religious services are held and
257 the main body of which is kept for that use and not put to any other use inconsistent with its
258 primary purpose.

259 ~~[(15)]~~ (16) "Prohibited area" means a place where it is unlawful to discharge a firearm.

260 ~~[(16)]~~ (17) "Readily accessible for immediate use" means that a firearm or other
261 dangerous weapon is carried on the person or within such close proximity and in such a manner
262 that it can be retrieved and used as readily as if carried on the person.

263 ~~[(17)]~~ (18) "Residence" means an improvement to real property used or occupied as a
264 primary or secondary residence.

265 ~~[(18)]~~ (19) "Securely encased" means not readily accessible for immediate use, such as
266 held in a gun rack, or in a closed case or container, whether or not locked, or in a trunk or other
267 storage area of a motor vehicle, not including a glove box or console box.

268 ~~[(19)]~~ (20) "Short barreled shotgun" or "short barreled rifle" means a shotgun having a
269 barrel or barrels of fewer than 18 inches in length, or in the case of a rifle, having a barrel or
270 barrels of fewer than 16 inches in length, or a dangerous weapon made from a rifle or shotgun
271 by alteration, modification, or otherwise, if the weapon as modified has an overall length of
272 fewer than 26 inches.

273 ~~[(20)]~~ (21) "Shotgun" means a smooth bore firearm designed to fire cartridges
274 containing pellets or a single slug.

275 ~~[(21)]~~ (22) "Shoulder arm" means a firearm that is designed to be fired while braced

276 against the shoulder.

277 ~~[(22)]~~ (23) "Slug" means a single projectile discharged from a shotgun shell.

278 ~~[(23)]~~ (24) "State entity" means a department, commission, board, council, agency,
279 institution, officer, corporation, fund, division, office, committee, authority, laboratory, library,
280 unit, bureau, panel, or other administrative unit of the state.

281 ~~[(24)]~~ (25) "Violent felony" means the same as that term is defined in Section
282 76-3-203.5.

283 Section 5. Section 76-10-503 is amended to read:

284 **76-10-503. Restrictions on possession, purchase, transfer, and ownership of**
285 **dangerous weapons by certain persons -- Exceptions.**

286 (1) For purposes of this section:

287 (a) A Category I restricted person is a person who:

288 (i) has been convicted of ~~[any]~~ a violent felony as defined in Section 76-3-203.5;

289 (ii) is on probation or parole for ~~[any]~~ a felony;

290 (iii) is on parole from secure care, as defined in Section 80-1-102;

291 (iv) within the last 10 years has been adjudicated under Section 80-6-701 for an offense

292 which if committed by an adult would have been a violent felony as defined in Section
293 76-3-203.5;

294 (v) is an alien who is illegally or unlawfully in the United States; or

295 (vi) is on probation for a conviction of possessing:

296 (A) a substance classified in Section 58-37-4 as a Schedule I or II controlled substance;

297 (B) a controlled substance analog; or

298 (C) a substance listed in Section 58-37-4.2.

299 (b) A Category II restricted person is a person who:

300 (i) has been convicted of ~~[any]~~ a felony;

301 (ii) within the last seven years has been adjudicated delinquent for an offense which if
302 committed by an adult would have been a felony;

303 (iii) is an unlawful user of a controlled substance as defined in Section 58-37-2;

304 (iv) is in possession of a dangerous weapon and is knowingly and intentionally in
305 unlawful possession of a Schedule I or II controlled substance as defined in Section 58-37-2;

306 (v) has been found not guilty by reason of insanity for a felony offense;

- 307 (vi) has been found mentally incompetent to stand trial for a felony offense;
- 308 (vii) has been adjudicated as mentally defective as provided in the Brady Handgun
309 Violence Prevention Act, Pub. L. No. 103-159, 107 Stat. 1536 (1993), or has been committed
310 to a mental institution;
- 311 (viii) has been dishonorably discharged from the armed forces;
- 312 (ix) has renounced the individual's citizenship after having been a citizen of the United
313 States;
- 314 (x) is a respondent or defendant subject to a protective order or child protective order
315 that is issued after a hearing for which the respondent or defendant received actual notice and at
316 which the respondent or defendant has an opportunity to participate, that restrains the
317 respondent or defendant from harassing, stalking, threatening, or engaging in other conduct that
318 would place an intimate partner, as defined in 18 U.S.C. Sec. 921, or a child of the intimate
319 partner, in reasonable fear of bodily injury to the intimate partner or child of the intimate
320 partner, and that:
- 321 (A) includes a finding that the respondent or defendant represents a credible threat to
322 the physical safety of an individual who meets the definition of an intimate partner in 18 U.S.C.
323 Sec. 921 or the child of the individual; or
- 324 (B) explicitly prohibits the use, attempted use, or threatened use of physical force that
325 would reasonably be expected to cause bodily harm against an intimate partner or the child of
326 an intimate partner; ~~or~~
- 327 (xi) except as provided in Subsection (1)(d), has been convicted of the commission or
328 attempted commission of assault under Section 76-5-102 or aggravated assault under Section
329 76-5-103 against an individual:
- 330 (A) who is a current or former spouse, parent, or guardian^[5];
- 331 (B) ~~[individual]~~ with whom the restricted person shares a child in common^[5];
- 332 (C) ~~[individual]~~ who is cohabitating or has cohabitated with the restricted person as a
333 spouse, parent, or guardian^[5];
- 334 (D) involved in a dating relationship with the restricted person within the last five
335 years; or
- 336 (E) ~~[against an individual]~~ similarly situated to a spouse, parent, or guardian of the
337 restricted person; or

338 (xii) is an alien who has been admitted to the United States under a nonimmigrant visa
339 as defined in 8 U.S.C. Sec. 1101(a)(26).

340 (c) (i) As used in this section, a conviction of a felony or adjudication of delinquency
341 for an offense which would be a felony if committed by an adult does not include:

342 [(†)] (A) a conviction or an adjudication under Section 80-6-701 for an offense
343 pertaining to antitrust violations, unfair trade practices, restraint of trade, or other similar
344 offenses relating to the regulation of business practices not involving theft or fraud; or

345 [(†)] (B) a conviction or an adjudication under Section 80-6-701 which, [~~according to~~]
346 in accordance with the law of the jurisdiction in which [†] the conviction or adjudication
347 occurred, has been expunged, set aside, reduced to a misdemeanor by court order, pardoned or
348 regarding which the person's civil rights have been restored unless the pardon, reduction,
349 expungement, or restoration of civil rights expressly provides that the person may not ship,
350 transport, possess, or receive firearms.

351 [(†)] (ii) It is the burden of the defendant in a criminal case to provide evidence that a
352 conviction or an adjudication under Section 80-6-701 is subject to an exception provided in
353 Subsection (1)(c)(i), after which it is the burden of the state to prove beyond a reasonable doubt
354 that the conviction or the adjudication is not subject to that exception.

355 (d) A person is not a restricted person for a conviction under Subsection (1)(b)(xi)(D)
356 if:

357 (i) five years have elapsed from the later of:

358 (A) the day on which the conviction is entered;

359 (B) the day on which the person is released from incarceration following the
360 conviction; or

361 (C) the day on which the person's probation for the conviction is successfully
362 terminated;

363 (ii) the person only has a single conviction for assault as described in Subsection
364 (1)(b)(xi)(D); and

365 (iii) the person is not otherwise a restricted person under Subsection (1)(a) or (b).

366 (2) A Category I restricted person who intentionally or knowingly agrees, consents,
367 offers, or arranges to purchase, transfer, possess, use, or have under the person's custody or
368 control, or who intentionally or knowingly purchases, transfers, possesses, uses, or has under

369 the person's custody or control:

370 (a) [~~any~~] a firearm is guilty of a second degree felony; or

371 (b) [~~any~~] a dangerous weapon other than a firearm is guilty of a third degree felony.

372 (3) [~~A~~] Except as provided in Subsection (4), a Category II restricted person who
 373 intentionally or knowingly purchases, transfers, possesses, uses, or has under the person's
 374 custody or control:

375 (a) [~~any~~] a firearm is guilty of a third degree felony; or

376 (b) [~~any~~] a dangerous weapon other than a firearm is guilty of a class A misdemeanor.

377 (4) A Category II restricted person may possess, use, or have under the person's control
 378 a firearm or dangerous weapon if:

379 (a) the person is a Category II restricted person solely due to Subsection (1)(b)(xii);

380 (b) the person has been admitted to the United States under a nonimmigrant visa solely
 381 for lawful hunting or sporting purposes;

382 (c) the person is in possession of a valid hunting license or permit; and

383 (d) the possession, use, or control of the firearm or dangerous weapon is directly
 384 related to the lawful hunting or sporting purposes described in Subsection (4)(b).

385 [~~(4)~~] (5) A person may be subject to the restrictions of both categories at the same time.

386 [~~(5)~~] (6) If a higher penalty than is prescribed in this section is provided in another
 387 section for one who purchases, transfers, possesses, uses, or has under this custody or control
 388 [~~any~~] a dangerous weapon, the penalties of that section control.

389 [~~(6)~~] (7) It is an affirmative defense to a charge based on the definition in Subsection
 390 (1)(b)(iv) that the person was:

391 (a) in possession of a controlled substance pursuant to a lawful order of a practitioner
 392 for use of a member of the person's household or for administration to an animal owned by the
 393 person or a member of the person's household; or

394 (b) otherwise authorized by law to possess the substance.

395 [~~(7)~~] (8) (a) It is an affirmative defense to transferring a firearm or other dangerous
 396 weapon by a person restricted under Subsection (2) or (3) that the firearm or dangerous
 397 weapon:

398 (i) was possessed by the person or was under the person's custody or control before the
 399 person became a restricted person;

400 (ii) was not used in or possessed during the commission of a crime or subject to
401 disposition under Section ~~24-3-103~~;

402 (iii) is not being held as evidence by a court or law enforcement agency;

403 (iv) was transferred to a person not legally prohibited from possessing the weapon; and

404 (v) unless a different time is ordered by the court, was transferred within 10 days of the
405 person becoming a restricted person.

406 (b) Subsection ~~[(7)(a)]~~ (8)(a) is not a defense to the use, purchase, or possession on the
407 person of a firearm or other dangerous weapon by a restricted person.

408 ~~[(8)]~~ (9) (a) A person may not sell, transfer, or otherwise dispose of ~~[any]~~ a firearm or
409 dangerous weapon to ~~[any]~~ a person, knowing that the recipient is a person described in
410 Subsection (1)(a) or (b).

411 (b) A person who violates Subsection ~~[(8)(a)]~~ (9)(a) when the recipient is:

412 (i) a person described in Subsection (1)(a) and the transaction involves a firearm, is
413 guilty of a second degree felony;

414 (ii) a person described in Subsection (1)(a) and the transaction involves ~~[any]~~ a
415 dangerous weapon other than a firearm, and the transferor has knowledge that the recipient
416 intends to use the weapon for any unlawful purpose, is guilty of a third degree felony;

417 (iii) a person described in Subsection (1)(b) and the transaction involves a firearm, is
418 guilty of a third degree felony; or

419 (iv) a person described in Subsection (1)(b) and the transaction involves ~~[any]~~ a
420 dangerous weapon other than a firearm, and the transferor has knowledge that the recipient
421 intends to use the weapon for ~~[any]~~ an unlawful purpose, is guilty of a class A misdemeanor.

422 ~~[(9)]~~ (10) (a) A person may not knowingly solicit, persuade, encourage or entice a
423 dealer or other person to sell, transfer or otherwise dispose of a firearm or dangerous weapon
424 under circumstances which the person knows would be a violation of the law.

425 (b) A person may not provide to a dealer or other person ~~[any]~~ information that the
426 person knows to be materially false information with intent to deceive the dealer or other
427 person about the legality of a sale, transfer or other disposition of a firearm or dangerous
428 weapon.

429 (c) "Materially false information" means information that portrays an illegal transaction
430 as legal or a legal transaction as illegal.

431 (d) A person who violates this Subsection [~~(9)~~] (10) is guilty of:

432 (i) a third degree felony if the transaction involved a firearm; or

433 (ii) a class A misdemeanor if the transaction involved a dangerous weapon other than a
434 firearm.

435 Section 6. Section **76-10-526** is amended to read:

436 **76-10-526. Criminal background check prior to purchase of a firearm -- Fee --**
437 **Exemption for concealed firearm permit holders and law enforcement officers.**

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

440 (2) (a) To establish personal identification and residence in this state for purposes of
441 this part, a dealer shall require an individual receiving a firearm to present one photo
442 identification on a form issued by a governmental agency of the state.

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

446 (3) (a) A criminal history background check is required for the sale of a firearm by a
447 licensed firearm dealer in the state.

448 (b) Subsection (3)(a) does not apply to the sale of a firearm to a Federal Firearms
449 Licensee.

450 (4) (a) An individual purchasing a firearm from a dealer shall consent in writing to a
451 criminal background check, on a form provided by the bureau.

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

453 (i) the dealer identification number;

454 (ii) the name and address of the individual receiving the firearm;

455 (iii) the date of birth, height, weight, eye color, and hair color of the individual
456 receiving the firearm; and

457 (iv) the social security number or any other identification number of the individual
458 receiving the firearm.

459 (5) (a) The dealer shall send the information required by Subsection (4) to the bureau
460 immediately upon its receipt by the dealer.

461 (b) A dealer may not sell or transfer a firearm to an individual until the dealer has

462 provided the bureau with the information in Subsection (4) and has received approval from the
463 bureau under Subsection (7).

464 (6) The dealer shall make a request for criminal history background information by
465 telephone or other electronic means to the bureau and shall receive approval or denial of the
466 inquiry by telephone or other electronic means.

467 (7) When the dealer calls for or requests a criminal history background check, the
468 bureau shall:

469 (a) review the criminal history files, including juvenile court records, and the
470 temporary restricted file created under Section 53-5c-301, to determine if the individual is
471 prohibited from purchasing, possessing, or transferring a firearm by state or federal law;

472 (b) inform the dealer that:

473 (i) the records indicate the individual is prohibited; or

474 (ii) the individual is approved for purchasing, possessing, or transferring a firearm;

475 (c) provide the dealer with a unique transaction number for that inquiry; and

476 (d) provide a response to the requesting dealer during the call for a criminal
477 background check, or by return call, or other electronic means, without delay, except in case of
478 electronic failure or other circumstances beyond the control of the bureau, the bureau shall
479 advise the dealer of the reason for the delay and give the dealer an estimate of the length of the
480 delay.

481 (8) (a) The bureau may not maintain any records of the criminal history background
482 check longer than 20 days from the date of the dealer's request, if the bureau determines that
483 the individual receiving the firearm is not prohibited from purchasing, possessing, or
484 transferring the firearm under state or federal law.

485 (b) However, the bureau shall maintain a log of requests containing the dealer's federal
486 firearms number, the transaction number, and the transaction date for a period of 12 months.

487 (9) (a) If the criminal history background check discloses information indicating that
488 the individual attempting to purchase the firearm is prohibited from purchasing, possessing, or
489 transferring a firearm, the bureau shall:

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

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

494 (b) Subsection (9)(a) does not apply to an individual prohibited from purchasing a
495 firearm solely due to placement on the temporary restricted list under Section 53-5c-301.

496 (c) A law enforcement agency that receives information from the bureau under
497 Subsection (9)(a) shall provide a report before August 1 of each year to the bureau that
498 includes:

499 (i) based on the information the bureau provides to the law enforcement agency under
500 Subsection (9)(a), the number of cases that involve an individual who is prohibited from
501 purchasing, possessing, or transferring a firearm as a result of a conviction for an offense
502 involving domestic violence; and

503 (ii) of the cases described in Subsection (9)(c)(i):

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

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

507 (d) The bureau shall:

508 (i) compile the information from the reports described in Subsection (9)(c);

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

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

512 (10) If an individual is denied the right to purchase a firearm under this section, the
513 individual may review the individual's criminal history information and may challenge or
514 amend the information as provided in Section 53-10-108.

515 (11) The bureau shall make rules in accordance with Title 63G, Chapter 3, Utah
516 Administrative Rulemaking Act, to ensure the identity, confidentiality, and security of all
517 records provided by the bureau under this part are in conformance with the requirements of the
518 Brady Handgun Violence Prevention Act, Pub. L. No. 103-159, 107 Stat. 1536 (1993).

519 (12) (a) A dealer shall collect a criminal history background check fee for the sale of a
520 firearm under this section.

521 (b) The fee described under Subsection (12)(a) remains in effect until changed by the
522 bureau through the process described in Section 63J-1-504.

523 (c) (i) The dealer shall forward at one time all fees collected for criminal history

524 background checks performed during the month to the bureau by the last day of the month
525 following the sale of a firearm.

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

528 (13) An individual with a concealed firearm permit issued under Title 53, Chapter 5,
529 Part 7, Concealed Firearm Act, is exempt from the background check and corresponding fee
530 required in this section for the purchase of a firearm if:

531 (a) the individual presents the individual's concealed firearm permit to the dealer prior
532 to purchase of the firearm; and

533 (b) the dealer verifies with the bureau that the individual's concealed firearm permit is
534 valid.

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

540 (b) Subsection (14)(a) may only be used by a law enforcement officer to purchase a
541 personal firearm once in a 24-month period.

542 (15) A dealer engaged in the business of selling, leasing, or otherwise transferring
543 ~~any~~ a firearm shall:

544 (a) make the firearm safety brochure described in Subsection 62A-15-103(3) available
545 to a customer free of charge; and

546 (b) at the time of purchase, distribute a cable-style gun lock provided to the dealer
547 under Subsection 62A-15-103(3) to a customer purchasing a shotgun, short barreled shotgun,
548 short barreled rifle, rifle, or another firearm that federal law does not require be accompanied
549 by a gun lock at the time of purchase.