

COURT COMMISSIONER AMENDMENTS

2019 GENERAL SESSION

STATE OF UTAH

Chief Sponsor: Kelly B. Miles

Senate Sponsor: David G. Buxton

LONG TITLE

General Description:

This bill amends provisions relating to a court commissioner.

Highlighted Provisions:

This bill:

- ▶ provides that a court commissioner is exempt from certain weapons laws if the court commissioner completes the required training; and
- ▶ makes technical changes.

Money Appropriated in this Bill:

None

Other Special Clauses:

None

Utah Code Sections Affected:

AMENDS:

53-5-711, as last amended by Laws of Utah 2014, Chapter 146

76-10-506, as last amended by Laws of Utah 2014, Chapter 248

76-10-508, as last amended by Laws of Utah 2014, Chapter 248

76-10-508.1, as last amended by Laws of Utah 2014, Chapter 248

76-10-523, as last amended by Laws of Utah 2014, Chapter 248

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

Section 1. Section **53-5-711** is amended to read:

53-5-711. Law enforcement officials, judges, and court commissioners exempt --

30 **Training requirements -- Qualification -- Revocation.**

31 (1) [~~For purposes of~~] As used in this section and Section 76-10-523:

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

33 [~~(a)~~] (b) (i) "Judge" means a judge or justice of a court of record or a court not of
34 record[~~, but~~].

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

36 [~~(b)~~] (c) "Law enforcement official [~~of this state~~]" means:

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

38 (ii) a district attorney, deputy district attorney, county attorney or deputy county
39 attorney of a county not in a prosecution district;

40 (iii) the attorney general;

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

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

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

45 (a) meet the requirements of Sections 53-5-704, 53-5-706, and 53-5-707; and

46 (b) successfully complete an additional course of training as established by the
47 commissioner of public safety designed to assist them while carrying out their official law
48 enforcement [~~and~~], judicial, or court commissioner duties as agents for the state or its political
49 subdivisions.

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

53 (a) Board of Pardons and Parole by rule for its members;

54 (b) Judicial Council by rule for judges and court commissioners; and

55 (c) the district attorney, county attorney in a county not in a prosecution district, the
56 attorney general, or city attorney by policy for prosecutors under their jurisdiction.

57 (4) The bureau may:

58 (a) issue a certificate of qualification to a judge [or], law enforcement official, or court
 59 commissioner who has completed the requirements of Subsection (2), which certificate of
 60 qualification is valid until revoked;

61 (b) revoke the certificate of qualification of a judge [or], law enforcement official, or
 62 court commissioner who:

63 (i) fails to meet the annual requalification criteria established pursuant to Subsection
 64 (3);

65 (ii) would be subject to revocation of a concealed firearm permit under Subsection
 66 53-5-704(2)(a); or

67 (iii) is no longer employed as a judge [or], law enforcement official, or court
 68 commissioner as defined in Subsection (1); and

69 (c) certify instructors for the training requirements of this section.

70 Section 2. Section 76-10-506 is amended to read:

71 **76-10-506. Threatening with or using dangerous weapon in fight or quarrel.**

72 (1) As used in this section:

73 (a) "Dangerous weapon" means an item that in the manner of its use or intended use is
 74 capable of causing death or serious bodily injury. The following factors shall be used in
 75 determining whether an item, object, or thing is a dangerous weapon:

76 (i) the character of the instrument, object, or thing;

77 (ii) the character of the wound produced, if any; and

78 (iii) the manner in which the instrument, object, or thing was exhibited or used.

79 (b) "Threatening manner" does not include:

80 (i) the possession of a dangerous weapon, whether visible or concealed, without
 81 additional behavior which is threatening; or

82 (ii) informing another of the actor's possession of a deadly weapon [~~in order~~] to prevent
 83 what the actor reasonably perceives as a possible use of unlawful force by the other and the
 84 actor is not engaged in any activity described in Subsection 76-2-402(2)(a).

85 (2) Except as otherwise provided in Section 76-2-402 and for [~~those persons~~] an

86 individual described in Section 76-10-503, [~~a person~~] an individual who, in the presence of two
87 or more [~~persons~~] individuals, and not amounting to a violation of Section 76-5-103, draws or
88 exhibits a dangerous weapon in an angry and threatening manner or unlawfully uses a
89 dangerous weapon in a fight or quarrel is guilty of a class A misdemeanor.

90 (3) This section does not apply to [~~a person~~] an individual who, reasonably believing
91 the action to be necessary in compliance with Section 76-2-402, with purpose to prevent
92 another's use of unlawful force:

- 93 (a) threatens the use of a dangerous weapon; or
- 94 (b) draws or exhibits a dangerous weapon.

95 (4) This section does not apply to [~~a person~~] an individual listed in Subsections
96 76-10-523(1)(a) through [~~(e)~~] (f) in performance of the [~~person's~~] individual's duties.
97 Section 3. Section 76-10-508 is amended to read:

98 **76-10-508. Discharge of firearm from a vehicle, near a highway, or in direction of**
99 **specified items -- Penalties.**

100 (1) (a) [~~A person~~] An individual may not discharge [~~any kind of~~] a dangerous weapon
101 or firearm:

- 102 (i) from an automobile or other vehicle;
- 103 (ii) from, upon, or across [~~any~~] a highway;
- 104 (iii) [~~at any road signs~~] at a road sign placed upon [~~any highways~~] a highway of the
105 state;
- 106 (iv) at [~~any~~] communications equipment or property of public utilities including
107 facilities, lines, poles, or devices of transmission or distribution;
- 108 (v) at railroad equipment or facilities including [~~any~~] a sign or signal;
- 109 (vi) within a Utah State Park [~~buildings~~] building, designated camp or picnic sites,
110 overlooks, golf courses, boat ramps, and developed beaches; or
- 111 (vii) without written permission to discharge the dangerous weapon from the owner or
112 person in charge of the property within 600 feet of:

113 (A) a house, dwelling, or any other building; or

114 (B) any structure in which a domestic animal is kept or fed, including a barn, poultry
 115 yard, corral, feeding pen, or stockyard.

116 (b) It is a defense to any charge for violating this section that the ~~[person]~~ individual
 117 being accused had actual permission of the owner or person in charge of the property at the
 118 time in question.

119 (2) A violation of any provision of Subsection (1) is a class B misdemeanor.

120 (3) In addition to any other penalties, the court shall:

121 (a) notify the Driver License Division of the conviction for purposes of any revocation,
 122 denial, suspension, or disqualification of a driver license under Subsection 53-3-220(1)(a)(xi);
 123 and

124 (b) specify in court at the time of sentencing the length of the revocation under
 125 Subsection 53-3-225(1)(c).

126 (4) This section does not apply to ~~a person~~ an individual who:

127 (a) discharges ~~any kind of~~ a firearm when that ~~person~~ individual is in lawful defense
 128 of self or others;

129 (b) is performing official duties as provided in Section 23-20-1.5 and Subsections
 130 76-10-523(1)(a) through ~~(e)~~ (f) and as otherwise provided by law; or

131 (c) discharges a dangerous weapon or firearm from an automobile or other vehicle, if:

132 (i) the discharge occurs at a firing range or training ground;

133 (ii) at no time after the discharge does the projectile that is discharged cross over or
 134 stop at a location other than within the boundaries of the firing range or training ground
 135 described in Subsection (4)(c)(i);

136 (iii) the discharge is made as practice or training for a lawful purpose;

137 (iv) the discharge and the location, time, and manner of the discharge are approved by
 138 the owner or operator of the firing range or training ground ~~prior to~~ before the discharge; and

139 (v) the discharge is not made in violation of Subsection (1).

140 Section 4. Section 76-10-508.1 is amended to read:

141 **76-10-508.1. Felony discharge of a firearm -- Penalties.**

142 (1) Except as provided under Subsection (2) or (3), ~~[a person]~~ an individual who
143 discharges a firearm is guilty of a third degree felony punishable by imprisonment for a term of
144 not less than three years nor more than five years if:

145 (a) the actor discharges a firearm in the direction of ~~[any person or persons]~~ one or
146 more individuals, knowing or having reason to believe that any ~~[person]~~ individual may be
147 endangered by the discharge of the firearm;

148 (b) the actor, with intent to intimidate or harass another or with intent to damage a
149 habitable structure as defined in Section 76-6-101, discharges a firearm in the direction of any
150 ~~[person]~~ individual or habitable structure; or

151 (c) the actor, with intent to intimidate or harass another, discharges a firearm in the
152 direction of any vehicle.

153 (2) A violation of Subsection (1) ~~[which]~~ that causes bodily injury to any ~~[person]~~
154 individual is a second degree felony punishable by imprisonment for a term of not less than
155 three years nor more than 15 years.

156 (3) A violation of Subsection (1) ~~[which]~~ that causes serious bodily injury to any
157 ~~[person]~~ individual is a first degree felony.

158 (4) In addition to any other penalties for a violation of this section, the court shall:

159 (a) notify the Driver License Division of the conviction for purposes of any revocation,
160 denial, suspension, or disqualification of a driver license under Subsection 53-3-220(1)(a)(xi);
161 and

162 (b) specify in court at the time of sentencing the length of the revocation under
163 Subsection 53-3-225(1)(c).

164 (5) This section does not apply to ~~[a person]~~ an individual:

165 (a) who discharges ~~[any kind of]~~ a firearm when that ~~[person]~~ individual is in lawful
166 defense of self or others;

167 (b) who is performing official duties as provided in Section 23-20-1.5 or Subsections
168 76-10-523(1)(a) through ~~[e)]~~ (f) or as otherwise authorized by law; or

169 (c) who discharges a dangerous weapon or firearm from an automobile or other

170 vehicle, if:

- 171 (i) the discharge occurs at a firing range or training ground;
- 172 (ii) at no time after the discharge does the projectile that is discharged cross over or
173 stop at a location other than within the boundaries of the firing range or training ground
174 described in Subsection (5)(c)(i);
- 175 (iii) the discharge is made as practice or training for a lawful purpose;
- 176 (iv) the discharge and the location, time, and manner of the discharge are approved by
177 the owner or operator of the firing range or training ground [~~prior to~~] before the discharge; and
- 178 (v) the discharge is not made in violation of Subsection (1).

179 Section 5. Section **76-10-523** is amended to read:

180 **76-10-523. Individuals exempt from weapons laws.**

181 (1) Except for Sections 76-10-506, 76-10-508, and 76-10-508.1, this part and Title 53,
182 Chapter 5, Part 7, Concealed Firearm Act, do not apply to any of the following:

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

191 (2) [~~The provisions of~~] Subsections 76-10-504(1) and (2), and Section 76-10-505 do
192 not apply to [~~any person~~] an individual to whom a permit to carry a concealed firearm has been
193 issued:

- 194 (a) pursuant to Section 53-5-704; or
- 195 (b) by another state or county.

196 (3) Except for Sections 76-10-503, 76-10-506, 76-10-508, and 76-10-508.1, this part
197 and Title 53, Chapter 5, Part 7, Concealed Firearm Act, do not apply to a nonresident traveling

198 in or through the state, provided that any firearm is:

199 (a) unloaded; and

200 (b) securely encased as defined in Section [76-10-501](#).