

Dangerous Weapons Amendments
2025 GENERAL SESSION
STATE OF UTAH
Chief Sponsor: Karianne Lisonbee

LONG TITLE

General Description:

This bill addresses statutes throughout the Utah Code dealing with dangerous weapons.

Highlighted Provisions:

This bill:

- defines terms;
- restructures and makes technical changes to sections in the Utah Code dealing with dangerous weapons to bring the sections into a standardized format as part of a larger effort to recodify the criminal code;
- makes amendments to existing statutes dealing with firearms;
- clarifies that an individual who may otherwise lawfully possess a firearm may:
 - possess a firearm at the individual's residence;
 - openly possess a firearm in most public locations; and
 - conceal a firearm in most public locations without a concealed carry permit;
- clarifies criminal provisions regarding who is required to have a concealed carry permit in certain circumstances;
- removes the criminal provision for law-abiding citizens to possess a loaded rifle, shotgun, or muzzle-loading rifle in a vehicle;
- removes the crime of carrying a loaded firearm on a public street; and
- makes technical and conforming changes.

Money Appropriated in this Bill:

None

Other Special Clauses:

None

Utah Code Sections Affected:

AMENDS:

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

23A-4-1106, as last amended by Laws of Utah 2023, Chapter 345 and renumbered and amended by Laws of Utah 2023, Chapter 103

32 **26B-1-326**, as last amended by Laws of Utah 2024, Chapter 250
33 **26B-2-120**, as last amended by Laws of Utah 2024, Chapter 234
34 **26B-5-102**, as last amended by Laws of Utah 2024, Chapters 250, 420
35 **31A-21-501**, as last amended by Laws of Utah 2022, Chapters 185, 430
36 **34-45-102**, as enacted by Laws of Utah 2009, Chapter 379
37 **34-45-107**, as last amended by Laws of Utah 2016, Chapter 348
38 **36-29-111**, as last amended by Laws of Utah 2024, Chapter 506
39 **47-3-305**, as last amended by Laws of Utah 2021, Chapter 246
40 **53-1-104**, as last amended by Laws of Utah 2024, Chapter 506
41 **53-2a-214**, as renumbered and amended by Laws of Utah 2013, Chapter 295
42 **53-3-220**, as last amended by Laws of Utah 2024, Chapter 319
43 **53-5a-102**, as last amended by Laws of Utah 2022, Chapter 428
44 **53-5a-103**, as last amended by Laws of Utah 2023, Chapter 392
45 **53-5a-202**, as last amended by Laws of Utah 2024, Chapter 438
46 **53-5d-102**, as enacted by Laws of Utah 2016, Chapter 155
47 **53-10-202**, as last amended by Laws of Utah 2023, Chapter 328
48 **53-10-202.5**, as last amended by Laws of Utah 2022, Chapters 250, 384
49 **53-10-208.1**, as last amended by Laws of Utah 2023, Chapters 184, 328 and 397
50 **53-10-403**, as last amended by Laws of Utah 2024, Chapters 96, 153, 187, and 256
51 **53-11-108**, as last amended by Laws of Utah 1999, Chapter 21
52 **53-13-116**, as enacted by Laws of Utah 2021, Chapter 164
53 **53-22-105**, as enacted by Laws of Utah 2024, Chapter 21
54 **53-22-107**, as enacted by Laws of Utah 2024, Chapter 117
55 **53-25-103**, as enacted by Laws of Utah 2024, Chapter 332
56 **53-25-501**, as enacted by Laws of Utah 2024, Chapter 111
57 **53B-3-103**, as last amended by Laws of Utah 2024, Chapter 378
58 **53G-8-701.8**, as enacted by Laws of Utah 2024, Chapter 21
59 **53G-8-704**, as enacted by Laws of Utah 2024, Chapter 21
60 **58-37-8**, as last amended by Laws of Utah 2024, Chapter 105
61 **58-63-307**, as last amended by Laws of Utah 2008, Chapter 246
62 **63G-2-303**, as last amended by Laws of Utah 2024, Chapter 465
63 **63G-2-801**, as last amended by Laws of Utah 2019, Chapter 254
64 **63I-1-253**, as last amended by Laws of Utah 2024, Third Special Session, Chapter 5
65 **63I-1-276**, as last amended by Laws of Utah 2024, Third Special Session, Chapter 5

66 **63I-2-276**, as last amended by Laws of Utah 2024, Third Special Session, Chapter 5
67 **63M-7-220**, as enacted by Laws of Utah 2024, Chapter 506
68 **72-10-901**, as renumbered and amended by Laws of Utah 2023, Chapter 216
69 **73-29-102**, as last amended by Laws of Utah 2023, Chapter 34
70 **76-3-203.1**, as last amended by Laws of Utah 2024, Chapter 96
71 **76-3-203.3**, as last amended by Laws of Utah 2024, Chapters 96, 381
72 **76-3-203.5**, as last amended by Laws of Utah 2024, Chapters 96, 179
73 **76-3-402**, as last amended by Laws of Utah 2024, Chapter 234
74 **76-5-102.8**, as last amended by Laws of Utah 2022, Chapter 181
75 **76-5-202**, as last amended by Laws of Utah 2022, Chapter 181
76 **76-5-203**, as last amended by Laws of Utah 2024, Chapters 96, 187
77 **76-8-311.1**, as last amended by Laws of Utah 2024, Chapter 96
78 **76-8-311.2**, as enacted by Laws of Utah 2024, Chapter 96
79 **76-8-311.3**, as last amended by Laws of Utah 2024, Chapters 96, 99
80 **76-8-311.4**, as enacted by Laws of Utah 2024, Chapter 96
81 **76-8-311.6**, as enacted by Laws of Utah 2024, Chapter 96
82 **76-8-311.7**, as enacted by Laws of Utah 2024, Chapter 96
83 **76-9-802**, as last amended by Laws of Utah 2024, Chapter 96
84 **76-9-804**, as last amended by Laws of Utah 2022, Chapter 181
85 **76-9-902**, as last amended by Laws of Utah 2024, Chapter 96
86 **76-10-306**, as last amended by Laws of Utah 2024, Chapter 343
87 **76-10-1602**, as last amended by Laws of Utah 2024, Chapter 96
88 **77-11a-402**, as last amended by Laws of Utah 2024, Chapter 332
89 **77-11a-403**, as renumbered and amended by Laws of Utah 2023, Chapter 448
90 **77-11b-102**, as last amended by Laws of Utah 2023, Chapters 415, 422 and renumbered
91 and amended by Laws of Utah 2023, Chapter 448
92 **77-11d-101**, as last amended by Laws of Utah 2024, Chapter 332
93 **77-11d-105**, as last amended by Laws of Utah 2024, Chapters 332, 517
94 **77-36-1**, as last amended by Laws of Utah 2024, Chapter 366
95 **77-36-2.1**, as last amended by Laws of Utah 2024, Chapter 434
96 **77-40a-205**, as enacted by Laws of Utah 2024, Chapter 180
97 **77-40a-403**, as last amended by Laws of Utah 2024, Chapter 180
98 **78A-6-209**, as last amended by Laws of Utah 2024, Chapter 235
99 **78B-4-511**, as renumbered and amended by Laws of Utah 2008, Chapter 3

100 **78B-5-502**, as last amended by Laws of Utah 2021, Chapter 260
101 **78B-5-505**, as last amended by Laws of Utah 2021, Chapter 260
102 **78B-6-1107**, as last amended by Laws of Utah 2021, Chapter 207
103 **78B-6-2301**, as last amended by Laws of Utah 2024, Chapter 438
104 **80-6-103**, as last amended by Laws of Utah 2024, Chapter 532
105 **80-6-104**, as last amended by Laws of Utah 2024, Chapter 20
106 **80-6-303.5**, as last amended by Laws of Utah 2024, Chapter 301
107 **80-6-305**, as last amended by Laws of Utah 2023, Chapter 161
108 **80-6-503**, as renumbered and amended by Laws of Utah 2021, Chapter 261
109 **80-6-605**, as renumbered and amended by Laws of Utah 2021, Chapter 261
110 **80-6-712**, as last amended by Laws of Utah 2024, Chapter 153
111 **80-6-804**, as last amended by Laws of Utah 2024, Chapter 153
112 **80-6-1004.1**, as enacted by Laws of Utah 2023, Chapter 115
113 **80-6-1004.5**, as last amended by Laws of Utah 2024, Chapter 301

114 ENACTS:

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 **76-11-206**, Utah Code Annotated 1953
121 **76-11-216**, Utah Code Annotated 1953
122 **76-11-301**, Utah Code Annotated 1953
123 **76-11-302**, Utah Code Annotated 1953
124 **76-11-303**, Utah Code Annotated 1953
125 **76-11-304**, Utah Code Annotated 1953
126 **76-11-305**, Utah Code Annotated 1953
127 **76-11-306**, Utah Code Annotated 1953
128 **76-11-307**, Utah Code Annotated 1953
129 **76-11-308**, Utah Code Annotated 1953

130 RENUMBERS AND AMENDS:

131 **53-5a-102.3**, (Renumbered from 76-10-511, as last amended by Laws of Utah 2009,
132 Chapter 362)
133 **53-5a-105**, (Renumbered from 76-10-520, as last amended by Laws of Utah 1993,

134 Chapter 234)
135 **53-5a-106**, (Renumbered from 76-10-522, as last amended by Laws of Utah 1993,
136 Chapter 234)
137 **53-5a-107**, (Renumbered from 76-10-523.5, as last amended by Laws of Utah 2008,
138 Chapter 3)
139 **53-5a-108**, (Renumbered from 76-10-523, as last amended by Laws of Utah 2021,
140 Chapter 12)
141 **53-5a-301**, (Renumbered from 53-5-702, as last amended by Laws of Utah 2024,
142 Chapter 22)
143 **53-5a-302**, (Renumbered from 53-5-703, as last amended by Laws of Utah 2010,
144 Chapters 62, 286 and 324)
145 **53-5a-303**, (Renumbered from 53-5-704, as last amended by Laws of Utah 2024,
146 Chapter 195)
147 **53-5a-304**, (Renumbered from 53-5-704.5, as enacted by Laws of Utah 2017, Chapter
148 286)
149 **53-5a-305**, (Renumbered from 53-5-705, as last amended by Laws of Utah 2010,
150 Chapter 62)
151 **53-5a-306**, (Renumbered from 53-5-706, as last amended by Laws of Utah 2018,
152 Chapter 417)
153 **53-5a-307**, (Renumbered from 53-5-707, as last amended by Laws of Utah 2023,
154 Chapters 328, 387)
155 **53-5a-308**, (Renumbered from 53-5-707.5, as last amended by Laws of Utah 2018,
156 Chapter 417)
157 **53-5a-309**, (Renumbered from 53-5-707.6, as last amended by Laws of Utah 2022,
158 Chapter 255)
159 **53-5a-310**, (Renumbered from 53-5-708, as last amended by Laws of Utah 2023,
160 Chapter 16)
161 **53-5a-311**, (Renumbered from 53-5-711, as last amended by Laws of Utah 2019,
162 Chapter 39)
163 **53-5a-312**, (Renumbered from 53-5-712, as enacted by Laws of Utah 2014, Chapter
164 147)
165 **53-5a-401**, (Renumbered from 53-5b-103, as enacted by Laws of Utah 2010, Chapter
166 5)
167 **53-5a-402**, (Renumbered from 53-5b-102, as enacted by Laws of Utah 2010, Chapter

168 5)
169 **53-5a-403**, (Renumbered from 53-5b-201, as enacted by Laws of Utah 2010, Chapter
170 5)
171 **53-5a-404**, (Renumbered from 53-5b-202, as enacted by Laws of Utah 2010, Chapter
172 5)
173 **53-5a-501**, (Renumbered from 53-5c-102, as last amended by Laws of Utah 2023,
174 Chapters 138, 405)
175 **53-5a-502**, (Renumbered from 53-5c-201, as last amended by Laws of Utah 2023,
176 Chapters 138, 448)
177 **53-5a-503**, (Renumbered from 53-5c-202, as last amended by Laws of Utah 2023,
178 Chapter 448)
179 **53-5a-504**, (Renumbered from 53-5c-301, as last amended by Laws of Utah 2024,
180 Chapter 204)
181 **53-5a-505**, (Renumbered from 53-5c-302, as last amended by Laws of Utah 2024,
182 Chapter 204)
183 **53-5a-602**, (Renumbered from 76-10-526, as last amended by Laws of Utah 2023,
184 Chapters 330, 397)
185 **53-5a-603**, (Renumbered from 76-10-526.1, as enacted by Laws of Utah 2023,
186 Chapter 398)
187 **53-5a-604**, (Renumbered from 76-10-527, as last amended by Laws of Utah 2009,
188 Chapter 20)
189 **53-5a-605**, (Renumbered from 76-10-524, as last amended by Laws of Utah 2004,
190 Chapter 360)
191 **76-11-101**, (Renumbered from 76-10-501, as last amended by Laws of Utah 2023,
192 Chapters 161, 397 and 425)
193 **76-11-102**, (Renumbered from 76-10-502, as last amended by Laws of Utah 1990,
194 Chapter 328)
195 **76-11-202**, (Renumbered from 76-10-504, as last amended by Laws of Utah 2023,
196 Chapter 34)
197 **76-11-204**, (Renumbered from 76-10-505, as last amended by Laws of Utah 2021,
198 Chapter 12)
199 **76-11-205**, (Renumbered from 76-10-505.5, as last amended by Laws of Utah 2024,
200 Chapters 21, 117 and 301)
201 **76-11-207**, (Renumbered from 76-10-506, as last amended by Laws of Utah 2019,

202 Chapters 39, 201)
 203 **76-11-208**, (Renumbered from 76-10-507, as last amended by Laws of Utah 2015,
 204 Chapter 406)
 205 **76-11-209**, (Renumbered from 76-10-508, as last amended by Laws of Utah 2023,
 206 Chapter 34)
 207 **76-11-210**, (Renumbered from 76-10-508.1, as last amended by Laws of Utah 2023,
 208 Chapter 34)
 209 **76-11-211**, (Renumbered from 76-10-509.4, as last amended by Laws of Utah 2024,
 210 Chapter 301)
 211 **76-11-212**, (Renumbered from 76-10-509.5, as last amended by Laws of Utah 2013,
 212 Chapter 301)
 213 **76-11-213**, (Renumbered from 76-10-509.6, as last amended by Laws of Utah 2000,
 214 Chapter 303)
 215 **76-11-214**, (Renumbered from 76-10-509.7, as last amended by Laws of Utah 2024,
 216 Chapter 301)
 217 **76-11-215**, (Renumbered from 76-10-509.9, as enacted by Laws of Utah 1993,
 218 Second Special Session, Chapter 13)
 219 **76-11-217**, (Renumbered from 76-10-528, as last amended by Laws of Utah 2023,
 220 Chapters 330, 386)
 221 **76-11-218**, (Renumbered from 76-10-529, as last amended by Laws of Utah 2024,
 222 Chapter 332)
 223 **76-11-219**, (Renumbered from 76-10-530, as last amended by Laws of Utah 2009,
 224 Chapter 388)
 225 **76-11-309**, (Renumbered from 76-10-503.1, as last amended by Laws of Utah 2023,
 226 Chapter 203)
 227 **76-11-310**, (Renumbered from 76-10-532, as last amended by Laws of Utah 2023,
 228 Chapter 425)
 229 REPEALS:
 230 **53-5-701**, as last amended by Laws of Utah 2010, Chapter 62
 231 **53-5-710**, as last amended by Laws of Utah 2021, Chapter 141
 232 **53-5b-101**, as enacted by Laws of Utah 2010, Chapter 5
 233 **76-10-500**, as last amended by Laws of Utah 2022, Chapter 428
 234 **76-10-503**, as last amended by Laws of Utah 2023, First Special Session, Chapter 2
 235 **76-10-512**, as last amended by Laws of Utah 2024, Chapter 301

236 **76-10-521**, as last amended by Laws of Utah 1993, Chapter 234

237

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

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

240 **13-74-101 . Definitions.**

- 241 (1) "Ammunition" means ammunition or cartridge cases, primers, bullets, or propellant
242 powder designed for use in a firearm.
- 243 (2) "Customer" means an individual who presents a payment card to a merchant for the
244 purchase of a good or service.
- 245 (3) "Financial entity" means any person involved in facilitating or processing a payment
246 card transaction, including:
- 247 (a) a payment card network;
- 248 (b) a merchant acquirer; or
- 249 (c) a payment facilitator.
- 250 (4) "Firearm" means the same as that term is defined in Section [~~76-10-501~~] 76-11-101.
- 251 (5)(a) "Firearm accessory or component" means a device specifically adapted to:
- 252 (i) enable the wearing or carrying about one's person or the storage or mounting in or
253 on any conveyance of a firearm; or
- 254 (ii) be inserted into or affixed to a firearm to enable, alter, or improve the functioning
255 or capabilities of the firearm.
- 256 (b) "Firearm accessory or component" includes a telescopic or laser sight, magazine,
257 flash or sound suppressor, folding or aftermarket stock or grip, speedloader, brace,
258 ammunition carrier, or light for target illumination.
- 259 (6) "Firearms code" means the merchant category code 5723, approved in September 2022
260 by the International Organization for Standardization, for firearms retailers.
- 261 (7) "Firearms retailer" means a merchant engaged in the lawful business of selling or
262 trading firearms, firearm accessories or components, or ammunition.
- 263 (8) "Merchant" means a person physically located in the state who accepts a payment card
264 from a customer for the purchase of a good or service.
- 265 (9) "Payment card" means a card, code, or other means by which a person may debit a
266 deposit account or use a line of credit to purchase a good or service.
- 267 (10) "Reloading supplies" means any equipment, component, or material designed for the
268 reloading of ammunition, including reloading presses, shell holders, powder measures,
269 priming tools, reloading manuals, casings, and gunpowder.

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

271 **23A-4-1106 . Suspension of license or permit privileges -- Suspension of**
272 **certificates of registration.**

273 (1) As used in this section:

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

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

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

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

280 (i) is convicted of:

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

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

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

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

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

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

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

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

297 (i) the type of license or permit privileges to suspend; and

298 (ii) the duration of the suspension.

299 (b) The Wildlife Board shall ensure that the guidelines established under Subsection

300 (3)(a) are consistent with Subsections (4), (5), and (6).

301 (4) Except as provided in Subsections (5) and (6), a hearing officer may suspend a person's
302 license or permit privileges according to Subsection (2) for a period of time not to
303 exceed:

- 304 (a) seven years for:
305 (i) a felony conviction;
306 (ii) a plea of guilty or no contest to an offense punishable as a felony, which plea is
307 held in abeyance pursuant to a plea in abeyance agreement; or
308 (iii) being charged with an offense punishable as a felony, the prosecution of which is
309 suspended pursuant to a diversion agreement;
- 310 (b) five years for:
311 (i) a class A misdemeanor conviction;
312 (ii) a plea of guilty or no contest to an offense punishable as a class A misdemeanor,
313 which plea is held in abeyance pursuant to a plea in abeyance agreement; or
314 (iii) being charged with an offense punishable as a class A misdemeanor, the
315 prosecution of which is suspended pursuant to a diversion agreement;
- 316 (c) three years for:
317 (i) a class B misdemeanor conviction;
318 (ii) a plea of guilty or no contest to an offense punishable as a class B misdemeanor
319 when the plea is held in abeyance according to a plea in abeyance agreement; or
320 (iii) being charged with an offense punishable as a class B misdemeanor, the
321 prosecution of which is suspended pursuant to a diversion agreement; and
- 322 (d) one year for:
323 (i) a class C misdemeanor conviction;
324 (ii) a plea of guilty or no contest to an offense punishable as a class C misdemeanor,
325 when the plea is held in abeyance according to a plea in abeyance agreement; or
326 (iii) being charged with an offense punishable as a class C misdemeanor, the
327 prosecution of which is suspended according to a diversion agreement.
- 328 (5) The hearing officer may double a suspension period established in Subsection (4) for
329 offenses:
330 (a) committed in violation of an existing suspension or revocation order issued by the
331 courts, division, or Wildlife Board; or
332 (b) involving the unlawful taking of a trophy animal, as defined in Section 23A-1-101.
- 333 (6)(a) A hearing officer may suspend, according to Subsection (2), a person's license or
334 permit privileges for a particular license or permit only once for each single criminal
335 episode, as defined in Section 76-1-401.
- 336 (b) If a hearing officer addresses two or more single criminal episodes in a hearing, the
337 suspension periods of license or permit privileges of the same type suspended,

- 338 according to Subsection (2), may run consecutively.
- 339 (c) If a hearing officer suspends, according to Subsection (2), license or permit
340 privileges of the type that have been previously suspended by a court, a hearing
341 officer, or the Wildlife Board and the suspension period has not expired, the
342 suspension periods may run consecutively.
- 343 (7)(a) A hearing officer, appointed by the division, may suspend a person's privilege of
344 applying for, purchasing, and exercising the benefits conferred by a certificate of
345 registration if:
- 346 (i) the hearing officer determines the person intentionally, knowingly, or recklessly,
347 as defined in Section 76-2-103, violated:
- 348 (A) this title;
349 (B) a rule or order of the Wildlife Board;
350 (C) the terms of a certificate of registration; or
351 (D) the terms of a certificate of registration application or agreement; or
352 (ii) the person, in a court of law:
- 353 (A) is convicted of an offense that the hearing officer determines bears a
354 reasonable relationship to the person's ability to safely and responsibly perform
355 the activities authorized by the certificate of registration;
- 356 (B) pleads guilty or no contest to an offense that the hearing officer determines
357 bears a reasonable relationship to the person's ability to safely and responsibly
358 perform the activities authorized by the certificate of registration, and the plea
359 is held in abeyance in accordance with a plea in abeyance agreement; or
360 (C) is charged with an offense that the hearing officer determines bears a
361 reasonable relationship to the person's ability to safely and responsibly perform
362 the activities authorized by the certificate of registration, and prosecution of the
363 offense is suspended in accordance with a diversion agreement.
- 364 (b) A hearing officer shall suspend a certificate of registration for the harvesting of brine
365 shrimp eggs, as defined in Section 59-23-3, if the hearing officer determines the
366 holder of the certificate of registration has violated Section 59-23-5.
- 367 (8)(a) The director shall appoint a qualified person as a hearing officer to perform the
368 adjudicative functions provided in this section.
- 369 (b) The director may not appoint a division employee who investigates or enforces
370 wildlife violations.
- 371 (9)(a) The courts may suspend, in criminal sentencing, a person's privilege to apply for,

- 372 purchase, or exercise the benefits conferred by a license, permit, or certificate of
373 registration.
- 374 (b) The courts shall promptly notify the division of suspension orders or
375 recommendations entered.
- 376 (c) The division, upon receiving notification of suspension from the courts, shall prohibit
377 the person from applying for, purchasing, or exercising the benefits conferred by a
378 license, permit, or certification of registration for the duration and of the type
379 specified in the court order.
- 380 (d) The hearing officer shall consider a recommendation made by a sentencing court
381 concerning suspension before issuing a suspension order.
- 382 (10) Before suspension under this section, the division shall give a person:
- 383 (a) written notice of action the division intends to take; and
384 (b) an opportunity for a hearing.
- 385 (11)(a) A person may file an appeal of a hearing officer's decision with the Wildlife
386 Board.
- 387 (b) The Wildlife Board shall review the hearing officer's findings and conclusions and
388 any written documentation submitted at the hearing.
- 389 (c) The Wildlife Board may:
- 390 (i) take no action;
391 (ii) vacate or remand the decision; or
392 (iii) amend the period or type of suspension.
- 393 (12) The division shall suspend and reinstate all hunting, fishing, trapping, and falconry
394 privileges consistent with Chapter 2, Part 5, Wildlife Violator Compact.
- 395 (13) Within 30 days after the day on which an individual's privilege to hunt or fish is
396 suspended under this title, the division shall report to the Division of Professional
397 Licensing the:
- 398 (a) identifying information for the individual; and
399 (b) time period of the suspension.
- 400 (14) The Wildlife Board may make rules to implement this section in accordance with Title
401 63G, Chapter 3, Utah Administrative Rulemaking Act.
- 402 Section 3. Section **26B-1-326** is amended to read:
- 403 **26B-1-326 . Suicide Prevention and Education Fund.**
- 404 (1) There is created an expendable special revenue fund known as the Suicide Prevention
405 and Education Fund.

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

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

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

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

414 **26B-2-120 . Background check -- Direct access to children or vulnerable adults.**

415 (1) As used in this section:

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

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

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

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

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

425 (E) an individual who provides certified peer support, as defined in Section
 426 26B-5-610;

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

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

433 (H) an individual who is identified as a mental health professional, licensed under
 434 Title 58, Chapter 60, Mental Health Professional Practice Act, and engaged in
 435 the practice of mental health therapy, as defined in Section 58-60-102;

436 (I) an individual, other than the child or vulnerable adult receiving the service,
 437 who is 12 years old or older and resides in a home, that is licensed or certified
 438 by the division;

439 (J) an individual who is 12 years old or older and is associated with a certification,

- 440 contract, or licensee with the department under this part and has or will likely
441 have direct access;
- 442 (K) a foster home licensee that submits an application for an annual background
443 screening as required by Subsection 26B-2-105(4)(d)(iii); or
444 (L) a short-term relief care provider.
- 445 (ii) "Applicant" does not include:
- 446 (A) an individual who is in the custody of the Division of Child and Family
447 Services or the Division of Juvenile Justice and Youth Services;
- 448 (B) an individual who applies for employment with, or is employed by, the
449 Department of Health and Human Services;
- 450 (C) a parent of a person receiving services from the Division of Services for
451 People with Disabilities, if the parent provides direct care to and resides with
452 the person, including if the parent provides direct care to and resides with the
453 person pursuant to a court order; or
- 454 (D) an individual or a department contractor who provides services in an adults
455 only substance use disorder program, as defined by rule adopted by the
456 Department of Health and Human Services in accordance with Title 63G,
457 Chapter 3, Utah Administrative Rulemaking Act, and who is not a program
458 director or a member, as defined by Section 26B-2-105, of the program.
- 459 (b) "Application" means a background check application to the office.
- 460 (c) "Bureau" means the Bureau of Criminal Identification within the Department of
461 Public Safety, created in Section 53-10-201.
- 462 (d) "Criminal finding" means a record of:
- 463 (i) an arrest for a criminal offense;
- 464 (ii) a warrant for a criminal arrest;
- 465 (iii) charges for a criminal offense; or
- 466 (iv) a criminal conviction.
- 467 (e) "Direct access" means that an individual has, or likely will have:
- 468 (i) contact with or access to a child or vulnerable adult by which the individual will
469 have the opportunity for personal communication or touch with the child or
470 vulnerable adult; or
- 471 (ii) an opportunity to view medical, financial, or other confidential personal
472 identifying information of the child, the child's parent or legal guardian, or the
473 vulnerable adult.

- 474 (f)(i) "Direct access qualified" means that the applicant has an eligible determination
475 by the office within the license and renewal time period; and
476 (ii) no more than 180 days have passed since the date on which the applicant's
477 association with a certification, contract, or licensee with the department expires.
- 478 (g) "Incidental care" means occasional care, not in excess of five hours per week and
479 never overnight, for a foster child.
- 480 (h) "Licensee" means an individual or a human services program licensed by the
481 division.
- 482 (i) "Non-criminal finding" means a record maintained in:
- 483 (i) the Division of Child and Family Services' Management Information System
484 described in Section 80-2-1001;
- 485 (ii) the Division of Child and Family Services' Licensing Information System
486 described in Section 80-2-1002;
- 487 (iii) the Division of Aging and Adult Services' vulnerable adult abuse, neglect, or
488 exploitation database described in Section 26B-6-210;
- 489 (iv) juvenile court arrest, adjudication, and disposition records;
- 490 (v) the Sex, Kidnap, and Child Abuse Offender Registry described in Title 77,
491 Chapter 41, Sex, Kidnap, and Child Abuse Offender Registry, or a national sex
492 offender registry; or
- 493 (vi) a state child abuse or neglect registry.
- 494 (j) "Office" means the Office of Background Processing within the department.
- 495 (k) "Personal identifying information" means:
- 496 (i) current name, former names, nicknames, and aliases;
- 497 (ii) date of birth;
- 498 (iii) physical address and email address;
- 499 (iv) telephone number;
- 500 (v) driver license or other government-issued identification;
- 501 (vi) social security number;
- 502 (vii) only for applicants who are 18 years old or older, fingerprints, in a form
503 specified by the office; and
- 504 (viii) other information specified by the office by rule made in accordance with Title
505 63G, Chapter 3, Utah Administrative Rulemaking Act.
- 506 (2) Except as provided in Subsection (12), an applicant or a representative shall submit the
507 following to the office:

- 508 (a) personal identifying information;
- 509 (b) a fee established by the office under Section 63J-1-504;
- 510 (c) a disclosure form, specified by the office, for consent for:
- 511 (i) an initial background check upon association with a certification, contract, or
- 512 licensee with the department;
- 513 (ii) ongoing monitoring of fingerprints and registries until no longer associated with a
- 514 certification, contract, or licensee with the department for 180 days;
- 515 (iii) a background check when the office determines that reasonable cause exists; and
- 516 (iv) retention of personal identifying information, including fingerprints, for
- 517 monitoring and notification as described in Subsections (3)(c) and (4);
- 518 (d) if an applicant resided outside of the United States and its territories during the five
- 519 years immediately preceding the day on which the information described in
- 520 Subsections (2)(a) through (c) is submitted to the office, documentation establishing
- 521 whether the applicant was convicted of a crime during the time that the applicant
- 522 resided outside of the United States or its territories; and
- 523 (e) an application showing an applicant's association with a certification, contract, or a
- 524 licensee with the department, for the purpose of the office tracking the direct access
- 525 qualified status of the applicant, which expires 180 days after the date on which the
- 526 applicant is no longer associated with a certification, contract, or a licensee with the
- 527 department.
- 528 (3) The office:
- 529 (a) shall perform the following duties as part of a background check of an applicant
- 530 before the office grants or denies direct access qualified status to an applicant:
- 531 (i) check state and regional criminal background databases for the applicant's
- 532 criminal history by:
- 533 (A) submitting personal identifying information to the bureau for a search; or
- 534 (B) using the applicant's personal identifying information to search state and
- 535 regional criminal background databases as authorized under Section 53-10-108;
- 536 (ii) submit the applicant's personal identifying information and fingerprints to the
- 537 bureau for a criminal history search of applicable national criminal background
- 538 databases;
- 539 (iii) search the Division of Child and Family Services' Licensing Information System
- 540 described in Section 80-2-1002;
- 541 (iv) search the Sex, Kidnap, and Child Abuse Offender Registry described in Title

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

- 576 (i) search the Division of Child and Family Services' Licensing Information System
577 described in Section 80-2-1002; and
- 578 (ii) require the child abuse and neglect registry be checked in each state where an
579 applicant resided at any time during the five years immediately preceding the day
580 on which the application is submitted to the office; and
- 581 (h) shall make rules, in accordance with Title 63G, Chapter 3, Utah Administrative
582 Rulemaking Act, to implement the provisions of this Subsection (3) relating to
583 background checks.
- 584 (4)(a) With the personal identifying information the office submits to the bureau under
585 Subsection (3), the bureau shall check against state and regional criminal background
586 databases for the applicant's criminal history.
- 587 (b) With the personal identifying information and fingerprints the office submits to the
588 bureau under Subsection (3), the bureau shall check against national criminal
589 background databases for the applicant's criminal history.
- 590 (c) Upon direction from the office, and with the personal identifying information and
591 fingerprints the office submits to the bureau under Subsection (3)(c), the bureau shall:
- 592 (i) maintain a separate file of the fingerprints for search by future submissions to the
593 local and regional criminal records databases, including latent prints; and
- 594 (ii) monitor state and regional criminal background databases and identify criminal
595 activity associated with the applicant.
- 596 (d) The bureau is authorized to submit the fingerprints to the Federal Bureau of
597 Investigation Next Generation Identification System, to be retained in the Federal
598 Bureau of Investigation Next Generation Identification System for the purpose of:
- 599 (i) being searched by future submissions to the national criminal records databases,
600 including the Federal Bureau of Investigation Next Generation Identification
601 System and latent prints; and
- 602 (ii) monitoring national criminal background databases and identifying criminal
603 activity associated with the applicant.
- 604 (e) The ~~[Bureau]~~ bureau shall notify and release to the office all information of criminal
605 activity associated with the applicant.
- 606 (f) Upon notice that an individual who has direct access qualified status will no longer
607 be associated with a certification, contract, or licensee with the department, the
608 bureau shall:
- 609 (i) discard and destroy any retained fingerprints; and

610 (ii) notify the Federal Bureau of Investigation when the license has expired or an
611 individual's direct access to a child or a vulnerable adult has ceased, so that the
612 Federal Bureau of Investigation will discard and destroy the retained fingerprints
613 from the Federal Bureau of Investigation Next Generation Identification System.

614 (5)(a) Except as provided in Subsection (5)(b), the office shall deny direct access
615 qualified status to an applicant who, within three years from the date on which the
616 office conducts the background check, was convicted of:

617 (i) a felony or misdemeanor involving conduct that constitutes any of the following:

618 (A) an offense identified as domestic violence, lewdness, voyeurism, battery,
619 cruelty to animals, or bestiality;

620 (B) a violation of any pornography law, including sexual exploitation of a minor
621 or aggravated sexual exploitation of a minor;

622 (C) sexual solicitation or prostitution;

623 (D) a violent offense committed in the presence of a child, as described in Section
624 76-3-203.10;

625 (E) an offense included in Title 76, Chapter 4, Part 4, Enticement of a Minor;

626 (F) an offense included in Title 76, Chapter 5, Offenses Against the Individual;

627 (G) an offense included in Title 76, Chapter 5b, Sexual Exploitation Act;

628 (H) an offense included in Title 76, Chapter 7, Offenses Against the Family;

629 (I) an offense included in Title 76, Chapter 9, Part 4, Offenses Against Privacy;

630 (J) an offense included in Title 76, Chapter 10, Part 4, Weapons of Mass
631 Destruction;

632 (K) an offense included in Title 78B, Chapter 7, Protective Orders and Stalking
633 Injunctions;

634 (L) aggravated arson, as described in Section 76-6-103;

635 (M) aggravated burglary, as described in Section 76-6-203;

636 (N) aggravated exploitation of prostitution, as described in Section 76-10-1306;

637 (O) aggravated robbery, as described in Section 76-6-302;

638 (P) endangering persons in a human services program, as described in Section
639 26B-2-113;

640 (Q) failure to report, as described in Section 80-2-609;

641 (R) identity fraud crime, as described in Section 76-6-1102;

642 (S) leaving a child unattended in a motor vehicle, as described in Section
643 76-10-2202;

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

- 678 the date of conviction;
- 679 (f) has a misdemeanor charge or conviction that is no more than three years from the
680 date on which the office conducts the background check for an offense not described
681 in Subsection (5)(a);
- 682 (g) has a misdemeanor charge or conviction that is more than three years from the date
683 on which the office conducts the background check, for an offense not described in
684 Subsection (5)(a), with criminal or non-criminal findings after the date of charge or
685 conviction;
- 686 (h) is currently subject to a plea in abeyance or diversion agreement for an offense
687 described in Subsection (5)(a);
- 688 (i) appears on the Sex, Kidnap, and Child Abuse Offender Registry described in Title
689 77, Chapter 41, Sex, Kidnap, and Child Abuse Offender Registry, or a national sex
690 offender registry;
- 691 (j) has a record of an adjudication in juvenile court for an act that, if committed by an
692 adult, would be a felony or misdemeanor, if the applicant is:
- 693 (i) under 28 years old; or
- 694 (ii) 28 years old or older and has been convicted of, has pleaded no contest to, or is
695 currently subject to a plea in abeyance or diversion agreement for a felony or a
696 misdemeanor offense described in Subsection (5)(a);
- 697 (k) has a pending charge for an offense described in Subsection (5)(a);
- 698 (l) has a listing that occurred no more than 15 years from the date on which the office
699 conducts the background check in the Division of Child and Family Services'
700 Licensing Information System described in Section 80-2-1002;
- 701 (m) has a listing that occurred more than 15 years from the date on which the office
702 conducts the background check in the Division of Child and Family Services'
703 Licensing Information System described in Section 80-2-1002, with criminal or
704 non-criminal findings after the date of the listing;
- 705 (n) has a listing that occurred no more than 15 years from the date on which the office
706 conducts the background check in the Division of Aging and Adult Services'
707 vulnerable adult abuse, neglect, or exploitation database described in Section
708 26B-6-210;
- 709 (o) has a listing that occurred 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, with criminal or non-criminal findings after the date of the listing;
- 713 (p) has a substantiated finding that occurred no more than 15 years from the date on
- 714 which the office conducts the background check of severe child abuse or neglect
- 715 under Section 80-3-404 or 80-3-504[-]; or
- 716 (q) has a substantiated finding that occurred more than 15 years from the date on which
- 717 the office conducts the background check of severe child abuse or neglect under
- 718 Section 80-3-404 or 80-3-504, with criminal or non-criminal findings after the date of
- 719 the listing.
- 720 (7)(a) The comprehensive review shall include an examination of:
- 721 (i) the date of the offense or incident;
- 722 (ii) the nature and seriousness of the offense or incident;
- 723 (iii) the circumstances under which the offense or incident occurred;
- 724 (iv) the age of the perpetrator when the offense or incident occurred;
- 725 (v) whether the offense or incident was an isolated or repeated incident;
- 726 (vi) whether the offense or incident directly relates to abuse of a child or vulnerable
- 727 adult, including:
- 728 (A) actual or threatened, nonaccidental physical, mental, or financial harm;
- 729 (B) sexual abuse;
- 730 (C) sexual exploitation; or
- 731 (D) negligent treatment;
- 732 (vii) any evidence provided by the applicant of rehabilitation, counseling, psychiatric
- 733 treatment received, or additional academic or vocational schooling completed;
- 734 (viii) the applicant's risk of harm to clientele in the program or in the capacity for
- 735 which the applicant is applying; and
- 736 (ix) if the background check of an applicant is being conducted for the purpose of
- 737 giving direct access qualified status to an applicant seeking a position in a
- 738 congregate care program or to become a prospective foster or adoptive parent, any
- 739 listing in the Division of Child and Family Services' Management Information
- 740 System described in Section 80-2-1001.
- 741 (b) At the conclusion of the comprehensive review, the office shall deny direct access
- 742 qualified status to an applicant if the office finds the approval would likely create a
- 743 risk of harm to a child or vulnerable adult.
- 744 (8) The office shall grant direct access qualified status to an applicant who is not denied
- 745 under this section.

- 746 (9)(a) The office may conditionally grant direct access qualified status to an applicant,
747 for a maximum of 60 days after the day on which the office sends written notice,
748 without requiring that the applicant be directly supervised, if the office:
- 749 (i) is awaiting the results of the criminal history search of national criminal
750 background databases; and
 - 751 (ii) would otherwise grant direct access qualified status to the applicant under this
752 section.
- 753 (b) The office may conditionally grant direct access qualified status to an applicant, for a
754 maximum of one year after the day on which the office sends written notice, without
755 requiring that the applicant be directly supervised if the office:
- 756 (i) is awaiting the results of an out-of-state registry for providers other than foster and
757 adoptive parents; and
 - 758 (ii) would otherwise grant direct access qualified status to the applicant under this
759 section.
- 760 (c) Upon receiving the results of the criminal history search of a national criminal
761 background database, the office shall grant or deny direct access qualified status to
762 the applicant in accordance with this section.
- 763 (10)(a) Each time an applicant is associated with a licensee, the department shall review
764 the current status of the applicant's background check to ensure the applicant is still
765 eligible for direct access qualified status in accordance with this section.
- 766 (b) A licensee may not permit an individual to have direct access to a child or a
767 vulnerable adult without being directly supervised unless:
- 768 (i) the individual is the parent or guardian of the child, or the guardian of the
769 vulnerable adult;
 - 770 (ii) the individual is approved by the parent or guardian of the child, or the guardian
771 of the vulnerable adult, to have direct access to the child or the vulnerable adult;
 - 772 (iii) the individual is only permitted to have direct access to a vulnerable adult who
773 voluntarily invites the individual to visit; or
 - 774 (iv) the individual only provides incidental care for a foster child on behalf of a foster
775 parent who has used reasonable and prudent judgment to select the individual to
776 provide the incidental care for the foster child.
- 777 (c) Notwithstanding any other provision of this section, an applicant who is denied direct
778 access qualified status shall not have direct access to a child or vulnerable adult
779 unless the office grants direct access qualified status to the applicant through a

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

- 814 (i) federal law or rule permits otherwise; or
- 815 (ii) the requirements would prohibit the Division of Child and Family Services or a
- 816 court from placing a child with:
- 817 (A) a noncustodial parent under Section 80-2a-301, 80-3-302, or 80-3-303; or
- 818 (B) a relative, other than a noncustodial parent, under Section 80-2a-301, 80-3-302,
- 819 or 80-3-303, pending completion of the background check described in
- 820 Subsections (5), (6), and (7).
- 821 (d) Notwithstanding Subsections (5) through (10), the office shall deny direct access
- 822 qualified status if the applicant has been convicted of:
- 823 (i) a felony involving conduct that constitutes any of the following:
- 824 (A) child abuse, as described in Sections 76-5-109, 76-5-109.2, and 76-5-109.3;
- 825 (B) commission of domestic violence in the presence of a child, as described in
- 826 Section 76-5-114;
- 827 (C) abuse or neglect of a child with a disability, as described in Section 76-5-110;
- 828 (D) intentional aggravated abuse of a vulnerable adult, as described in Section
- 829 76-5-111;
- 830 (E) endangerment of a child or vulnerable adult, as described in Section
- 831 76-5-112.5;
- 832 (F) aggravated murder, as described in Section 76-5-202;
- 833 (G) murder, as described in Section 76-5-203;
- 834 (H) manslaughter, as described in Section 76-5-205;
- 835 (I) child abuse homicide, as described in Section 76-5-208;
- 836 (J) homicide by assault, as described in Section 76-5-209;
- 837 (K) kidnapping, as described in Section 76-5-301;
- 838 (L) child kidnapping, as described in Section 76-5-301.1;
- 839 (M) aggravated kidnapping, as described in Section 76-5-302;
- 840 (N) human trafficking of a child, as described in Section 76-5-308.5;
- 841 (O) an offense described in Title 76, Chapter 5, Part 4, Sexual Offenses;
- 842 (P) sexual exploitation of a minor, as described in Title 76, Chapter 5b, Sexual
- 843 Exploitation Act;
- 844 (Q) aggravated exploitation of a minor, as described in Section 76-5b-201.1;
- 845 (R) aggravated arson, as described in Section 76-6-103;
- 846 (S) aggravated burglary, as described in Section 76-6-203;
- 847 (T) aggravated robbery, as described in Section 76-6-302;

- 848 (U) lewdness involving a child, as described in Section 76-9-702.5;
- 849 (V) incest, as described in Section 76-7-102; or
- 850 (W) domestic violence, as described in Section 77-36-1; or
- 851 (ii) an offense committed outside the state that, if committed in the state, would
- 852 constitute a violation of an offense described in Subsection (13)(d)(i).
- 853 (e) Notwithstanding Subsections (5) through (10), the office shall deny direct access
- 854 qualified status to an applicant if, within the five years from the date on which the
- 855 office conducts the background check, the applicant was convicted of a felony
- 856 involving conduct that constitutes a violation of any of the following:
- 857 (i) aggravated assault, as described in Section 76-5-103;
- 858 (ii) aggravated assault by a prisoner, as described in Section 76-5-103.5;
- 859 (iii) mayhem, as described in Section 76-5-105;
- 860 (iv) an offense described in Title 58, Chapter 37, Utah Controlled Substances Act;
- 861 (v) an offense described in Title 58, Chapter 37a, Utah Drug Paraphernalia Act;
- 862 (vi) an offense described in Title 58, Chapter 37b, Imitation Controlled Substances
- 863 Act;
- 864 (vii) an offense described in Title 58, Chapter 37c, Utah Controlled Substance
- 865 Precursor Act; or
- 866 (viii) an offense described in Title 58, Chapter 37d, Clandestine Drug Lab Act.
- 867 (f) In addition to the circumstances described in Subsection (6), the office shall conduct
- 868 a comprehensive review of an applicant's background check under this section if the
- 869 applicant:
- 870 (i) has an offense described in Subsection (5)(a);
- 871 (ii) has an infraction conviction entered on a date that is no more than three years
- 872 before the date on which the office conducts the background check;
- 873 (iii) has a listing in the Division of Child and Family Services' Licensing Information
- 874 System described in Section 80-2-1002;
- 875 (iv) has a listing in the Division of Aging and Adult Services' vulnerable adult,
- 876 neglect, or exploitation database described in Section 26B-2-210;
- 877 (v) has a substantiated finding of severe child abuse or neglect under Section
- 878 80-3-404 or 80-3-504; or
- 879 (vi) has a listing on the registry check described in Subsection (13)(b) as having a
- 880 substantiated or supported finding of a severe type of child abuse or neglect, as
- 881 defined in Section 80-1-102.

- 882 (14) In accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, the
883 office may make rules, consistent with this part, to:
- 884 (a) establish procedures for, and information to be examined in, the comprehensive
885 review described in Subsections (6), (7), and (13); and
 - 886 (b) determine whether to consider an offense or incident that occurred while an
887 individual was in the custody of the Division of Child and Family Services or the
888 Division of Juvenile Justice and Youth Services for purposes of granting or denying
889 direct access qualified status to an applicant.

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

891 **26B-5-102 . Division of Integrated Healthcare -- Office of Substance Use and**
892 **Mental Health -- Creation -- Responsibilities.**

- 893 (1)(a) The Division of Integrated Healthcare shall exercise responsibility over the
894 policymaking functions, regulatory and enforcement powers, rights, duties, and
895 responsibilities outlined in state law that were previously vested in the Division of
896 Substance Abuse and Mental Health within the department, under the administration
897 and general supervision of the executive director.
- 898 (b) The division is the substance abuse authority and the mental health authority for this
899 state.
 - 900 (c) There is created the Office of Substance Use and Mental Health within the division.
 - 901 (d) The office shall exercise the responsibilities, powers, rights, duties, and
902 responsibilities assigned to the office by the executive director.
- 903 (2) The division shall:
- 904 (a)(i) educate the general public regarding the nature and consequences of substance
905 use by promoting school and community-based prevention programs;
 - 906 (ii) render support and assistance to public schools through approved school-based
907 substance abuse education programs aimed at prevention of substance use;
 - 908 (iii) promote or establish programs for the prevention of substance use within the
909 community setting through community-based prevention programs;
 - 910 (iv) cooperate with and assist treatment centers, recovery residences, and other
911 organizations that provide services to individuals recovering from a substance use
912 disorder, by identifying and disseminating information about effective practices
913 and programs;
 - 914 (v) promote integrated programs that address an individual's substance use, mental
915 health, and physical health;

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

- 950 (c)(i) consult and coordinate with local substance abuse authorities and local mental
951 health authorities regarding programs and services;
- 952 (ii) provide consultation and other assistance to public and private agencies and
953 groups working on substance use and mental health issues;
- 954 (iii) promote and establish cooperative relationships with courts, hospitals, clinics,
955 medical and social agencies, public health authorities, law enforcement agencies,
956 education and research organizations, and other related groups;
- 957 (iv) promote or conduct research on substance use and mental health issues, and
958 submit to the governor and the Legislature recommendations for changes in policy
959 and legislation;
- 960 (v) receive, distribute, and provide direction over public funds for substance use and
961 mental health services;
- 962 (vi) monitor and evaluate programs provided by local substance abuse authorities and
963 local mental health authorities;
- 964 (vii) examine expenditures of local, state, and federal funds;
- 965 (viii) monitor the expenditure of public funds by:
- 966 (A) local substance abuse authorities;
- 967 (B) local mental health authorities; and
- 968 (C) in counties where they exist, a private contract provider that has an annual or
969 otherwise ongoing contract to provide comprehensive substance abuse or
970 mental health programs or services for the local substance abuse authority or
971 local mental health authority;
- 972 (ix) contract with local substance abuse authorities and local mental health authorities
973 to provide a comprehensive continuum of services that include community-based
974 services for individuals involved in the criminal justice system, in accordance with
975 division policy, contract provisions, and the local plan;
- 976 (x) contract with private and public entities for special statewide or nonclinical
977 services, or services for individuals involved in the criminal justice system,
978 according to division rules;
- 979 (xi) review and approve each local substance abuse authority's plan and each local
980 mental health authority's plan in order to ensure:
- 981 (A) a statewide comprehensive continuum of substance use services;
- 982 (B) a statewide comprehensive continuum of mental health services;
- 983 (C) services result in improved overall health and functioning;

- 984 (D) a statewide comprehensive continuum of community-based services designed
985 to reduce criminal risk factors for individuals who are determined to have
986 substance use or mental illness conditions or both, and who are involved in the
987 criminal justice system;
- 988 (E) compliance, where appropriate, with the certification requirements in
989 Subsection (2)(h); and
- 990 (F) appropriate expenditure of public funds;
- 991 (xii) review and make recommendations regarding each local substance abuse
992 authority's contract with the local substance abuse authority's provider of
993 substance use programs and services and each local mental health authority's
994 contract with the local mental health authority's provider of mental health
995 programs and services to ensure compliance with state and federal law and policy;
- 996 (xiii) monitor and ensure compliance with division rules and contract requirements;
997 and
- 998 (xiv) withhold funds from local substance abuse authorities, local mental health
999 authorities, and public and private providers for contract noncompliance, failure to
1000 comply with division directives regarding the use of public funds, or for misuse of
1001 public funds or money;
- 1002 (d) ensure that the requirements of this part are met and applied uniformly by local
1003 substance abuse authorities and local mental health authorities across the state;
- 1004 (e) require each local substance abuse authority and each local mental health authority,
1005 in accordance with Subsections 17-43-201(5)(b) and 17-43-301(6)(a)(ii), to submit a
1006 plan to the division on or before May 15 of each year;
- 1007 (f) conduct an annual program audit and review of each local substance abuse authority
1008 and each local substance abuse authority's contract provider, and each local mental
1009 health authority and each local mental health authority's contract provider, including:
- 1010 (i) a review and determination regarding whether:
- 1011 (A) public funds allocated to the local substance abuse authority or the local
1012 mental health authorities are consistent with services rendered by the authority
1013 or the authority's contract provider, and with outcomes reported by the
1014 authority's contract provider; and
- 1015 (B) each local substance abuse authority and each local mental health authority is
1016 exercising sufficient oversight and control over public funds allocated for
1017 substance use disorder and mental health programs and services; and

- 1018 (ii) items determined by the division to be necessary and appropriate;
- 1019 (g) define "prevention" by rule as required under Title 32B, Chapter 2, Part 4, Alcoholic
1020 Beverage and Substance Abuse Enforcement and Treatment Restricted Account Act;
- 1021 (h)(i) train and certify an adult as a peer support specialist, qualified to provide peer
1022 supports services to an individual with:
- 1023 (A) a substance use disorder;
- 1024 (B) a mental health disorder; or
- 1025 (C) a substance use disorder and a mental health disorder;
- 1026 (ii) certify a person to carry out, as needed, the division's duty to train and certify an
1027 adult as a peer support specialist;
- 1028 (iii) make rules in accordance with Title 63G, Chapter 3, Utah Administrative
1029 Rulemaking Act, that:
- 1030 (A) establish training and certification requirements for a peer support specialist;
- 1031 (B) specify the types of services a peer support specialist is qualified to provide;
- 1032 (C) specify the type of supervision under which a peer support specialist is
1033 required to operate; and
- 1034 (D) specify continuing education and other requirements for maintaining or
1035 renewing certification as a peer support specialist; and
- 1036 (iv) make rules in accordance with Title 63G, Chapter 3, Utah Administrative
1037 Rulemaking Act, that:
- 1038 (A) establish the requirements for a person to be certified to carry out, as needed,
1039 the division's duty to train and certify an adult as a peer support specialist; and
- 1040 (B) specify how the division shall provide oversight of a person certified to train
1041 and certify a peer support specialist;
- 1042 (i) collaborate with the State Commission on Criminal and Juvenile Justice to analyze
1043 and provide recommendations to the Legislature regarding:
- 1044 (i) pretrial services and the resources needed to reduce recidivism;
- 1045 (ii) county jail and county behavioral health early-assessment resources needed for an
1046 individual convicted of a class A or class B misdemeanor; and
- 1047 (iii) the replacement of federal dollars associated with drug interdiction law
1048 enforcement task forces that are reduced;
- 1049 (j) establish performance goals and outcome measurements for a mental health or
1050 substance use treatment program that is licensed under Chapter 2, Part 1, Human
1051 Services Programs and Facilities, and contracts with the department, including goals

- 1052 and measurements related to employment and reducing recidivism of individuals
1053 receiving mental health or substance use treatment who are involved with the
1054 criminal justice system;
- 1055 (k) annually, on or before November 30, submit a written report to the Judiciary Interim
1056 Committee, the Health and Human Services Interim Committee, and the Law
1057 Enforcement and Criminal Justice Interim Committee, that includes:
- 1058 (i) a description of the performance goals and outcome measurements described in
1059 Subsection (2)(j); and
- 1060 (ii) information on the effectiveness of the goals and measurements in ensuring
1061 appropriate and adequate mental health or substance use treatment is provided in a
1062 treatment program described in Subsection (2)(j);
- 1063 (l) collaborate with the Administrative Office of the Courts, the Department of
1064 Corrections, the Department of Workforce Services, and the Board of Pardons and
1065 Parole to collect data on recidivism in accordance with the metrics and requirements
1066 described in Section 63M-7-102;
- 1067 (m) at the division's discretion, use the data described in Subsection (2)(l) to make
1068 decisions regarding the use of funds allocated to the division to provide treatment;
- 1069 (n) annually, on or before August 31, submit the data collected under Subsection (2)(l)
1070 and any recommendations to improve the data collection to the State Commission on
1071 Criminal and Juvenile Justice to be included in the report described in Subsection
1072 63M-7-204(1)(x);
- 1073 (o) publish the following on the division's website:
- 1074 (i) the performance goals and outcome measurements described in Subsection (2)(j);
1075 and
- 1076 (ii) a description of the services provided and the contact information for the mental
1077 health and substance use treatment programs described in Subsection (2)(j) and
1078 residential, vocational and life skills programs, as defined in Section 13-53-102;
1079 and
- 1080 (p) consult and coordinate with the Division of Child and Family Services to develop
1081 and manage the operation of a program designed to reduce substance use during
1082 pregnancy and by parents of a newborn child that includes:
- 1083 (i) providing education and resources to health care providers and individuals in the
1084 state regarding prevention of substance use during pregnancy;
- 1085 (ii) providing training to health care providers in the state regarding screening of a

- 1086 pregnant woman or pregnant minor to identify a substance use disorder; and
- 1087 (iii) providing referrals to pregnant women, pregnant minors, or parents of a newborn
- 1088 child in need of substance use treatment services to a facility that has the capacity
- 1089 to provide the treatment services.
- 1090 (3) In addition to the responsibilities described in Subsection (2), the division shall, within
- 1091 funds appropriated by the Legislature for this purpose, implement and manage the
- 1092 operation of a firearm safety and suicide prevention program, in consultation with the
- 1093 Bureau of Criminal Identification created in Section 53-10-201, including:
- 1094 (a) coordinating with local mental health and substance abuse authorities, a nonprofit
- 1095 behavioral health advocacy group, and a representative from a Utah-based nonprofit
- 1096 organization with expertise in the field of firearm use and safety that represents
- 1097 firearm owners, to:
- 1098 (i) produce and periodically review and update a firearm safety brochure and other
- 1099 educational materials with information about the safe handling and use of firearms
- 1100 that includes:
- 1101 (A) information on safe handling, storage, and use of firearms in a home
- 1102 environment;
- 1103 (B) information about at-risk individuals and individuals who are legally
- 1104 prohibited from possessing firearms;
- 1105 (C) information about suicide prevention awareness; and
- 1106 (D) information about the availability of firearm safety packets;
- 1107 (ii) procure cable-style gun locks for distribution under this section;
- 1108 (iii) produce a firearm safety packet that includes the firearm safety brochure and the
- 1109 cable-style gun lock described in this Subsection (3); and
- 1110 (iv) create a suicide prevention education course that:
- 1111 (A) provides information for distribution regarding firearm safety education;
- 1112 (B) incorporates current information on how to recognize suicidal behaviors and
- 1113 identify individuals who may be suicidal; and
- 1114 (C) provides information regarding crisis intervention resources;
- 1115 (b) distributing, free of charge, the firearm safety packet to the following persons, who
- 1116 shall make the firearm safety packet available free of charge:
- 1117 (i) health care providers, including emergency rooms;
- 1118 (ii) mobile crisis outreach teams;
- 1119 (iii) mental health practitioners;

- 1120 (iv) other public health suicide prevention organizations;
1121 (v) entities that teach firearm safety courses;
1122 (vi) school districts for use in the seminar, described in Section 53G-9-702, for
1123 parents of students in the school district; and
1124 (vii) firearm dealers to be distributed in accordance with Section [~~76-10-526~~
1125 53-5a-602;
- 1126 (c) creating and administering a rebate program that includes a rebate that offers
1127 between \$10 and \$200 off the purchase price of a firearm safe from a participating
1128 firearms dealer or a person engaged in the business of selling firearm safes in Utah,
1129 by a Utah resident; and
- 1130 (d) in accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act,
1131 making rules that establish procedures for:
- 1132 (i) producing and distributing the suicide prevention education course and the firearm
1133 safety brochures and packets;
1134 (ii) procuring the cable-style gun locks for distribution; and
1135 (iii) administering the rebate program.
- 1136 (4)(a) The division may refuse to contract with and may pursue legal remedies against
1137 any local substance abuse authority or local mental health authority that fails, or has
1138 failed, to expend public funds in accordance with state law, division policy, contract
1139 provisions, or directives issued in accordance with state law.
- 1140 (b) The division may withhold funds from a local substance abuse authority or local
1141 mental health authority if the authority's contract provider of substance use or mental
1142 health programs or services fails to comply with state and federal law or policy.
- 1143 (5)(a) Before reissuing or renewing a contract with any local substance abuse authority
1144 or local mental health authority, the division shall review and determine whether the
1145 local substance abuse authority or local mental health authority is complying with the
1146 oversight and management responsibilities described in Sections 17-43-201,
1147 17-43-203, 17-43-303, and 17-43-309.
- 1148 (b) Nothing in this Subsection (5) may be used as a defense to the responsibility and
1149 liability described in Section 17-43-303 and to the responsibility and liability
1150 described in Section 17-43-203.
- 1151 (6) In carrying out the division's duties and responsibilities, the division may not duplicate
1152 treatment or educational facilities that exist in other divisions or departments of the state,
1153 but shall work in conjunction with those divisions and departments in rendering the

1154 treatment or educational services that those divisions and departments are competent and
1155 able to provide.

1156 (7) The division may accept in the name of and on behalf of the state donations, gifts,
1157 devises, or bequests of real or personal property or services to be used as specified by
1158 the donor.

1159 (8) The division shall annually review with each local substance abuse authority and each
1160 local mental health authority the authority's statutory and contract responsibilities
1161 regarding:

1162 (a) use of public funds;

1163 (b) oversight of public funds; and

1164 (c) governance of substance use disorder and mental health programs and services.

1165 (9) The Legislature may refuse to appropriate funds to the division upon the division's
1166 failure to comply with the provisions of this part.

1167 (10) If a local substance abuse authority contacts the division under Subsection 17-43-201
1168 (10) for assistance in providing treatment services to a pregnant woman or pregnant
1169 minor, the division shall:

1170 (a) refer the pregnant woman or pregnant minor to a treatment facility that has the
1171 capacity to provide the treatment services; or

1172 (b) otherwise ensure that treatment services are made available to the pregnant woman
1173 or pregnant minor.

1174 (11) The division shall employ a school-based mental health specialist to be housed at the
1175 State Board of Education who shall work with the State Board of Education to:

1176 (a) provide coordination between a local education agency and local mental health
1177 authority;

1178 (b) recommend evidence-based and evidence informed mental health screenings and
1179 intervention assessments for a local education agency; and

1180 (c) coordinate with the local community, including local departments of health, to
1181 enhance and expand mental health related resources for a local education agency.

1182 Section 6. Section **31A-21-501** is amended to read:

1183 **31A-21-501 . Definitions.**

1184 For purposes of this part:

1185 (1) "Applicant" means:

1186 (a) in the case of an individual life or accident and health policy, the person who seeks to
1187 contract for insurance benefits; or

- 1188 (b) in the case of a group life or accident and health policy, the proposed certificate
1189 holder.
- 1190 (2) "Cohabitant" means an emancipated individual pursuant to Section 15-2-1 or an
1191 individual who is 16 years old or older who:
- 1192 (a) is or was a spouse of the other party;
1193 (b) is or was living as if a spouse of the other party;
1194 (c) is related by blood or marriage to the other party;
1195 (d) has one or more children in common with the other party; or
1196 (e) resides or has resided in the same residence as the other party.
- 1197 (3) "Child abuse" means the commission or attempt to commit against a child a criminal
1198 offense described in:
- 1199 (a) Title 76, Chapter 5, Part 1, Assault and Related Offenses;
1200 (b) Title 76, Chapter 5, Part 4, Sexual Offenses;
1201 (c) Section 76-9-702, Lewdness;
1202 (d) Section 76-9-702.1, Sexual battery; or
1203 (e) Section 76-9-702.5, Lewdness involving a child.
- 1204 (4) "Domestic violence" means any criminal offense involving violence or physical harm or
1205 threat of violence or physical harm, or any attempt, conspiracy, or solicitation to commit
1206 a criminal offense involving violence or physical harm, when committed by one
1207 cohabitant against another and includes commission or attempt to commit, any of the
1208 following offenses by one cohabitant against another:
- 1209 (a) aggravated assault, as described in Section 76-5-103;
1210 (b) assault, as described in Section 76-5-102;
1211 (c) criminal homicide, as described in Section 76-5-201;
1212 (d) harassment, as described in Section 76-5-106;
1213 (e) electronic communication harassment, as described in Section 76-9-201;
1214 (f) kidnapping, child kidnapping, or aggravated kidnapping, as described in Sections
1215 76-5-301, 76-5-301.1, and 76-5-302;
1216 (g) mayhem, as described in Section 76-5-105;
1217 (h) sexual offenses, as described in Title 76, Chapter 5, Part 4, Sexual Offenses, and
1218 Sections 76-5b-201 and 76-5b-201.1;
1219 (i) stalking, as described in Section 76-5-106.5;
1220 (j) unlawful detention or unlawful detention of a minor, as described in Section 76-5-304;
1221 (k) violation of a protective order or ex parte protective order, as described in Section

- 1222 76-5-108;
- 1223 (l) any offense against property described in Title 76, Chapter 6, Part 1, Property
1224 Destruction, Part 2, Burglary and Criminal Trespass, or Part 3, Robbery;
- 1225 (m) possession of a [~~deadly~~] dangerous weapon with [~~intent to assault~~] criminal intent, as
1226 described in Section [~~76-10-507~~] 76-11-208; or
- 1227 (n) discharge of a firearm from a vehicle, near a highway, or in the direction of any [
1228 person] individual, building, or vehicle, as described in Section [~~76-10-508~~] 76-11-209.
- 1229 (5) "Subject of domestic abuse" means an individual who is, has been, may currently be, or
1230 may have been subject to domestic violence or child abuse.
- 1231 Section 7. Section **34-45-102** is amended to read:
- 1232 **34-45-102 . Definitions.**
- 1233 As used in this chapter:
- 1234 (1) "Firearm" has the same meaning as provided in Section [~~76-10-501~~] 76-11-101.
- 1235 (2) "Motor vehicle" has the same meaning as provided in Section 41-1a-102.
- 1236 (3) "Person" means an individual, property owner, landlord, tenant, employer, business
1237 entity, or other legal entity.
- 1238 Section 8. Section **34-45-107** is amended to read:
- 1239 **34-45-107 . Exemptions -- Limitations on chapter -- School premises --**
1240 **Government entities -- Religious organizations -- Single family detached residential units.**
- 1241 (1)(a) School premises, as defined in Subsection 76-3-203.2(1), are exempt from the
1242 provisions of this chapter.
- 1243 (b) [~~Possession of a firearm on or about school premises~~] Carrying a dangerous weapon
1244 at an elementary school or secondary school is subject to the provisions of Section [
1245 ~~76-10-505.5~~] 76-11-205.
- 1246 (2) Government entities, including a local authority or state entity, are subject to the
1247 requirements of [~~Title 53, Chapter 5a, Firearm Laws~~] Title 53, Chapter 5a, Firearms Laws,
1248 but are otherwise exempt from the provisions of this chapter.
- 1249 (3) Religious organizations, including religious organizations acting as an employer, are
1250 exempt from, and are not subject to the provisions of this chapter.
- 1251 (4) Owner-occupied single family detached residential units and tenant-occupied single
1252 family detached residential units are exempt from the provisions of this chapter.
- 1253 (5) A person who is subject to federal law that specifically forbids the presence of a firearm
1254 on property designated for motor vehicle parking, or a person who is subject to Section
1255 550 of the United States Department of Homeland Security Appropriations Act of 2007,

- 1256 Pub. L. No. 109-295 or regulations enacted in accordance with that section, is exempt
1257 from Section 34-45-103 if:
- 1258 (a) providing alternative parking or a storage location under Subsection 34-45-103(2)(a)
1259 would pose an undue burden on the person; and
- 1260 (b) the person files a statement with the attorney general citing the federal law that
1261 forbids the presence of a firearm and detailing the reasons why providing alternative
1262 parking or a storage location poses an undue burden.
- 1263 (6) A person who is subject to Section 550 of the United States Department of Homeland
1264 Security Appropriations Act of 2007, Pub. L. No. 109-295 or regulations enacted in
1265 accordance with that section is exempt from this chapter if:
- 1266 (a) the person has attempted to provide alternative parking or a storage location in
1267 accordance with Subsection 34-45-103(2)(a);
- 1268 (b) the secretary of the federal Department of Homeland Security notifies the person that
1269 the provision of alternative parking or a storage location causes the person to be out
1270 of compliance with Section 550 of the United States Department of Homeland
1271 Security Appropriations Act of 2007, Pub. L. No. 109-295 or regulations enacted in
1272 accordance with that section and the person may be subject to punitive measures; and
- 1273 (c) the person files a detailed statement with the attorney general notifying the attorney
1274 general of the facts under Subsections (6)(a) and (b).

1275 Section 9. Section **36-29-111** is amended to read:

1276 **36-29-111 . Public Safety Data Management Task Force.**

- 1277 (1) As used in this section:
- 1278 (a) "Cohabitant abuse protective order" means an order issued with or without notice to
1279 the respondent in accordance with Title 78B, Chapter 7, Part 6, Cohabitant Abuse
1280 Protective Orders.
- 1281 (b) "Lethality assessment" means an evidence-based assessment that is intended to
1282 identify a victim of domestic violence who is at a high risk of being killed by the
1283 perpetrator.
- 1284 (c) "Task force" means the Public Safety Data Management Task Force created in this
1285 section.
- 1286 (d) "Victim" means an individual who is a victim of domestic violence, as defined in
1287 Section 77-36-1.
- 1288 (2) There is created the Public Safety Data Management Task Force consisting of the
1289 following members:

- 1290 (a) three members of the Senate appointed by the president of the Senate, no more than
 1291 two of whom may be from the same political party;
- 1292 (b) three members of the House of Representatives appointed by the speaker of the
 1293 House of Representatives, no more than two of whom may be from the same political
 1294 party; and
- 1295 (c) representatives from the following organizations as requested by the executive
 1296 director of the State Commission on Criminal and Juvenile Justice:
- 1297 (i) the State Commission on Criminal and Juvenile Justice;
- 1298 (ii) the Judicial Council;
- 1299 (iii) the Statewide Association of Prosecutors;
- 1300 (iv) the Department of Corrections;
- 1301 (v) the Department of Public Safety;
- 1302 (vi) the Utah Association of Counties;
- 1303 (vii) the Utah Chiefs of Police Association;
- 1304 (viii) the Utah Sheriffs Association;
- 1305 (ix) the Board of Pardons and Parole;
- 1306 (x) the Department of Health and Human Services;
- 1307 (xi) the Utah Division of Indian Affairs; and
- 1308 (xii) any other organizations or groups as recommended by the executive director of
 1309 the Commission on Criminal and Juvenile Justice.
- 1310 (3)(a) The president of the Senate shall designate a member of the Senate appointed
 1311 under Subsection (2)(a) as a cochair of the task force.
- 1312 (b) The speaker of the House of Representatives shall designate a member of the House
 1313 of Representatives appointed under Subsection (2)(b) as a cochair of the task force.
- 1314 (4)(a) A majority of the members of the task force present at a meeting constitutes a
 1315 quorum.
- 1316 (b) The action of a majority of a quorum constitutes an action of the task force.
- 1317 (5)(a) Salaries and expenses of the members of the task force who are legislators shall
 1318 be paid in accordance with Section 36-2-2 and Legislative Joint Rules, Title 5,
 1319 Chapter 3, Legislator Compensation.
- 1320 (b) A member of the task force who is not a legislator:
- 1321 (i) may not receive compensation for the member's work associated with the task
 1322 force; and
- 1323 (ii) may receive per diem and reimbursement for travel expenses incurred as a

- 1324 member of the task force at the rates established by the Division of Finance under
1325 Sections 63A-3-106 and 63A-3-107.
- 1326 (6) The State Commission on Criminal and Juvenile Justice shall provide staff support to
1327 the task force.
- 1328 (7) The task force shall review the state's current criminal justice data collection
1329 requirements and make recommendations regarding:
- 1330 (a) possible ways to connect the various records systems used throughout the state so
1331 that data can be shared between criminal justice agencies and with policymakers;
- 1332 (b) ways to automate the collection, storage, and dissemination of the data;
- 1333 (c) standardizing the format of data collection and retention;
- 1334 (d) the collection of domestic violence data in the state; and
- 1335 (e) the collection of data not already required related to criminal justice.
- 1336 (8) On or before November 30 of each year, the task force shall provide a report to the Law
1337 Enforcement and Criminal Justice Interim Committee and the Legislative Management
1338 Committee that includes:
- 1339 (a) recommendations in accordance with Subsection (7)(a);
- 1340 (b) information on:
- 1341 (i) lethality assessments conducted in the state, including:
- 1342 (A) the type of lethality assessments used by law enforcement agencies and other
1343 organizations that provide domestic violence services; and
- 1344 (B) training and protocols implemented by law enforcement agencies and the
1345 organizations described in Subsection (8)(b)(i)(A) regarding the use of lethality
1346 assessments;
- 1347 (ii) the data collection efforts implemented by law enforcement agencies and the
1348 organizations described in Subsection (8)(b)(i)(A);
- 1349 (iii) the number of cohabitant abuse protective orders that, in the immediately
1350 preceding calendar year, were:
- 1351 (A) issued;
- 1352 (B) amended or dismissed before the date of expiration; or
- 1353 (C) dismissed under Section 78B-7-605; and
- 1354 (iv) the prevalence of domestic violence in the state and the prevalence of the
1355 following in domestic violence cases:
- 1356 (A) stalking;
- 1357 (B) strangulation;

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

1373 Section 10. Section **47-3-305** is amended to read:

1374 **47-3-305 . Exceptions and prohibitions.**

- 1375 (1) This part does not apply to:
- 1376 (a) shooting ranges that are otherwise open to the public;
- 1377 (b) shooting ranges that are operated as a public shooting range staffed by and operated
 1378 by Division of Wildlife Resources;
- 1379 (c) the Utah National Guard ranges located at Camp Williams and the Salt Lake
 1380 International Airport;
- 1381 (d) Department of Corrections ranges; and
- 1382 (e) ranges owned, operated, or currently leased as of March 26, 2013, by a state or local
 1383 public safety agency.
- 1384 (2) Firearms may not be allowed in a school building, except under the provision of Section [
 1385 ~~76-10-505.5~~] 76-11-205, unless there is an outdoor entrance to the shooting range and the
 1386 most direct access to the range is used. An outdoor entrance to a shooting range may not
 1387 be blocked by fences, structures, or gates for the purpose of blocking the outdoor
 1388 entrance.
- 1389 (3) Only air guns may be used in public ranges where the ventilation systems do not meet
 1390 current OSHA standards as applied to the duration of exposure of the participants. For
 1391 the purposes of this part, an air gun does not include larger caliber pneumatic weapons,

1392 paintball guns, or air shotguns.

1393 (4) Group range use is a lawful, approved activity under Subsection 76-10-505.5(4)(a).

1394 Section 11. Section **53-1-104** is amended to read:

1395 **53-1-104 . Boards, bureaus, councils, divisions, and offices.**

1396 (1) The following are the policymaking boards and committees within the department:

1397 (a) the Trauma System and Emergency Medical Services Committee created in Section
1398 53-2d-104;

1399 (b) the Air Ambulance Committee created in Section 53-2d-107;

1400 (c) the Driver License Medical Advisory Board, created in Section 53-3-303;

1401 (d) the Concealed Firearm Review Board, created in Section [~~53-5-703~~] 53-5a-302;

1402 (e) the Utah Fire Prevention Board, created in Section 53-7-203;

1403 (f) the Liquified Petroleum Gas Board, created in Section 53-7-304; and

1404 (g) the Bail Bond Recovery and Private Investigator Licensure Board created in Section
1405 53-11-104.

1406 (2) The Peace Officer Standards and Training Council, created in Section 53-6-106, is
1407 within the department.

1408 (3) The following are the divisions within the department:

1409 (a) the Administrative Services Division, created in Section 53-1-203;

1410 (b) the Management Information Services Division, created in Section 53-1-303;

1411 (c) the Division of Emergency Management, created in Section 53-2a-103;

1412 (d) the Driver License Division, created in Section 53-3-103;

1413 (e) the Criminal Investigations and Technical Services Division, created in Section
1414 53-10-103;

1415 (f) the Peace Officer Standards and Training Division, created in Section 53-6-103;

1416 (g) the State Fire Marshal Division, created in Section 53-7-103; and

1417 (h) the Utah Highway Patrol Division, created in Section 53-8-103.

1418 (4) The Office of Executive Protection is created in Section 53-1-112.

1419 (5) The following are the bureaus within the department:

1420 (a) the Bureau of Emergency Medical Services, created in Section 53-2d-102;

1421 (b) the Bureau of Criminal Identification, created in Section 53-10-201;

1422 (c) the State Bureau of Investigation, created in Section 53-10-301;

1423 (d) the Bureau of Forensic Services, created in Section 53-10-401; and

1424 (e) the Bureau of Communications, created in Section 53-10-501.

1425 Section 12. Section **53-2a-214** is amended to read:

- 1426 **53-2a-214 . Prohibition of restrictions on and confiscation of a firearm or**
1427 **ammunition during an emergency.**
- 1428 (1) As used in this section:
- 1429 (a)(i) "Confiscate" means for an individual in Utah to intentionally deprive another
1430 of a privately owned firearm.
- 1431 (ii) "Confiscate" does not include the taking of a firearm from an individual:
- 1432 (A) in self-defense;
- 1433 (B) possessing a firearm while the individual is committing a felony or
1434 misdemeanor; or
- 1435 (C) who may not, under state or federal law, possess the firearm.
- 1436 (b) "Firearm" has the same meaning as defined in Section [~~76-10-501~~] 76-11-101.
- 1437 (2) During a declared state of emergency or local emergency under this part:
- 1438 (a) neither the governor nor an agency of a governmental entity or political subdivision
1439 of the state may impose restrictions, which were not in force before the declared state
1440 of emergency, on the lawful possession, transfer, sale, transport, storage, display, or
1441 use of a firearm or ammunition; and
- 1442 (b) an individual, while acting or purporting to act on behalf of the state or a political
1443 subdivision of the state, may not confiscate a privately owned firearm of another
1444 individual.
- 1445 (3) A law or regulation passed during a declared state of emergency that does not relate
1446 specifically to the lawful possession or use of a firearm and that has attached criminal
1447 penalties may not be used to justify the confiscation of a firearm from an individual
1448 acting in defense of self, property, or others when on:
- 1449 (a) the individual's private property; or
- 1450 (b) the private property of another as an invitee.
- 1451 (4)(a) An individual who has a firearm confiscated in violation of Subsection (2) may
1452 bring a civil action in a court having the appropriate jurisdiction:
- 1453 (i) for damages, in the maximum amount of \$10,000, against a person who violates
1454 Subsection (2);
- 1455 (ii) for a civil penalty, in the amount of \$5,000 per violation, against a person who
1456 violates Subsection (2); and
- 1457 (iii) for return of the confiscated firearm.
- 1458 (b) As used in this Subsection (4), "person" means an individual, the governmental
1459 entity on whose behalf the individual is acting or purporting to act, or both the

1460 individual and the governmental entity.

1461 (5)(a) A law enforcement officer is not subject to disciplinary action for refusing to
1462 confiscate a firearm under this section if:

1463 (i) ordered or directed to do so by a superior officer; and

1464 (ii) by obeying the order or direction, the law enforcement officer would be
1465 committing a violation of this section.

1466 (b) For purposes of this Subsection (5), disciplinary action might include:

1467 (i) dismissal, suspension, or demotion;

1468 (ii) loss of or decrease in benefits, pay, privileges or conditions of employment; and

1469 (iii) any type of written or electronic indication, permanent or temporary, on the
1470 officer's personnel record of the officer's refusal to obey the unlawful order.

1471 (6)(a) If a law enforcement officer commits a violation of this section, the officer's
1472 liability in an action brought under Subsection (4)(a) is limited to 5% of the damages
1473 and civil penalty allowed under Subsection (4)(a) if the officer can show by clear and
1474 convincing evidence that the officer was obeying a direct and unlawful order from a
1475 superior officer or authority.

1476 (b) The court shall assess the balance of the damages and civil penalty, the remaining
1477 95%, against the superior officer or authority who ordered or directed the
1478 confiscation in violation of this section.

1479 Section 13. Section **53-3-220** is amended to read:

1480 **53-3-220 . Offenses requiring mandatory revocation, denial, suspension, or**
1481 **disqualification of license -- Offense requiring an extension of period -- Hearing --**
1482 **Limited driving privileges.**

1483 (1)(a) The division shall immediately revoke or, when this chapter, Title 41, Chapter 6a,
1484 Traffic Code, or Section 76-5-303, specifically provides for denial, suspension, or
1485 disqualification, the division shall deny, suspend, or disqualify the license of a person
1486 upon receiving a record of the person's conviction for:

1487 (i) manslaughter or negligent homicide resulting from driving a motor vehicle,
1488 automobile homicide under Section 76-5-207, or automobile homicide involving
1489 using a handheld wireless communication device while driving under Section
1490 76-5-207.5;

1491 (ii) driving or being in actual physical control of a motor vehicle while under the
1492 influence of alcohol, any drug, or combination of them to a degree that renders the
1493 person incapable of safely driving a motor vehicle as prohibited in Section

- 1494 41-6a-502 or as prohibited in an ordinance that complies with the requirements of
1495 Subsection 41-6a-510(1);
- 1496 (iii) driving or being in actual physical control of a motor vehicle while having a
1497 blood or breath alcohol content as prohibited in Section 41-6a-502 or as prohibited
1498 in an ordinance that complies with the requirements of Subsection 41-6a-510(1);
- 1499 (iv) perjury or the making of a false affidavit to the division under this chapter, Title
1500 41, Motor Vehicles, or any other law of this state requiring the registration of
1501 motor vehicles or regulating driving on highways;
- 1502 (v) any felony under the motor vehicle laws of this state;
- 1503 (vi) any other felony in which a motor vehicle is used to facilitate the offense;
- 1504 (vii) failure to stop and render aid as required under the laws of this state if a motor
1505 vehicle accident results in the death or personal injury of another;
- 1506 (viii) two charges of reckless driving, impaired driving, or any combination of
1507 reckless driving and impaired driving committed within a period of 12 months;
1508 but if upon a first conviction of reckless driving or impaired driving the judge or
1509 justice recommends suspension of the convicted person's license, the division may
1510 after a hearing suspend the license for a period of three months;
- 1511 (ix) failure to bring a motor vehicle to a stop at the command of a law enforcement
1512 officer as required in Section 41-6a-210;
- 1513 (x) any offense specified in Part 4, Uniform Commercial Driver License Act, that
1514 requires disqualification;
- 1515 (xi) a felony violation of Section ~~[76-10-508]~~ 76-11-209 or ~~[76-10-508.1]~~ 76-11-210
1516 involving discharging or allowing the discharge of a firearm from a vehicle;
- 1517 (xii) using, allowing the use of, or causing to be used any explosive, chemical, or
1518 incendiary device from a vehicle in violation of Subsection 76-10-306(4)(b);
- 1519 (xiii) operating or being in actual physical control of a motor vehicle while having
1520 any measurable controlled substance or metabolite of a controlled substance in the
1521 person's body in violation of Section 41-6a-517;
- 1522 (xiv) operating or being in actual physical control of a motor vehicle while having
1523 any measurable or detectable amount of alcohol in the person's body in violation
1524 of Section 41-6a-530;
- 1525 (xv) engaging in a motor vehicle speed contest or exhibition of speed on a highway in
1526 violation of Section 41-6a-606;
- 1527 (xvi) operating or being in actual physical control of a motor vehicle in this state

- 1528 without an ignition interlock system in violation of Section 41-6a-518.2;
- 1529 (xvii) refusal of a chemical test under Subsection 41-6a-520.1(1); or
- 1530 (xviii) two or more offenses that:
- 1531 (A) are committed within a period of one year;
- 1532 (B) are enhanced under Section 76-3-203.17; and
- 1533 (C) arose from separate incidents.
- 1534 (b) The division shall immediately revoke the license of a person upon receiving a
- 1535 record of an adjudication under Section 80-6-701 for:
- 1536 (i) a felony violation of Section ~~[76-10-508]~~ 76-11-209 or ~~[76-10-508.1]~~ 76-11-210
- 1537 involving discharging or allowing the discharge of a firearm from a vehicle; or
- 1538 (ii) using, allowing the use of, or causing to be used any explosive, chemical, or
- 1539 incendiary device from a vehicle in violation of Subsection 76-10-306(4)(b).
- 1540 (c)(i) Except when action is taken under Section 53-3-219 for the same offense, upon
- 1541 receiving a record of conviction, the division shall immediately suspend for six
- 1542 months the license of the convicted person if the person was convicted of
- 1543 violating any one of the following offenses while the person was an operator of a
- 1544 motor vehicle, and the court finds that a driver license suspension is likely to
- 1545 reduce recidivism and is in the interest of public safety:
- 1546 (A) Title 58, Chapter 37, Utah Controlled Substances Act;
- 1547 (B) Title 58, Chapter 37a, Utah Drug Paraphernalia Act;
- 1548 (C) Title 58, Chapter 37b, Imitation Controlled Substances Act;
- 1549 (D) Title 58, Chapter 37c, Utah Controlled Substance Precursor Act;
- 1550 (E) Title 58, Chapter 37d, Clandestine Drug Lab Act; or
- 1551 (F) any criminal offense that prohibits possession, distribution, manufacture,
- 1552 cultivation, sale, or transfer of any substance that is prohibited under the acts
- 1553 described in Subsections (1)(c)(i)(A) through (E), or the attempt or conspiracy
- 1554 to possess, distribute, manufacture, cultivate, sell, or transfer any substance that
- 1555 is prohibited under the acts described in Subsections (1)(c)(i)(A) through (E).
- 1556 (ii) Notwithstanding the provisions in Subsection (1)(c)(i), the division shall reinstate
- 1557 a person's driving privilege before completion of the suspension period imposed
- 1558 under Subsection (1)(c)(i) if the reporting court notifies the Driver License
- 1559 Division, in a manner specified by the division, that the defendant is participating
- 1560 in or has successfully completed a drug court program as defined in Section
- 1561 78A-5-201.

- 1562 (iii) If a person's driving privilege is reinstated under Subsection (1)(c)(ii), the person
1563 is required to pay the license reinstatement fees under Subsection 53-3-105(26).
- 1564 (iv) The court shall notify the division, in a manner specified by the division, if a
1565 person fails to complete all requirements of the drug court program.
- 1566 (v) Upon receiving the notification described in Subsection (1)(c)(iv), the division
1567 shall suspend the person's driving privilege for a period of six months from the
1568 date of the notice, and no days shall be subtracted from the six-month suspension
1569 period for which a driving privilege was previously suspended under Subsection
1570 (1)(c)(i).
- 1571 (d)(i) The division shall immediately suspend a person's driver license for conviction
1572 of the offense of theft of motor vehicle fuel under Section 76-6-404.7 if the
1573 division receives:
- 1574 (A) an order from the sentencing court requiring that the person's driver license be
1575 suspended; and
- 1576 (B) a record of the conviction.
- 1577 (ii) An order of suspension under this section is at the discretion of the sentencing
1578 court, and may not be for more than 90 days for each offense.
- 1579 (e)(i) The division shall immediately suspend for one year the license of a person
1580 upon receiving a record of:
- 1581 (A) conviction for the first time for a violation under Section 32B-4-411; or
1582 (B) an adjudication under Section 80-6-701 for a violation under Section
1583 32B-4-411.
- 1584 (ii) The division shall immediately suspend for a period of two years the license of a
1585 person upon receiving a record of:
- 1586 (A)(I) conviction for a second or subsequent violation under Section
1587 32B-4-411; and
- 1588 (II) the violation described in Subsection (1)(e)(ii)(A)(I) is within 10 years of a
1589 prior conviction for a violation under Section 32B-4-411; or
- 1590 (B)(I) a second or subsequent adjudication under Section 80-6-701 for a
1591 violation under Section 32B-4-411; and
- 1592 (II) the adjudication described in Subsection (1)(e)(ii)(B)(I) is within 10 years
1593 of a prior adjudication under Section 80-6-701 for a violation under Section
1594 32B-4-411.
- 1595 (iii) Upon receipt of a record under Subsection (1)(e)(i) or (ii), the division shall:

- 1596 (A) for a conviction or adjudication described in Subsection (1)(e)(i):
1597 (I) impose a suspension for one year beginning on the date of conviction; or
1598 (II) if the person is under the age of eligibility for a driver license, impose a
1599 suspension that begins on the date of conviction and continues for one year
1600 beginning on the date of eligibility for a driver license; or
1601 (B) for a conviction or adjudication described in Subsection (1)(e)(ii):
1602 (I) impose a suspension for a period of two years; 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 two years
1605 beginning on the date of eligibility for a driver license.
- 1606 (iv) Upon receipt of the first order suspending a person's driving privileges under
1607 Section 32B-4-411, the division shall reduce the suspension period under
1608 Subsection (1)(e)(i) if ordered by the court in accordance with Subsection
1609 32B-4-411(3)(a).
- 1610 (v) Upon receipt of the second or subsequent order suspending a person's driving
1611 privileges under Section 32B-4-411, the division shall reduce the suspension
1612 period under Subsection (1)(e)(ii) if ordered by the court in accordance with
1613 Subsection 32B-4-411(3)(b).
- 1614 (f) The division shall immediately suspend a person's driver license for the conviction of
1615 an offense that is enhanced under Section 76-3-203.17 if the division receives:
1616 (i) an order from the sentencing court requiring the person's driver license to be
1617 suspended; and
1618 (ii) a record of the conviction.
- 1619 (2) The division shall extend the period of the first denial, suspension, revocation, or
1620 disqualification for an additional like period, to a maximum of one year for each
1621 subsequent occurrence, upon receiving:
1622 (a) a record of the conviction of any person on a charge of driving a motor vehicle while
1623 the person's license is denied, suspended, revoked, or disqualified;
1624 (b) a record of a conviction of the person for any violation of the motor vehicle law in
1625 which the person was involved as a driver;
1626 (c) a report of an arrest of the person for any violation of the motor vehicle law in which
1627 the person was involved as a driver; or
1628 (d) a report of an accident in which the person was involved as a driver.
- 1629 (3) When the division receives a report under Subsection (2)(c) or (d) that a person is

1630 driving while the person's license is denied, suspended, disqualified, or revoked, the
1631 person is entitled to a hearing regarding the extension of the time of denial, suspension,
1632 disqualification, or revocation originally imposed under Section 53-3-221.

1633 (4)(a) The division may extend to a person the limited privilege of driving a motor
1634 vehicle to and from the person's place of employment or within other specified limits
1635 on recommendation of the judge in any case where a person is convicted of any of
1636 the offenses referred to in Subsections (1) and (2) except:

1637 (i) those offenses referred to in Subsections (1)(a)(i), (ii), (iii), (xi), (xii), (xiii), (1)(b),
1638 and (1)(c)(i); and

1639 (ii) those offenses referred to in Subsection (2) when the original denial, suspension,
1640 revocation, or disqualification was imposed because of a violation of Section
1641 41-6a-502, 41-6a-517, a local ordinance that complies with the requirements of
1642 Subsection 41-6a-510(1), Section 41-6a-520, 41-6a-520.1, 76-5-102.1, or 76-5-207,
1643 or a criminal prohibition that the person was charged with violating as a result of a
1644 plea bargain after having been originally charged with violating one or more of
1645 these sections or ordinances, unless:

1646 (A) the person has had the period of the first denial, suspension, revocation, or
1647 disqualification extended for a period of at least three years;

1648 (B) the division receives written verification from the person's primary care
1649 physician or physician assistant that:

1650 (I) to the physician's or physician assistant's knowledge the person has not used
1651 any narcotic drug or other controlled substance except as prescribed by a
1652 licensed medical practitioner within the last three years; and

1653 (II) the physician or physician assistant is not aware of any physical,
1654 emotional, or mental impairment that would affect the person's ability to
1655 operate a motor vehicle safely; and

1656 (C) for a period of one year prior to the date of the request for a limited driving
1657 privilege:

1658 (I) the person has not been convicted of a violation of any motor vehicle law in
1659 which the person was involved as the operator of the vehicle;

1660 (II) the division has not received a report of an arrest for a violation of any
1661 motor vehicle law in which the person was involved as the operator of the
1662 vehicle; and

1663 (III) the division has not received a report of an accident in which the person

- 1664 was involved as an operator of a vehicle.
- 1665 (b)(i) Except as provided in Subsection (4)(b)(ii), the discretionary privilege
- 1666 authorized in this Subsection (4):
- 1667 (A) is limited to when undue hardship would result from a failure to grant the
- 1668 privilege; and
- 1669 (B) may be granted only once to any person during any single period of denial,
- 1670 suspension, revocation, or disqualification, or extension of that denial,
- 1671 suspension, revocation, or disqualification.
- 1672 (ii) The discretionary privilege authorized in Subsection (4)(a)(ii):
- 1673 (A) is limited to when the limited privilege is necessary for the person to commute
- 1674 to school or work; and
- 1675 (B) may be granted only once to any person during any single period of denial,
- 1676 suspension, revocation, or disqualification, or extension of that denial,
- 1677 suspension, revocation, or disqualification.
- 1678 (c) A limited CDL may not be granted to a person disqualified under Part 4, Uniform
- 1679 Commercial Driver License Act, or whose license has been revoked, suspended,
- 1680 cancelled, or denied under this chapter.
- 1681 Section 14. Section **53-5a-102** is amended to read:

1682 CHAPTER 5a. FIREARMS LAWS

1683 Part 1. General Firearms Laws

1684 **53-5a-102 . Uniform firearms laws.**

1685 [(1) As used in this section:]

1686 [(a) "Ammunition" means the same as that term is defined in Section 53-5d-102.]

1687 [(b) "Dangerous weapon" means the same as that term is defined in Section 76-10-501.]

1688 [(c) "Firearm" means:]

1689 [(i) a pistol, revolver, shotgun, short barreled shotgun, rifle or short barreled rifle, or

1690 a device that could be used as a dangerous weapon from which is expelled a

1691 projectile by action of an explosive;]

1692 [(ii) ammunition; and]

1693 [(iii) a firearm accessory.]

1694 [(d) "Firearm accessory" means the same as that term is defined in Section 53-5b-103.]

1695 [(e) "Local or state governmental entity" means the same as that term is defined in

1696 Section 78B-6-2301.]

1697 ~~[(f) "Short barreled shotgun" or "short barreled rifle" means the same as that term is~~
 1698 ~~defined in Section 76-10-501.]~~

1699 ~~[(g) "Shotgun" means the same as that term is defined in Section 76-10-501.]~~

1700 [(2)] (1) The individual right to keep and bear arms being a constitutionally protected right
 1701 under Utah Constitution, Article I, Section 6, ~~[of the Utah Constitution]~~ and the Second
 1702 Amendment to the United States Constitution, the Legislature finds the need to provide
 1703 uniform civil and criminal firearm laws throughout the state and declares that the
 1704 Legislature occupies the whole field of state regulation of firearms.

1705 [(3)] (2) Except as specifically provided by state law, a local or state governmental entity
 1706 may not:

1707 (a) prohibit an individual from owning, possessing, purchasing, selling, transferring,
 1708 transporting, or keeping a firearm, ammunition, or a firearm accessory at the
 1709 individual's place of residence, property, business, or in any vehicle ~~[lawfully in the~~
 1710 ~~individual's possession or lawfully under the individual's control]~~ in which the
 1711 individual is lawfully present; or

1712 (b) require an individual to have a permit or license to purchase, own, possess, transport,
 1713 or keep a firearm, ammunition, or a firearm accessory.

1714 [(4)] (3) ~~[In conjunction with Title 76, Chapter 10, Part 5, Weapons, this section is]~~ This part
 1715 and Title 76, Chapter 11, Weapons, are uniformly applicable throughout [this] the state
 1716 and in all the [state's] political subdivisions of the state.

1717 [(5)] (4) Authority to regulate firearms, ammunition, and firearm accessories is reserved to
 1718 the state except where the Legislature specifically delegates responsibility to local or
 1719 state governmental entities.

1720 [(6)] (5) Unless specifically authorized by the Legislature by statute, a local or state
 1721 governmental entity may not enact, establish, or enforce ~~[any ordinance, regulation, rule,~~
 1722 ~~or policy]~~ a directive pertaining to firearms, ammunition, or firearm accessories that in
 1723 any way inhibits or restricts the possession, ownership, purchase, sale, transfer,
 1724 transport, or use of firearms, ammunition, or firearm accessories on either public or
 1725 private property.

1726 [(7)] (6) This section does not restrict or expand private property rights.

1727 [(8)] (7) A violation of this section is subject to Title 78B, Chapter 6, Part 23, Firearm
 1728 Preemption Enforcement Act.

1729 Section 15. Section **53-5a-102.1** is enacted to read:

1730 **53-5a-102.1 . Definitions.**

1731 As used in this part:

1732 (1) "Ammunition" means the same as that term is defined in Section 53-5d-102.

1733 (2)(a) "Antique firearm" means:

1734 (i) a firearm, including a firearm with a matchlock, flintlock, percussion cap, or
1735 similar type of ignition system, manufactured in or before 1898;

1736 (ii) a firearm that is a replica of a firearm described in this Subsection (2)(a), if the
1737 replica:

1738 (A) is not designed or redesigned for using rimfire or conventional centerfire fixed
1739 ammunition; or

1740 (B) uses rimfire or centerfire fixed ammunition which is no longer manufactured
1741 in the United States and is not readily available in ordinary channels of
1742 commercial trade; or

1743 (iii) a firearm that:

1744 (A) is a muzzle loading rifle, shotgun, or pistol; and

1745 (B) is designed to use black powder, or a black powder substitute, and cannot use
1746 fixed ammunition.

1747 (b) "Antique firearm" does not include:

1748 (i) a weapon that incorporates a firearm frame or receiver;

1749 (ii) a firearm that is converted into a muzzle loading weapon; or

1750 (iii) a muzzle loading weapon that can be readily converted to fire fixed ammunition
1751 by replacing the:

1752 (A) barrel;

1753 (B) bolt;

1754 (C) breechblock; or

1755 (D) any combination of Subsection (2)(b)(iii)(A), (B), or (C).

1756 (3) "Bureau" means the Bureau of Criminal Identification created in Section 53-10-201
1757 within the department.

1758 (4)(a) "Concealed firearm" means a firearm that is:

1759 (i) covered, hidden, or secreted in a manner that the public would not be aware of the
1760 firearm's presence; and

1761 (ii) readily accessible for immediate use.

1762 (b) "Concealed firearm" does not include a firearm that is unloaded and securely encased.

1763 (5) "Court commissioner" means an individual appointed under Section 78A-5-107.

1764 (6) "Dangerous weapon" means the same as that term is defined in Section 76-11-101.

- 1765 (7) "Directive" means the same as that term is defined in Section 78B-6-2301.
- 1766 (8) "Firearm" means a pistol, revolver, shotgun, short barreled shotgun, rifle or short
- 1767 barreled rifle, or a device that could be used as a dangerous weapon from which is
- 1768 expelled a projectile by action of an explosive.
- 1769 (9) "Firearm accessory" means the same as that term is defined in Section 53-5a-401.
- 1770 (10) "Handgun" means a pistol, revolver, or other firearm of any description, from which a
- 1771 shot, bullet, or other missile can be discharged, the length of which, not including any
- 1772 revolving, detachable, or magazine breech, does not exceed 12 inches.
- 1773 (11) "Judge" means the same as that term is defined in Section 53-5a-311.
- 1774 (12) "Law enforcement official" means the same as that term is defined in Section
- 1775 53-5a-311.
- 1776 (13) "Local or state governmental entity" means the same as that term is defined in Section
- 1777 78B-6-2301.
- 1778 (14) "Readily accessible for immediate use" means that a firearm or other dangerous
- 1779 weapon is carried on the person or within such close proximity and in such a manner
- 1780 that the weapon can be retrieved and used as readily as if carried on the person.
- 1781 (15) "Securely encased firearm" means the same as that term is defined in Section
- 1782 76-11-201.
- 1783 (16) "Short barreled rifle" means the same as that term is defined in Section 53-5a-601.
- 1784 (17) "Short barreled shotgun" means the same as that term is defined in Section 53-5a-601.
- 1785 (18) "Shotgun" means the same as that term is defined in Section 53-5a-601.
- 1786 (19) "Slug" means the same as that term is defined in Section 53-5a-601.
- 1787 Section 16. Section **53-5a-102.2** is enacted to read:
- 1788 **53-5a-102.2 . Open and concealed carry of a firearm outside of an individual's**
- 1789 **residence.**
- 1790 (1) To effectuate the Second Amendment to the United States Constitution and Utah
- 1791 Constitution, Article I, Section 6, that prohibit the infringement of the right of the people
- 1792 of Utah to keep and bear arms for security and defense of self, family, others, property,
- 1793 or the state, as well as for other lawful purposes, and consistent with the Legislature's
- 1794 ability to define the lawful use of arms:
- 1795 (a) subject to Subsection (2)(a), an individual 18 years old or older may carry a firearm,
- 1796 that the individual may otherwise lawfully carry, in an open manner:
- 1797 (i) in a vehicle in which the individual is lawfully present;
- 1798 (ii) on a public street; or

- 1799 (iii) in any other place not prohibited by, or pursuant to, state statute or federal law;
- 1800 (b) subject to Subsection (2)(b), an individual 21 years old or older may carry a
- 1801 concealed firearm, that the individual may otherwise lawfully possess, without a
- 1802 concealed carry permit:
- 1803 (i) in a vehicle in which the individual is lawfully present;
- 1804 (ii) on a public street; or
- 1805 (iii) in any other place not prohibited by, or pursuant to, state statute or federal law;
- 1806 and
- 1807 (c) subject to Subsections (2)(c) and (d), an individual with a concealed carry permit
- 1808 issued under Section 53-5a-303, a temporary concealed carry permit issued under
- 1809 Section 53-5a-304, a provisional concealed carry permit issued under Section
- 1810 53-5a-305, or a concealed carry permit lawfully issued by or in another state, may
- 1811 carry a concealed firearm:
- 1812 (i) in a vehicle in which the individual is lawfully present;
- 1813 (ii) on a public street; or
- 1814 (iii) in any other place not prohibited by, or pursuant to, state statute or federal law.
- 1815 (2)(a) An individual openly carrying a firearm under Subsection (1)(a) may not carry
- 1816 the firearm in any manner:
- 1817 (i) in a secure area established in accordance with Section 76-8-311.1 in which
- 1818 dangerous weapons are prohibited and notice of the prohibition is posted;
- 1819 (ii) on or about the premises of a public or private elementary school or secondary
- 1820 school as described in Section 76-11-205;
- 1821 (iii) on or about the premises of a daycare as described in Section 76-11-206;
- 1822 (iv) in an airport secure area as described in Section 76-11-218;
- 1823 (v) in a house of worship or in any private residence where dangerous weapons are
- 1824 prohibited as described in Section 76-11-219; or
- 1825 (vi) in any other place prohibited by, or pursuant to, another state statute or federal
- 1826 law.
- 1827 (b) An individual concealing a firearm without a concealed carry permit under
- 1828 Subsection (1)(b) may not carry the firearm:
- 1829 (i) in a secure area established in accordance with Section 76-8-311.1 in which
- 1830 dangerous weapons are prohibited and notice of the prohibition is posted;
- 1831 (ii) on or about the school premises of a public or private elementary school or
- 1832 secondary school as described in Section 76-11-205;

- 1833 (iii) on or about a daycare premises as described in Section 76-11-206;
1834 (iv) in an airport secure area as described in Section 76-11-218;
1835 (v) in a house of worship or in any private residence where dangerous weapons are
1836 prohibited as described in Section 76-11-219; or
1837 (vi) in any other place prohibited by, or pursuant to, another state statute or federal
1838 law.
- 1839 (c) Subject to Subsection (2)(d), an individual concealing a firearm with a concealed
1840 carry permit under Subsection (1)(c) may not carry the firearm in any manner:
1841 (i) in a secure area established in accordance with Section 76-8-311.1 in which
1842 dangerous weapons are prohibited and notice of the prohibition posted;
1843 (ii) in an airport secure area as described in Section 76-11-218;
1844 (iii) in a house of worship or in any private residence where dangerous weapons are
1845 prohibited as described in Section 76-11-219; or
1846 (iv) in any other place prohibited by, or pursuant to, another state statute or federal
1847 law.
- 1848 (d) In addition to the locations described in Subsection (2)(c):
1849 (i) an individual 18 years old but younger than 21 years old concealing a firearm with
1850 a provisional concealed carry permit under Section 53-5a-304 may not carry the
1851 firearm in any manner on or about the premises of a public or private elementary
1852 school or secondary school as described in Section 76-11-205; and
1853 (ii) an individual concealing a firearm with a concealed carry permit lawfully issued
1854 by or in another state may not carry the firearm in any manner:
1855 (A) on or about the premises of a public or private elementary school or secondary
1856 school as described in Section 76-11-205; or
1857 (B) on or about the premises of a daycare as described in Section 76-11-206.
- 1858 (3) This section does not prohibit:
1859 (a) the owner or lawful possessor of a vehicle from prohibiting another individual from
1860 carrying a firearm in the owner or lawful possessor's vehicle; or
1861 (b) except as provided in Section 53-5a-102.3, the owner or lawful lessee of private real
1862 property from prohibiting another individual from possessing a firearm on the
1863 property.
- 1864 (4) An individual is lawfully present in a vehicle while carrying a firearm under this section
1865 if:
1866 (a) the vehicle is in the lawful possession of the individual; or

1867 (b) the individual has the consent of the person lawfully in possession of the vehicle to
 1868 carry the firearm in the vehicle.

1869 Section 17. Section **53-5a-102.3**, which is renumbered from Section 76-10-511 is renumbered
 1869 and amended to read:

1871 **[76-10-511] 53-5a-102.3 . Possession of a firearm at a residence or on real property.**

1872 (1) Except for ~~[persons described in Section 76-10-503 and]~~ an individual categorized
 1873 as a restricted person under Section 76-11-302, Section 76-11-303, or 18 U.S.C. Sec.
 1874 922(g), [and as] or an individual otherwise [prescribed in this part, a person] prohibited
 1875 by law, an individual 18 years old or older may have, and cannot be restricted from
 1876 having, a [loaded]firearm:

1877 ~~[(1)]~~ (a) at the ~~[person's]~~ individual's place of residence~~[-, including any temporary~~
 1878 ~~residence or camp]; or~~

1879 ~~[(2)]~~ (b) on the ~~[person's]~~ individual's real property.

1880 (2) An individual's place of residence described in Subsection (2)(a) includes:

1881 (a) a temporary residence or camp; or

1882 (b) a residence that the individual has been granted the lawful right of possession to rent
 1883 or lease.

1884 Section 18. Section **53-5a-103** is amended to read:

1885 **53-5a-103 . Discharge of a firearm on private property -- Liability.**

1886 (1) As used in this section:

1887 (a) "Firearm possessor" means an individual who may lawfully possess a firearm.

1888 (b) "Property occupant" means:

1889 (i) a private property owner; or

1890 (ii) ~~[a person]~~ an individual who has the right to occupy a private property under an
 1891 agreement.

1892 (2) Except as provided under Subsection (3), a property occupant, who knowingly allows a
 1893 firearm possessor to lawfully bring a firearm onto the property occupant's property, is
 1894 not civilly or criminally liable for any damage or harm resulting from the discharge of
 1895 the firearm by the firearm possessor while on the property occupant's property.

1896 (3) Subsection (2) does not apply if the property occupant solicits, requests, commands,
 1897 encourages, or intentionally aids the firearm possessor in discharging the firearm while
 1898 on the property occupant's property for a purpose other than the lawful defense of an
 1899 individual on the property.

1900 (4) This section does not alter the responsibilities a tenant owes to a landlord under the

1901 terms of the lease agreement entered into between the tenant and landlord.

1902 Section 19. Section **53-5a-105**, which is renumbered from Section 76-10-520 is renumbered
1902 and amended to read:

1904 **[76-10-520] 53-5a-105 . Number or mark assigned to a handgun by the department.**

1905 (1) The [Department of Public Safety] department, upon request, may assign a
1906 distinguishing number or mark of identification to [any pistol or revolver] a handgun
1907 whenever it is without a manufacturer's number, or other mark of identification or
1908 whenever the manufacturer's number or other mark of identification or the
1909 distinguishing number or mark assigned by the [Department of Public Safety] department
1910 has been destroyed or obliterated.

1911 (2) Except as provided in Subsection (3), an individual who places or stamps a number on a
1912 handgun except one assigned to the handgun by the department is guilty of a class A
1913 misdemeanor.

1914 (3) This section does not:

1915 (a) prohibit restoration by the owner of the name of the maker, model, or of the original
1916 manufacturer's number or other mark of identification when the restoration is
1917 authorized by the department;

1918 (b) prohibit a manufacturer from placing in the ordinary course of business the name of
1919 the make, model, manufacturer's number, or other mark of identification upon a new
1920 handgun; or

1921 (c) apply to a handgun that is an antique firearm.

1922 Section 20. Section **53-5a-106**, which is renumbered from Section 76-10-522 is renumbered
1922 and amended to read:

1924 **[76-10-522] 53-5a-106 . Alteration of number or mark on a handgun.**

1925 (1) [Any person who changes, alters, removes, or obliterates] An individual may not
1926 change, alter, remove, or obliterate the name of the maker, the model, manufacturer's
1927 number, or other mark of identification, including any distinguishing number or mark
1928 assigned by the [Department of Public Safety] department, on [any pistol or revolver] a
1929 handgun, without first having secured written permission from the [Department of
1930 Public Safety] department to make the change, alteration, [or] removal, [is guilty of a
1931 class A misdemeanor] or obliteration.

1932 (2) Except as provided in Subsection (3), a violation of Subsection (1) is a class A
1933 misdemeanor.

1934 (3) This section does not apply to a handgun that is an antique firearm.

1935 Section 21. Section **53-5a-107**, which is renumbered from Section 76-10-523.5 is renumbered
1935 and amended to read:

1937 ~~[76-10-523.5]~~ **53-5a-107 . Compliance with firearms prohibitions in secure facilities.**

1938 [Any person] An individual, including [a person licensed to carry] an individual with a
1939 concealed firearm permit issued under [Title 53, Chapter 5, Part 7, Concealed Firearm Act] Part
1940 3, Concealed Firearm Permits, or possessing a concealed firearm without a permit in
1941 accordance with Section 53-5a-102.2, shall comply with any rule established for [secure
1942 facilities] a secure facility pursuant to [Sections 53B-3-103,] Section 76-8-311.1[, 76-8-311.3,
1943 and 78A-2-203] and [shall be] is subject to any penalty provided [in those sections] for violating
1944 the established rule.

1945 Section 22. Section **53-5a-108**, which is renumbered from Section 76-10-523 is renumbered
1945 and amended to read:

1947 ~~[76-10-523]~~ **53-5a-108 . Individuals who are exempt from certain weapons laws.**

1948 [(1)] Except [for Sections 76-10-506, 76-10-508, and 76-10-508.1, this part and Title 53,
1949 Chapter 5, Part 7, Concealed Firearm Act,] as provided in Subsections (2) and (3), this
1950 part, Part 3, Concealed Firearm Permits, and Title 76, Chapter 11, Weapons, do not
1951 apply to any of the following:

1952 [(a)] (1) a United States marshal;

1953 [(b)] (2) a federal official required to carry a firearm;

1954 [(c)] (3) a peace officer of [this or] any [other] jurisdiction;

1955 [(d)] (4) a law enforcement official [as defined and qualified under Section 53-5-711];

1956 [(e)] (5) a judge [as defined and qualified under Section 53-5-711];

1957 [(f)] (6) a court commissioner [as defined and qualified under Section 53-5-711]; or

1958 [(g)] (7) a common carrier while engaged in the regular and ordinary transport of firearms as
1959 merchandise.

1960 (8) Subsection (1) does not apply to Section 76-11-207, 76-11-209, or 76-11-210. [(2)]

1961 Notwithstanding Subsection (1), the provisions of Section [76-10-528] 76-11-217 apply
1962 to any individual listed in Subsection (1) who is not employed by a state or federal
1963 agency or political subdivision that has adopted a policy or rule regarding the use of
1964 dangerous weapons.

1965 [(3) Subsections 76-10-504(1) and (2), and Section 76-10-505 do not apply to:]

1966 [(a) an individual to whom a permit to carry a concealed firearm has been issued:]

1967 [(i) pursuant to Section 53-5-704; or]

1968 [(ii) by another state or county; or]

1969 ~~[(b) a person who is issued a protective order under Subsection 78B-7-603(1)(b) or~~
 1970 ~~78B-7-404(1)(b), unless the person is a restricted person as described in Subsection~~
 1971 ~~76-10-503(1), for a period of 120 days after the day on which the person is issued the~~
 1972 ~~protective order.]~~

1973 ~~[(4) Except for Sections 76-10-503, 76-10-506, 76-10-508, and 76-10-508.1, this part and~~
 1974 ~~Title 53, Chapter 5, Part 7, Concealed Firearm Act, do not apply to a nonresident~~
 1975 ~~traveling in or through the state, provided that any firearm is:]~~

1976 ~~[(a) unloaded; and]~~

1977 ~~[(b) securely encased as defined in Section 76-10-501.]~~

1978 ~~[(5) Subsections 76-10-504(1) and (2), and 76-10-505(1)(b) do not apply to a person 21~~
 1979 ~~years old or older who may otherwise lawfully possess a firearm.]~~

1980 Section 23. Section **53-5a-202** is amended to read:

1981 **53-5a-202 . Definitions.**

1982 As used in this part:

1983 (1)(a) "Federal regulation" means a federal executive order, rule, or regulation that
 1984 infringes upon, prohibits, restricts, or requires individual licensure for, or registration
 1985 of, the purchase, ownership, possession, transfer, or use of a firearm, ammunition, or
 1986 firearm accessory.

1987 (b) "Federal regulation" does not include:

1988 (i) a federal firearm statute; or

1989 (ii) a federal executive order, rule, or regulation that is incorporated into the Utah
 1990 Code by reference.

1991 (2) "Firearm" means the same as that term is defined in Section ~~[76-10-501]~~ 76-11-101.

1992 (3) "Law enforcement officer" means the same as that term is defined in Section 53-13-103.

1993 (4) "Political subdivision" means a city, town, county, special district, or water conservancy
 1994 district.

1995 Section 24. Section **53-5a-301**, which is renumbered from Section 53-5-702 is renumbered
 1995 and amended to read:

1997

Part 3. Concealed Firearm Permits

1998 ~~[53-5-702]~~ **53-5a-301 . Definitions.**

1999 ~~[In addition to the definitions in Section 76-10-501, as]~~ As used in this part:

2000 (1) "Active duty service member" means ~~[a person]~~ an individual on active military duty
 2001 with the United States military and includes full time military active duty, military

2002 reserve active duty, and national guard military active duty service members stationed in
 2003 Utah.

2004 (2) "Active duty service member spouse" means ~~[a person]~~ an individual recognized by the
 2005 military as the spouse of an active duty service member and who resides with the active
 2006 duty service member in Utah.

2007 (3) "Board" means the Concealed Firearm Review Board created in Section ~~[53-5-703]~~
 2008 53-5a-302.

2009 (4) "Bureau" means the Bureau of Criminal Identification created in Section 53-10-201
 2010 within the ~~[Department of Public Safety]~~ department.

2011 (5) "Concealed firearm" means the same as that term is defined in Section 53-5a-102.1.

2012 ~~[(5) "Commissioner" means the commissioner of the Department of Public Safety.]~~

2013 (6) "Conviction" means criminal conduct ~~[where]~~ in which the filing of a criminal charge
 2014 has resulted in:

2015 (a) a finding of guilt based on evidence presented to a judge or jury;

2016 (b) a guilty plea;

2017 (c) a plea of nolo contendere;

2018 (d) a plea of guilty or nolo contendere ~~[which]~~ that is held in abeyance pending the
 2019 successful completion of probation;

2020 (e) a pending diversion agreement; or

2021 (f) a conviction ~~[which]~~ that has been reduced in accordance with Section 76-3-402.

2022 (7) "Dangerous weapon" means the same as that term is defined in Section 76-11-101.

2023 (8) "Domestic violence" means the same as that term is defined in Section 77-36-1.

2024 (9) "Firearm" means the same as that term is defined in Section 53-5a-102.1.

2025 ~~[(7)]~~ (10)(a) "School employee" means an employee of a public school district, charter
 2026 school, or private school whose duties, responsibilities, or assignments require the
 2027 employee to be physically present on a school's campus at least half of the days on
 2028 which school is held during a school year.

2029 (b) "School employee" also means a substitute teacher, as defined in Section 53E-6-901.

2030 ~~[(8)]~~ (11) "School year" means the period of time designated by a local school board, charter
 2031 school governing board, or private school as the school year for high school, middle
 2032 school, or elementary school students.

2033 Section 25. Section **53-5a-302**, which is renumbered from Section 53-5-703 is renumbered
 2033 and amended to read:

2035 ~~[53-5-703]~~ **53-5a-302 . Concealed Firearm Review Board -- Membership -- Compensation --**

2036 **Terms -- Duties.**

- 2037 (1) There is created within the bureau the Concealed Firearm Review Board.
- 2038 (2)(a) The board is comprised of not more than five members appointed by the
2039 commissioner on a bipartisan basis.
- 2040 (b) The board shall include a member representing law enforcement and at least two
2041 citizens, one of whom represents sporting interests.
- 2042 (3)(a) Except as required by Subsection (3)(b), as terms of current board members
2043 expire, the commissioner shall appoint each new member or reappointed member to a
2044 four-year term.
- 2045 (b) Notwithstanding the requirements of Subsection (3)(a), the commissioner shall, at
2046 the time of appointment or reappointment, adjust the length of terms to ensure that
2047 the terms of board members are staggered so that approximately half of the board is
2048 appointed every two years.
- 2049 (4) When a vacancy occurs in the membership for any reason, the replacement shall be
2050 appointed for the unexpired term.
- 2051 (5) A member may not receive compensation or benefits for the member's service, but may
2052 receive per diem and travel expenses in accordance with:
- 2053 (a) Section 63A-3-106;
- 2054 (b) Section 63A-3-107; and
- 2055 (c) rules made by the Division of Finance pursuant to Sections 63A-3-106 and
2056 63A-3-107.
- 2057 (6) The board shall meet at least quarterly, unless the board has no business to conduct
2058 during that quarter.
- 2059 (7) The board, upon receiving a timely filed petition for review, shall review within a
2060 reasonable time the denial, suspension, or revocation of a permit or a temporary permit
2061 to carry a concealed firearm.

2062 Section 26. Section **53-5a-303**, which is renumbered from Section 53-5-704 is renumbered
2062 and amended to read:

2064 **~~[53-5-704]~~ 53-5a-303 . Bureau duties -- Permit to carry concealed firearm -- Certification for**
2065 **concealed firearms instructor -- Requirements for issuance -- Violation -- Denial,**
2066 **suspension, or revocation -- Appeal procedure.**

- 2067 (1)(a) Except as provided in Subsection (1)(b), the bureau shall issue a concealed carry
2068 permit ~~[to carry]~~ allowing the carrying of a concealed firearm for lawful self defense
2069 to an applicant who is 21 years old or older within 60 days after receiving an

- 2070 application, unless the bureau finds proof that the applicant is not qualified to hold a
 2071 permit under Subsection (2) or (3).
- 2072 (b)(i) Within 90 days before the day on which a provisional permit holder under
 2073 Section ~~[53-5-704.5]~~ 53-5a-304 reaches 21 years old, the provisional permit holder
 2074 may apply under this section for a permit to carry a concealed firearm for lawful
 2075 self defense.
- 2076 (ii) The bureau shall issue a permit for an applicant under Subsection (1)(b)(i) within
 2077 60 days after receiving an application, unless the bureau finds proof that the
 2078 applicant is not qualified to hold a permit under Subsection (2) or (3).
- 2079 (iii) A permit issued under this Subsection (1)(b):
 2080 (A) is not valid until an applicant is 21 years old; and
 2081 (B) requires a \$10 application fee.
- 2082 (iv) ~~[A person]~~ An individual who applies for a permit under this Subsection (1)(b) is
 2083 not required to retake the firearms training described in Subsection ~~[53-5-704(8)]~~
 2084 53-5a-303(8).
- 2085 (c) ~~[The]~~ A concealed firearm permit issued in accordance with this section is valid
 2086 throughout the state for five years, without restriction, except as otherwise provided
 2087 by Section ~~[53-5-710]~~ 53-5a-102.2.
- 2088 ~~[(d) The provisions of Subsections 76-10-504(1) and (2), and Section 76-10-505 do not~~
 2089 ~~apply to an individual issued a permit under Subsection (1)(a) or (b).]~~
- 2090 ~~[(e)]~~ (d) Subsection (4)(a) does not apply to a nonresident:
 2091 (i) active duty service member, who presents to the bureau orders requiring the active
 2092 duty service member to report for duty in this state; or
 2093 (ii) active duty service member's spouse, stationed with the active duty service
 2094 member, who presents to the bureau the active duty service member's orders
 2095 requiring the service member to report for duty in this state.
- 2096 (2)(a) The bureau may deny, suspend, or revoke a concealed firearm permit if the
 2097 applicant or permit holder:
 2098 (i) has been or is convicted of a felony;
 2099 (ii) has been or is convicted of a crime of violence;
 2100 (iii) has been or is convicted of an offense involving the use of alcohol;
 2101 (iv) has been or is convicted of an offense involving the unlawful use of narcotics or
 2102 other controlled substances;
 2103 (v) has been or is convicted of an offense involving moral turpitude;

- 2104 (vi) has been or is convicted of an offense involving domestic violence;
- 2105 (vii) has been or is adjudicated by a state or federal court as mentally incompetent,
- 2106 unless the adjudication has been withdrawn or reversed; ~~[and] or~~
- 2107 (viii) is not qualified to purchase and possess a firearm pursuant ~~[to Section~~
- 2108 ~~76-10-503 and]~~ to Title 76, Chapter 11, Part 3, Persons Restricted Regarding
- 2109 Dangerous Weapons, or federal law.
- 2110 (b) In determining whether an applicant or permit holder is qualified to hold a concealed
- 2111 firearm permit under Subsection (2)(a), the bureau shall consider mitigating
- 2112 circumstances.
- 2113 (3)(a) The bureau may deny, suspend, or revoke a concealed firearm permit if ~~[it] the~~
- 2114 bureau has reasonable cause to believe that the applicant or concealed firearm permit
- 2115 holder has been or is a danger to self or others as demonstrated by evidence,
- 2116 including:
- 2117 (i) past pattern of behavior involving unlawful violence or threats of unlawful
- 2118 violence;
- 2119 (ii) past participation in incidents involving unlawful violence or threats of unlawful
- 2120 violence; or
- 2121 (iii) conviction of an offense in ~~[violation of Title 76, Chapter 10, Part 5, Weapons]~~
- 2122 Title 76, Chapter 11, Weapons.
- 2123 (b) The bureau may not deny, suspend, or revoke a concealed firearm permit solely for a
- 2124 single conviction of an infraction violation of ~~[Title 76, Chapter 10, Part 5, Weapons]~~
- 2125 an offense in Title 76, Chapter 11, Weapons.
- 2126 (c) In determining whether the applicant or concealed firearm permit holder has been or
- 2127 is a danger to self or others, the bureau may inspect:
- 2128 (i) expunged records of arrests and convictions of adults as provided in Section
- 2129 77-40a-403; and
- 2130 (ii) juvenile court records as provided in Section 78A-6-209.
- 2131 (d)(i) The bureau shall suspend a concealed firearm permit if ~~[a] the~~ permit holder
- 2132 becomes a temporarily restricted person in accordance with Section ~~[53-5e-304]~~
- 2133 53-5a-504.
- 2134 (ii) Upon removal from the temporary restricted list described in Section 53-5a-504,
- 2135 the concealed firearm permit holder's permit shall be reinstated unless:
- 2136 (A) the concealed firearm permit has been revoked, been suspended for a reason
- 2137 other than the restriction described in Subsection (3)(d)(i), or expired; or

- 2138 (B) the concealed firearm permit holder has become a restricted person under
2139 Section ~~[76-10-503]~~ 76-11-302 or 76-11-303.
- 2140 (4)(a) In addition to meeting the other qualifications for the issuance of a concealed
2141 firearm permit under this section, a nonresident applicant who resides in a state that
2142 recognizes the validity of the Utah permit or has reciprocity with Utah's concealed
2143 firearm permit law shall:
- 2144 (i) hold a current concealed firearm or concealed weapon permit issued by the
2145 appropriate permitting authority of the nonresident applicant's state of residency;
2146 and
- 2147 (ii) submit a photocopy or electronic copy of the nonresident applicant's current
2148 concealed firearm or concealed weapon permit referred to in Subsection (4)(a)(i).
- 2149 (b) A nonresident applicant who knowingly and willfully provides false information to
2150 the bureau under Subsection (4)(a) is prohibited from holding a Utah concealed
2151 firearm permit for a period of 10 years.
- 2152 (c) Subsection (4)(a) applies to:
- 2153 (i) all applications for the issuance of a concealed firearm permit ~~[that are]~~ received
2154 by the bureau ~~[-after May 10, 2011.]~~ ; and
- 2155 (ii) an application for renewal of a concealed firearm permit by a nonresident.
2156 ~~[(d) Beginning January 1, 2012, Subsection (4)(a) also applies to]~~
- 2157 (5) The bureau shall issue a concealed firearm permit to a former peace officer who departs
2158 full-time employment as a peace officer, in an honorable manner, within five years of
2159 that departure if the officer meets the requirements of this section.
- 2160 (6) Except as provided in Subsection (7), the bureau shall also require the applicant to
2161 provide:
- 2162 (a) the address of the applicant's permanent residence;
- 2163 (b) one recent dated photograph;
- 2164 (c) one set of fingerprints; and
- 2165 (d) evidence of general familiarity with the types of firearms to be concealed as defined
2166 in Subsection (8).
- 2167 (7) An applicant who is a law enforcement officer under Section 53-13-103 may provide a
2168 letter of good standing from the officer's commanding officer in place of the evidence
2169 required by Subsection (6)(d).
- 2170 (8)(a) General familiarity with the types of firearms to be concealed includes training in:
- 2171 (i) the safe loading, unloading, storage, and carrying of the types of firearms to be

- 2172 concealed; and
- 2173 (ii) current laws defining lawful use of a firearm by a private citizen, including lawful
- 2174 self-defense, use of force by a private citizen, including use of deadly force,
- 2175 transportation, and concealment.
- 2176 (b) An applicant may satisfy the general familiarity requirement of Subsection (8)(a) by
- 2177 one of the following:
- 2178 (i) completion of a course of instruction conducted by a national, state, or local
- 2179 firearms training organization approved by the bureau;
- 2180 (ii) certification of general familiarity by an individual who has been certified by the
- 2181 bureau, which may include a law enforcement officer, military or civilian firearms
- 2182 instructor, or hunter safety instructor; or
- 2183 (iii) equivalent experience with a firearm through participation in an organized
- 2184 shooting competition, law enforcement, or military service.
- 2185 (c) Instruction taken by a student under this Subsection (8) shall be in person and not
- 2186 through electronic means.
- 2187 (d) ~~[A person]~~ An individual applying for a renewal permit is not required to retake the
- 2188 firearms training described in this Subsection ~~[53-5-704(8)]~~ (8) if the ~~[person]~~
- 2189 individual:
- 2190 (i) has an unexpired permit; or
- 2191 (ii) has a permit that expired less than one year before the date on which the renewal
- 2192 application was submitted.
- 2193 (9)(a) An applicant for certification as a Utah concealed firearms instructor shall:
- 2194 (i) be at least 21 years old;
- 2195 (ii) be currently eligible to possess a firearm under Section ~~[76-10-503]~~ 76-11-302 or
- 2196 76-11-303;
- 2197 (iii) have:
- 2198 (A) completed a firearm instruction training course from the National Rifle
- 2199 Association or another nationally recognized firearm training organization that
- 2200 customarily offers firearm safety and firearm law instructor training or the
- 2201 Department of Public Safety, Division of Peace Officer Safety Standards and
- 2202 Training; or
- 2203 (B) received training equivalent to one of the courses referred to in Subsection
- 2204 (9)(a)(iii)(A) as determined by the bureau;
- 2205 (iv) have taken a course of instruction and passed a certification test as described in

- 2206 Subsection (9)(c); and
- 2207 (v) possess a Utah concealed firearm permit.
- 2208 (b) An instructor's certification is valid for three years from the date of issuance, unless
- 2209 revoked by the bureau.
- 2210 (c)(i) In order to obtain initial certification or renew a certification, an instructor
- 2211 shall attend an instructional course and pass a test under the direction of the
- 2212 bureau.
- 2213 (ii)(A) The bureau shall provide or contract to provide the course referred to in
- 2214 Subsection (9)(c)(i) twice every year.
- 2215 (B) The course shall include instruction on current Utah law related to firearms,
- 2216 including concealed carry statutes and rules, and the use of deadly force by
- 2217 private citizens.
- 2218 (d)(i) Each applicant for certification under this Subsection (9) shall pay a fee of
- 2219 \$50.00 at the time of application for initial certification.
- 2220 (ii) The renewal fee for the certificate is \$25.
- 2221 (iii) The bureau may use a fee paid under Subsections (9)(d)(i) and (ii) as a dedicated
- 2222 credit to cover the cost incurred in maintaining and improving the instruction
- 2223 program required for concealed firearm instructors under this Subsection (9).
- 2224 (10) A certified concealed firearms instructor shall provide each of the instructor's students
- 2225 with the required course of instruction outline approved by the bureau.
- 2226 (11)(a)(i) A concealed firearms instructor shall provide a signed certificate to an
- 2227 individual successfully completing the offered course of instruction.
- 2228 (ii) The instructor shall sign the certificate with the exact name indicated on the
- 2229 instructor's certification issued by the bureau under Subsection (9).
- 2230 (iii)(A) The certificate shall also have affixed to it the instructor's official seal,
- 2231 which is the exclusive property of the instructor and may not be used by any
- 2232 other individual.
- 2233 (B) The instructor shall destroy the seal upon revocation or expiration of the
- 2234 instructor's certification under Subsection (9).
- 2235 (C) The bureau shall determine the design and content of the seal to include at
- 2236 least the following:
- 2237 (I) the instructor's name as it appears on the instructor's certification;
- 2238 (II) the words "Utah Certified Concealed Firearms Instructor," "state of Utah,"
- 2239 and "my certification expires on (the instructor's certification expiration

- 2240 date)"; and
- 2241 (III) the instructor's business or residence address.
- 2242 (D) The seal shall be affixed to each student certificate issued by the instructor in
- 2243 a manner that does not obscure or render illegible any information or
- 2244 signatures contained in the document.
- 2245 (b) The applicant shall provide the certificate to the bureau in compliance with
- 2246 Subsection (6)(d).
- 2247 (12) The bureau may deny, suspend, or revoke the certification of an applicant or a
- 2248 concealed firearms instructor if it has reason to believe the applicant or the instructor has:
- 2249 (a) become ineligible to possess a firearm under Section [~~76-10-503~~] 76-11-302 or
- 2250 76-11-303, or federal law; or
- 2251 (b) knowingly and willfully provided false information to the bureau.
- 2252 (13) An applicant for certification or a concealed firearms instructor has the same appeal
- 2253 rights as described in Subsection (16).
- 2254 (14) In providing instruction and issuing a permit under this part, the concealed firearms
- 2255 instructor and the bureau are not vicariously liable for damages caused by the permit
- 2256 holder.
- 2257 (15) An individual who knowingly and willfully provides false information on an
- 2258 application filed under this part is guilty of a class B misdemeanor, and the application
- 2259 may be denied, or the permit may be suspended or revoked.
- 2260 (16)(a) In the event of a denial, suspension, or revocation of a permit, the applicant or
- 2261 permit holder may file a petition for review with the board within 60 days from the
- 2262 date the denial, suspension, or revocation is received by the applicant or permit
- 2263 holder by certified mail, return receipt requested.
- 2264 (b) The bureau's denial of a permit shall be in writing and shall include the general
- 2265 reasons for the action.
- 2266 (c) If an applicant or permit holder appeals the denial to the review board, the applicant
- 2267 or permit holder may have access to the evidence upon which the denial is based in
- 2268 accordance with Title 63G, Chapter 2, Government Records Access and Management
- 2269 Act.
- 2270 (d) On appeal to the board, the bureau has the burden of proof by a preponderance of the
- 2271 evidence.
- 2272 (e)(i) Upon a ruling by the board on the appeal of a denial, the board shall issue a
- 2273 final order within 30 days stating the board's decision.

- 2274 (ii) The final order shall be in the form prescribed by Subsection 63G-4-203(1)(i).
- 2275 (iii) The final order is final bureau action for purposes of judicial review under
- 2276 Section 63G-4-402.
- 2277 (17) The commissioner may make rules in accordance with Title 63G, Chapter 3, Utah
- 2278 Administrative Rulemaking Act, necessary to administer this chapter.
- 2279 Section 27. Section **53-5a-304**, which is renumbered from Section 53-5-704.5 is renumbered
- 2279 and amended to read:
- 2281 **[53-5-704.5] 53-5a-304 . Provisional permit to carry concealed firearm.**
- 2282 (1)(a) The bureau shall issue a provisional permit to carry a concealed firearm for
- 2283 lawful self-defense to an applicant who is 18 years [~~of age, but is no older than 20~~
- 2284 ~~years of age]~~ old but younger than 21 years old, within 60 days after receiving an
- 2285 application, unless the bureau finds proof that the applicant does not meet the
- 2286 qualifications set forth in Subsection [~~53-5-704(2)] 53-5a-303(2).~~
- 2287 (b) [~~The~~] Except as provided in Subsection (2), a provisional concealed carry permit is
- 2288 valid throughout the state until the applicant reaches the age of 21, without
- 2289 restriction, except as otherwise provided by Section [~~53-5-710] 53-5a-102.2.~~
- 2290 (2) The bureau may deny, suspend, or revoke a provisional concealed carry permit issued
- 2291 under this section as [~~set forth~~] described in Subsections [~~53-5-704(2) and (3)]~~
- 2292 53-5a-303(2) and (3).
- 2293 (3)(a) In addition to meeting the other qualifications for the issuance of a provisional
- 2294 concealed carry permit under this section, a nonresident applicant who resides in a
- 2295 state that recognizes the validity of the Utah provisional concealed carry permit or
- 2296 has reciprocity with Utah's provisional concealed firearm permit law shall:
- 2297 (i) hold a current applicable concealed firearm or concealed weapon permit issued by
- 2298 the appropriate permitting authority of the nonresident applicant's state of
- 2299 residency; and
- 2300 (ii) submit a photocopy or electronic copy of the nonresident applicant's current
- 2301 concealed firearm or concealed weapon permit referred to in Subsection (3)(a)(i).
- 2302 (b) A nonresident applicant who knowingly and willfully provides false information to
- 2303 the bureau under Subsection (3)(a) is prohibited from holding a Utah concealed
- 2304 firearm permit of any kind for a period of 10 years.
- 2305 (4) The bureau shall also require the applicant to provide:
- 2306 (a) the address of the applicant's permanent residence;
- 2307 (b) one recent dated photograph;

2308 (c) one set of fingerprints; and
 2309 (d) evidence of general familiarity with the types of firearms to be concealed as defined
 2310 in [~~Subsection 53-5-704(8)~~] Section 53-5-303.

2311 (5) In the event of a decision to deny, suspend, or revoke a provisional concealed firearm
 2312 permit, the applicant or permit holder under this section may appeal the decision through
 2313 the same process set forth in Subsection [~~53-5-704(16)~~] 53-5a-303(16).

2314 (6) The applicant or permit holder of the provisional concealed firearm permit under this
 2315 section must meet the eligibility requirements of another state, including age
 2316 requirements, to carry a concealed firearm in that state.

2317 Section 28. Section **53-5a-305**, which is renumbered from Section 53-5-705 is renumbered
 2317 and amended to read:

2319 **[~~53-5-705~~] 53-5a-305 . Temporary permit to carry concealed firearm -- Denial, suspension,
 or**

2320 **revocation -- Appeal.**

2321 (1) The bureau or [its] the bureau's designated agent may issue a temporary permit to carry a
 2322 concealed firearm to [~~a person~~] an individual who:

2323 (a) has applied for a permit under Section [~~53-5-704~~] 53-5a-303;

2324 (b) has applied for a temporary permit under this section; and

2325 (c) meets the criteria required in Subsections (2) and (3).

2326 (2) To receive a temporary permit under this section, the applicant shall demonstrate in
 2327 writing to the satisfaction of the bureau extenuating circumstances that would justify
 2328 issuing a temporary permit.

2329 (3) A temporary permit may not be issued under this section until preliminary record
 2330 checks regarding the applicant have been made with the National Crime Information
 2331 Center and the bureau to determine any criminal history.

2332 (4)[~~(a)~~] A temporary permit is valid only for a maximum of 90 days or any lesser period
 2333 specified by the bureau, or until a permit under Section 53-5-704 is issued to the
 2334 holder of the temporary permit, whichever period is shorter.

2335 [~~(b) The provisions of Subsections 76-10-504(1) and (2) and Section 76-10-505 do not~~
 2336 ~~apply to a person issued a temporary permit under this section during the time period~~
 2337 ~~for which the temporary permit is valid.]~~

2338 (5) The bureau may deny, suspend, or revoke a temporary permit prior to expiration if the
 2339 commissioner determines:

2340 (a) the circumstances justifying the temporary permit no longer exist; or

2341 (b) the holder of the temporary permit does not meet the requirements for a permit under
2342 Section ~~[53-5-704]~~ 53-5a-303.

2343 (6)(a) The denial, suspension, or revocation of a temporary permit shall be in writing
2344 and shall include the reasons for the action.

2345 (b) The bureau's decision to deny, suspend, or revoke a temporary permit may not be
2346 appealed to the board.

2347 (c) Denial, suspension, or revocation under this subsection is final action for purposes of
2348 judicial review under Section 63G-4-402.

2349 Section 29. Section **53-5a-306**, which is renumbered from Section 53-5-706 is renumbered
2349 and amended to read:

2351 **~~[53-5-706]~~ 53-5a-306 . Permit -- Fingerprints transmitted to bureau -- Report from bureau.**

2352 (1)(a) Except as provided in Subsection (2), the fingerprints of each applicant for a
2353 permit under Section ~~[53-5-707]~~ 53-5a-307 or ~~[53-5-707.5]~~ 53-5a-308 shall be taken
2354 on a form prescribed by the bureau.

2355 (b) Upon receipt of the fingerprints, the applicant fingerprint card fee prescribed in
2356 Section 53-10-108, and the fee prescribed in Section ~~[53-5-707]~~ 53-5a-307 or [
2357 ~~53-5-707.5]~~ 53-5a-308, the bureau shall conduct a search of [its] the bureau's files for
2358 criminal history information pertaining to the applicant, and shall request the Federal
2359 Bureau of Investigation to conduct a similar search through [its] the Federal Bureau of
2360 Investigation's files.

2361 (c) If the fingerprints are insufficient for the Federal Bureau of Investigation to conduct
2362 a search of [its] the Federal Bureau of Investigation's files for criminal history
2363 information, the application or concealed firearm permit may be denied, suspended,
2364 or revoked until sufficient fingerprints are submitted by the applicant.

2365 (2)(a) If the permit applicant has previously applied to the bureau for a permit to carry
2366 concealed firearms, the bureau shall note the previous identification numbers and
2367 other data ~~[which]~~ that would provide positive identification in the files of the bureau
2368 on the copy of any subsequent permit submitted to the bureau in accordance with this
2369 section.

2370 (b) No additional application form, fingerprints, or fee are required under this
2371 Subsection (2).

2372 Section 30. Section **53-5a-307**, which is renumbered from Section 53-5-707 is renumbered
2372 and amended to read:

2374 **~~[53-5-707]~~ 53-5a-307 . Concealed firearm permit -- Fees -- Concealed Weapons Account.**

- 2375 (1)(a) An applicant for a concealed firearm permit shall pay a fee of \$25 at the time of
2376 filing an application.
- 2377 (b) A nonresident applicant shall pay an additional \$10 for the additional cost of
2378 processing a nonresident application.
- 2379 (c) The bureau shall waive the initial fee for an applicant who is:
2380 (i) a law enforcement officer under Section 53-13-103;
2381 (ii) an active duty service member;
2382 (iii) the spouse of an active duty service member; or
2383 (iv) a school employee.
- 2384 (2)(a) The renewal fee for the permit is \$20.
- 2385 (b) A nonresident shall pay an additional \$5 for the additional cost of processing a
2386 nonresidential renewal.
- 2387 (3) The replacement fee for the permit is \$10.
- 2388 (4)(a) The late fee for the renewal permit is \$7.50.
- 2389 (b) As used in this section, "late fee" means the fee charged by the bureau for a renewal
2390 submitted on a permit that has been expired for more than 30 days but less than one
2391 year.
- 2392 (5)(a) There is created a restricted account within the General Fund known as the
2393 "Concealed Weapons Account."
- 2394 (b) The account shall be funded from fees collected under this section and Section [
2395 ~~53-5-707.5~~] 53-5a-308.
- 2396 (c) Funds in the account may only be used to cover costs relating to:
2397 (i) the issuance of concealed firearm permits under this part; or
2398 (ii) the programs described in Subsection 26B-5-102(3) and Section 26B-5-611.
- 2399 (d) No later than 90 days after the end of the fiscal year, 50% of the fund balance shall
2400 be transferred to the Suicide Prevention and Education Fund, created in Section
2401 26B-1-326.
- 2402 (6)(a) The bureau may collect any fees charged by an outside agency for additional
2403 services required by statute as a prerequisite for issuance of a permit.
- 2404 (b) The bureau shall promptly forward any fees collected under Subsection (6)(a) to the
2405 appropriate agency.
- 2406 (7) The bureau shall make an annual report in writing to the Legislature's Law Enforcement
2407 and Criminal Justice Interim Committee on the amount and use of the fees collected
2408 under this section and Section 53-5-707.5.

2409 Section 31. Section **53-5a-308**, which is renumbered from Section 53-5-707.5 is renumbered
2409 and amended to read:

2411 ~~[53-5-707.5]~~ **53-5a-308 . Provisional concealed firearm permit -- Fees -- Disposition of fees.**

2412 (1)(a) An applicant for a provisional concealed firearm permit, as described in Section [
2413 ~~53-5-704.5]~~ 53-5a-304, shall pay a fee of \$25 at the time of filing an application.

2414 (b) A nonresident applicant shall pay an additional \$10 for the additional cost of
2415 processing a nonresident application.

2416 (2) The replacement fee for the permit is \$10.

2417 (3) Fees collected under this section shall be remitted to the Concealed Weapons Account,
2418 as described in [~~Subsection 53-5-707(5)]~~ Section 53-5a-307.

2419 (4)(a) The bureau may collect any fees charged by an outside agency for additional
2420 services required by statute as a prerequisite for issuance of a permit.

2421 (b) The bureau shall promptly forward any fees collected under Subsection (4)(a) to the
2422 appropriate agency.

2423 Section 32. Section **53-5a-309**, which is renumbered from Section 53-5-707.6 is renumbered
2423 and amended to read:

2425 ~~[53-5-707.6]~~ **53-5a-309 . Concealed firearm permit renewal -- Firearm safety and suicide**
2426 **prevention video.**

2427 (1) The bureau, in conjunction with the Division of Integrated Healthcare created in Section
2428 26B-1-204, shall create a firearm safety and suicide prevention video that:

2429 (a) is [~~web-accessible]~~ Internet-accessible;

2430 (b) is no longer than 10 minutes in length; and

2431 (c) includes information about:

2432 (i) safe handling, storage, and use of firearms in a home environment;

2433 (ii) at-risk individuals and individuals who are legally prohibited from possessing
2434 firearms; and

2435 (iii) suicide prevention awareness.

2436 (2) Before renewing a firearm permit, an individual shall view the firearm safety and
2437 suicide prevention video and submit proof in the form required by the bureau.

2438 (3) In accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, the
2439 bureau shall make rules that establish procedures for:

2440 (a) producing and distributing the firearm safety and suicide prevention video; and

2441 (b) providing access to the video to an applicant seeking renewal of a firearm permit.

2442 Section 33. Section **53-5a-310**, which is renumbered from Section 53-5-708 is renumbered

2442 and amended to read:

2444 **[53-5-708] 53-5a-310 . Permit -- Names private.**

2445 (1)(a) The bureau shall maintain a record in [its] the bureau's office of any permit issued
2446 under this part.

2447 (b) Notwithstanding the requirements of Subsection 63G-2-301(2)(b), the names,
2448 addresses, telephone numbers, dates of birth, and [~~Social Security~~] social security
2449 numbers of [~~persons~~] individuals receiving permits are protected records under
2450 Subsection 63G-2-305(11).

2451 (c) Notwithstanding Section 63G-2-206, [~~a person~~] an individual may not share any of
2452 the information listed in Subsection (1)(b) with any office, department, division, or
2453 other agency of the federal government unless:

2454 (i) the disclosure is necessary to conduct a criminal background check on the
2455 individual who is the subject of the information;

2456 (ii) the disclosure of information is made pursuant to a court order directly associated
2457 with an active investigation or prosecution of the individual who is the subject of
2458 the information;

2459 (iii) the disclosure is made to a criminal justice agency in a criminal investigation or
2460 prosecution;

2461 (iv) the disclosure is made by a law enforcement agency within the state to another
2462 law enforcement agency in the state or in another state in connection with an
2463 investigation, including a preliminary investigation, or a prosecution of the
2464 individual who is the subject of the information;

2465 (v) the disclosure is made by a law enforcement agency within the state to an
2466 employee of a federal law enforcement agency in the course of a combined law
2467 enforcement effort involving the law enforcement agency within the state and the
2468 federal law enforcement agency; or

2469 (vi) the disclosure is made in response to a routine request that a federal law
2470 enforcement officer makes to obtain information on an individual whom the
2471 federal law enforcement officer detains, including for a traffic stop, or questions
2472 because of the individual's suspected violation of state law.

2473 (d) [~~A person~~] An individual is guilty of a class A misdemeanor if the [~~person~~] individual
2474 knowingly:

2475 (i) discloses information listed in Subsection (1)(b) in violation of the provisions
2476 under Title 63G, Chapter 2, Government Records Access and Management Act,

- 2477 applicable to protected records; or
- 2478 (ii) shares information in violation of Subsection (1)(c).
- 2479 (e)(i) As used in this Subsection (1)(e), "governmental agency" means:
- 2480 (A) the state or any department, division, agency, or other instrumentality of the
- 2481 state; or
- 2482 (B) a political subdivision of the state, including a county, city, town, school
- 2483 district, special district, and special service district.
- 2484 (ii) A governmental agency may not compel or attempt to compel an individual who
- 2485 has been issued a concealed firearm permit to divulge whether the individual:
- 2486 (A) has been issued a concealed firearm permit; or
- 2487 (B) is carrying a concealed firearm.
- 2488 (iii) Subsection (1)(e)(ii) does not apply to a law enforcement officer.
- 2489 (2) The bureau shall immediately file a copy of each permit ~~[it]~~ the bureau issues under this
- 2490 part.

2491 Section 34. Section **53-5a-311**, which is renumbered from Section 53-5-711 is renumbered

2491 and amended to read:

2493 ~~[53-5-711]~~ **53-5a-311 . Law enforcement officials, judges, and court commissioners exempt --**

2494 **Training requirements -- Qualification -- Revocation.**

- 2495 (1) As used in this section~~[and Section 76-10-523]~~:
- 2496 (a) "Court commissioner" means an individual appointed under Section 78A-5-107.
- 2497 (b)(i) "Judge" means a judge or justice of a court of record or a court not of record.
- 2498 (ii) "Judge" does not include a judge pro tem or senior judge.
- 2499 (c) "Law enforcement official" means:
- 2500 (i) a member of the Board of Pardons and Parole;
- 2501 (ii) a district attorney, deputy district attorney, county attorney or deputy county
- 2502 attorney of a county not in a prosecution district;
- 2503 (iii) the attorney general;
- 2504 (iv) an assistant attorney general designated as a criminal prosecutor; or
- 2505 (v) a city attorney or a deputy city attorney designated as a criminal prosecutor.
- 2506 (2) To qualify for an exemption in Section ~~[76-10-523]~~ 53-5a-108, a law enforcement
- 2507 official, judge, or court commissioner shall complete the following training
- 2508 requirements:
- 2509 (a) meet the requirements of Sections ~~[53-5-704, 53-5-706, and 53-5-707]~~ 53-5a-303,
- 2510 53-5a-306, and 53-5a-307; and

- 2511 (b) successfully complete an additional course of training as established by the
 2512 commissioner [~~of public safety~~] designed to assist [~~them while~~] with carrying out [
 2513 ~~their~~] official law enforcement, judicial, or court commissioner duties as agents for
 2514 the state or [~~its~~] the state's political subdivisions.
- 2515 (3) Annual requalification requirements for law enforcement officials, judges, or court
 2516 commissioners shall be established by the commissioner [~~of public safety. Additional~~
 2517 ~~requalification requirements~~] and may be established by the:
- 2518 (a) Board of Pardons and Parole by rule for [~~its~~] the Board of Pardons and Parole's
 2519 members;
- 2520 (b) Judicial Council by rule for judges and court commissioners; and
- 2521 (c) the district attorney, county attorney in a county not in a prosecution district, the
 2522 attorney general, or city attorney by policy for prosecutors under their jurisdiction.
- 2523 (4) The bureau may:
- 2524 (a) issue a certificate of qualification to a judge, law enforcement official, or court
 2525 commissioner who has completed the requirements of Subsection (2), which
 2526 certificate of qualification is valid until revoked;
- 2527 (b) revoke the certificate of qualification of a judge, law enforcement official, or court
 2528 commissioner who:
- 2529 (i) fails to meet the annual requalification criteria established pursuant to Subsection
 2530 (3);
- 2531 (ii) would be subject to revocation of a concealed firearm permit under Subsection [
 2532 ~~53-5-704(2)(a)~~] 53-5a-303(2)(a); or
- 2533 (iii) is no longer employed as a judge, law enforcement official, or court
 2534 commissioner as defined in Subsection (1); and
- 2535 (c) certify instructors for the training requirements of this section.

2536 Section 35. Section **53-5a-312**, which is renumbered from Section 53-5-712 is renumbered
 2537 and amended to read:

2538 **[53-5-712] 53-5a-312 . Armed Forces -- Permit requirements -- Exemptions.**

2539 An active duty servicemember of the United States Armed Forces who possesses a Utah
 2540 concealed firearm permit is exempt from the requirement in Subsection [~~53-5-704(4)(a)~~]
 2541 53-5a-303(4)(a) when renewing a Utah concealed firearm permit.

2542 Section 36. Section **53-5a-401**, which is renumbered from Section 53-5b-103 is renumbered
 2543 and amended to read:

2544

Part 4. Utah State-Made Firearms Protections

2545 ~~[53-5b-103]~~ 53-5a-401 . Definitions.

2546 As used in this [chapter] part:

2547 (1) "Firearm" means a device from which is expelled a projectile by action of an explosive.

2548 (2) "Firearm accessory" means an item that is used in conjunction with or mounted upon a
2549 firearm, firearm action, or firearm receiver but is not essential to the basic function of a
2550 firearm, including:

2551 (a) a telescopic or laser sight;

2552 (b) a magazine;

2553 (c) a flash or sound suppressor;

2554 (d) a folding or aftermarket stock or grip;

2555 (e) a speed-loader;

2556 (f) an ammunition carrier; and

2557 (g) a light for target illumination.

2558 (3) "Generic and insignificant parts:"

2559 (a) means parts that have other manufacturing or consumer product applications; and

2560 (b) includes:

2561 (i) springs;

2562 (ii) screws;

2563 (iii) nuts; and

2564 (iv) pins.

2565 (4) "Manufactured" means creating a firearm, a firearm action or receiver, a firearm
2566 accessory, or ammunition from basic materials for functional usefulness, including:

2567 (a) forging;

2568 (b) casting;

2569 (c) machining; and

2570 (d) another process for working materials.

2571 Section 37. Section **53-5a-402**, which is renumbered from Section 53-5b-102 is renumbered
2571 and amended to read:

2573 ~~[53-5b-102]~~ 53-5a-402 . Legal considerations.

2574 In reviewing any matter covered by this [chapter] part, a court shall consider the
2575 following:

2576 (1) The Tenth Amendment to the United States Constitution guarantees to the state and its

- 2577 people all powers not granted to the federal government elsewhere in the Constitution
2578 and reserves to the state and people of Utah certain powers as they were understood at
2579 the time that Utah was admitted to statehood.
- 2580 (2) The guarantee of powers to the state and its people under the Tenth Amendment is a
2581 matter of contract between the state and people of Utah and the United States as of the
2582 time of statehood.
- 2583 (3) The Ninth Amendment to the United States Constitution guarantees to the people rights
2584 not granted in the Constitution and reserves to the people of Utah certain rights as they
2585 were understood at the time that Utah was admitted to statehood.
- 2586 (4) The guarantee of rights to the people under the Ninth Amendment is a matter of contract
2587 between the state and people of Utah and the United States as of the time of statehood.
- 2588 (5) The regulation of intrastate commerce is vested in the state under the Ninth and Tenth
2589 Amendments to the United States Constitution.
- 2590 (6) The Second Amendment to the United States Constitution reserves to the people the
2591 right to keep and bear arms as that right was understood at the time that Utah was
2592 admitted to statehood, and the guarantee of the right is a matter of contract between the
2593 state and people of Utah and the United States as of the time of statehood.
- 2594 (7) The Utah Constitution clearly secures to Utah citizens, and prohibits government
2595 interference with, the right of individual Utah citizens to keep and bear arms.
- 2596 (8) A personal firearm, a firearm action or receiver, a firearm accessory, or ammunition that
2597 is manufactured commercially or privately in the state to be used or sold within the state
2598 is not subject to federal law or federal regulation, including registration, under the
2599 authority of congress to regulate interstate commerce.
- 2600 (9) The Legislature declares that a firearm, a firearm action or receiver, a firearm accessory,
2601 and ammunition described in Subsection (8) does not travel in interstate commerce.
- 2602 (10) The importation into the state of generic and insignificant parts and those parts'
2603 incorporation into a firearm, a firearm action or receiver, a firearm accessory, or
2604 ammunition manufactured in the state does not subject the firearm, firearm accessory,
2605 firearm action or receiver, or ammunition to federal law or regulation.
- 2606 (11) Basic materials, including unmachined steel and unshaped wood, are not firearms,
2607 firearm actions or receivers, firearms accessories, or ammunition.
- 2608 (12) Trade in basic materials is not subject to congressional authority to regulate firearms,
2609 firearm actions or receivers, firearms accessories, and ammunition as if the basic
2610 materials were actually firearms, firearm actions or receivers, firearms accessories, or

2611 ammunition.

2612 (13) Congress's authority to regulate interstate commerce in basic materials does not
2613 include authority to regulate firearms, firearm actions or receivers, firearms accessories,
2614 and ammunition made in the state from basic materials.

2615 (14) The attachment or use of firearms accessories in conjunction with a firearm
2616 manufactured in the state does not subject the firearm to federal regulation under
2617 Congress's power to regulate interstate commerce, without regard to whether the
2618 firearms accessories are themselves subject to federal regulation.

2619 Section 38. Section **53-5a-403**, which is renumbered from Section 53-5b-201 is renumbered
2619 and amended to read:

2621 **[53-5b-201] 53-5a-403 . Intrastate firearm manufacturing.**

2622 (1) This chapter applies to a firearm, a firearm action or receiver, a firearm accessory, or
2623 ammunition that is manufactured in the state to remain in the state from basic materials
2624 that can be manufactured without the inclusion of any significant parts imported into the
2625 state.

2626 (2) This chapter does not apply to:

- 2627 (a) a firearm that cannot be carried and used by one [person] individual;
- 2628 (b) a firearm that has a bore diameter greater than 1-1/2 inches and that uses smokeless
2629 powder, not black powder, as a propellant;
- 2630 (c) a firearm that discharges two or more projectiles with one activation of the trigger or
2631 other firing device, other than a shotgun; or
- 2632 (d) ammunition with a projectile that explodes using an explosion of chemical energy
2633 after the projectile leaves the firearm.

2634 Section 39. Section **53-5a-404**, which is renumbered from Section 53-5b-202 is renumbered
2634 and amended to read:

2636 **[53-5b-202] 53-5a-404 . Required markings.**

2637 A firearm, firearm action, or firearm receiver manufactured or sold in Utah under this [
2638 chapter] part must have the words "Made in Utah" or "Made in UT" clearly stamped on a
2639 central metallic part, such as the receiver or frame.

2640 Section 40. Section **53-5a-501**, which is renumbered from Section 53-5c-102 is renumbered
2640 and amended to read:

2642

Part 5. Firearms Safe Harbor

2643 **[53-5c-102] 53-5a-501 . Definitions.**

2644 As used in this [chapter] part:

2645 (1) "Bureau" means the Bureau of Criminal Identification created in Section 53-10-201.

2646 (2) "Cohabitant" means an individual who:

2647 (a) is 18 years old or older;

2648 (b) resides in the same home with another individual; and

2649 (c)(i) is living as if a spouse of the individual;

2650 (ii) is related by blood or marriage to the individual;

2651 (iii) has one or more children in common with the individual; or

2652 (iv) has an interest in the safety and well-being of the individual.

2653 (3) "Domestic violence" means the same as that term is defined in Section 77-36-1.

2654 (4) "Firearm" means a pistol, revolver, shotgun, short barrel shotgun, rifle or short barrel
2655 rifle, or a device that could be used as a dangerous weapon from which is expelled a
2656 projectile by action of an explosive.

2657 (5) "Health care provider" means a person:

2658 (a) who provides health care or professional services related to health care; and

2659 (b) is acting within the scope of the person's license, certification, practice, education, or
2660 training.

2661 (6) "Illegal firearm" means a firearm the ownership or possession of which is prohibited
2662 under state or federal law.

2663 (7) "Jail release agreement" means the same as that term is defined in Section 78B-7-801.

2664 (8) "Jail release court order" means the same as that term is defined in Section 78B-7-801.

2665 (9) "Law enforcement agency" means a municipal or county police agency or an officer of
2666 that agency.

2667 (10) "Owner cohabitant" means a cohabitant who:

2668 (a) is 18 years old or older; and

2669 (b) owns a firearm.

2670 Section 41. Section **53-5a-502**, which is renumbered from Section 53-5c-201 is renumbered
2670 and amended to read:

2672 **~~[53-5c-201]~~ 53-5a-502 . Voluntary commitment of a firearm by cohabitant -- Law**
2673 **enforcement to hold firearm.**

2674 (1)(a) A cohabitant or owner cohabitant may voluntarily commit a firearm to a law
2675 enforcement agency or request that a law enforcement officer receive a firearm for
2676 safekeeping if the owner cohabitant or cohabitant believes that the owner cohabitant
2677 or another cohabitant with access to the firearm is an immediate threat to:

- 2678 (i) a cohabitant;
- 2679 (ii) the owner cohabitant; or
- 2680 (iii) another individual.
- 2681 (b) Except as provided in Subsection (2), if the owner of a firearm requests return of the
- 2682 firearm in person at the law enforcement agency's office, the law enforcement agency:
- 2683 (i) may not hold the firearm under this section; and
- 2684 (ii) shall return the firearm to the owner.
- 2685 (2) A law enforcement agency may not return a firearm to an owner under Subsection (1)(b)
- 2686 if the owner of the firearm:
- 2687 (a) is a restricted person under Section [~~76-10-503~~] 76-11-302 or 76-11-303; or
- 2688 (b)(i) has been arrested and booked into a county jail on a class A misdemeanor or
- 2689 felony domestic violence offense;
- 2690 (ii) has had a court:
- 2691 (A) review the probable cause statement detailing the incident leading to the
- 2692 owner's arrest; and
- 2693 (B) determine that probable cause existed for the arrest; and
- 2694 (iii) is subject to a jail release agreement or a jail release court order arising out of the
- 2695 domestic violence offense.
- 2696 (3) Unless a firearm is an illegal firearm subject to Section [~~53-5e-202~~] 53-5a-503, a law
- 2697 enforcement agency that receives a firearm in accordance with this chapter shall:
- 2698 (a) record:
- 2699 (i) the owner cohabitant's name, address, and phone number;
- 2700 (ii) the firearm serial number and the make and model of each firearm committed; and
- 2701 (iii) the date that the firearm was voluntarily committed;
- 2702 (b) require the cohabitant to sign a document attesting that the cohabitant resides in the
- 2703 home;
- 2704 (c) hold the firearm in safe custody:
- 2705 (i) for 60 days after the day on which the firearm is voluntarily committed; or
- 2706 (ii)(A) for an owner described in Subsection (2)(b), during the time the jail
- 2707 release agreement or jail release court order is in effect; and
- 2708 (B) for 60 days after the day on which the jail release agreement or jail release
- 2709 court order expires; and
- 2710 (d) upon proof of identification, return the firearm to:
- 2711 (i)(A) the owner cohabitant after the expiration of the 60-day period; or

2712 (B) if the owner cohabitant requests return of the firearm before the expiration of
 2713 the 60-day period, at the time of the request; or

2714 (ii) an owner other than the owner cohabitant in accordance with Section [~~53-5e-202~~]
 2715 53-5a-503.

2716 (4) The law enforcement agency shall hold the firearm for an additional 60 days:

2717 (a) if the initial 60-day period expires; and

2718 (b) the cohabitant or owner cohabitant requests that the law enforcement agency hold the
 2719 firearm for an additional 60 days.

2720 (5) A law enforcement agency may not request or require that the owner cohabitant provide
 2721 the name or other information of the cohabitant who poses an immediate threat or any
 2722 other cohabitant.

2723 (6) Notwithstanding an ordinance or policy to the contrary adopted in accordance with
 2724 Section 63G-2-701, a law enforcement agency shall destroy a record created under
 2725 Subsection (3), Subsection [~~53-5e-202(3)(b)(iii)~~] 53-5a-503(3)(b)(iii), or any other
 2726 record created in the application of this chapter immediately, if practicable, but no later
 2727 than five days after immediately upon the:

2728 (a) return of a firearm in accordance with Subsection (3)(d); or

2729 (b) disposal of the firearm in accordance with Section [~~53-5e-202~~] 53-5a-503.

2730 (7) Unless otherwise provided, the provisions of Title 77, Chapter 11d, Lost or Mislaid
 2731 Property, do not apply to a firearm received by a law enforcement agency in accordance
 2732 with this [~~chapter~~] part.

2733 (8) A law enforcement agency shall adopt a policy for the safekeeping of a firearm held in
 2734 accordance with this [~~chapter~~] part.

2735 (9) The department shall create a pamphlet to be distributed by a law enforcement officer
 2736 under Section 77-36-2.1 that includes information about a cohabitant's or owner
 2737 cohabitant's ability to have the owner cohabitant's firearm committed to a law
 2738 enforcement agency for safekeeping in accordance with this section.

2739 Section 42. Section **53-5a-503**, which is renumbered from Section 53-5c-202 is renumbered
 2739 and amended to read:

2741 **[~~53-5e-202~~] 53-5a-503 . Illegal firearms confiscated -- Disposition of unclaimed firearm.**

2742 (1) If a law enforcement agency receives a firearm in accordance with Section 53-5c-201,
 2743 and the firearm is an illegal firearm, the law enforcement agency shall:

2744 (a) notify the owner cohabitant attempting to voluntarily commit the firearm that the
 2745 firearm is an illegal firearm; and

- 2746 (b) confiscate the firearm and dispose of the firearm in accordance with Section
 2747 77-11a-403.
- 2748 (2)(a) If a law enforcement agency cannot, after a reasonable attempt, locate an owner
 2749 cohabitant to return a firearm in accordance with Section ~~[53-5e-201]~~ 53-5a-502, the
 2750 law enforcement agency shall dispose of the firearm in accordance with Section
 2751 77-11a-403.
- 2752 (b) A law enforcement agency may not dispose of a firearm under Subsection (2)(a)
 2753 before one year after the day on which the cohabitant initially voluntarily committed
 2754 the firearm in accordance with Section ~~[53-5e-201]~~ 53-5a-502.
- 2755 (3)(a) If ~~[a person]~~ an individual other than an owner cohabitant claims ownership of the
 2756 firearm, the ~~[person]~~ individual may:
- 2757 (i) request that the law enforcement agency return the firearm in accordance with
 2758 Subsection (3)(b); or
- 2759 (ii) petition the court for the firearm's return in accordance with Subsection (3)(c).
- 2760 (b) Except as provided in Section ~~[53-5e-201]~~ 53-5a-502, the law enforcement agency
 2761 shall return a firearm to ~~[a person]~~ an individual other than an owner cohabitant who
 2762 claims ownership of the firearm if:
- 2763 (i) the 60-day period described in Section ~~[53-5e-201]~~ 53-5a-502 has expired;
- 2764 (ii) the ~~[person]~~ individual provides identification; and
- 2765 (iii) the ~~[person]~~ individual signs a document attesting that the ~~[person]~~ individual has
 2766 an ownership interest in the firearm.
- 2767 (c) After sufficient notice is given to the prosecutor, the court may order that the firearm
 2768 be:
- 2769 (i) returned to the rightful owner as determined by the court; or
- 2770 (ii) disposed of in accordance with Section 77-11a-403.
- 2771 (d) A law enforcement agency shall return a firearm ordered returned to the rightful
 2772 owner as expeditiously as possible after a court determination.

2773 Section 43. Section **53-5a-504**, which is renumbered from Section 53-5c-301 is renumbered
 2773 and amended to read:

2775 ~~[53-5e-301]~~ **53-5a-504 . Voluntary restrictions on firearm purchase and possession.**

- 2776 (1) An individual who is not a restricted person under Section ~~[76-10-503]~~ 76-11-302 or
 2777 76-11-303 may voluntarily request to be restricted from the purchase or possession of
 2778 firearms.
- 2779 (2) An individual requesting to be restricted under Subsection (1) may request placement on

- 2780 one of the following restricted lists:
- 2781 (a) a restricted list that:
- 2782 (i) restricts the individual from purchasing or possessing a firearm for 180 days with
- 2783 automatic removal of the individual from the restricted list at the end of the 180
- 2784 days; and
- 2785 (ii) allows the individual to request removal 30 days after the day on which the
- 2786 individual is added to the restricted list; or
- 2787 (b) a restricted list that:
- 2788 (i) restricts the individual from purchasing or possessing a firearm indefinitely; and
- 2789 (ii) allows the individual to request removal 90 days after the day on which the
- 2790 individual is added to the restricted list.
- 2791 (3)(a) Subject to Subsections (8) and (9), the bureau shall develop a process and forms
- 2792 for inclusion on, and removal from, a restricted list as described in Subsection (2) to
- 2793 be maintained by the bureau.
- 2794 (b) The bureau shall make the forms for inclusion and removal available by download
- 2795 through the bureau's website and require, at a minimum, the following information
- 2796 for the individual described in Subsection (1):
- 2797 (i) name;
- 2798 (ii) address;
- 2799 (iii) date of birth;
- 2800 (iv) contact information;
- 2801 (v) signature; and
- 2802 (vi)(A) if the individual is entered on the restricted list as described in Subsection
- 2803 (2)(a), an acknowledgment of the statement in Subsection (8)(a); or
- 2804 (B) if the individual is entered on the restricted list as described in Subsection
- 2805 (2)(b), an acknowledgment of the statement in Subsection (8)(b).
- 2806 (4)(a) An individual requesting inclusion on a restricted list under Subsection (2) shall:
- 2807 (i) deliver the completed form in person to a law enforcement agency; or
- 2808 (ii) direct the individual's health care provider under Section [~~53-5e-302~~] 53-5a-505
- 2809 to electronically deliver the individual's request to the bureau.
- 2810 (b) The law enforcement agency described in Subsection (4)(a)(i):
- 2811 (i) shall verify the individual's identity before accepting the form;
- 2812 (ii) may not accept a form from someone other than the individual named on the
- 2813 form; and

- 2814 (iii) shall transmit the form electronically to the bureau through the Utah Criminal
2815 Justice Information System.
- 2816 (5) Upon receipt of a verified form provided under this section or Section [~~53-5e-302~~]
2817 53-5a-505 requesting inclusion on a restricted list, the bureau shall, within 24 hours, add
2818 the individual's name to the restricted list.
- 2819 (6)(a) For an individual added to the restricted list described in Subsection (2)(a):
- 2820 (i) the individual may not request removal from the restricted list unless the
2821 individual has been on the restricted list for at least 30 days;
- 2822 (ii) the bureau shall remove the individual from the restricted list 180 days after the
2823 day on which the individual was added to the restricted list, unless the individual:
- 2824 (A) requests to be removed from the restricted list after 30 days;
- 2825 (B) requests to remain on the restricted list; or
- 2826 (C) directs the individual's health care provider to request that the individual
2827 remain on the restricted list;
- 2828 (iii) a request for an extension shall be made in the same manner as the original
2829 request; and
- 2830 (iv) the individual may continue to request, or direct the individual's health care
2831 provider to continue to request, extensions every 180 days.
- 2832 (b) For an individual added to a restricted list under Subsection (2)(b), the individual:
- 2833 (i) may not request removal from the restricted list unless the individual has been on
2834 the restricted list for at least 90 days; and
- 2835 (ii) shall remain on the restricted list, unless the bureau receives a request from the
2836 individual to have the individual's name removed from the restricted list.
- 2837 (7) If an individual restricted under this section is a concealed firearm permit holder, the
2838 individual's permit shall be:
- 2839 (a) suspended upon entry on the restricted list; and
- 2840 (b) reinstated upon removal from the restricted list, unless:
- 2841 (i) the permit has been revoked, been suspended for a reason other than under this
2842 section, or has expired; or
- 2843 (ii) the individual has become a restricted person under Section [~~76-10-503~~] 76-11-302
2844 or 76-11-303.
- 2845 (8)(a) The form for an individual seeking to be placed on the restricted list described in
2846 Subsection (2)(a) shall have the following language prominently displayed before the signature:
2847

2848 "ACKNOWLEDGMENT

2849 By presenting this completed form to a law enforcement agency, I understand that I am
2850 requesting that my name be placed on a restricted list that restricts my ability to purchase or
2851 possess firearms for a minimum of 30 days, and up to 6 months. I understand that by
2852 voluntarily making myself a temporarily restricted person, I may not have a firearm in my
2853 possession and any attempt to purchase a firearm while I am on the restricted list will be
2854 declined. I also understand that any time after 30 days, I may request removal from the
2855 restricted list and all previous rights will be restored. In addition, if I am in possession of a
2856 valid concealed firearm permit, my permit will be suspended during the time I am on the
2857 restricted list, but will be reinstated upon my removal, unless the permit has expired, been
2858 revoked, been suspended for another reason, or I become ineligible to possess a firearm.
2859 Additionally, I acknowledge that if I possess a firearm or attempt to purchase a firearm while
2860 outside Utah, I will be subject to the law of that location regarding restricted persons."

2861 (b) The form for an individual seeking to be placed on the restricted list described in
2862 Subsection (2)(b) shall have the following language prominently displayed before the
2863 signature:

2864 "ACKNOWLEDGMENT

2866 By presenting this completed form to a law enforcement agency, I understand that I am
2867 requesting that my name be placed on a restricted list that restricts my ability to purchase or
2868 possess firearms indefinitely. I understand that by voluntarily making myself a temporarily
2869 restricted person, I may not have a firearm in my possession and any attempt to purchase a
2870 firearm while I am on the restricted list will be declined. I also understand that any time after
2871 90 days, I may request removal from the restricted list and all previous rights will be restored.
2872 In addition, if I am in possession of a valid concealed firearm permit, my permit will be
2873 suspended during the time I am on the restricted list, but will be reinstated upon my removal,
2874 unless the permit has expired, been revoked, been suspended for another reason, or I become
2875 ineligible to possess a firearm. Additionally, I acknowledge that if I possess a firearm or
2876 attempt to purchase a firearm while outside Utah, I will be subject to the law of that location
2877 regarding restricted persons."

2878 (9)(a) An individual requesting removal from a restricted list shall deliver a completed
2879 removal form in person to:

2880 (i) the law enforcement agency that processed the inclusion form if the individual
2881 was placed on the restricted list under Subsection (4)(a)(i); or

- 2882 (ii) the individual's local law enforcement agency if the individual was placed on the
2883 restricted list under Subsection (4)(a)(ii).
- 2884 (b) The law enforcement agency described in Subsection (9)(a):
- 2885 (i) shall verify the individual's identity before accepting the form;
- 2886 (ii) may not accept a removal form from someone other than the individual named on
2887 the form; and
- 2888 (iii) shall transmit the removal form electronically to the bureau through the Utah
2889 Criminal Justice Information System.
- 2890 (10) Upon receipt of a verified removal form, the bureau shall, after three business days,
2891 remove the individual from the restricted list and remove the information from the
2892 National Instant Criminal Background Check System.
- 2893 (11) For an individual added to the restricted list under Subsection (2)(a), within 30 days
2894 before the 180-day removal deadline, the bureau shall notify the individual at the
2895 address listed on the inclusion form described in Subsection (4) and, if applicable, the
2896 law enforcement agency that processed the inclusion form, that the individual is due to
2897 be removed from the restricted list, and the date on which the removal will occur, unless
2898 the individual requests an extension of up to 180 days.
- 2899 (12)(a) A law enforcement agency that receives a request for inclusion under
2900 Subsection (4)(a)(i) shall:
- 2901 (i) maintain the completed form and all subsequent completed forms in a separate
2902 file; and
- 2903 (ii) for an individual added to the restricted list under Subsection (2)(a), destroy the
2904 entire file within five days after the date indicated in the notification if the
2905 individual does not request an extension after notification in accordance with
2906 Subsection (11).
- 2907 (b) A law enforcement agency that receives a removal request under Subsection (9) shall
2908 destroy the entire file associated with the individual within five days after the day on
2909 which the information is transmitted to the bureau.
- 2910 (c) Upon removal of an individual from a restricted list, the bureau shall destroy all
2911 records related to the inclusion and removal of the individual within five days after
2912 the day on which the individual was removed.
- 2913 (d) All forms and records created in accordance with this section are classified as private
2914 records in accordance with Title 63G, Chapter 2, Government Records Access and
2915 Management Act.

2916 (13) The bureau may make rules in accordance with Title 63G, Chapter 3, Utah
 2917 Administrative Rulemaking Act, to develop the process and forms to implement this
 2918 section.

2919 Section 44. Section **53-5a-505**, which is renumbered from Section 53-5c-302 is renumbered
 2919 and amended to read:

2921 ~~[53-5c-302]~~ **53-5a-505 . Assistance from a health care provider -- Restricted list.**

2922 (1) An individual who is not a restricted person under Section ~~[76-10-503]~~ 76-11-302 or
 2923 76-11-303 and is seeking inclusion on a restricted list under Section ~~[53-5c-301]~~
 2924 53-5a-504 may direct the individual's health care provider to electronically deliver the
 2925 individual's inclusion request described in Section ~~[53-5c-301]~~ 53-5a-504 to the bureau.

2926 (2) In addition to the inclusion form described in Section ~~[53-5c-301]~~ 53-5a-504, the bureau
 2927 shall create a form, available by download through the bureau's website, for:

2928 (a) an individual who is directing a health care provider to electronically deliver the
 2929 individual's inclusion request and require, at a minimum, the following information:

2930 (i) the individual's signature;

2931 (ii) the name of the individual's health care provider; and

2932 (iii) the individual's acknowledgment of the statement in Subsection (4)(a); and

2933 (b) a health care provider who is delivering an individual's inclusion request and require,
 2934 at a minimum, the following information for the health care provider:

2935 (i) the health care provider's name;

2936 (ii) the name of the health care provider's organization;

2937 (iii) the health care provider's license or certification, including the license or
 2938 certification number;

2939 (iv) the health care provider's signature; and

2940 (v) the health care provider's acknowledgment of the statement in Subsection (4)(b).

2941 (3)(a) An individual who is directing a health care provider to electronically deliver the
 2942 individual's request to be included on a restricted list shall, in the presence of the
 2943 health care provider, complete the forms described in Section ~~[53-5c-301]~~ 53-5a-504
 2944 and Subsection (2)(a).

2945 (b) The health care provider:

2946 (i) shall verify the individual's identity before accepting the forms;

2947 (ii) may not accept forms from someone other than the individual named on the
 2948 forms;

2949 (iii) shall complete the form described in Subsection (2)(b); and

2950 (iv) shall deliver the request to the bureau electronically and maintain a copy of the
 2951 completed request in the individual's health record.

2952 (4)(a) The form described in Subsection (2)(a) shall have the following language prominently
 2953 displayed before the signature:

2954

2955 "ACKNOWLEDGMENT

2956 By presenting this completed form to my health care provider, I understand that I am
 2957 requesting that my health care provider present my name to the Bureau of Criminal
 2958 Identification to be placed on a restricted list that restricts my ability to purchase or possess
 2959 firearms."

2960 (b) The form described in Subsection (2)(b) shall have the following language prominently
 2961 displayed before the signature:

2962

2963 "ACKNOWLEDGMENT

2964 By presenting this completed form to the Bureau of Criminal Identification, I understand
 2965 that I am acknowledging that I have verified the identity of [name of individual seeking
 2966 inclusion on a restricted list] and have witnessed [name of individual] sign the form requesting
 2967 that [name of individual] be placed on a restricted list that restricts [name of individual]'s
 2968 ability to purchase or possess firearms. I affirm that [name of individual] is currently my
 2969 patient, and I am a licensed health care provider acting within the scope of my license,
 2970 certification, practice, education, or training."

2971 (5) The bureau may make rules in accordance with Title 63G, Chapter 3, Utah
 2972 Administrative Rulemaking Act, to develop the process and forms to implement this
 2973 section.

2974 Section 45. Section **53-5a-601** is enacted to read:

2975

Part 6. Sale and Purchase of a Firearm

2976 **53-5a-601 . Definitions.**

2977 As used in this part:

2978 (1) "Antique firearm" means the same as that term is defined in Section 53-5a-102.1.

2979 (2) "Bureau" means the Bureau of Criminal Identification created in Section 53-10-201
 2980 within the department.

2981 (3) "Criminal history background check" means a criminal background check conducted
 2982 through the bureau or a local law enforcement agency.

- 2983 (4) "Dangerous weapon" means the same as that term is defined in Section 76-11-101.
- 2984 (5) "Dealer" means a person who is:
- 2985 (a) licensed under 18 U.S.C. Sec. 923; and
- 2986 (b) engaged in the business of selling, leasing, or otherwise transferring a firearm,
- 2987 whether the person is a retail or wholesale dealer, pawnbroker, or other type of
- 2988 merchant or seller.
- 2989 (6) "Domestic violence" means the same as that term is defined in Section 77-36-1.
- 2990 (7) "Federal firearms licensee" means a person who:
- 2991 (a) holds a valid federal firearms license issued under 18 U.S.C. Sec. 923; and
- 2992 (b) is engaged in the activities authorized by the specific category of license held.
- 2993 (8)(a) "Firearm" means a pistol, revolver, shotgun, short barreled shotgun, rifle, or short
- 2994 barreled rifle, or a device that could be used as a dangerous weapon from which is
- 2995 expelled a projectile by action of an explosive.
- 2996 (b) "Firearm" does not include an antique firearm.
- 2997 (9)(a) "Short barreled rifle" means a rifle having a barrel or barrels of fewer than 16
- 2998 inches in length.
- 2999 (b) "Short barreled rifle" includes a dangerous weapon made from a rifle by alteration,
- 3000 modification, or otherwise, if the weapon as modified has an overall length of fewer
- 3001 than 26 inches.
- 3002 (10)(a) "Short barreled shotgun" means a shotgun having a barrel or barrels of fewer
- 3003 than 18 inches in length.
- 3004 (b) "Short barreled shotgun" includes a dangerous weapon made from a shotgun by
- 3005 alteration, modification, or otherwise, if the weapon as modified has an overall length
- 3006 of fewer than 26 inches.
- 3007 (11) "Shotgun" means a smooth bore firearm designed to fire cartridges containing pellets
- 3008 or a single slug.
- 3009 (12) "Slug" means a single projectile discharged from a shotgun shell.
- 3010 Section 46. Section **53-5a-602**, which is renumbered from Section 76-10-526 is renumbered
- 3010 and amended to read:
- 3012 **[76-10-526] 53-5a-602 . Criminal background check prior to purchase of a firearm -- Fee --**
- 3013 **Exemption for concealed firearm permit holders and law enforcement officers.**
- 3014 ~~[(1) For purposes of this section, "valid permit to carry a concealed firearm" does not~~
- 3015 ~~include a temporary permit issued under Section 53-5-705.]~~
- 3016 ~~[(2)]~~ (1)(a) To establish personal identification and residence in this state for purposes of

- 3017 this part, a dealer shall require an individual receiving a firearm to present one photo
3018 identification on a form issued by a governmental agency of the state.
- 3019 (b) A dealer may not accept a driving privilege card issued under Section 53-3-207 as
3020 proof of identification for the purpose of establishing personal identification and
3021 residence in this state as required under this Subsection [~~(2)~~] (1).
- 3022 [~~(3)~~] (2)(a) A criminal history background check is required for the sale of a firearm by a
3023 licensed firearm dealer in the state.
- 3024 (b) Subsection [~~(3)(a)~~] (2)(a) does not apply to the sale of a firearm to a Federal Firearms
3025 Licensee.
- 3026 [~~(4)~~] (3)(a) An individual purchasing a firearm from a dealer shall consent in writing to a
3027 criminal background check, on a form provided by the bureau.
- 3028 (b) The form shall contain the following information:
- 3029 (i) the dealer identification number;
- 3030 (ii) the name and address of the individual receiving the firearm;
- 3031 (iii) the date of birth, height, weight, eye color, and hair color of the individual
3032 receiving the firearm; and
- 3033 (iv) the social security number or any other identification number of the individual
3034 receiving the firearm.
- 3035 [~~(5)~~] (4)(a) The dealer shall send the information required by Subsection [~~(4)~~] (3) to the
3036 bureau immediately upon its receipt by the dealer.
- 3037 (b) A dealer may not sell or transfer a firearm to an individual until the dealer has
3038 provided the bureau with the information in Subsection [~~(4)~~] (3) and has received
3039 approval from the bureau under Subsection [~~(7)~~] (6).
- 3040 [~~(6)~~] (5) The dealer shall make a request for criminal history background information by
3041 telephone or other electronic means to the bureau and shall receive approval or denial of
3042 the inquiry by telephone or other electronic means.
- 3043 [~~(7)~~] (6) When the dealer calls for or requests a criminal history background check, the
3044 bureau shall:
- 3045 (a) review the criminal history files, including juvenile court records, and the temporary
3046 restricted file created under Section [~~53-5e-301~~] 53-5a-504, to determine if the
3047 individual is prohibited from purchasing, possessing, or transferring a firearm by
3048 state or federal law;
- 3049 (b) inform the dealer that:
- 3050 (i) the records indicate the individual is prohibited; or

3051 (ii) the individual is approved for purchasing, possessing, or transferring a firearm;
 3052 (c) provide the dealer with a unique transaction number for that inquiry; and
 3053 (d) provide a response to the requesting dealer during the call for a criminal background
 3054 check, or by return call, or other electronic means, without delay, except in case of
 3055 electronic failure or other circumstances beyond the control of the bureau, the bureau
 3056 shall advise the dealer of the reason for the delay and give the dealer an estimate of
 3057 the length of the delay.

3058 ~~[(8)]~~ (7)(a) The bureau may not maintain any records of the criminal history background
 3059 check longer than 20 days from the date of the dealer's request, if the bureau
 3060 determines that the individual receiving the firearm is not prohibited from
 3061 purchasing, possessing, or transferring the firearm under state or federal law.

3062 (b) However, the bureau shall maintain a log of requests containing the dealer's federal
 3063 firearms number, the transaction number, and the transaction date for a period of 12
 3064 months.

3065 ~~[(9)]~~ (8)(a) If the criminal history background check discloses information indicating
 3066 that the individual attempting to purchase the firearm is prohibited from purchasing,
 3067 possessing, or transferring a firearm, the bureau shall:

3068 (i) within 24 hours after determining that the purchaser is prohibited from purchasing,
 3069 possessing, or transferring a firearm, notify the law enforcement agency in the
 3070 jurisdiction where the dealer is located; and

3071 (ii) inform the law enforcement agency in the jurisdiction where the individual
 3072 resides.

3073 (b) Subsection ~~[(9)(a)]~~ (8)(a) does not apply to an individual prohibited from purchasing
 3074 a firearm solely due to placement on the temporary restricted list under Section [
 3075 ~~53-5e-304~~] 53-5a-504.

3076 (c) A law enforcement agency that receives information from the bureau under
 3077 Subsection ~~[(9)(a)]~~ (8)(a) shall provide a report before August 1 of each year to the
 3078 bureau that includes:

3079 (i) based on the information the bureau provides to the law enforcement agency under
 3080 Subsection ~~[(9)(a)]~~ (8)(a), the number of cases that involve an individual who is
 3081 prohibited from purchasing, possessing, or transferring a firearm as a result of a
 3082 conviction for an offense involving domestic violence; and

3083 (ii) of the cases described in Subsection ~~[(9)(e)(i)]~~ (8)(c)(i):

3084 (A) the number of cases the law enforcement agency investigates; and

3085 (B) the number of cases the law enforcement agency investigates that result in a
3086 criminal charge.

3087 (d) The bureau shall:

3088 (i) compile the information from the reports described in Subsection ~~[(9)(e)]~~ (8)(c);

3089 (ii) omit or redact any identifying information in the compilation; and

3090 (iii) submit the compilation to the Law Enforcement and Criminal Justice Interim
3091 Committee before November 1 of each year.

3092 ~~[(10)]~~ (9) If an individual is denied the right to purchase a firearm under this section, the
3093 individual may review the individual's criminal history information and may challenge
3094 or amend the information as provided in Section 53-10-108.

3095 ~~[(11)]~~ (10) The bureau shall make rules in accordance with Title 63G, Chapter 3, Utah
3096 Administrative Rulemaking Act, to ensure the identity, confidentiality, and security of
3097 all records provided by the bureau under this part are in conformance with the
3098 requirements of the Brady Handgun Violence Prevention Act, Pub. L. No. 103-159, 107
3099 Stat. 1536 (1993).

3100 ~~[(12)]~~ (11)(a) A dealer shall collect a criminal history background check fee for the sale
3101 of a firearm under this section.

3102 (b) The fee described under Subsection ~~[(12)(a)]~~ (11)(a) remains in effect until changed
3103 by the bureau through the process described in Section 63J-1-504.

3104 (c)(i) The dealer shall forward at one time all fees collected for criminal history
3105 background checks performed during the month to the bureau by the last day of
3106 the month following the sale of a firearm.

3107 (ii) The bureau shall deposit the fees in the General Fund as dedicated credits to
3108 cover the cost of administering and conducting the criminal history background
3109 check program.

3110 ~~[(13)]~~ (12)(a) An individual with a concealed firearm permit issued under Section
3111 53-5a-303 or a provisional concealed firearm permit issued under [Title 53, Chapter
3112 5, Part 7, Concealed Firearm Act,] Section 53-5a-304 is exempt from the background
3113 check and corresponding fee required in this section for the purchase of a firearm if:

3114 ~~[(a)]~~ (i) the individual presents the individual's concealed firearm permit to the dealer
3115 prior to purchase of the firearm; and

3116 ~~[(b)]~~ (ii) the dealer verifies with the bureau that the individual's concealed firearm
3117 permit is valid.

3118 (b) An individual with a temporary permit to carry a concealed firearm issued under

3119 Section 53-5a-305 is not exempt from a background check and the corresponding fee
 3120 required in this section for the purchase of a firearm.

3121 ~~[(14)]~~ (13)(a) A law enforcement officer, as defined in Section 53-13-103, is exempt
 3122 from the background check fee required in this section for the purchase of a personal
 3123 firearm to be carried while off-duty if the law enforcement officer verifies current
 3124 employment by providing a letter of good standing from the officer's commanding
 3125 officer and current law enforcement photo identification.

3126 (b) Subsection ~~[(14)(a)]~~ (13)(a) may only be used by a law enforcement officer to
 3127 purchase a personal firearm once in a 24-month period.

3128 ~~[(15)]~~ (14) A dealer engaged in the business of selling, leasing, or otherwise transferring a
 3129 firearm shall:

3130 (a) make the firearm safety brochure described in Subsection 26B-5-211(3) available to
 3131 a customer free of charge; and

3132 (b) at the time of purchase, distribute a cable-style gun lock provided to the dealer under
 3133 Subsection 26B-5-211(3) to a customer purchasing a shotgun, short barreled shotgun,
 3134 short barreled rifle, rifle, or another firearm that federal law does not require be
 3135 accompanied by a gun lock at the time of purchase.

3136 Section 47. Section **53-5a-603**, which is renumbered from Section 76-10-526.1 is renumbered
 3136 and amended to read:

3138 ~~[76-10-526.1]~~ **53-5a-603 . Information check before private sale of firearm.**

3139 (1) As used in this section:

3140 (a) "Governmental entity" means the state and the state's political subdivisions.

3141 (b) "Law enforcement agency" means the same as that term is defined in Section
 3142 53-1-102.

3143 (c) "Personally identifiable information" means the same as that term is defined in
 3144 Section 63D-2-102.

3145 (2) Subject to Subsections (3) and (4), the bureau shall create an online process that allows
 3146 an individual who is selling or purchasing a firearm to voluntarily determine:

3147 (a) if the other individual involved in the sale of the firearm has a valid concealed carry
 3148 permit issued under Section 53-5a-303, a provisional concealed carry permit issued
 3149 under Section 53-5a-304, or a temporary concealed carry permit issued under Section
 3150 53-5a-305; or

3151 (b) based on the serial number of the firearm, if the firearm is reported as stolen.

3152 (3) Subsection (2) does not apply to a federal firearms licensee or dealer.

- 3153 (4) The bureau may not:
- 3154 (a) provide information related to a request under Subsection (2) to a law enforcement
- 3155 agency; or
- 3156 (b) collect a user's personally identifiable information under Subsection (2).
- 3157 (5) A governmental entity may not require an individual who is selling or purchasing a
- 3158 firearm to use the process under Subsection (2).
- 3159 (6) If an individual uses the process under Subsection (2), the individual is not required,
- 3160 based on the information the individual receives from the bureau, to make a report to a
- 3161 law enforcement agency.
- 3162 (7) After responding to a request under Subsection (2), the bureau shall immediately
- 3163 dispose of all information related to the request.
- 3164 (8)(a) This section does not create a civil cause of action arising from the sale or
- 3165 purchase of a firearm under this section.
- 3166 (b) An individual's failure to use the process under Subsection (2) is not evidence of the
- 3167 individual's negligence in a civil cause of action.
- 3168 Section 48. Section **53-5a-604**, which is renumbered from Section 76-10-527 is renumbered
- 3168 and amended to read:
- 3170 **~~[76-10-527]~~ 53-5a-604 . Penalties.**
- 3171 (1) A dealer is guilty of a class A misdemeanor ~~[who]~~ if the dealer willfully and
- 3172 intentionally:
- 3173 (a) requests, obtains, or seeks to obtain criminal history background information under
- 3174 false pretenses;
- 3175 (b) disseminates criminal history background information; or
- 3176 (c) violates Section ~~[76-10-526]~~ 53-5a-602.
- 3177 (2) ~~[A person]~~ An individual who purchases or transfers a firearm is guilty of a ~~[felony of~~
- 3178 ~~the]~~third degree felony if the ~~[person]~~ individual willfully and intentionally makes a
- 3179 false statement of the information required for a criminal background check in Section [
- 3180 ~~76-10-526]~~ 53-5a-602.
- 3181 (3) Except as otherwise provided in Subsection (1), a dealer is guilty of a ~~[felony of the]~~
- 3182 third degree felony if the dealer willfully and intentionally sells or transfers a firearm in
- 3183 violation of this part or Title 76, Chapter 11, Weapons.
- 3184 (4) ~~[A person]~~ An individual is guilty of a ~~[felony of the]~~third degree felony if the ~~[person]~~
- 3185 individual purchases a firearm with the intent to:
- 3186 (a) resell or otherwise provide a firearm to ~~[a person]~~ an individual who is ineligible to

3187 purchase or receive a firearm from a dealer; or

3188 (b) transport a firearm out of this state to be resold to an ineligible ~~[person]~~ individual.

3189 Section 49. Section **53-5a-605**, which is renumbered from Section 76-10-524 is renumbered
3189 and amended to read:

3191 ~~[76-10-524]~~ **53-5a-605 . Purchase of firearms pursuant to federal law.**

3192 This part ~~[will allow purchases-]~~ allows the purchase of firearms and ammunition
3193 pursuant to U.S.C. Title 18 Chapter 44 Sec. 922b(3).

3194 Section 50. Section **53-5d-102** is amended to read:

3195 **53-5d-102 . Definitions.**

3196 As used in this chapter:

3197 (1) "Ammunition" means a bullet, a cartridge case, primer, propellant powder, or other
3198 ammunition designed for use in any firearm, either as an individual component part or in
3199 a completely assembled cartridge.

3200 (2) "Manufacturer" means, with respect to a qualified product, a person who is engaged in
3201 the business of manufacturing a qualified product and who is licensed to engage in
3202 business as a manufacturer under 18 U.S.C. Chapter 44.

3203 (3) "Negligent entrustment" means the supplying of a qualified product by a seller for use
3204 by another person when the seller knows, or reasonably should know, the person to
3205 whom the product is supplied is likely to, and does, use the product in a manner
3206 involving unreasonable risk of physical injury to the person or others.

3207 (4) "Person" means the same as that term is defined in Section 68-3-12.5.

3208 (5)(a) "Qualified civil liability action" means a civil action or proceeding or an
3209 administrative proceeding brought by any person against a manufacturer or seller of a
3210 qualified product, or a trade association, for damages, punitive damages, injunctive or
3211 declaratory relief, abatement, restitution, fines, or penalties, or other relief, resulting
3212 from the criminal or unlawful misuse of a qualified product by the person or a third
3213 party.

3214 (b) "Qualified civil liability action" does not include:

3215 (i) an action brought against a transferor convicted under 18 U.S.C. Sec. 924(h) or
3216 Section 76-10-503 by a party directly harmed by the conduct of which the
3217 transferee was convicted;

3218 (ii) an action brought against a seller for negligent entrustment or negligence per se;

3219 (iii) an action in which a manufacturer or seller of a qualified product knowingly
3220 violated a state or federal statute applicable to the sale or marketing of the

- 3221 product, and the violation was a proximate cause of the harm for which relief is
 3222 sought, including:
- 3223 (A) any incident in which the manufacturer or seller knowingly made any false
 3224 entry in, or failed to make appropriate entry in, any record required to be kept
 3225 under federal or state law with respect to the qualified product, or aided,
 3226 abetted, or conspired with any person in making any false or fictitious oral or
 3227 written statement with respect to any fact material to the lawfulness of the sale
 3228 or other disposition of a qualified product; or
- 3229 (B) any case in which the manufacturer or seller aided, abetted, or conspired with
 3230 any other person to sell or otherwise dispose of a qualified product, knowing,
 3231 or having reasonable cause to believe, that the actual buyer of the qualified
 3232 product was prohibited from possessing or receiving a firearm or ammunition
 3233 under 18 U.S.C. Sec. 922(g) or (n) or [~~Section 76-10-503~~] Title 76, Chapter 11,
 3234 Part 3, Persons Restricted Regarding Dangerous Weapons;
- 3235 (iv) an action for breach of contract or warranty in connection with the purchase of
 3236 the product;
- 3237 (v) an action for death, physical injuries, or property damage resulting directly from a
 3238 defect in design or manufacture of the product, when used as intended or in a
 3239 reasonably foreseeable manner, except that where the discharge of the product
 3240 was caused by a volitional act that constituted a criminal offense, then the act shall
 3241 be considered the sole proximate cause of any resulting death, personal injuries, or
 3242 property damage; or
- 3243 (vi) an action or proceeding commenced to enforce the provisions of 18 U.S.C.
 3244 Chapter 44, 26 U.S.C. Chapter 53, or [~~Title 76, Chapter 10, Part 5, Weapons~~] Title
 3245 76, Chapter 11, Weapons.
- 3246 (6) "Qualified product" means a firearm or antique firearm, as defined in Section [~~76-10-501~~]
 3247 76-11-101, ammunition, or a component part of a firearm or ammunition.
- 3248 (7) "Seller" means, with respect to a qualified product, a federal firearms licensee, as
 3249 defined in Section [~~76-10-501~~] 53-5a-601.
- 3250 (8) "Trade association" means:
- 3251 (a) any corporation, unincorporated association, federation, business league, or
 3252 professional or business organization not organized or operated for profit and no part
 3253 of the net earnings of which inures to the benefit of any private shareholder or
 3254 individual;

3255 (b) an organization described in 26 U.S.C. Sec. 501(c)(6) and exempt from tax under 26
3256 U.S.C. Sec. 501(a); and

3257 (c) an organization, two or more members of which are manufacturers or sellers of a
3258 qualified product.

3259 (9) "Unlawful misuse" means conduct that violates a statute, ordinance, or regulation as it
3260 relates to the use of a qualified product.

3261 Section 51. Section **53-10-202** is amended to read:

3262 **53-10-202 . Criminal identification -- Duties of bureau.**

3263 The bureau shall:

3264 (1) procure and file information relating to identification and activities of persons who:

3265 (a) are fugitives from justice;

3266 (b) are wanted or missing;

3267 (c) have been arrested for or convicted of a crime under the laws of any state or nation;
3268 and

3269 (d) are believed to be involved in racketeering, organized crime, or a dangerous offense;

3270 (2) establish a statewide uniform crime reporting system that shall include:

3271 (a) statistics concerning general categories of criminal activities;

3272 (b) statistics concerning crimes that exhibit evidence of prejudice based on race,
3273 religion, ancestry, national origin, ethnicity, or other categories that the division finds
3274 appropriate;

3275 (c) statistics concerning the use of force by law enforcement officers in accordance with
3276 the Federal Bureau of Investigation's standards; and

3277 (d) other statistics required by the Federal Bureau of Investigation;

3278 (3) make a complete and systematic record and index of the information obtained under this
3279 part;

3280 (4) subject to the restrictions in this part, establish policy concerning the use and
3281 dissemination of data obtained under this part;

3282 (5) publish an annual report concerning the extent, fluctuation, distribution, and nature of
3283 crime in Utah;

3284 (6) establish a statewide central register for the identification and location of missing
3285 persons, which may include:

3286 (a) identifying data including fingerprints of each missing person;

3287 (b) identifying data of any missing person who is reported as missing to a law
3288 enforcement agency having jurisdiction;

- 3289 (c) dates and circumstances of any persons requesting or receiving information from the
3290 register; and
- 3291 (d) any other information, including blood types and photographs found necessary in
3292 furthering the purposes of this part;
- 3293 (7) publish a quarterly directory of missing persons for distribution to persons or entities
3294 likely to be instrumental in the identification and location of missing persons;
- 3295 (8) list the name of every missing person with the appropriate nationally maintained
3296 missing persons lists;
- 3297 (9) establish and operate a 24-hour communication network for reports of missing persons
3298 and reports of sightings of missing persons;
- 3299 (10) coordinate with the National Center for Missing and Exploited Children and other
3300 agencies to facilitate the identification and location of missing persons and the
3301 identification of unidentified persons and bodies;
- 3302 (11) receive information regarding missing persons as provided in Sections 26B-8-130 and
3303 53G-6-602, and stolen vehicles, vessels, and outboard motors, as provided in Section
3304 41-1a-1401;
- 3305 (12) adopt systems of identification, including the fingerprint system, to be used by the
3306 division to facilitate law enforcement;
- 3307 (13) assign a distinguishing number or mark of identification to any pistol or revolver, as
3308 provided in Section ~~[76-10-520]~~ 53-5a-105;
- 3309 (14) check certain criminal records databases for information regarding motor vehicle
3310 salesperson applicants, maintain a separate file of fingerprints for motor vehicle
3311 salespersons, and inform the Motor Vehicle Enforcement Division when new entries are
3312 made for certain criminal offenses for motor vehicle salespersons in accordance with the
3313 requirements of Section 41-3-205.5;
- 3314 (15) check certain criminal records databases for information regarding driving privilege
3315 card applicants or cardholders and maintain a separate file of fingerprints for driving
3316 privilege applicants and cardholders and inform the federal Immigration and Customs
3317 Enforcement Agency of the United States Department of Homeland Security when new
3318 entries are made in accordance with the requirements of Section 53-3-205.5;
- 3319 (16) review and approve or disapprove applications for license renewal that meet the
3320 requirements for renewal; and
- 3321 (17) forward to the board those applications for renewal under Subsection (16) that do not
3322 meet the requirements for renewal.

3323 Section 52. Section **53-10-202.5** is amended to read:

3324 **53-10-202.5 . Bureau services -- Fees.**

3325 The bureau shall collect fees for the following services:

- 3326 (1) applicant fingerprint card as determined by Section 53-10-108;
- 3327 (2) bail enforcement licensing as determined by Section 53-11-115;
- 3328 (3) concealed firearm permit as determined by Section [~~53-5-707~~] 53-5a-307;
- 3329 (4) provisional concealed firearm permit as determined by Section [~~53-5-707.5~~] 53-5a-308;
- 3330 (5) a certificate of eligibility for expungement as described in Section 77-40a-304;
- 3331 (6) firearm purchase background check as determined by Section [~~76-10-526~~] 53-5a-602;
- 3332 (7) name check as determined by Section 53-10-108;
- 3333 (8) private investigator licensing as determined by Section 53-9-111; and
- 3334 (9) right of access as determined by Section 53-10-108.

3335 Section 53. Section **53-10-208.1** is amended to read:

3336 **53-10-208.1 . Magistrates and court clerks to supply information.**

- 3337 (1) Every magistrate or clerk of a court responsible for court records in this state shall,
- 3338 within 30 days after the day of the disposition and on forms and in the manner provided
- 3339 by the division, furnish the division with information pertaining to:
- 3340 (a) all dispositions of criminal matters, including:
- 3341 (i) guilty pleas;
- 3342 (ii) convictions;
- 3343 (iii) dismissals;
- 3344 (iv) acquittals;
- 3345 (v) pleas in abeyance;
- 3346 (vi) judgments of not guilty by reason of insanity;
- 3347 (vii) judgments of guilty with a mental condition;
- 3348 (viii) finding of mental incompetence to stand trial; and
- 3349 (ix) probations granted;
- 3350 (b) orders of civil commitment under the terms of Section 26B-5-332;
- 3351 (c) the issuance, recall, cancellation, or modification of all warrants of arrest or
- 3352 commitment as described in Rule 6, Utah Rules of Criminal Procedure and Section
- 3353 78B-6-303, within one day of the action and in a manner provided by the division;
- 3354 and
- 3355 (d) protective orders issued after notice and hearing, pursuant to:
- 3356 (i) Title 77, Chapter 36, Cohabitant Abuse Procedures Act;

- 3357 (ii) Title 78B, Chapter 7, Part 4, Dating Violence Protective Orders;
 3358 (iii) Title 78B, Chapter 7, Part 5, Sexual Violence Protective Orders;
 3359 (iv) Title 78B, Chapter 7, Part 6, Cohabitant Abuse Protective Orders; or
 3360 (v) Title 78B, Chapter 7, Part 8, Criminal Protective Orders.
- 3361 (2) When transmitting information on a criminal matter under Subsection (1)(a)(i), (ii), (v),
 3362 or (vii) for a conviction of misdemeanor assault under Section 76-5-102, the magistrate
 3363 or clerk of a court shall include available information regarding whether the conviction
 3364 for assault resulted from an assault against an individual:
- 3365 (a) who is included in at least one of the relationship categories described in Subsection [
 3366 ~~76-10-503(1)(b)(xii)~~] 76-11-303(13); or
- 3367 (b) with whom none of the relationships described in Subsection [~~76-10-503(1)(b)(xii)~~]
 3368 76-11-303(13) apply.
- 3369 (3) The court in the county where a determination or finding was made shall transmit a
 3370 record of the determination or finding to the bureau no later than 48 hours after the
 3371 determination is made, excluding Saturdays, Sundays, and legal holidays, if an
 3372 individual is:
- 3373 (a) adjudicated as a mental defective; or
 3374 (b) involuntarily committed to a mental institution in accordance with Subsection
 3375 26B-5-332(16).
- 3376 (4) The record described in Subsection (3) shall include:
- 3377 (a) an agency record identifier;
 3378 (b) the individual's name, sex, race, and date of birth; and
 3379 (c) the individual's social security number, government issued driver license or
 3380 identification number, alien registration number, government passport number, state
 3381 identification number, or FBI number.
- 3382 Section 54. Section **53-10-403** is amended to read:
- 3383 **53-10-403 . DNA specimen analysis -- Application to offenders, including minors.**
- 3384 (1) Sections 53-10-403.6, 53-10-404, 53-10-404.5, 53-10-405, and 53-10-406 apply to:
- 3385 (a) a person who has pled guilty to or has been convicted of any of the offenses under
 3386 Subsection (2)(a) or (b) on or after July 1, 2002;
 3387 (b) a person who has pled guilty to or has been convicted by any other state or by the
 3388 United States government of an offense which if committed in this state would be
 3389 punishable as one or more of the offenses listed in Subsection (2)(a) or (b) on or after
 3390 July 1, 2003;

- 3391 (c) a person who has been booked on or after January 1, 2011, through December 31,
 3392 2014, for any offense under Subsection (2)(c);
- 3393 (d) a person who has been booked:
- 3394 (i) by a law enforcement agency that is obtaining a DNA specimen on or after May
 3395 13, 2014, through December 31, 2014, under Subsection 53-10-404(4)(b) for any
 3396 felony offense; or
- 3397 (ii) on or after January 1, 2015, for any felony offense; or
- 3398 (e) a minor:
- 3399 (i)(A) who is adjudicated by the juvenile court for an offense described in
 3400 Subsection (2) that is within the jurisdiction of the juvenile court on or after
 3401 July 1, 2002; or
- 3402 (B) who is adjudicated by the juvenile court for an offense described in
 3403 Subsection (2) and is in the legal custody of the Division of Juvenile Justice
 3404 and Youth Services for the offense on or after July 1, 2002; and
- 3405 (ii) who is 14 years old or older at the time of the commission of the offense
 3406 described in Subsection (2).
- 3407 (2) Offenses referred to in Subsection (1) are:
- 3408 (a) any felony or class A misdemeanor under the Utah Code;
- 3409 (b) any offense under Subsection (2)(a):
- 3410 (i) for which the court enters a judgment for conviction to a lower degree of offense
 3411 under Section 76-3-402; or
- 3412 (ii) regarding which the court allows the defendant to enter a plea in abeyance as
 3413 defined in Section 77-2a-1; or
- 3414 (c)(i) any violent felony as defined in Section 53-10-403.5;
- 3415 (ii) sale or use of body parts, Section 26B-8-315;
- 3416 (iii) failure to stop at an accident that resulted in death, Section 41-6a-401.5;
- 3417 (iv) operating a motor vehicle with any amount of a controlled substance in an
 3418 individual's body and causing serious bodily injury or death, as codified before
 3419 May 4, 2022, Laws of Utah 2021, Chapter 236, Section 1, Subsection 58-37-8
 3420 (2)(g);
- 3421 (v) a felony violation of enticing a minor, Section 76-4-401;
- 3422 (vi) negligently operating a vehicle resulting in injury, Subsection 76-5-102.1(2)(b);
- 3423 (vii) a felony violation of propelling a substance or object at a correctional officer, a
 3424 peace officer, or an employee or a volunteer, including health care providers,

- 3425 Section 76-5-102.6;
- 3426 (viii) automobile homicide, Subsection 76-5-207(2)(b);
- 3427 (ix) aggravated human trafficking, Section 76-5-310, and aggravated human
- 3428 smuggling, Section 76-5-310.1;
- 3429 (x) a felony violation of unlawful sexual activity with a minor, Section 76-5-401;
- 3430 (xi) a felony violation of sexual abuse of a minor, Section 76-5-401.1;
- 3431 (xii) unlawful sexual contact with a 16 or 17-year old, Section 76-5-401.2;
- 3432 (xiii) sale of a child, Section 76-7-203;
- 3433 (xiv) aggravated escape, Section 76-8-309.3;
- 3434 (xv) a felony violation of threatened or attempted assault on an elected official,
- 3435 Section 76-8-313;
- 3436 (xvi) threat with intent to impede, intimidate, interfere, or retaliate against a judge or
- 3437 a member of the Board of Pardons and Parole or acting against a family member
- 3438 of a judge or a member of the Board of Pardons and Parole, Section 76-8-316;
- 3439 (xvii) assault with intent to impede, intimidate, interfere, or retaliate against a judge
- 3440 or a member of the Board of Pardons and Parole or acting against a family
- 3441 member of a judge or a member of the Board of Pardons and Parole, Section
- 3442 76-8-316.2;
- 3443 (xviii) aggravated assault with intent to impede, intimidate, interfere, or retaliate
- 3444 against a judge or a member of the Board of Pardons and Parole or acting against
- 3445 a family member of a judge or a member of the Board of Pardons and Parole,
- 3446 Section 76-8-316.4;
- 3447 (xix) attempted murder with intent to impede, intimidate, interfere, or retaliate
- 3448 against a judge or a member of the Board of Pardons and Parole or acting against
- 3449 a family member of a judge or a member of the Board of Pardons and Parole,
- 3450 Section 76-8-316.6;
- 3451 (xx) advocating criminal syndicalism or sabotage, Section 76-8-902;
- 3452 (xxi) assembling for advocating criminal syndicalism or sabotage, Section 76-8-903;
- 3453 (xxii) a felony violation of sexual battery, Section 76-9-702.1;
- 3454 (xxiii) a felony violation of lewdness involving a child, Section 76-9-702.5;
- 3455 (xxiv) a felony violation of abuse or desecration of a dead human body, Section
- 3456 76-9-704;
- 3457 (xxv) manufacture, possession, sale, or use of a weapon of mass destruction, Section
- 3458 76-10-402;

3459 (xxvi) manufacture, possession, sale, or use of a hoax weapon of mass destruction,
 3460 Section 76-10-403;

3461 (xxvii) possession of a concealed firearm in the commission of a violent felony,
 3462 Subsection [~~76-10-504(4)~~] 76-11-202(3)(c);

3463 (xxviii) assault with the intent to commit bus hijacking with a dangerous weapon,
 3464 Subsection 76-10-1504(3);

3465 (xxix) commercial obstruction, Subsection 76-10-2402(2);

3466 (xxx) a felony violation of failure to register as a sex or kidnap offender, Section
 3467 77-41-107;

3468 (xxxi) repeat violation of a protective order, Subsection 77-36-1.1(4); or

3469 (xxxii) violation of condition for release after arrest under Section 78B-7-802.

3470 Section 55. Section **53-11-108** is amended to read:

3471 **53-11-108 . Licensure -- Basic qualifications.**

3472 An applicant for licensure under this chapter shall meet the following qualifications:

3473 (1) An applicant shall be:

3474 (a) at least 21 years of age;

3475 (b) a citizen or legal resident of the United States; and

3476 (c) of good moral character.

3477 (2) An applicant may not:

3478 (a) have been convicted of:

3479 (i) a felony;

3480 (ii) any act involving illegally using, carrying, or possessing a dangerous weapon;

3481 (iii) any act of personal violence or force on any person or convicted of threatening to
 3482 commit any act of personal violence or force against another person;

3483 (iv) any act constituting dishonesty or fraud;

3484 (v) impersonating a peace officer; or

3485 (vi) any act involving moral turpitude;

3486 (b) be on probation, parole, community supervision, or named in an outstanding arrest
 3487 warrant; or

3488 (c) be employed as a peace officer.

3489 (3) If previously or currently licensed in another state or jurisdiction, the applicant shall be
 3490 in good standing within that state or jurisdiction.

3491 (4)(a) The applicant shall also have completed a training program of not less than 16
 3492 hours that is approved by the board and includes:

- 3493 (i) instruction on the duties and responsibilities of a licensee under this chapter,
 3494 including:
 3495 (A) search, seizure, and arrest procedure;
 3496 (B) pursuit, arrest, detainment, and transportation of a bail bond suspect; and
 3497 (C) specific duties and responsibilities regarding entering an occupied structure to
 3498 carry out functions under this chapter;
- 3499 (ii) the laws and rules relating to the bail bond business;
 3500 (iii) the rights of the accused; and
 3501 (iv) ethics.
- 3502 (b) The program may be completed after the licensure application is submitted, but shall
 3503 be completed before a license may be issued under this chapter.
- 3504 (5) If the applicant desires to carry a firearm as a licensee, the applicant shall:
- 3505 (a) successfully complete a course regarding the specified types of weapons he plans to
 3506 carry. The course shall:
 3507 (i) be not less than 16 hours;
 3508 (ii) be conducted by any national, state, or local firearms training organization
 3509 approved by the Criminal Investigations and Technical Services Division created
 3510 in Section 53-10-103; and
 3511 (iii) provide training regarding general familiarity with the types of firearms to be
 3512 carried, including:
 3513 (A) the safe loading, unloading, storage, and carrying of the types of firearms to
 3514 be concealed; and
 3515 (B) current laws defining lawful use of a firearm by a private citizen, including
 3516 lawful self-defense, use of deadly force, transportation, and concealment; and
- 3517 (b) shall hold a valid license to carry a concealed weapon, issued under Section [
 3518 ~~53-5-704~~] 53-5a-303.
- 3519 Section 56. Section **53-13-116** is amended to read:
 3520 **53-13-116 . Report required after pointing a firearm at an individual.**
- 3521 (1) As used in this section:
 3522 (a) "Conductive energy device" means a weapon that uses electrical current to disrupt
 3523 voluntary control of muscles.
 3524 (b) "Firearm" means the same as that term is defined in Section [~~76-10-501~~] 76-11-101.
 3525 (c) "Law enforcement officer" means the same as that term is defined in Section
 3526 53-13-103.

3527 (d) "Officer-involved critical incident" means the same as that term is defined in Section
3528 76-2-408.

3529 (2) A law enforcement officer shall file a report described in Subsection (3) if, during the
3530 performance of the officer's duties:

3531 (a) the officer points a firearm at an individual; or

3532 (b) the officer aims a conductive energy device at an individual and displays the
3533 electrical current.

3534 (3)(a) A report described in Subsection (2) shall include:

3535 (i) a description of the incident;

3536 (ii) the identification of the individuals involved in the incident; and

3537 (iii) any other information required by the law enforcement agency.

3538 (b) A law enforcement officer shall submit a report required under Subsection (2) to the
3539 officer's law enforcement agency within 48 hours after the incident.

3540 (4) A supervisory law enforcement officer shall review a report submitted under Subsection
3541 (3)(b).

3542 (5) This section does not apply to:

3543 (a) law enforcement training exercises; or

3544 (b) an officer who, as part of an officer-involved critical incident, engaged in conduct
3545 described under Subsection (2)(a) or (2)(b).

3546 Section 57. Section **53-22-105** is amended to read:

3547 **53-22-105 . School guardian program.**

3548 (1) As used in this section:

3549 (a) "Annual training" means an annual four-hour training that:

3550 (i) a county security chief or a designee administers;

3551 (ii) the state security chief approves;

3552 (iii) can be tailored to local needs;

3553 (iv) allows an individual to practice and demonstrate firearms proficiency at a
3554 firearms range using the firearm the individual carries for self defense and defense
3555 of others;

3556 (v) includes the following components:

3557 (A) firearm safety, including safe storage of a firearm;

3558 (B) de-escalation tactics;

3559 (C) the role of mental health in incidents; and

3560 (D) disability awareness and interactions; and

- 3561 (vi) contains other training needs as determined by the state security chief.
- 3562 (b) "Biannual training" means a twice-yearly training that:
- 3563 (i) is at least four hours, unless otherwise approved by the state security chief;
- 3564 (ii) a county security chief or a designee administers;
- 3565 (iii) the state security chief approves;
- 3566 (iv) can be tailored to local needs; and
- 3567 (v) through which a school guardian at a school or simulated school environment:
- 3568 (A) receives training on the specifics of the building or buildings of the school,
- 3569 including the location of emergency supplies and security infrastructure; and
- 3570 (B) participates in a live-action practice plan with school administrators in
- 3571 responding to active threats at the school; and
- 3572 (vi) shall be taken with at least three months in between the two trainings.
- 3573 (c) "Firearm" means the same as that term is defined in Section ~~[76-10-501]~~ 76-11-101.
- 3574 (d) "Initial training" means an in-person 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; and
- 3578 (iv) provides:
- 3579 (A) training on general familiarity with the types of firearms that can be concealed
- 3580 for self-defense and defense of others;
- 3581 (B) training on the safe loading, unloading, storage, and carrying of firearms in a
- 3582 school setting;
- 3583 (C) training at a firearms range with instruction regarding firearms fundamentals,
- 3584 marksmanship, the demonstration and explanation of the difference between
- 3585 sight picture, sight alignment, and trigger control, and a recognized pistol
- 3586 course;
- 3587 (D) current laws dealing with the lawful use of a firearm by a private citizen,
- 3588 including laws on self-defense, defense of others, transportation of firearms,
- 3589 and concealment of firearms;
- 3590 (E) coordination with law enforcement officers in the event of an active threat;
- 3591 (F) basic trauma first aid;
- 3592 (G) the appropriate use of force, emphasizing the de-escalation of force and
- 3593 alternatives to using force; and
- 3594 (H) situational response evaluations, including:

- 3595 (I) protecting and securing a crime or accident scene;
- 3596 (II) notifying law enforcement;
- 3597 (III) controlling information; and
- 3598 (IV) other training that the county sheriff, designee, or department deems
- 3599 appropriate.
- 3600 (e) "Program" means the school guardian program created in this section.
- 3601 (f)(i) "School employee" means an employee of a school whose duties and
- 3602 responsibilities require the employee to be physically present at a school's campus
- 3603 while school is in session.
- 3604 (ii) "School employee" does not include a principal, teacher, or individual whose
- 3605 primary responsibilities require the employee to be primarily present in a
- 3606 classroom to teach, care for, or interact with students, unless:
- 3607 (A) the principal, teacher, or individual is employed at a school with 100 or fewer
- 3608 students;
- 3609 (B) the principal, teacher, or individual is employed at a school with adjacent
- 3610 campuses as determined by the state security chief; or
- 3611 (C) as provided in Subsection 53G-8-701.5(3).
- 3612 (g) "School guardian" means a school employee who meets the requirements of
- 3613 Subsection (3).
- 3614 (2)(a)(i) There is created within the department the school guardian program[;] .
- 3615 (ii) [~~the~~] The state security chief shall oversee the school guardian program[;] .
- 3616 (iii) [~~the~~] The applicable county security chief shall administer the school guardian
- 3617 program in each county.
- 3618 (b) The state security chief shall ensure that the school guardian program includes:
- 3619 (i) initial training;
- 3620 (ii) biannual training; and
- 3621 (iii) annual training.
- 3622 (c) A county sheriff may partner or contract with:
- 3623 (i) another county sheriff to support the respective county security chiefs in jointly
- 3624 administering the school guardian program in the relevant counties; and
- 3625 (ii) a local law enforcement agency of relevant jurisdiction to provide the:
- 3626 (A) initial training;
- 3627 (B) biannual training; and
- 3628 (C) annual training.

- 3629 (3)(a) A school employee that volunteers to participate is eligible to join the program as
3630 a school guardian if:
- 3631 (i) the school administrator approves the volunteer school employee to be designated
3632 as a school guardian;
 - 3633 (ii) the school employee satisfactorily completes initial training within six months
3634 before the day on which the school employee joins the program;
 - 3635 (iii) the school employee holds a valid concealed carry permit issued under [~~Title 53,~~
3636 ~~Chapter 5, Part 7, Concealed Firearm Act~~] Title 53, Chapter 5a, Part 3, Concealed
3637 Firearm Permits;
 - 3638 (iv) the school employee certifies to the sheriff of the county where the school is
3639 located that the school employee has undergone the training in accordance with
3640 Subsection (3)(a)(ii) and intends to serve as a school guardian; and
 - 3641 (v) the school employee successfully completes a mental health screening selected by
3642 the state security chief in collaboration with the Office of Substance Abuse and
3643 Mental Health established in Section 26B-5-102.
- 3644 (b) After joining the program a school guardian shall complete annual training and
3645 biannual training to retain the designation of a school guardian in the program.
- 3646 (4) The state security chief shall:
- 3647 (a) for each school that participates in the program, track each school guardian at the
3648 school by collecting the photograph and the name and contact information for each
3649 guardian;
 - 3650 (b) make the information described in Subsection (4)(a) readily available to each law
3651 enforcement agency in the state categorized by school; and
 - 3652 (c) provide each school guardian with a one-time stipend of \$500.
- 3653 (5) A school guardian:
- 3654 (a) may store the school guardian's firearm on the grounds of a school only if:
 - 3655 (i) the firearm is stored in a biometric gun safe;
 - 3656 (ii) the biometric gun safe is located in the school guardian's office; and
 - 3657 (iii) the school guardian is physically present on the grounds of the school while the
3658 firearm is stored in the safe;
 - 3659 (b) shall carry the school guardian's firearm in a concealed manner; and
 - 3660 (c) may not, unless during an active threat, display or open carry a firearm while on
3661 school grounds.
- 3662 (6) Except as provided in Subsection (5)(c), this section does not prohibit an individual who

- 3663 has a valid concealed carry permit but is not participating in the program from carrying a
3664 firearm on the grounds of a public school or charter school under Subsection [
3665 ~~76-10-505.5(4)~~ 76-11-205(4)].
- 3666 (7) A school guardian:
- 3667 (a) does not have authority to act in a law enforcement capacity; and
- 3668 (b) may, at the school where the school guardian is employed:
- 3669 (i) take actions necessary to prevent or abate an active threat; and
- 3670 (ii) temporarily detain an individual when the school guardian has reasonable cause
3671 to believe the individual has committed or is about to commit a forcible felony, as
3672 that term is defined in Section 76-2-402.
- 3673 (8) A school may designate a single volunteer or multiple volunteers to participate in the
3674 school guardian program to satisfy the school safety personnel requirements of Section
3675 53G-8-701.5.
- 3676 (9) The department may adopt, according to Title 63G, Chapter 3, Utah Administrative
3677 Rulemaking Act, rules to administer this section.
- 3678 (10) A school guardian who has active status in the guardian program is not liable for any
3679 civil damages or penalties if the school guardian:
- 3680 (a) when carrying or storing a firearm:
- 3681 (i) is acting in good faith; and
- 3682 (ii) is not grossly negligent; or
- 3683 (b) threatens, draws, or otherwise uses a firearm reasonably believing the action to be
3684 necessary in compliance with Section 76-2-402.
- 3685 (11) A school guardian shall file a report described in Subsection (12) if, during the
3686 performance of the school guardian's duties, the school guardian points a firearm at an
3687 individual.
- 3688 (12)(a) A report described in Subsection (11) shall include:
- 3689 (i) a description of the incident;
- 3690 (ii) the identification of the individuals involved in the incident; and
- 3691 (iii) any other information required by the state security chief.
- 3692 (b) A school guardian shall submit a report required under Subsection (11) to the school
3693 administrator, school safety and security director, and the state security chief within
3694 48 hours after the incident.
- 3695 (c) The school administrator, school safety and security director, and the state security
3696 chief shall consult and review the report submitted under Subsection (12)(b).

3697 (13) The requirements of Subsections (11) and (12) do not apply to a training exercise.

3698 (14) A school guardian may have the designation of school guardian revoked at any time by
3699 the school principal, county sheriff, or state security chief.

3700 (15)(a) Any information or record created detailing a school guardian's participation in
3701 the program is:

3702 (i) a private, controlled, or protected record under Title 63G, Chapter 2, Government
3703 Records Access and Management Act; and

3704 (ii) available only to:

3705 (A) the state security chief;

3706 (B) administrators at the school guardian's school;

3707 (C) if applicable, other school safety personnel described in Section 53G-8-701.5;

3708 (D) a local law enforcement agency that would respond to the school in case of an
3709 emergency; and

3710 (E) the individual designated by the county sheriff in accordance with Section
3711 53-22-103 of the county of the school where the school guardian in the
3712 program is located.

3713 (b) The information or record described in Subsection (15)(a) includes information
3714 related to the school guardian's identity and activity within the program as described
3715 in this section and any personal identifying information of a school guardian
3716 participating in the program collected or obtained during initial training, annual
3717 training, and biannual training.

3718 (c) An individual who intentionally or knowingly provides the information described in
3719 Subsection (15)(a) to an individual or entity not listed in Subsection (15)(a)(ii) is
3720 guilty of a class B misdemeanor.

3721 Section 58. Section **53-22-107** is amended to read:

3722 **53-22-107 . Educator-Protector Program.**

3723 (1) As used in this section:

3724 (a) "Annual classroom response training" means a training for a teacher:

3725 (i) that is held at least once a year and is administered, at no cost to a teacher, by the
3726 individual identified by the county sheriff as described in Section 53-22-103; and

3727 (ii) where the teacher is trained:

3728 (A) on how to defend a classroom against active threats emphasizing the teacher's
3729 role in stationary defense; and

3730 (B) on the safe loading, unloading, storage, and carrying of firearms in a school

- 3731 setting.
- 3732 (b) "Bureau" means the Bureau of Criminal Identification created in Section 53-10-201.
- 3733 (c) "Local education agency" means the same as that term is defined in Section
- 3734 53E-1-102.
- 3735 (d) "Program" means the Educator-Protector Program created under this section.
- 3736 (e) "Teacher" means an individual employed by a local education agency who has an
- 3737 assignment to teach in a classroom.
- 3738 (2) There is created the Educator-Protector Program to incentivize a teacher to responsibly
- 3739 secure or carry a firearm on the grounds of the school where the teacher is employed.
- 3740 (3)(a) To participate in the program, a teacher shall:
- 3741 (i) have completed an annual classroom response training within six months before
- 3742 the day on which the teacher joins the program;
- 3743 (ii) have a valid concealed carry permit issued under [~~Title 53, Chapter 5, Part 7,~~
- 3744 ~~Concealed Firearm Act~~] Title 53, Chapter 5a, Part 3, Concealed Firearm Permits;
- 3745 and
- 3746 (iii) certify to the department that:
- 3747 (A) the teacher satisfies the requirements described in Subsections (3)(a)(i) and
- 3748 (3)(a)(ii); and
- 3749 (B) if applicable, intends to securely store or carry a firearm on the grounds of a
- 3750 school where the teacher is employed.
- 3751 (b) After joining the program, to retain the teacher's active status in the program, a
- 3752 teacher shall:
- 3753 (i) participate in annual classroom response training; and
- 3754 (ii) comply with any rules established by the department in accordance with
- 3755 Subsection (10).
- 3756 (4)(a) The state security chief shall:
- 3757 (i) track each teacher that participates in the program by collecting a photograph,
- 3758 name, and contact information for each teacher;
- 3759 (ii) make the information described in Subsection (4)(a) readily available to each law
- 3760 enforcement agency in the state; and
- 3761 (iii) provide reasonable reimbursement, using funds appropriated by the Legislature,
- 3762 to a county sheriff for providing a teacher with annual classroom response training.
- 3763 (b) The state security chief shall categorize the information described in Subsection
- 3764 (4)(a)(i) by school.

- 3765 (5) A teacher participating in the program:
- 3766 (a) may store the teacher's firearm on the grounds of a school only if:
- 3767 (i) the firearm is stored in a biometric gun safe;
- 3768 (ii) the biometric gun safe is located in the teacher's classroom or office; and
- 3769 (iii) the teacher is physically present on the grounds of the school while the firearm is
- 3770 stored in the biometric gun safe; and
- 3771 (b) shall carry the teacher's firearm in a concealed manner unless during an active threat.
- 3772 (6) This section does not prohibit an individual who has a valid concealed carry permit but
- 3773 is not participating in the program from carrying firearms on the grounds of a school as
- 3774 described in Subsection ~~[76-10-505.5(4)]~~ 76-11-205(4).
- 3775 (7)(a) A teacher who has active status in the program is not liable for any civil damages
- 3776 or penalties if the teacher:
- 3777 (i) when carrying or storing a firearm:
- 3778 (A) is acting in good faith; and
- 3779 (B) is not grossly negligent; or
- 3780 (ii) threatens, draws, or otherwise uses a firearm reasonably believing the action to be
- 3781 necessary in compliance with Section 76-2-402.
- 3782 (b) A local education agency is not liable for civil damages or penalties resulting from a
- 3783 teacher who is participating in the program carrying, using, or storing a firearm at a
- 3784 school.
- 3785 (8) A local education agency may not prevent a teacher from participating in the program
- 3786 under this section.
- 3787 (9)(a) Any information or record created detailing a teacher's participation in the
- 3788 program is:
- 3789 (i) a private, controlled, or protected record under Title 63G, Chapter 2, Government
- 3790 Records Access and Management Act; and
- 3791 (ii) available only to:
- 3792 (A) the state security chief;
- 3793 (B) a local law enforcement agency that would respond to the school in case of an
- 3794 emergency; and
- 3795 (C) the individual identified by the county sheriff as described in Section
- 3796 53-22-103.
- 3797 (b) The information or record described in Subsection (9)(a) includes the information
- 3798 described in Subsection (4)(a)(i) and any personal identifying information of a

- 3799 teacher participating in the program collected or obtained during annual classroom
 3800 response training.
- 3801 (c) An individual who intentionally or knowingly provides the information described in
 3802 Subsection (9)(a) to an individual or entity not listed in Subsection (9)(a)(ii) is guilty
 3803 of a class A misdemeanor.
- 3804 (10) In accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, the
 3805 department may adopt rules to administer this section.
- 3806 Section 59. Section **53-25-103** is amended to read:
- 3807 **53-25-103 . Airport dangerous weapon possession reporting requirements.**
- 3808 (1) As used in this section, "commission" means the State Commission on Criminal and
 3809 Juvenile Justice created in Section 63M-7-201.
- 3810 (2) Beginning on January 1, 2026, a law enforcement agency having law enforcement
 3811 jurisdiction over an airport shall annually, on or before April 30, submit a report to the
 3812 commission detailing:
- 3813 (a) for an offense described in Subsection [~~76-10-529(2)(a)(i)~~] 76-11-218(2)(a):
- 3814 (i) the number of issued written warnings;
- 3815 (ii) the number of issued citations;
- 3816 (iii) the number of referrals to a detective; and
- 3817 (iv) the number of referrals to a prosecutor; and
- 3818 (b) for an offense described in Subsection [~~76-10-529(2)(a)(ii)~~] 76-11-218(2)(b):
- 3819 (i) the number of issued written warnings; and
- 3820 (ii) if applicable, the number of issued citations, including the number of individuals
 3821 who have received more than one citation for the offense.
- 3822 (3) The commission shall:
- 3823 (a) develop a standardized format for reporting the data described in Subsection (2);
- 3824 (b) compile the data submitted under Subsection (2); and
- 3825 (c) annually on or before August 1, publish a report of the data described in Subsection
 3826 (2) on the commission's website.
- 3827 Section 60. Section **53-25-501** is amended to read:
- 3828 **53-25-501 . Reporting requirements for seized firearms.**
- 3829 (1) As used in this section:
- 3830 (a) "Commission" means the State Commission on Criminal and Juvenile Justice created
 3831 in Section 63M-7-201.
- 3832 (b) "Firearm" means the same as that term is defined in Section [~~76-10-501~~] 76-11-101.

3833 (c) "Restricted person" means a Category I or Category II restricted person [as defined
3834 ~~in Section 76-10-503]~~ under Section 76-11-302 or 76-11-303.

3835 (2) Beginning on July 1, 2026, a law enforcement agency, not including the Department of
3836 Corrections, shall annually on or before April 30 report to the commission the following
3837 data for the previous calendar year:

3838 (a) the number of firearms the law enforcement agency lawfully seized from restricted
3839 persons;

3840 (b) the types of firearms the law enforcement agency lawfully seized from restricted
3841 persons;

3842 (c) information on where the restricted persons obtained the firearms seized by the law
3843 enforcement agency if the information is known or discoverable by the law
3844 enforcement agency; and

3845 (d) the reasons under Subsection 76-10-503(1)(a) or (b) that made the individuals who
3846 had weapons seized restricted persons.

3847 Section 61. Section **53B-3-103** is amended to read:

3848 **53B-3-103 . Power of board and institutions to adopt rules and enact regulations.**

3849 (1) As used in this section[;] :

3850 (a) "Face covering" means the same as that term is defined in Section 53G-9-210.

3851 (b) [~~"institution"~~] "Institution" means an institution listed in Section 53B-1-102.

3852 (2)(a) The board may enact regulations governing the conduct of university and college
3853 students, faculty, and employees.

3854 (b) A president in consultation with the board of trustees, may enact policies governing
3855 the conduct of university and college students, faculty, and employees.

3856 (3)(a) An institution may enact traffic, parking, and related policies governing all
3857 individuals on campus and facilities owned or controlled by the institution.

3858 (b)(i) The board and an institution may not require proof of vaccination as a
3859 condition for enrollment or attendance within the system of higher education
3860 unless the board or an institution allows for the following exemptions:

3861 (A) a medical exemption if the student provides to the institution a statement that
3862 the claimed exemption is for a medical reason; and

3863 (B) a personal exemption if the student provides to the institution a statement that
3864 the claimed exemption is for a personal or religious belief.

3865 (ii) An institution that offers both remote and in-person learning options may not
3866 deny a student who is exempt from a requirement to receive a vaccine under

3867 Subsection ~~[(2)(b)(i)]~~ (3)(b)(i) to participate in an in-person learning option based
 3868 upon the student's vaccination status.

3869 (iii) Subsections ~~[(2)(b)(i)]~~ (3)(b)(i) and (ii) do not apply to a student studying in a
 3870 medical setting at an institution of higher education.

3871 (iv) Nothing in this section restricts a state or local health department from acting
 3872 under applicable law to contain the spread of an infectious disease.

3873 (c)[(i) ~~For purposes of this Subsection (2)(e), "face covering" means the same as~~
 3874 ~~that term is defined in Section 53G-9-210.~~]

3875 [(ii)] (i) The board or an institution may not require an individual to wear a face
 3876 covering as a condition of attendance for in-person instruction,
 3877 institution-sponsored athletics, institution-sponsored extracurricular activities, in
 3878 dormitories, or in any other place on a campus of an institution within the system
 3879 of higher education at any time after the end of the spring semester in 2021.

3880 [(iii)] (ii) Subsection ~~[(2)(e)(ii)]~~ (3)(c)(i) does not apply to an individual in a medical
 3881 setting at an institution of higher education.

3882 (4) The board shall enact regulations that require all testimony be given under oath during
 3883 an employee grievance hearing for a non-faculty employee of an institution of higher
 3884 education if the grievance hearing relates to the non-faculty employee's:

- 3885 (a) demotion; or
- 3886 (b) termination.

3887 (5) Acknowledging that the Legislature has the authority to regulate, by law, firearms at
 3888 higher education institutions, the board may:

- 3889 (a) authorize higher education institutions to establish no more than one secure area at
 3890 each institution as a hearing room in accordance with Section 76-8-311.1, but not
 3891 otherwise restrict the lawful possession or carrying of firearms; and
- 3892 (b) authorize a higher education institution to make a policy that allows a resident of a
 3893 dormitory located at the institution to request only roommates who ~~[are not licensed~~
 3894 ~~to carry a concealed firearm under Section 53-5-704 or 53-5-705]~~ choose not to
 3895 lawfully possess firearms in the resident's dormitory as allowed in Section
 3896 53-5a-102.3.

3897 (6) In addition to the requirements and penalty prescribed in Sections 76-8-311.1 and
 3898 76-8-311.2, the board shall make rules to ensure:

- 3899 (a) the use of reasonable means such as mechanical, electronic, x-ray, or similar devices,
 3900 to detect firearms, ammunition, or dangerous weapons contained in the personal

- 3901 property of or on the person of any individual attempting to enter a secure area
 3902 hearing room;
- 3903 (b) that an individual required or requested to attend a hearing in a secure area hearing
 3904 room is notified in writing of the requirements related to entering a secure area
 3905 hearing room under this Subsection (6)(b) and Section 76-8-311.1;
- 3906 (c) that the restriction of firearms, ammunition, or dangerous weapons in the secure area
 3907 hearing room is in effect only during the time the secure area hearing room is in use
 3908 for hearings and for a reasonable time before and after the hearing; and
- 3909 (d) the application of reasonable space limitations to the secure area hearing room as the
 3910 number of individuals involved in a typical hearing warrants.
- 3911 (7) The board and institutions may enforce the rules, regulations, and policies described in
 3912 this section in any reasonable manner, including the assessment of fees, fines, and
 3913 forfeitures, through:
- 3914 (a) withholding from money owed the violator;
- 3915 (b) the imposition of probation, suspension, or expulsion from the institution;
- 3916 (c) the revocation of privileges;
- 3917 (d) the refusal to issue certificates, degrees, and diplomas;
- 3918 (e) judicial process; or
- 3919 (f) any reasonable combination of the alternatives described in this Subsection (7).
- 3920 Section 62. Section **53G-8-701.8** is amended to read:
- 3921 **53G-8-701.8 . School safety and security director.**
- 3922 (1) Except as provided in Subsection 53G-8-701.5(3), an LEA shall designate a school
 3923 safety and security director as the LEA point of contact for the county security chief,
 3924 local law enforcement, and the state security chief.
- 3925 (2) A school safety and security director shall:
- 3926 (a) participate in and satisfy the training requirements, including the annual and biannual
 3927 requirements, described in:
- 3928 (i) Section 53-22-105 for school guardians;
- 3929 (ii) Section 53G-8-702 for school resource officers; and
- 3930 (iii) Section 53G-8-704 for armed school security guards;
- 3931 (b) have a valid concealed carry permit issued under [~~Title 53, Chapter 5, Part 7,~~
 3932 ~~Concealed Firearm Act~~] Title 53, Chapter 5a, Part 3, Concealed Firearm Permits;
- 3933 (c) if the designee is an employee of an LEA, participate on the multidisciplinary team
 3934 the LEA establishes;

- 3935 (d) coordinate security responses among, if applicable, the following individuals in the
 3936 LEA that employs the school safety and security director:
- 3937 (i) school safety and security specialists;
 - 3938 (ii) school resource officers;
 - 3939 (iii) armed school security guards; and
 - 3940 (iv) school guardians; and
- 3941 (e) collaborate and maintain effective communications with local law enforcement, a
 3942 county security chief, the LEA, and school-based behavioral and mental health
 3943 professionals to ensure adherence with all policies, procedures, protocols, rules, and
 3944 regulations relating to school safety and security.
- 3945 (3) A school safety and security director:
- 3946 (a) does not have authority to act in a law enforcement capacity; and
 - 3947 (b) may, at the LEA that employs the director:
 - 3948 (i) take actions necessary to prevent or abate an active threat; and
 - 3949 (ii) temporarily detain an individual when the school safety and security director has
 3950 reasonable cause to believe the individual has committed or is about to commit a
 3951 forcible felony, as that term is defined in Section 76-2-402[;] .
- 3952 (4) Notwithstanding Subsection [~~76-10-505.5(4)~~] 76-11-205(4), if a school safety and
 3953 security director is carrying a firearm, the school safety and security director shall carry
 3954 the school safety and security director's firearm in a concealed manner and may not,
 3955 unless during an active threat, display or open carry a firearm while on school grounds.
- 3956 (5) A school may use the services of the school safety and security director on a temporary
 3957 basis to satisfy the school safety personnel requirement of Subsection 53G-8-701.5(2).
- 3958 (6) The state security chief shall:
- 3959 (a) for each school safety and security director, track each school safety and security
 3960 director by collecting the photograph and the name and contact information for each
 3961 school safety and security director; and
 - 3962 (b) make the information described in Subsection (6)(a) readily available to each law
 3963 enforcement agency in the state categorized by LEA.
- 3964 Section 63. Section **53G-8-704** is amended to read:
- 3965 **53G-8-704 . Contracts between an LEA and a contract security company for**
 3966 **armed school security guards.**
- 3967 (1) As used in this section:
- 3968 (a) "Armed private security officer" means the same as that term is defined in Section

- 3969 58-63-102.
- 3970 (b) "Armed school security guard" means an armed private security officer who is:
- 3971 (i) licensed as an armed private security officer under Title 58, Chapter 63, Security
- 3972 Personnel Licensing Act; and
- 3973 (ii) has met the requirements described in Subsection (4)(a).
- 3974 (c) "Contract security company" means the same as that term is defined in Section
- 3975 58-63-102.
- 3976 (d) "State security chief" means the same as that term is defined in Section 53-22-102.
- 3977 (2)(a) An LEA may use an armed school security guard to satisfy the school safety
- 3978 personnel requirements of Section 53G-8-701.5.
- 3979 (b) An LEA that uses an armed school security guard under Subsection (2)(a) shall
- 3980 contract with a contract security company to provide armed school security guards at
- 3981 each school within the LEA.
- 3982 (3) The contract described in Subsection (2)(b) shall include a detailed description of:
- 3983 (a) the rights of a student under state and federal law with regard to:
- 3984 (i) searches;
- 3985 (ii) questioning;
- 3986 (iii) arrests; and
- 3987 (iv) information privacy;
- 3988 (b) job assignment and duties of an armed school security guard, including:
- 3989 (i) the school to which an armed school security guard will be assigned;
- 3990 (ii) the hours an armed school security guard is present at the school;
- 3991 (iii) the point of contact at the school that an armed school security guard will contact
- 3992 in case of an emergency;
- 3993 (iv) specific responsibilities for providing and receiving information;
- 3994 (v) types of records to be kept, and by whom; and
- 3995 (vi) training requirements; and
- 3996 (c) other expectations of the contract security company in relation to school security at
- 3997 the LEA.
- 3998 (4)(a) In addition to the requirements for licensure under Title 58, Chapter 63, Security
- 3999 Personnel Licensing Act, an armed private security officer may only serve as an
- 4000 armed school security guard under a contract described in Subsection (2)(b) if the
- 4001 armed private security officer:
- 4002 (i) has a valid concealed carry permit issued under [~~Title 53, Chapter 5, Part 7,~~

- 4003 ~~Concealed Firearm Act]~~ Title 53, Chapter 5a, Part 3, Concealed Firearm Permits;
4004 and
- 4005 (ii) has undergone training from a county security chief regarding:
4006 (A) the safe loading, unloading, storage, and carrying of firearms in a school
4007 setting;
4008 (B) the role of armed security guards in a school setting; and
4009 (C) coordination with law enforcement and school officials during an active threat.
- 4010 (b) An armed school security guard that meets the requirements of Subsection (4)(a)
4011 shall, in order to remain eligible to be assigned as an armed school security guard at
4012 any school under a contract described in Subsection (2)(b), participate in and satisfy
4013 the training requirements of the initial, annual, and biannual trainings as defined in
4014 Section 53-22-105.
- 4015 (5) An armed school security guard may conceal or openly carry a firearm at the school at
4016 which the armed school security guard is employed under the contract described in
4017 Subsection (2)(b).
- 4018 (6) An LEA that enters a contract under this section shall inform the state security chief and
4019 the relevant county security chief of the contract and provide the contact information of
4020 the contract security company employing the armed security guard for use during an
4021 emergency.
- 4022 (7) The state security chief shall:
4023 (a) for each LEA that contracts with a contract security company under this section,
4024 track each contract security company providing armed school security guards by
4025 name and the contact information for use in case of an emergency; and
4026 (b) make the information described in Subsection (7)(a) readily available to each law
4027 enforcement agency in the state by school.
- 4028 (8) An armed school security guard shall file a report described in Subsection (9) if, during
4029 the performance of the armed school security guard's duties, the armed school security
4030 guard:
4031 (a) points a firearm at an individual; or
4032 (b) aims a conductive energy device at an individual and displays the electrical current.
- 4033 (9)(a) A report described in Subsection (8) shall include:
4034 (i) a description of the incident;
4035 (ii) the identification of the individuals involved in the incident; and
4036 (iii) any other information required by the state security chief.

4037 (b) An armed school security guard shall submit a report required under Subsection (8)
4038 to the school administrator, school safety and security director, and the state security
4039 chief within 48 hours after the incident.

4040 (c) The school administrator, school safety and security director, and the state security
4041 chief shall consult and review the report submitted under Subsection (9)(b).

4042 Section 64. Section **58-37-8** is amended to read:

4043 **58-37-8 . Prohibited acts -- Penalties.**

4044 (1) Prohibited acts A -- Penalties and reporting:

4045 (a) Except as authorized by this chapter, it is unlawful for a person to knowingly and
4046 intentionally:

4047 (i) produce, manufacture, or dispense, or to possess with intent to produce,
4048 manufacture, or dispense, a controlled or counterfeit substance;

4049 (ii) distribute a controlled or counterfeit substance, or to agree, consent, offer, or
4050 arrange to distribute a controlled or counterfeit substance;

4051 (iii) possess a controlled or counterfeit substance with intent to distribute; or

4052 (iv) engage in a continuing criminal enterprise where:

4053 (A) the person participates, directs, or engages in conduct that results in a
4054 violation of this chapter, Chapter 37a, Utah Drug Paraphernalia Act, Chapter
4055 37b, Imitation Controlled Substances Act, Chapter 37c, Utah Controlled
4056 Substance Precursor Act, or Chapter 37d, Clandestine Drug Lab Act, that is a
4057 felony; and

4058 (B) the violation is a part of a continuing series of two or more violations of this
4059 chapter, Chapter 37a, Utah Drug Paraphernalia Act, Chapter 37b, Imitation
4060 Controlled Substances Act, Chapter 37c, Utah Controlled Substance Precursor
4061 Act, or Chapter 37d, Clandestine Drug Lab Act, on separate occasions that are
4062 undertaken in concert with five or more persons with respect to whom the
4063 person occupies a position of organizer, supervisor, or any other position of
4064 management.

4065 (b) A person convicted of violating Subsection (1)(a) with respect to:

4066 (i) a substance or a counterfeit of a substance classified in Schedule I or II, a
4067 controlled substance analog, or gammahydroxybutyric acid as listed in Schedule
4068 III is guilty of a second degree felony, punishable by imprisonment for not more
4069 than 15 years, and upon a second or subsequent conviction is guilty of a first
4070 degree felony;

- 4071 (ii) a substance or a counterfeit of a substance classified in Schedule III or IV, or
4072 marijuana, or a substance listed in Section 58-37-4.2 is guilty of a third degree
4073 felony, and upon a second or subsequent conviction is guilty of a second degree
4074 felony; or
- 4075 (iii) a substance or a counterfeit of a substance classified in Schedule V is guilty of a
4076 class A misdemeanor and upon a second or subsequent conviction is guilty of a
4077 third degree felony.
- 4078 (c)(i) Except as provided in Subsection (1)(c)(ii), a person who has been convicted
4079 of a violation of Subsection (1)(a)(ii) or (iii) may be sentenced to imprisonment
4080 for an indeterminate term as described in Subsection (1)(b) and Title 76, Chapter
4081 3, Punishments.
- 4082 (ii) The court shall impose an indeterminate prison term for a person who has been
4083 convicted of a violation of Subsection (1)(a)(ii) or (iii) that is a first degree felony
4084 or a second degree felony if the trier of fact finds beyond a reasonable doubt that,
4085 during the commission or furtherance of the violation, the person intentionally or
4086 knowingly:
- 4087 (A) used, drew, or exhibited a dangerous weapon, as that term is defined in
4088 Section ~~[76-10-501]~~ 76-11-101, that is not a firearm, in an angry, threatening,
4089 intimidating, or coercive manner;
- 4090 (B) used a firearm or had a firearm readily accessible for immediate use, as those
4091 terms are defined in Section ~~[76-10-501]~~ 76-11-101; or
- 4092 (C) distributed a firearm, as that term is defined in Section ~~[76-10-501]~~ 76-11-101,
4093 or possessed a firearm with intent to distribute the firearm.
- 4094 (iii) Notwithstanding Subsection (1)(c)(ii), a court may suspend the indeterminate
4095 prison term for a person convicted under Subsection (1)(c)(ii) if the court:
- 4096 (A) details on the record the reasons why it is in the interests of justice not to
4097 impose the indeterminate prison term;
- 4098 (B) makes a finding on the record that the person does not pose a significant
4099 safety risk to the public; and
- 4100 (C) orders the person to complete the terms and conditions of supervised
4101 probation provided by the Department of Corrections.
- 4102 (d)(i) A person convicted of violating Subsection (1)(a)(iv) is guilty of a first degree
4103 felony punishable by imprisonment for an indeterminate term of not less than:
4104 (A) seven years and which may be for life; or

- 4105 (B) 15 years and which may be for life if the trier of fact determined that the
4106 defendant knew or reasonably should have known that any subordinate under
4107 Subsection (1)(a)(iv)(B) was under 18 years old.
- 4108 (ii) Imposition or execution of the sentence may not be suspended, and the person is
4109 not eligible for probation.
- 4110 (iii) Subsection (1)(d)(i)(B) does not apply to any defendant who, at the time of the
4111 offense, was under 18 years old.
- 4112 (e) The Administrative Office of the Courts shall report to the Division of Professional
4113 Licensing the name, case number, date of conviction, and if known, the date of birth
4114 of each person convicted of violating Subsection (1)(a).
- 4115 (2) Prohibited acts B -- Penalties and reporting:
- 4116 (a) It is unlawful:
- 4117 (i) for a person knowingly and intentionally to possess or use a controlled substance
4118 analog or a controlled substance, unless it was obtained under a valid prescription
4119 or order, directly from a practitioner while acting in the course of the person's
4120 professional practice, or as otherwise authorized by this chapter;
- 4121 (ii) for an owner, tenant, licensee, or person in control of a building, room, tenement,
4122 vehicle, boat, aircraft, or other place knowingly and intentionally to permit them
4123 to be occupied by persons unlawfully possessing, using, or distributing controlled
4124 substances in any of those locations; or
- 4125 (iii) for a person knowingly and intentionally to possess an altered or forged
4126 prescription or written order for a controlled substance.
- 4127 (b) A person convicted of violating Subsection (2)(a)(i) with respect to:
- 4128 (i) marijuana, if the amount is 100 pounds or more, is guilty of a second degree
4129 felony; or
- 4130 (ii) a substance classified in Schedule I or II, or a controlled substance analog, is
4131 guilty of a class A misdemeanor on a first or second conviction, and on a third or
4132 subsequent conviction if each prior offense was committed within seven years
4133 before the date of the offense upon which the current conviction is based is guilty
4134 of a third degree felony.
- 4135 (c) Upon a person's conviction of a violation of this Subsection (2) subsequent to a
4136 conviction under Subsection (1)(a), that person shall be sentenced to a one degree
4137 greater penalty than provided in this Subsection (2).
- 4138 (d) A person who violates Subsection (2)(a)(i) with respect to all other controlled

- 4139 substances not included in Subsection (2)(b)(i) or (ii), including a substance listed in
4140 Section 58-37-4.2, or marijuana, is guilty of a class B misdemeanor.
- 4141 (i) Upon a third conviction the person is guilty of a class A misdemeanor, if each
4142 prior offense was committed within seven years before the date of the offense
4143 upon which the current conviction is based.
- 4144 (ii) Upon a fourth or subsequent conviction the person is guilty of a third degree
4145 felony if each prior offense was committed within seven years before the date of
4146 the offense upon which the current conviction is based.
- 4147 (e) A person convicted of violating Subsection (2)(a)(i) while inside the exterior
4148 boundaries of property occupied by a correctional facility as defined in Section
4149 64-13-1 or a public jail or other place of confinement shall be sentenced to a penalty
4150 one degree greater than provided in Subsection (2)(b), and if the conviction is with
4151 respect to controlled substances as listed in:
- 4152 (i) Subsection (2)(b), the person may be sentenced to imprisonment for an
4153 indeterminate term as provided by law, and:
- 4154 (A) the court shall additionally sentence the person convicted to a term of one year
4155 to run consecutively and not concurrently; and
- 4156 (B) the court may additionally sentence the person convicted for an indeterminate
4157 term not to exceed five years to run consecutively and not concurrently; and
- 4158 (ii) Subsection (2)(d), the person may be sentenced to imprisonment for an
4159 indeterminate term as provided by law, and the court shall additionally sentence
4160 the person convicted to a term of six months to run consecutively and not
4161 concurrently.
- 4162 (f) A person convicted of violating Subsection (2)(a)(ii) or (iii) is:
- 4163 (i) on a first conviction, guilty of a class B misdemeanor;
- 4164 (ii) on a second conviction, guilty of a class A misdemeanor; and
- 4165 (iii) on a third or subsequent conviction, guilty of a third degree felony.
- 4166 (g) The Administrative Office of the Courts shall report to the Division of Professional
4167 Licensing the name, case number, date of conviction, and if known, the date of birth
4168 of each person convicted of violating Subsection (2)(a).
- 4169 (3) Prohibited acts C -- Penalties:
- 4170 (a) It is unlawful for a person knowingly and intentionally:
- 4171 (i) to use in the course of the manufacture or distribution of a controlled substance a
4172 license number which is fictitious, revoked, suspended, or issued to another

- 4173 person or, for the purpose of obtaining a controlled substance, to assume the title
4174 of, or represent oneself to be, a manufacturer, wholesaler, apothecary, physician,
4175 dentist, veterinarian, or other authorized person;
- 4176 (ii) to acquire or obtain possession of, to procure or attempt to procure the
4177 administration of, to obtain a prescription for, to prescribe or dispense to a person
4178 known to be attempting to acquire or obtain possession of, or to procure the
4179 administration of a controlled substance by misrepresentation or failure by the
4180 person to disclose receiving a controlled substance from another source, fraud,
4181 forgery, deception, subterfuge, alteration of a prescription or written order for a
4182 controlled substance, or the use of a false name or address;
- 4183 (iii) to make a false or forged prescription or written order for a controlled substance,
4184 or to utter the same, or to alter a prescription or written order issued or written
4185 under the terms of this chapter; or
- 4186 (iv) to make, distribute, or possess a punch, die, plate, stone, or other thing designed
4187 to print, imprint, or reproduce the trademark, trade name, or other identifying
4188 mark, imprint, or device of another or any likeness of any of the foregoing upon
4189 any drug or container or labeling so as to render a drug a counterfeit controlled
4190 substance.
- 4191 (b)(i) A first or second conviction under Subsection (3)(a)(i), (ii), or (iii) is a class A
4192 misdemeanor.
- 4193 (ii) A third or subsequent conviction under Subsection (3)(a)(i), (ii), or (iii) is a third
4194 degree felony.
- 4195 (c) A violation of Subsection (3)(a)(iv) is a third degree felony.
- 4196 (4) Prohibited acts D -- Penalties:
- 4197 (a) Notwithstanding other provisions of this section, a person not authorized under this
4198 chapter who commits any act that is unlawful under Subsection (1)(a) or Section
4199 58-37b-4 is upon conviction subject to the penalties and classifications under this
4200 Subsection (4) if the trier of fact finds the act is committed:
- 4201 (i) in a public or private elementary or secondary school or on the grounds of any of
4202 those schools during the hours of 6 a.m. through 10 p.m.;
- 4203 (ii) in a public or private vocational school or postsecondary institution or on the
4204 grounds of any of those schools or institutions during the hours of 6 a.m. through
4205 10 p.m.;
- 4206 (iii) in or on the grounds of a preschool or child-care facility during the preschool's or

- 4207 facility's hours of operation;
- 4208 (iv) in a public park, amusement park, arcade, or recreation center when the public or
4209 amusement park, arcade, or recreation center is open to the public;
- 4210 (v) in or on the grounds of a house of worship as defined in Section [76-10-501]
4211 76-11-201;
- 4212 (vi) in or on the grounds of a library when the library is open to the public;
- 4213 (vii) within an area that is within 100 feet of any structure, facility, or grounds
4214 included in Subsections (4)(a)(i) through (vi);
- 4215 (viii) in the presence of a person younger than 18 years old, regardless of where the
4216 act occurs; or
- 4217 (ix) for the purpose of facilitating, arranging, or causing the transport, delivery, or
4218 distribution of a substance in violation of this section to an inmate or on the
4219 grounds of a correctional facility as defined in Section 76-8-311.3.
- 4220 (b)(i) A person convicted under this Subsection (4) is guilty of a first degree felony
4221 and shall be imprisoned for a term of not less than five years if the penalty that
4222 would otherwise have been established but for this Subsection (4) would have
4223 been a first degree felony.
- 4224 (ii) Imposition or execution of the sentence may not be suspended, and the person is
4225 not eligible for probation.
- 4226 (c) If the classification that would otherwise have been established would have been less
4227 than a first degree felony but for this Subsection (4), a person convicted under this
4228 Subsection (4) is guilty of one degree more than the maximum penalty prescribed for
4229 that offense.
- 4230 (d)(i) If the violation is of Subsection (4)(a)(ix):
- 4231 (A) the person may be sentenced to imprisonment for an indeterminate term as
4232 provided by law, and the court shall additionally sentence the person convicted
4233 for a term of one year to run consecutively and not concurrently; and
- 4234 (B) the court may additionally sentence the person convicted for an indeterminate
4235 term not to exceed five years to run consecutively and not concurrently; and
- 4236 (ii) the penalties under this Subsection (4)(d) apply also to a person who, acting with
4237 the mental state required for the commission of an offense, directly or indirectly
4238 solicits, requests, commands, coerces, encourages, or intentionally aids another
4239 person to commit a violation of Subsection (4)(a)(ix).
- 4240 (e) It is not a defense to a prosecution under this Subsection (4) that:

- 4241 (i) the actor mistakenly believed the individual to be 18 years old or older at the time
4242 of the offense or was unaware of the individual's true age; or
- 4243 (ii) the actor mistakenly believed that the location where the act occurred was not as
4244 described in Subsection (4)(a) or was unaware that the location where the act
4245 occurred was as described in Subsection (4)(a).
- 4246 (5) A violation of this chapter for which no penalty is specified is a class B misdemeanor.
- 4247 (6)(a) For purposes of penalty enhancement under Subsections (1) and (2), a plea of
4248 guilty or no contest to a violation or attempted violation of this section or a plea
4249 which is held in abeyance under Title 77, Chapter 2a, Pleas in Abeyance, is the
4250 equivalent of a conviction, even if the charge has been subsequently reduced or
4251 dismissed in accordance with the plea in abeyance agreement.
- 4252 (b) A prior conviction used for a penalty enhancement under Subsection (2) shall be a
4253 conviction that is:
- 4254 (i) from a separate criminal episode than the current charge; and
- 4255 (ii) from a conviction that is separate from any other conviction used to enhance the
4256 current charge.
- 4257 (7) A person may be charged and sentenced for a violation of this section, notwithstanding
4258 a charge and sentence for a violation of any other section of this chapter.
- 4259 (8)(a) A penalty imposed for violation of this section is in addition to, and not in lieu of,
4260 a civil or administrative penalty or sanction authorized by law.
- 4261 (b) When a violation of this chapter violates a federal law or the law of another state,
4262 conviction or acquittal under federal law or the law of another state for the same act
4263 is a bar to prosecution in this state.
- 4264 (9) In any prosecution for a violation of this chapter, evidence or proof that shows a person
4265 or persons produced, manufactured, possessed, distributed, or dispensed a controlled
4266 substance or substances, is prima facie evidence that the person or persons did so with
4267 knowledge of the character of the substance or substances.
- 4268 (10) This section does not prohibit a veterinarian, in good faith and in the course of the
4269 veterinarian's professional practice only and not for humans, from prescribing,
4270 dispensing, or administering controlled substances or from causing the substances to be
4271 administered by an assistant or orderly under the veterinarian's direction and supervision.
- 4272 (11) Civil or criminal liability may not be imposed under this section on:
- 4273 (a) a person registered under this chapter who manufactures, distributes, or possesses an
4274 imitation controlled substance for use as a placebo or investigational new drug by a

- 4275 registered practitioner in the ordinary course of professional practice or research;
- 4276 (b) a law enforcement officer acting in the course and legitimate scope of the officer's
- 4277 employment; or
- 4278 (c) a healthcare facility, substance use harm reduction services program, or drug
- 4279 addiction treatment facility that temporarily possesses a controlled or counterfeit
- 4280 substance to conduct a test or analysis on the controlled or counterfeit substance to
- 4281 identify or analyze the strength, effectiveness, or purity of the substance for a public
- 4282 health or safety reason.
- 4283 (12)(a) Civil or criminal liability may not be imposed under this section on any Indian,
- 4284 as defined in Section 58-37-2, who uses, possesses, or transports peyote for bona fide
- 4285 traditional ceremonial purposes in connection with the practice of a traditional Indian
- 4286 religion as defined in Section 58-37-2.
- 4287 (b) In a prosecution alleging violation of this section regarding peyote as defined in
- 4288 Section 58-37-4, it is an affirmative defense that the peyote was used, possessed, or
- 4289 transported by an Indian for bona fide traditional ceremonial purposes in connection
- 4290 with the practice of a traditional Indian religion.
- 4291 (c)(i) The defendant shall provide written notice of intent to claim an affirmative
- 4292 defense under this Subsection (12) as soon as practicable, but not later than 10
- 4293 days before trial.
- 4294 (ii) The notice shall include the specific claims of the affirmative defense.
- 4295 (iii) The court may waive the notice requirement in the interest of justice for good
- 4296 cause shown, if the prosecutor is not unfairly prejudiced by the lack of timely
- 4297 notice.
- 4298 (d) The defendant shall establish the affirmative defense under this Subsection (12) by a
- 4299 preponderance of the evidence. If the defense is established, it is a complete defense
- 4300 to the charges.
- 4301 (13)(a) It is an affirmative defense that the person produced, possessed, or administered
- 4302 a controlled substance listed in Section 58-37-4.2 if the person was:
- 4303 (i) engaged in medical research; and
- 4304 (ii) a holder of a valid license to possess controlled substances under Section 58-37-6.
- 4305 (b) It is not a defense under Subsection (13)(a) that the person prescribed or dispensed a
- 4306 controlled substance listed in Section 58-37-4.2.
- 4307 (14) It is an affirmative defense that the person possessed, in the person's body, a controlled
- 4308 substance listed in Section 58-37-4.2 if:

- 4309 (a) the person was the subject of medical research conducted by a holder of a valid
4310 license to possess controlled substances under Section 58-37-6; and
4311 (b) the substance was administered to the person by the medical researcher.
- 4312 (15) The application of any increase in penalty under this section to a violation of
4313 Subsection (2)(a)(i) may not result in any greater penalty than a second degree felony.
4314 This Subsection (15) takes precedence over any conflicting provision of this section.
- 4315 (16)(a) It is an affirmative defense to an allegation of the commission of an offense
4316 listed in Subsection (16)(b) that the person or bystander:
- 4317 (i) reasonably believes that the person or another person is experiencing an overdose
4318 event due to the ingestion, injection, inhalation, or other introduction into the
4319 human body of a controlled substance or other substance;
 - 4320 (ii) reports, or assists a person who reports, in good faith the overdose event to a
4321 medical provider, an emergency medical service provider as defined in Section
4322 53-2d-101, a law enforcement officer, a 911 emergency call system, or an
4323 emergency dispatch system, or the person is the subject of a report made under
4324 this Subsection (16);
 - 4325 (iii) provides in the report under Subsection (16)(a)(ii) a functional description of the
4326 actual location of the overdose event that facilitates responding to the person
4327 experiencing the overdose event;
 - 4328 (iv) remains at the location of the person experiencing the overdose event until a
4329 responding law enforcement officer or emergency medical service provider
4330 arrives, or remains at the medical care facility where the person experiencing an
4331 overdose event is located until a responding law enforcement officer arrives;
 - 4332 (v) cooperates with the responding medical provider, emergency medical service
4333 provider, and law enforcement officer, including providing information regarding
4334 the person experiencing the overdose event and any substances the person may
4335 have injected, inhaled, or otherwise introduced into the person's body; and
 - 4336 (vi) is alleged to have committed the offense in the same course of events from which
4337 the reported overdose arose.
- 4338 (b) The offenses referred to in Subsection (16)(a) are:
- 4339 (i) the possession or use of less than 16 ounces of marijuana;
 - 4340 (ii) the possession or use of a scheduled or listed controlled substance other than
4341 marijuana; and
 - 4342 (iii) any violation of Chapter 37a, Utah Drug Paraphernalia Act, or Chapter 37b,

- 4343 Imitation Controlled Substances Act.
- 4344 (c) As used in this Subsection (16) and in Section 76-3-203.11, "good faith" does not
 4345 include seeking medical assistance under this section during the course of a law
 4346 enforcement agency's execution of a search warrant, execution of an arrest warrant,
 4347 or other lawful search.
- 4348 (17) If any provision of this chapter, or the application of any provision to any person or
 4349 circumstances, is held invalid, the remainder of this chapter shall be given effect without
 4350 the invalid provision or application.
- 4351 (18) A legislative body of a political subdivision may not enact an ordinance that is less
 4352 restrictive than any provision of this chapter.
- 4353 (19) If a minor who is under 18 years old is found by a court to have violated this section or
 4354 Subsection 76-5-102.1(2)(b) or 76-5-207(2)(b), the court may order the minor to
 4355 complete:
- 4356 (a) a screening as defined in Section 41-6a-501;
- 4357 (b) an assessment as defined in Section 41-6a-501 if the screening indicates an
 4358 assessment to be appropriate; and
- 4359 (c) an educational series as defined in Section 41-6a-501 or substance use disorder
 4360 treatment as indicated by an assessment.
- 4361 Section 65. Section **58-63-307** is amended to read:
- 4362 **58-63-307 . Use of firearms.**
- 4363 (1) An individual licensed as an armored car security officer or an armed private security
 4364 officer may carry a firearm only while acting as an armored car security officer or an
 4365 armed private security officer in accordance with this chapter and rules made under this
 4366 chapter.
- 4367 (2) An individual licensed as an armored car security officer or an armed private security
 4368 officer is exempt from the provisions of [~~Section 76-10-505 and Title 53, Chapter 5, Part~~
 4369 ~~7, Concealed Firearm Act~~] Title 53, Chapter 5a, Part 3, Concealed Firearm Permits,
 4370 while acting as an armored car security officer or an armed private security officer in
 4371 accordance with this chapter and rules made under this chapter.
- 4372 Section 66. Section **63G-2-303** is amended to read:
- 4373 **63G-2-303 . Private information concerning certain government employees.**
- 4374 (1) As used in this section:
- 4375 (a) "At-risk government employee" means a current or former:
- 4376 (i) peace officer as specified in Section 53-13-102;

- 4377 (ii) state or federal judge of an appellate, district, justice, or juvenile court, or court
4378 commissioner;
- 4379 (iii) judge authorized by Title 39A, Chapter 5, Utah Code of Military Justice;
- 4380 (iv) judge authorized by Armed Forces, Title 10, United States Code;
- 4381 (v) federal prosecutor;
- 4382 (vi) prosecutor appointed pursuant to Armed Forces, Title 10, United States Code;
- 4383 (vii) law enforcement official as defined in Section [~~53-5-711~~] 53-5a-311;
- 4384 (viii) prosecutor authorized by Title 39A, Chapter 5, Utah Code of Military Justice; or
- 4385 (ix) state or local government employee who, because of the unique nature of the
4386 employee's regular work assignments or because of one or more recent credible
4387 threats directed to or against the employee, would be at immediate and substantial
4388 risk of physical harm if the employee's personal information is disclosed.
- 4389 (b) "Family member" means the spouse, child, sibling, parent, or grandparent of an
4390 at-risk government employee who is living with the employee.
- 4391 (c) "Personal information" means the employee's or the employee's family member's
4392 home address, home telephone number, personal mobile telephone number, personal
4393 pager number, personal email address, social security number, insurance coverage,
4394 marital status, or payroll deductions.
- 4395 (2)(a) Pursuant to Subsection 63G-2-302(1)(h), an at-risk government employee may
4396 file a written application that:
- 4397 (i) gives notice of the employee's status as an at-risk government employee to each
4398 agency of a government entity holding a record or a part of a record that would
4399 disclose the employee's personal information; and
- 4400 (ii) requests that the government agency classify those records or parts of records as
4401 private.
- 4402 (b) An at-risk government employee desiring to file an application under this section
4403 may request assistance from the government agency to identify the individual records
4404 containing personal information.
- 4405 (c) Each government agency shall develop a form that:
- 4406 (i) requires the at-risk government employee to designate each specific record or part
4407 of a record containing the employee's personal information that the applicant
4408 desires to be classified as private;
- 4409 (ii) affirmatively requests that the government entity holding those records classify
4410 them as private;

- 4411 (iii) informs the employee that by submitting a completed form the employee may
4412 not receive official announcements affecting the employee's property, including
4413 notices about proposed municipal annexations, incorporations, or zoning
4414 modifications; and
- 4415 (iv) contains a place for the signature required under Subsection (2)(d).
- 4416 (d) A form submitted by an employee under Subsection (2)(c) shall be signed by the
4417 highest ranking elected or appointed official in the employee's chain of command
4418 certifying that the employee submitting the form is an at-risk government employee.
- 4419 (3) A county recorder, county treasurer, county auditor, or a county tax assessor may fully
4420 satisfy the requirements of this section by:
- 4421 (a) providing a method for the assessment roll and index and the tax roll and index that
4422 will block public access to the home address, home telephone number, situs address,
4423 and Social Security number; and
- 4424 (b) providing the at-risk government employee requesting the classification with a
4425 disclaimer informing the employee that the employee may not receive official
4426 announcements affecting the employee's property, including notices about proposed
4427 annexations, incorporations, or zoning modifications.
- 4428 (4) A government agency holding records of an at-risk government employee classified as
4429 private under this section may release the record or part of the record if:
- 4430 (a) the employee or former employee gives written consent;
- 4431 (b) a court orders release of the records;
- 4432 (c) the government agency receives a certified death certificate for the employee or
4433 former employee; or
- 4434 (d) as it relates to the employee's voter registration record:
- 4435 (i) the person to whom the record or part of the record is released is a qualified
4436 person under Subsection 20A-2-104(4)(n); and
- 4437 (ii) the government agency's release of the record or part of the record complies with
4438 the requirements of Subsection 20A-2-104(4)(o).
- 4439 (5)(a) If the government agency holding the private record receives a subpoena for the
4440 records, the government agency shall attempt to notify the at-risk government
4441 employee or former employee by mailing a copy of the subpoena to the employee's
4442 last-known mailing address together with a request that the employee either:
- 4443 (i) authorize release of the record; or
- 4444 (ii) within 10 days of the date that the copy and request are mailed, deliver to the

4445 government agency holding the private record a copy of a motion to quash filed
4446 with the court who issued the subpoena.

4447 (b) The government agency shall comply with the subpoena if the government agency
4448 has:

4449 (i) received permission from the at-risk government employee or former employee to
4450 comply with the subpoena;

4451 (ii) not received a copy of a motion to quash within 10 days of the date that the copy
4452 of the subpoena was mailed; or

4453 (iii) received a court order requiring release of the records.

4454 (6)(a) Except as provided in Subsection (6)(b), a form submitted under this section
4455 remains in effect until the earlier of:

4456 (i) four years after the date the employee signs the form, whether or not the
4457 employee's employment terminates before the end of the four-year period; and

4458 (ii) one year after the government agency receives official notice of the death of the
4459 employee.

4460 (b) A form submitted under this section may be rescinded at any time by:

4461 (i) the at-risk government employee who submitted the form; or

4462 (ii) if the at-risk government employee is deceased, a member of the employee's
4463 immediate family.

4464 Section 67. Section **63G-2-801** is amended to read:

4465 **63G-2-801 . Criminal penalties.**

4466 (1)(a) A public employee or other person who has lawful access to any private,
4467 controlled, or protected record under this chapter, and who intentionally discloses,
4468 provides a copy of, or improperly uses a private, controlled, or protected record
4469 knowing that the disclosure or use is prohibited under this chapter, is, except as
4470 provided in Subsection [~~53-5-708(1)(e)] 53-5a-310(1)(c), guilty of a class B
4471 misdemeanor.~~

4472 (b) It is a defense to prosecution under Subsection (1)(a) that the actor used or released
4473 private, controlled, or protected information in the reasonable belief that the use or
4474 disclosure of the information was necessary to expose a violation of law involving
4475 government corruption, abuse of office, or misappropriation of public funds or
4476 property.

4477 (c) It is a defense to prosecution under Subsection (1)(a) that the record could have
4478 lawfully been released to the recipient if it had been properly classified.

- 4479 (d) It is a defense to prosecution under Subsection (1)(a) that the public employee or
 4480 other person disclosed, provided, or used the record based on a good faith belief that
 4481 the disclosure, provision, or use was in accordance with the law.
- 4482 (2)(a) A person who by false pretenses, bribery, or theft, gains access to or obtains a
 4483 copy of any private, controlled, or protected record to which the person is not legally
 4484 entitled is guilty of a class B misdemeanor.
- 4485 (b) No person shall be guilty under Subsection (2)(a) who receives the record,
 4486 information, or copy after the fact and without prior knowledge of or participation in
 4487 the false pretenses, bribery, or theft.
- 4488 (3)(a) A public employee who intentionally refuses to release a record, the disclosure of
 4489 which the employee knows is required by law, is guilty of a class B misdemeanor.
- 4490 (b) It is a defense to prosecution under Subsection (3)(a) that the public employee's
 4491 failure to release the record was based on a good faith belief that the public employee
 4492 was acting in accordance with the requirements of law.
- 4493 (c) A public employee who intentionally refuses to release a record, the disclosure of
 4494 which the employee knows is required by a final unappealed order from a
 4495 government entity, the State Records Committee, or a court is guilty of a class B
 4496 misdemeanor.
- 4497 Section 68. Section **63I-1-253** is amended to read:
 4498 **63I-1-253 . Repeal dates: Titles 53 through 53G.**
- 4499 (1) Section 53-1-122, Road Rage Awareness and Prevention Restricted Account, is
 4500 repealed July 1, 2028.
- 4501 (2) Section 53-2a-105, Emergency Management Administration Council created --
 4502 Function -- Composition -- Expenses, is repealed July 1, 2029.
- 4503 (3) Section 53-2a-1103, Search and Rescue Advisory Board -- Members -- Compensation,
 4504 is repealed July 1, 2027.
- 4505 (4) Section 53-2a-1104, General duties of the Search and Rescue Advisory Board, is
 4506 repealed July 1, 2027.
- 4507 (5) Title 53, Chapter 2a, Part 15, Grid Resilience Committee, is repealed July 1, 2027.
- 4508 (6) Section 53-2d-104, State Emergency Medical Services Committee -- Membership --
 4509 Expenses, is repealed July 1, 2029.
- 4510 (7) Section 53-2d-703, Volunteer Emergency Medical Service Personnel Health Insurance
 4511 Program -- Creation -- Administration -- Eligibility -- Benefits -- Rulemaking --
 4512 Advisory board, is repealed July 1, 2027.

- 4513 (8) Section ~~[53-5-703]~~ 53-5a-302, Concealed Firearm Review Board -- Membership --
4514 Compensation -- Terms -- Duties, is repealed July 1, 2029.
- 4515 (9) Section 53-5a-603, Information check before private sale of firearm, is repealed July 1,
4516 2025
- 4517 ~~[(9)]~~ (10) Section 53-11-104, Board, is repealed July 1, 2029.
- 4518 ~~[(10)]~~ (11) Section 53-22-104.1, School Security Task Force -- Membership -- Duties -- Per
4519 diem -- Report -- Expiration, is repealed December 31, 2025.
- 4520 ~~[(11)]~~ (12) Section 53-22-104.2, The School Security Task Force -- Education Advisory
4521 Board, is repealed December 31, 2025.
- 4522 ~~[(12)]~~ (13) Subsection 53B-1-301(1)(j), regarding the Higher Education and Corrections
4523 Council, is repealed July 1, 2027.
- 4524 ~~[(13)]~~ (14) Section 53B-7-709, Five-year performance goals, is repealed July 1, 2027.
- 4525 ~~[(14)]~~ (15) Title 53B, Chapter 8a, Part 3, Education Savings Incentive Program, is repealed
4526 July 1, 2028.
- 4527 ~~[(15)]~~ (16) Title 53B, Chapter 17, Part 11, USTAR Researchers, is repealed July 1, 2028.
- 4528 ~~[(16)]~~ (17) Section 53B-17-1203, SafeUT and School Safety Commission established --
4529 Members, is repealed January 1, 2030.
- 4530 ~~[(17)]~~ (18) Title 53B, Chapter 18, Part 16, USTAR Researchers, is repealed July 1, 2028.
- 4531 ~~[(18)]~~ (19) Title 53B, Chapter 18, Part 17, Food Security Council, is repealed July 1, 2027.
- 4532 ~~[(19)]~~ (20) Title 53B, Chapter 18, Part 18, Electrification of Transportation Infrastructure
4533 Research Center, is repealed July 1, 2028.
- 4534 ~~[(20)]~~ (21) Title 53B, Chapter 35, Higher Education and Corrections Council, is repealed
4535 July 1, 2027.
- 4536 ~~[(21)]~~ (22) Subsection 53C-3-203(4)(b)(vii), regarding the distribution of money from the
4537 Land Exchange Distribution Account to the Geological Survey for test wells and other
4538 hydrologic studies in the West Desert, is repealed July 1, 2030.
- 4539 ~~[(22)]~~ (23) Subsection 53E-1-201(1)(q), regarding the Higher Education and Corrections
4540 Council, is repealed July 1, 2027.
- 4541 ~~[(23)]~~ (24) Subsection 53E-2-304(6), regarding foreclosing a private right of action or
4542 waiver of governmental immunity, is repealed July 1, 2027.
- 4543 ~~[(24)]~~ (25) Subsection 53E-3-503(5), regarding coordinating councils for youth in care, is
4544 repealed July 1, 2027.
- 4545 ~~[(25)]~~ (26) Subsection 53E-3-503(6), regarding coordinating councils for youth in care, is
4546 repealed July 1, 2027.

- 4547 [(26)] (27) Subsection 53E-4-202(8)(b), regarding a standards review committee, is repealed
 4548 January 1, 2028.
- 4549 [(27)] (28) Section 53E-4-203, Standards review committee, is repealed January 1, 2028.
- 4550 [(28)] (29) Title 53E, Chapter 6, Part 5, Utah Professional Practices Advisory Commission,
 4551 is repealed July 1, 2033.
- 4552 [(29)] (30) Subsection 53E-7-207(7), regarding a private right of action or waiver of
 4553 governmental immunity, is repealed July 1, 2027.
- 4554 [(30)] (31) Section 53F-2-420, Intensive Services Special Education Pilot Program, is
 4555 repealed July 1, 2024.
- 4556 [(31)] (32) Section 53F-5-214, Grant for professional learning, is repealed July 1, 2025.
- 4557 [(32)] (33) Section 53F-5-215, Elementary teacher preparation grant, is repealed July 1,
 4558 2025.
- 4559 [(33)] (34) Section 53F-5-219, Local Innovations Civics Education Pilot Program, is
 4560 repealed July 1, 2025.
- 4561 [(34)] (35) Title 53F, Chapter 10, Part 2, Capital Projects Evaluation Panel, is repealed July
 4562 1, 2027.
- 4563 [(35)] (36) Subsection 53G-4-608(2)(b), regarding the Utah Seismic Safety Commission, is
 4564 repealed January 1, 2025.
- 4565 [(36)] (37) Subsection 53G-4-608(4)(b), regarding the Utah Seismic Safety Commission, is
 4566 repealed January 1, 2025.
- 4567 [(37)] (38) Section 53G-9-212, Drinking water quality in schools, is repealed July 1, 2027.
 4568 Section 69. Section **63I-1-276** is amended to read:
 4569 **63I-1-276 . Repeal dates: Title 76.**
- 4570 [(1)] Subsection 76-7-313(6), regarding a report provided by the Department of Health and
 4571 Human Services, is repealed July 1, 2027.
- 4572 [(2) Section 76-10-526.1, Information check before private sale of firearm, is repealed July
 4573 1, 2025.]
- 4574 Section 70. Section **63I-2-276** is amended to read:
 4575 **63I-2-276 . Repeal dates: Title 76.**
- 4576 (1) Subsection 76-5-102.7(2)(b), regarding assault or threat of violence against an employee
 4577 of a health facility, is repealed January 1, 2027.
- 4578 (2) Subsection [~~76-10-529(9)~~] 76-11-218(10), regarding data collection requirements for a
 4579 law enforcement agency that issues a written warning, citation, or referral, is repealed
 4580 December 31, 2031.

4581 Section 71. Section **63M-7-220** is amended to read:

4582 **63M-7-220 . Domestic violence data collection.**

4583 (1) As used in this section:

4584 (a) "Commission" means the State Commission on Criminal and Juvenile Justice created
4585 in Section 63M-7-201.

4586 (b) "Cohabitant abuse protective order" means an order issued with or without notice to
4587 the respondent in accordance with Title 78B, Chapter 7, Part 6, Cohabitant Abuse
4588 Protective Orders.

4589 (c) "Lethality assessment" means an evidence-based assessment that is intended to
4590 identify a victim of domestic violence who is at a high risk of being killed by the
4591 perpetrator.

4592 (d) "Victim" means the same as that term is defined in Section 77-36-1.

4593 (2) Beginning July 1, 2025, each law enforcement agency and other organizations that
4594 provide domestic violence services within the state shall submit the following data to the
4595 commission for compilation and analysis in collaboration with the data collected by the
4596 Department of Public Safety in accordance with Section 77-36-2.1 and the
4597 Administrative Office of the Courts:

4598 (a) lethality assessments conducted in the state, including:

4599 (i) the type of lethality assessments used by law enforcement agencies and other
4600 organizations that provide domestic violence services; and

4601 (ii) training and protocols implemented by law enforcement agencies and the
4602 organizations described in Subsection (2)(a)(i) regarding the use of lethality
4603 assessments;

4604 (b) the data collection efforts implemented by law enforcement agencies and the
4605 organizations described in Subsection (2)(a)(i);

4606 (c) the number of cohabitant abuse protective orders that, in the immediately preceding
4607 calendar year, were:

4608 (i) issued;

4609 (ii) amended or dismissed before the date of expiration; and

4610 (iii) dismissed under Section 78B-7-605; and

4611 (d) the prevalence of domestic violence in the state and the prevalence of the following
4612 in domestic violence cases:

4613 (i) stalking;

4614 (ii) strangulation;

- 4615 (iii) violence in the presence of children; and
 4616 (iv) threats of suicide or homicide.
- 4617 (3) The commission, in collaboration with domestic violence organizations and other
 4618 related stakeholders, shall conduct a review of and provide feedback on:
- 4619 (a) lethality assessment training and protocols implemented by law enforcement
 4620 agencies and the organizations described in Subsection (2)(a)(i); and
 4621 (b) the collection of domestic violence data in the state, including:
- 4622 (i) coordination between state, local, and not-for-profit agencies to collect data from
 4623 lethality assessments and on the prevalence of domestic violence, including the
 4624 number of voluntary commitments of firearms under Section [~~53-5e-201~~
 4625 53-5a-502];
 4626 (ii) efforts to standardize the format for collecting domestic violence and lethality
 4627 assessment data from state, local, and not-for-profit agencies subject to federal
 4628 confidentiality requirements; and
 4629 (iii) the need for any additional data collection requirements or efforts.
- 4630 (4) On or before November 30 of each year, the commission shall provide a written report
 4631 to the Law Enforcement and Criminal Justice Interim Committee describing:
- 4632 (a) the information gathered under Subsections (2) and (3); or
 4633 (b) the progress and assessment of available data under Subsections (2) and (3).
- 4634 Section 72. Section **72-10-901** is amended to read:
 4635 **72-10-901 . Definitions.**
 4636 As used in this part, "weapon" means:
- 4637 (1) a firearm as that term is defined in Section [~~76-10-501~~] 76-11-101; or
 4638 (2) an object that in the manner of the object's use or intended use is capable of causing
 4639 death, bodily injury, or damage to property, as determined according to the following
 4640 factors:
- 4641 (a) the location and circumstances in which the object is used or possessed;
 4642 (b) the primary purpose for which the object is made;
 4643 (c) the character of the damage, if any, the object is likely to cause;
 4644 (d) the manner in which the object is used;
 4645 (e) whether the manner in which the object is used or possessed constitutes a potential
 4646 imminent threat to public safety; and
 4647 (f) the lawful purposes for which the object may be used.
- 4648 Section 73. Section **73-29-102** is amended to read:

4649 **73-29-102 . Definitions.**

4650 As used in this chapter:

- 4651 (1) "Division" means the Division of Wildlife Resources.
- 4652 (2) "Floating access" means the right to access public water flowing over private property
4653 for floating and fishing while floating upon the water.
- 4654 (3) "Impounded wetlands" means a wetland or wetland pond that is formed or the level of
4655 which is controlled by a dike, berm, or headgate that retains or manages the flow or
4656 depth of water, including connecting channels.
- 4657 (4) "Navigable water" means a water course that in its natural state without the aid of
4658 artificial means is useful for commerce and has a useful capacity as a public highway of
4659 transportation.
- 4660 (5) "Private property to which access is restricted" means privately owned real property:
- 4661 (a) that is cultivated land, as defined in Section 23A-5-317;
- 4662 (b) that is:
- 4663 (i) properly posted, as defined in Section 23A-5-317;
- 4664 (ii) posted as described in Subsection 76-6-206(2)(b)(iii); or
- 4665 (iii) posted as described in Subsection 76-6-206.3(2)(c);
- 4666 (c) that is fenced or enclosed as described in:
- 4667 (i) Subsection 76-6-206(2)(b)(ii); or
- 4668 (ii) Subsection 76-6-206.3(2)(b); or
- 4669 (d) that the owner or a person authorized to act on the owner's behalf has requested a
4670 person to leave as provided by:
- 4671 (i) Section 23A-5-317;
- 4672 (ii) Subsection 76-6-206(2)(b)(i); or
- 4673 (iii) Subsection 76-6-206.3(2)(a).
- 4674 (6) "Public access area" means the limited part of privately owned property that:
- 4675 (a) lies beneath or within three feet of a public water or that is the most direct, least
4676 invasive, and closest means of portage around an obstruction in a public water; and
- 4677 (b) is open to public recreational access under Section 73-29-203; and
- 4678 (c) can be accessed from an adjoining public access area or public right-of-way.
- 4679 (7) "Public recreational access" means the right to engage in recreational access established
4680 in accordance with Section 73-29-203.
- 4681 (8)(a) "Public water" means water:
- 4682 (i) described in Section 73-1-1; and

- 4683 (ii) flowing or collecting on the surface:
- 4684 (A) within a natural or realigned channel; or
- 4685 (B) in a natural lake, pond, or reservoir on a natural or realigned channel.
- 4686 (b) "Public water" does not include water flowing or collecting:
- 4687 (i) on impounded wetland;
- 4688 (ii) on a migratory bird production area, as defined in Section 23A-13-101;
- 4689 (iii) on private property in a manmade:
- 4690 (A) irrigation canal;
- 4691 (B) irrigation ditch; or
- 4692 (C) impoundment or reservoir constructed outside of a natural or realigned
- 4693 channel; or
- 4694 (iv) on a jurisdictional wetland described in 33 C.F.R. 328.3.
- 4695 (9)(a) "Recreational access" means to use a public water and to touch a public access
- 4696 area incidental to the use of the public water for:
- 4697 (i) floating;
- 4698 (ii) fishing; or
- 4699 (iii) waterfowl hunting conducted:
- 4700 (A) in compliance with applicable law or rule, including Sections 23A-5-314,
- 4701 73-29-203, and [~~76-10-508~~] 76-11-209; and
- 4702 (B) so that the individual who engages in the waterfowl hunting shoots a firearm
- 4703 only while within a public access area and no closer than 600 feet of any
- 4704 dwelling.
- 4705 (b) "Recreational access" does not include:
- 4706 (i) hunting, except as provided in Subsection (9)(a)(iii);
- 4707 (ii) wading without engaging in activity described in Subsection (9)(a); or
- 4708 (iii) any other activity.
- 4709 Section 74. Section **76-3-203.1** is amended to read:
- 4710 **76-3-203.1 . Offenses committed in concert with three or more persons or in**
- 4711 **relation to a criminal street gang -- Notice -- Enhanced penalties.**
- 4712 (1) As used in this section:
- 4713 (a) "Criminal street gang" means the same as that term is defined in Section 76-9-802.
- 4714 (b) "In concert with three or more persons" means:
- 4715 (i) the defendant was aided or encouraged by at least three other persons in
- 4716 committing the offense and was aware of this aid or encouragement; and

- 4717 (ii) each of the other persons:
- 4718 (A) was physically present; and
- 4719 (B) participated as a party to any offense listed in Subsection (4), (5), or (6).
- 4720 (c) "In concert with three or more persons" means, regarding intent:
- 4721 (i) other persons participating as parties need not have the intent to engage in the
- 4722 same offense or degree of offense as the defendant; and
- 4723 (ii) a minor is a party if the minor's actions would cause the minor to be a party if the
- 4724 minor were an adult.
- 4725 (2) A person who commits any offense in accordance with this section is subject to an
- 4726 enhanced penalty as provided in Subsection (4), (5), or (6) if the trier of fact finds
- 4727 beyond a reasonable doubt that the person acted:
- 4728 (a) in concert with three or more persons;
- 4729 (b) for the benefit of, at the direction of, or in association with any criminal street gang
- 4730 as defined in Section 76-9-802; or
- 4731 (c) to gain recognition, acceptance, membership, or increased status with a criminal
- 4732 street gang as defined in Section 76-9-802.
- 4733 (3) The prosecuting attorney, or grand jury if an indictment is returned, shall cause to be
- 4734 subscribed upon the information or indictment notice that the defendant is subject to the
- 4735 enhanced penalties provided under this section.
- 4736 (4)(a) For an offense listed in Subsection (4)(b), a person may be charged as follows:
- 4737 (i) for a class B misdemeanor, as a class A misdemeanor; and
- 4738 (ii) for a class A misdemeanor, as a third degree felony.
- 4739 (b) The following offenses are subject to Subsection (4)(a):
- 4740 (i) criminal mischief as described in Section 76-6-106;
- 4741 (ii) property damage or destruction as described in Section 76-6-106.1; and
- 4742 (iii) defacement by graffiti as described in Section 76-6-107.
- 4743 (5)(a) For an offense listed in Subsection (5)(b), a person may be charged as follows:
- 4744 (i) for a class B misdemeanor, as a class A misdemeanor;
- 4745 (ii) for a class A misdemeanor, as a third degree felony; and
- 4746 (iii) for a third degree felony, as a second degree felony.
- 4747 (b) The following offenses are subject to Subsection (5)(a):
- 4748 (i) burglary, if committed in a dwelling as defined in Subsection 76-6-202(3)(b);
- 4749 (ii) any offense of obstructing government operations under Chapter 8, Part 3,
- 4750 Obstructing Governmental Operations, except Sections 76-8-302, 76-8-303,

- 4751 76-8-307, 76-8-308, and 76-8-312;
- 4752 (iii) tampering with a witness under Section 76-8-508;
- 4753 (iv) retaliation against a witness, victim, or informant, or other violation of Section
- 4754 76-8-508.3;
- 4755 (v) receiving or soliciting a bribe as a witness under Section 76-8-508.7;
- 4756 (vi) extortion or bribery to dismiss a criminal proceeding as defined in Section
- 4757 76-8-509;
- 4758 [~~(vii) any weapons offense under Chapter 10, Part 5, Weapons; and]~~
- 4759 [~~(viii)] (vii) any violation of Chapter 10, Part 16, Pattern of Unlawful Activity Act;~~
- 4760 and
- 4761 (viii) any weapons offense under Title 76, Chapter 11, Weapons.
- 4762 (6)(a) For an offense listed in Subsection (6)(b), a person may be charged as follows:
- 4763 (i) for a class B misdemeanor, as a class A misdemeanor;
- 4764 (ii) for a class A misdemeanor, as a third degree felony;
- 4765 (iii) for a third degree felony, as a second degree felony; and
- 4766 (iv) for a second degree felony, as a first degree felony.
- 4767 (b) The following offenses are subject to Subsection (6)(a):
- 4768 (i) assault and related offenses under Chapter 5, Part 1, Assault and Related Offenses;
- 4769 (ii) any criminal homicide offense under Chapter 5, Part 2, Criminal Homicide;
- 4770 (iii) kidnapping and related offenses under Chapter 5, Part 3, Kidnapping,
- 4771 Trafficking, and Smuggling;
- 4772 (iv) any felony sexual offense under Chapter 5, Part 4, Sexual Offenses;
- 4773 (v) sexual exploitation of a minor as defined in Section 76-5b-201;
- 4774 (vi) aggravated sexual exploitation of a minor as defined in Section 76-5b-201.1;
- 4775 (vii) robbery and aggravated robbery under Chapter 6, Part 3, Robbery; and
- 4776 (viii) aggravated exploitation of prostitution under Section 76-10-1306.
- 4777 (7) The sentence imposed under Subsection (4), (5), or (6) may be suspended and the
- 4778 individual placed on probation for the higher level of offense.
- 4779 (8) It is not a bar to imposing the enhanced penalties under this section that the persons with
- 4780 whom the actor is alleged to have acted in concert are not identified, apprehended,
- 4781 charged, or convicted, or that any of those persons are charged with or convicted of a
- 4782 different or lesser offense.
- 4783 Section 75. Section **76-3-203.3** is amended to read:
- 4784 **76-3-203.3 . Penalty for hate crimes -- Civil rights violation.**

4785 As used in this section:

4786 (1) "Primary offense" means those offenses provided in Subsection (4).

4787 (2)(a) A person who commits any primary offense with the intent to intimidate or
4788 terrorize another person or with reason to believe that his action would intimidate or
4789 terrorize that person is subject to Subsection (2)(b).

4790 (b)(i) A class C misdemeanor primary offense is a class B misdemeanor; and

4791 (ii) a class B misdemeanor primary offense is a class A misdemeanor.

4792 (3) "Intimidate or terrorize" means an act which causes the person to fear for his physical
4793 safety or damages the property of that person or another. The act must be accompanied
4794 with the intent to cause or has the effect of causing a person to reasonably fear to freely
4795 exercise or enjoy any right secured by the Constitution or laws of the state or by the
4796 Constitution or laws of the United States.

4797 (4) Primary offenses referred to in Subsection (1) are the misdemeanor offenses for:

4798 (a) assault and related offenses under Sections 76-5-102, 76-5-102.4, 76-5-106, 76-5-107,
4799 and 76-5-108;

4800 (b) any misdemeanor property destruction offense under Sections 76-6-102 and 76-6-104,
4801 and Subsection 76-6-106(2)(a);

4802 (c) any criminal trespass offense under Sections 76-6-204 and 76-6-206;

4803 (d) any misdemeanor theft offense under Chapter 6, Offenses Against Property;

4804 (e) any offense of obstructing government operations under Sections 76-8-301,
4805 76-8-301.2, 76-8-302, 76-8-305, 76-8-306, 76-8-307, 76-8-308, 76-8-309.2, and
4806 76-8-313;

4807 (f) any offense of interfering or intending to interfere with activities of colleges and
4808 universities under [~~Title 76,~~]Chapter 8, Part 7, Colleges and Universities;

4809 (g) any misdemeanor offense against public order and decency as defined in [~~Title 76,~~]
4810 Chapter 9, Part 1, Breaches of the Peace and Related Offenses;

4811 (h) any telephone abuse offense under [~~Title 76,~~]Chapter 9, Part 2, Electronic
4812 Communication and Telephone Abuse;

4813 (i) any cruelty to animals offense under Section 76-9-301;

4814 (j) any weapons offense under Section [~~76-10-506~~] 76-11-207; or

4815 (k) a violation of Section 76-9-102, if the violation occurs at an official meeting.

4816 (5) This section does not affect or limit any individual's constitutional right to the lawful
4817 expression of free speech or other recognized rights secured by the Constitution or laws
4818 of the state or by the Constitution or laws of the United States.

4819 Section 76. Section **76-3-203.5** is amended to read:

4820 **76-3-203.5 . Habitual violent offender -- Definition -- Procedure -- Penalty.**

4821 (1) As used in this section:

4822 (a) "Felony" means any violation of a criminal statute of the state, any other state, the
4823 United States, or any district, possession, or territory of the United States for which
4824 the maximum punishment the offender may be subjected to exceeds one year in
4825 prison.

4826 (b) "Habitual violent offender" means a person convicted within the state of any violent
4827 felony and who on at least two previous occasions has been convicted of a violent
4828 felony and committed to either prison in Utah or an equivalent correctional institution
4829 of another state or of the United States either at initial sentencing or after revocation
4830 of probation.

4831 (c) "Violent felony" means:

4832 (i) any of the following offenses, or any attempt, solicitation, or conspiracy to
4833 commit any of the following offenses punishable as a felony:

4834 (A) arson as described in Section 76-6-102;

4835 (B) causing a catastrophe as described in Subsection 76-6-105(3)(a) or (3)(b);

4836 (C) criminal mischief as described in Section 76-6-106;

4837 (D) aggravated arson as described in Section 76-6-103;

4838 (E) assault by prisoner as described in Section 76-5-102.5;

4839 (F) disarming a police officer as described in Section 76-5-102.8;

4840 (G) aggravated assault as described in Section 76-5-103;

4841 (H) aggravated assault by prisoner as described in Section 76-5-103.5;

4842 (I) mayhem as described in Section 76-5-105;

4843 (J) stalking as described in Subsection 76-5-106.5(2);

4844 (K) threat of terrorism as described in Section 76-5-107.3;

4845 (L) aggravated child abuse as described in Subsection 76-5-109.2(3)(a) or (b);

4846 (M) commission of domestic violence in the presence of a child as described in
4847 Section 76-5-114;

4848 (N) abuse or neglect of a child with a disability as described in Section 76-5-110;

4849 (O) abuse or exploitation of a vulnerable adult as described in Section 76-5-111,
4850 76-5-111.2, 76-5-111.3, or 76-5-111.4;

4851 (P) endangerment of a child or vulnerable adult as described in Section 76-5-112.5;

4852 (Q) an offense described in Chapter 5, Part 2, Criminal Homicide;

- 4853 (R) kidnapping as described in Section 76-5-301;
- 4854 (S) child kidnapping as described in Section 76-5-301.1;
- 4855 (T) aggravated kidnapping as described in Section 76-5-302;
- 4856 (U) rape as described in Section 76-5-402;
- 4857 (V) rape of a child as described in Section 76-5-402.1;
- 4858 (W) object rape as described in Section 76-5-402.2;
- 4859 (X) object rape of a child as described in Section 76-5-402.3;
- 4860 (Y) forcible sodomy as described in Section 76-5-403;
- 4861 (Z) sodomy on a child as described in Section 76-5-403.1;
- 4862 (AA) forcible sexual abuse as described in Section 76-5-404;
- 4863 (BB) sexual abuse of a child as described in Section 76-5-404.1;
- 4864 (CC) aggravated sexual abuse of a child as described in Section 76-5-404.3;
- 4865 (DD) aggravated sexual assault as described in Section 76-5-405;
- 4866 (EE) sexual exploitation of a minor as described in Section 76-5b-201;
- 4867 (FF) aggravated sexual exploitation of a minor as described in Section 76-5b-201.1;
- 4868 (GG) sexual exploitation of a vulnerable adult as described in Section 76-5b-202;
- 4869 (HH) burglary as described in Subsection 76-6-202(3)(b);
- 4870 (II) aggravated burglary as described in Section 76-6-203;
- 4871 (JJ) robbery as described in Section 76-6-301;
- 4872 (KK) aggravated robbery as described in Section 76-6-302;
- 4873 (LL) theft by extortion as described in Subsection 76-6-406(1)(a)(i) or (1)(a)(ii);
- 4874 (MM) tampering with a witness as described in Section 76-8-508;
- 4875 (NN) retaliation against a witness, victim, or informant as described in Section
4876 76-8-508.3;
- 4877 (OO) tampering or retaliating against a juror as described in Subsection 76-8-508.5
4878 (2)(a)(iii);
- 4879 (PP) extortion to dismiss a criminal proceeding as described in Subsection
4880 76-6-406(1)(a)(i), (ii), or (ix);
- 4881 (QQ) possession, use, or removal of explosive, chemical, or incendiary devices as
4882 described in Subsections 76-10-306(3) through (6);
- 4883 (RR) unlawful delivery of explosive, chemical, or incendiary devices as described
4884 in Section 76-10-307;
- 4885 (SS) purchase or possession of a dangerous weapon [~~or handgun~~] or firearm by a
4886 restricted person as described in [~~Section 76-10-503~~] Section 76-11-305 or

- 4887 76-11-306;
4888 (TT) aggravated exploitation of prostitution as described in Subsection 76-10-1306
4889 (1)(a);
4890 (UU) bus hijacking as described in Section 76-10-1504; and
4891 (VV) discharging firearms and hurling missiles as described in Section 76-10-1505;
4892 or
4893 (ii) any felony violation of a criminal statute of any other state, the United States, or
4894 any district, possession, or territory of the United States which would constitute a
4895 violent felony as defined in this Subsection (1) if committed in this state.
- 4896 (2) If a person is convicted in this state of a violent felony by plea or by verdict and the trier
4897 of fact determines beyond a reasonable doubt that the person is a habitual violent
4898 offender under this section, the penalty for a:
4899 (a) third degree felony is as if the conviction were for a first degree felony;
4900 (b) second degree felony is as if the conviction were for a first degree felony; or
4901 (c) first degree felony remains the penalty for a first degree penalty except:
4902 (i) the convicted person is not eligible for probation; and
4903 (ii) the Board of Pardons and Parole shall consider that the convicted person is a
4904 habitual violent offender as an aggravating factor in determining the length of
4905 incarceration.
- 4906 (3)(a) The prosecuting attorney, or grand jury if an indictment is returned, shall provide
4907 notice in the information or indictment that the defendant is subject to punishment as
4908 a habitual violent offender under this section. Notice shall include the case number,
4909 court, and date of conviction or commitment of any case relied upon by the
4910 prosecution.
- 4911 (b)(i) The defendant shall serve notice in writing upon the prosecutor if the
4912 defendant intends to deny that:
4913 (A) the defendant is the person who was convicted or committed;
4914 (B) the defendant was represented by counsel or had waived counsel; or
4915 (C) the defendant's plea was understandingly or voluntarily entered.
- 4916 (ii) The notice of denial shall be served not later than five days prior to trial and shall
4917 state in detail the defendant's contention regarding the previous conviction and
4918 commitment.
- 4919 (4)(a) If the defendant enters a denial under Subsection (3)(b) and if the case is tried to a
4920 jury, the jury may not be told, until after it returns its verdict on the underlying felony

- 4921 charge, of the:
- 4922 (i) defendant's previous convictions for violent felonies, except as otherwise provided
- 4923 in the Utah Rules of Evidence; or
- 4924 (ii) allegation against the defendant of being a habitual violent offender.
- 4925 (b) If the jury's verdict is guilty, the defendant shall be tried regarding the allegation of
- 4926 being an habitual violent offender by the same jury, if practicable, unless the
- 4927 defendant waives the jury, in which case the allegation shall be tried immediately to
- 4928 the court.
- 4929 (c)(i) Before or at the time of sentencing the trier of fact shall determine if this
- 4930 section applies.
- 4931 (ii) The trier of fact shall consider any evidence presented at trial and the prosecution
- 4932 and the defendant shall be afforded an opportunity to present any necessary
- 4933 additional evidence.
- 4934 (iii) Before sentencing under this section, the trier of fact shall determine whether this
- 4935 section is applicable beyond a reasonable doubt.
- 4936 (d) If any previous conviction and commitment is based upon a plea of guilty or no
- 4937 contest, there is a rebuttable presumption that the conviction and commitment were
- 4938 regular and lawful in all respects if the conviction and commitment occurred after
- 4939 January 1, 1970. If the conviction and commitment occurred prior to January 1,
- 4940 1970, the burden is on the prosecution to establish by a preponderance of the
- 4941 evidence that the defendant was then represented by counsel or had lawfully waived
- 4942 the right to have counsel present, and that the defendant's plea was understandingly
- 4943 and voluntarily entered.
- 4944 (e) If the trier of fact finds this section applicable, the court shall enter that specific
- 4945 finding on the record and shall indicate in the order of judgment and commitment
- 4946 that the defendant has been found by the trier of fact to be a habitual violent offender
- 4947 and is sentenced under this section.
- 4948 (5)(a) The sentencing enhancement provisions of Section 76-3-407 supersede the
- 4949 provisions of this section.
- 4950 (b) Notwithstanding Subsection (5)(a), the "violent felony" offense defined in
- 4951 Subsection (1)(c) shall include any felony sexual offense violation of Chapter 5, Part
- 4952 4, Sexual Offenses, to determine if the convicted person is a habitual violent offender.
- 4953 (6) The sentencing enhancement described in this section does not apply if:
- 4954 (a) the offense for which the person is being sentenced is:

- 4955 (i) a grievous sexual offense;
- 4956 (ii) child kidnapping, Section 76-5-301.1;
- 4957 (iii) aggravated kidnapping, Section 76-5-302; or
- 4958 (iv) forcible sexual abuse, Section 76-5-404; and
- 4959 (b) applying the sentencing enhancement provided for in this section would result in a
- 4960 lower maximum penalty than the penalty provided for under the section that
- 4961 describes the offense for which the person is being sentenced.

4962 Section 77. Section **76-3-402** is amended to read:

4963 **76-3-402 . Conviction of lower degree of offense -- Procedure and limitations.**

4964 (1) As used in this section:

4965 (a) "Lower degree of offense" includes an offense for which:

- 4966 (i) a statutory enhancement is charged in the information or indictment that would
- 4967 increase either the maximum or the minimum sentence; and
- 4968 (ii) the court removes the statutory enhancement in accordance with this section.

4969 (b) "Minor regulatory offense" means the same as that term is defined in Section

4970 77-40a-101.

4971 (c)(i) "Rehabilitation program" means a program designed to reduce criminogenic

4972 and recidivism risks.

4973 (ii) "Rehabilitation program" includes:

4974 (A) a domestic violence treatment program, as that term is defined in Section

4975 26B-2-101;

4976 (B) a residential, vocational, and life skills program, as that term is defined in

4977 Section 13-53-102;

4978 (C) a substance abuse treatment program, as that term is defined in Section

4979 26B-2-101;

4980 (D) a substance use disorder treatment program, as that term is defined in Section

4981 26B-2-101;

4982 (E) a youth program, as that term is defined in Section 26B-2-101;

4983 (F) a program that meets the standards established by the Department of

4984 Corrections under Section 64-13-25;

4985 (G) a drug court, a veterans court, or a mental health court certified by the Judicial

4986 Council; or

4987 (H) a program that is substantially similar to a program described in Subsections

4988 (1)(c)(ii)(A) through (G).

- 4989 (d) "Serious offense" means a felony or misdemeanor offense that is not a minor
4990 regulatory offense or a traffic offense.
- 4991 (e) "Traffic offense" means the same as that term is defined in Section 77-40a-101.
- 4992 (f)(i) Except as provided in Subsection (1)(f)(ii), "violent felony" means the same as
4993 that term is defined in Section 76-3-203.5.
- 4994 (ii) "Violent felony" does not include an offense, or any attempt, solicitation, or
4995 conspiracy to commit an offense, for:
- 4996 (A) the possession, use, or removal of explosive, chemical, or incendiary devices
4997 under Subsection 76-10-306(3), (5), or (6); or
- 4998 (B) the purchase or possession of a dangerous weapon or ~~handgun~~ firearm by a
4999 restricted person under ~~[Section 76-10-503]~~ Section 76-11-305 or 76-11-306.
- 5000 (2) The court may enter a judgment of conviction for a lower degree of offense than
5001 established by statute and impose a sentence at the time of sentencing for the lower
5002 degree of offense if the court:
- 5003 (a) takes into account:
- 5004 (i) the nature and circumstances of the offense of which the defendant was found
5005 guilty; and
- 5006 (ii) the history and character of the defendant;
- 5007 (b) gives any victim present at the sentencing and the prosecuting attorney an
5008 opportunity to be heard; and
- 5009 (c) concludes that the degree of offense established by statute would be unduly harsh to
5010 record as a conviction on the record for the defendant.
- 5011 (3) Upon a motion from the prosecuting attorney or the defendant, the court may enter a
5012 judgment of conviction for a lower degree of offense than established by statute:
- 5013 (a) after the defendant is successfully discharged from probation or parole for the
5014 conviction; and
- 5015 (b) if the court finds that entering a judgment of conviction for a lower degree of offense
5016 is in the interest of justice in accordance with Subsection (7).
- 5017 (4) Upon a motion from the prosecuting attorney or the defendant, the court may enter a
5018 judgment of conviction for a lower degree of offense than established by statute if:
- 5019 (a) the defendant's probation or parole for the conviction did not result in a successful
5020 discharge but the defendant is successfully discharged from probation or parole for a
5021 subsequent conviction of an offense;
- 5022 (b)(i) at least five years have passed after the day on which the defendant is

- 5023 sentenced for the subsequent conviction; or
- 5024 (ii) at least three years have passed after the day on which the defendant is sentenced
- 5025 for the subsequent conviction and the prosecuting attorney consents to the
- 5026 reduction;
- 5027 (c) the defendant is not convicted of a serious offense during the time period described
- 5028 in Subsection (4)(b);
- 5029 (d) there are no criminal proceedings pending against the defendant;
- 5030 (e) the defendant is not on probation, on parole, or currently incarcerated for any other
- 5031 offense;
- 5032 (f) if the offense for which the reduction is sought is a violent felony, the prosecuting
- 5033 attorney consents to the reduction; and
- 5034 (g) the court finds that entering a judgment of conviction for a lower degree of offense is
- 5035 in the interest of justice in accordance with Subsection (7).
- 5036 (5) Upon a motion from the prosecuting attorney or the defendant, the court may enter a
- 5037 judgment of conviction for a lower degree of offense than established by statute if:
- 5038 (a) the defendant's probation or parole for the conviction did not result in a successful
- 5039 discharge but the defendant is successfully discharged from a rehabilitation program;
- 5040 (b) at least three years have passed after the day on which the defendant is successfully
- 5041 discharged from the rehabilitation program;
- 5042 (c) the defendant is not convicted of a serious offense during the time period described
- 5043 in Subsection (5)(b);
- 5044 (d) there are no criminal proceedings pending against the defendant;
- 5045 (e) the defendant is not on probation, on parole, or currently incarcerated for any other
- 5046 offense;
- 5047 (f) if the offense for which the reduction is sought is a violent felony, the prosecuting
- 5048 attorney consents to the reduction; and
- 5049 (g) the court finds that entering a judgment of conviction for a lower degree of offense is
- 5050 in the interest of justice in accordance with Subsection (7).
- 5051 (6) Upon a motion from the prosecuting attorney or the defendant, the court may enter a
- 5052 judgment of conviction for a lower degree of offense than established by statute if:
- 5053 (a) at least five years have passed after the day on which the defendant's probation or
- 5054 parole for the conviction did not result in a successful discharge;
- 5055 (b) the defendant is not convicted of a serious offense during the time period described
- 5056 in Subsection (6)(a);

- 5057 (c) there are no criminal proceedings pending against the defendant;
- 5058 (d) the defendant is not on probation, on parole, or currently incarcerated for any other
- 5059 offense;
- 5060 (e) if the offense for which the reduction is sought is a violent felony, the prosecuting
- 5061 attorney consents to the reduction; and
- 5062 (f) the court finds that entering a judgment of conviction for a lower degree of offense is
- 5063 in the interest of justice in accordance with Subsection (7).
- 5064 (7) In determining whether entering a judgment of a conviction for a lower degree of
- 5065 offense is in the interest of justice under Subsection (3), (4), (5), or (6):
- 5066 (a) the court shall consider:
- 5067 (i) the nature, circumstances, and severity of the offense for which a reduction is
- 5068 sought;
- 5069 (ii) the physical, emotional, or other harm that the defendant caused any victim of the
- 5070 offense for which the reduction is sought; and
- 5071 (iii) any input from a victim of the offense; and
- 5072 (b) the court may consider:
- 5073 (i) any special characteristics or circumstances of the defendant, including the
- 5074 defendant's criminogenic risks and needs;
- 5075 (ii) the defendant's criminal history;
- 5076 (iii) the defendant's employment and community service history;
- 5077 (iv) whether the defendant participated in a rehabilitative program and successfully
- 5078 completed the program;
- 5079 (v) any effect that a reduction would have on the defendant's ability to obtain or
- 5080 reapply for a professional license from the Department of Commerce;
- 5081 (vi) whether the level of the offense has been reduced by law after the defendant's
- 5082 conviction;
- 5083 (vii) any potential impact that the reduction would have on public safety; or
- 5084 (viii) any other circumstances that are reasonably related to the defendant or the
- 5085 offense for which the reduction is sought.
- 5086 (8)(a) A court may only enter a judgment of conviction for a lower degree of offense
- 5087 under Subsection (3), (4), (5), or (6) after:
- 5088 (i) notice is provided to the other party;
- 5089 (ii) reasonable efforts have been made by the prosecuting attorney to provide notice
- 5090 to any victims; and

- 5091 (iii) a hearing is held if a hearing is requested by either party.
- 5092 (b) A prosecuting attorney is entitled to a hearing on a motion seeking to reduce a
5093 judgment of conviction for a lower degree of offense under Subsection (3), (4), (5),
5094 or (6).
- 5095 (c) In a motion under Subsection (3), (4), (5), or (6) and at a requested hearing on the
5096 motion, the moving party has the burden to provide evidence sufficient to
5097 demonstrate that the requirements under Subsection (3), (4), (5), or (6) are met.
- 5098 (d) If a defendant files a motion under this section, the prosecuting attorney shall
5099 respond to the motion within 35 days after the day on which the motion is filed with
5100 the court.
- 5101 (9) A court has jurisdiction to consider and enter a judgment of conviction for a lower
5102 degree of offense under Subsection (3), (4), (5), or (6) regardless of whether the
5103 defendant is committed to jail as a condition of probation or is sentenced to prison.
- 5104 (10)(a) An offense may be reduced only one degree under this section, unless the
5105 prosecuting attorney specifically agrees in writing or on the court record that the
5106 offense may be reduced two degrees.
- 5107 (b) An offense may not be reduced under this section by more than two degrees.
- 5108 (11) This section does not preclude an individual from obtaining or being granted an
5109 expungement of the individual's record in accordance with [~~Title 44, Chapter 40A,~~
5110 ~~Expungement of Criminal Records~~] Title 77, Chapter 40a, Expungement of Criminal
5111 Records.
- 5112 (12) The court may not enter a judgment for a conviction for a lower degree of offense
5113 under this section if:
- 5114 (a) the reduction is specifically precluded by law; or
- 5115 (b) any unpaid balance remains on court-ordered restitution for the offense for which the
5116 reduction is sought.
- 5117 (13) When the court enters a judgment for a lower degree of offense under this section, the
5118 actual title of the offense for which the reduction is made may not be altered.
- 5119 (14)(a) An individual may not obtain a reduction under this section of a conviction that
5120 requires the individual to register as a sex offender, kidnap offender, or child abuse
5121 offender until the registration requirements under Title 77, Chapter 41, Sex, Kidnap,
5122 and Child Abuse Offender Registry, have expired.
- 5123 (b) An individual required to register as a sex offender, kidnap offender, or child abuse
5124 offender for the individual's lifetime under Subsection 77-41-105(3)(c) may not be

5125 granted a reduction of the conviction for the offense or offenses that require the
5126 individual to register as a sex offender, kidnap offender, or child abuse offender.

5127 Section 78. Section **76-5-102.8** is amended to read:

5128 **76-5-102.8 . Disarming a peace officer -- Penalties.**

5129 (1)(a) As used in this section:

5130 (i) "Conductive energy device" means a weapon that uses electrical current to disrupt
5131 voluntary control of muscles.

5132 (ii) "Firearm" means the same as that term is defined in Section [~~76-10-501~~]

5133 76-11-101.

5134 (b) Terms defined in Section 76-1-101.5 apply to this section.

5135 (2) An actor commits disarming a peace officer if the actor intentionally takes or removes,
5136 or attempts to take or remove a firearm or a conductive energy device from an individual
5137 or immediate presence of an individual who the actor knows is a peace officer:

5138 (a) without the consent of the peace officer; and

5139 (b) while the peace officer is acting within the scope of the peace officer's authority as a
5140 peace officer.

5141 (3)(a) A violation of Subsection (2) regarding a firearm is a first degree felony.

5142 (b) A violation of Subsection (2) regarding a conductive energy device is a third degree
5143 felony.

5144 Section 79. Section **76-5-202** is amended to read:

5145 **76-5-202 . Aggravated murder -- Penalties -- Affirmative defense and special**
5146 **mitigation -- Separate offense.**

5147 (1)(a) As used in this section:

5148 (i) "Correctional officer" means the same as that term is defined in Section 53-13-104.

5149 (ii) "Emergency responder" means the same as that term is defined in Section
5150 53-2b-102.

5151 (iii) "Federal officer" means the same as that term is defined in Section 53-13-106.

5152 (iv) "Law enforcement officer" means the same as that term is defined in Section
5153 53-13-103.

5154 (v) "Peace officer" means:

5155 (A) a correctional officer, federal officer, law enforcement officer, or special
5156 function officer; or

5157 (B) any other person who may exercise peace officer authority in accordance with
5158 Title 53, Chapter 13, Peace Officer Classifications.

- 5159 (vi) "Special function officer" means the same as that term is defined in Section
5160 53-13-105.
- 5161 (vii) "Target a law enforcement officer" means an act:
5162 (A) involving the unlawful use of force and violence against a law enforcement
5163 officer;
5164 (B) that causes serious bodily injury or death; and
5165 (C) that is in furtherance of political or social objectives in order to intimidate or
5166 coerce a civilian population or to influence or affect the conduct of a
5167 government or a unit of government.
- 5168 (viii) "Weapon of mass destruction" means the same as that term is defined in Section
5169 76-10-401.
- 5170 (b) Terms defined in Section 76-1-101.5 apply to this section.
- 5171 (2)(a) An actor commits aggravated murder if the actor intentionally or knowingly
5172 causes the death of another individual under any of the following circumstances:
5173 (i) the actor committed homicide while confined in a jail or other correctional
5174 institution;
5175 (ii)(A) the actor committed homicide incident to one act, scheme, course of
5176 conduct, or criminal episode during which two or more individuals other than
5177 the actor were killed; or
5178 (B) the actor, during commission of the homicide, attempted to kill one or more
5179 other individuals in addition to the deceased individual;
5180 (iii) the actor knowingly created a great risk of death to another individual other than
5181 the deceased individual and the actor;
5182 (iv) the actor committed homicide incident to an act, scheme, course of conduct, or
5183 criminal episode during which the actor committed or attempted to commit
5184 aggravated robbery, robbery, rape, rape of a child, object rape, object rape of a
5185 child, forcible sodomy, sodomy upon a child, forcible sexual abuse, sexual abuse
5186 of a child, aggravated sexual abuse of a child, aggravated child abuse as described
5187 in Subsection 76-5-109.2(3)(a), or aggravated sexual assault, aggravated arson,
5188 arson, aggravated burglary, burglary, aggravated kidnapping, or kidnapping, or
5189 child kidnapping;
5190 (v) the actor committed homicide incident to one act, scheme, course of conduct, or
5191 criminal episode during which the actor committed the crime of abuse or
5192 desecration of a dead human body as described in Subsection 76-9-704(2)(e);

- 5193 (vi) the actor committed homicide for the purpose of avoiding or preventing an arrest
5194 of the actor or another individual by a peace officer acting under color of legal
5195 authority or for the purpose of effecting the actor's or another individual's escape
5196 from lawful custody;
- 5197 (vii) the actor committed homicide for pecuniary gain;
- 5198 (viii) the actor committed, engaged, or employed another person to commit the
5199 homicide subject to an agreement or contract for remuneration or the promise of
5200 remuneration for commission of the homicide;
- 5201 (ix) the actor previously committed or was convicted of:
- 5202 (A) aggravated murder under this section;
- 5203 (B) attempted aggravated murder under this section;
- 5204 (C) murder, under Section 76-5-203;
- 5205 (D) attempted murder, under Section 76-5-203; or
- 5206 (E) an offense committed in another jurisdiction which if committed in this state
5207 would be a violation of a crime listed in this Subsection (2)(a)(ix);
- 5208 (x) the actor was previously convicted of:
- 5209 (A) aggravated assault, under Section 76-5-103;
- 5210 (B) mayhem, under Section 76-5-105;
- 5211 (C) kidnapping, under Section 76-5-301;
- 5212 (D) child kidnapping, under Section 76-5-301.1;
- 5213 (E) aggravated kidnapping, under Section 76-5-302;
- 5214 (F) rape, under Section 76-5-402;
- 5215 (G) rape of a child, under Section 76-5-402.1;
- 5216 (H) object rape, under Section 76-5-402.2;
- 5217 (I) object rape of a child, under Section 76-5-402.3;
- 5218 (J) forcible sodomy, under Section 76-5-403;
- 5219 (K) sodomy on a child, under Section 76-5-403.1;
- 5220 (L) aggravated sexual abuse of a child, under Section 76-5-404.3;
- 5221 (M) aggravated sexual assault, under Section 76-5-405;
- 5222 (N) aggravated arson, under Section 76-6-103;
- 5223 (O) aggravated burglary, under Section 76-6-203;
- 5224 (P) aggravated robbery, under Section 76-6-302;
- 5225 (Q) felony discharge of a firearm, under Section ~~[76-10-508.1]~~ 76-11-210; or
- 5226 (R) an offense committed in another jurisdiction which if committed in this state

- 5227 would be a violation of a crime listed in this Subsection (2)(a)(x);
- 5228 (xi) the actor committed homicide for the purpose of:
- 5229 (A) preventing a witness from testifying;
- 5230 (B) preventing a person from providing evidence or participating in any legal
- 5231 proceedings or official investigation;
- 5232 (C) retaliating against a person for testifying, providing evidence, or participating
- 5233 in any legal proceedings or official investigation; or
- 5234 (D) disrupting or hindering any lawful governmental function or enforcement of
- 5235 laws;
- 5236 (xii) the deceased individual was a local, state, or federal public official, or a
- 5237 candidate for public office, and the homicide is based on, is caused by, or is
- 5238 related to that official position, act, capacity, or candidacy;
- 5239 (xiii) the deceased individual was on duty in a verified position or the homicide is
- 5240 based on, is caused by, or is related to the deceased individual's position, and the
- 5241 actor knew, or reasonably should have known, that the deceased individual holds
- 5242 or has held the position of:
- 5243 (A) a peace officer;
- 5244 (B) an executive officer, prosecuting officer, jailer, or prison official;
- 5245 (C) a firefighter, search and rescue personnel, emergency medical personnel,
- 5246 ambulance personnel, or any other emergency responder;
- 5247 (D) a judge or other court official, juror, probation officer, or parole officer; or
- 5248 (E) a security officer contracted to secure, guard, or otherwise protect tangible
- 5249 personal property, real property, or the life and well-being of human or animal
- 5250 life in the area of the offense;
- 5251 (xiv) the actor committed homicide:
- 5252 (A) by means of a destructive device, bomb, explosive, incendiary device, or
- 5253 similar device which was planted, hidden, or concealed in any place, area,
- 5254 dwelling, building, or structure, or was mailed or delivered;
- 5255 (B) by means of any weapon of mass destruction; or
- 5256 (C) to target a law enforcement officer;
- 5257 (xv) the actor committed homicide during the act of unlawfully assuming control of
- 5258 an aircraft, train, or other public conveyance by use of threats or force with intent
- 5259 to:
- 5260 (A) obtain any valuable consideration for the release of the public conveyance or

- 5261 any passenger, crew member, or any other person aboard;
- 5262 (B) direct the route or movement of the public conveyance; or
- 5263 (C) otherwise exert control over the public conveyance;
- 5264 (xvi) the actor committed homicide by means of the administration of a poison or of
- 5265 any lethal substance or of any substance administered in a lethal amount, dosage,
- 5266 or quantity;
- 5267 (xvii) the deceased individual was held or otherwise detained as a shield, hostage, or
- 5268 for ransom;
- 5269 (xviii) the actor committed homicide in an especially heinous, atrocious, cruel, or
- 5270 exceptionally depraved manner, any of which must be demonstrated by physical
- 5271 torture, serious physical abuse, or serious bodily injury of the deceased individual
- 5272 before death;
- 5273 (xix) the actor dismembers, mutilates, or disfigures the deceased individual's body,
- 5274 whether before or after death, in a manner demonstrating the actor's depravity of
- 5275 mind; or
- 5276 (xx) the deceased individual, at the time of the death of the deceased individual:
- 5277 (A) was younger than 14 years old; and
- 5278 (B) was not an unborn child.
- 5279 (b) An actor commits aggravated murder if the actor, with reckless indifference to
- 5280 human life, causes the death of another individual incident to an act, scheme, course
- 5281 of conduct, or criminal episode during which the actor is a major participant in the
- 5282 commission or attempted commission of:
- 5283 (i) aggravated child abuse, punishable as a felony of the second degree under
- 5284 Subsection 76-5-109.2(3)(a);
- 5285 (ii) child kidnapping, under Section 76-5-301.1;
- 5286 (iii) rape of a child, under Section 76-5-402.1;
- 5287 (iv) object rape of a child, under Section 76-5-402.3;
- 5288 (v) sodomy on a child, under Section 76-5-403.1; or
- 5289 (vi) sexual abuse or aggravated sexual abuse of a child, under Section 76-5-404.1.
- 5290 (3)(a) If a notice of intent to seek the death penalty has been filed, a violation of
- 5291 Subsection (2) is a capital felony.
- 5292 (b) If a notice of intent to seek the death penalty has not been filed, aggravated murder is
- 5293 a noncapital first degree felony punishable as provided in Section 76-3-207.7.
- 5294 (c)(i) Within 60 days after arraignment of the defendant, the prosecutor may file

- 5295 notice of intent to seek the death penalty.
- 5296 (ii) The notice shall be served on the defendant or defense counsel and filed with the
5297 court.
- 5298 (iii) Notice of intent to seek the death penalty may be served and filed more than 60
5299 days after the arraignment upon written stipulation of the parties or upon a finding
5300 by the court of good cause.
- 5301 (d) Without the consent of the prosecutor, the court may not accept a plea of guilty to
5302 noncapital first degree felony aggravated murder during the period in which the
5303 prosecutor may file a notice of intent to seek the death penalty under Subsection
5304 (3)(c)(i).
- 5305 (e) If the defendant was younger than 18 years old at the time the offense was
5306 committed, aggravated murder is a noncapital first degree felony punishable as
5307 provided in Section 76-3-207.7.
- 5308 (f) Notwithstanding Subsection (3)(a) or (3)(b), if the trier of fact finds the elements of
5309 aggravated murder, or alternatively, attempted aggravated murder, as described in
5310 this section, are proved beyond a reasonable doubt, and also finds that the existence
5311 of special mitigation is established by a preponderance of the evidence and in
5312 accordance with Section 76-5-205.5, the court shall enter a judgment of conviction as
5313 follows:
- 5314 (i) if the trier of fact finds the defendant guilty of aggravated murder, the court shall
5315 enter a judgment of conviction for murder; or
- 5316 (ii) if the trier of fact finds the defendant guilty of attempted aggravated murder, the
5317 court shall enter a judgment of conviction for attempted murder.
- 5318 (4)(a) It is an affirmative defense to a charge of aggravated murder or attempted
5319 aggravated murder that the actor caused the death of another or attempted to cause
5320 the death of another under a reasonable belief that the circumstances provided a legal
5321 justification or excuse for the conduct although the conduct was not legally justifiable
5322 or excusable under the existing circumstances.
- 5323 (b) The reasonable belief of the actor under Subsection (4)(a) shall be determined from
5324 the viewpoint of a reasonable person under the then existing circumstances.
- 5325 (c) Notwithstanding Subsection (3)(a) or (3)(b), if the trier of fact finds the elements of
5326 aggravated murder, or alternatively, attempted aggravated murder, as described in
5327 this section, are proved beyond a reasonable doubt, and also finds the affirmative
5328 defense described in this Subsection (4) is not disproven beyond a reasonable doubt,

- 5329 the court shall enter a judgment of conviction as follows:
- 5330 (i) if the trier of fact finds the defendant guilty of aggravated murder, the court shall
- 5331 enter a judgment of conviction for murder; or
- 5332 (ii) if the trier of fact finds the defendant guilty of attempted aggravated murder, the
- 5333 court shall enter a judgment of conviction for attempted murder.
- 5334 (5)(a) Any aggravating circumstance described in Subsection (2) that constitutes a
- 5335 separate offense does not merge with the crime of aggravated murder.
- 5336 (b) An actor who is convicted of aggravated murder, based on an aggravating
- 5337 circumstance described in Subsection (2) that constitutes a separate offense, may also
- 5338 be convicted of, and punished for, the separate offense.

5339 Section 80. Section **76-5-203** is amended to read:

5340 **76-5-203 . Murder -- Penalties-- Affirmative defense and special mitigation --**

5341 **Separate offenses.**

- 5342 (1)(a) As used in this section, "predicate offense" means:
- 5343 (i) a clandestine drug lab violation under Section 58-37d-4 or 58-37d-5;
- 5344 (ii) aggravated child abuse, under Subsection 76-5-109.2(3)(a), when the abused
- 5345 individual is younger than 18 years old;
- 5346 (iii) kidnapping under Section 76-5-301;
- 5347 (iv) child kidnapping under Section 76-5-301.1;
- 5348 (v) aggravated kidnapping under Section 76-5-302;
- 5349 (vi) rape under Section 76-5-402;
- 5350 (vii) rape of a child under Section 76-5-402.1;
- 5351 (viii) object rape under Section 76-5-402.2;
- 5352 (ix) object rape of a child under Section 76-5-402.3;
- 5353 (x) forcible sodomy under Section 76-5-403;
- 5354 (xi) sodomy upon a child under Section 76-5-403.1;
- 5355 (xii) forcible sexual abuse under Section 76-5-404;
- 5356 (xiii) sexual abuse of a child under Section 76-5-404.1;
- 5357 (xiv) aggravated sexual abuse of a child under Section 76-5-404.3;
- 5358 (xv) aggravated sexual assault under Section 76-5-405;
- 5359 (xvi) arson under Section 76-6-102;
- 5360 (xvii) aggravated arson under Section 76-6-103;
- 5361 (xviii) burglary under Section 76-6-202;
- 5362 (xix) aggravated burglary under Section 76-6-203;

- 5363 (xx) robbery under Section 76-6-301;
- 5364 (xxi) aggravated robbery under Section 76-6-302;
- 5365 (xxii) escape under Section 76-8-309;
- 5366 (xxiii) aggravated escape under Section 76-8-309.3; or
- 5367 (xxiv) a felony violation of Section [~~76-10-508~~] 76-11-209 or [~~76-10-508.1~~] 76-11-210
- 5368 regarding discharge of a firearm or dangerous weapon.
- 5369 (b) Terms defined in Section 76-1-101.5 apply to this section.
- 5370 (2) An actor commits murder if:
- 5371 (a) the actor intentionally or knowingly causes the death of another individual;
- 5372 (b) intending to cause serious bodily injury to another individual, the actor commits an
- 5373 act clearly dangerous to human life that causes the death of the other individual;
- 5374 (c) acting under circumstances evidencing a depraved indifference to human life, the
- 5375 actor knowingly engages in conduct that creates a grave risk of death to another
- 5376 individual and thereby causes the death of the other individual;
- 5377 (d)(i) the actor is engaged in the commission, attempted commission, or immediate
- 5378 flight from the commission or attempted commission of any predicate offense, or
- 5379 is a party to the predicate offense;
- 5380 (ii) an individual other than a party described in Section 76-2-202 is killed in the
- 5381 course of the commission, attempted commission, or immediate flight from the
- 5382 commission or attempted commission of any predicate offense; and
- 5383 (iii) the actor acted with the intent required as an element of the predicate offense;
- 5384 (e) the actor recklessly causes the death of a peace officer or military service member in
- 5385 uniform while in the commission or attempted commission of:
- 5386 (i) an assault against a peace officer under Section 76-5-102.4;
- 5387 (ii) interference with a peace officer while making a lawful arrest under Section
- 5388 76-8-305 if the actor uses force against the peace officer; or
- 5389 (iii) an assault against a military service member in uniform under Section 76-5-102.4;
- 5390 or
- 5391 (f) the actor commits a homicide that would be aggravated murder, but the offense is
- 5392 reduced in accordance with Subsection 76-5-202(4).
- 5393 (3)(a)(i) A violation of Subsection (2) is a first degree felony.
- 5394 (ii) A defendant who is convicted of murder shall be sentenced to imprisonment for
- 5395 an indeterminate term of not less than 15 years and which may be for life.
- 5396 (b) Notwithstanding Subsection (3)(a), if the trier of fact finds the elements of murder,

- 5397 or alternatively, attempted murder, as described in this section are proved beyond a
5398 reasonable doubt, and also finds that the existence of special mitigation is established
5399 by a preponderance of the evidence and in accordance with Section 76-5-205.5, the
5400 court shall enter a judgment of conviction as follows:
- 5401 (i) if the trier of fact finds the defendant guilty of murder, the court shall enter a
5402 judgment of conviction for manslaughter; or
 - 5403 (ii) if the trier of fact finds the defendant guilty of attempted murder, the court shall,
5404 notwithstanding Subsection 76-4-102(1)(b) or 76-4-102(1)(c)(i), enter a judgment
5405 of conviction for attempted manslaughter.
- 5406 (4)(a) It is an affirmative defense to a charge of murder or attempted murder that the
5407 defendant caused the death of another individual or attempted to cause the death of
5408 another individual under a reasonable belief that the circumstances provided a legal
5409 justification or excuse for the conduct although the conduct was not legally justifiable
5410 or excusable under the existing circumstances.
- 5411 (b) The reasonable belief of the actor under Subsection (4)(a) shall be determined from
5412 the viewpoint of a reasonable person under the then existing circumstances.
 - 5413 (c) Notwithstanding Subsection (3)(a), if the trier of fact finds the elements of murder, or
5414 alternatively, attempted murder, as described in this section are proved beyond a
5415 reasonable doubt, and also finds the affirmative defense described in this Subsection
5416 (4) is not disproven beyond a reasonable doubt, the court shall enter a judgment of
5417 conviction as follows:
 - 5418 (i) if the trier of fact finds the defendant guilty of murder, the court shall enter a
5419 judgment of conviction for manslaughter; or
 - 5420 (ii) if the trier of fact finds the defendant guilty of attempted murder, the court shall
5421 enter a judgment of conviction for attempted manslaughter.
- 5422 (5)(a) Any predicate offense that constitutes a separate offense does not merge with the
5423 crime of murder.
- 5424 (b) An actor who is convicted of murder, based on a predicate offense that constitutes a
5425 separate offense, may also be convicted of, and punished for, the separate offense.
- 5426 Section 81. Section **76-8-311.1** is amended to read:
- 5427 **76-8-311.1 . Establishment of secure areas -- Items prohibited -- References to**
5428 **penalty provisions.**
- 5429 (1)(a) As used in this section:
- 5430 (i) "Correctional facility" means the same as that term is defined in Section

- 5431 76-8-311.3.
- 5432 (ii) "Dangerous weapon" means the same as that term is defined in Section [
5433 ~~76-10-501~~] 76-11-101.
- 5434 (iii) "Explosive" means the same as the term "explosive, chemical, or incendiary
5435 device" defined in Section 76-10-306.
- 5436 (iv) "Firearm" means the same as that term is defined in Section [~~76-10-501~~]
5437 76-11-101.
- 5438 (v) "Law enforcement facility" means a facility that is owned, leased, or operated by
5439 a law enforcement agency.
- 5440 (vi) "Mental health facility" means the same as that term is defined in Section
5441 26B-5-301.
- 5442 (vii)(A) "Secure area" means an area created under this section into which certain [
5443 ~~persons~~] individuals are restricted from transporting a firearm or other
5444 dangerous weapon, ammunition, or explosive.
- 5445 (B) [~~A "secure area" may~~] "Secure area" does not include any area normally
5446 accessible to the public.
- 5447 (b) Terms defined in Sections 76-1-101.5 and 76-8-101 apply to this section.
- 5448 (2)(a) The State Tax Commission or a correctional, law enforcement, or mental health
5449 facility may establish secure areas within the facility and may prohibit or control by
5450 rule any firearm or other dangerous weapon, ammunition, or explosive.
- 5451 (b) [~~Subsections (2)(a), (3), (4), and (5) apply~~] This section applies to:
- 5452 (i) a higher education secure area hearing room [referred to in Subsections ~~53B-3-103~~
5453 (2)(a)(ii) and (b)] established in accordance with Section 53B-3-103; and
- 5454 (ii) a secure area established by the Judicial Council in accordance with Section
5455 78A-2-203.
- 5456 (3) An entity that creates a secure area under this section shall ensure that at least one notice
5457 is prominently displayed at each entrance to the secure area in which a firearm,
5458 ammunition, dangerous weapon, or explosive is restricted.
- 5459 (4)(a) An entity that creates a secure area under this section shall provide a secure
5460 weapons storage area so that an individual entering the secure area may store the
5461 individual's weapon before entering the secure area.
- 5462 (b) The entity operating the facility shall be responsible for a weapon while the weapon
5463 is stored in the storage area described in Subsection (4)(a).
- 5464 (5)(a) An actor who transports a firearm or other dangerous weapon or ammunition into

- 5465 a secure area created under this section or a higher education secure area hearing
 5466 room created under this section may be punished under Section 76-8-311.2.
- 5467 (b) An actor who knowingly or intentionally transports, possesses, distributes, or sells an
 5468 explosive in a secure area or a higher education secure area hearing room created
 5469 under this section may be punished under Section 76-10-306.
- 5470 (c) It is a defense to a prosecution related to this section that the actor acted in
 5471 conformity with the facility's rule or policy established pursuant to this section.
- 5472 Section 82. Section **76-8-311.2** is amended to read:
- 5473 **76-8-311.2 . Prohibited dangerous weapon or ammunition in a secure area.**
- 5474 (1)(a) As used in this section:
- 5475 (i) "Correctional facility" means the same as that term is defined in Section
 5476 76-8-311.3.
- 5477 (ii) "Dangerous weapon" means the same as that term is defined in Section [
 5478 ~~76-10-501~~] 76-11-101.
- 5479 (iii) "Firearm" means the same as that term is defined in Section [~~76-10-501~~]
 5480 76-11-101.
- 5481 (iv) "Higher education secure area" means a higher education secure area hearing
 5482 room created under Section 76-8-311.1.
- 5483 (v) "Law enforcement facility" means the same as that term is defined in Section
 5484 76-8-311.1.
- 5485 (vi) "Secure area" means the same as that term is defined in Section 76-8-311.1.
- 5486 (b) Terms defined in Sections 76-1-101.5 and 76-8-101 apply to this section.
- 5487 (2) An actor commits prohibited dangerous weapon or ammunition in a secure area if the
 5488 actor knowingly or intentionally transports a firearm or other dangerous weapon or
 5489 ammunition into:
- 5490 (a) a correctional facility;
- 5491 (b) a secure area created by the State Tax Commission;
- 5492 (c) a secure area in a law enforcement facility or a mental health facility; or
- 5493 (d) a higher education secure area.
- 5494 (3) Except as provided in Section 76-8-311.4, 76-8-311.6, or 76-8-311.7, a violation of
 5495 Subsection (2) is a third degree felony.
- 5496 (4) It is a defense to a prosecution under this section that the actor acted in conformity with
 5497 the facility's rule or policy established under Section 76-8-311.1.
- 5498 Section 83. Section **76-8-311.3** is amended to read:

5499 **76-8-311.3 . Establishment of prohibited item policy in a correctional or mental**
 5500 **health facility -- Reference to penalty provisions -- Exceptions -- Rulemaking.**

5501 (1)(a) As used in this section:

5502 (i) "Communication device" means a device designed to receive or transmit an
 5503 image, text message, email, video, location information, or voice communication,
 5504 or another device that can be used to communicate electronically.

5505 (ii) "Controlled substance" means a substance defined as a controlled substance under
 5506 Title 58, Chapter 37, Utah Controlled Substances Act.

5507 (iii) "Correctional facility" means:

5508 (A) a facility operated by or contracting with the Department of Corrections to
 5509 house an offender in either a secure or nonsecure setting;

5510 (B) a facility operated by a municipality or a county to house or detain an offender;

5511 (C) a juvenile detention facility; or

5512 (D) a building or grounds appurtenant to a facility or land granted to the state,
 5513 municipality, or county for use as a correctional facility.

5514 (iv) "Dangerous weapon" means the same as that term is defined in Section [
 5515 ~~76-10-501~~] 76-11-101.

5516 (v) "Electronic cigarette product" means the same as that term is defined in Section
 5517 76-10-101.

5518 (vi) "Firearm" means the same as that term is defined in Section [~~76-10-501~~]
 5519 76-11-101.

5520 (vii) "Medicine" means a prescription drug as defined in Title 58, Chapter 17b,
 5521 Pharmacy Practice Act, but does not include a controlled substance as defined in
 5522 Title 58, Chapter 37, Utah Controlled Substances Act.

5523 (viii) "Mental health facility" means the same as that term is defined in Section
 5524 26B-5-301.

5525 (ix) "Nicotine product" means the same as that term is defined in Section 76-10-101.

5526 (x) "Offender" means an individual in custody at a correctional facility.

5527 (xi) "Secure area" means the same as that term is defined in Section 76-8-311.1.

5528 (xii) "Tobacco product" means the same as that term is defined in Section 76-10-101.

5529 (b) Terms defined in Sections 76-1-101.5 and 76-8-101 apply to this section.

5530 (2)(a) Notwithstanding Section [~~76-10-500~~] 53-5a-102, a correctional facility or mental
 5531 health facility may prohibit a firearm, ammunition, a dangerous weapon, an
 5532 implement of escape, an explosive, a controlled substance, spirituous or fermented

- 5533 liquor, medicine, or poison from being:
- 5534 (i) transported to or within a correctional facility or mental health facility;
- 5535 (ii) sold or given away to an offender at a correctional facility or mental health
- 5536 facility; or
- 5537 (iii) possessed by an offender or another individual at a correctional facility or mental
- 5538 health facility.
- 5539 (b) A correctional facility may prohibit a communication device from being:
- 5540 (i) transported within the correctional facility for the purpose of being sold to an
- 5541 offender in the correctional facility;
- 5542 (ii) sold or given away to an offender in the correctional facility; or
- 5543 (iii) possessed by an offender or another individual at the correctional facility.
- 5544 (3) It is a defense to a prosecution related to this section that the actor, in committing the act
- 5545 made criminal by this section with respect to:
- 5546 (a) a correctional facility operated by the Department of Corrections, acted in conformity
- 5547 with departmental rule or policy;
- 5548 (b) a correctional facility operated by a municipality, acted in conformity with the policy
- 5549 of the municipality;
- 5550 (c) a correctional facility operated by a county, acted in conformity with the policy of
- 5551 the county; or
- 5552 (d) a mental health facility, acted in conformity with the policy of the mental health
- 5553 facility.
- 5554 (4)(a) Except as provided by Subsection (4)(b) or (4)(c), an actor may be charged under
- 5555 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
- 5556 76-8-311.11 for a violation of a policy or rule created under this section.
- 5557 (b) An actor who knowingly or intentionally transports, possesses, distributes, or sells an
- 5558 explosive in a correctional facility or a mental health facility may be punished under
- 5559 Section 76-10-306.
- 5560 (c) The possession, distribution, or use of a controlled substance at a correctional facility
- 5561 or in a secure area of a mental health facility shall be charged under Title 58, Chapter
- 5562 37, Utah Controlled Substances Act.
- 5563 Section 84. Section **76-8-311.4** is amended to read:
- 5564 **76-8-311.4 . Prohibited item in correctional or mental health facility for use by**
- 5565 **offender or detainee.**
- 5566 (1)(a) As used in this section:

- 5567 (i) "Correctional facility" means the same as that term is defined in Section
 5568 76-8-311.3.
- 5569 (ii) "Dangerous weapon" means the same as that term is defined in Section [
 5570 ~~76-10-501~~] 76-11-101.
- 5571 (iii) "Mental health facility" means the same as that term is defined in Section
 5572 76-8-311.3.
- 5573 (iv) "Offender" means the same as that term is defined in Section 76-8-311.3.
- 5574 (v) "Secure area" means the same as that term is defined in Section 76-8-311.1.
- 5575 (b) Terms defined in Sections 76-1-101.5 and 76-8-101 apply to this section.
- 5576 (2) An actor commits prohibited item in correctional or mental health facility for use by
 5577 offender or detainee if the actor:
- 5578 (a) transports a dangerous weapon, ammunition, or implement of escape to or within a
 5579 correctional facility, or into a secure area of a mental health facility, with the intent to
 5580 provide or sell to an offender or detainee the dangerous weapon, ammunition, or
 5581 implement of escape; or
- 5582 (b) provides or sells a dangerous weapon, ammunition, or implement of escape to:
- 5583 (i) an offender at a correctional facility; or
- 5584 (ii) a detainee at a secure area of a mental health facility.
- 5585 (3) Except as provided in Subsection (4), a violation of Subsection (2) is a second degree
 5586 felony.
- 5587 (4) The defenses provided in Section 76-8-311.3 apply to this section.
- 5588 Section 85. Section **76-8-311.6** is amended to read:
- 5589 **76-8-311.6 . Possession of prohibited item by offender or detainee in correctional**
 5590 **or mental health facility.**
- 5591 (1)(a) As used in this section:
- 5592 (i) "Correctional facility" means the same as that term is defined in Section
 5593 76-8-311.3.
- 5594 (ii) "Dangerous weapon" means the same as that term is defined in Section [
 5595 ~~76-10-501~~] 76-11-101.
- 5596 (iii) "Mental health facility" means the same as that term is defined in Section
 5597 76-8-311.3.
- 5598 (iv) "Offender" means the same as that term is defined in Section 76-8-311.3.
- 5599 (v) "Secure area" means the same as that term is defined in Section 76-8-311.1.
- 5600 (b) Terms defined in Sections 76-1-101.5 and 76-8-101 apply to this section.

5601 (2) An actor commits possession of prohibited item by offender or detainee in correctional
5602 or mental health facility if the actor:

5603 (a)(i) is an offender at a correctional facility; or

5604 (ii) is a detainee at a mental health facility; and

5605 (b) possesses a dangerous weapon, ammunition, or an implement of escape.

5606 (3) Except as provided in Subsection (4), a violation of Subsection (2) is a second degree
5607 felony.

5608 (4) The defenses provided in Section 76-8-311.3 apply to this section.

5609 Section 86. Section **76-8-311.7** is amended to read:

5610 **76-8-311.7 . Possession of prohibited item in correctional facility or secure area**
5611 **of mental health facility.**

5612 (1)(a) As used in this section:

5613 (i) "Correctional facility" means the same as that term is defined in Section
5614 76-8-311.3.

5615 (ii) "Dangerous weapon" means the same as that term is defined in Section [
5616 ~~76-10-501~~] 76-11-101.

5617 (iii) "Mental health facility" means the same as that term is defined in Section
5618 76-8-311.3.

5619 (iv) "Secure area" means the same as that term is defined in Section 76-8-311.1.

5620 (b) Terms defined in Sections 76-1-101.5 and 76-8-101 apply to this section.

5621 (2) An actor commits possession of prohibited item in correctional facility or secure area of
5622 mental health facility if the actor, without the permission of the authority operating the
5623 correctional facility or the secure area of a mental health facility, knowingly possesses a
5624 dangerous weapon, ammunition, or implement of escape at a correctional facility or in a
5625 secure area of a mental health facility.

5626 (3) Except as provided in Section 76-8-311.6 or Subsection (4), a violation of Subsection (2)
5627 is a third degree felony.

5628 (4) The defenses provided in Section 76-8-311.3 apply to this section.

5629 Section 87. Section **76-9-802** is amended to read:

5630 **76-9-802 . Definitions.**

5631 As used in this part:

5632 (1) "Criminal street gang" means an organization, association in fact, or group of three or
5633 more persons, whether operated formally or informally:

5634 (a) that is currently in operation;

- 5635 (b) that has as one of its primary activities the commission of one or more predicate
5636 gang crimes;
- 5637 (c) that has, as a group, an identifying name or identifying sign or symbol, or both; and
5638 (d) whose members, acting individually or in concert with other members, engage in or
5639 have engaged in a pattern of criminal gang activity.
- 5640 (2) "Intimidate" means the use of force, duress, violence, coercion, menace, or threat of
5641 harm for the purpose of causing an individual to act or refrain from acting.
- 5642 (3) "Minor" means a person younger than 18 years old.
- 5643 (4) "Pattern of criminal gang activity" means:
- 5644 (a) committing, attempting to commit, conspiring to commit, or soliciting the
5645 commission of two or more predicate gang crimes within five years;
- 5646 (b) the predicate gang crimes are:
- 5647 (i) committed by two or more persons; or
5648 (ii) committed by an individual at the direction of, or in association with a criminal
5649 street gang; and
- 5650 (c) the criminal activity was committed with the specific intent to promote, further, or
5651 assist in any criminal conduct by members of the criminal street gang.
- 5652 (5)(a) "Predicate gang crime" means any of the following offenses:
- 5653 (i) Title 41, Chapter 1a, Motor Vehicle Act:
- 5654 (A) Section 41-1a-1313, regarding possession of a motor vehicle without an
5655 identification number;
- 5656 (B) Section 41-1a-1315, regarding false evidence of title and registration;
- 5657 (C) Section 41-1a-1316, regarding receiving or transferring stolen vehicles;
- 5658 (D) Section 41-1a-1317, regarding selling or buying a motor vehicle without an
5659 identification number; or
- 5660 (E) Section 41-1a-1318, regarding the fraudulent alteration of an identification
5661 number;
- 5662 (ii) any criminal violation of the following provisions:
- 5663 (A) Title 58, Chapter 37, Utah Controlled Substances Act;
- 5664 (B) Title 58, Chapter 37a, Utah Drug Paraphernalia Act;
- 5665 (C) Title 58, Chapter 37b, Imitation Controlled Substances Act; or
- 5666 (D) Title 58, Chapter 37c, Utah Controlled Substance Precursor Act;
- 5667 (iii) Sections 76-5-102 through 76-5-103.5, which address assault offenses;
- 5668 (iv) [Title 76,]Chapter 5, Part 2, Criminal Homicide;

- 5669 (v) Sections 76-5-301 through 76-5-304, which address kidnapping and related
5670 offenses;
- 5671 (vi) a felony offense under Title 76, Chapter 5, Part 4, Sexual Offenses;
- 5672 (vii) ~~[Title 76,]~~Chapter 6, Part 1, Property Destruction;
- 5673 (viii) ~~[Title 76,]~~Chapter 6, Part 2, Burglary and Criminal Trespass;
- 5674 (ix) ~~[Title 76,]~~Chapter 6, Part 3, Robbery;
- 5675 (x) a felony offense under ~~[Title 76,]~~Chapter 6, Part 4, Theft, or under ~~[Title 76,]~~
5676 Chapter 6, Part 6, Retail Theft, except Sections 76-6-404.5, 76-6-405, 76-6-407,
5677 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,
5678 76-6-409.9, 76-6-410, and 76-6-410.5;
- 5679 (xi) ~~[Title 76,]~~Chapter 6, Part 5, Fraud, except Sections 76-6-504, 76-6-505, 76-6-507,
5680 76-6-508, 76-6-509, 76-6-510, 76-6-511, 76-6-512, 76-6-513, 76-6-514, 76-6-516,
5681 76-6-517, 76-6-518, and 76-6-520;
- 5682 (xii) ~~[Title 76,]~~Chapter 6, Part 11, Identity Fraud Act;
- 5683 (xiii) ~~[Title 76,]~~Chapter 8, Part 3, Obstructing Governmental Operations, except
5684 Sections 76-8-302, 76-8-303, 76-8-307, 76-8-308, and 76-8-312;
- 5685 (xiv) tampering with a witness under Section 76-8-508;
- 5686 (xv) retaliation against a witness, victim, or informant under Section 76-8-509.3;
- 5687 (xvi) receiving or soliciting a bribe as a witness under Section 76-8-508.7;
- 5688 (xvii) extortion or bribery to dismiss a criminal proceeding under Section 76-8-509;
- 5689 (xviii) a misdemeanor violation of disorderly conduct under Section 76-9-102, if the
5690 violation occurs at an official meeting;
- 5691 (xix) ~~[Title 76,]~~Chapter 10, Part 3, Explosives;
- 5692 ~~[(xx) Title 76, Chapter 10, Part 5, Weapons;]~~
- 5693 ~~[(xxi)]~~ (xx) ~~[Title 76,]~~Chapter 10, Part 15, Bus Passenger Safety Act;
- 5694 ~~[(xxii)]~~ (xxi) ~~[Title 76,]~~Chapter 10, Part 16, Pattern of Unlawful Activity Act;
- 5695 ~~[(xxiii)]~~ (xxii) communications fraud under Section 76-10-1801;
- 5696 ~~[(xxiv)]~~ (xxiii) ~~[Title 76,]~~Chapter 10, Part 19, Money Laundering and Currency
5697 Transaction Reporting Act;~~[-or]~~
- 5698 ~~[(xxv)]~~ (xxiv) burglary of a research facility under Section 76-10-2002; or
5699 (xxv) Chapter 11, Weapons.
- 5700 (b) "Predicate gang crime" also includes:
- 5701 (i) any state or federal criminal offense that by its nature involves a substantial risk
5702 that physical force may be used against another in the course of committing the

5703 offense; and

5704 (ii) any felony violation of a criminal statute of any other state, the United States, or
5705 any district, possession, or territory of the United States which would constitute a
5706 violation of any offense in Subsection (4)(a) if committed in this state.

5707 Section 88. Section **76-9-804** is amended to read:

5708 **76-9-804 . Convicted criminal gang offender -- Prohibition.**

5709 (1) A person who has been convicted of a crime for which the penalty was enhanced under
5710 Section 76-3-203.1 may not, except where a greater penalty is applicable under this title,
5711 possess a dangerous weapon as defined in either Section 76-1-101.5 or ~~[76-10-50]~~
5712 76-11-101, ammunition, or a facsimile of a firearm within five years after the conviction.

5713 (2) A violation of Subsection (1) is a class A misdemeanor.

5714 Section 89. Section **76-9-902** is amended to read:

5715 **76-9-902 . Definitions.**

5716 As used in this part:

- 5717 (1) "Criminal street gang" means an organization, association in fact, or group of three or
5718 more persons, whether operated formally or informally:
- 5719 (a) that is currently in operation;
 - 5720 (b) that has as one of its substantial activities the commission of one or more predicate
5721 gang crimes;
 - 5722 (c) that has, as a group, an identifying name or an identifying sign or symbol, or both;
 - 5723 and
 - 5724 (d) whose members, acting individually or in concert with other members, engage in or
5725 have engaged in a pattern of criminal gang activity.
- 5726 (2) "Gang loitering" means a person remains in one place under circumstances that would
5727 cause a reasonable person to believe that the purpose or effect of that behavior is to
5728 enable or facilitate a criminal street gang to:
- 5729 (a) establish control over one or more identifiable areas;
 - 5730 (b) intimidate others from entering those areas; or
 - 5731 (c) conceal illegal activities.
- 5732 (3) "Pattern of criminal gang activity" means committing, attempting to commit, conspiring
5733 to commit, or soliciting the commission of two or more predicate gang crimes within
5734 five years, if the predicate gang crimes are committed:
- 5735 (a)(i) by two or more persons; or
 - 5736 (ii) by an individual at the direction of or in association with a criminal street gang;

- 5737 and
- 5738 (b) with the specific intent to promote, further, or assist in any criminal conduct by
- 5739 members of a criminal street gang.
- 5740 (4)(a) "Predicate gang crime" means any of the following offenses:
- 5741 (i) a criminal violation of:
- 5742 (A) Title 58, Chapter 37, Utah Controlled Substances Act;
- 5743 (B) Title 58, Chapter 37a, Utah Drug Paraphernalia Act;
- 5744 (C) Title 58, Chapter 37b, Imitation Controlled Substances Act; or
- 5745 (D) Title 58, Chapter 37c, Utah Controlled Substance Precursor Act;
- 5746 (ii) Sections 76-5-102 through 76-5-103.5, which address assault offenses;
- 5747 (iii) ~~[Title 76,]~~Chapter 5, Part 2, Criminal Homicide;
- 5748 (iv) Sections 76-5-301 through 76-5-304, which address kidnapping and related
- 5749 offenses;
- 5750 (v) a felony offense under ~~[Title 76,]~~Chapter 5, Part 4, Sexual Offenses;
- 5751 (vi) ~~[Title 76,]~~Chapter 6, Part 1, Property Destruction;
- 5752 (vii) ~~[Title 76,]~~Chapter 6, Part 2, Burglary and Criminal Trespass;
- 5753 (viii) ~~[Title 76,]~~Chapter 6, Part 3, Robbery;
- 5754 (ix) a felony offense under ~~[Title 76,]~~Chapter 6, Part 4, Theft, except Sections
- 5755 76-6-404.5, 76-6-405, 76-6-407, 76-6-408, 76-6-409, 76-6-409.1, 76-6-409.3,
- 5756 76-6-409.6, 76-6-409.7, 76-6-409.8, 76-6-409.9, 76-6-410, and 76-6-410.5;
- 5757 (x) ~~[Title 76,]~~Chapter 6, Part 5, Fraud, except Sections 76-6-504, 76-6-505, 76-6-507,
- 5758 76-6-508, 76-6-509, 76-6-510, 76-6-511, 76-6-512, 76-6-513, 76-6-514, 76-6-516,
- 5759 76-6-517, 76-6-518, and 76-6-520;
- 5760 (xi) ~~[Title 76,]~~Chapter 6, Part 11, Identity Fraud Act;
- 5761 (xii) ~~[Title 76,]~~Chapter 8, Part 3, Obstructing Governmental Operations, except
- 5762 Sections 76-8-302, 76-8-303, 76-8-307, 76-8-308, and 76-8-312;
- 5763 (xiii) tampering with a witness under Section 76-8-508;
- 5764 (xiv) retaliation against a witness, victim, or informant under Section 76-8-508.3;
- 5765 (xv) receiving or soliciting a bribe as a witness under Section 76-8-508.7;
- 5766 (xvi) extortion or bribery to dismiss a criminal proceeding under Section 76-8-509;
- 5767 (xvii) a misdemeanor violation of disorderly conduct under Section 76-9-102, if the
- 5768 violation occurs at an official meeting;
- 5769 (xviii) ~~[Title 76,]~~Chapter 10, Part 3, Explosives;
- 5770 ~~[(xix) Title 76, Chapter 10, Part 5, Weapons;]~~

5771 [~~(xx)~~] (xix) [~~Title 76,~~]Chapter 10, Part 15, Bus Passenger Safety Act;

5772 [~~(xxi)~~] (xx) [~~Title 76,~~]Chapter 10, Part 16, Pattern of Unlawful Activity Act;

5773 [~~(xxii)~~] (xxi) communications fraud under Section 76-10-1801;

5774 [~~(xxiii)~~] (xxii) [~~Title 76,~~]Chapter 10, Part 19, Money Laundering and Currency

5775 Transaction Reporting Act;

5776 [~~(xxiv)~~] (xxiii) burglary of a research facility under Section 76-10-2002;

5777 (xxiv) Chapter 11, Weapons; or

5778 (xxv) Title 41, Chapter 1a, Motor Vehicle Act:

5779 (A) Section 41-1a-1313, regarding possession of a motor vehicle without an

5780 identification number;

5781 (B) Section 41-1a-1315, regarding false evidence of title and registration;

5782 (C) Section 41-1a-1316, regarding receiving or transferring stolen vehicles;

5783 (D) Section 41-1a-1317, regarding selling or buying a vehicle without an

5784 identification number; and

5785 (E) Section 41-1a-1318, regarding the fraudulent alteration of an identification

5786 number.

5787 (b) "Predicate gang crime" also includes:

5788 (i) any state or federal criminal offense that by its nature involves a substantial risk

5789 that physical force may be used against another in the course of committing the

5790 offense; and

5791 (ii) any felony violation of a criminal statute of any other state, the United States, or

5792 any district, possession, or territory of the United States which would constitute

5793 any offense in Subsection (4)(a) if committed in this state.

5794 (5)(a) "Public place" means any location or structure to which the public or a substantial

5795 group of the public has access, and includes:

5796 (i) a sidewalk, street, or highway;

5797 (ii) a public park, public recreation facility, or any other area open to the public;

5798 (iii) a shopping mall, sports facility, stadium, arena, theater, movie house, or

5799 playhouse, or the parking lot or structure adjacent to any of these; and

5800 (iv) the common areas of schools, hospitals, apartment houses, office buildings,

5801 transport facilities, and businesses.

5802 (b) "Public place" includes the lobbies, hallways, elevators, restaurants and other dining

5803 areas, and restrooms of any of the locations or structures under Subsection (5)(a).

5804 Section 90. Section **76-10-306** is amended to read:

5805 **76-10-306 . Explosive, chemical, or incendiary device and parts -- Definitions --**5806 **Persons exempted -- Penalties.**

5807 (1) As used in this section:

5808 (a) "Explosive, chemical, or incendiary device" means:

5809 (i) dynamite and all other forms of high explosives, including water gel, slurry,
5810 military C-4 (plastic explosives), blasting agents to include nitro-carbon-nitrate,
5811 ammonium nitrate, fuel oil mixtures, cast primers and boosters, R.D.X., P.E.T.N.,
5812 electric and nonelectric blasting caps, exploding cords commonly called
5813 detonating cord, detcord, or primacord, picric acid explosives, T.N.T. and T.N.T.
5814 mixtures, nitroglycerin and nitroglycerin mixtures, or any other chemical mixture
5815 intended to explode with fire or force;

5816 (ii) any explosive bomb, grenade, missile, or similar device; and

5817 (iii) any incendiary bomb, grenade, fire bomb, chemical bomb, or similar device,
5818 including any device, except kerosene lamps, if criminal intent has not been
5819 established, which consists of or includes a breakable container including a
5820 flammable liquid or compound and a wick composed of any material which, when
5821 ignited, is capable of igniting the flammable liquid or compound or any breakable
5822 container which consists of, or includes a chemical mixture that explodes with fire
5823 or force and can be carried, thrown, or placed.

5824 (b) "Explosive, chemical, or incendiary device" does not include rifle, pistol, or shotgun
5825 ammunition, reloading components, or muzzleloading equipment.

5826 (c) "Explosive, chemical, or incendiary parts" means any substances or materials or
5827 combinations which have been prepared or altered for use in the creation of an
5828 explosive, chemical, or incendiary device. These substances or materials include:

5829 (i) timing device, clock, or watch which has been altered in such a manner as to be
5830 used as the arming device in an explosive;

5831 (ii) pipe, end caps, or metal tubing which has been prepared for a pipe bomb; and

5832 (iii) mechanical timers, mechanical triggers, chemical time delays, electronic time
5833 delays, or commercially made or improvised items which, when used singly or in
5834 combination, may be used in the construction of a timing delay mechanism, booby
5835 trap, or activating mechanism for any explosive, chemical, or incendiary device.

5836 (d) "Explosive, chemical, or incendiary parts" does not include rifle, pistol, or shotgun
5837 ammunition, or any signaling device customarily used in operation of railroad
5838 equipment.

- 5839 (2) The provisions in Subsections (3) and (6) do not apply to:
- 5840 (a) any public safety officer while acting in an official capacity transporting or otherwise
- 5841 handling explosives, chemical, or incendiary devices;
- 5842 (b) any member of the armed forces of the United States or Utah National Guard while
- 5843 acting in an official capacity;
- 5844 (c) any person possessing a valid permit issued under the provisions of the International
- 5845 Fire Code, Section 105 and Chapter 56, or any employee of the permittee acting
- 5846 within the scope of employment;
- 5847 (d) any person possessing a valid license as an importer, wholesaler, display operator,
- 5848 special effects operator, or flame effects operator under the provisions of Sections
- 5849 11-3-3.5 and 53-7-223; and
- 5850 (e) any person or entity possessing or controlling an explosive, chemical, or incendiary
- 5851 device as part of its lawful business operations.
- 5852 (3) Any person is guilty of a second degree felony who, under circumstances not amounting
- 5853 to a violation of Part 4, Weapons of Mass Destruction, knowingly, intentionally, or
- 5854 recklessly possesses or controls an explosive, chemical, or incendiary device.
- 5855 (4) Any person is guilty of a first degree felony who, under circumstances not amounting to
- 5856 a violation of Part 4, Weapons of Mass Destruction, knowingly or intentionally:
- 5857 (a) uses or causes to be used an explosive, chemical, or incendiary device in the
- 5858 commission of or an attempt to commit a felony;
- 5859 (b) injures another or attempts to injure another person or another person's property
- 5860 through the use of an explosive, chemical, or incendiary device; or
- 5861 (c) transports, possesses, distributes, or sells any explosive, chemical, or incendiary
- 5862 device in a secure area established pursuant to Section 76-8-311.1, 76-8-311.3, [
5863 76-10-529] 76-11-218, or 78A-2-203.
- 5864 (5) Any person who, under circumstances not amounting to a violation of Part 4, Weapons
- 5865 of Mass Destruction, knowingly, intentionally, or recklessly removes or causes to be
- 5866 removed or carries away any explosive, chemical, or incendiary device from the
- 5867 premises where the explosive, chemical, or incendiary device is kept by the lawful user,
- 5868 vendor, transporter, or manufacturer without the consent or direction of the lawful
- 5869 possessor is guilty of a second degree felony.
- 5870 (6) Any person who, under circumstances not amounting to a violation of Part 4, Weapons
- 5871 of Mass Destruction, knowingly, intentionally, or recklessly possesses any explosive,
- 5872 chemical, or incendiary parts is guilty of a third degree felony.

5873 Section 91. Section **76-10-1602** is amended to read:

5874 **76-10-1602 . Definitions.**

5875 As used in this part:

- 5876 (1) "Enterprise" means any individual, sole proprietorship, partnership, corporation,
5877 business trust, association, or other legal entity, and any union or group of individuals
5878 associated in fact although not a legal entity, and includes illicit as well as licit entities.
- 5879 (2) "Pattern of unlawful activity" means engaging in conduct which constitutes the
5880 commission of at least three episodes of unlawful activity, which episodes are not
5881 isolated, but have the same or similar purposes, results, participants, victims, or methods
5882 of commission, or otherwise are interrelated by distinguishing characteristics. Taken
5883 together, the episodes shall demonstrate continuing unlawful conduct and be related
5884 either to each other or to the enterprise. At least one of the episodes comprising a
5885 pattern of unlawful activity shall have occurred after July 31, 1981. The most recent act
5886 constituting part of a pattern of unlawful activity as defined by this part shall have
5887 occurred within five years of the commission of the next preceding act alleged as part of
5888 the pattern.
- 5889 (3) "Person" includes any individual or entity capable of holding a legal or beneficial
5890 interest in property, including state, county, and local governmental entities.
- 5891 (4) "Unlawful activity" means to directly engage in conduct or to solicit, request, command,
5892 encourage, or intentionally aid another person to engage in conduct which would
5893 constitute any offense described by the following crimes or categories of crimes, or to
5894 attempt or conspire to engage in an act which would constitute any of those offenses,
5895 regardless of whether the act is in fact charged or indicted by any authority or is
5896 classified as a misdemeanor or a felony:
- 5897 (a) an act prohibited by the criminal provisions under Title 13, Chapter 10, Unauthorized
5898 Recording Practices Act;
 - 5899 (b) an act prohibited by the criminal provisions under Title 19, Environmental Quality
5900 Code, Sections 19-1-101 through 19-7-109;
 - 5901 (c) taking, destroying, or possessing wildlife or parts of wildlife for the primary purpose
5902 of sale, trade, or other pecuniary gain under Title 23A, Wildlife Resources Act, or
5903 Section 23A-5-311;
 - 5904 (d) false claims for medical benefits, kickbacks, or other acts prohibited under Title 26B,
5905 Chapter 3, Part 11, Utah False Claims Act, Sections 26B-3-1101 through 26B-3-1112;
 - 5906 (e) an act prohibited by the criminal provisions under Title 32B, Chapter 4, Criminal

5907 Offenses and Procedure Act;

5908 ~~(f)~~ (f) unlawful marking of pistol or revolver under Section 53-5a-105;

5909 ~~(g)~~ (g) alteration of number or mark on pistol or revolver under Section 53-5a-106;

5910 ~~(f)~~ (h) an act prohibited by the criminal provisions under Title 57, Chapter 11, Utah

5911 Uniform Land Sales Practices Act;

5912 ~~(g)~~ (i) an act prohibited by the criminal provisions under Title 58, Chapter 37, Utah

5913 Controlled Substances Act, or Title 58, Chapter 37b, Imitation Controlled Substances

5914 Act, Title 58, Chapter 37c, Utah Controlled Substance Precursor Act, or Title 58,

5915 Chapter 37d, Clandestine Drug Lab Act;

5916 ~~(h)~~ (j) an act prohibited by the criminal provisions under Title 61, Chapter 1, Utah

5917 Uniform Securities Act;

5918 ~~(i)~~ (k) an act prohibited by the criminal provisions under Title 63G, Chapter 6a, Utah

5919 Procurement Code;

5920 ~~(j)~~ (l) assault under Section 76-5-102;

5921 ~~(k)~~ (m) aggravated assault under Section 76-5-103;

5922 ~~(l)~~ (n) a threat of terrorism under Section 76-5-107.3;

5923 ~~(m)~~ (o) a criminal homicide offense under Section 76-5-201;

5924 ~~(n)~~ (p) kidnapping under Section 76-5-301;

5925 ~~(o)~~ (q) aggravated kidnapping under Section 76-5-302;

5926 ~~(p)~~ (r) human trafficking for labor under Section 76-5-308;

5927 ~~(q)~~ (s) human trafficking for sexual exploitation under Section 76-5-308.1;

5928 ~~(r)~~ (t) human smuggling under Section 76-5-308.3;

5929 ~~(s)~~ (u) human trafficking of a child under Section 76-5-308.5;

5930 ~~(t)~~ (v) benefiting from trafficking and human smuggling under Section 76-5-309;

5931 ~~(u)~~ (w) aggravated human trafficking under Section 76-5-310;

5932 ~~(v)~~ (x) sexual exploitation of a minor under Section 76-5b-201;

5933 ~~(w)~~ (y) aggravated sexual exploitation of a minor under Section 76-5b-201.1;

5934 ~~(x)~~ (z) arson under Section 76-6-102;

5935 ~~(y)~~ (aa) aggravated arson under Section 76-6-103;

5936 ~~(z)~~ (bb) causing a catastrophe under Section 76-6-105;

5937 ~~(aa)~~ (cc) burglary under Section 76-6-202;

5938 ~~(bb)~~ (dd) aggravated burglary under Section 76-6-203;

5939 ~~(cc)~~ (ee) burglary of a vehicle under Section 76-6-204;

5940 ~~(dd)~~ (ff) manufacture or possession of an instrument for burglary or theft under Section

5941 76-6-205;
 5942 [~~ee~~] (gg) robbery under Section 76-6-301;
 5943 [~~ff~~] (hh) aggravated robbery under Section 76-6-302;
 5944 [~~gg~~] (ii) theft under Section 76-6-404;
 5945 [~~hh~~] (jj) theft by deception under Section 76-6-405;
 5946 [~~ii~~] (kk) theft by extortion under Section 76-6-406;
 5947 [~~jj~~] (ll) receiving stolen property under Section 76-6-408;
 5948 [~~kk~~] (mm) theft of services under Section 76-6-409;
 5949 [~~ll~~] (nn) forgery under Section 76-6-501;
 5950 [~~mm~~] (oo) unlawful use of financial transaction card under Section 76-6-506.2;
 5951 [~~nn~~] (pp) unlawful acquisition, possession, or transfer of financial transaction card
 5952 under Section 76-6-506.3;
 5953 [~~oo~~] (qq) financial transaction card offenses under Section 76-6-506.6;
 5954 [~~pp~~] (rr) deceptive business practices under Section 76-6-507;
 5955 [~~qq~~] (ss) bribery or receiving bribe by person in the business of selection, appraisal, or
 5956 criticism of goods under Section 76-6-508;
 5957 [~~rr~~] (tt) bribery of a labor official under Section 76-6-509;
 5958 [~~ss~~] (uu) defrauding creditors under Section 76-6-511;
 5959 [~~tt~~] (vv) acceptance of deposit by insolvent financial institution under Section 76-6-512;
 5960 [~~uu~~] (ww) unlawful dealing with property by fiduciary under Section 76-6-513;
 5961 [~~vv~~] (xx) bribery or threat to influence contest under Section 76-6-514;
 5962 [~~ww~~] (yy) making a false credit report under Section 76-6-517;
 5963 [~~xx~~] (zz) criminal simulation under Section 76-6-518;
 5964 [~~yy~~] (aaa) criminal usury under Section 76-6-520;
 5965 [~~zz~~] (bbb) insurance fraud under Section 76-6-521;
 5966 [~~aaa~~] (ccc) retail theft under Section 76-6-602;
 5967 [~~bbb~~] (ddd) computer crimes under Section 76-6-703;
 5968 [~~ccc~~] (eee) identity fraud under Section 76-6-1102;
 5969 [~~ddd~~] (fff) mortgage fraud under Section 76-6-1203;
 5970 [~~eee~~] (ggg) sale of a child under Section 76-7-203;
 5971 [~~fff~~] (hhh) bribery to influence official or political actions under Section 76-8-103;
 5972 [~~ggg~~] (iii) threat to influence official or political action under Section 76-8-104;
 5973 [~~hhh~~] (jjj) receiving bribe or bribery by public servant under Section 76-8-105;
 5974 [~~iii~~] (kkk) receiving bribe for endorsement of person as a public servant under Section

5975 76-8-106;
 5976 [~~(jjj)~~] (lll) bribery for endorsement of person as public servant under Section 76-8-106.1;
 5977 [~~(kkk)~~] (mmm) official misconduct based on unauthorized act or failure of duty under
 5978 Section 76-8-201;
 5979 [~~(HH)~~] (nnn) official misconduct concerning inside information under Section 76-8-202;
 5980 [~~(mmm)~~] (ooo) obstruction of justice in a criminal investigation or proceeding under
 5981 Section 76-8-306;
 5982 [~~(nnn)~~] (ppp) acceptance of bribe or bribery to prevent criminal prosecution under
 5983 Section 76-8-308;
 5984 [~~(ooo)~~] (qqq) harboring or concealing offender who has escaped from official custody
 5985 under Section 76-8-309.2;
 5986 [~~(ppp)~~] (rrr) making a false or inconsistent material statement under Section 76-8-502;
 5987 [~~(qqq)~~] (sss) making a false or inconsistent statement under Section 76-8-503;
 5988 [~~(rrr)~~] (ttt) making a written false statement under Section 76-8-504;
 5989 [~~(sss)~~] (uuu) tampering with a witness under Section 76-8-508;
 5990 [~~(ttt)~~] (vvv) retaliation against a witness, victim, or informant under Section 76-8-508.3;
 5991 [~~(uuu)~~] (www) receiving or soliciting a bribe as a witness under Section 76-8-508.7;
 5992 [~~(vvv)~~] (xxx) extortion or bribery to dismiss a criminal proceeding under Section
 5993 76-8-509;
 5994 [~~(www)~~] (yyy) tampering with evidence under Section 76-8-510.5;
 5995 [~~(xxx)~~] (zzz) falsification or alteration of a government record under Section 76-8-511, if
 5996 the record is a record described in Title 20A, Election Code, or Title 36, Chapter 11,
 5997 Lobbyist Disclosure and Regulation Act;
 5998 [~~(yyy)~~] (aaa) public assistance fraud by an applicant for public assistance under Section
 5999 76-8-1203.1;
 6000 [~~(zzz)~~] (bbb) public assistance fraud by a recipient of public assistance under Section
 6001 76-8-1203.3;
 6002 [~~(aaa)~~] (ccc) public assistance fraud by a provider under Section 76-8-1203.5;
 6003 [~~(bbb)~~] (ddd) fraudulently misappropriating public assistance funds under Section
 6004 76-8-1203.7;
 6005 [~~(eee)~~] (eee) false statement to obtain or increase unemployment compensation under
 6006 Section 76-8-1301;
 6007 [~~(ddd)~~] (fff) false statement to prevent or reduce unemployment compensation or
 6008 liability under Section 76-8-1302;

6009 [(eeee)] (gggg) unlawful failure to comply with Employment Security Act requirements
6010 under Section 76-8-1303;

6011 [(ffff)] (hhhh) unlawful use or disclosure of employment information under Section
6012 76-8-1304;

6013 [(gggg)] (iiii) intentionally or knowingly causing one animal to fight with another under
6014 Subsection 76-9-301(2)(d) or (e), or Section 76-9-301.1;

6015 [(hhhh)] (jjjj) possession, use, or removal of explosives, chemical, or incendiary devices
6016 or parts under Section 76-10-306;

6017 [(iiii)] (kkkk) delivery to common carrier, mailing, or placement on premises of an
6018 incendiary device under Section 76-10-307;

6019 [(jjjj)] possession of a deadly weapon with intent to assault under Section 76-10-507;]
6020 [(kkkk) unlawful marking of pistol or revolver under Section 76-10-521;]
6021 [(llll) alteration of number or mark on pistol or revolver under Section 76-10-522;]
6022 [(mmmm)] (llll) forging or counterfeiting trademarks, trade name, or trade device under
6023 Section 76-10-1002;

6024 [(nnnn)] (mmmm) selling goods under counterfeited trademark, trade name, or trade
6025 devices under Section 76-10-1003;

6026 [(oooo)] (nnnn) sales in containers bearing registered trademark of substituted articles
6027 under Section 76-10-1004;

6028 [(pppp)] (oooo) selling or dealing with article bearing registered trademark or service
6029 mark with intent to defraud under Section 76-10-1006;

6030 [(qqqq)] (pppp) gambling under Section 76-10-1102;

6031 [(rrrr)] (qqqq) gambling fraud under Section 76-10-1103;

6032 [(ssss)] (rrrr) gambling promotion under Section 76-10-1104;

6033 [(tttt)] (ssss) possessing a gambling device or record under Section 76-10-1105;

6034 [(uuuu)] (tttt) confidence game under Section 76-10-1109;

6035 [(vvvv)] (uuuu) distributing pornographic material under Section 76-10-1204;

6036 [(wwww)] (vvvv) inducing acceptance of pornographic material under Section
6037 76-10-1205;

6038 [(xxxx)] (wwww) dealing in harmful material to a minor under Section 76-10-1206;

6039 [(yyyy)] (xxxx) distribution of pornographic films under Section 76-10-1222;

6040 [(zzzz)] (yyyy) indecent public displays under Section 76-10-1228;

6041 [(aaaa)] (zzzz) prostitution under Section 76-10-1302;

6042 [(bbbb)] (aaaa) aiding prostitution under Section 76-10-1304;

6043 [(eeee)] (bbbb) exploiting prostitution under Section 76-10-1305;
 6044 [(dddd)] (cccc) aggravated exploitation of prostitution under Section 76-10-1306;
 6045 [(eeee)] (dddd) communications fraud under Section 76-10-1801;
 6046 (eeee) possession of a dangerous weapon with criminal intent under Section 76-11-208;
 6047 (ffff) an act prohibited by the criminal provisions of Part 19, Money Laundering and
 6048 Currency Transaction Reporting Act;
 6049 (ggggg) vehicle compartment for contraband under Section 76-10-2801;
 6050 (hhhhh) an act prohibited by the criminal provisions of the laws governing taxation in
 6051 this state; or
 6052 (iiii) an act illegal under the laws of the United States and enumerated in 18 U.S.C. Sec.
 6053 1961(1)(B), (C), and (D).
 6054 Section 92. Section **76-11-101**, which is renumbered from Section 76-10-501 is renumbered
 6054 and amended to read:

CHAPTER 11. WEAPONS

Part 1. General Provisions

~~76-10-501~~76-11-101 . Definitions.

As used in this [part] chapter:

- 6060 (1)(a) "Antique firearm" means:
- 6061 (i) any firearm, including any firearm with a matchlock, flintlock, percussion cap, or
 6062 similar type of ignition system, manufactured in or before 1898;
 - 6063 (ii) a firearm that is a replica of any firearm described in this Subsection (1)(a), if the
 6064 replica:
 - 6065 (A) is not designed or redesigned for using rimfire or conventional centerfire fixed
 6066 ammunition; or
 - 6067 (B) uses rimfire or centerfire fixed ammunition [~~which~~] that is[;]
 6068 [(H)] no longer manufactured in the United States[;] and
 6069 [(H)] is not readily available in ordinary channels of commercial trade; or
 - 6070 (iii)(A) that is a muzzle loading rifle, shotgun, or pistol; and
 6071 (B) is designed to use black powder, or a black powder substitute, and cannot use
 6072 fixed ammunition.
- 6073 (b) "Antique firearm" does not include:
- 6074 (i) a weapon that incorporates a firearm frame or receiver;
 - 6075 (ii) a firearm that is converted into a muzzle loading weapon; or

- 6076 (iii) a muzzle loading weapon that can be readily converted to fire fixed ammunition
 6077 by replacing the:
 6078 (A) barrel;
 6079 (B) bolt;
 6080 (C) breechblock; or
 6081 (D) any combination of Subsection (1)(b)(iii)(A), (B), or (C).
- 6082 (2) "Bureau" means the Bureau of Criminal Identification created in Section 53-10-201
 6083 within the Department of Public Safety.
- 6084 ~~[(3)(a) "Concealed firearm" means a firearm that is:]~~
 6085 ~~[(i) covered, hidden, or secreted in a manner that the public would not be aware of~~
 6086 ~~its presence; and]~~
 6087 ~~[(ii) readily accessible for immediate use.]~~
 6088 ~~[(b) A firearm that is unloaded and securely encased is not a concealed firearm for the~~
 6089 ~~purposes of this part.]~~
- 6090 ~~[(4) "Criminal history background check" means a criminal background check conducted~~
 6091 ~~by a licensed firearms dealer on every purchaser of a handgun, except a Federal~~
 6092 ~~Firearms Licensee, through the bureau or the local law enforcement agency where the~~
 6093 ~~firearms dealer conducts business.]~~
- 6094 ~~[(5) "Curio or relic firearm" means a firearm that:]~~
 6095 ~~[(a) is of special interest to a collector because of a quality that is not associated with~~
 6096 ~~firearms intended for:]~~
 6097 ~~[(i) sporting use;]~~
 6098 ~~[(ii) use as an offensive weapon; or]~~
 6099 ~~[(iii) use as a defensive weapon;]~~
 6100 ~~[(b)(i) was manufactured at least 50 years before the current date; and]~~
 6101 ~~[(ii) is not a replica of a firearm described in Subsection (5)(b)(i);]~~
 6102 ~~[(e) is certified by the curator of a municipal, state, or federal museum that exhibits~~
 6103 ~~firearms to be a curio or relic of museum interest;]~~
 6104 ~~[(d) derives a substantial part of its monetary value:]~~
 6105 ~~[(i) from the fact that the firearm is:]~~
 6106 ~~[(A) novel;]~~
 6107 ~~[(B) rare; or]~~
 6108 ~~[(C) bizarre; or]~~
 6109 ~~[(ii) because of the firearm's association with an historical:]~~

- 6110 ~~[(A) figure;]~~
- 6111 ~~[(B) period; or]~~
- 6112 ~~[(C) event; and]~~
- 6113 ~~[(e) has been designated as a curio or relic firearm by the director of the United States~~
- 6114 ~~Treasury Department Bureau of Alcohol, Tobacco, and Firearms under 27 C.F.R.~~
- 6115 ~~Sec. 478.11.]~~
- 6116 ~~[(6)]~~ (3)(a) "Dangerous weapon" means:
- 6117 (i) a firearm; or
- 6118 (ii) an object that in the manner of its use or intended use is capable of causing death
- 6119 or serious bodily injury.
- 6120 (b) The following factors are used in determining whether any object, other than a
- 6121 firearm, is a dangerous weapon:
- 6122 (i) the location and circumstances in which the object was used or possessed;
- 6123 (ii) the primary purpose for which the object was made;
- 6124 (iii) the character of the wound, if any, produced by the object's unlawful use;
- 6125 (iv) the manner in which the object was unlawfully used;
- 6126 (v) whether the manner in which the object is used or possessed constitutes a
- 6127 potential imminent threat to public safety; and
- 6128 (vi) the lawful purposes for which the object may be used.
- 6129 (c) "Dangerous weapon" does not include an explosive, chemical, or incendiary device
- 6130 as defined by Section 76-10-306.
- 6131 ~~[(7)(a) "Dating relationship" means a romantic or intimate relationship between~~
- 6132 ~~individuals.]~~
- 6133 ~~[(b) "Dating relationship" does not include a casual acquaintanceship or ordinary~~
- 6134 ~~fraternization in a business or social context.]~~
- 6135 ~~[(8) "Dealer" means a person who is:]~~
- 6136 ~~[(a) licensed under 18 U.S.C. Sec. 923; and]~~
- 6137 ~~[(b) engaged in the business of selling, leasing, or otherwise transferring a handgun,~~
- 6138 ~~whether the person is a retail or wholesale dealer, pawnbroker, or otherwise.]~~
- 6139 ~~[(9) "Domestic violence" means the same as that term is defined in Section 77-36-1.]~~
- 6140 ~~[(10) "Enter" means intrusion of the entire body.]~~
- 6141 ~~[(11) "Federal Firearms Licensee" means a person who:]~~
- 6142 ~~[(a) holds a valid Federal Firearms License issued under 18 U.S.C. Sec. 923; and]~~
- 6143 ~~[(b) is engaged in the activities authorized by the specific category of license held.]~~

- 6144 [(12)] (4)[(a)] "Firearm" means:
- 6145 (a) [-]a pistol, revolver, shotgun, [~~short barreled shotgun,~~] or rifle[- or short barreled
- 6146 rifle,] ; or
- 6147 (b) [-]a device that could be used as a dangerous weapon from which a projectile is
- 6148 expelled [~~a projectile~~]by an explosive action[-of an explosive].
- 6149 [(b) ~~As used in Sections 76-10-526 and 76-10-527, "firearm" does not include an~~
- 6150 ~~antique firearm.~~]
- 6151 [(13) ~~"Firearms transaction record form" means a form created by the bureau to be~~
- 6152 ~~completed by a person purchasing, selling, or transferring a handgun from a dealer in the~~
- 6153 ~~state.~~]
- 6154 [(14) ~~"Fully automatic weapon" means a firearm which fires, is designed to fire, or can be~~
- 6155 ~~readily restored to fire, automatically more than one shot without manual reloading by a~~
- 6156 ~~single function of the trigger.~~]
- 6157 [(15)] (5)[(a)] "Handgun" means a pistol, revolver, or other firearm of any description, [
- 6158 ~~loaded or unloaded,~~]from which a shot, bullet, or other missile can be discharged,
- 6159 the length of which, not including any revolving, detachable, or magazine breech,
- 6160 does not exceed 12 inches.
- 6161 [(b) ~~As used in Sections 76-10-520, 76-10-521, and 76-10-522, "handgun" and "pistol~~
- 6162 ~~or revolver" do not include an antique firearm.~~]
- 6163 [(16) ~~"House of worship" means a church, temple, synagogue, mosque, or other building~~
- 6164 ~~set apart primarily for the purpose of worship in which religious services are held and~~
- 6165 ~~the main body of which is kept for that use and not put to any other use inconsistent with~~
- 6166 ~~its primary purpose.~~]
- 6167 [(17) ~~"Machinegun firearm attachment" means any part or combination of parts added to a~~
- 6168 ~~semiautomatic firearm that allows the firearm to fire as a fully automatic weapon.~~]
- 6169 [(18) ~~"Prohibited area" means a place where it is unlawful to discharge a firearm.~~]
- 6170 [(19) ~~"Readily accessible for immediate use" means that a firearm or other dangerous~~
- 6171 ~~weapon is carried on the person or within such close proximity and in such a manner~~
- 6172 ~~that it can be retrieved and used as readily as if carried on the person.~~]
- 6173 [(20) ~~"Residence" means an improvement to real property used or occupied as a primary or~~
- 6174 ~~secondary residence.~~]
- 6175 [(21) ~~"Securely encased" means not readily accessible for immediate use, such as held in a~~
- 6176 ~~gun rack, or in a closed case or container, whether or not locked, or in a trunk or other~~
- 6177 ~~storage area of a motor vehicle, not including a glove box or console box.~~]

- 6178 [(22)] (6) ["Short barreled shotgun" or "short barreled rifle" means a shotgun having a barrel
6179 or barrels of fewer than 18 inches in length, or in the case of a rifle, having a barrel or
6180 barrels of fewer than 16 inches in length, or a dangerous weapon made from a rifle or
6181 shotgun by alteration, modification, or otherwise, if the weapon as modified has an
6182 overall length of fewer than 26 inches.] "Minor" means an individual under 18 years old.
- 6183 [(23)] (7) "Shotgun" means a smooth bore firearm designed to fire cartridges containing
6184 pellets or a single slug.
- 6185 [(24) "Shoulder arm" means a firearm that is designed to be fired while braced against the
6186 shoulder.]
- 6187 [(25) "Single criminal episode" means the same as that term is defined in Section 76-1-401.]
- 6188 [(26)] (8) "Slug" means a single projectile discharged from a shotgun shell.
- 6189 [(27) "State entity" means a department, commission, board, council, agency, institution,
6190 officer, corporation, fund, division, office, committee, authority, laboratory, library, unit,
6191 bureau, panel, or other administrative unit of the state.]
- 6192 [(28)] (9) "Violent felony" means the same as that term is defined in Section 76-3-203.5.
- 6193 Section 93. Section **76-11-102**, which is renumbered from Section 76-10-502 is renumbered
6193 and amended to read:

6195 **[76-10-502]76-11-102 . When a firearm is deemed to be loaded.**

- 6196 (1) For the purpose of this chapter, [~~any pistol, revolver, shotgun, rifle, or other weapon~~
6197 ~~described in this part shall be deemed to be~~] a firearm is considered to be loaded when
6198 there is an unexpended cartridge, shell, or projectile in the firing position.
- 6199 (2) [~~Pistols and revolvers shall also be deemed to be~~] Handguns are also considered to be
6200 loaded when an unexpended cartridge, shell, or projectile is in a position whereby the
6201 manual operation of any mechanism once would cause the unexpended cartridge, shell,
6202 or projectile to be fired.
- 6203 (3) A muzzle loading firearm [~~shall be deemed to be~~] is considered loaded when [it] the
6204 muzzle loading firearm is capped or primed and has a powder charge and ball or shot in
6205 the barrel or cylinders.

6206 Section 94. Section **76-11-201** is enacted to read:

6207 **Part 2. General Weapons Violations**

6208 **76-11-201 . Definitions.**

6209 As used in this part:

- 6210 (1) "Enter" means intrusion of the entire body.

- 6211 (2) "Fully automatic weapon" means a firearm that fires, is designed to fire, or can be
 6212 readily restored to fire, automatically more than one shot without manual reloading by a
 6213 single function of the trigger.
- 6214 (3) "House of worship" means a church, temple, synagogue, mosque, or other building set
 6215 apart primarily for the purpose of worship in which religious services are held and the
 6216 main body of which is kept for that use and not put to any other use inconsistent with the
 6217 building's primary purpose.
- 6218 (4) "Machinegun firearm attachment" means any part or combination of parts added to a
 6219 semiautomatic firearm that allows the firearm to fire as a fully automatic weapon.
- 6220 (5) "NFA firearm" means a firearm as that term is defined in the National Firearms Act, 26
 6221 U.S.C. Sec. 5845.
- 6222 (6)(a) "Readily accessible for immediate use" means that a firearm or other dangerous
 6223 weapon is carried on an individual's person or within such close proximity and in
 6224 such a manner that it can be retrieved and used as readily as if carried on the
 6225 individual's person.
- 6226 (b) "Readily accessible for immediate use" does not include a securely encased firearm.
- 6227 (7)(a) "Securely encased firearm" means a firearm that is not readily accessible for
 6228 immediate use.
- 6229 (b) "Securely encased firearm" includes a loaded or unloaded firearm located in a gun
 6230 rack, in a closed locked or unlocked case or container, or in a trunk or other storage
 6231 area of a motor vehicle.
- 6232 (c) "Securely encased firearm" does not include a firearm in a glove box or console box
 6233 unless the firearm is also in a holster or other case which covers the trigger
 6234 mechanism.

6235 Section 95. Section **76-11-202**, which is renumbered from Section 76-10-504 is renumbered
 6235 and amended to read:

6237 **[76-10-504]76-11-202 . Unlawful carrying of a concealed firearm by an individual under 21**
 6238 **years old.**

6239 ~~[(1) Except as provided in Sections 76-10-503 and 76-10-523 and in Subsections (2), (3),~~
 6240 ~~and (4), a person who carries a concealed firearm, as defined in Section 76-10-501,~~
 6241 ~~including an unloaded firearm on his or her person or one that is readily accessible for~~
 6242 ~~immediate use which is not securely encased, as defined in this part, in or on a place~~
 6243 ~~other than the person's residence, property, a vehicle in the person's lawful possession,~~
 6244 ~~or a vehicle, with the consent of the individual who is lawfully in possession of the~~

- 6245 vehicle, or business under the person's control is guilty of a class B misdemeanor.]
- 6246 [~~(2) A person who carries a concealed firearm that is a loaded firearm in violation of~~
- 6247 ~~Subsection (1) is guilty of a class A misdemeanor.]~~
- 6248 [~~(3) A person who carries concealed an unlawfully possessed short barreled shotgun or a~~
- 6249 ~~short barreled rifle is guilty of a second degree felony.]~~
- 6250 [~~(4) If the concealed firearm is used in the commission of a violent felony as defined in~~
- 6251 ~~Section 76-3-203.5, and the person is a party to the offense, the person is guilty of a~~
- 6252 ~~second degree felony.]~~
- 6253 [~~(5) Nothing in Subsection (1) or (2) prohibits a person engaged in the lawful taking of~~
- 6254 ~~protected or unprotected wildlife as defined in Title 23A, Wildlife Resources Act, from~~
- 6255 ~~carrying a concealed firearm as long as the taking of wildlife does not occur:]~~
- 6256 [~~(a) within the limits of a municipality in violation of that municipality's ordinances; or]~~
- 6257 [~~(b) upon the highways of the state as defined in Section 41-6a-102.]~~
- 6258 (1) Terms defined in Sections 76-1-101.5, 76-11-101, and 76-11-201 apply to this section.
- 6259 (2) An actor commits unlawful carrying of a concealed firearm by an individual under 21
- 6260 years old if:
- 6261 (a) the actor is younger than 21 years old;
- 6262 (b) the actor does not have a provisional concealed carry permit issued in accordance
- 6263 with Section 53-5a-304 or a concealed carry permit lawfully issued by or in another
- 6264 state;
- 6265 (c) the actor conceals a firearm in a covered, hidden, or secreted manner that the public
- 6266 would not be aware of the firearm's presence;
- 6267 (d) the firearm described in Subsection (2)(c) is readily accessible for immediate use by
- 6268 the actor; and
- 6269 (e) the actor is in a location that is not:
- 6270 (i) the actor's residence;
- 6271 (ii) the actor's real property;
- 6272 (iii) a vehicle that the actor is lawfully present in; or
- 6273 (iv) a business under the actor's control.
- 6274 (3)(a) Except as provided in Subsection (3)(b) or (3)(c), a violation of Subsection (2) is
- 6275 a class B misdemeanor.
- 6276 (b) Except as provided in Subsection (3)(c), a violation of Subsection (2) is a class A
- 6277 misdemeanor if the firearm was loaded at the time of the violation.
- 6278 (c) A violation of Subsection (2) is a second degree felony if the firearm was used in the

- 6279 commission of a violent felony and the actor was a party to the offense.
- 6280 (4) This section does not:
- 6281 (a) apply to an individual who is categorized as a restricted person under Section
- 6282 76-11-302 or 76-11-303 and may not possess a firearm in any manner or location and
- 6283 is subject to the penalties described in Part 3, Persons Restricted Regarding
- 6284 Dangerous Weapons;
- 6285 (b) prohibit an individual engaged in the lawful taking of protected or unprotected
- 6286 wildlife as defined in Title 23A, Wildlife Resources Act, from carrying a concealed
- 6287 firearm while performing an act to take the wildlife if the taking of wildlife does not
- 6288 occur:
- 6289 (i) within the limits of a municipality in violation of that municipality's ordinances; or
- 6290 (ii) upon the highways of the state as defined in Section 41-6a-102;
- 6291 (c) apply to an individual who is not a restricted person as described in Section
- 6292 76-11-302 or 76-11-303 or 18 U.S.C. Sec. 922(g) and is issued a protective order
- 6293 under Subsection 78B-7-404(1)(b) or 78B-7-603(1)(b), for a period of 120 days after
- 6294 the day on which the individual is issued the protective order; or
- 6295 (d) prohibit the owner or lawful possessor of a vehicle from prohibiting another
- 6296 individual from carrying a firearm in the owner's or lawful possessor's vehicle.
- 6297 (5) An actor is lawfully present in a vehicle while carrying a firearm under this section if:
- 6298 (a) the vehicle is in the lawful possession of the actor; or
- 6299 (b) the actor has the consent of the person lawfully in possession of the vehicle to carry
- 6300 the firearm in the vehicle.
- 6301 Section 96. Section **76-11-203** is enacted to read:
- 6302 **76-11-203 . Concealing an unlawfully possessed NFA firearm.**
- 6303 (1) Terms defined in Sections 76-1-101.5, 76-11-101, and 76-11-201 apply to this section.
- 6304 (2) An actor commits concealing an unlawfully possessed NFA firearm if:
- 6305 (a) the actor unlawfully possesses an NFA firearm;
- 6306 (b) the actor knows, or reasonably should know, that the NFA firearm in the actor's
- 6307 possession was unlawfully possessed;
- 6308 (c) the actor conceals the unlawfully possessed NFA firearm in a covered, hidden, or
- 6309 secreted manner that the public would not be aware of the NFA firearm's presence;
- 6310 and
- 6311 (d) the NFA firearm is readily accessible for immediate use by the actor.
- 6312 (3) A violation of Subsection (2) is a second degree felony.

6313 Section 97. Section **76-11-204**, which is renumbered from Section 76-10-505 is renumbered
6313 and amended to read:

6315 ~~[76-10-505]~~**76-11-204 . Carrying a firearm in a vehicle while not lawfully present in the**
6316 **vehicle.**

6317 [(1) Unless otherwise authorized by law, a person may not carry a loaded firearm:]

6318 [(a) ~~in or on a vehicle, unless:~~

6319 [(i) the vehicle is in the person's lawful possession; or]

6320 [(ii) the person is carrying the loaded firearm in a vehicle with the consent of the
6321 person lawfully in possession of the vehicle;]

6322 [(b) ~~on a public street; or]~~

6323 [(c) ~~in a posted prohibited area.]~~

6324 [(2) ~~Subsection (1)(a) does not apply to a minor under 18 years of age, since a minor under~~
6325 ~~18 years of age may not carry a loaded firearm in or on a vehicle.]~~

6326 [(3) ~~Notwithstanding Subsections (1)(a)(i) and (ii), and Subsection 76-10-523(5), a person~~
6327 ~~may not possess a loaded rifle, shotgun, or muzzle-loading rifle in a vehicle.]~~

6328 [(4)] (1) Terms defined in Sections 76-1-101.5, 76-11-101, and 76-11-201 apply to this
6329 section.

6330 (2) An actor commits carrying a firearm in a vehicle while not lawfully present in the
6331 vehicle if the actor:

6332 (a) is 18 years old or older;

6333 (b) is carrying a firearm that is readily accessible by the actor for immediate use; and

6334 (c) is in a vehicle in which the actor is not lawfully present.

6335 (3) A violation of [~~this section~~] Subsection (2) is a class B misdemeanor.

6336 (4) This section does not prohibit the owner or lawful possessor of a vehicle from
6337 prohibiting another individual who may otherwise lawfully carry a firearm from
6338 carrying a firearm in the owner's or lawful possessor's vehicle.

6339 (5) An actor is lawfully present in a vehicle while carrying a firearm under this section if:

6340 (a) the vehicle is in the lawful possession of the actor; or

6341 (b) the actor has the consent of the person lawfully in possession of the vehicle to carry
6342 the firearm in the vehicle.

6343 Section 98. Section **76-11-205**, which is renumbered from Section 76-10-505.5 is renumbered
6343 and amended to read:

6345 ~~[76-10-505.5]~~**76-11-205 . Carrying a dangerous weapon at an elementary school or**
6346 **secondary school.**

- 6347 (1)(a) As used in this section, "on or about school premises" means:
- 6348 ~~[(e)(i) inside the building where a preschool or child care is being held, if the entire~~
- 6349 ~~building is being used for the operation of the preschool or child care; or]~~
- 6350 ~~[(ii) if only a portion of a building is being used to operate a preschool or child care,~~
- 6351 ~~in that room or rooms where the preschool or child care operation is being held.]~~
- 6352 ~~[(b)(i) in a public or private institution of higher education; or]~~
- 6353 ~~[(ii) on the grounds of a public or private institution of higher education; or]~~
- 6354 ~~[(a)](i) in a public or private elementary school or secondary school; or~~
- 6355 ~~(ii) on the grounds of [any of those schools;] a private elementary school or secondary~~
- 6356 ~~school.~~
- 6357 (b) Terms defined in Sections 76-1-101.5, 76-11-101, and 76-11-201 apply to this
- 6358 section.
- 6359 (2) ~~[An actor who is 18 years old or older may not possess a dangerous weapon, firearm, or~~
- 6360 ~~short barreled shotgun at a place that the actor knows, or has reasonable cause to~~
- 6361 ~~believe, is on or about school premises] An actor commits carrying a dangerous weapon~~
- 6362 at an elementary school or secondary school if the actor:
- 6363 (a) is not an individual listed in Subsection (4);
- 6364 (b) carries a dangerous weapon on or about school premises; and
- 6365 (c) knows or reasonably believes that the actor is on or about school premises at the time
- 6366 the actor carries the dangerous weapon.
- 6367 (3)(a) ~~[Possession of a dangerous weapon on or about school premises is a class B~~
- 6368 ~~misdemeanor.] A violation of Subsection (2) is a class B misdemeanor if the~~
- 6369 ~~dangerous weapon carried by the actor is not a firearm.~~
- 6370 (b) ~~[Possession of a firearm or short barreled shotgun on or about school premises is a~~
- 6371 ~~class A misdemeanor.] A violation of Subsection (2) is a class A misdemeanor if the~~
- 6372 ~~dangerous weapon carried by the actor is a firearm.~~
- 6373 (4) This section does not apply if:
- 6374 (a) the actor is ~~[authorized to possess a firearm as described in Section 53-5-704,~~
- 6375 ~~53-5-705, 76-10-511, or 76-10-523, or as otherwise authorized by law] an individual~~
- 6376 ~~exempt from certain weapons laws as described in Section 53-5a-108;~~
- 6377 (b) the actor has a concealed carry permit as described in Section 53-5a-303 and is
- 6378 carrying the actor's firearm in a concealed manner unless during an active threat;
- 6379 ~~[(b) the actor is authorized to possess a firearm as described in Section 53-5-704.5,~~
- 6380 ~~unless the actor is in a location where the actor is prohibited from carrying a firearm~~

- 6381 ~~under Subsection 53-5-710(2);]~~
- 6382 (c) the actor has a temporary concealed carry permit issued under Section 53-5a-304 and
- 6383 is carrying the actor's firearm in a concealed manner unless during an active threat;
- 6384 (d) the actor is carrying the dangerous weapon at the actor's place of residence or on the
- 6385 actor's real property as described in Section 53-5a-102.3;
- 6386 [(e)] (e) the possession of the dangerous weapon is approved by the responsible school
- 6387 administrator;
- 6388 [(d)] (f) the [item] dangerous weapon is present or to be used in connection with a lawful,
- 6389 approved activity and is in the possession or under the control of the actor
- 6390 responsible for the [item's] dangerous weapon's possession or use;
- 6391 [(e)] (g) the actor is an armed school security guard as described in Section 53G-8-704; or
- 6392 [(f)] (h) the[~~possession is~~] actor is carrying the dangerous weapon[~~;~~]
- 6393 [~~i~~] at the actor's place of residence or on the actor's property; or]
- 6394 [~~ii~~] in [any] a vehicle lawfully under the actor's control, [~~other than~~] not including a
- 6395 vehicle owned by the school or used by the school to transport students.
- 6396 (5) This section does not[~~;~~] :
- 6397 (a) prohibit prosecution of [a more serious weapons] another criminal offense that may
- 6398 occur on or about school premises;
- 6399 (b) prevent an actor from securely storing a firearm on the grounds of a school if the
- 6400 actor:
- 6401 (i) participates in:
- 6402 (A) the school guardian program created in Section 53-22-105; [and] or
- 6403 (B) the Educator-Protector Program created in Section 53-22-107; and
- 6404 (ii) complies with the requirements for securely storing the firearm described in
- 6405 Subsection 53-22-107(5)(a)[~~;~~or] .
- 6406 [(e)] prohibit the prosecution of possession of a dangerous weapon by a minor, as
- 6407 described in Section 76-10-509.4, that occurs on or about school premises.]
- 6408 Section 99. Section **76-11-206** is enacted to read:
- 6409 **76-11-206 . Carrying a dangerous weapon at a daycare.**
- 6410 (1)(a) As used in this section:
- 6411 (i) "Daycare" means a preschool or child care center.
- 6412 (ii) "On or about daycare premises" means:
- 6413 (A) inside the building where a daycare is being held, if the entire building is
- 6414 being used for the operation of the daycare; or

- 6415 (B) if only a portion of a building is being used to operate a daycare, in the room
6416 or rooms where the daycare operation is being held.
- 6417 (b) Terms defined in Sections 76-1-101.5, 76-11-101, and 76-11-201 apply to this
6418 section.
- 6419 (2) An actor commits carrying a dangerous weapon at a daycare if the actor:
6420 (a) is not an individual listed in Subsection (4);
6421 (b) carries a dangerous weapon on or about daycare premises; and
6422 (c) has reasonable cause to believe that the actor is on or about daycare premises at the
6423 time the actor carried the dangerous weapon.
- 6424 (3)(a) A violation of Subsection (2) is a class B misdemeanor if the dangerous weapon
6425 carried by the actor is not a firearm.
- 6426 (b) A violation of Subsection (2) is a class A misdemeanor if the dangerous weapon
6427 carried by the actor is a firearm.
- 6428 (4) This section does not apply if:
6429 (a) the actor is an individual exempted from certain weapons laws as described in
6430 Section 53-5a-108;
6431 (b) the actor has a concealed carry permit as described in Section 53-5a-303 and is
6432 carrying the actor's firearm in a concealed manner unless during an active threat;
6433 (c) the actor has a provisional concealed carry permit as described in Section 53-5a-304
6434 and is carrying the actor's firearm in a concealed manner unless during an active
6435 threat;
6436 (d) the actor has a temporary concealed carry permit issued under Section 53-5a-305 and
6437 is carrying the actor's firearm in a concealed manner unless during an active threat;
6438 (e) the actor is carrying the dangerous weapon at the actor's place of residence or on the
6439 actor's real property as described in Section 53-5a-102.3;
6440 (f) the actor's carrying of the dangerous weapon is approved by the responsible daycare
6441 administrator;
6442 (g) the dangerous weapon is present or to be used in connection with a lawful, approved
6443 activity and is in the possession or under the control of the actor responsible for the
6444 dangerous weapon's possession or use; or
6445 (h) the actor is carrying the dangerous weapon in a vehicle lawfully under the actor's
6446 control, not including a vehicle owned by the daycare or used by the daycare to
6447 transport minors enrolled in the daycare.
- 6448 (5) This section does not prohibit the prosecution of another criminal offense that may

6449 occur on or about daycare premises.

6450 Section 100. Section **76-11-207**, which is renumbered from Section 76-10-506 is renumbered
6450 and amended to read:

6452 **[76-10-506]76-11-207 . Threatening with or using a dangerous weapon in a fight or quarrel.**

6453 [(1) As used in this section:]

6454 [(a) "Dangerous weapon" means an item that in the manner of its use or intended use is
6455 capable of causing death or serious bodily injury. The following factors shall be used
6456 in determining whether an item, object, or thing is a dangerous weapon:]

6457 [(i) the character of the instrument, object, or thing;]

6458 [(ii) the character of the wound produced, if any; and]

6459 [(iii) the manner in which the instrument, object, or thing was exhibited or used.]

6460 [(b) "Threatening manner" does not include:]

6461 [(i) the possession of a dangerous weapon, whether visible or concealed, without
6462 additional behavior which is threatening; or]

6463 [(ii) informing another of the actor's possession of a deadly weapon to prevent what
6464 the actor reasonably perceives as a possible use of unlawful force by the other and
6465 the actor is not engaged in any activity described in Subsection 76-2-402(3)(a).]

6466 [(2) Except as otherwise provided in Section 76-2-402 and for an individual described in
6467 Section 76-10-503, an individual who, in the presence of two or more individuals, and
6468 not amounting to a violation of Section 76-5-103,]

6469 (1) Terms defined in Sections 76-1-101.5, 76-11-101, and 76-11-201 apply to this section.

6470 (2) An actor commits threatening with or using a dangerous weapon in a fight or quarrel if
6471 the actor, in the presence of two or more individuals:[-]

6472 (a) unlawfully draws or exhibits a dangerous weapon in an angry and threatening manner;
6473 or

6474 (b) [-]unlawfully uses a dangerous weapon in a fight or quarrel[-is guilty of a class A
6475 misdemeanor].

6476 (3) A violation of Subsection (2) is a class A misdemeanor.

6477 [(3)] (4) This section does not apply to:

6478 (a) [-]an individual who, reasonably believing the action to be necessary in compliance
6479 with Section 76-2-402, with purpose to prevent another's use of unlawful force:

6480 [(a)] (i) threatens the use of a dangerous weapon; or

6481 [(b)] (ii) draws or exhibits a dangerous weapon[-]; or

6482 [(4)] (b) [This section does not apply to an individual listed in Subsections

6483 ~~76-10-523(1)(a) through (f)] an individual exempted from certain weapons laws as~~
 6484 ~~described in Subsections 53-5a-108(1)(a) through (f) acting in performance of the~~
 6485 ~~individual's duties.~~

6486 (5) For purposes of this section, the following conduct by an actor does not constitute
 6487 drawing or exhibiting a dangerous weapon in an angry and threatening manner as
 6488 described in Subsection (2):

6489 (a) possession of a dangerous weapon, whether visible or concealed, without additional
 6490 threatening behavior; or

6491 (b)(i) informing another individual of the actor's possession of a dangerous weapon
 6492 to prevent what the actor reasonably perceives as a possible use of unlawful force
 6493 by the individual; and

6494 (ii) the actor is not engaged in any activity described in Subsection 76-2-402(3)(a).

6495 Section 101. Section **76-11-208**, which is renumbered from Section 76-10-507 is renumbered
 6495 and amended to read:

6497 ~~[76-10-507]~~**76-11-208 . Possession of a dangerous weapon with criminal intent.**

6499 (1) Terms defined in Sections 76-1-101.5, 76-11-101, and 76-11-201 apply to this section.

6500 (2) ~~[Every person having upon his person any]~~ An actor commits possession of a
 6501 dangerous weapon with criminal intent if the actor possesses a dangerous weapon with
 6502 the intent to use [it] the dangerous weapon to commit a criminal offense.

6503 (3) A violation of Subsection (2) is [guilty of] a class A misdemeanor.

6504 Section 102. Section **76-11-209**, which is renumbered from Section 76-10-508 is renumbered
 6504 and amended to read:

6506 ~~[76-10-508]~~**76-11-209 . Improper discharging of a dangerous weapon.**

6507 (1) Terms defined in Sections 76-1-101.5, 76-11-101, and 76-11-201 apply to this section.

6508 ~~[(1)] (2)[(a) An individual may not discharge]~~ An actor commits improper discharging of
 6509 a dangerous weapon [or firearm] if the actor discharges a dangerous weapon:

6510 [(i)] (a) from [an automobile or other] a vehicle;

6511 [(ii)] (b) from, upon, or across a highway;

6512 [(iii)] (c) at a road sign placed [upon a highway of the] on a state highway;

6513 [(iv)] (d) at communications equipment or property of public utilities including facilities,
 6514 lines, poles, or devices of transmission or distribution;

6515 [(v)] (e) at railroad equipment or facilities including a sign or signal;

6516 [(vi)] (f) within a Utah State Park building, designated camp or picnic sites, overlooks,
 6517 golf courses, boat ramps, and developed beaches; or

6518 ~~[(vii)]~~ (g) without written permission to discharge the dangerous weapon from the owner
6519 or person in charge of the property within 600 feet of:
6520 ~~[(A)]~~ (i) a house, dwelling, or~~any~~ other building; or
6521 ~~[(B)]~~ (ii) ~~any~~ a structure in which a domestic animal is kept or fed, including a barn,
6522 poultry yard, corral, feeding pen, or stockyard.

6523 ~~[(b) It is a defense to any charge for violating this section that the individual being~~
6524 ~~accused had actual permission of the owner or person in charge of the property at the~~
6525 ~~time in question.]~~

6526 ~~[(2)]~~ (3) A violation of ~~any provision of~~ Subsection ~~[(1)]~~ (2) is a class B misdemeanor.
6527 ~~[(3)]~~ (4) In addition to any other penalties, the court shall:

6528 (a) notify the Driver License Division of the conviction for purposes of any revocation,
6529 denial, suspension, or disqualification of a driver license under Subsection
6530 53-3-220(1)(a)(xi); and

6531 (b) specify in court at the time of sentencing the length of the revocation under
6532 Subsection 53-3-225(1)(c).

6533 ~~[(4)]~~ (5) This section does not apply to an ~~individual~~ actor who:

6534 (a) discharges a ~~firearm when that individual is~~ dangerous weapon in the lawful defense
6535 of ~~self~~ the actor or ~~others~~ another individual;

6536 (b) is an individual listed in Subsections 53-5a-108(1)(a) through (f) and is performing
6537 official duties as provided in Section 23A-5-202 ~~[and Subsections 76-10-523(1)(a)~~
6538 ~~through (f) and]~~ or as otherwise provided by law; or

6539 (c) discharges a dangerous weapon ~~or firearm~~ from an automobile or other vehicle, if:
6540 (i) the discharge occurs at a firing range or training ground;
6541 (ii) at no time after the discharge does the projectile that is discharged cross over or
6542 stop at a location other than within the boundaries of the firing range or training
6543 ground described in Subsection ~~[(4)(e)(i)]~~ (5)(c)(i);
6544 (iii) the discharge is made as practice or training for a lawful purpose;
6545 (iv) the discharge and the location, time, and manner of the discharge are approved
6546 by the owner or operator of the firing range or training ground before the
6547 discharge; and
6548 (v) the discharge is not made in violation of Subsection ~~[(1)]~~ (2).

6549 (6) It is a defense to a charge for violating this section that the actor had actual permission
6550 of the person in charge of the property at the time the actor discharged the dangerous
6551 weapon as described in Subsection (2).

6552 Section 103. Section **76-11-210**, which is renumbered from Section 76-10-508.1 is renumbered
6552 and amended to read:

6554 ~~[76-10-508.1]~~ **76-11-210 . Felony discharge of a firearm.**

6555 (1)(a) As used in this section, "habitable structure" means the same as that term is
6556 defined in Section 76-6-101.

6557 (b) Terms defined in Sections 76-1-101.5, 76-11-101, and 76-11-201 apply to this section.

6558 (2) ~~[Except as provided under Subsection (2) or (3), an individual who discharges a firearm~~
6559 ~~is guilty of a third degree felony punishable by imprisonment for a term of not less than~~
6560 ~~three years nor more than five years.] An actor commits felony discharge of a firearm if:~~

6561 (a) the actor discharges a firearm in the direction of ~~[one or more individuals]~~ an
6562 individual, knowing or having reason to believe that ~~[any]~~ an individual may be
6563 endangered by the discharge of the firearm;

6564 (b) the actor, with intent to intimidate or harass another individual or with intent to
6565 damage a habitable structure~~[as defined in Section 76-6-101]~~, discharges a firearm in
6566 the direction of ~~[any]~~ an individual or a habitable structure; or

6567 (c) the actor, with intent to intimidate or harass another individual, discharges a firearm
6568 in the direction of ~~[any]~~ a vehicle.

6569 ~~[(2)] (3)(a) [A]~~ Except as provided in Subsection (3)(b) or (3)(c), a violation of
6570 Subsection ~~[(1)] (2) is a third degree felony punishable by a term of imprisonment of~~
6571 not less than three years nor more than five years.

6572 (b) Except as provided in Subsection (3)(c), a violation of Subsection (2) that causes
6573 bodily injury to any individual is a second degree felony punishable by imprisonment
6574 for a term of not less than three years nor more than 15 years.

6575 ~~[(3)] (c)~~ A violation of Subsection ~~[(1)] (2) that causes serious bodily injury to [any] an~~
6576 individual is a first degree felony.

6577 (4) In addition to any other penalties for a violation of this section, the court shall:

6578 (a) notify the Driver License Division of the conviction for purposes of any revocation,
6579 denial, suspension, or disqualification of a driver license under Subsection
6580 53-3-220(1)(a)(xi); and

6581 (b) specify in court at the time of sentencing the length of the revocation under
6582 Subsection 53-3-225(1)(c).

6583 (5) This section does not apply to an ~~[individual]~~ actor:

6584 (a) who discharges a firearm ~~[when that individual is]~~ in the lawful defense of [self] the
6585 actor or [others] another individual;

- 6586 (b) who is an individual listed in Subsections 53-5a-108(1)(a) through (f) and is
 6587 performing official duties as provided in Section 23A-5-202, ~~or Subsections~~
 6588 ~~76-10-523(1)(a) through (f)]~~ or as otherwise authorized by law; or
- 6589 (c) who discharges a dangerous weapon ~~or firearm~~ from an automobile or other
 6590 vehicle, if:
- 6591 (i) the discharge occurs at a firing range or training ground;
- 6592 (ii) at no time after the discharge does the projectile that is discharged cross over or
 6593 stop at a location other than within the boundaries of the firing range or training
 6594 ground described in Subsection (5)(c)(i);
- 6595 (iii) the discharge is made as practice or training for a lawful purpose;
- 6596 (iv) the discharge and the location, time, and manner of the discharge are approved
 6597 by the owner or operator of the firing range or training ground before the
 6598 discharge; and
- 6599 (v) the discharge is not made in violation of Subsection ~~[(1)]~~ (2).

6600 Section 104. Section **76-11-211**, which is renumbered from Section 76-10-509.4 is renumbered
 6601 and amended to read:

6602 ~~[76-10-509.4]~~ **76-11-211 . Possession of a dangerous weapon by a minor.**

6603 (1)(a) As used in this section, "responsible adult" means an individual:

- 6604 ~~[(a)]~~ (i) who is 18 years old or older; and
- 6605 ~~[(b)]~~ (ii) who may lawfully possess a dangerous weapon.

6606 (b) Terms defined in Sections 76-1-101.5, 76-11-101, and 76-11-201 apply to this
 6607 section.

6608 (2) An actor ~~[who is under 18 years old may not possess a dangerous weapon]~~ commits
 6609 possession of a dangerous weapon by a minor if the actor:

6610 (a) is a minor; and

6611 (b) possesses a dangerous weapon.

6612 (3)(a) Except as provided in Subsection (3)(b), a violation of Subsection (2) is:

- 6613 (i) a class B misdemeanor for a first offense; and
- 6614 (ii) a class A misdemeanor for each subsequent offense.

6615 (b) A violation of Subsection (2) is a third degree felony if the dangerous weapon is:

6616 (i) a handgun;

6617 ~~[(ii) a short barreled rifle;]~~

6618 ~~[(iii) a short barreled shotgun;]~~

6619 ~~[(iv)]~~ (ii) [a fully automatic weapon] a firearm that is an NFA firearm and the actor

- 6620 knows, or reasonably should know, that the firearm is an NFA firearm; or
6621 [(v)] (iii) a machinegun firearm attachment.
- 6622 (4) For an actor who is younger than 14 years old, this section does not apply if the actor:
6623 (a) possesses a dangerous weapon;
6624 (b) has permission from the actor's parent or guardian to possess the dangerous weapon;
6625 (c) is accompanied by the actor's parent or guardian, or a responsible adult, while the
6626 actor has the dangerous weapon in the actor's possession; and
6627 (d) does not use the dangerous weapon in the commission of a crime.
- 6628 (5) For an actor who is 14 years old or older but younger than 18 years old, this section
6629 does not apply if the actor:
6630 (a) possesses a dangerous weapon;
6631 (b) has permission from the actor's parent or guardian to possess the dangerous weapon;
6632 and
6633 (c) does not use the dangerous weapon in the commission of a crime.
- 6634 (6) This section does not apply to the following minors who are otherwise complying with
6635 Subsection (4) or (5):
6636 (a) a minor who is a patron at an amusement park, pier, or similar location and is
6637 possessing a firearm to participate in lawfully operated target concessions if the
6638 firearm to be used is firmly chained or affixed to the counters;
6639 (b) a minor attending a hunter's safety course or a firearms safety course and possessing
6640 a weapon as part of the course;
6641 (c) a minor using a firearm at an established range or other area where the discharge of a
6642 firearm is not prohibited by state or local law;
6643 (d) a minor participating in an organized competition involving the use of a firearm, or
6644 practicing for the competition;
6645 (e) a minor who is on real property with the permission of the owner, licensee, or lessee
6646 of the property and who has the permission of a parent or legal guardian or the
6647 owner, licensee, or lessee of the property to possess a firearm not otherwise in
6648 violation of law;
6649 (f) a minor who has a valid hunting license and is possessing a firearm to lawfully
6650 engage in hunting; or
6651 (g) a minor traveling to or from an activity described in Subsections (6)(a) through (f)
6652 with an unloaded firearm in the minor's possession.

6653 Section 105. Section **76-11-212**, which is renumbered from Section 76-10-509.5 is renumbered

6653 and amended to read:

6655 ~~[76-10-509.5]~~ **76-11-212 . Providing a handgun or an NFA firearm to a minor.**

6656 [(1) Any person who provides a handgun to a minor when the possession of the handgun
6657 by the minor is a violation of Section 76-10-509.4 is guilty of:]

6658 [(a) a class B misdemeanor upon the first offense; and]

6659 [(b) a class A misdemeanor for each subsequent offense.]

6660 [(2) Any person who transfers in violation of applicable state or federal law a short
6661 barreled rifle, short barreled shotgun, or fully automatic weapon to a minor is guilty of a
6662 third degree felony.]

6663 (1) Terms defined in Sections 76-1-101.5, 76-11-101, and 76-11-201 apply to this section.

6664 (2) An actor is guilty of providing a handgun or an NFA firearm to a minor if the actor:

6665 (a)(i) intentionally or knowingly transfers or provides a handgun to a minor; or

6666 (ii) intentionally or knowingly transfers or provides an NFA firearm to a minor; and

6667 (b) knows, or reasonably should know, the providing or transferring of the firearm

6668 described in Subsection (2)(a):

6669 (i) would result in the minor committing a violation of Section 76-11-211, Possession
6670 of a dangerous weapon by a minor; or

6671 (ii) is in violation of any other applicable state or federal law.

6672 (3) A violation of Subsection (2)(a) is:

6673 (a) if the violation is the result of transferring or providing a handgun:

6674 (i) a class B misdemeanor upon the first offense; and

6675 (ii) a class A misdemeanor for each subsequent offense; or

6676 (b) a third degree felony if the violation is the result of transferring or providing an NFA
6677 firearm.

6678 Section 106. Section **76-11-213**, which is renumbered from Section 76-10-509.6 is renumbered
6678 and amended to read:

6680 ~~[76-10-509.6]~~ **76-11-213 . Parent or guardian providing a firearm to a violent minor.**

6681 (1) Terms defined in Sections 76-1-101.5, 76-11-101, and 76-11-201 apply to this section.

6682 (2) ~~[A parent or guardian may not]~~ An actor is guilty of a parent or guardian providing a
6683 firearm to a violent minor if:

6684 (a) ~~[-] the actor~~ intentionally or knowingly ~~[provide]~~ provides a firearm to, or ~~[permit]~~
6685 permits the possession of a firearm by, ~~[any]~~ a minor;

6686 (b) ~~[-] the minor is the actor's biological or adopted child or the actor is the legal guardian~~
6687 of the minor; and

6688 (c) ~~[who]~~ the minor has previously been:

6689 (i) ~~[-]~~convicted of a violent felony~~[-as defined in Section 76-3-203.5]~~ ; or

6690 (ii) ~~[-any minor who has been-]~~adjudicated in juvenile court for an offense which
6691 would constitute a violent felony if the minor were an adult.

6692 ~~[(2)]~~ (3) ~~[Any person who violates this section is guilty of]~~ A violation of Subsection (2) is:

6693 (a) a class A misdemeanor upon the first offense; and

6694 (b) a third degree felony for each subsequent offense.

6695 Section 107. Section **76-11-214**, which is renumbered from Section 76-10-509.7 is renumbered
6695 and amended to read:

6697 ~~[76-10-509.7]~~ **76-11-214 . Parent or guardian knowing a minor is in possession of a
dangerous
6698 weapon.**

6699 (1) Terms defined in Sections 76-1-101.5, 76-11-101, and 76-11-201 apply to this section.

6700 (2) ~~[Any parent or guardian of a minor who knows that the minor is in]~~ An actor is
6701 guilty of parent or guardian knowing a minor is in possession of a dangerous weapon if:

6702 (a) the actor knows a minor is in possession of a dangerous weapon in violation of

6703 Section~~[76-10-509.4]~~ 76-11-211, Possession of a dangerous weapon by a minor;

6704 (b) the minor is the actor's biological or adopted child or the actor is the legal guardian
6705 of the minor; and

6706 (c) the actor fails to make reasonable efforts to remove the dangerous weapon from the
6707 minor's possession.

6708 (3) A violation of Subsection (2) is~~[-guilty of]~~ a class B misdemeanor.

6709 Section 108. Section **76-11-215**, which is renumbered from Section 76-10-509.9 is renumbered
6709 and amended to read:

6711 ~~[76-10-509.9]~~ **76-11-215 . Selling a firearm to a minor.**

6712 (1) Terms defined in Sections 76-1-101.5, 76-11-101, and 76-11-201 apply to this section.

6713 (2) ~~[A person may not sell any-]~~ An actor commits selling a firearm to a minor [under 18
6714 years of age unless] if:

6715 (a) the actor sells a firearm to a minor; and

6716 (b) at the time the actor sells the weapon to a minor, the minor is not accompanied by a
6717 parent of the minor or a legal guardian of the minor.

6718 ~~[(2)]~~ (3) ~~[Any person who violates this section is guilty of-]~~ A violation of Subsection (2) is a
6719 third degree felony.

6720 Section 109. Section **76-11-216** is enacted to read:

6721 **76-11-216 . Prohibited conduct in the sale of a dangerous weapon.**

6722 (1)(a) As used in this section, "materially false information" means information that
 6723 portrays an illegal dangerous weapon transaction as legal or a legal dangerous
 6724 weapon transaction as illegal.

6725 (b) Terms defined in Sections 76-1-101.5, 76-11-101, and 76-11-201 apply to this
 6726 section.

6727 (2) An actor commits prohibited conduct in the sale of a dangerous weapon if the actor:

6728 (a)(i) knowingly solicits, persuades, encourages, or entices a person to sell, transfer,
 6729 or otherwise provide a dangerous weapon to the actor or another individual; and

6730 (ii) knows that the sale, transfer, or providing of the dangerous weapon to the actor or
 6731 other individual would be a violation of state or federal law; or

6732 (b)(i) provides information that the actor knows is materially false information to a
 6733 person; and

6734 (ii) knowingly provides the materially false information to the person with intent to
 6735 deceive the person about the lawfulness of a sale, transfer, or providing of a
 6736 dangerous weapon to the actor or another individual.

6737 (3)(a) A violation of Subsection (2) is a class A misdemeanor if the dangerous weapon
 6738 sold, transferred, or provided is not a firearm.

6739 (b) A violation of Subsection (2) is a third degree felony if the dangerous weapon sold,
 6740 transferred, or provided is a firearm.

6741 Section 110. Section **76-11-217**, which is renumbered from Section 76-10-528 is renumbered
 6742 and amended to read:

6743 ~~[76-10-528]~~ **76-11-217 . Carrying a dangerous weapon while under the influence of alcohol**
 6744 **or**

6744 **drugs.**

6745 (1) Terms defined in Sections 76-1-101.5, 76-11-101, and 76-11-201 apply to this section.

6746 (2) ~~[It is a class B misdemeanor for an actor to carry -]~~ An actor commits carrying a
 6747 dangerous weapon while under the influence of alcohol or drugs if the actor:

6748 (a) carries a dangerous weapon that is readily accessible by the actor for immediate use;
 6749 and

6750 (b) is under the influence of:

6751 ~~[(a)]~~(i) alcohol as determined by the actor's blood or breath alcohol concentration in
 6752 accordance with Subsections 41-6a-502(1)(a) through (c); or

6753 ~~[(b)]~~ (ii) a controlled substance as defined in Section 58-37-2.

6754 (3) A violation of Subsection (2) is a class B misdemeanor.

6755 [~~(2)~~] (4) This section does not apply to:

6756 [(a) ~~an actor carrying a dangerous weapon that is either securely encased, as defined in~~
6757 ~~this part, or not within such close proximity and in such a manner that it can be~~
6758 ~~retrieved and used as readily as if carried on the person;]~~

6759 [(b)] (a) an actor who uses or threatens to use force in compliance with Section 76-2-402;

6760 [(e)] (b) an actor carrying a dangerous weapon in the actor's residence or the residence of
6761 another individual with the consent of the individual who is lawfully in possession of
6762 the residence;

6763 [(d)] (c) an actor under the influence of cannabis or a cannabis product, as those terms
6764 are defined in Section 26B-4-201, if the actor's use of the cannabis or cannabis
6765 product complies with Title 26B, Chapter 4, Part 2, Cannabinoid Research and
6766 Medical Cannabis; or

6767 [(e)] (d) an actor who:

6768 (i) has a valid prescription for a controlled substance;

6769 (ii) takes the controlled substance described in Subsection [~~(2)(e)(i)~~] (4)(d)(i) as
6770 prescribed; and

6771 (iii) after taking the controlled substance, the actor:

6772 (A) is not a danger to the actor or another individual; or

6773 (B) is capable of safely handling a dangerous weapon.

6774 [~~(3)~~] (5) It is not a defense to prosecution under this section that the actor:

6775 (a) is licensed in the pursuit of wildlife of any kind; [~~or~~]

6776 (b) has a [~~valid~~] concealed carry permit [~~to carry a concealed firearm.~~] as described in
6777 Section 53-5a-303;

6778 (c) has a provisional concealed carry permit as described in Section 53-5a-304;

6779 (d) has a temporary concealed carry permit issued under Section 53-5a-305;

6780 (e) has a concealed carry permit lawfully issued by or in another state; or

6781 (f) is 21 years old or older and may otherwise lawfully possess a concealed loaded
6782 firearm without a concealed carry permit as described in Section 53-5a-102.1.

6783 Section 111. Section **76-11-218**, which is renumbered from Section 76-10-529 is renumbered
6784 and amended to read:

6785 [~~76-10-529~~] **76-11-218 . Possession of a dangerous weapon in an airport secure area --**
6786 **Reporting requirements.**

6787 (1)(a) As used in this section:

- 6788 (i) "Airport authority" has the same meaning as defined in Section 72-10-102.
- 6789 (ii) "Explosive" is the same as defined for "explosive, chemical, or incendiary
- 6790 device" in Section 76-10-306.
- 6791 (iii) "Law enforcement officer" means the same as that term is defined in Section
- 6792 53-13-103.
- 6793 (b) ~~[Terms defined in Sections 76-1-101.5 and 76-10-501 apply to this section]~~ Terms
- 6794 defined in Sections 76-1-101.5, 76-11-101, and 76-11-201 apply to this section.
- 6795 (2)~~(a) Within~~ Except as provided in Subsection (4), an actor commits possession of a
- 6796 dangerous weapon in an airport secure area if the actor, [a secure area of an airport
- 6797 established pursuant to this section, an actor,] including an actor [licensed to carry a]
- 6798 with a concealed firearm permit issued under [Title 53, Chapter 5, Part 7, Concealed
- 6799 Firearm Act, is guilty of] Title 53, Chapter 5a, Part 3, Concealed Firearm Permits:
- 6800 (a) intentionally or knowingly possesses a dangerous weapon within the secure area of
- 6801 an airport established under Subsection (5); or
- 6802 (b) recklessly or with criminal negligence possesses a dangerous weapon within the
- 6803 secure area of an airport established under Subsection (5).
- 6804 [(i) a class A misdemeanor if the actor knowingly or intentionally possesses a
- 6805 firearm or other dangerous weapon;]
- 6806 [(ii) subject to Subsection (5), an infraction if the actor recklessly or with criminal
- 6807 negligence possesses a firearm or other dangerous weapon; or]
- 6808 [(iii) a violation of Section 76-10-306 if the actor transports, possesses, distributes,
- 6809 or sells an explosive, chemical, or incendiary device.]
- 6810 [(b) Subsection (2)(a) does not apply to:]
- 6811 [(i) individuals exempted under Section 76-10-523; and]
- 6812 [(ii) a member of the state or federal military forces while engaged in the
- 6813 performance of the member's official duties.]
- 6814 (3)(a) A violation of Subsection (2)(a) is a class A misdemeanor.
- 6815 (b) Subject to Subsection (6), a violation of Subsection (2)(b) is an infraction.
- 6816 (4) Subsection (2) does not apply to:
- 6817 (a) an individual exempted from certain weapons laws as described in Section 53-5a-108;
- 6818 or
- 6819 (b) a member of the state or federal military forces while engaged in the performance of
- 6820 the member's official duties.
- 6821 [(3)] (5)(a) An airport authority, county, municipality, or other entity regulating an

6822 airport may:

6823 [(a)] (i) establish a secure area located beyond the main area where the public
6824 generally buys tickets, checks and retrieves luggage; and

6825 [(b)] (ii) use reasonable means, including mechanical, electronic, x-ray, or another
6826 device, to detect firearms, other dangerous weapons, or explosives concealed in
6827 baggage or upon the person of an individual attempting to enter the secure area.

6828 [(4)] (b) At least one notice shall be prominently displayed at each entrance to a secure
6829 area in which a firearm, other dangerous weapon, or explosive is restricted.

6830 (c) An actor who transports, possesses, distributes, or sells an explosive, chemical, or
6831 incendiary device within the secure area of an airport commits a violation of Section
6832 76-10-306.

6833 [(5)] (6)(a) An actor who violates Subsection [(2)(a)(ii)] (2)(b) on a first offense may
6834 receive a written warning for the offense and may not receive a citation or any other
6835 form of punishment.

6836 (b) An actor who violates Subsection [(2)(a)(ii)] (2)(b) on a second or subsequent
6837 offense may receive a written warning or a citation.

6838 [(6)] (7)(a) Except as provided in Subsection [(6)(d)] (7)(d), if a law enforcement officer
6839 issues a citation to an actor for an infraction as a result of the actor's conduct
6840 described in Subsection [(2)(a)(ii)] (2)(b), or provides an oral or written warning for
6841 that conduct, the law enforcement officer shall:

6842 (i) if the law enforcement officer is able to confirm that the actor may lawfully
6843 possess the [~~firearm or other~~]dangerous weapon, allow the actor, at the actor's
6844 option, to:

6845 (A) temporarily surrender custody of the [~~firearm or other~~]dangerous weapon into
6846 the custody of the law enforcement agency so that the [~~firearm or other~~]
6847 dangerous weapon may be retrieved by the actor at a later date; or

6848 (B) exit the secure area of the airport with the [~~firearm or other~~]dangerous
6849 weapon; or

6850 (ii) if the law enforcement officer is unable to confirm that the actor may lawfully
6851 possess the [~~firearm or other~~]dangerous weapon, or the airport authority under
6852 Subsection [(6)(d)] (7)(d) prohibits the procedure described in Subsection [(6)(a)(i)]
6853 (7)(a)(i), take temporary custody of the [~~firearm or other~~]dangerous weapon so
6854 that the [~~firearm or other~~]dangerous weapon may be retrieved by the actor at a
6855 later date if legally permitted to do so.

- 6856 (b) If a law enforcement officer takes temporary custody of a [~~firearm or other~~]
 6857 dangerous weapon under Subsection [~~(6)(a)~~] (7)(a):
- 6858 (i) at the time the [~~firearm or other~~] dangerous weapon is obtained from the actor, the
 6859 law enforcement officer, or another law enforcement officer, or an employee who
 6860 works in the secure area of the airport, shall provide the actor with written
 6861 instructions on how, when, and where the actor may retrieve the actor's [~~firearm or~~
 6862 ~~other~~] dangerous weapon; and
- 6863 (ii) within three business days from the time when the law enforcement officer
 6864 receives the [~~firearm or other~~] dangerous weapon, the law enforcement agency
 6865 shall determine whether the actor is legally permitted to possess the [~~firearm or~~
 6866 ~~other~~] dangerous weapon, and if so, ensure that the [~~firearm or other~~] dangerous
 6867 weapon is available for the actor to retrieve.
- 6868 (c) An unclaimed [~~firearm or other~~] dangerous weapon that is surrendered into the
 6869 custody of a law enforcement agency under this Subsection [~~(6)~~] (7) may be disposed
 6870 of pursuant to Section 77-11d-105, disposition of unclaimed property.
- 6871 (d) An airport authority may implement a policy that prohibits the law enforcement
 6872 agency with jurisdiction over the airport from utilizing the procedure described in
 6873 Subsection [~~(6)(a)(i)~~] (7)(a)(i).
- 6874 [~~(7)~~] (8)(a) An actor's firearm that is confiscated based on a violation of Subsection [
 6875 ~~(2)(a)(i)~~] (2)(a) shall be returned to the actor in accordance with Subsection
 6876 77-11a-402(1)(b)[-].
- 6877 (b) In accordance with Subsection 77-11b-102(5), a firearm seized under Subsection [
 6878 ~~(2)(a)(i)~~] (2)(a) is not subject to forfeiture if the actor may lawfully possess the
 6879 firearm.
- 6880 (c) In a prosecution brought under this section, a prosecutor may not condition a plea on
 6881 the forfeiture of a firearm.
- 6882 [~~(8)~~] (9) An airport authority, county, municipality, or other entity regulating an airport or
 6883 with local jurisdiction over an airport may not:
- 6884 (a) charge, cite, or prosecute an actor with a different offense under the Utah Code, local
 6885 ordinance, or another state or local law or regulation for conduct described in
 6886 Subsection [~~(2)(a)(ii)~~] (2)(b);
- 6887 (b) assess a civil penalty for conduct described in Subsection [~~(2)(a)(i) or (ii)~~] (2); or
 6888 (c) enact a regulation, ordinance, or law covering conduct described in Subsection (2).
- 6889 [~~(9)~~] (10) A law enforcement agency that issues a written warning, citation, or referral for

6890 prosecution under this section shall record and report the information as required under
6891 Section 53-25-103.

6892 Section 112. Section **76-11-219**, which is renumbered from Section 76-10-530 is renumbered
6892 and amended to read:

6894 **[76-10-530]76-11-219 . Trespass with a firearm in a house of worship or a private residence.**

6895 (1) Terms defined in Sections 76-1-101.5, 76-11-101, and 76-11-201 apply to this section.

6896 ~~[(1)] (2)~~ [A person, including a person licensed to carry a concealed firearm pursuant to
6897 Title 53, Chapter 5, Part 7, Concealed Firearm Act,] An actor is guilty of trespass with a
6898 firearm in a house of worship or a private residence if the actor:

6899 (a) ~~[after notice]~~ has been given notice as [provided] described in Subsection [(2)] (4)
6900 that firearms are prohibited[;] in the house or worship or the private residence; and

6901 (b) ~~[may not]~~ knowingly and intentionally:

6902 ~~[(a)] (i)~~ [transport] transports a firearm into[;] the house of worship or private
6903 residence; or

6904 ~~[(ii) a private residence; or]~~

6905 ~~[(i) a house of worship; or]~~

6906 ~~[(b)] (ii)~~ while in possession of a firearm, [enter or remain in:] enters or remains in the
6907 house of worship or private residence.

6908 ~~[(ii) a private residence.;~~

6909 ~~[(i) a house of worship; or]~~

6910 (3) A violation of Subsection (2) is an infraction.

6911 ~~[(2)] (4)~~ Notice that firearms are prohibited may be given by:

6912 (a) personal communication to the actor by:

6913 (i) the church or organization operating the house of worship;

6914 (ii) the owner, lessee, or person with lawful right of possession of the private
6915 residence; or

6916 (iii) a person with authority to act for the person or entity in Subsections [(2)(a)(i)]
6917 (4)(a)(i) and (ii);

6918 (b) posting of signs reasonably likely to come to the attention of persons entering the
6919 house of worship or private residence;

6920 (c) announcement, by a person with authority to act for the church or organization
6921 operating the house of worship, in a regular congregational meeting in the house of
6922 worship;

6923 (d) publication in a bulletin, newsletter, worship program, or similar document generally

- 6957 (2) "Category I restricted person" means an individual described in Section 76-11-302.
- 6958 (3) "Category II restricted person" means an individual described in Section 76-11-304.
- 6959 (4) "Carry" means for an individual to have an item under the individual's custody or
6960 control.
- 6961 (5) "Controlled substance" means the same as that term is defined in Section 58-37-2.
- 6962 (6)(a) "Dating relationship" means a romantic or intimate relationship between
6963 individuals.
- 6964 (b) "Dating relationship" does not include a casual acquaintanceship or ordinary
6965 fraternization in a business or social context.
- 6966 (7) "Dealer" means a person who is:
- 6967 (a) licensed under 18 U.S.C. Sec. 923; and
- 6968 (b) engaged in the business of selling, leasing, or otherwise transferring a firearm,
6969 whether the person is a retail or wholesale dealer, pawnbroker, or other type of
6970 merchant or seller.
- 6971 (8) "Domestic violence" means the same as that term is defined in Section 77-36-1.
- 6972 (9) "Intimate partner" means the same as that term is defined in 18 U.S.C. Sec. 921.
- 6973 (10) "Schedule I controlled substance" means a substance listed as a schedule I controlled
6974 substance in Section 58-37-4.
- 6975 (11) "Schedule II controlled substance" means a substance listed as a schedule II controlled
6976 substance in Section 58-37-4.
- 6977 (12) "Secure care" means the same as that term is defined in Section 80-1-102.
- 6978 (13) "Single criminal episode" means the same as that term is defined in Section 76-1-401.
- 6979 Section 114. Section **76-11-302** is enacted to read:
- 6980 **76-11-302 . Category I restricted person established.**
- 6981 Except as provided in Section 76-11-304, Exceptions, limitations, and exclusions to
6982 restricted person categories, an individual is categorized as a category I restricted person and
6983 subject to the restrictions and penalties described in Section 76-11-305 for:
- 6984 (1) having a conviction of a violent felony;
- 6985 (2) being on probation or parole for a felony;
- 6986 (3) being on parole from secure care;
- 6987 (4) 10 years after the day on which the individual was adjudicated for an offense which if
6988 committed by an adult would have been a violent felony;
- 6989 (5) being an alien who is illegally or unlawfully in the United States; or
- 6990 (6) being on probation for a conviction of possessing;

- 6991 (a) a substance classified in Section 58-37-4 as a Schedule I or II controlled substance;
 6992 (b) a controlled substance analog; or
 6993 (c) a substance listed in Section 58-37-4.2.

6994 Section 115. Section **76-11-303** is enacted to read:

6995 **76-11-303 . Category II restricted person established.**

6996 Except as provided in Section 76-11-304, Exceptions, limitations, and exclusions to
 6997 restricted person categories, an individual is categorized as a category II restricted person and
 6998 subject to the restrictions and penalties described in Section 76-11-306 for:

6999 (1) having a conviction of:

- 7000 (a) a domestic violence offense that is a felony; or
 7001 (b) multiple felonies that are not part of a single criminal episode;

7002 (2) having a conviction of:

- 7003 (a)(i) a felony that is not a domestic violence offense or a violent felony; or
 7004 (ii) multiple felonies that are part of a single criminal episode and are not domestic
 7005 violence offenses or violent felonies; and

7006 (b) within seven years after completing the sentence for the conviction described in
 7007 Subsection (2)(a), the individual has been convicted of, or charged with, another
 7008 felony or class A misdemeanor;

7009 (3) seven years after the day on which the individual completes a sentence for:

- 7010 (a) a conviction for a felony that is not a domestic violence offense or a violent felony; or
 7011 (b) convictions for multiple felonies that are part of a single criminal episode and are not
 7012 domestic violence offenses or violent felonies;

7013 (4) seven years after the day on which the individual was an adjudicated delinquent for an
 7014 offense which if committed by an adult would have been a felony;

7015 (5) being an unlawful user of a controlled substance;

7016 (6) being in possession of a dangerous weapon while knowingly and intentionally being in
 7017 unlawful possession of a schedule I controlled substance or a schedule II controlled
 7018 substance;

7019 (7) being found not guilty by reason of insanity for a felony offense;

7020 (8) being found mentally incompetent to stand trial for a felony offense;

7021 (9) being adjudicated as mentally defective as provided in the Brady Handgun Violence
 7022 Prevention Act, Pub. L. No. 103-159, 107 Stat. 1536 (1993), or having been committed
 7023 to a mental institution;

7024 (10) being dishonorably discharged from the armed forces;

- 7025 (11) renouncing the individual's citizenship after having been a citizen of the United States;
 7026 (12) being a respondent or defendant subject to a protective order or child protective order
 7027 that:
 7028 (a) is issued after a hearing for which the individual received actual notice and at which
 7029 the individual had an opportunity to participate;
 7030 (b) restrains the individual from harassing, stalking, threatening, or engaging in other
 7031 conduct that would place an intimate partner, or a child of the intimate partner, in
 7032 reasonable fear of bodily injury to the intimate partner or child of the intimate
 7033 partner; and
 7034 (c)(i) includes a finding that the individual represents a credible threat to the physical
 7035 safety of an intimate partner or the child of the intimate partner; or
 7036 (ii) explicitly prohibits the use, attempted use, or threatened use of physical force that
 7037 would reasonably be expected to cause bodily harm against an intimate partner or
 7038 the child of an intimate partner; or
 7039 (13) except as provided in Subsection 76-11-304(2), being convicted of the commission or
 7040 attempted commission of misdemeanor assault under Section 76-5-102, or aggravated
 7041 assault under Section 76-5-103, against a victim:
 7042 (a) who is a current or former spouse, parent, or guardian of the individual;
 7043 (b) with whom the individual shares a child in common;
 7044 (c) who is cohabitating or has cohabitated with the individual as a spouse, parent, or
 7045 guardian;
 7046 (d) involved in a dating relationship with the individual within the last five years; or
 7047 (e) similarly situated to a spouse, parent, or guardian of the individual.

7048 Section 116. Section **76-11-304** is enacted to read:

7049 **76-11-304 . Exceptions, limitations, and exclusions to restricted person categories**

7050 **-- Burden on defendant to prove exception.**

- 7051 (1)(a) Subject to Subsection (1)(c), an individual convicted of a felony, or adjudicated
 7052 for an offense which would be a felony if committed by an adult, is not a category I
 7053 restricted person, or a category II restricted person, if:
 7054 (i) the felony or adjudication has, in accordance with the law of the jurisdiction in
 7055 which the conviction or adjudication occurred, been:
 7056 (A) expunged;
 7057 (B) set aside;
 7058 (C) reduced to a misdemeanor by court order; or

- 7059 (D) pardoned;
- 7060 (ii) the individual has had the individual's civil rights that had been limited by the
- 7061 conviction or adjudication restored in accordance with the law of the jurisdiction
- 7062 in which the conviction or adjudication occurred; or
- 7063 (iii) the felony or adjudication is an offense pertaining to antitrust violations, unfair
- 7064 trade practices, restraint of trade, or other similar offenses relating to the
- 7065 regulation of business practices not involving theft or fraud.
- 7066 (b) Subject to Subsection (1)(c), an individual convicted of a misdemeanor assault under
- 7067 Subsection 76-11-303(13) that qualifies to make the individual a category II
- 7068 restricted person is otherwise not a category II restricted person, if, in accordance
- 7069 with the law of the jurisdiction in which the conviction occurred:
- 7070 (i) the misdemeanor has been:
- 7071 (A) expunged;
- 7072 (B) set aside;
- 7073 (C) reduced to an infraction by court order; or
- 7074 (D) pardoned; or
- 7075 (ii) the individual has had the individual's civil rights that had been limited by the
- 7076 conviction restored.
- 7077 (c) An individual who has received a pardon, reduction, expungement, setting aside, or
- 7078 restoration of civil rights as described in Subsection (1)(a) or (b) remains a category I
- 7079 or category II restricted person that corresponds with the individual's conviction if the
- 7080 pardon, reduction, expungement, setting aside, or restoration of civil rights expressly
- 7081 provides that the person may not ship, transport, possess, or receive firearms.
- 7082 (2) An individual is not a category II restricted person resulting from a conviction for a
- 7083 misdemeanor assault committed against an individual involved in a dating relationship
- 7084 as described in Subsection 76-11-303(13)(d) if:
- 7085 (a) five years have elapsed from the later of:
- 7086 (i) the day on which the conviction is entered;
- 7087 (ii) the day on which the individual is released from incarceration following the
- 7088 conviction; or
- 7089 (iii) the day on which the individual's probation for the conviction is successfully
- 7090 terminated;
- 7091 (b) the individual only has a single conviction for misdemeanor assault as described in
- 7092 Subsection 76-11-303(12)(d); and

- 7093 (c) the individual is not otherwise a category I restricted person or a category II
 7094 restricted person.
- 7095 (3)(a) In a criminal case brought against the defendant in which the question of whether
 7096 the defendant meets an exception, limitation, or exclusion under this section arises
 7097 and therefore makes the defendant not a category I or category II restricted person,
 7098 the defendant has the burden to provide evidence that an exception, limitation, or
 7099 exclusion described in Subsection (1) or (2) applies.
- 7100 (b) If the defendant satisfies the defendant's burden to provide evidence described in
 7101 Subsection (3)(a), the burden shifts to the state to prove beyond a reasonable doubt
 7102 that the defendant's conviction or adjudication is not subject to an exception,
 7103 limitation, or exclusion described in Subsection (1) or (2).
- 7104 Section 117. Section **76-11-305** is enacted to read:
- 7105 **76-11-305 . Category I restricted person participating in prohibited dangerous**
 7106 **weapon conduct.**
- 7107 (1) Terms defined in Sections 76-1-101.5, 76-11-101, and 76-11-301 apply to this section.
- 7108 (2) An actor commits category I restricted person participating in prohibited dangerous
 7109 weapon conduct if the actor:
- 7110 (a) is a category I restricted person; and
- 7111 (b) intentionally or knowingly:
- 7112 (i) agrees, consents, offers, or arranges to:
- 7113 (A) purchase a dangerous weapon;
- 7114 (B) transfer a dangerous weapon;
- 7115 (C) use a dangerous weapon; or
- 7116 (D) carry or otherwise possess a dangerous weapon; or
- 7117 (ii) purchases, transfers, uses, carries, or otherwise possesses a dangerous weapon.
- 7118 (3)(a) A violation of Subsection (2) is a third degree felony if the dangerous weapon is
 7119 not a firearm.
- 7120 (b) A violation of Subsection (2) is a second degree felony if the dangerous weapon is a
 7121 firearm.
- 7122 (4) For purposes of this section, using a dangerous weapon includes using an antique
 7123 firearm for an activity regulated under Title 23A, Wildlife Resources Act.
- 7124 (5) It is an affirmative defense to a prosecution for transferring a dangerous weapon by an
 7125 actor under Subsection (2) that the dangerous weapon:
- 7126 (a) was possessed by the actor or was under the actor's custody or control before the

- 7127 actor became a restricted person;
- 7128 (b) was not used in or possessed during the commission of a crime or subject to
- 7129 disposition under Title 77, Chapter 11a, Part 4, Disposal of Seized Property and
- 7130 Contraband;
- 7131 (c) is not being held as evidence by a court or law enforcement agency;
- 7132 (d) was transferred to an individual not legally prohibited from possessing the weapon;
- 7133 and
- 7134 (e) unless a different time is ordered by the court, was transferred within 10 days after
- 7135 the day on which the actor became a restricted person.
- 7136 (6)(a) It is not a violation of this section for an actor who is a category I restricted
- 7137 person to own, carry, or otherwise possess, archery equipment, including crossbows,
- 7138 for the purpose of lawful hunting and lawful target shooting.
- 7139 (b) Notwithstanding Subsection (6)(a), this section applies if the owning, carrying, or
- 7140 otherwise possessing archery equipment, including crossbows, is prohibited by:
- 7141 (i) a court, as a condition of pre-trial release or probation; or
- 7142 (ii) the Board of Pardons and Parole, as a condition of parole.
- 7143 Section 118. Section **76-11-306** is enacted to read:
- 7144 **76-11-306 . Category II restricted person participating in prohibited dangerous**
- 7145 **weapon conduct.**
- 7146 (1) Terms defined in Sections 76-1-101.5, 76-11-101, and 76-11-301 apply to this section.
- 7147 (2) An actor commits category II restricted person participating in prohibited dangerous
- 7148 weapon conduct if the actor:
- 7149 (a) is a category II restricted person; and
- 7150 (b) intentionally or knowingly:
- 7151 (i) purchases a dangerous weapon;
- 7152 (ii) transfers a dangerous weapon;
- 7153 (iii) uses a dangerous weapon; or
- 7154 (iv) carries or otherwise possesses a dangerous weapon.
- 7155 (3)(a) A violation of Subsection (2) is a class A misdemeanor if the dangerous weapon
- 7156 is not a firearm.
- 7157 (b) A violation of Subsection (2) is a third degree felony if the dangerous weapon is a
- 7158 firearm.
- 7159 (4) For purposes of this section using a dangerous weapon includes using an antique
- 7160 firearm for an activity regulated under Title 23A, Wildlife Resources Act.

- 7161 (5) It is an affirmative defense to:
- 7162 (a) a prosecution under this section that is based on proving that an actor is a category II
- 7163 restricted person as a result of being in possession of a dangerous weapon while
- 7164 knowingly and intentionally being in unlawful possession of a schedule I controlled
- 7165 substance or a schedule II controlled substance as described in Subsection
- 7166 76-11-303(6) that the actor was:
- 7167 (i) in possession of the controlled substance pursuant to a lawful order of a
- 7168 practitioner for use of a member of the person's household or for administration to
- 7169 an animal owned by the person or a member of the person's household; or
- 7170 (ii) otherwise authorized by law to possess the controlled substance; and
- 7171 (b) a prosecution for transferring a dangerous weapon by an actor under Subsection (2)
- 7172 that the dangerous weapon:
- 7173 (i) was possessed by the actor or was under the actor's custody or control before the
- 7174 actor became a restricted person;
- 7175 (ii) was not used in or possessed during the commission of a crime or subject to
- 7176 disposition under Title 77, Chapter 11a, Part 4, Disposal of Seized Property and
- 7177 Contraband;
- 7178 (iii) is not being held as evidence by a court or law enforcement agency;
- 7179 (iv) was transferred to an individual not legally prohibited from possessing the
- 7180 weapon; and
- 7181 (v) unless a different time is ordered by the court, was transferred within 10 days
- 7182 after the day on which the actor became a restricted person.
- 7183 (6)(a) It is not a violation of this section for an actor who is a category II restricted
- 7184 person to own, carry, or otherwise possess, archery equipment, including crossbows,
- 7185 for the purpose of lawful hunting and lawful target shooting.
- 7186 (b) Notwithstanding Subsection (6)(a), this section applies if the owning, carrying, or
- 7187 otherwise possessing of archery equipment, including crossbows, is prohibited by:
- 7188 (i) a court, as a condition of pre-trial release or probation; or
- 7189 (ii) the Board of Pardons and Parole, as a condition of parole.
- 7190 Section 119. Section **76-11-307** is enacted to read:
- 7191 **76-11-307 . Selling a dangerous weapon to a category I restricted person.**
- 7192 (1) Terms defined in Sections 76-1-101.5, 76-11-101, and 76-11-301 apply to this section.
- 7193 (2) An actor commits selling a dangerous weapon to a category I restricted person if the
- 7194 actor:

7195 (a) sells, transfers, or otherwise provides a dangerous weapon to an individual who is a
 7196 category I restricted person; and

7197 (b) knows the individual that the actor has sold, transferred, or provided the dangerous
 7198 weapon to is a category I restricted person.

7199 (3)(a) A violation of Subsection (2) is a second degree felony if the dangerous weapon
 7200 sold, transferred, or provided is a firearm.

7201 (b) A violation of Subsection (2) is a third degree felony if the dangerous weapon sold,
 7202 transferred, or provided is not a firearm and the actor knew that the recipient intended
 7203 to use the dangerous weapon for an unlawful purpose.

7204 Section 120. Section **76-11-308** is enacted to read:

7205 **76-11-308 . Selling a dangerous weapon to a category II restricted person.**

7206 (1) Terms defined in Sections 76-1-101.5, 76-11-101, and 76-11-301 apply to this section.

7207 (2) An actor commits selling a dangerous weapon to a category II restricted person if the
 7208 actor:

7209 (a) sells, transfers, or otherwise provides a dangerous weapon to an individual who is a
 7210 category II restricted person; and

7211 (b) knows the individual that the actor has sold, transferred, or provided the dangerous
 7212 weapon to is a category II restricted person.

7213 (3)(a) A violation of Subsection (2) is a third degree felony if the dangerous weapon
 7214 sold, transferred, or provided is a firearm.

7215 (b) A violation of Subsection (2) is a class A misdemeanor if the dangerous weapon
 7216 sold, transferred, or provided is not a firearm and the actor knew that the recipient
 7217 intended to use the dangerous weapon for an unlawful purpose.

7218 Section 121. Section **76-11-309**, which is renumbered from Section 76-10-503.1 is renumbered
 7218 and amended to read:

7220 ~~[76-10-503.1]~~ **76-11-309 . Firearm restriction notification requirement for restricted persons.**

7221 (1) As used in this section:

7222 (a) "Peace officer" means an officer described Section 53-13-102.

7223 ~~[(b) "Possess" means actual physical possession, actual or purported ownership, or~~
 7224 ~~exercising control of an item.]~~

7225 ~~[(e)]~~ (b) "Restricted person" means an individual who is restricted from ~~[possessing,]~~
 7226 purchasing, transferring, using, or ~~[owning]~~ otherwise possessing a firearm under
 7227 Section ~~[76-10-503]~~ 76-11-302 or 76-11-303 or federal law.

7228 (2) A defendant intending to plead guilty or no contest to a criminal charge that will, upon

- 7229 conviction, cause the defendant to become a restricted person shall, before entering a
7230 plea before a court, sign an acknowledgment that states:
- 7231 (a) the defendant's attorney or the prosecuting attorney has informed the defendant:
- 7232 (i) that conviction of the charge will classify the defendant as a restricted person;
- 7233 (ii) that a restricted person may not [~~possess~~] purchase, transfer, use, or otherwise
7234 possess a firearm; and
- 7235 (iii) of the criminal penalties associated with [~~possession of~~] purchasing, transferring,
7236 using, or otherwise possessing a firearm by a restricted person of the same
7237 category the defendant will become upon entering a plea for the criminal charge;
7238 and
- 7239 (b) the defendant acknowledges and understands that, by pleading guilty or no contest to
7240 the criminal charge, the defendant:
- 7241 (i) will be a restricted person;
- 7242 (ii) upon conviction, shall forfeit possession of each firearm currently [~~possessed by~~]
7243 in the [defendant] defendant's possession; and
- 7244 (iii) will be in violation of federal and state law if the defendant purchases, transfers,
7245 uses, or otherwise possesses a firearm.
- 7246 (3) The prosecuting attorney or the defendant's attorney shall provide the acknowledgment
7247 described in Subsection (2) to the court before the defendant's entry of a plea, if the
7248 defendant pleads guilty or no contest.
- 7249 (4) A defendant who is convicted by trial of a criminal charge resulting in the defendant
7250 becoming a restricted person shall, at the time of sentencing:
- 7251 (a) be verbally informed by the court, prosecuting attorney, or defendant's attorney:
- 7252 (i) that the defendant is a restricted person;
- 7253 (ii) that, as a restricted person, the defendant may not purchase, transfer, use, or
7254 otherwise possess a firearm; and
- 7255 (iii) of the criminal penalties associated with [~~possession of~~] purchasing, transferring,
7256 using, or otherwise possessing a firearm by a restricted person of the defendant's
7257 category; and
- 7258 (b) sign an acknowledgment in the presence of the court attesting that the defendant
7259 acknowledges and understands that the defendant:
- 7260 (i) is a restricted person;
- 7261 (ii) shall forfeit possession of each firearm; and
- 7262 (iii) will be in violation of federal and state law if the defendant purchases, transfers,

- 7263 uses, or otherwise possesses a firearm.
- 7264 (5) The prosecuting attorney and the defendant's attorney shall inform the court at the
7265 preliminary hearing if a charge filed against the defendant would qualify the defendant
7266 as a restricted person if the defendant is convicted of the charge.
- 7267 (6) The failure to inform or obtain a signed acknowledgment from the defendant may not
7268 render the plea invalid, form the basis for withdrawal of the plea, or create a basis to
7269 challenge a conviction or sentence.
- 7270 (7) An individual who becomes a restricted person as a result of being served with a pretrial
7271 protective order in accordance with Section 78B-7-803, a sentencing protective order in
7272 accordance with Section 77-36-5, or a continuous protective order in accordance with
7273 Section 77-36-5, shall, at the time of service of the protective order:
- 7274 (a) be verbally informed by the court, prosecuting attorney, defendant's attorney, or, if a
7275 peace officer is serving the protective order, the peace officer:
- 7276 (i) that the individual is a restricted person;
- 7277 (ii) that, as a restricted person, the individual may not purchase, transfer, use, or
7278 otherwise possess a firearm; and
- 7279 (iii) of the criminal penalties associated with [~~possession of~~] purchasing, transferring,
7280 using, or otherwise possessing a firearm by a restricted person of the individual's
7281 category; and
- 7282 (b) sign, in the presence of the court or, if a peace officer serves the protective order, in
7283 the presence of the peace officer, an acknowledgment contained within the protective
7284 order document attesting that the individual acknowledges and understands that the
7285 individual:
- 7286 (i) is a restricted person;
- 7287 (ii) is required to relinquish possession of each firearm in the individual's possession;
- 7288 (iii) will be in violation of federal and state law if the individual purchases, transfers,
7289 uses, or otherwise possesses a firearm; and
- 7290 (iv) may be eligible for an affirmative defense to a state-law prosecution for [
7291 ~~possession of~~] transferring a firearm under Section [76-10-503] 76-11-305 or
7292 76-11-306 if the individual lawfully transfers the individual's firearms within 10
7293 days [of becoming] after the day on which the individual became a restricted
7294 person.

7295 Section 122. Section **76-11-310**, which is renumbered from Section 76-10-532 is renumbered
7295 and amended to read:

7297 ~~[76-10-532]~~76-11-310 . **Removal from National Instant Check System database for certain**
 7298 **category II restricted persons.**

7299 (1) ~~[A person]~~ An individual who is subject to the restrictions in Subsection [
 7300 ~~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
 7301 (g)(4) based on a commitment, finding, or adjudication that occurred in this state may
 7302 petition the district court in the county in which the commitment, finding, or
 7303 adjudication occurred to remove the disability imposed.

7304 (2) The petition shall be filed in the district court in the county where the commitment,
 7305 finding, or adjudication occurred~~[-The petition]~~ and shall include:

7306 (a) a listing of facilities, with their addresses, where the petitioner has ever received
 7307 mental health treatment;

7308 (b) a release signed by the petitioner to allow the prosecutor or county attorney to obtain
 7309 the petitioner's mental health records;

7310 (c) a verified report of a mental health evaluation conducted by a licensed psychiatrist
 7311 occurring within 30 days prior to the filing of the petition, which shall include a
 7312 statement regarding:

7313 (i) the nature of the commitment, finding, or adjudication that resulted in the
 7314 restriction on the petitioner's ability to purchase or possess a dangerous weapon;

7315 (ii) the petitioner's previous and current mental health treatment;

7316 (iii) the petitioner's previous violent behavior, if any;

7317 (iv) the petitioner's current mental health medications and medication management;

7318 (v) the length of time the petitioner has been stable;

7319 (vi) external factors that may influence the petitioner's stability;

7320 (vii) the ability of the petitioner to maintain stability with or without medication; and

7321 (viii) whether the petitioner is dangerous to public safety; and

7322 (d) a copy of the petitioner's state and federal criminal history record.

7323 (3) The petitioner shall serve the petition on the prosecuting entity that prosecuted the case
 7324 or, if the disability is not based on a criminal case, on the county or district attorney's
 7325 office having jurisdiction where the petition was filed and the individual who filed the
 7326 original action which resulted in the disability.

7327 (4)(a) The court shall schedule a hearing as soon as practicable~~[-The]~~ in which the
 7328 petitioner may present evidence and subpoena witnesses to appear at the hearing.~~[-]~~

7329 (b) The prosecuting, county attorney, or the individual who filed the original action
 7330 which resulted in the disability may object to the petition and present evidence in

- 7331 support of the objection.
- 7332 (5) The court shall consider the following evidence:
- 7333 (a) the facts and circumstances that resulted in the commitment, finding, or adjudication;
- 7334 (b) the [person's] petitioner's mental health and criminal history records; and
- 7335 (c) the [person's] petitioner's reputation, including the testimony of character witnesses.
- 7336 (6) The court shall grant the relief if the court finds by clear and convincing evidence that:
- 7337 (a) the [person] petitioner is not a danger to the [person] petitioner or to [others] another
- 7338 individual;
- 7339 (b) the [person] petitioner is not likely to act in a manner dangerous to public safety; and
- 7340 (c) the requested relief would not be contrary to the public interest.
- 7341 (7) The court shall issue an order with its findings and send a copy to the bureau.
- 7342 (8)(a) The bureau, upon receipt of a court order removing [~~a person's~~] a petitioner's
- 7343 disability under Subsection [76-10-503(1)(b)(viii),] 76-11-303(9), shall send a copy
- 7344 of the court order to the National Instant Check System requesting removal of the [
- 7345 person's] petitioner's name from the database.[-]
- 7346 (b) In addition to the action described in Subsection (8)(a), if the [person] petitioner is
- 7347 listed in a state database utilized by the bureau to determine eligibility for the
- 7348 purchase or possession of a firearm or to obtain a concealed firearm permit under
- 7349 Title 53, Chapter 5a, Part 3, Concealed Firearm Permits, the bureau shall remove the
- 7350 petitioner's name or send a copy of the court's order to the agency responsible for the
- 7351 database for removal of the petitioner's name.
- 7352 (9) If the court denies the petition, the petitioner may not petition again for relief until at
- 7353 least two years after the date of the court's final order.
- 7354 (10) The petitioner may appeal a denial of the requested relief[~~—The~~] and the review on
- 7355 appeal shall be de novo.
- 7356 Section 123. Section **77-11a-402** is amended to read:
- 7357 **77-11a-402 . Disposition of seized property and contraband -- Return of seized**
- 7358 **property.**
- 7359 (1)(a) Except as provided in Subsection (1)(b), if a prosecuting attorney determines that
- 7360 seized property no longer needs to be retained as evidence under Chapter 11c,
- 7361 Retention of Evidence, the prosecuting attorney may:
- 7362 (i) petition the court to apply the property that is money towards restitution, fines,
- 7363 fees, or monetary judgments owed by the owner of the property;
- 7364 (ii) petition the court for an order transferring ownership of weapons to the agency

- 7365 with custody for the agency's use and disposal in accordance with Section
7366 77-11a-403 if the owner:
- 7367 (A) is the individual who committed the offense for which the weapon was seized;
7368 or
7369 (B) may not lawfully possess the weapon; or
- 7370 (iii) notify the agency with custody of the property or contraband that:
7371 (A) the property may be returned to the owner in accordance with Section
7372 77-11a-301 if the owner may lawfully possess the property; or
7373 (B) the contraband may be disposed of or destroyed.
- 7374 (b) If a prosecuting attorney determines that a firearm seized from an individual as a
7375 result of an offense committed under Subsection [~~76-10-529(2)(a)(i)~~] 76-11-218(2)(a)
7376 no longer needs to be retained for court proceedings, the prosecuting attorney shall
7377 notify the agency with custody of the firearm that the property shall be returned to the
7378 individual if the individual may lawfully possess the firearm.
- 7379 (2) Before returning a firearm to an individual, the agency returning the firearm shall
7380 confirm, through the Bureau of Criminal Identification, that the individual is eligible to
7381 lawfully possess and receive firearms.
- 7382 (3)(a) Except as provided in Subsection (3)(b), if the agency is unable to locate the
7383 owner of the property or the owner is not entitled to lawfully possess the property,
7384 the agency may:
- 7385 (i) apply the property to a public interest use;
7386 (ii) sell the property at public auction and apply the proceeds of the sale to a public
7387 interest use; or
7388 (iii) destroy the property if the property is unfit for a public interest use or for sale.
- 7389 (b) If the property described in Subsection (3)(a) is a firearm, the agency shall dispose of
7390 the firearm in accordance with Section 77-11a-403.
- 7391 (4) Before applying the property or the proceeds from the sale of the property to a public
7392 interest use, the agency shall obtain from the legislative body of the agency's jurisdiction:
7393 (a) permission to apply the property or the proceeds to public interest use; and
7394 (b) the designation and approval of the public interest use of the property or the proceeds.
- 7395 (5) If a peace officer seizes property that at the time of seizure is held by a pawn or
7396 secondhand business in the course of the pawn or secondhand business's business, the
7397 provisions of Section 13-32a-116 shall apply to the disposition of the property.
7398 Section 124. Section **77-11a-403** is amended to read:

- 7399 **77-11a-403 . Disposition of firearms no longer needed as evidence.**
- 7400 (1) As used in this section:
- 7401 (a) "Confiscated or unclaimed firearm" means a firearm that is subject to disposal by an
- 7402 agency under Section [~~53-5e-202~~] 53-5a-503 or 77-11a-402.
- 7403 (b) "Department" means the Department of Public Safety created in Section 53-1-103.
- 7404 (c) "Federally licensed firearms dealer" means a person:
- 7405 (i) licensed as a dealer under 18 U.S.C. Sec. 923; and
- 7406 (ii) engaged in the business of selling firearms.
- 7407 (d) "State-approved dealer" means the federally licensed firearms dealer that contracts
- 7408 with the department under Subsection (4).
- 7409 (2) An agency shall dispose of a confiscated or unclaimed firearm by:
- 7410 (a) selling or destroying the confiscated or unclaimed firearm in accordance with
- 7411 Subsection (3);
- 7412 (b) giving the confiscated or unclaimed firearm to the state-approved dealer to sell or
- 7413 destroy in accordance with Subsection (4) and the agreement between the
- 7414 state-approved dealer and the department; or
- 7415 (c) after the agency obtains approval from the legislative body of the agency's
- 7416 jurisdiction, transferring the confiscated or unclaimed firearm to the Bureau of
- 7417 Forensic Services, created in Section 53-10-401, or another public forensic laboratory
- 7418 for testing.
- 7419 (3)(a) An agency that elects to dispose of a confiscated or unclaimed firearm under
- 7420 Subsection (2)(a) shall:
- 7421 (i) sell the confiscated or unclaimed firearm to a federally licensed firearms dealer
- 7422 and apply the proceeds from the sale to a public interest use; or
- 7423 (ii) destroy the firearm, if the agency determines that:
- 7424 (A) the condition of a confiscated or unclaimed firearm makes the firearm unfit
- 7425 for sale; or
- 7426 (B) the confiscated or unclaimed firearm is associated with a notorious crime.
- 7427 (b) Before an agency applies the proceeds of a sale of a confiscated or unclaimed firearm
- 7428 to a public interest use, the agency shall obtain from the legislative body of the
- 7429 agency's jurisdiction:
- 7430 (i) permission to apply the proceeds of the sale to a public interest use; and
- 7431 (ii) the designation and approval of the public interest use to which the agency
- 7432 applies the proceeds.

- 7433 (4)(a)(i) The department shall, in accordance with Title 63G, Chapter 6a, Utah
 7434 Procurement Code, contract with a federally licensed firearms dealer to sell or
 7435 destroy all confiscated or unclaimed firearms in the state.
- 7436 (ii) The term of an agreement executed in accordance with this Subsection (4) may
 7437 not exceed five years.
- 7438 (iii) Nothing in this Subsection (4) prevents the department from contracting with the
 7439 same federally licensed firearms dealer more than once.
- 7440 (b) An agreement executed in accordance with Subsection (4)(a) shall:
- 7441 (i) address the amount of money that the federally licensed firearms dealer is entitled
 7442 to retain from the sale of each confiscated or unclaimed firearm as compensation
 7443 for the federally licensed firearms dealer's performance under the agreement;
- 7444 (ii) require the federally licensed firearms dealer to donate, on behalf of the state, all
 7445 proceeds from the sale of a confiscated or unclaimed firearm, except the amount
 7446 described in Subsection (4)(b)(i), to an organization that:
- 7447 (A) is exempt from taxation under Section 501(c)(3), Internal Revenue Code;
- 7448 (B) complies with any applicable licensing or registration requirements in the state;
- 7449 (C) primarily helps the families of law enforcement officers in the state who die in
 7450 the line of duty;
- 7451 (D) gives financial assistance to the families of law enforcement officers in the
 7452 state who die in the line of duty; and
- 7453 (E) provides other assistance to children of active law enforcement officers,
 7454 including scholarships;
- 7455 (iii) state that if the federally licensed firearms dealer determines that the condition of
 7456 a confiscated or unclaimed firearm makes the firearm unfit for sale, the federally
 7457 licensed firearms dealer shall destroy the firearm; and
- 7458 (iv) provide a procedure by which the department can ensure that the federally
 7459 licensed firearms dealer complies with the provisions of the agreement and
 7460 applicable law.

7461 Section 125. Section **77-11b-102** is amended to read:

7462 **77-11b-102 . Property subject to forfeiture.**

- 7463 (1)(a) Except as provided in Subsection (2), (3), (4), or (5), an agency may seek to
 7464 forfeit:
- 7465 (i) seized property that was used to facilitate the commission of an offense that is a
 7466 violation of federal or state law; or

- 7467 (ii) seized proceeds.
- 7468 (b) An agency, or the prosecuting attorney, may not forfeit the seized property of an
7469 innocent owner or an interest holder.
- 7470 (2) If seized property is used to facilitate an offense that is a violation of Section 76-10-1204,
7471 76-10-1205, 76-10-1206, or 76-10-1222, an agency may not forfeit the property if the
7472 forfeiture would constitute a prior restraint on the exercise of an affected party's rights
7473 under the First Amendment to the Constitution of the United States or Utah Constitution,
7474 Article I, Section 15, or would otherwise unlawfully interfere with the exercise of the
7475 party's rights under the First Amendment to the Constitution of the United States or Utah
7476 Constitution, Article I, Section 15.
- 7477 (3) If a motor vehicle is used in an offense that is a violation of Section 41-6a-502,
7478 41-6a-517, a local ordinance that complies with the requirements of Subsection
7479 41-6a-510(1), Subsection 76-5-102.1(2)(b), or Section 76-5-207, an agency may not
7480 seek forfeiture of the motor vehicle, unless:
- 7481 (a) the operator of the vehicle has previously been convicted of an offense committed
7482 after May 12, 2009, that is:
- 7483 (i) a felony driving under the influence violation under Section 41-6a-502 or
7484 Subsection 76-5-102.1(2)(a);
- 7485 (ii) a felony violation under Subsection 76-5-102.1(2)(b);
- 7486 (iii) a violation under Section 76-5-207; or
- 7487 (iv) operating a motor vehicle with any amount of a controlled substance in an
7488 individual's body and causing serious bodily injury or death, as codified before
7489 May 4, 2022, Laws of Utah 2021, Chapter 236, Section 1, Subsection
7490 58-37-8(2)(g); or
- 7491 (b) the operator of the vehicle was driving on a denied, suspended, revoked, or
7492 disqualified license and:
- 7493 (i) the denial, suspension, revocation, or disqualification under Subsection (3)(b)(ii)
7494 was imposed because of a violation under:
- 7495 (A) Section 41-6a-502;
- 7496 (B) Section 41-6a-517;
- 7497 (C) a local ordinance that complies with the requirements of Subsection
7498 41-6a-510(1);
- 7499 (D) Section 41-6a-520.1;
- 7500 (E) operating a motor vehicle with any amount of a controlled substance in an

- 7501 individual's body and causing serious bodily injury or death, as codified before
 7502 May 4, 2022, Laws of Utah 2021, Chapter 236, Section 1, Subsection
 7503 58-37-8(2)(g);
 7504 (F) Section 76-5-102.1;
 7505 (G) Section 76-5-207; or
 7506 (H) a criminal prohibition as a result of a plea bargain after having been originally
 7507 charged with violating one or more of the sections or ordinances described in
 7508 Subsections (3)(b)(i)(A) through (G); or
 7509 (ii) the denial, suspension, revocation, or disqualification described in Subsection
 7510 (3)(b)(i):
 7511 (A) is an extension imposed under Subsection 53-3-220(2) of a denial, suspension,
 7512 revocation, or disqualification; and
 7513 (B) the original denial, suspension, revocation, or disqualification was imposed
 7514 because of a violation described in Subsection (3)(b)(i).
 7515 (4) If a peace officer seizes property incident to an arrest solely for possession of a
 7516 controlled substance under Subsection 58-37-8(2)(a)(i) but not Subsection
 7517 58-37-8(2)(b)(i), an agency may not seek to forfeit the property that was seized in
 7518 accordance with the arrest.
 7519 (5) If a peace officer seizes an individual's firearm as the result of an offense under Section [
 7520 ~~76-10-529~~] 76-11-218, an agency may not seek to forfeit the individual's firearm if the
 7521 individual may lawfully possess the firearm.

7522 Section 126. Section **77-11d-101** is amended to read:

7523 **77-11d-101 . Definitions.**

7524 As used in this chapter:

- 7525 (1) "Interest holder" means the same as that term is defined in Section 77-11a-101.
 7526 (2)(a) "Lost or mislaid property":
 7527 (i) means any property that comes into the possession of a peace officer or law
 7528 enforcement agency:
 7529 (A) that is not claimed by anyone who is identified as the owner of the property; or
 7530 (B) for which no owner or interest holder can be found after a reasonable and
 7531 diligent search;
 7532 (ii) includes any property received by a peace officer or law enforcement agency
 7533 from a person claiming to have found the property; and
 7534 (iii) does not include property seized by a peace officer in accordance with Chapter

7535 11a, Seizure of Property and Contraband.

7536 (b) "Lost or mislaid property" includes a firearm or other dangerous weapon received by
7537 a law enforcement agency at an airport under Subsection [~~76-10-529(6)~~] 76-11-218(7).

7538 (3) "Owner" means the same as that term is defined in Section 77-11a-101.

7539 (4) "Public interest use" means:

7540 (a) use by a governmental agency as determined by the agency's legislative body; or

7541 (b) donation to a nonprofit charity registered with the state.

7542 Section 127. Section **77-11d-105** is amended to read:

7543 **77-11d-105 . Disposition of unclaimed property.**

7544 (1)(a) Except as provided in Subsection (6), if the owner of any lost or mislaid property
7545 cannot be determined or notified, or if the owner of the property is determined and
7546 notified, and fails to appear and claim the property after three months of the
7547 property's receipt by the local law enforcement agency, the agency shall:

7548 (i) publish notice of the intent to dispose of the unclaimed property on Utah's Public
7549 Legal Notice Website established in Subsection 45-1-101(2)(b);

7550 (ii) post a similar notice on the public website of the political subdivision within
7551 which the law enforcement agency is located; and

7552 (iii) post a similar notice in a public place designated for notice within the law
7553 enforcement agency.

7554 (b) The notice shall:

7555 (i) give a general description of the item; and

7556 (ii) the date of intended disposition.

7557 (c) The agency may not dispose of the lost or mislaid property until at least eight days
7558 after the date of publication and posting.

7559 (2)(a) If no claim is made for the lost or mislaid property within nine days of
7560 publication and posting, the agency shall notify the person who turned the property
7561 over to the local law enforcement agency, if it was turned over by a person under
7562 Section 77-11d-103.

7563 (b) Except as provided in Subsection (4), if that person has complied with the provisions
7564 of this chapter, the person may take the lost or mislaid property if the person:

7565 (i) pays the costs incurred for advertising and storage; and

7566 (ii) signs a receipt for the item.

7567 (3) If the person who found the lost or mislaid property fails to take the property under the
7568 provisions of this chapter, the agency shall:

- 7569 (a) apply the property to a public interest use as provided in Subsection (4);
- 7570 (b) sell the property at public auction and apply the proceeds of the sale to a public
- 7571 interest use; or
- 7572 (c) destroy the property if it is unfit for a public interest use or sale.
- 7573 (4)(a) Before applying the lost or mislaid property to a public interest use, the agency
- 7574 having possession of the property shall obtain from the agency's legislative body:
- 7575 (i) permission to apply the property to a public interest use; and
- 7576 (ii) the designation and approval of the public interest use of the property.
- 7577 (b) If the agency is a private law enforcement agency as defined in Subsection 53-19-102
- 7578 (4), the agency may apply the lost or mislaid property to a public interest use as
- 7579 provided in Subsection (4)(a) after obtaining the permission, designation, and
- 7580 approval of the legislative body of the municipality in which the agency is located.
- 7581 (5) Any person employed by a law enforcement agency who finds property may not claim
- 7582 or receive property under this section.
- 7583 (6)(a) If the lost or mislaid property is a firearm or other dangerous weapon received by
- 7584 a law enforcement agency under Subsection [~~76-10-529(6)~~] 76-11-218(7), the law
- 7585 enforcement agency may dispose of the firearm or other dangerous weapon three
- 7586 months after the property's receipt by the law enforcement agency if the owner of the
- 7587 firearm or other dangerous weapon, or the owner's agent:
- 7588 (i) fails to retrieve the firearm or other dangerous weapon; or
- 7589 (ii) is legally prohibited from possessing the firearm or other dangerous weapon.
- 7590 (b) A law enforcement agency may dispose of a firearm under Subsection (6)(a) by
- 7591 following the procedures described in Section 77-11a-403, disposition of firearms no
- 7592 longer needed as evidence.
- 7593 Section 128. Section **77-36-1** is amended to read:
- 7594 **77-36-1 . Definitions.**
- 7595 As used in this chapter:
- 7596 (1) "Cohabitant" means the same as that term is defined in Section 78B-7-102.
- 7597 (2) "Department" means the Department of Public Safety.
- 7598 (3) "Divorced" means an individual who has obtained a divorce under Title 81, Chapter 4,
- 7599 Part 4, Divorce.
- 7600 (4)(a) "Domestic violence" or "domestic violence offense" means any criminal offense
- 7601 involving violence or physical harm or threat of violence or physical harm, or any
- 7602 attempt, conspiracy, or solicitation to commit a criminal offense involving violence

7603 or physical harm, when committed by one cohabitant against another.

7604 (b) "Domestic violence" or "domestic violence offense" includes the commission of or

7605 attempt to commit, any of the following offenses by one cohabitant against another:

7606 (i) aggravated assault under Section 76-5-103;

7607 (ii) aggravated cruelty to an animal under Subsection 76-9-301(4), with the intent to

7608 harass or threaten the other cohabitant;

7609 (iii) assault under Section 76-5-102;

7610 (iv) criminal homicide under Section 76-5-201;

7611 (v) harassment under Section 76-5-106;

7612 (vi) electronic communication harassment under Section 76-9-201;

7613 (vii) kidnapping, child kidnapping, or aggravated kidnapping under Sections 76-5-301,

7614 76-5-301.1, and 76-5-302;

7615 (viii) mayhem under Section 76-5-105;

7616 (ix) propelling a bodily substance or material, as described in Section 76-5-102.9

7617 (x) sexual offenses under Title 76, Chapter 5, Part 4, Sexual Offenses, and [-]sexual

7618 exploitation of a minor and aggravated sexual exploitation of a minor, as

7619 described in Sections 76-5b-201 and 76-5b-201.1;

7620 (xi) stalking under Section 76-5-106.5;

7621 (xii) unlawful detention and unlawful detention of a minor under Section 76-5-304;

7622 (xiii) violation of a protective order or ex parte protective order under Section

7623 76-5-108;

7624 (xiv) an offense against property under Title 76, Chapter 6, Part 1, Property

7625 Destruction, Title 76, Chapter 6, Part 2, Burglary and Criminal Trespass, or Title

7626 76, Chapter 6, Part 3, Robbery;

7627 [~~(xv) possession of a deadly weapon with criminal intent under Section 76-10-507;~~]

7628 [~~(xvi) discharge of a firearm from a vehicle, near a highway, or in the direction of~~

7629 ~~any person, building, or vehicle under Section 76-10-508;~~]

7630 [~~(xvii)~~] (xv) disorderly conduct under Section 76-9-102, if a conviction or

7631 adjudication of disorderly conduct is the result of a plea agreement in which the

7632 perpetrator was originally charged with a domestic violence offense otherwise

7633 described in this Subsection (4), except that a conviction or adjudication of

7634 disorderly conduct as a domestic violence offense, in the manner described in this

7635 Subsection [~~(4)(p)~~] (4)(b)(xv), does not constitute a misdemeanor crime of

7636 domestic violence under 18 U.S.C. Sec. 921, and is exempt from the federal

- 7637 Firearms Act, 18 U.S.C. Sec. 921 et seq.;
- 7638 [~~(xviii)~~] (xvi) child abuse under Section 76-5-114;
- 7639 [~~(xix)~~ ~~threatening use of a dangerous weapon under Section 76-10-506;~~]
- 7640 [~~(xx)~~] (xvii) threatening violence under Section 76-5-107;
- 7641 [~~(xxi)~~] (xviii) tampering with a witness under Section 76-8-508;
- 7642 [~~(xxii)~~] (xix) retaliation against a witness, victim, or informant under Section
- 7643 76-8-508.3;
- 7644 [~~(xxiii)~~] (xx) receiving or soliciting a bribe as a witness under Section 76-8-508.7;
- 7645 [~~(xxiv)~~] (xxi) unlawful distribution of an intimate image under Section 76-5b-203;
- 7646 [~~(xxv)~~] (xxii) unlawful distribution of a counterfeit intimate image under Section
- 7647 76-5b-205;
- 7648 [~~(xxvi)~~] (xxiii) sexual battery under Section 76-9-702.1;
- 7649 [~~(xxvii)~~] (xxiv) voyeurism under Section 76-9-702.7;
- 7650 [~~(xxviii)~~] (xxv) damage to or interruption of a communication device under Section
- 7651 76-6-108;[~~or~~]
- 7652 (xxvi) threatening with or using a dangerous weapon in a fight or quarrel under
- 7653 Section 76-11-207;
- 7654 (xxvii) possession of a dangerous weapon with criminal intent under Section
- 7655 76-11-208;
- 7656 (xxviii) improper discharging of a dangerous weapon under Section 76-11-209; or
- 7657 (xxix) an offense under Subsection 78B-7-806(1).
- 7658 (5) "Jail release agreement" means the same as that term is defined in Section 78B-7-801.
- 7659 (6) "Jail release court order" means the same as that term is defined in Section 78B-7-801.
- 7660 (7) "Marital status" means married and living together, divorced, separated, or not married.
- 7661 (8) "Married and living together" means a couple whose marriage was solemnized under
- 7662 Section 81-2-305 or 81-2-407 and who are living in the same residence.
- 7663 (9) "Not married" means any living arrangement other than married and living together,
- 7664 divorced, or separated.
- 7665 (10) "Protective order" includes an order issued under Subsection 78B-7-804(3).
- 7666 (11) "Pretrial protective order" means a written order:
- 7667 (a) specifying and limiting the contact a person who has been charged with a domestic
- 7668 violence offense may have with an alleged victim or other specified individuals; and
- 7669 (b) specifying other conditions of release under Section 78B-7-802 or 78B-7-803,
- 7670 pending trial in the criminal case.

7671 (12) "Sentencing protective order" means a written order of the court as part of sentencing
 7672 in a domestic violence case that limits the contact an individual who is convicted or
 7673 adjudicated of a domestic violence offense may have with a victim or other specified
 7674 individuals under Section 78B-7-804.

7675 (13) "Separated" means a couple who have had their marriage solemnized under Section
 7676 81-2-305 or 81-2-407 and who are not living in the same residence.

7677 (14) "Victim" means a cohabitant who has been subjected to domestic violence.

7678 Section 129. Section **77-36-2.1** is amended to read:

7679 **77-36-2.1 . Duties of law enforcement officers -- Notice to victims -- Lethality**
 7680 **assessments.**

7681 (1) As used in this section:[}]

7682 (a) "Criminal justice system victim advocate" means the same as that term is defined in
 7683 Section 77-38-403.

7684 (b)(i) "Dating relationship" means a social relationship of a romantic or intimate
 7685 nature, or a relationship which has romance or intimacy as a goal by one or both
 7686 parties, regardless of whether the relationship involves sexual intimacy.

7687 (ii) "Dating relationship" does not include casual fraternization in a business,
 7688 educational, or social context.

7689 (c) "Intimate partner" means an emancipated individual under Section 15-2-1 or an
 7690 individual who is 16 years old or older who:

7691 (i) is or was a spouse of the other party;

7692 (ii) is or was living as if a spouse of the other party;

7693 (iii) has or had one or more children in common with the other party;

7694 (iv) is the biological parent of the other party's unborn child;

7695 (v) is or was in a consensual sexual relationship with the other party; or

7696 (vi) is or was in a dating relationship with the other party.

7697 (d) "Nongovernment organization victim advocate" means the same as that term is
 7698 defined in Section 77-38-403.

7699 (e) "Primary purpose domestic violence organization" means a contract provider of
 7700 domestic violence services as described in Section 80-2-301.

7701 (2) A law enforcement officer who responds to an allegation of domestic violence shall:

7702 (a) use all reasonable means to protect the victim and prevent further violence, including:

7703 (i) taking the action that, in the officer's discretion, is reasonably necessary to provide
 7704 for the safety of the victim and any family or household member;

- 7705 (ii) confiscating the weapon or weapons involved in the alleged domestic violence;
7706 (iii) making arrangements for the victim and any child to obtain emergency housing
7707 or shelter;
- 7708 (iv) providing protection while the victim removes essential personal effects;
7709 (v) arrange, facilitate, or provide for the victim and any child to obtain medical
7710 treatment;
- 7711 (vi) arrange, facilitate, or provide the victim with immediate and adequate notice of
7712 the rights of victims and of the remedies and services available to victims of
7713 domestic violence, in accordance with Subsection (3); and
- 7714 (vii) providing the pamphlet created by the department under Section [~~53-5e-201~~
7715 53-5a-502] to the victim if the allegation of domestic violence:
7716 (A) includes a threat of violence as described in Section 76-5-107;
7717 (B) results, or would result, in the owner cohabitant becoming a restricted person
7718 under Section [~~76-10-503~~] 76-11-302 or 76-11-303; or
7719 (C) is accompanied by a completed lethality assessment that demonstrates the
7720 cohabitant is at high risk of being further victimized; and
- 7721 (b) if the allegation of domestic violence is against an intimate partner, complete the
7722 lethality assessment protocols described in this section.
- 7723 (3)(a) A law enforcement officer shall give written notice to the victim in simple
7724 language, describing the rights and remedies available under this chapter, Title 78B,
7725 Chapter 7, Part 6, Cohabitant Abuse Protective Orders, and Title 78B, Chapter 7, Part
7726 2, Child Protective Orders.
- 7727 (b) The written notice shall include:
- 7728 (i) a statement that the forms needed in order to obtain an order for protection are
7729 available from the court clerk's office in the judicial district where the victim
7730 resides or is temporarily domiciled;
- 7731 (ii) a list of shelters, services, and resources available in the appropriate community,
7732 together with telephone numbers, to assist the victim in accessing any needed
7733 assistance; and
- 7734 (iii) the information required to be provided to both parties in accordance with
7735 Subsections 78B-7-802(8) and (9) .
- 7736 (4) If a weapon is confiscated under this section, the law enforcement agency shall return
7737 the weapon to the individual from whom the weapon is confiscated if a domestic
7738 violence protective order is not issued or once the domestic violence protective order is

- 7739 terminated.
- 7740 (5) A law enforcement officer shall complete a lethality assessment form by asking the
7741 victim:
- 7742 (a) if the aggressor has ever used a weapon against the victim or threatened the victim
7743 with a weapon;
- 7744 (b) if the aggressor has ever threatened to kill the victim or the victim's children;
- 7745 (c) if the victim believes the aggressor will try to kill the victim;
- 7746 (d) if the aggressor has ever tried to choke the victim;
- 7747 (e) if the aggressor has a gun or could easily get a gun;
- 7748 (f) if the aggressor is violently or constantly jealous, or controls most of the daily
7749 activities of the victim;
- 7750 (g) if the victim left or separated from the aggressor after they were living together or
7751 married;
- 7752 (h) if the aggressor is unemployed;
- 7753 (i) if the aggressor has ever attempted suicide, to the best of the victim's knowledge;
- 7754 (j) if the victim has a child that the aggressor believes is not the aggressor's biological
7755 child;
- 7756 (k) if the aggressor follows or spies on the victim, or leaves threatening messages for the
7757 victim; and
- 7758 (l) if there is anything else that worries the victim about the victim's safety and, if so,
7759 what worries the victim.
- 7760 (6) A law enforcement officer shall comply with Subsection (7) if:
- 7761 (a) the victim answers affirmatively to any of the questions in Subsections (5)(a) through
7762 (d);
- 7763 (b) the victim answers negatively to the questions in Subsections (5)(a) through (d), but
7764 affirmatively to at least four of the questions in Subsections (5)(e) through (k); or
- 7765 (c) as a result of the victim's response to the question in Subsection (5)(l), the law
7766 enforcement officer believes the victim is in a potentially lethal situation.
- 7767 (7) If the criteria in Subsections (6)(a), (b), or (c) are met, the law enforcement officer shall:
- 7768 (a) advise the victim of the results of the assessment;
- 7769 (b) refer the victim to a nongovernment organization victim advocate at a primary
7770 purpose domestic violence organization; and
- 7771 (c) refer the victim to a criminal justice system victim advocate if the responding law
7772 enforcement agency has a criminal justice system victim advocate available.

- 7773 (8) If a victim does not or is unable to provide information to a law enforcement officer
7774 sufficient to allow the law enforcement officer to complete a lethality assessment form,
7775 or does not speak or is unable to speak with a nongovernment organization victim
7776 advocate, the law enforcement officer shall document this information on the lethality
7777 assessment form and submit the information to the Department of Public Safety under
7778 Subsection (9).
- 7779 (9)(a) Except as provided in Subsection (9)(b), a law enforcement officer shall submit
7780 the results of a lethality assessment to the Department of Public Safety while on
7781 scene.
- 7782 (b) If a law enforcement officer is not reasonably able to submit the results of a lethality
7783 assessment while on scene, the law enforcement officer shall submit the results of the
7784 lethality assessment to the Department of Public Safety as soon as practicable.
- 7785 (c)(i) Before the reporting mechanism described in Subsection (10)(a) is developed,
7786 a law enforcement officer shall submit the results of a lethality assessment to the
7787 Department of Public Safety using means prescribed by the Department of Public
7788 Safety.
- 7789 (ii) After the reporting mechanism described in Subsection (10)(a) is developed, a
7790 law enforcement officer shall submit the results of a lethality assessment to the
7791 Department of Public Safety using that reporting mechanism.
- 7792 (10) The Department of Public Safety shall:
- 7793 (a) as soon as practicable, develop and maintain a reporting mechanism by which a law
7794 enforcement officer will submit the results of a lethality assessment as required by
7795 Subsection (9);
- 7796 (b) provide prompt analytical support to a law enforcement officer who submits the
7797 results of a lethality assessment using the reporting mechanism described in
7798 Subsection (10)(a); and
- 7799 (c) create and maintain a database of lethality assessment data provided under this
7800 section.
- 7801 (11)(a) Subject to Subsection (11)(b), a law enforcement officer shall include the results
7802 of a lethality assessment and any related, relevant analysis provided by the
7803 Department of Public Safety under Subsection (10), with:
- 7804 (i) a probable cause statement submitted in accordance with Rule 9 of the Utah Rules
7805 of Criminal Procedure; and
- 7806 (ii) an incident report prepared in accordance with Section 77-36-2.2.

- 7807 (b) In a probable cause statement or incident report, a law enforcement officer may not
7808 include information about how or where a victim was referred under Subsection (7)(b).
7809 Section 130. Section **77-40a-205** is amended to read:
7810 **77-40a-205 . Automatic expungement of state records for a clean slate case.**
- 7811 (1) A court shall issue an order of expungement, without the filing of a petition, for all
7812 records of the case that are held by the court and the bureau if:
- 7813 (a) on and after October 1, 2024, but before January 1, 2026, the individual submitted a
7814 form requesting expungement of a case as described in Section 77-40a-204;
7815 (b) the case is eligible for expungement under this section; and
7816 (c) the prosecuting agency does not object to the expungement of the case as described
7817 in Subsection (6).
- 7818 (2) Except as otherwise provided in Subsection (3), a case is eligible for expungement
7819 under this section if:
- 7820 (a)(i) each conviction within the case is a conviction for:
- 7821 (A) a misdemeanor offense for possession of a controlled substance in violation of
7822 Subsection 58-37-8(2)(a)(i);
7823 (B) a class B misdemeanor offense;
7824 (C) a class C misdemeanor offense; or
7825 (D) an infraction; and
- 7826 (ii) the following time periods have passed after the day on which the individual is
7827 adjudicated:
- 7828 (A) at least five years for the conviction of a class C misdemeanor offense or an
7829 infraction;
7830 (B) at least six years for the conviction of a class B misdemeanor offense; or
7831 (C) at least seven years for the conviction of a class A misdemeanor offense for
7832 possession of a controlled substance in violation of Subsection 58-37-8(2)(a)(i);
7833 or
- 7834 (b)(i) the case is dismissed as a result of a successful completion of a plea in
7835 abeyance agreement governed by Subsection 77-2a-3(2)(b) or the case is
7836 dismissed without prejudice;
- 7837 (ii) each charge within the case is:
- 7838 (A) a misdemeanor offense for possession of a controlled substance in violation of
7839 Subsection 58-37-8(2)(a)(i);
7840 (B) a class B misdemeanor offense;

- 7841 (C) a class C misdemeanor offense; or
 7842 (D) an infraction; and
 7843 (iii) the following time periods have passed after the day on which the case is
 7844 dismissed:
 7845 (A) at least five years for a charge in the case for a class C misdemeanor offense
 7846 or an infraction;
 7847 (B) at least six years for a charge in the case for a class B misdemeanor offense; or
 7848 (C) at least seven years for a charge in the case for a class A misdemeanor offense
 7849 for possession of a controlled substance in violation of Subsection 58-37-8
 7850 (2)(a)(i).
- 7851 (3) A case is not eligible for expungement under this section if:
 7852 (a) the individual has a total number of convictions in courts of this state that exceed the
 7853 limits under Subsection 77-40a-303(4) or (5) without taking into consideration:
 7854 (i) the exception in Subsection 77-40a-303(7); or
 7855 (ii) any infraction, traffic offense, or minor regulatory offense;
 7856 (b) there is a criminal proceeding for a misdemeanor or felony offense pending in a
 7857 court of this state against the individual, unless the proceeding is for a traffic offense;
 7858 (c) for an individual seeking an automatic expungement on and after January 1, 2025,
 7859 the individual is incarcerated in the state prison or on probation or parole that is
 7860 supervised by the Department of Corrections;
 7861 (d) the case resulted in the individual being found not guilty by reason of insanity;
 7862 (e) the case establishes a criminal accounts receivable that:
 7863 (i) has been entered as a civil accounts receivable or a civil judgment of restitution
 7864 and transferred to the Office of State Debt Collection under Section 77-18-114; or
 7865 (ii) has not been satisfied according to court records; or
 7866 (f) the case resulted in a plea held in abeyance or a conviction for the following offenses:
 7867 (i) any of the offenses listed in Subsection 77-40a-303(2)(a);
 7868 (ii) an offense against the person in violation of Title 76, Chapter 5, Offenses Against
 7869 the Individual;
 7870 (iii) a weapons offense in violation of [~~Title 76, Chapter 10, Part 5, Weapons~~] Title
 7871 76, Chapter 11, Weapons;
 7872 (iv) sexual battery in violation of Section 76-9-702.1;
 7873 (v) an act of lewdness in violation of Section 76-9-702 or 76-9-702.5;
 7874 (vi) an offense in violation of Title 41, Chapter 6a, Part 5, Driving Under the

- 7875 Influence and Reckless Driving;
- 7876 (vii) damage to or interruption of a communication device in violation of Section
- 7877 76-6-108;
- 7878 (viii) a domestic violence offense as defined in Section 77-36-1; or
- 7879 (ix) any other offense classified in the Utah Code as a felony or a class A
- 7880 misdemeanor other than a class A misdemeanor conviction for possession of a
- 7881 controlled substance in violation of Subsection 58-37-8(2)(a)(i).
- 7882 (4) A prosecuting agency that has complied with Rule 42 of the Utah Rules of Criminal
- 7883 Procedure shall receive notice on a monthly basis for any case prosecuted by that agency
- 7884 that appears to be eligible for automatic expungement under this section.
- 7885 (5) Within 35 days after the day on which the notice described in Subsection (4) is sent, the
- 7886 prosecuting agency shall provide written notice in accordance with Rule 42 of the Utah
- 7887 Rules of Criminal Procedure if the prosecuting agency objects to an automatic
- 7888 expungement for any of the following reasons:
- 7889 (a) the prosecuting agency believes that the case is not eligible for expungement under
- 7890 this section after reviewing the agency record;
- 7891 (b) the individual has not paid restitution to the victim as ordered by the court; or
- 7892 (c) the prosecuting agency has a reasonable belief, grounded in supporting facts, that an
- 7893 individual involved in the case is continuing to engage in criminal activity within or
- 7894 outside of the state.
- 7895 (6) If a prosecuting agency provides written notice of an objection for a reason described in
- 7896 Subsection (5) within 35 days after the day on which the notice under Subsection (4) is
- 7897 sent, the court may not proceed with automatic expungement of the case.
- 7898 (7) If 35 days pass after the day on which the notice described in Subsection (4) is sent
- 7899 without the prosecuting agency providing written notice of an objection under
- 7900 Subsection (5), the court shall proceed with automatic expungement of the case.
- 7901 (8) If a court issues an order of expungement under Subsection (1), the court shall:
- 7902 (a) expunge all records of the case held by the court in accordance with Section
- 7903 77-40a-401; and
- 7904 (b) notify the bureau and the prosecuting agency identified in the case, based on
- 7905 information available to the court, of the order of expungement.
- 7906 Section 131. Section **77-40a-403** is amended to read:
- 7907 **77-40a-403 . Release and use of expunged records -- Agencies.**
- 7908 (1)(a) An agency with an expunged record, or any employee of an agency with an

- 7909 expunged record, may not knowingly or intentionally divulge any information
7910 contained in the expunged record to any person, or another agency, without a court
7911 order unless:
- 7912 (i) specifically authorized by Subsection (4) or Section 77-40a-404; or
 - 7913 (ii) subject to Subsection (1)(b), the information in an expunged record is being
7914 shared with another agency through a records management system that both
7915 agencies use for the purpose of record management.
- 7916 (b) An agency with a records management system may not disclose any information in
7917 an expunged record to another agency or person, or allow another agency or person
7918 access to an expunged record, if that agency or person does not use the records
7919 management system for the purpose of record management.
- 7920 (2) The following entities or agencies may receive information contained in expunged
7921 records upon specific request:
- 7922 (a) the Board of Pardons and Parole;
 - 7923 (b) Peace Officer Standards and Training;
 - 7924 (c) federal authorities if required by federal law;
 - 7925 (d) the State Board of Education;
 - 7926 (e) the Commission on Criminal and Juvenile Justice, for purposes of investigating
7927 applicants for judicial office; and
 - 7928 (f) a research institution or an agency engaged in research regarding the criminal justice
7929 system if:
 - 7930 (i) the research institution or agency provides a legitimate research purpose for
7931 gathering information from the expunged records;
 - 7932 (ii) the research institution or agency enters into a data sharing agreement with the
7933 court or agency with custody of the expunged records that protects the
7934 confidentiality of any identifying information in the expunged records;
 - 7935 (iii) any research using expunged records does not include any individual's name or
7936 identifying information in any product of that research; and
 - 7937 (iv) any product resulting from research using expunged records includes a disclosure
7938 that expunged records were used for research purposes.
- 7939 (3) Except as otherwise provided by this section or by court order, a person, an agency, or
7940 an entity authorized by this section to view expunged records may not reveal or release
7941 any information obtained from the expunged records to anyone outside the specific
7942 request, including distribution on a public website.

- 7943 (4) A prosecuting attorney may communicate with another prosecuting attorney, or another
7944 prosecutorial agency, regarding information in an expunged record that includes a
7945 conviction, or a charge dismissed as a result of a successful completion of a plea in
7946 abeyance agreement, for:
- 7947 (a) stalking as described in Section 76-5-106.5;
 - 7948 (b) a domestic violence offense as defined in Section 77-36-1;
 - 7949 (c) an offense that would require the individual to register as a sex offender, kidnap
7950 offender, or child abuse offender as defined in Section 77-41-102; or
 - 7951 (d) a weapons offense under [~~Title 76, Chapter 10, Part 5, Weapons~~] Title 76, Chapter
7952 11, Weapons.
- 7953 (5) Except as provided in Subsection (7), a prosecuting attorney may not use an expunged
7954 record for the purpose of a sentencing enhancement or as a basis for charging an
7955 individual with an offense that requires a prior conviction.
- 7956 (6) The bureau may also use the information in the bureau's index as provided in Section [
7957 ~~53-5-704~~] 53-5a-303.
- 7958 (7) If an individual is charged with a felony, or an offense eligible for enhancement based
7959 on a prior conviction, after obtaining an order of expungement, the prosecuting attorney
7960 may petition the court in which the individual is charged to open the expunged records
7961 upon a showing of good cause.
- 7962 (8)(a) For judicial sentencing, a court may order any records expunged under this
7963 chapter or Section 77-27-5.1 to be opened and admitted into evidence.
- 7964 (b) The records are confidential and are available for inspection only by the court,
7965 parties, counsel for the parties, and any other person who is authorized by the court to
7966 inspect them.
 - 7967 (c) At the end of the action or proceeding, the court shall order the records expunged
7968 again.
 - 7969 (d) Any person authorized by this Subsection (8) to view expunged records may not
7970 reveal or release any information obtained from the expunged records to anyone
7971 outside the court.
- 7972 (9) Records released under this chapter are classified as protected under Section 63G-2-305
7973 and are accessible only as provided under Title 63G, Chapter 2, Part 2, Access to
7974 Records, and Subsection 53-10-108(2)(k) for records held by the bureau.
7975 Section 132. Section **78A-6-209** is amended to read:
7976 **78A-6-209 . Court records -- Inspection.**

- 7977 (1) The juvenile court and the juvenile court's probation department shall keep records as
7978 required by the board and the presiding judge.
- 7979 (2) A court record shall be open to inspection by:
- 7980 (a) the parents or guardian of a child, a minor who is at least 18 years old, other parties
7981 in the case, the attorneys, and agencies to which custody of a minor has been
7982 transferred;
- 7983 (b) for information relating to adult offenders alleged to have committed a sexual
7984 offense, a felony or class A misdemeanor drug offense, or an offense against the
7985 person under Title 76, Chapter 5, Offenses Against the Individual, the State Board of
7986 Education for the purpose of evaluating whether an individual should be permitted to
7987 obtain or retain a license as an educator or serve as an employee or volunteer in a
7988 school, with the understanding that the State Board of Education must provide the
7989 individual with an opportunity to respond to any information gathered from the State
7990 Board of Education's inspection of the records before the State Board of Education
7991 makes a decision concerning licensure or employment;
- 7992 (c) the Criminal Investigations and Technical Services Division, established in Section
7993 53-10-103, for the purpose of a criminal history background check for the purchase
7994 of a firearm and establishing good character for issuance of a concealed firearm
7995 permit as provided in Section ~~[53-5-704]~~ 53-5a-303;
- 7996 (d) the Division of Child and Family Services for the purpose of Child Protective
7997 Services Investigations in accordance with Sections 80-2-602 and 80-2-701 and
7998 administrative hearings in accordance with Section 80-2-707;
- 7999 (e) the Division of Licensing and Background Checks for the purpose of conducting a
8000 background check in accordance with Section 26B-2-120;
- 8001 (f) for information related to a minor who has committed a sexual offense, a felony, or
8002 an offense that if committed by an adult would be a misdemeanor, the Department of
8003 Health and Human Services for the purpose of evaluating under the provisions of
8004 Subsection 26B-2-406(3) whether a person should be permitted to operate a
8005 residential child care without a license or a certificate or to obtain or retain a license
8006 to provide child care, with the understanding that the department must provide the
8007 individual who committed the offense with an opportunity to respond to any
8008 information gathered from the Department of Health and Human Services' inspection
8009 of records before the Department of Health and Human Services makes a decision
8010 concerning licensure;

- 8011 (g) for information related to a minor who has committed a sexual offense, a felony, or
8012 an offense that if committed by an adult would be a misdemeanor, the Department of
8013 Health and Human Services to determine whether an individual meets the
8014 background screening requirements of Sections 26B-2-238 through 26B-2-241, with
8015 the understanding that the department must provide the individual who committed the
8016 offense an opportunity to respond to any information gathered from the Department
8017 of Health and Human Services' inspection of records before the Department of Health
8018 and Human Services makes a decision under that part; and
- 8019 (h) for information related to a minor who has committed a sexual offense, a felony, or
8020 an offense that if committed by an adult would be a misdemeanor, the Bureau of
8021 Emergency Medical Services to determine whether to grant, deny, or revoke
8022 background clearance under Section 53-2d-410 for an individual who is seeking or
8023 who has obtained an emergency medical service personnel license under Section
8024 53-2d-402, with the understanding that the Bureau of Emergency Medical Services
8025 must provide the individual who committed the offense an opportunity to respond to
8026 any information gathered from the inspection of records before the Bureau of
8027 Emergency Medical Services makes a determination.
- 8028 (3) With the consent of the juvenile court, a court record may be inspected by the child, by
8029 persons having a legitimate interest in the proceedings, and by persons conducting
8030 pertinent research studies.
- 8031 (4)(a) Except as provided in Subsection (4)(b), if a petition is filed charging a minor
8032 who is 14 years old or older with an offense that would be a felony if committed by
8033 an adult, the juvenile court shall make available to any person upon request the
8034 petition, any adjudication or disposition orders, and the delinquency history summary
8035 for the minor.
- 8036 (b) A juvenile court may close the records described in Subsection (4)(a) to the public if
8037 the juvenile court finds, on the record, that the records are closed for good cause.
- 8038 (5) A juvenile probation officer's records and reports of social and clinical studies are not
8039 open to inspection, except by consent of the juvenile court, given under rules adopted by
8040 the board.
- 8041 (6) The juvenile court may charge a reasonable fee to cover the costs associated with
8042 retrieving a requested record that has been archived.

8043 Section 133. Section **78B-4-511** is amended to read:

8044 **78B-4-511 . Regulation of firearms reserved to state -- Lawsuits prohibited.**

- 8045 (1) As prescribed by Section [~~76-10-500~~] 53-5a-102, all authority to regulate firearms is
8046 reserved to the state through the Legislature.
- 8047 (2) A person who lawfully designs, manufactures, markets, advertises, transports, or sells
8048 firearms or ammunition to the public may not be sued by the state or any of its political
8049 subdivisions for the subsequent use, whether lawfully or unlawfully, of the firearm or
8050 ammunition, unless the suit is based on the breach of a contract or warranty for a firearm
8051 or ammunition purchased by the state or political subdivision.

8052 Section 134. Section **78B-5-502** is amended to read:

8053 **78B-5-502 . Definitions.**

8054 As used in this part:

- 8055 (1) "Civil accounts receivable" means the same as that term is defined in Section
8056 77-32b-102.
- 8057 (2) "Civil judgment of restitution" means the same as that term is defined in Section
8058 77-32b-102.
- 8059 (3) "Curio or relic firearm" means a firearm that:
- 8060 (a) is of special interest to a collector because of a quality that is not associated with
8061 firearms intended for:
- 8062 (i) sporting use;
- 8063 (ii) use as an offensive weapon; or
- 8064 (iii) use as a defensive weapon;
- 8065 (b)(i) was manufactured at least 50 years before the current date; and
- 8066 (ii) is not a replica of a firearm described in Subsection (3)(b)(i);
- 8067 (c) is certified by the curator of a municipal, state, or federal museum that exhibits
8068 firearms to be a curio or relic of museum interest;
- 8069 (d) derives a substantial part of the firearm's monetary value:
- 8070 (i) from the fact that the firearm is:
- 8071 (A) novel;
- 8072 (B) rare; or
- 8073 (C) bizarre; or
- 8074 (ii) because of the firearm's association with an historical:
- 8075 (A) figure;
- 8076 (B) period; or
- 8077 (C) event; and
- 8078 (e) has been designated as a curio or relic firearm by the director of the United States

8079 Treasury Department Bureau of Alcohol, Tobacco, and Firearms under 27 C.F.R.
 8080 Sec. 478.11.

8081 [~~(3)~~] (4) "Debt" means a legally enforceable monetary obligation or liability of an
 8082 individual, whether arising out of contract, tort, or otherwise.

8083 [~~(4)~~] (5) "Dependent" means the spouse of an individual, and the grandchild or the natural or
 8084 adoptive child of an individual who derives support primarily from that individual.

8085 [~~(5)~~] (6) "Exempt" means protected, and "exemption" means protection from subjection to a
 8086 judicial process to collect an unsecured debt.

8087 (7) "Firearm" means the same as that term is defined in Section 76-11-101.

8088 [~~(6)~~] (8) "Judicial lien" means a lien on property obtained by judgment or other legal process
 8089 instituted for the purpose of collecting an unsecured debt.

8090 [~~(7)~~] (9) "Levy" means the seizure of property pursuant to any legal process issued for the
 8091 purpose of collecting an unsecured debt.

8092 [~~(8)~~] (10) "Lien" means a judicial, or statutory lien, in property securing payment of a debt
 8093 or performance of an obligation.

8094 [~~(9)~~] (11) "Liquid assets" means deposits, securities, notes, drafts, unpaid earnings not
 8095 otherwise exempt, accrued vacation pay, refunds, prepayments, and other receivables.

8096 [~~(10)~~] (12) "Security interest" means an interest in property created by contract to secure
 8097 payment or performance of an obligation.

8098 [~~(11)~~] (13) "Statutory lien" means a lien arising by force of a statute, but does not include a
 8099 security interest or a judicial lien.

8100 [~~(12)~~] (14) "Value" means fair market value of an individual's interest in property, exclusive
 8101 of valid liens.

8102 Section 135. Section **78B-5-505** is amended to read:

8103 **78B-5-505 . Property exempt from execution.**

- 8104 (1)(a) An individual is entitled to exemption of the following property:
- 8105 (i) a burial plot for the individual and the individual's family;
 - 8106 (ii) health aids reasonably necessary to enable the individual or a dependent to work
 8107 or sustain health;
 - 8108 (iii) benefits that the individual or the individual's dependent have received or are
 8109 entitled to receive from any source because of:
 - 8110 (A) disability;
 - 8111 (B) illness; or
 - 8112 (C) unemployment;

- 8113 (iv) benefits paid or payable for medical, surgical, or hospital care to the extent that
8114 the benefits are used by an individual or the individual's dependent to pay for that
8115 care;
- 8116 (v) veterans benefits;
- 8117 (vi) money or property received, and rights to receive money or property for child
8118 support;
- 8119 (vii) money or property received, and rights to receive money or property for alimony
8120 or separate maintenance, to the extent reasonably necessary for the support of the
8121 individual and the individual's dependents;
- 8122 (viii)(A) one:
- 8123 (I) clothes washer and dryer;
- 8124 (II) refrigerator;
- 8125 (III) freezer;
- 8126 (IV) stove;
- 8127 (V) microwave oven; and
- 8128 (VI) sewing machine;
- 8129 (B) all carpets in use;
- 8130 (C) provisions sufficient for 12 months actually provided for individual or family
8131 use;
- 8132 (D) all wearing apparel of every individual and dependent, not including jewelry
8133 or furs; and
- 8134 (E) all beds and bedding for every individual or dependent;
- 8135 (ix) except for works of art held by the debtor as part of a trade or business, works of
8136 art:
- 8137 (A) depicting the debtor or the debtor and the debtor's resident family; or
- 8138 (B) produced by the debtor or the debtor and the debtor's resident family;
- 8139 (x) proceeds of insurance, a judgment, or a settlement, or other rights accruing as a
8140 result of bodily injury of the individual or of the wrongful death or bodily injury
8141 of another individual of whom the individual was or is a dependent to the extent
8142 that those proceeds are compensatory;
- 8143 (xi) the proceeds or benefits of any life insurance contracts or policies paid or
8144 payable to the debtor or any trust of which the debtor is a beneficiary upon the
8145 death of the spouse or children of the debtor, provided that the contract or policy
8146 has been owned by the debtor for a continuous unexpired period of one year;

- 8147 (xii) the proceeds or benefits of any life insurance contracts or policies paid or
8148 payable to the spouse or children of the debtor or any trust of which the spouse or
8149 children are beneficiaries upon the death of the debtor, provided that the contract
8150 or policy has been in existence for a continuous unexpired period of one year;
- 8151 (xiii) proceeds and avails of any unmatured life insurance contracts owned by the
8152 debtor or any revocable grantor trust created by the debtor, excluding any
8153 payments made on the contract during the one year immediately preceding a
8154 creditor's levy or execution;
- 8155 (xiv) except as provided in Subsection (1)(b), and except for a judgment described in
8156 Subsection 75-7-503(2)(c), any money or other assets held for or payable to the
8157 individual as an owner, participant, or beneficiary from or an interest of the
8158 individual as an owner, participant, or beneficiary in a fund or account, including
8159 an inherited fund or account, in a retirement plan or arrangement that is described
8160 in Section 401(a), 401(h), 401(k), 403(a), 403(b), 408, 408A, 409, 414(d), 414(e),
8161 or 457, Internal Revenue Code, including an owner's, a participant's, or a
8162 beneficiary's interest that arises by inheritance, designation, appointment, or
8163 otherwise;
- 8164 (xv) the interest of or any money or other assets payable to an alternate payee under a
8165 qualified domestic relations order as those terms are defined in Section 414(p),
8166 Internal Revenue Code;
- 8167 (xvi) unpaid earnings of the household of the filing individual due as of the date of
8168 the filing of a bankruptcy petition in the amount of 1/24 of the Utah State annual
8169 median family income for the household size of the filing individual as
8170 determined by the Utah State Annual Median Family Income reported by the
8171 United States Census Bureau and as adjusted based upon the Consumer Price
8172 Index for All Urban Consumers for an individual whose unpaid earnings are paid
8173 more often than once a month or, if unpaid earnings are not paid more often than
8174 once a month, then in the amount of 1/12 of the Utah State annual median family
8175 income for the household size of the individual as determined by the Utah State
8176 Annual Median Family Income reported by the United States Census Bureau and
8177 as adjusted based upon the Consumer Price Index for All Urban Consumers;
- 8178 (xvii) except for curio or relic firearms~~[-as defined in Section 76-10-501,]~~ any three
8179 of the following:
- 8180 (A) one handgun and ammunition for the handgun not exceeding 1,000 rounds;

- 8181 (B) one shotgun and ammunition for the shotgun not exceeding 1,000 rounds; and
8182 (C) one shoulder arm and ammunition for the shoulder arm not exceeding 1,000
8183 rounds; and
- 8184 (xviii) money, not exceeding \$200,000, in the aggregate, that an individual deposits,
8185 more than 18 months before the day on which the individual files a petition for
8186 bankruptcy or an action is filed by a creditor against the individual, as applicable,
8187 in all tax-advantaged accounts for saving for higher education costs on behalf of a
8188 particular individual that meets the requirements of Section 529, Internal Revenue
8189 Code.
- 8190 (b)(i) Any money, asset, or other interest in a fund or account that is exempt from a
8191 claim of a creditor of the owner, beneficiary, or participant under Subsection
8192 (1)(a)(xiv) does not cease to be exempt after the owner's, participant's, or
8193 beneficiary's death by reason of a direct transfer or eligible rollover to an inherited
8194 individual retirement account as defined in Section 408(d)(3), Internal Revenue
8195 Code.
- 8196 (ii) Subsections (1)(a)(xiv) and (1)(b)(i) apply to all inherited individual retirement
8197 accounts without regard to the date on which the account was created.
- 8198 (c)(i) The exemption granted by Subsection (1)(a)(xiv) does not apply to:
- 8199 (A) an alternate payee under a qualified domestic relations order, as those terms
8200 are defined in Section 414(p), Internal Revenue Code; or
- 8201 (B) amounts contributed or benefits accrued by or on behalf of a debtor within one
8202 year before the debtor files for bankruptcy, except amounts directly rolled over
8203 from other funds that are exempt from attachment under this section.
- 8204 (ii) The exemptions in Subsections (1)(a)(xi), (xii), and (xiii) do not apply to the
8205 secured creditor's interest in proceeds and avails of any matured or unmatured life
8206 insurance contract assigned or pledged as collateral for repayment of a loan or
8207 other legal obligation.
- 8208 (2)(a) Disability benefits, as described in Subsection (1)(a)(iii)(A), and veterans
8209 benefits, as described in Subsection (1)(a)(v), may be garnished on behalf of a victim
8210 who is a child if the person receiving the benefits has been convicted of a felony sex
8211 offense against the victim and ordered by the sentencing court to pay restitution to
8212 the victim.
- 8213 (b) The exemption from execution under this Subsection (2) shall be reinstated upon
8214 payment of the restitution in full.

- 8215 (3) The exemptions under this section do not limit items that may be claimed as exempt
8216 under Section 78B-5-506.
- 8217 (4)(a) The exemptions described in Subsections (1)(a)(iii), (iv), (vi), (vii), (x), (xii), (xiii),
8218 (xiv), (xv), (xvii), and (xviii) do not apply to a civil accounts receivable or a civil
8219 judgment of restitution for an individual who is found in contempt under Section
8220 78B-6-317.
- 8221 (b) Subsection (4)(a) does not apply to the benefits described in Subsection (1)(a)(iii) if
8222 the individual's dependent received, or is entitled to receive, the benefits.
8223 Section 136. Section **78B-6-1107** is amended to read:
- 8224 **78B-6-1107 . Nuisance -- Drug houses and drug dealing -- Gambling -- Group**
8225 **criminal activity -- Party house -- Prostitution -- Weapons -- Abatement by eviction.**
- 8226 (1) Every building or place is a nuisance where:
- 8227 (a) the unlawful sale, manufacture, service, storage, distribution, dispensing, or
8228 acquisition occurs of any controlled substance, precursor, or analog specified in Title
8229 58, Chapter 37, Utah Controlled Substances Act;
- 8230 (b) gambling is permitted to be played, conducted, or dealt upon as prohibited in Title
8231 76, Chapter 10, Part 11, Gambling, which creates the conditions of a nuisance as
8232 defined in Subsection 78B-6-1101(1);
- 8233 (c) criminal activity is committed in concert with three or more persons as provided in
8234 Section 76-3-203.1;
- 8235 (d) criminal activity is committed for the benefit of, at the direction of, or in association
8236 with any criminal street gang as defined in Section 76-9-802;
- 8237 (e) criminal activity is committed to gain recognition, acceptance, membership, or
8238 increased status with a criminal street gang as defined in Section 76-9-802;
- 8239 (f) parties occur frequently which create the conditions of a nuisance as defined in
8240 Subsection 78B-6-1101(1);
- 8241 (g) prostitution or promotion of prostitution is regularly carried on by one or more
8242 persons as provided in Title 76, Chapter 10, Part 13, Prostitution; and
- 8243 (h) a violation of [~~Title 76, Chapter 10, Part 5, Weapons~~] an offense under Title 76,
8244 Chapter 11, Weapons, occurs on the premises.
- 8245 (2) It is a defense to nuisance under Subsection (1)(a) if the defendant can prove that the
8246 defendant is lawfully entitled to possession of a controlled substance.
- 8247 (3) Sections 78B-6-1108 through 78B-6-1114 govern only an abatement by eviction of the
8248 nuisance as defined in Subsection (1).

8249 Section 137. Section **78B-6-2301** is amended to read:

8250 **78B-6-2301 . Definitions.**

8251 As used in this part:

8252 (1) "Directive" means an ordinance, regulation, measure, rule, enactment, order, or policy
8253 issued, enacted, or required by a local or state governmental entity.

8254 (2) "Firearm" means the same as that term is defined in Section 53-5a-102.

8255 (3) "Legislative firearm preemption" means the preemption provided for in [~~Sections~~
8256 Section 53-5a-102[~~and 76-10-500~~].

8257 (4) "Local or state governmental entity" means:

8258 (a) a department, commission, board, council, agency, institution, officer, corporation,
8259 fund, division, office, committee, authority, laboratory, library, unit, bureau, panel, or
8260 other administrative unit of the state, including the Utah Board of Higher Education,
8261 each institution of higher education, and the boards of trustees of each higher
8262 education institution; or

8263 (b) a county, city, town, special district, local education agency, public school, school
8264 district, charter school, special service district under Title 17D, Chapter 1, Special
8265 Service District Act, an entity created by interlocal cooperation agreement under Title
8266 11, Chapter 13, Interlocal Cooperation Act, or any other governmental entity
8267 designated in statute as a political subdivision of the state.

8268 Section 138. Section **80-6-103** is amended to read:

8269 **80-6-103 . Notification to a school -- Civil and criminal liability.**

8270 (1) As used in this section:

8271 (a) "School" means a school in a local education agency.

8272 (b) "Local education agency" means a school district, a charter school, or the Utah
8273 Schools for the Deaf and the Blind.

8274 (c) "School official" means the superintendent of a school district or the director of a
8275 charter school or designee in which the minor resides or attends school.

8276 (d) "Serious offense" means:

8277 (i) a violent felony as defined in Section 76-3-203.5;

8278 (ii) an offense that is a violation of an offense under Title 76, Chapter 6, Part 4, Theft,
8279 and the property stolen is a firearm; or

8280 (iii) an offense that is a violation of [~~Title 76, Chapter 10, Part 5, Weapons~~] an offense
8281 under Title 76, Chapter 11, Weapons.

8282 (e) "Transferee school official" means the superintendent of a school district or the

8283 director of a charter school or designee in which the minor resides or attends school if
8284 the minor is admitted to home detention.

8285 (2) A notification under this section is provided for a minor's supervision and student safety.

8286 (3)(a) If a minor is taken into temporary custody under Section 80-6-201 for a serious
8287 offense, the peace officer, or other person who has taken the minor into temporary
8288 custody, shall notify a school official within five days after the day on which the
8289 minor is taken into temporary custody.

8290 (b) A notification under this Subsection (3) shall only disclose:

8291 (i) the name of the minor;

8292 (ii) the offense for which the minor was taken into temporary custody or admitted to
8293 detention; and

8294 (iii) if available, the name of the victim if the victim resides in the same school
8295 district as the minor or attends the same school as the minor.

8296 (4) After a detention hearing for a minor who is alleged to have committed a serious
8297 offense, the juvenile court shall order a juvenile probation officer to notify a school
8298 official, or a transferee school official, and the appropriate local law enforcement agency
8299 of the juvenile court's decision, including any disposition, order, or no-contact order.

8300 (5) If a designated staff member of a detention facility admits a minor to home detention
8301 under Section 80-6-205 and notifies the juvenile court of that admission, the juvenile
8302 court shall order a juvenile probation officer to notify a school official, or a transferee
8303 school official, and the appropriate local law enforcement agency that the minor has
8304 been admitted to home detention.

8305 (6)(a) If the juvenile court adjudicates a minor for a serious offense, the juvenile court
8306 shall order a juvenile probation officer to notify a school official, or a transferee
8307 school official, of the adjudication.

8308 (b) A notification under this Subsection (6) shall be given to a school official, or a
8309 transferee school official, within three days after the day on which the minor is
8310 adjudicated.

8311 (c) A notification under this section shall include:

8312 (i) the name of the minor;

8313 (ii) the offense for which the minor was adjudicated; and

8314 (iii) if available, the name of the victim if the victim:

8315 (A) resides in the same school district as the minor; or

8316 (B) attends the same school as the minor.

- 8317 (7) If the juvenile court orders formal probation under Section 80-6-702, the juvenile court
8318 shall order a juvenile probation officer to notify the appropriate local law enforcement
8319 agency and the school official of the juvenile court's order for formal probation.
- 8320 (8)(a) An employee of the local law enforcement agency, or the school the minor
8321 attends, who discloses a notification under this section is not:
- 8322 (i) civilly liable except when the disclosure constitutes fraud or willful misconduct as
8323 provided in Section 63G-7-202; and
- 8324 (ii) civilly or criminally liable except when the disclosure constitutes a knowing
8325 violation of Section 63G-2-801.
- 8326 (b) An employee of a governmental agency is immune from any criminal liability for
8327 failing to provide the information required by this section, unless the employee fails
8328 to act due to malice, gross negligence, or deliberate indifference to the consequences.
- 8329 (9)(a) A notification under this section shall be classified as a protected record under
8330 Section 63G-2-305.
- 8331 (b) All other records of disclosures under this section are governed by Title 63G,
8332 Chapter 2, Government Records Access and Management Act, and the Family
8333 Educational Rights and Privacy Act, 20 U.S.C. Sec. 1232g.
8334 Section 139. Section **80-6-104** is amended to read:
- 8335 **80-6-104 . Data collection on offenses committed by minors -- Reporting**
8336 **requirement.**
- 8337 (1) As used in this section:
- 8338 (a) "Firearm" means the same as that term is defined in Section ~~[76-10-501]~~ 76-11-101.
8339 (b) "Firearm-related offense" means a criminal offense involving a firearm.
8340 (c) "School is in session" means the same as that term is defined in Section 53E-3-516.
8341 (d) "School-sponsored activity" means the same as that term is defined in Section
8342 53E-3-516.
- 8343 (2) Before July 1 of each year, the Administrative Office of the Courts shall submit the
8344 following data to the State Commission on Criminal and Juvenile Justice, broken down
8345 by judicial district, for the preceding calendar year:
- 8346 (a) the number of referrals to the juvenile court;
8347 (b) the number of minors diverted to a nonjudicial adjustment;
8348 (c) the number of minors that satisfy the conditions of a nonjudicial adjustment;
8349 (d) the number of minors for whom a petition for an offense is filed in the juvenile court;
8350 (e) the number of minors for whom an information is filed in the juvenile court;

- 8351 (f) the number of minors bound over to the district court by the juvenile court;
- 8352 (g) the number of petitions for offenses committed by minors that were dismissed by the
8353 juvenile court;
- 8354 (h) the number of adjudications in the juvenile court for offenses committed by minors;
- 8355 (i) the number of guilty pleas entered into by minors in the juvenile court;
- 8356 (j) the number of dispositions resulting in secure care, community-based placement,
8357 formal probation, and intake probation; and
- 8358 (k) for each minor charged in the juvenile court with a firearm-related offense:
- 8359 (i) the minor's age at the time the offense was committed or allegedly committed;
- 8360 (ii) the minor's zip code at the time that the offense was referred to the juvenile court;
- 8361 (iii) whether the minor is a restricted person under [~~Subsection 76-10-503(1)(a)(iv) or~~
8362 ~~(1)(b)(iii)] Subsection 76-11-302(4) or 76-11-303(4);~~
- 8363 (iv) the type of offense for which the minor is charged;
- 8364 (v) the outcome of the minor's case in juvenile court, including whether the minor
8365 was bound over to the district court or adjudicated by the juvenile court; and
- 8366 (vi) if a disposition was entered by the juvenile court, whether the disposition
8367 resulted in secure care, community-based placement, formal probation, or intake
8368 probation.
- 8369 (3) The State Commission on Criminal and Juvenile Justice shall track the disposition of a
8370 case resulting from a firearm-related offense committed, or allegedly committed, by a
8371 minor when the minor is found in possession of a firearm while school is in session or
8372 during a school-sponsored activity.
- 8373 (4) In collaboration with the Administrative Office of the Courts, the division, and other
8374 agencies, the State Commission on Criminal and Juvenile Justice shall collect data for
8375 the preceding calendar year on:
- 8376 (a) the length of time that minors spend in the juvenile justice system, including the total
8377 amount of time minors spend under juvenile court jurisdiction, on community
8378 supervision, and in each out-of-home placement;
- 8379 (b) recidivism of minors who are diverted to a nonjudicial adjustment and minors for
8380 whom dispositions are ordered by the juvenile court, including tracking minors into
8381 the adult corrections system;
- 8382 (c) changes in aggregate risk levels from the time minors receive services, are under
8383 supervision, and are in out-of-home placement; and
- 8384 (d) dosages of programming.

- 8385 (5) On and before October 1 of each year, the State Commission on Criminal and Juvenile
8386 Justice shall prepare and submit a written report to the Judiciary Interim Committee and
8387 the Law Enforcement and Criminal Justice Interim Committee that includes:
- 8388 (a) data collected by the State Commission on Criminal and Juvenile Justice under this
8389 section;
- 8390 (b) data collected by the State Board of Education under Section 53E-3-516; and
- 8391 (c) recommendations for legislative action with respect to the data described in this
8392 Subsection (5).
- 8393 (6) After submitting the written report described in Subsection (5), the State Commission
8394 on Criminal and Juvenile Justice may supplement the report at a later time with updated
8395 data and information the State Board of Education collects under Section 53E-3-516.
- 8396 (7) Nothing in this section shall be construed to require the disclosure of information or
8397 data that is classified as controlled, private, or protected under Title 63G, Chapter 2,
8398 Government Records Access and Management Act.

8399 Section 140. Section **80-6-303.5** is amended to read:

8400 **80-6-303.5 . Preliminary inquiry by juvenile probation officer -- Eligibility for**
8401 **nonjudicial adjustment.**

- 8402 (1) If the juvenile court receives a referral for an offense committed by a minor that is, or
8403 appears to be, within the juvenile court's jurisdiction, or for the minor being a habitual
8404 truant, a juvenile probation officer shall make a preliminary inquiry in accordance with
8405 this section to determine whether the minor is eligible to enter into a nonjudicial
8406 adjustment.
- 8407 (2) If a minor is referred to the juvenile court for multiple offenses arising from a single
8408 criminal episode, and the minor is eligible under this section for a nonjudicial
8409 adjustment, the juvenile probation officer shall offer the minor one nonjudicial
8410 adjustment for all offenses arising from the single criminal episode.
- 8411 (3)(a) The juvenile probation officer may:
- 8412 (i) conduct a validated risk and needs assessment; and
- 8413 (ii) request that a prosecuting attorney review a referral in accordance with Section
8414 80-6-304.5 if:
- 8415 (A) the results of the validated risk and needs assessment indicate the minor is
8416 high risk; or
- 8417 (B) the results of the validated risk and needs assessment indicate the minor is
8418 moderate risk and the referral is for a class A misdemeanor violation under

- 8419 Title 76, Chapter 5, Offenses Against the Individual, or Title 76, Chapter 9,
8420 Part 7, Miscellaneous Provisions.
- 8421 (b) If the referral involves an offense that is a violation of Section 41-6a-502, the minor
8422 shall:
- 8423 (i) undergo a drug and alcohol screening;
8424 (ii) if found appropriate by the screening, participate in an assessment; and
8425 (iii) if warranted by the screening and assessment, follow the recommendations of the
8426 assessment.
- 8427 (4) Except for an offense that is not eligible under Subsection (8), the juvenile probation
8428 officer shall offer a nonjudicial adjustment to a minor if:
- 8429 (a) the minor:
- 8430 (i) is referred for an offense that is a misdemeanor, infraction, or status offense;
8431 (ii) has no more than two prior adjudications; and
8432 (iii) has no more than two prior unsuccessful nonjudicial adjustment attempts;
- 8433 (b) the minor is referred for an offense that is alleged to have occurred before the minor
8434 was 12 years old; or
- 8435 (c) the minor is referred for being a habitual truant.
- 8436 (5) For purposes of determining a minor's eligibility for a nonjudicial adjustment under
8437 Subsection (4), the juvenile probation officer shall treat all offenses arising out of a
8438 single criminal episode that resulted in a nonjudicial adjustment as one prior nonjudicial
8439 adjustment.
- 8440 (6) For purposes of determining a minor's eligibility for a nonjudicial adjustment under
8441 Subsection (4), the juvenile probation officer shall treat all offenses arising out of a
8442 single criminal episode that resulted in one or more prior adjudications as a single
8443 adjudication.
- 8444 (7) Except for a referral that involves an offense described in Subsection (8), the juvenile
8445 probation officer may offer a nonjudicial adjustment to a minor who does not meet the
8446 criteria described in Subsection (4)(a).
- 8447 (8) The juvenile probation officer may not offer a minor a nonjudicial adjustment if the
8448 referral involves:
- 8449 (a) an offense alleged to have occurred when the minor was 12 years old or older that is:
- 8450 (i) a felony offense; or
8451 (ii) a misdemeanor violation of:
- 8452 (A) Section 41-6a-502, driving under the influence;

- 8453 (B) Section 76-5-107, threat of violence;
- 8454 (C) Section 76-5-107.1, threats against schools;
- 8455 (D) Section 76-5-112, reckless endangerment creating a substantial risk of death
- 8456 or serious bodily injury;
- 8457 (E) Section 76-5-206, negligent homicide;
- 8458 (F) Section 76-9-702.1, sexual battery;
- 8459 [~~(G) Section 76-10-505.5, possession of a dangerous weapon, firearm, or short~~
- 8460 ~~barreled shotgun on or about school premises;~~]
- 8461 [~~(H) Section 76-10-506, threatening with or using a dangerous weapon in fight or~~
- 8462 ~~quarrel;~~]
- 8463 [~~(I) Section 76-10-507, possession of a deadly weapon with criminal intent; or]~~
- 8464 [~~(J) Section 76-10-509.4, possession of a dangerous weapon by a minor;~~]
- 8465 (G) Section 76-11-205, carrying a dangerous weapon at an elementary school or
- 8466 secondary school;
- 8467 (H) Section 76-11-206, carrying a dangerous weapon at a daycare;
- 8468 (I) Section 76-11-207, threatening with or using a dangerous weapon in a fight or
- 8469 quarrel;
- 8470 (J) Section 76-11-208, possession of a dangerous weapon with criminal intent;
- 8471 (K) Section 76-11-211, possession of a dangerous weapon by a minor; or
- 8472 (L) Section 76-11-211 possession of a dangerous weapon by a minor; or
- 8473 (b) an offense alleged to have occurred before the minor is 12 years old that is a felony
- 8474 violation of:
- 8475 (i) Section 76-5-103, aggravated assault resulting in serious bodily injury to another;
- 8476 (ii) Section 76-5-202, aggravated murder or attempted aggravated murder;
- 8477 (iii) Section 76-5-203, murder or attempted murder;
- 8478 (iv) Section 76-5-302, aggravated kidnapping;
- 8479 (v) Section 76-5-405, aggravated sexual assault;
- 8480 (vi) Section 76-6-103, aggravated arson;
- 8481 (vii) Section 76-6-203, aggravated burglary;
- 8482 (viii) Section 76-6-302, aggravated robbery; or
- 8483 (ix) Section [~~76-10-508.1~~] 76-11-210, felony discharge of a firearm.
- 8484 (9) The juvenile probation officer shall request that a prosecuting attorney review a referral
- 8485 if:
- 8486 (a) the referral involves an offense described in Subsection (8); or

- 8487 (b) the minor has a current suspended order for custody under Section 80-6-711.
 8488 Section 141. Section **80-6-305** is amended to read:
 8489 **80-6-305 . Petition for a delinquency proceeding -- Amending a petition --**
 8490 **Continuance.**
- 8491 (1) A prosecuting attorney shall file a petition, in accordance with Utah Rules of Juvenile
 8492 Procedure, Rule 17, to commence a proceeding against a minor for an adjudication of an
 8493 alleged offense, except as provided in:
- 8494 (a) Subsection (2);
 8495 (b) Section 80-6-302;
 8496 (c) Section 80-6-502; and
 8497 (d) Section 80-6-503.
- 8498 (2) A prosecuting attorney may not file a petition under Subsection (1) against an individual
 8499 for an offense alleged to have occurred before the individual was 12 years old, unless:
- 8500 (a) the individual is alleged to have committed a felony violation of:
- 8501 (i) Section 76-5-103, aggravated assault resulting in serious bodily injury to another;
 8502 (ii) Section 76-5-202, aggravated murder or attempted aggravated murder;
 8503 (iii) Section 76-5-203, murder or attempted murder;
 8504 (iv) Section 76-5-302, aggravated kidnapping;
 8505 (v) Section 76-5-405, aggravated sexual assault;
 8506 (vi) Section 76-6-103, aggravated arson;
 8507 (vii) Section 76-6-203, aggravated burglary;
 8508 (viii) Section 76-6-302, aggravated robbery; or
 8509 (ix) Section [~~76-10-508.1~~] 76-11-210, felony discharge of a firearm; or
- 8510 (b) an offer for a nonjudicial adjustment is made under Section 80-6-303.5 and the
 8511 minor:
- 8512 (i) declines to accept the offer for the nonjudicial adjustment; or
 8513 (ii) fails to substantially comply with the conditions agreed upon as part of the
 8514 nonjudicial adjustment.
- 8515 (3) A juvenile court may dismiss a petition under this section at any stage of the
 8516 proceedings.
- 8517 (4)(a) When evidence is presented during any proceeding in a minor's case that points to
 8518 material facts not alleged in the petition, the juvenile court may consider the
 8519 additional or different material facts raised by the evidence if the parties consent.
- 8520 (b) The juvenile court, on a motion from any interested party or on the court's own

8521 motion, shall direct that the petition be amended to conform to the evidence.
 8522 (c) If an amended petition under Subsection (4)(b) results in a substantial departure from
 8523 the material facts originally alleged, the juvenile court shall grant a continuance as
 8524 justice may require in accordance with Utah Rules of Juvenile Procedure, Rule 54.

8525 Section 142. Section **80-6-503** is amended to read:

8526 **80-6-503 . Criminal information for a minor in juvenile court -- Extending**
 8527 **juvenile court jurisdiction.**

8528 (1) If a prosecuting attorney charges a minor with a felony, the prosecuting attorney may
 8529 file a criminal information in the juvenile court if the minor was a principal actor in an
 8530 offense and the information alleges:

8531 (a)(i) the minor was 16 or 17 years old at the time of the offense; and

8532 (ii) the offense for which the minor is being charged is a felony violation of:

8533 (A) Section 76-5-103, aggravated assault resulting in serious bodily injury to
 8534 another;

8535 (B) Section 76-5-202, attempted aggravated murder;

8536 (C) Section 76-5-203, attempted murder;

8537 (D) Section 76-5-302, aggravated kidnapping;

8538 (E) Section 76-5-405, aggravated sexual assault;

8539 (F) Section 76-6-103, aggravated arson;

8540 (G) Section 76-6-203, aggravated burglary;

8541 (H) Section 76-6-302, aggravated robbery;

8542 (I) Section ~~[76-10-508.1]~~ 76-11-210, felony discharge of a firearm; or

8543 (J) an offense other than an offense listed in Subsections (1)(a)(ii)(A) through (I)
 8544 involving the use of a dangerous weapon if the offense would be a felony had
 8545 an adult committed the offense, and the minor has been previously adjudicated
 8546 or convicted of an offense involving the use of a dangerous weapon that would
 8547 have been a felony if committed by an adult; or

8548 (b)(i) the minor was 14 or 15 years old at the time of the offense; and

8549 (ii) the offense for which the minor is being charged is a felony violation of:

8550 (A) Section 76-5-202, aggravated murder or attempted aggravated murder; or

8551 (B) Section 76-5-203, murder or attempted murder.

8552 (2) At the time that a prosecuting attorney files an information under this section, a party
 8553 may file a motion to extend the juvenile court's continuing jurisdiction in accordance
 8554 with Section 80-6-605.

8555 Section 143. Section **80-6-605** is amended to read:

8556 **80-6-605 . Extension of juvenile court jurisdiction -- Procedure.**

8557 (1) At the time that a prosecuting attorney files a petition under Section 80-6-305, or a
8558 criminal information under Section 80-6-503, for a felony offense alleged to have been
8559 committed by a minor who is 14 years old or older, either party may file a motion to
8560 extend the juvenile court's continuing jurisdiction over the minor's case until the minor is
8561 25 years old if:

8562 (a) the minor was the principal actor in the offense; and

8563 (b) the petition or information alleges a felony violation of:

8564 (i) Section 76-5-103, aggravated assault resulting in serious bodily injury to another;

8565 (ii) Section 76-5-202, aggravated murder or attempted aggravated murder;

8566 (iii) Section 76-5-203, murder or attempted murder;

8567 (iv) Section 76-5-302, aggravated kidnapping;

8568 (v) Section 76-5-405, aggravated sexual assault;

8569 (vi) Section 76-6-103, aggravated arson;

8570 (vii) Section 76-6-203, aggravated burglary;

8571 (viii) Section 76-6-302, aggravated robbery;

8572 (ix) Section [~~76-10-508.1~~] 76-11-210, felony discharge of a firearm; or

8573 (x)(A) an offense other than the offenses listed in Subsections (1)(b)(i) through

8574 (ix) involving the use of a dangerous weapon that would be a felony if

8575 committed by an adult; and

8576 (B) the minor has been previously adjudicated or convicted of an offense

8577 involving the use of a dangerous weapon that would have been a felony if

8578 committed by an adult.

8579 (2)(a) Notwithstanding Subsection (1), either party may file a motion to extend the

8580 juvenile[-] court's continuing jurisdiction after a determination by the juvenile court

8581 that the minor will not be bound over to the district court under Section 80-6-504.

8582 (3) The juvenile[-] court shall make a determination on a motion under Subsection (1) or (2)

8583 at the time of disposition.

8584 (4) The juvenile[-] court shall extend the continuing jurisdiction over the minor's case until

8585 the minor is 25 years old if the juvenile[-] court finds, by a preponderance of the

8586 evidence, that extending continuing jurisdiction is in the best interest of the minor and

8587 the public.

8588 (5) In considering whether it is in the best interest of the minor and the public for the court

- 8589 to extend jurisdiction over the minor's case until the minor is 25 years old, the juvenile[-]
 8590 court shall consider and base the juvenile[-] court's decision on:
- 8591 (a) whether the protection of the community requires an extension of jurisdiction beyond
 8592 the age of 21;
- 8593 (b) the extent to which the minor's actions in the offense were committed in an
 8594 aggressive, violent, premeditated, or willful manner;
- 8595 (c) the minor's mental, physical, educational, trauma, and social history; and
 8596 (d) the criminal record and previous history of the minor.
- 8597 (6) The amount of weight that each factor in Subsection (5) is given is in the juvenile[-]
 8598 court's discretion.
- 8599 (7)(a) The juvenile[-] court may consider written reports and other materials relating to
 8600 the minor's mental, physical, educational, trauma, and social history.
- 8601 (b) Upon request by the minor, the minor's parent, guardian, or other interested party, the
 8602 juvenile[-] court shall require the person preparing the report or other material to
 8603 appear and be subject to both direct and cross-examination.
- 8604 (8) A minor may testify under oath, call witnesses, cross-examine witnesses, and present
 8605 evidence on the factors described in Subsection (5).

8606 Section 144. Section **80-6-712** is amended to read:

8607 **80-6-712 . Time periods for supervision of probation or placement --**

8608 **Termination of continuing jurisdiction.**

- 8609 (1) If the juvenile court places a minor on probation under Section 80-6-702, the juvenile
 8610 court shall establish a period of time for supervision for the minor that is:
- 8611 (a) if the minor is placed on intake probation, no more than three months; or
 8612 (b) if the minor is placed on formal probation, from four to six months, but may not
 8613 exceed six months.
- 8614 (2)(a) If the juvenile court commits a minor to the division under Section 80-6-703, and
 8615 the minor's case is under the jurisdiction of the court, the juvenile court shall
 8616 establish:
- 8617 (i) for a minor placed out of the home, a period of custody from three to six months,
 8618 but may not exceed six months; and
- 8619 (ii) for aftercare services if the minor was placed out of the home, a period of
 8620 supervision from three to four months, but may not exceed four months.
- 8621 (b) A minor may be supervised for aftercare services under Subsection (2)(a)(ii):
 8622 (i) in the home of a qualifying relative or guardian;

- 8623 (ii) at an independent living program contracted or operated by the division; or
8624 (iii) in a family-based setting with approval by the director or the director's designee
8625 if the minor does not qualify for an independent living program due to age,
8626 disability, or another reason or the minor cannot be placed with a qualifying
8627 relative or guardian.
- 8628 (3) If the juvenile court orders a minor to secure care, the authority shall:
- 8629 (a) have jurisdiction over the minor's case; and
8630 (b) apply the provisions of Part 8, Commitment and Parole.
- 8631 (4)(a) The juvenile court shall terminate continuing jurisdiction over a minor's case at
8632 the end of the time period described in Subsection (1) for probation or Subsection (2)
8633 for commitment to the division, unless:
- 8634 (i) termination would interrupt the completion of the treatment program determined
8635 to be necessary by the results of a validated risk and needs assessment under
8636 Section 80-6-606;
- 8637 (ii) the minor commits a new misdemeanor or felony offense;
8638 (iii) the minor has not completed community or compensatory service hours;
8639 (iv) there is an outstanding fine; or
8640 (v) the minor has not paid restitution in full.
- 8641 (b) The juvenile court shall determine whether a minor has completed a treatment
8642 program under Subsection (4)(a)(i) by considering:
- 8643 (i) the recommendations of the licensed service provider for the treatment program;
8644 (ii) the minor's record in the treatment program; and
8645 (iii) the minor's completion of the goals of the treatment program.
- 8646 (5) Subject to Subsections (6) and (7), if one of the circumstances under Subsection (4)
8647 exists the juvenile court may extend supervision for the time needed to address the
8648 specific circumstance.
- 8649 (6) If the juvenile court extends supervision solely on the ground that the minor has not yet
8650 completed community or compensatory service hours under Subsection (4)(a)(iii), the
8651 juvenile court may only extend supervision:
- 8652 (a) one time for no more than three months; and
8653 (b) as intake probation.
- 8654 (7)(a) If the juvenile court extends jurisdiction solely on the ground that the minor has
8655 not paid restitution in full as described in Subsection (4)(a)(v):
- 8656 (i) the juvenile court may only:

- 8657 (A) extend jurisdiction up to four times for no more than three months at a time;
8658 (B) consider the efforts of the minor to pay restitution in full when determining
8659 whether to extend jurisdiction under Subsection (7)(a)(i); and
8660 (C) make orders concerning the payment of restitution during the period for which
8661 jurisdiction is extended;
- 8662 (ii) the juvenile court shall terminate any intake probation or formal probation of the
8663 minor; and
8664 (iii) a designated staff member of the juvenile court shall submit a report to the
8665 juvenile court every three months regarding the minor's efforts to pay restitution.
- 8666 (b) If the juvenile court finds that a minor is not making an effort to pay restitution, the
8667 juvenile court shall:
- 8668 (i) terminate jurisdiction over the minor's case; and
8669 (ii) record the amount of unpaid restitution as a civil judgment in accordance with
8670 Subsection 80-6-709(8).
- 8671 (8) If the juvenile court extends supervision or jurisdiction under this section, the grounds
8672 for the extension and the length of any extension shall be recorded in the court records
8673 and tracked in the data system used by the Administrative Office of the Courts and the
8674 division.
- 8675 (9) If a minor leaves supervision without authorization for more than 24 hours, the
8676 supervision period for the minor shall toll until the minor returns.
- 8677 (10) This section does not apply to any minor adjudicated under this chapter for:
- 8678 (a) Section 76-5-103, aggravated assault resulting in serious bodily injury to another;
8679 (b) Section 76-5-202, aggravated murder or attempted aggravated murder;
8680 (c) Section 76-5-203, murder or attempted murder;
8681 (d) Section 76-5-205, manslaughter;
8682 (e) Section 76-5-206, negligent homicide;
8683 (f) Section 76-5-207, automobile homicide;
8684 (g) Section 76-5-207.5, automobile homicide involving using a wireless communication
8685 device while operating a motor vehicle;
8686 (h) Section 76-5-208, child abuse homicide;
8687 (i) Section 76-5-209, homicide by assault;
8688 (j) Section 76-5-302, aggravated kidnapping;
8689 (k) Section 76-5-405, aggravated sexual assault;
8690 (l) a felony violation of Section 76-6-103, aggravated arson;

- 8691 (m) Section 76-6-203, aggravated burglary;
- 8692 (n) Section 76-6-302, aggravated robbery;
- 8693 (o) Section [~~76-10-508.1~~] 76-11-210, felony discharge of a firearm;
- 8694 (p)(i) an offense other than an offense listed in Subsections (10)(a) through (o)
- 8695 involving the use of a dangerous weapon, as defined in Section 76-1-101.5, that is
- 8696 a felony; and
- 8697 (ii) the minor has been previously adjudicated or convicted of an offense involving
- 8698 the use of a dangerous weapon; or
- 8699 (q) a felony offense other than an offense listed in Subsections (10)(a) through (p) and
- 8700 the minor has been previously committed to the division for secure care.
- 8701 Section 145. Section **80-6-804** is amended to read:
- 8702 **80-6-804 . Review and termination of secure care.**
- 8703 (1) If a juvenile offender is ordered to secure care under Section 80-6-705, the juvenile
- 8704 offender shall appear before the authority within 45 days after the day on which the
- 8705 juvenile offender is ordered to secure care for review of a treatment plan and to establish
- 8706 parole release guidelines.
- 8707 (2)(a) Except as provided in Subsections (2)(b) and (2)(h), if a juvenile offender is
- 8708 ordered to secure care under Section 80-6-705, the authority shall set a presumptive
- 8709 term of secure care for the juvenile offender from three to six months, but the
- 8710 presumptive term may not exceed six months.
- 8711 (b) If a juvenile offender is ordered to secure care for a misdemeanor offense, the
- 8712 authority may immediately release the juvenile offender on parole if there is a
- 8713 treatment program available for the juvenile offender in a community-based setting.
- 8714 (c) Except as provided in Subsection (2)(h), the authority shall release the juvenile
- 8715 offender on parole at the end of the presumptive term of secure care unless:
- 8716 (i) termination would interrupt the completion of a treatment program determined to
- 8717 be necessary by the results of a validated risk and needs assessment under Section
- 8718 80-6-606; or
- 8719 (ii) the juvenile offender commits a new misdemeanor or felony offense.
- 8720 (d) The authority shall determine whether a juvenile offender has completed a treatment
- 8721 program under Subsection (2)(c)(i) by considering:
- 8722 (i) the recommendations of the licensed service provider for the treatment program;
- 8723 (ii) the juvenile offender's record in the treatment program; and
- 8724 (iii) the juvenile offender's completion of the goals of the treatment program.

- 8725 (e) Except as provided in Subsection (2)(h), the authority may extend the length of
8726 secure care and delay parole release for the time needed to address the specific
8727 circumstance if one of the circumstances under Subsection (2)(c) exists.
- 8728 (f) The authority shall:
- 8729 (i) record the length of the extension and the grounds for the extension; and
8730 (ii) report annually the length and grounds of extension to the commission.
- 8731 (g) Records under Subsection (2)(f) shall be tracked in the data system used by the
8732 juvenile court and the division.
- 8733 (h) If a juvenile offender is ordered to secure care for a misdemeanor offense, the
8734 authority may not:
- 8735 (i) set a juvenile offender's presumptive term of secure care under Subsection (2)(a)
8736 that would result in a term of secure care that exceeds a term of incarceration for
8737 an adult under Section 76-3-204 for the same misdemeanor offense; or
8738 (ii) extend the juvenile offender's term of secure care under Subsections (2)(c) and (e)
8739 if the extension would result in a term of secure care that exceeds the term of
8740 incarceration for an adult under Section 76-3-204 for the same misdemeanor
8741 offense.
- 8742 (3)(a) If a juvenile offender is ordered to secure care, the authority shall set a
8743 presumptive term of parole supervision, including aftercare services, from three to
8744 four months, but the presumptive term may not exceed four months.
- 8745 (b) If the authority determines that a juvenile offender is unable to return home
8746 immediately upon release, the juvenile offender may serve the term of parole:
- 8747 (i) in the home of a qualifying relative or guardian;
8748 (ii) at an independent living program contracted or operated by the division; or
8749 (iii) in a family-based setting with approval by the director or the director's designee
8750 if the minor does not qualify for an independent living program due to age,
8751 disability, or another reason or the minor cannot be placed with a qualifying
8752 relative or guardian.
- 8753 (c) The authority shall release a juvenile offender from parole and terminate the
8754 authority's jurisdiction at the end of the presumptive term of parole, unless:
- 8755 (i) termination would interrupt the completion of a treatment program that is
8756 determined to be necessary by the results of a validated risk and needs assessment
8757 under Section 80-6-606;
8758 (ii) the juvenile offender commits a new misdemeanor or felony offense; or

- 8759 (iii) restitution has not been completed.
- 8760 (d) The authority shall determine whether a juvenile offender has completed a treatment
8761 program under Subsection (3)(c)(i) by considering:
- 8762 (i) the recommendations of the licensed service provider;
- 8763 (ii) the juvenile offender's record in the treatment program; and
- 8764 (iii) the juvenile offender's completion of the goals of the treatment program.
- 8765 (e) If one of the circumstances under Subsection (3)(c) exists, the authority may delay
8766 parole release only for the time needed to address the specific circumstance.
- 8767 (f) The authority shall:
- 8768 (i) record the grounds for extension of the presumptive length of parole and the
8769 length of the extension; and
- 8770 (ii) report annually the extension and the length of the extension to the commission.
- 8771 (g) Records under Subsection (3)(f) shall be tracked in the data system used by the
8772 juvenile court and the division.
- 8773 (h) If a juvenile offender leaves parole supervision without authorization for more than
8774 24 hours, the term of parole shall toll until the juvenile offender returns.
- 8775 (4) Subsections (2) and (3) do not apply to a juvenile offender ordered to secure care for:
- 8776 (a) Section 76-5-103, aggravated assault resulting in serious bodily injury to another;
- 8777 (b) Section 76-5-202, aggravated murder or attempted aggravated murder;
- 8778 (c) Section 76-5-203, murder or attempted murder;
- 8779 (d) Section 76-5-205, manslaughter;
- 8780 (e) Section 76-5-206, negligent homicide;
- 8781 (f) Section 76-5-207, automobile homicide;
- 8782 (g) Section 76-5-207.5, automobile homicide involving using a wireless communication
8783 device while operating a motor vehicle;
- 8784 (h) Section 76-5-208, child abuse homicide;
- 8785 (i) Section 76-5-209, homicide by assault;
- 8786 (j) Section 76-5-302, aggravated kidnapping;
- 8787 (k) Section 76-5-405, aggravated sexual assault;
- 8788 (l) a felony violation of Section 76-6-103, aggravated arson;
- 8789 (m) Section 76-6-203, aggravated burglary;
- 8790 (n) Section 76-6-302, aggravated robbery;
- 8791 (o) Section ~~[76-10-508.1]~~ 76-11-210, felony discharge of a firearm;
- 8792 (p)(i) an offense other than an offense listed in Subsections (4)(a) through (o)

8793 involving the use of a dangerous weapon, as defined in Section 76-1-101.5, that is
8794 a felony; and
8795 (ii) the juvenile offender has been previously adjudicated or convicted of an offense
8796 involving the use of a dangerous weapon, as defined in Section 76-1-101.5; or
8797 (q) an offense other than an offense listed in Subsections (4)(a) through (p) and the
8798 juvenile offender has been previously ordered to secure care.

8799 Section 146. Section **80-6-1004.1** is amended to read:

8800 **80-6-1004.1 . Petition to expunge adjudication -- Hearing and notice -- Waiver --**

8801 **Order.**

8802 (1) An individual may petition the juvenile court for an order to expunge the individual's
8803 juvenile record if:

8804 (a) the individual was adjudicated for an offense in the juvenile court;

8805 (b) the individual has reached 18 years old; and

8806 (c) at least one year has passed from the day on which:

8807 (i) the juvenile court's continuing jurisdiction was terminated; or

8808 (ii) if the individual was committed to secure care, the individual was unconditionally
8809 released from the custody of the division.

8810 (2) If a petitioner is 18 years old or older and seeks an expungement under Subsection (1),
8811 the petition shall include a criminal history report obtained from the Bureau of Criminal
8812 Identification in accordance with Section 53-10-108.

8813 (3) If the juvenile court finds and states on the record the reason why the waiver is
8814 appropriate, the juvenile court may waive:

8815 (a) the age requirement under Subsection (1)(b) for a petition; or

8816 (b) the one-year requirement under Subsection (1)(c) for a petition.

8817 (4)(a) Upon the filing of a petition described in Subsection [~~(1)~~(a)] (1), the juvenile court
8818 shall:

8819 (i) set a date for a hearing; and

8820 (ii) at least 30 days before the day on which the hearing on the petition is scheduled,
8821 notify the prosecuting attorney and any affected agency identified in the
8822 petitioner's juvenile record:

8823 (A) that the petition has been filed; and

8824 (B) of the date of the hearing.

8825 (b)(i) The juvenile court shall provide a victim with the opportunity to request notice
8826 of a petition described in Subsection (1).

- 8827 (ii) Upon the victim's request under Subsection (4)(b)(i), the victim shall receive
8828 notice of the petition at least 30 days before the day on which the hearing is
8829 scheduled if, before the day on which an expungement order is made, the victim,
8830 or the victim's next of kin or authorized representative if the victim is a child or an
8831 individual who is incapacitated or deceased, submits a written and signed request
8832 for notice to the juvenile court in the judicial district in which the offense occurred
8833 or judgment is entered.
- 8834 (iii) The notice described in Subsection (4)(b)(ii) shall include a copy of the petition
8835 and any statutes and rules applicable to the petition.
- 8836 (c) At the hearing, the prosecuting attorney, a victim, and any other individual who may
8837 have relevant information about the petitioner may testify.
- 8838 (d) The juvenile court may waive the hearing for the petition if:
- 8839 (i)(A) there is no victim; or
8840 (B) if there is a victim, the victim agrees to the waiver; and
8841 (ii) the prosecuting attorney agrees to the waiver.
- 8842 (5)(a) Except as provided in Subsection (6), the juvenile court may grant a petition
8843 described in Subsection (1) and order expungement of the petitioner's juvenile record
8844 if the juvenile court finds that the petitioner is rehabilitated to the satisfaction of the
8845 court in accordance with Subsection (5)(b).
- 8846 (b) In deciding whether to grant a petition described in Subsection (1), the juvenile court
8847 shall consider:
- 8848 (i) whether expungement of the petitioner's juvenile record is in the best interest of
8849 the petitioner;
- 8850 (ii) the petitioner's response to programs and treatment;
- 8851 (iii) the nature and seriousness of the conduct for which the petitioner was
8852 adjudicated;
- 8853 (iv) the petitioner's behavior subsequent to adjudication;
- 8854 (v) the petitioner's reason for seeking expungement of the petitioner's juvenile record;
8855 and
- 8856 (vi) if the petitioner is a restricted person under Subsection ~~[76-10-503(1)(a)(iv) or~~
8857 ~~(b)(iii)]~~ 76-11-302(4) or 76-11-303(4):
- 8858 (A) whether the offense for which the petitioner is a restricted person was
8859 committed with a weapon;
- 8860 (B) whether expungement of the petitioner's juvenile record poses an unreasonable

- 8861 risk to public safety; and
- 8862 (C) the amount of time that has passed since the adjudication of the offense for
- 8863 which the petitioner is a restricted person.
- 8864 (6) The juvenile court may not grant a petition described in Subsection (1) and order
- 8865 expungement of the petitioner's juvenile record if:
- 8866 (a) the petitioner has been convicted of a violent felony within five years before the day
- 8867 on which the petition for expungement is filed;
- 8868 (b) there are delinquency or criminal proceedings pending against the petitioner;
- 8869 (c) the petitioner has not satisfied a judgment of restitution entered by the juvenile court
- 8870 for an adjudication in the petitioner's juvenile record;
- 8871 (d) the petitioner has not satisfied restitution that was a condition of a nonjudicial
- 8872 adjustment in the petitioner's juvenile record; or
- 8873 (e) the petitioner's juvenile record contains an adjudication for a violation of:
- 8874 (i) Section 76-5-202, aggravated murder; or
- 8875 (ii) Section 76-5-203, murder.

8876 Section 147. Section **80-6-1004.5** is amended to read:

8877 **80-6-1004.5 . Automatic expungement of successful nonjudicial adjustment --**

8878 **Effect of successful nonjudicial adjustment.**

- 8879 (1) Except as provided in Subsection (2), the juvenile court shall issue, without a petition,
- 8880 an order to expunge an individual's juvenile record if:
- 8881 (a) the individual has reached 18 years old;
- 8882 (b) the individual's juvenile record consists solely of nonjudicial adjustments;
- 8883 (c) the individual has successfully completed each nonjudicial adjustment; and
- 8884 (d) all nonjudicial adjustments were completed on or after October 1, 2023.
- 8885 (2) An individual's juvenile record is not eligible for expungement under Subsection (1) if
- 8886 the individual's juvenile record contains a nonjudicial adjustment for a violation of:
- 8887 (a) Section 41-6a-502, driving under the influence;
- 8888 (b) Section 76-5-112, reckless endangerment creating a substantial risk of death or
- 8889 serious bodily injury;
- 8890 (c) Section 76-5-206, negligent homicide;
- 8891 (d) Section 76-9-702.1, sexual battery;
- 8892 (e) Section ~~[76-10-505.5, possession of a dangerous weapon, firearm, or short barreled~~
- 8893 ~~shotgun on or about school premises]~~ 76-11-205, carrying a dangerous weapon at an
- 8894 elementary school or secondary school;

- 8895 (f) Section 76-11-206, carrying a dangerous weapon at a daycare; or
8896 [~~f~~] (g) Section [76-10-509.4] 76-11-211, possession of a dangerous weapon by a minor.
8897 (3) If an individual's juvenile record consists solely of nonjudicial adjustments that were
8898 completed before October 1, 2023:
8899 (a) any nonjudicial adjustment in the individual's juvenile record is considered to never
8900 have occurred if:
8901 (i) the individual has reached 18 years old;
8902 (ii) the individual has satisfied restitution that was a condition of any nonjudicial
8903 adjustment in the individual's juvenile record; and
8904 (iii) the nonjudicial adjustment was for an offense that is not an offense described in
8905 Subsection (2); and
8906 (b) the individual may reply to any inquiry about the nonjudicial adjustment as though
8907 there never was a nonjudicial adjustment.

8908 Section 148. **Repealer.**

8909 This bill repeals:

8910 Section **53-5-701, Title.**

8911 Section **53-5-710, Cross-references to concealed firearm permit restrictions.**

8912 Section **53-5b-101, Title.**

8913 Section **76-10-500, Uniform law.**

8914 Section **76-10-503, Restrictions on possession, purchase, transfer, and ownership of**
8915 **dangerous weapons by certain persons -- Exceptions.**

8916 Section **76-10-512, Target concessions, shooting ranges, competitions, and hunting**
8917 **excepted from prohibitions.**

8918 Section **76-10-521, Unlawful marking of pistol or revolver.**

8919 Section 149. **Effective date.**

8920 This bill takes effect on May 7, 2025.