

HB0128S02 compared with HB0128

{Omitted text} shows text that was in HB0128 but was omitted in HB0128S02

inserted text shows text that was not in HB0128 but was inserted into HB0128S02

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1 **Dangerous {~~Weapon at a School Amendments~~}**
 Weapons Recodification and Cross References

2025 GENERAL SESSION

STATE OF UTAH

Chief Sponsor: Matthew H. Gwynn

Senate Sponsor: Calvin R. Musselman

2
3 **LONG TITLE**

4 **General Description:**

5 This bill { ~~addresses the crime of possession of~~ } modifies provisions in the Utah Code addressing
 dangerous weapons by redrafting statutes into a new structure, reorganizing applicable criminal statutes
 into a { ~~dangerous weapon on or about school premises~~ } new standardized format, and clarifying
 existing law.

8 **Highlighted Provisions:**

- 9 This bill:
- 9 ▸ { ~~clarifies that the crime of possession of a dangerous weapon on or about school premises~~
10 applies to both minors and adults; and }
 - 10 ▸ restructures and makes technical changes to sections in the Utah Code dealing with
11 dangerous weapons to bring the sections into a standardized format;
 - 12 ▸ enacts provisions detailing the current law surrounding the carrying of firearms;
 - 13 ▸ for clarity, places certain contents of Title 76, Chapter 10, Part 5, Weapons, into Title 53,
 Public Safety Code;

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- 15 ▸ clarifies criminal provisions regarding who is required to have a concealed carry permit in
certain circumstances;
- 17 ▸ includes coordination clauses coordinating technical changes between this bill and H.B.
183, Noncitizen Restricted Person Amendments, H.B. 227, Restricted Person Amendments, H.B.
21, Criminal Code Recodification and Cross References, and S.B. 14, Private Sale of a Firearm
Sunset Review Amendments; and
- 11 ▸ makes technical and conforming changes.

22 Money Appropriated in this Bill:

23 None

24 Other Special Clauses:

25 This bill provides coordination clauses.

27 AMENDS:

28 13-74-101 , as enacted by Laws of Utah 2024, Chapter 203 , as enacted by Laws of Utah
2024, Chapter 203

29 23A-4-1106 , as last amended by Laws of Utah 2023, Chapter 345 and renumbered and
amended by Laws of Utah 2023, Chapter 103 , as last amended by Laws of Utah 2023,
Chapter 345 and renumbered and amended by Laws of Utah 2023, Chapter 103

31 26B-1-326 , as last amended by Laws of Utah 2024, Chapter 250 , as last amended by Laws
of Utah 2024, Chapter 250

32 26B-2-120 , as last amended by Laws of Utah 2024, Chapter 234 , as last amended by Laws
of Utah 2024, Chapter 234

33 26B-5-102 , as last amended by Laws of Utah 2024, Chapters 250, 420 , as last amended by
Laws of Utah 2024, Chapters 250, 420

34 31A-21-501 , as last amended by Laws of Utah 2022, Chapters 185, 430 , as last amended by
Laws of Utah 2022, Chapters 185, 430

35 34-45-102 , as enacted by Laws of Utah 2009, Chapter 379 , as enacted by Laws of Utah
2009, Chapter 379

36 34-45-107 , as last amended by Laws of Utah 2016, Chapter 348 , as last amended by Laws of
Utah 2016, Chapter 348

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36-29-111 , as last amended by Laws of Utah 2024, Chapter 506 , as last amended by Laws of Utah 2024, Chapter 506

38 47-3-305 , as last amended by Laws of Utah 2021, Chapter 246 , as last amended by Laws of Utah 2021, Chapter 246

39 53-1-104 , as last amended by Laws of Utah 2024, Chapter 506 , as last amended by Laws of Utah 2024, Chapter 506

40 53-2a-214 , as renumbered and amended by Laws of Utah 2013, Chapter 295 , as renumbered and amended by Laws of Utah 2013, Chapter 295

41 53-3-220 , as last amended by Laws of Utah 2024, Chapter 319 , as last amended by Laws of Utah 2024, Chapter 319

42 53-5a-102 , as last amended by Laws of Utah 2022, Chapter 428 , as last amended by Laws of Utah 2022, Chapter 428

43 53-5a-103 , as last amended by Laws of Utah 2023, Chapter 392 , as last amended by Laws of Utah 2023, Chapter 392

44 53-5a-202 , as last amended by Laws of Utah 2024, Chapter 438 , as last amended by Laws of Utah 2024, Chapter 438

45 53-5d-102 , as enacted by Laws of Utah 2016, Chapter 155 , as enacted by Laws of Utah 2016, Chapter 155

46 53-10-202 , as last amended by Laws of Utah 2023, Chapter 328 , as last amended by Laws of Utah 2023, Chapter 328

47 53-10-202.5 , as last amended by Laws of Utah 2022, Chapters 250, 384 , as last amended by Laws of Utah 2022, Chapters 250, 384

48 53-10-208.1 , as last amended by Laws of Utah 2023, Chapters 184, 328 and 397 , as last amended by Laws of Utah 2023, Chapters 184, 328 and 397

49 53-10-403 , as last amended by Laws of Utah 2024, Chapters 96, 153, 187, and 256 , as last amended by Laws of Utah 2024, Chapters 96, 153, 187, and 256

50 53-11-108 , as last amended by Laws of Utah 1999, Chapter 21 , as last amended by Laws of Utah 1999, Chapter 21

51 53-13-116 , as enacted by Laws of Utah 2021, Chapter 164 , as enacted by Laws of Utah 2021, Chapter 164

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- 52 **53-22-105 , as enacted by Laws of Utah 2024, Chapter 21 , as enacted by Laws of Utah 2024, Chapter 21**
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- 53 **53-22-107 , as enacted by Laws of Utah 2024, Chapter 117 , as enacted by Laws of Utah 2024, Chapter 117**
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- 54 **53-25-103 , as enacted by Laws of Utah 2024, Chapter 332 , as enacted by Laws of Utah 2024, Chapter 332**
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- 55 **53-25-501 , as enacted by Laws of Utah 2024, Chapter 111 , as enacted by Laws of Utah 2024, Chapter 111**
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- 56 **53B-3-103 , as last amended by Laws of Utah 2024, Chapter 378 , as last amended by Laws of Utah 2024, Chapter 378**
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- 57 **53G-8-701.8 , as enacted by Laws of Utah 2024, Chapter 21 , as enacted by Laws of Utah 2024, Chapter 21**
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- 58 **53G-8-704 , as enacted by Laws of Utah 2024, Chapter 21 , as enacted by Laws of Utah 2024, Chapter 21**
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- 59 **58-37-8 , as last amended by Laws of Utah 2024, Chapter 105 , as last amended by Laws of Utah 2024, Chapter 105**
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- 60 **58-63-307 , as last amended by Laws of Utah 2008, Chapter 246 , as last amended by Laws of Utah 2008, Chapter 246**
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- 61 **63G-2-303 , as last amended by Laws of Utah 2024, Chapter 465 , as last amended by Laws of Utah 2024, Chapter 465**
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- 62 **63G-2-801 , as last amended by Laws of Utah 2019, Chapter 254 , as last amended by Laws of Utah 2019, Chapter 254**
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- 63 **63I-1-253 , as last amended by Laws of Utah 2024, Third Special Session, Chapter 5 , as last amended by Laws of Utah 2024, Third Special Session, Chapter 5**
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- 64 **63I-1-276 , as last amended by Laws of Utah 2024, Third Special Session, Chapter 5 , as last amended by Laws of Utah 2024, Third Special Session, Chapter 5**
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- 65 **63I-2-276 , as last amended by Laws of Utah 2024, Third Special Session, Chapter 5 , as last amended by Laws of Utah 2024, Third Special Session, Chapter 5**
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- 66 **63M-7-220 , as enacted by Laws of Utah 2024, Chapter 506 , as enacted by Laws of Utah 2024, Chapter 506**
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- 67 **72-10-901 , as renumbered and amended by Laws of Utah 2023, Chapter 216 , as
renumbered and amended by Laws of Utah 2023, Chapter 216**
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- 68 **73-29-102 , as last amended by Laws of Utah 2023, Chapter 34 , as last amended by Laws of
Utah 2023, Chapter 34**
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- 69 **76-3-203.1 , as last amended by Laws of Utah 2024, Chapter 96 , as last amended by Laws of
Utah 2024, Chapter 96**
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- 70 **76-3-203.3 , as last amended by Laws of Utah 2024, Chapters 96, 381 , as last amended by
Laws of Utah 2024, Chapters 96, 381**
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- 71 **76-3-203.5 , as last amended by Laws of Utah 2024, Chapters 96, 179 , as last amended by
Laws of Utah 2024, Chapters 96, 179**
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- 72 **76-3-402 , as last amended by Laws of Utah 2024, Chapter 234 , as last amended by Laws of
Utah 2024, Chapter 234**
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- 73 **76-5-102.8 , as last amended by Laws of Utah 2022, Chapter 181 , as last amended by Laws
of Utah 2022, Chapter 181**
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- 74 **76-5-202 , as last amended by Laws of Utah 2022, Chapter 181 , as last amended by Laws of
Utah 2022, Chapter 181**
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- 75 **76-5-203 , as last amended by Laws of Utah 2024, Chapters 96, 187 , as last amended by
Laws of Utah 2024, Chapters 96, 187**
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- 76 **76-8-311.1 , as last amended by Laws of Utah 2024, Chapter 96 , as last amended by Laws of
Utah 2024, Chapter 96**
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- 77 **76-8-311.2 , as enacted by Laws of Utah 2024, Chapter 96 , as enacted by Laws of Utah 2024,
Chapter 96**
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- 78 **76-8-311.3 , as last amended by Laws of Utah 2024, Chapters 96, 99 , as last amended by
Laws of Utah 2024, Chapters 96, 99**
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- 79 **76-8-311.4 , as enacted by Laws of Utah 2024, Chapter 96 , as enacted by Laws of Utah 2024,
Chapter 96**
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- 80 **76-8-311.6 , as enacted by Laws of Utah 2024, Chapter 96 , as enacted by Laws of Utah 2024,
Chapter 96**
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- 81 **76-8-311.7 , as enacted by Laws of Utah 2024, Chapter 96 , as enacted by Laws of Utah 2024,
Chapter 96**
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- 82 76-9-802 , as last amended by Laws of Utah 2024, Chapter 96 , as last amended by Laws of
Utah 2024, Chapter 96
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- 83 76-9-804 , as last amended by Laws of Utah 2022, Chapter 181 , as last amended by Laws of
Utah 2022, Chapter 181
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- 84 76-9-902 , as last amended by Laws of Utah 2024, Chapter 96 , as last amended by Laws of
Utah 2024, Chapter 96
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- 85 76-10-306 , as last amended by Laws of Utah 2024, Chapter 343 , as last amended by Laws of
Utah 2024, Chapter 343
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- 86 76-10-1602 , as last amended by Laws of Utah 2024, Chapter 96 , as last amended by Laws of
Utah 2024, Chapter 96
-
- 87 77-11a-402 , as last amended by Laws of Utah 2024, Chapter 332 , as last amended by Laws
of Utah 2024, Chapter 332
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- 88 77-11a-403 , as renumbered and amended by Laws of Utah 2023, Chapter 448 , as
renumbered and amended by Laws of Utah 2023, Chapter 448
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- 89 77-11b-102 , as last amended by Laws of Utah 2023, Chapters 415, 422 and renumbered
and amended by Laws of Utah 2023, Chapter 448 , as last amended by Laws of Utah 2023,
Chapters 415, 422 and renumbered and amended by Laws of Utah 2023, Chapter 448
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- 91 77-11d-101 , as last amended by Laws of Utah 2024, Chapter 332 , as last amended by Laws
of Utah 2024, Chapter 332
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- 92 77-11d-105 , as last amended by Laws of Utah 2024, Chapters 332, 517 , as last amended by
Laws of Utah 2024, Chapters 332, 517
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- 93 77-36-1 , as last amended by Laws of Utah 2024, Chapter 366 , as last amended by Laws of
Utah 2024, Chapter 366
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- 94 77-36-2.1 , as last amended by Laws of Utah 2024, Chapter 434 , as last amended by Laws of
Utah 2024, Chapter 434
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- 95 77-40a-205 , as enacted by Laws of Utah 2024, Chapter 180 , as enacted by Laws of Utah
2024, Chapter 180
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- 96 77-40a-403 , as last amended by Laws of Utah 2024, Chapter 180 , as last amended by Laws
of Utah 2024, Chapter 180
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78A-6-209 , as last amended by Laws of Utah 2024, Chapter 235 , as last amended by Laws of Utah 2024, Chapter 235

98 78B-4-511 , as renumbered and amended by Laws of Utah 2008, Chapter 3 , as renumbered and amended by Laws of Utah 2008, Chapter 3

99 78B-5-502 , as last amended by Laws of Utah 2021, Chapter 260 , as last amended by Laws of Utah 2021, Chapter 260

100 78B-5-505 , as last amended by Laws of Utah 2021, Chapter 260 , as last amended by Laws of Utah 2021, Chapter 260

101 78B-6-1107 , as last amended by Laws of Utah 2021, Chapter 207 , as last amended by Laws of Utah 2021, Chapter 207

102 78B-6-2301 , as last amended by Laws of Utah 2024, Chapter 438 , as last amended by Laws of Utah 2024, Chapter 438

103 80-6-103 , as last amended by Laws of Utah 2024, Chapter 532 , as last amended by Laws of Utah 2024, Chapter 532

104 80-6-104 , as last amended by Laws of Utah 2024, Chapter 20 , as last amended by Laws of Utah 2024, Chapter 20

105 80-6-303.5 , as last amended by Laws of Utah 2024, Chapter 301 , as last amended by Laws of Utah 2024, Chapter 301

106 80-6-305 , as last amended by Laws of Utah 2023, Chapter 161 , as last amended by Laws of Utah 2023, Chapter 161

107 80-6-503 , as renumbered and amended by Laws of Utah 2021, Chapter 261 , as renumbered and amended by Laws of Utah 2021, Chapter 261

108 80-6-605 , as renumbered and amended by Laws of Utah 2021, Chapter 261 , as renumbered and amended by Laws of Utah 2021, Chapter 261

109 80-6-712 , as last amended by Laws of Utah 2024, Chapter 153 , as last amended by Laws of Utah 2024, Chapter 153

110 80-6-804 , as last amended by Laws of Utah 2024, Chapter 153 , as last amended by Laws of Utah 2024, Chapter 153

111 80-6-1004.1 , as enacted by Laws of Utah 2023, Chapter 115 , as enacted by Laws of Utah 2023, Chapter 115

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112 **80-6-1004.5 , as last amended by Laws of Utah 2024, Chapter 301 , as last amended by Laws**
113 **of Utah 2024, Chapter 301**

113 ENACTS:

114 **53-5a-101.5 , Utah Code Annotated 1953 , Utah Code Annotated 1953**

115 **53-5a-102.1 , Utah Code Annotated 1953 , Utah Code Annotated 1953**

116 **53-5a-102.2 , Utah Code Annotated 1953 , Utah Code Annotated 1953**

117 **53-5a-601 , Utah Code Annotated 1953 , Utah Code Annotated 1953**

118 **76-11-201 , Utah Code Annotated 1953 , Utah Code Annotated 1953**

119 **76-11-203 , Utah Code Annotated 1953 , Utah Code Annotated 1953**

120 **76-11-205.5 , Utah Code Annotated 1953 , Utah Code Annotated 1953**

121 **76-11-206 , Utah Code Annotated 1953 , Utah Code Annotated 1953**

122 **76-11-216 , Utah Code Annotated 1953 , Utah Code Annotated 1953**

123 **76-11-220 , Utah Code Annotated 1953 , Utah Code Annotated 1953**

124 **76-11-301 , Utah Code Annotated 1953 , Utah Code Annotated 1953**

125 **76-11-302 , Utah Code Annotated 1953 , Utah Code Annotated 1953**

126 **76-11-303 , Utah Code Annotated 1953 , Utah Code Annotated 1953**

127 **76-11-304 , Utah Code Annotated 1953 , Utah Code Annotated 1953**

128 **76-11-305 , Utah Code Annotated 1953 , Utah Code Annotated 1953**

129 **76-11-306 , Utah Code Annotated 1953 , Utah Code Annotated 1953**

130 **76-11-307 , Utah Code Annotated 1953 , Utah Code Annotated 1953**

131 **76-11-308 , Utah Code Annotated 1953 , Utah Code Annotated 1953**

132 RENUMBERS AND AMENDS:

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

135 **53-5a-105 , (Renumbered from 76-10-520, as last amended by Laws of Utah 1993, Chapter**
234) , (Renumbered from 76-10-520, as last amended by Laws of Utah 1993, Chapter 234)

137 **53-5a-106 , (Renumbered from 76-10-522, as last amended by Laws of Utah 1993, Chapter**
234) , (Renumbered from 76-10-522, as last amended by Laws of Utah 1993, Chapter 234)

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- 141 53-5a-107 , (Renumbered from 76-10-523.5, as last amended by Laws of Utah 2008, Chapter 3) , (Renumbered from 76-10-523.5, as last amended by Laws of Utah 2008, Chapter 3)
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- 143 53-5a-108 , (Renumbered from 76-10-523, as last amended by Laws of Utah 2021, Chapter 12) , (Renumbered from 76-10-523, as last amended by Laws of Utah 2021, Chapter 12)
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- 145 53-5a-301 , (Renumbered from 53-5-702, as last amended by Laws of Utah 2024, Chapter 22) , (Renumbered from 53-5-702, as last amended by Laws of Utah 2024, Chapter 22)
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- 147 53-5a-302 , (Renumbered from 53-5-703, as last amended by Laws of Utah 2010, Chapters 62, 286 and 324) , (Renumbered from 53-5-703, as last amended by Laws of Utah 2010, Chapters 62, 286 and 324)
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- 149 53-5a-303 , (Renumbered from 53-5-704, as last amended by Laws of Utah 2024, Chapter 195) , (Renumbered from 53-5-704, as last amended by Laws of Utah 2024, Chapter 195)
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- 151 53-5a-304 , (Renumbered from 53-5-704.5, as enacted by Laws of Utah 2017, Chapter 286) , (Renumbered from 53-5-704.5, as enacted by Laws of Utah 2017, Chapter 286)
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- 153 53-5a-305 , (Renumbered from 53-5-705, as last amended by Laws of Utah 2010, Chapter 62) , (Renumbered from 53-5-705, as last amended by Laws of Utah 2010, Chapter 62)
-
- 155 53-5a-306 , (Renumbered from 53-5-706, as last amended by Laws of Utah 2018, Chapter 417) , (Renumbered from 53-5-706, as last amended by Laws of Utah 2018, Chapter 417)
-
- 157 53-5a-307 , (Renumbered from 53-5-707, as last amended by Laws of Utah 2023, Chapters 328, 387) , (Renumbered from 53-5-707, as last amended by Laws of Utah 2023, Chapters 328, 387)
-
- 159 53-5a-308 , (Renumbered from 53-5-707.5, as last amended by Laws of Utah 2018, Chapter 417) , (Renumbered from 53-5-707.5, as last amended by Laws of Utah 2018, Chapter 417)
-
- 161 53-5a-309 , (Renumbered from 53-5-707.6, as last amended by Laws of Utah 2022, Chapter 255) , (Renumbered from 53-5-707.6, as last amended by Laws of Utah 2022, Chapter 255)
-
- 163 53-5a-310 , (Renumbered from 53-5-708, as last amended by Laws of Utah 2023, Chapter 16) , (Renumbered from 53-5-708, as last amended by Laws of Utah 2023, Chapter 16)
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- 165 53-5a-311 , (Renumbered from 53-5-711, as last amended by Laws of Utah 2019, Chapter 39) , (Renumbered from 53-5-711, as last amended by Laws of Utah 2019, Chapter 39)
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- 53-5a-312 , (Renumbered from 53-5-712, as enacted by Laws of Utah 2014, Chapter 147) , (Renumbered from 53-5-712, as enacted by Laws of Utah 2014, Chapter 147)
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- 167 **53-5a-401 , (Renumbered from 53-5b-103, as enacted by Laws of Utah 2010, Chapter 5) ,**
(Renumbered from 53-5b-103, as enacted by Laws of Utah 2010, Chapter 5)
-
- 169 **53-5a-402 , (Renumbered from 53-5b-102, as enacted by Laws of Utah 2010, Chapter 5) ,**
(Renumbered from 53-5b-102, as enacted by Laws of Utah 2010, Chapter 5)
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- 171 **53-5a-403 , (Renumbered from 53-5b-201, as enacted by Laws of Utah 2010, Chapter 5) ,**
(Renumbered from 53-5b-201, as enacted by Laws of Utah 2010, Chapter 5)
-
- 173 **53-5a-404 , (Renumbered from 53-5b-202, as enacted by Laws of Utah 2010, Chapter 5) ,**
(Renumbered from 53-5b-202, as enacted by Laws of Utah 2010, Chapter 5)
-
- 175 **53-5a-501 , (Renumbered from 53-5c-102, as last amended by Laws of Utah 2023, Chapters**
138, 405) , (Renumbered from 53-5c-102, as last amended by Laws of Utah 2023, Chapters
138, 405)
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- 177 **53-5a-502 , (Renumbered from 53-5c-201, as last amended by Laws of Utah 2023, Chapters**
138, 448) , (Renumbered from 53-5c-201, as last amended by Laws of Utah 2023, Chapters
138, 448)
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- 179 **53-5a-503 , (Renumbered from 53-5c-202, as last amended by Laws of Utah 2023, Chapter**
448) , (Renumbered from 53-5c-202, as last amended by Laws of Utah 2023, Chapter 448)
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- 181 **53-5a-504 , (Renumbered from 53-5c-301, as last amended by Laws of Utah 2024, Chapter**
204) , (Renumbered from 53-5c-301, as last amended by Laws of Utah 2024, Chapter 204)
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- 183 **53-5a-505 , (Renumbered from 53-5c-302, as last amended by Laws of Utah 2024, Chapter**
204) , (Renumbered from 53-5c-302, as last amended by Laws of Utah 2024, Chapter 204)
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- 185 **53-5a-602 , (Renumbered from 76-10-526, as last amended by Laws of Utah 2023, Chapters**
330, 397) , (Renumbered from 76-10-526, as last amended by Laws of Utah 2023, Chapters
330, 397)
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- 187 **53-5a-603 , (Renumbered from 76-10-526.1, as enacted by Laws of Utah 2023, Chapter**
398) , (Renumbered from 76-10-526.1, as enacted by Laws of Utah 2023, Chapter 398)
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- 189 **53-5a-604 , (Renumbered from 76-10-527, as last amended by Laws of Utah 2009, Chapter**
20) , (Renumbered from 76-10-527, as last amended by Laws of Utah 2009, Chapter 20)
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- 191 **53-5a-605 , (Renumbered from 76-10-524, as last amended by Laws of Utah 2004, Chapter**
360) , (Renumbered from 76-10-524, as last amended by Laws of Utah 2004, Chapter 360)
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76-11-101 , (Renumbered from 76-10-501, as last amended by Laws of Utah 2023, Chapters 161, 397 and 425) , (Renumbered from 76-10-501, as last amended by Laws of Utah 2023, Chapters 161, 397 and 425)

195 76-11-102 , (Renumbered from 76-10-502, as last amended by Laws of Utah 1990, Chapter 328) , (Renumbered from 76-10-502, as last amended by Laws of Utah 1990, Chapter 328)

197 76-11-202 , (Renumbered from 76-10-504, as last amended by Laws of Utah 2023, Chapter 34) , (Renumbered from 76-10-504, as last amended by Laws of Utah 2023, Chapter 34)

199 76-11-204 , (Renumbered from 76-10-505, as last amended by Laws of Utah 2021, Chapter 12) , (Renumbered from 76-10-505, as last amended by Laws of Utah 2021, Chapter 12)

201 76-11-205 , (Renumbered from 76-10-505.5, as last amended by Laws of Utah 2024, Chapters 21, 117 and {30+} 301) , (Renumbered from 76-10-505.5, as last amended by Laws of Utah 2024, Chapters 21, 117 and {30+} 301)

203 76-11-207 , (Renumbered from 76-10-506, as last amended by Laws of Utah 2019, Chapters 39, 201) , (Renumbered from 76-10-506, as last amended by Laws of Utah 2019, Chapters 39, 201)

205 76-11-208 , (Renumbered from 76-10-507, as last amended by Laws of Utah 2015, Chapter 406) , (Renumbered from 76-10-507, as last amended by Laws of Utah 2015, Chapter 406)

207 76-11-209 , (Renumbered from 76-10-508, as last amended by Laws of Utah 2023, Chapter 34) , (Renumbered from 76-10-508, as last amended by Laws of Utah 2023, Chapter 34)

209 76-11-210 , (Renumbered from 76-10-508.1, as last amended by Laws of Utah 2023, Chapter 34) , (Renumbered from 76-10-508.1, as last amended by Laws of Utah 2023, Chapter 34)

211 76-11-211 , (Renumbered from 76-10-509.4, as last amended by Laws of Utah 2024, Chapter 301) , (Renumbered from 76-10-509.4, as last amended by Laws of Utah 2024, Chapter 301)

213 76-11-212 , (Renumbered from 76-10-509.5, as last amended by Laws of Utah 2013, Chapter 301) , (Renumbered from 76-10-509.5, as last amended by Laws of Utah 2013, Chapter 301)

215 76-11-213 , (Renumbered from 76-10-509.6, as last amended by Laws of Utah 2000, Chapter 303) , (Renumbered from 76-10-509.6, as last amended by Laws of Utah 2000, Chapter 303)

217 76-11-214 , (Renumbered from 76-10-509.7, as last amended by Laws of Utah 2024, Chapter 301) , (Renumbered from 76-10-509.7, as last amended by Laws of Utah 2024, Chapter 301)

219

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76-11-215 , (Renumbered from 76-10-509.9, as enacted by Laws of Utah 1993, Second Special Session, Chapters 13, 13) , (Renumbered from 76-10-509.9, as enacted by Laws of Utah 1993, Second Special Session, Chapters 13, 13)

221 76-11-217 , (Renumbered from 76-10-528, as last amended by Laws of Utah 2023, Chapters 330, 386) , (Renumbered from 76-10-528, as last amended by Laws of Utah 2023, Chapters 330, 386)

223 76-11-218 , (Renumbered from 76-10-529, as last amended by Laws of Utah 2024, Chapter 332) , (Renumbered from 76-10-529, as last amended by Laws of Utah 2024, Chapter 332)

225 76-11-219 , (Renumbered from 76-10-530, as last amended by Laws of Utah 2009, Chapter 388) , (Renumbered from 76-10-530, as last amended by Laws of Utah 2009, Chapter 388)

227 76-11-309 , (Renumbered from 76-10-503.1, as last amended by Laws of Utah 2023, Chapter 203) , (Renumbered from 76-10-503.1, as last amended by Laws of Utah 2023, Chapter 203)

229 76-11-310 , (Renumbered from 76-10-532, as last amended by Laws of Utah 2023, Chapter 425) , (Renumbered from 76-10-532, as last amended by Laws of Utah 2023, Chapter 425)

231 REPEALS:

232 53-5-701 , as last amended by Laws of Utah 2010, Chapter 62 , as last amended by Laws of Utah 2010, Chapter 62

233 53-5-710 , as last amended by Laws of Utah 2021, Chapter 141 , as last amended by Laws of Utah 2021, Chapter 141

234 53-5b-101 , as enacted by Laws of Utah 2010, Chapter 5 , as enacted by Laws of Utah 2010, Chapter 5

235 76-10-500 , as last amended by Laws of Utah 2022, Chapter 428 , as last amended by Laws of Utah 2022, Chapter 428

236 76-10-503 , as last amended by Laws of Utah 2023, First Special Session, Chapter 2 , as last amended by Laws of Utah 2023, First Special Session, Chapter 2

237 76-10-512 , as last amended by Laws of Utah 2024, Chapter 301 , as last amended by Laws of Utah 2024, Chapter 301

238 76-10-521 , as last amended by Laws of Utah 1993, Chapter 234 , as last amended by Laws of Utah 1993, Chapter 234

239 Utah Code Sections affected by Coordination Clause:

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240 **76-10-503** , as last amended by Laws of Utah 2023, First Special Session, Chapter 2 , as last
241 amended by Laws of Utah 2023, First Special Session, Chapter 2

241

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

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

244

13-74-101. Definitions.

245

(1) "Ammunition" means ammunition or cartridge cases, primers, bullets, or propellant powder designed for use in a firearm.

247

(2) "Customer" means an individual who presents a payment card to a merchant for the purchase of a good or service.

249

(3) "Financial entity" means any person involved in facilitating or processing a payment card transaction, including:

251

(a) a payment card network;

252

(b) a merchant acquirer; or

253

(c) a payment facilitator.

254

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

255

(a) "Firearm accessory or component" means a device specifically adapted to:

256

(i) enable the wearing or carrying about one's person or the storage or mounting in or on any conveyance of a firearm; or

258

(ii) be inserted into or affixed to a firearm to enable, alter, or improve the functioning or capabilities of the firearm.

260

(b) "Firearm accessory or component" includes a telescopic or laser sight, magazine, flash or sound suppressor, folding or aftermarket stock or grip, speedloader, brace, ammunition carrier, or light for target illumination.

263

(6) "Firearms code" means the merchant category code 5723, approved in September 2022 by the International Organization for Standardization, for firearms retailers.

265

(7) "Firearms retailer" means a merchant engaged in the lawful business of selling or trading firearms, firearm accessories or components, or ammunition.

267

(8) "Merchant" means a person physically located in the state who accepts a payment card from a customer for the purchase of a good or service.

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269 (9) "Payment card" means a card, code, or other means by which a person may debit a deposit account
or use a line of credit to purchase a good or service.

271 (10) "Reloading supplies" means any equipment, component, or material designed for the reloading of
ammunition, including reloading presses, shell holders, powder measures, priming tools, reloading
manuals, casings, and gunpowder.

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

275 **23A-4-1106. Suspension of license or permit privileges -- Suspension of certificates of
registration.**

277 (1) As used in this section:

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

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

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

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

284 (i) is convicted of:

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

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

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

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

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

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

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

299 (3)

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

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

302 (ii) the duration of the suspension.

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- 303 (b) The Wildlife Board shall ensure that the guidelines established under Subsection (3)(a) are
consistent with Subsections (4), (5), and (6).
- 305 (4) Except as provided in Subsections (5) and (6), a hearing officer may suspend a person's license or
permit privileges according to Subsection (2) for a period of time not to exceed:
- 308 (a) seven years for:
- 309 (i) a felony conviction;
- 310 (ii) a plea of guilty or no contest to an offense punishable as a felony, which plea is held in abeyance
pursuant to a plea in abeyance agreement; or
- 312 (iii) being charged with an offense punishable as a felony, the prosecution of which is suspended
pursuant to a diversion agreement;
- 314 (b) five years for:
- 315 (i) a class A misdemeanor conviction;
- 316 (ii) a plea of guilty or no contest to an offense punishable as a class A misdemeanor, which plea is held
in abeyance pursuant to a plea in abeyance agreement; or
- 318 (iii) being charged with an offense punishable as a class A misdemeanor, the prosecution of which is
suspended pursuant to a diversion agreement;
- 320 (c) three years for:
- 321 (i) a class B misdemeanor conviction;
- 322 (ii) a plea of guilty or no contest to an offense punishable as a class B misdemeanor when the plea is
held in abeyance according to a plea in abeyance agreement; or
- 324 (iii) being charged with an offense punishable as a class B misdemeanor, the prosecution of which is
suspended pursuant to a diversion agreement; and
- 326 (d) one year for:
- 327 (i) a class C misdemeanor conviction;
- 328 (ii) a plea of guilty or no contest to an offense punishable as a class C misdemeanor, when the plea is
held in abeyance according to a plea in abeyance agreement; or
- 330 (iii) being charged with an offense punishable as a class C misdemeanor, the prosecution of which is
suspended according to a diversion agreement.
- 332 (5) The hearing officer may double a suspension period established in Subsection (4) for offenses:
- 334 (a) committed in violation of an existing suspension or revocation order issued by the courts, division,
or Wildlife Board; or

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- 336 (b) involving the unlawful taking of a trophy animal, as defined in Section 23A-1-101.
337 (6)
- (a) A hearing officer may suspend, according to Subsection (2), a person's license or permit privileges for a particular license or permit only once for each single criminal episode, as defined in Section 76-1-401.
- 340 (b) If a hearing officer addresses two or more single criminal episodes in a hearing, the suspension periods of license or permit privileges of the same type suspended, according to Subsection (2), may run consecutively.
- 343 (c) If a hearing officer suspends, according to Subsection (2), license or permit privileges of the type that have been previously suspended by a court, a hearing officer, or the Wildlife Board and the suspension period has not expired, the suspension periods may run consecutively.
- 347 (7)
- (a) A hearing officer, appointed by the division, may suspend a person's privilege of applying for, purchasing, and exercising the benefits conferred by a certificate of registration if:
- 350 (i) the hearing officer determines the person intentionally, knowingly, or recklessly, as defined in Section 76-2-103, violated:
- 352 (A) this title;
- 353 (B) a rule or order of the Wildlife Board;
- 354 (C) the terms of a certificate of registration; or
- 355 (D) the terms of a certificate of registration application or agreement; or
- 356 (ii) the person, in a court of law:
- 357 (A) is convicted of an offense that the hearing officer determines bears a reasonable relationship to the person's ability to safely and responsibly perform the activities authorized by the certificate of registration;
- 360 (B) pleads guilty or no contest to an offense that the hearing officer determines bears a reasonable relationship to the person's ability to safely and responsibly perform the activities authorized by the certificate of registration, and the plea is held in abeyance in accordance with a plea in abeyance agreement; or
- 364 (C) is charged with an offense that the hearing officer determines bears a reasonable relationship to the person's ability to safely and responsibly perform the activities authorized by the certificate of registration, and prosecution of the offense is suspended in accordance with a diversion agreement.

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- 368 (b) A hearing officer shall suspend a certificate of registration for the harvesting of brine shrimp eggs,
as defined in Section 59-23-3, if the hearing officer determines the holder of the certificate of
registration has violated Section 59-23-5.
- 371 (8)
(a) The director shall appoint a qualified person as a hearing officer to perform the adjudicative
functions provided in this section.
- 373 (b) The director may not appoint a division employee who investigates or enforces wildlife violations.
- 375 (9)
(a) The courts may suspend, in criminal sentencing, a person's privilege to apply for, purchase, or
exercise the benefits conferred by a license, permit, or certificate of registration.
- 378 (b) The courts shall promptly notify the division of suspension orders or recommendations entered.
- 380 (c) The division, upon receiving notification of suspension from the courts, shall prohibit the person
from applying for, purchasing, or exercising the benefits conferred by a license, permit, or
certification of registration for the duration and of the type specified in the court order.
- 384 (d) The hearing officer shall consider a recommendation made by a sentencing court concerning
suspension before issuing a suspension order.
- 386 (10) Before suspension under this section, the division shall give a person:
- 387 (a) written notice of action the division intends to take; and
- 388 (b) an opportunity for a hearing.
- 389 (11)
(a) A person may file an appeal of a hearing officer's decision with the Wildlife Board.
- 391 (b) The Wildlife Board shall review the hearing officer's findings and conclusions and any written
documentation submitted at the hearing.
- 393 (c) The Wildlife Board may:
- 394 (i) take no action;
- 395 (ii) vacate or remand the decision; or
- 396 (iii) amend the period or type of suspension.
- 397 (12) The division shall suspend and reinstate all hunting, fishing, trapping, and falconry privileges
consistent with Chapter 2, Part 5, Wildlife Violator Compact.
- 399 (13) Within 30 days after the day on which an individual's privilege to hunt or fish is suspended under
this title, the division shall report to the Division of Professional Licensing the:

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- 402 (a) identifying information for the individual; and
403 (b) time period of the suspension.
404 (14) The Wildlife Board may make rules to implement this section in accordance with Title 63G,
Chapter 3, Utah Administrative Rulemaking Act.

406 Section 3. Section 26B-1-326 is amended to read:

407 **26B-1-326. Suicide Prevention and Education Fund.**

- 408 (1) There is created an expendable special revenue fund known as the Suicide Prevention and Education
Fund.
410 (2) The fund shall consist of funds transferred from the Concealed Weapons Account in accordance
with [~~Subsection 53-5-707(5)(d)~~] Section 53-5a-307.
412 (3) Money in the fund shall be used for suicide prevention efforts that include a focus on firearm safety
as related to suicide prevention.
414 (4) The Office of Substance Use and Mental Health shall establish a process by rule in accordance with
Title 63G, Chapter 3, Utah Administrative Rulemaking Act, for the expenditure of money from the
fund.

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

418 **26B-2-120. Background check -- Direct access to children or vulnerable adults.**

- 419 (1) As used in this section:
420 (a)
421 (i) "Applicant" means an individual who is associated with a certification, contract, or licensee with the
department under this part and has direct access, including:
423 (A) an adoptive parent or prospective adoptive parent, including an applicant for an adoption in
accordance with Section 78B-6-128;
425 (B) a foster parent or prospective foster parent;
426 (C) an individual who provides respite care to a foster parent or an adoptive parent on more than
one occasion;
428 (D) an individual who transports a child for a youth transportation company;
429 (E) an individual who provides certified peer support, as defined in Section 26B-5-610;
431 (F) an individual who provides peer supports, has a disability or a family member with a disability,
or is in recovery from a mental illness or a substance use disorder;

434

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- (G) an individual who has lived experience with the services provided by the department, and uses that lived experience to provide support, guidance, or services to promote resiliency and recovery;
- 437 (H) an individual who is identified as a mental health professional, licensed under Title 58, Chapter
60, Mental Health Professional Practice Act, and engaged in the practice of mental health
therapy, as defined in Section 58-60-102;
- 440 (I) an individual, other than the child or vulnerable adult receiving the service, who is 12 years old
or older and resides in a home, that is licensed or certified by the division;
- 443 (J) an individual who is 12 years old or older and is associated with a certification, contract, or
licensee with the department under this part and has or will likely have direct access;
- 446 (K) a foster home licensee that submits an application for an annual background screening as
required by Subsection 26B-2-105(4)(d)(iii); or
- 448 (L) a short-term relief care provider.
- 449 (ii) "Applicant" does not include:
- 450 (A) an individual who is in the custody of the Division of Child and Family Services or the Division of
Juvenile Justice and Youth Services;
- 452 (B) an individual who applies for employment with, or is employed by, the Department of Health and
Human Services;
- 454 (C) a parent of a person receiving services from the Division of Services for People with Disabilities, if
the parent provides direct care to and resides with the person, including if the parent provides direct
care to and resides with the person pursuant to a court order; or
- 458 (D) an individual or a department contractor who provides services in an adults only substance use
disorder program, as defined by rule adopted by the Department of Health and Human Services
in accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, and who is not a
program director or a member, as defined by Section 26B-2-105, of the program.
- 463 (b) "Application" means a background check application to the office.
- 464 (c) "Bureau" means the Bureau of Criminal Identification within the Department of Public Safety,
created in Section 53-10-201.
- 466 (d) "Criminal finding" means a record of:
- 467 (i) an arrest for a criminal offense;
- 468 (ii) a warrant for a criminal arrest;

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- 469 (iii) charges for a criminal offense; or
470 (iv) a criminal conviction.
- 471 (e) "Direct access" means that an individual has, or likely will have:
472 (i) contact with or access to a child or vulnerable adult by which the individual will have the
opportunity for personal communication or touch with the child or vulnerable adult; or
475 (ii) an opportunity to view medical, financial, or other confidential personal identifying information of
the child, the child's parent or legal guardian, or the vulnerable adult.
- 478 (f)
(i) "Direct access qualified" means that the applicant has an eligible determination by the office within
the license and renewal time period; and
480 (ii) no more than 180 days have passed since the date on which the applicant's association with a
certification, contract, or licensee with the department expires.
- 482 (g) "Incidental care" means occasional care, not in excess of five hours per week and never overnight,
for a foster child.
- 484 (h) "Licensee" means an individual or a human services program licensed by the division.
- 486 (i) "Non-criminal finding" means a record maintained in:
487 (i) the Division of Child and Family Services' Management Information System described in Section
80-2-1001;
489 (ii) the Division of Child and Family Services' Licensing Information System described in Section
80-2-1002;
- 491 (iii) the Division of Aging and Adult Services' vulnerable adult abuse, neglect, or exploitation database
described in Section 26B-6-210;
493 (iv) juvenile court arrest, adjudication, and disposition records;
- 494 (v) the Sex, Kidnap, and Child Abuse Offender Registry described in Title 77, Chapter 41, Sex, Kidnap,
and Child Abuse Offender Registry, or a national sex offender registry; or
497 (vi) a state child abuse or neglect registry.
- 498 (j) "Office" means the Office of Background Processing within the department.
- 499 (k) "Personal identifying information" means:
500 (i) current name, former names, nicknames, and aliases;
501 (ii) date of birth;
502 (iii) physical address and email address;

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- 503 (iv) telephone number;
- 504 (v) driver license or other government-issued identification;
- 505 (vi) social security number;
- 506 (vii) only for applicants who are 18 years old or older, fingerprints, in a form specified by the office;
and
- 508 (viii) other information specified by the office by rule made in accordance with Title 63G, Chapter 3,
Utah Administrative Rulemaking Act.
- 510 (2) Except as provided in Subsection (12), an applicant or a representative shall submit the following to
the office:
- 512 (a) personal identifying information;
- 513 (b) a fee established by the office under Section 63J-1-504;
- 514 (c) a disclosure form, specified by the office, for consent for:
- 515 (i) an initial background check upon association with a certification, contract, or licensee with the
department;
- 517 (ii) ongoing monitoring of fingerprints and registries until no longer associated with a certification,
contract, or licensee with the department for 180 days;
- 519 (iii) a background check when the office determines that reasonable cause exists; and
- 520 (iv) retention of personal identifying information, including fingerprints, for monitoring and notification
as described in Subsections (3)(c) and (4);
- 522 (d) if an applicant resided outside of the United States and its territories during the five years
immediately preceding the day on which the information described in Subsections (2)(a) through
(c) is submitted to the office, documentation establishing whether the applicant was convicted of a
crime during the time that the applicant resided outside of the United States or its territories; and
- 527 (e) an application showing an applicant's association with a certification, contract, or a licensee with
the department, for the purpose of the office tracking the direct access qualified status of the
applicant, which expires 180 days after the date on which the applicant is no longer associated with
a certification, contract, or a licensee with the department.
- 532 (3) The office:
- 533 (a) shall perform the following duties as part of a background check of an applicant before the office
grants or denies direct access qualified status to an applicant:
- 535 (i) check state and regional criminal background databases for the applicant's criminal history by:

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- 537 (A) submitting personal identifying information to the bureau for a search; or
538 (B) using the applicant's personal identifying information to search state and regional criminal
background databases as authorized under Section 53-10-108;
- 540 (ii) submit the applicant's personal identifying information and fingerprints to the bureau for a criminal
history search of applicable national criminal background databases;
- 543 (iii) search the Division of Child and Family Services' Licensing Information System described in
Section 80-2-1002;
- 545 (iv) search the Sex, Kidnap, and Child Abuse Offender Registry described in Title 77, Chapter 41, Sex,
Kidnap, and Child Abuse Offender Registry, or a national sex offender registry for an applicant 18
years old or older;
- 548 (v) if the applicant is associated with a licensee for a prospective foster or adoptive parent, search the
Division of Child and Family Services' Management Information System described in Section
80-2-1001;
- 551 (vi) search the Division of Aging and Adult Services' vulnerable adult abuse, neglect, or exploitation
database described in Section 26B-6-210;
- 553 (vii) search the juvenile court records for substantiated findings of severe child abuse or neglect
described in Section 80-3-404; and
- 555 (viii) search the juvenile court arrest, adjudication, and disposition records, as provided under Section
78A-6-209;
- 557 (b) may conduct all or portions of a background check in connection with determining whether an
applicant is direct access qualified, as provided by rule, made by the office in accordance with Title
63G, Chapter 3, Utah Administrative Rulemaking Act:
- 560 (i) for an annual renewal; or
561 (ii) when the office determines that reasonable cause exists;
- 562 (c) may submit an applicant's personal identifying information, including fingerprints, to the bureau
for checking, retaining, and monitoring of state and national criminal background databases and for
notifying the office of new criminal activity associated with the applicant;
- 566 (d) shall track the status of an applicant under this section to ensure that the applicant is not required to
duplicate the submission of the applicant's fingerprints if the applicant is associated with more than
one certification, contract, or licensee with the department;

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- (e) shall notify the bureau when a direct access qualified individual has not been associated with a certification, contract, or licensee with the department for a period of 180 days;
- 573 (f) shall adopt measures to strictly limit access to personal identifying information solely to the individuals responsible for processing and entering the applications for background checks and to protect the security of the personal identifying information the office reviews under this Subsection (3);
- 577 (g) as necessary to comply with the federal requirement to check a state's child abuse and neglect registry regarding any applicant working in a congregate care program, shall:
- 580 (i) search the Division of Child and Family Services' Licensing Information System described in Section 80-2-1002; and
- 582 (ii) require the child abuse and neglect registry be checked in each state where an applicant resided at any time during the five years immediately preceding the day on which the application is submitted to the office; and
- 585 (h) shall make rules, in accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, to implement the provisions of this Subsection (3) relating to background checks.
- 588 (4)
- (a) With the personal identifying information the office submits to the bureau under Subsection (3), the bureau shall check against state and regional criminal background databases for the applicant's criminal history.
- 591 (b) With the personal identifying information and fingerprints the office submits to the bureau under Subsection (3), the bureau shall check against national criminal background databases for the applicant's criminal history.
- 594 (c) Upon direction from the office, and with the personal identifying information and fingerprints the office submits to the bureau under Subsection (3)(c), the bureau shall:
- 596 (i) maintain a separate file of the fingerprints for search by future submissions to the local and regional criminal records databases, including latent prints; and
- 598 (ii) monitor state and regional criminal background databases and identify criminal activity associated with the applicant.
- 600 (d) The bureau is authorized to submit the fingerprints to the Federal Bureau of Investigation Next Generation Identification System, to be retained in the Federal Bureau of Investigation Next Generation Identification System for the purpose of:

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- 603 (i) being searched by future submissions to the national criminal records databases, including the
Federal Bureau of Investigation Next Generation Identification System and latent prints; and
- 606 (ii) monitoring national criminal background databases and identifying criminal activity associated with
the applicant.
- 608 (e) The [~~Bureau~~] bureau shall notify and release to the office all information of criminal activity
associated with the applicant.
- 610 (f) Upon notice that an individual who has direct access qualified status will no longer be associated
with a certification, contract, or licensee with the department, the bureau shall:
- 613 (i) discard and destroy any retained fingerprints; and
- 614 (ii) notify the Federal Bureau of Investigation when the license has expired or an individual's direct
access to a child or a vulnerable adult has ceased, so that the Federal Bureau of Investigation
will discard and destroy the retained fingerprints from the Federal Bureau of Investigation Next
Generation Identification System.
- 618 (5)
- (a) Except as provided in Subsection (5)(b), the office shall deny direct access qualified status to an
applicant who, within three years from the date on which the office conducts the background check,
was convicted of:
- 621 (i) a felony or misdemeanor involving conduct that constitutes any of the following:
- 622 (A) an offense identified as domestic violence, lewdness, voyeurism, battery, cruelty to animals, or
bestiality;
- 624 (B) a violation of any pornography law, including sexual exploitation of a minor or aggravated sexual
exploitation of a minor;
- 626 (C) sexual solicitation or prostitution;
- 627 (D) a violent offense committed in the presence of a child, as described in Section 76-3-203.10;
- 629 (E) an offense included in Title 76, Chapter 4, Part 4, Enticement of a Minor;
- 630 (F) an offense included in Title 76, Chapter 5, Offenses Against the Individual;
- 631 (G) an offense included in Title 76, Chapter 5b, Sexual Exploitation Act;
- 632 (H) an offense included in Title 76, Chapter 7, Offenses Against the Family;
- 633 (I) an offense included in Title 76, Chapter 9, Part 4, Offenses Against Privacy;
- 634 (J) an offense included in Title 76, Chapter 10, Part 4, Weapons of Mass Destruction;
- 636 (K) an offense included in Title 78B, Chapter 7, Protective Orders and Stalking Injunctions;

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- 638 (L) aggravated arson, as described in Section 76-6-103;
- 639 (M) aggravated burglary, as described in Section 76-6-203;
- 640 (N) aggravated exploitation of prostitution, as described in Section 76-10-1306;
- 641 (O) aggravated robbery, as described in Section 76-6-302;
- 642 (P) endangering persons in a human services program, as described in Section 26B-2-113;
- 644 (Q) failure to report, as described in Section 80-2-609;
- 645 (R) identity fraud crime, as described in Section 76-6-1102;
- 646 (S) leaving a child unattended in a motor vehicle, as described in Section 76-10-2202;
- 648 (T) riot, as described in Section 76-9-101;
- 649 (U) sexual battery, as described in Section 76-9-702.1; or
- 650 (V) threatening with or using a dangerous weapon in a fight or quarrel, as described in Section
[76-10-506] 76-11-207; or
- 652 (ii) a felony or misdemeanor offense committed outside of the state that, if committed in the state,
would constitute a violation of an offense described in Subsection (5)(a)(i).
- 655 (b)
- (i) Subsection (5)(a) does not apply to an applicant who is seeking a position as a peer support provider
or a mental health professional, if the applicant provides services in a program that serves only
adults with a primary mental health diagnosis, with or without a co-occurring substance use
disorder.
- 659 (ii) The office shall conduct a comprehensive review of an applicant described in Subsection (5)(b)(i) in
accordance with Subsection (7).
- 661 (c) The office shall deny direct access qualified status to an applicant if the office finds that a court
order prohibits the applicant from having direct access to a child or vulnerable adult.
- 664 (6) The office shall conduct a comprehensive review of an applicant's background check if the
applicant:
- 666 (a) has a felony or class A misdemeanor conviction that is more than three years from the date on which
the office conducts the background check, for an offense described in Subsection (5)(a);
- 669 (b) has a felony charge or conviction that is no more than 10 years from the date on which the office
conducts the background check for an offense not described in Subsection (5)(a);
- 672

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- (c) has a felony charge or conviction that is more than 10 years from the date on which the office conducts the background check, for an offense not described in Subsection (5)(a), with criminal or non-criminal findings after the date of the felony charge or conviction;
- 676 (d) has a class B misdemeanor or class C misdemeanor conviction that is more than three years and no more than 10 years from the date on which the office conducts the background check for an offense described in Subsection (5)(a);
- 679 (e) has a class B misdemeanor or class C misdemeanor conviction that is more than 10 years from the date on which the office conducts the background check, for an offense described in Subsection (5)(a), with criminal or non-criminal findings after the date of conviction;
- 683 (f) has a misdemeanor charge or conviction that is no more than three years from the date on which the office conducts the background check for an offense not described in Subsection (5)(a);
- 686 (g) has a misdemeanor charge or conviction that is more than three years from the date on which the office conducts the background check, for an offense not described in Subsection (5)(a), with criminal or non-criminal findings after the date of charge or conviction;
- 690 (h) is currently subject to a plea in abeyance or diversion agreement for an offense described in Subsection (5)(a);
- 692 (i) appears on the Sex, Kidnap, and Child Abuse Offender Registry described in Title 77, Chapter 41, Sex, Kidnap, and Child Abuse Offender Registry, or a national sex offender registry;
- 695 (j) has a record of an adjudication in juvenile court for an act that, if committed by an adult, would be a felony or misdemeanor, if the applicant is:
- 697 (i) under 28 years old; or
- 698 (ii) 28 years old or older and has been convicted of, has pleaded no contest to, or is currently subject to a plea in abeyance or diversion agreement for a felony or a misdemeanor offense described in Subsection (5)(a);
- 701 (k) has a pending charge for an offense described in Subsection (5)(a);
- 702 (l) has a listing that occurred no more than 15 years from the date on which the office conducts the background check in the Division of Child and Family Services' Licensing Information System described in Section 80-2-1002;
- 705 (m) has a listing that occurred more than 15 years from the date on which the office conducts the background check in the Division of Child and Family Services' Licensing Information System described in Section 80-2-1002, with criminal or non-criminal findings after the date of the listing;

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- 709 (n) has a listing that occurred no more than 15 years from the date on which the office conducts the
background check in the Division of Aging and Adult Services' vulnerable adult abuse, neglect, or
exploitation database described in Section 26B-6-210;
- 713 (o) has a listing that occurred more than 15 years from the date on which the office conducts the
background check in the Division of Aging and Adult Services' vulnerable adult abuse, neglect, or
exploitation database described in Section 26B-6-210, with criminal or non-criminal findings after
the date of the listing;
- 717 (p) has a substantiated finding that occurred no more than 15 years from the date on which the
office conducts the background check of severe child abuse or neglect under Section 80-3-404 or
80-3-504[-]; or
- 720 (q) has a substantiated finding that occurred more than 15 years from the date on which the office
conducts the background check of severe child abuse or neglect under Section 80-3-404 or
80-3-504, with criminal or non-criminal findings after the date of the listing.
- 724 (7)
- (a) The comprehensive review shall include an examination of:
- 725 (i) the date of the offense or incident;
- 726 (ii) the nature and seriousness of the offense or incident;
- 727 (iii) the circumstances under which the offense or incident occurred;
- 728 (iv) the age of the perpetrator when the offense or incident occurred;
- 729 (v) whether the offense or incident was an isolated or repeated incident;
- 730 (vi) whether the offense or incident directly relates to abuse of a child or vulnerable adult,
including:
- 732 (A) actual or threatened, nonaccidental physical, mental, or financial harm;
- 733 (B) sexual abuse;
- 734 (C) sexual exploitation; or
- 735 (D) negligent treatment;
- 736 (vii) any evidence provided by the applicant of rehabilitation, counseling, psychiatric treatment
received, or additional academic or vocational schooling completed;
- 738 (viii) the applicant's risk of harm to clientele in the program or in the capacity for which the
applicant is applying; and

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- (ix) if the background check of an applicant is being conducted for the purpose of giving direct access qualified status to an applicant seeking a position in a congregate care program or to become a prospective foster or adoptive parent, any listing in the Division of Child and Family Services' Management Information System described in Section 80-2-1001.
- 745 (b) At the conclusion of the comprehensive review, the office shall deny direct access qualified status to an applicant if the office finds the approval would likely create a risk of harm to a child or vulnerable adult.
- 748 (8) The office shall grant direct access qualified status to an applicant who is not denied under this section.
- 750 (9)
- (a) The office may conditionally grant direct access qualified status to an applicant, for a maximum of 60 days after the day on which the office sends written notice, without requiring that the applicant be directly supervised, if the office:
- 753 (i) is awaiting the results of the criminal history search of national criminal background databases; and
- 755 (ii) would otherwise grant direct access qualified status to the applicant under this section.
- 757 (b) The office may conditionally grant direct access qualified status to an applicant, for a maximum of one year after the day on which the office sends written notice, without requiring that the applicant be directly supervised if the office:
- 760 (i) is awaiting the results of an out-of-state registry for providers other than foster and adoptive parents; and
- 762 (ii) would otherwise grant direct access qualified status to the applicant under this section.
- 764 (c) Upon receiving the results of the criminal history search of a national criminal background database, the office shall grant or deny direct access qualified status to the applicant in accordance with this section.
- 767 (10)
- (a) Each time an applicant is associated with a licensee, the department shall review the current status of the applicant's background check to ensure the applicant is still eligible for direct access qualified status in accordance with this section.
- 770 (b) A licensee may not permit an individual to have direct access to a child or a vulnerable adult without being directly supervised unless:

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- 772 (i) the individual is the parent or guardian of the child, or the guardian of the vulnerable adult;
- 774 (ii) the individual is approved by the parent or guardian of the child, or the guardian of the vulnerable
adult, to have direct access to the child or the vulnerable adult;
- 776 (iii) the individual is only permitted to have direct access to a vulnerable adult who voluntarily invites
the individual to visit; or
- 778 (iv) the individual only provides incidental care for a foster child on behalf of a foster parent who has
used reasonable and prudent judgment to select the individual to provide the incidental care for the
foster child.
- 781 (c) Notwithstanding any other provision of this section, an applicant who is denied direct access
qualified status shall not have direct access to a child or vulnerable adult unless the office grants
direct access qualified status to the applicant through a subsequent application in accordance with
this section.
- 785 (11) If the office denies direct access qualified status to an applicant, the applicant may request a
hearing in the department's Office of Administrative Hearings to challenge the office's decision.
- 788 (12)
- (a) This Subsection (12) applies to an applicant associated with a certification, contract, or licensee
serving adults only.
- 790 (b) A program director or a member, as defined in Section 26B-2-105, of the licensee shall comply with
this section.
- 792 (c) The office shall conduct a comprehensive review for an applicant if:
- 793 (i) the applicant is seeking a position:
- 794 (A) as a peer support provider;
- 795 (B) as a mental health professional; or
- 796 (C) in a program that serves only adults with a primary mental health diagnosis, with or without a co-
occurring substance use disorder; and
- 798 (ii) within three years from the date on which the office conducts the background check, the applicant
has a felony or misdemeanor charge or conviction or a non-criminal finding.
- 801 (13)
- (a) This Subsection (13) applies to an applicant seeking a position in a congregate care program,
an applicant seeking to provide a prospective foster home, an applicant seeking to provide

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a prospective adoptive home, and each adult living in the home of the prospective foster or prospective adoptive home.

- 805 (b) As federally required, the office shall:
- 806 (i) check the child abuse and neglect registry in each state where each applicant resided in the five years immediately preceding the day on which the applicant applied to be a foster or adoptive parent, to determine whether the prospective foster or adoptive parent is listed in the registry as having a substantiated or supported finding of child abuse or neglect; and
- 811 (ii) except for applicants seeking a position in a congregate care program, check the child abuse and neglect registry in each state where each adult living in the home of the prospective foster or adoptive home resided in the five years immediately preceding the day on which the applicant applied to be a foster or adoptive parent, to determine whether the adult is listed in the registry as having a substantiated or supported finding of child abuse or neglect.
- 817 (c) The requirements described in Subsection (13)(b) do not apply to the extent that:
- 818 (i) federal law or rule permits otherwise; or
- 819 (ii) the requirements would prohibit the Division of Child and Family Services or a court from placing a child with:
- 821 (A) a noncustodial parent under Section 80-2a-301, 80-3-302, or 80-3-303; or
- 822 (B) a relative, other than a noncustodial parent, under Section 80-2a-301, 80-3-302, or 80-3-303, pending completion of the background check described in Subsections (5), (6), and (7).
- 825 (d) Notwithstanding Subsections (5) through (10), the office shall deny direct access qualified status if the applicant has been convicted of:
- 827 (i) a felony involving conduct that constitutes any of the following:
- 828 (A) child abuse, as described in Sections 76-5-109, 76-5-109.2, and 76-5-109.3;
- 829 (B) commission of domestic violence in the presence of a child, as described in Section 76-5-114;
- 831 (C) abuse or neglect of a child with a disability, as described in Section 76-5-110;
- 832 (D) intentional aggravated abuse of a vulnerable adult, as described in Section 76-5-111;
- 834 (E) endangerment of a child or vulnerable adult, as described in Section 76-5-112.5;
- 836 (F) aggravated murder, as described in Section 76-5-202;
- 837 (G) murder, as described in Section 76-5-203;
- 838 (H) manslaughter, as described in Section 76-5-205;
- 839 (I) child abuse homicide, as described in Section 76-5-208;

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- 840 (J) homicide by assault, as described in Section 76-5-209;
- 841 (K) kidnapping, as described in Section 76-5-301;
- 842 (L) child kidnapping, as described in Section 76-5-301.1;
- 843 (M) aggravated kidnapping, as described in Section 76-5-302;
- 844 (N) human trafficking of a child, as described in Section 76-5-308.5;
- 845 (O) an offense described in Title 76, Chapter 5, Part 4, Sexual Offenses;
- 846 (P) sexual exploitation of a minor, as described in Title 76, Chapter 5b, Sexual Exploitation Act;
- 848 (Q) aggravated exploitation of a minor, as described in Section 76-5b-201.1;
- 849 (R) aggravated arson, as described in Section 76-6-103;
- 850 (S) aggravated burglary, as described in Section 76-6-203;
- 851 (T) aggravated robbery, as described in Section 76-6-302;
- 852 (U) lewdness involving a child, as described in Section 76-9-702.5;
- 853 (V) incest, as described in Section 76-7-102; or
- 854 (W) domestic violence, as described in Section 77-36-1; or
- 855 (ii) an offense committed outside the state that, if committed in the state, would constitute a violation of an offense described in Subsection (13)(d)(i).
- 857 (e) Notwithstanding Subsections (5) through (10), the office shall deny direct access qualified status to an applicant if, within the five years from the date on which the office conducts the background check, the applicant was convicted of a felony involving conduct that constitutes a violation of any of the following:
- 861 (i) aggravated assault, as described in Section 76-5-103;
- 862 (ii) aggravated assault by a prisoner, as described in Section 76-5-103.5;
- 863 (iii) mayhem, as described in Section 76-5-105;
- 864 (iv) an offense described in Title 58, Chapter 37, Utah Controlled Substances Act;
- 865 (v) an offense described in Title 58, Chapter 37a, Utah Drug Paraphernalia Act;
- 866 (vi) an offense described in Title 58, Chapter 37b, Imitation Controlled Substances Act;
- 868 (vii) an offense described in Title 58, Chapter 37c, Utah Controlled Substance Precursor Act; or
- 870 (viii) an offense described in Title 58, Chapter 37d, Clandestine Drug Lab Act.
- 871 (f) In addition to the circumstances described in Subsection (6), the office shall conduct a comprehensive review of an applicant's background check under this section if the applicant:
- 874 (i) has an offense described in Subsection (5)(a);

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- 875 (ii) has an infraction conviction entered on a date that is no more than three years before the date on
which the office conducts the background check;
- 877 (iii) has a listing in the Division of Child and Family Services' Licensing Information System described
in Section 80-2-1002;
- 879 (iv) has a listing in the Division of Aging and Adult Services' vulnerable adult, neglect, or exploitation
database described in Section 26B-2-210;
- 881 (v) has a substantiated finding of severe child abuse or neglect under Section 80-3-404 or 80-3-504; or
- 883 (vi) has a listing on the registry check described in Subsection (13)(b) as having a substantiated or
supported finding of a severe type of child abuse or neglect, as defined in Section 80-1-102.
- 886 (14) In accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, the office may
make rules, consistent with this part, to:
- 888 (a) establish procedures for, and information to be examined in, the comprehensive review described in
Subsections (6), (7), and (13); and
- 890 (b) determine whether to consider an offense or incident that occurred while an individual was in the
custody of the Division of Child and Family Services or the Division of Juvenile Justice and Youth
Services for purposes of granting or denying direct access qualified status to an applicant.

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

895 **26B-5-102. Division of Integrated Healthcare -- Office of Substance Use and Mental Health**
-- Creation -- Responsibilities.

- 897 (1)
- (a) The Division of Integrated Healthcare shall exercise responsibility over the policymaking functions,
regulatory and enforcement powers, rights, duties, and responsibilities outlined in state law
that were previously vested in the Division of Substance Abuse and Mental Health within the
department, under the administration and general supervision of the executive director.
- 902 (b) The division is the substance abuse authority and the mental health authority for this state.
- 904 (c) There is created the Office of Substance Use and Mental Health within the division.
- 905 (d) The office shall exercise the responsibilities, powers, rights, duties, and responsibilities assigned to
the office by the executive director.
- 907 (2) The division shall:
- 908 (a)

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- 910 (i) educate the general public regarding the nature and consequences of substance use by promoting school and community-based prevention programs;
- 912 (ii) render support and assistance to public schools through approved school-based substance abuse education programs aimed at prevention of substance use;
- 914 (iii) promote or establish programs for the prevention of substance use within the community setting through community-based prevention programs;
- 918 (iv) cooperate with and assist treatment centers, recovery residences, and other organizations that provide services to individuals recovering from a substance use disorder, by identifying and disseminating information about effective practices and programs;
- 920 (v) promote integrated programs that address an individual's substance use, mental health, and physical health;
- 923 (vi) establish and promote an evidence-based continuum of screening, assessment, prevention, treatment, and recovery support services in the community for individuals with a substance use disorder or mental illness;
- 924 (vii) evaluate the effectiveness of programs described in this Subsection (2);
- 925 (viii) consider the impact of the programs described in this Subsection (2) on:
- 926 (A) emergency department utilization;
- 927 (B) jail and prison populations;
- 928 (C) the homeless population; and
- 929 (D) the child welfare system; and
- 932 (ix) promote or establish programs for education and certification of instructors to educate individuals convicted of driving under the influence of alcohol or drugs or driving with any measurable controlled substance in the body;
- 933 (b)
- 936 (i) collect and disseminate information pertaining to mental health;
- 940 (ii) provide direction over the state hospital including approval of the state hospital's budget, administrative policy, and coordination of services with local service plans;
- (iii) make rules in accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, to educate families concerning mental illness and promote family involvement, when appropriate, and with patient consent, in the treatment program of a family member;

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- (iv) make rules in accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, to direct that an individual receiving services through a local mental health authority or the Utah State Hospital be informed about and, if desired by the individual, provided assistance in the completion of a declaration for mental health treatment in accordance with Section 26B-5-313; and
- 945 (v) to the extent authorized and in accordance with statute, make rules in accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, that:
- 947 (A) create a certification for targeted case management;
- 948 (B) establish training and certification requirements;
- 949 (C) specify the types of services each certificate holder is qualified to provide;
- 950 (D) specify the type of supervision under which a certificate holder is required to operate; and
- 952 (E) specify continuing education and other requirements for maintaining or renewing certification;
- 954 (c)
- (i) consult and coordinate with local substance abuse authorities and local mental health authorities regarding programs and services;
- 956 (ii) provide consultation and other assistance to public and private agencies and groups working on substance use and mental health issues;
- 958 (iii) promote and establish cooperative relationships with courts, hospitals, clinics, medical and social agencies, public health authorities, law enforcement agencies, education and research organizations, and other related groups;
- 961 (iv) promote or conduct research on substance use and mental health issues, and submit to the governor and the Legislature recommendations for changes in policy and legislation;
- 964 (v) receive, distribute, and provide direction over public funds for substance use and mental health services;
- 966 (vi) monitor and evaluate programs provided by local substance abuse authorities and local mental health authorities;
- 968 (vii) examine expenditures of local, state, and federal funds;
- 969 (viii) monitor the expenditure of public funds by:
- 970 (A) local substance abuse authorities;
- 971 (B) local mental health authorities; and
- 972

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- (C) in counties where they exist, a private contract provider that has an annual or otherwise ongoing contract to provide comprehensive substance abuse or mental health programs or services for the local substance abuse authority or local mental health authority;
- 976 (ix) contract with local substance abuse authorities and local mental health authorities to provide a comprehensive continuum of services that include community-based services for individuals involved in the criminal justice system, in accordance with division policy, contract provisions, and the local plan;
- 980 (x) contract with private and public entities for special statewide or nonclinical services, or services for individuals involved in the criminal justice system, according to division rules;
- 983 (xi) review and approve each local substance abuse authority's plan and each local mental health authority's plan in order to ensure:
- 985 (A) a statewide comprehensive continuum of substance use services;
- 986 (B) a statewide comprehensive continuum of mental health services;
- 987 (C) services result in improved overall health and functioning;
- 988 (D) a statewide comprehensive continuum of community-based services designed to reduce criminal risk factors for individuals who are determined to have substance use or mental illness conditions or both, and who are involved in the criminal justice system;
- 992 (E) compliance, where appropriate, with the certification requirements in Subsection (2)(h); and
- 994 (F) appropriate expenditure of public funds;
- 995 (xii) review and make recommendations regarding each local substance abuse authority's contract with the local substance abuse authority's provider of substance use programs and services and each local mental health authority's contract with the local mental health authority's provider of mental health programs and services to ensure compliance with state and federal law and policy;
- 1000 (xiii) monitor and ensure compliance with division rules and contract requirements; and
- 1002 (xiv) withhold funds from local substance abuse authorities, local mental health authorities, and public and private providers for contract noncompliance, failure to comply with division directives regarding the use of public funds, or for misuse of public funds or money;
- 1006 (d) ensure that the requirements of this part are met and applied uniformly by local substance abuse authorities and local mental health authorities across the state;
- 1008

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- (e) require each local substance abuse authority and each local mental health authority, in accordance with Subsections 17-43-201(5)(b) and 17-43-301(6)(a)(ii), to submit a plan to the division on or before May 15 of each year;
- 1011 (f) conduct an annual program audit and review of each local substance abuse authority and each local substance abuse authority's contract provider, and each local mental health authority and each local mental health authority's contract provider, including:
 - 1014 (i) a review and determination regarding whether:
 - 1015 (A) public funds allocated to the local substance abuse authority or the local mental health authorities are consistent with services rendered by the authority or the authority's contract provider, and with outcomes reported by the authority's contract provider; and
 - 1019 (B) each local substance abuse authority and each local mental health authority is exercising sufficient oversight and control over public funds allocated for substance use disorder and mental health programs and services; and
 - 1022 (ii) items determined by the division to be necessary and appropriate;
- 1023 (g) define "prevention" by rule as required under Title 32B, Chapter 2, Part 4, Alcoholic Beverage and Substance Abuse Enforcement and Treatment Restricted Account Act;
- 1025 (h)
 - (i) train and certify an adult as a peer support specialist, qualified to provide peer supports services to an individual with:
 - 1027 (A) a substance use disorder;
 - 1028 (B) a mental health disorder; or
 - 1029 (C) a substance use disorder and a mental health disorder;
 - 1030 (ii) certify a person to carry out, as needed, the division's duty to train and certify an adult as a peer support specialist;
 - 1032 (iii) make rules in accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, that:
 - 1034 (A) establish training and certification requirements for a peer support specialist;
 - 1035 (B) specify the types of services a peer support specialist is qualified to provide;
 - 1036 (C) specify the type of supervision under which a peer support specialist is required to operate; and
 - 1038 (D) specify continuing education and other requirements for maintaining or renewing certification as a peer support specialist; and
 - 1040 (iv) make rules in accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, that:

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- 1042 (A) establish the requirements for a person to be certified to carry out, as needed, the division's duty to
train and certify an adult as a peer support specialist; and
- 1044 (B) specify how the division shall provide oversight of a person certified to train and certify a peer
support specialist;
- 1046 (i) collaborate with the State Commission on Criminal and Juvenile Justice to analyze and provide
recommendations to the Legislature regarding:
- 1048 (i) pretrial services and the resources needed to reduce recidivism;
- 1049 (ii) county jail and county behavioral health early-assessment resources needed for an individual
convicted of a class A or class B misdemeanor; and
- 1051 (iii) the replacement of federal dollars associated with drug interdiction law enforcement task forces
that are reduced;
- 1053 (j) establish performance goals and outcome measurements for a mental health or substance use
treatment program that is licensed under Chapter 2, Part 1, Human Services Programs and Facilities,
and contracts with the department, including goals and measurements related to employment and
reducing recidivism of individuals receiving mental health or substance use treatment who are
involved with the criminal justice system;
- 1059 (k) annually, on or before November 30, submit a written report to the Judiciary Interim Committee,
the Health and Human Services Interim Committee, and the Law Enforcement and Criminal Justice
Interim Committee, that includes:
- 1062 (i) a description of the performance goals and outcome measurements described in Subsection (2)(j);
and
- 1064 (ii) information on the effectiveness of the goals and measurements in ensuring appropriate and
adequate mental health or substance use treatment is provided in a treatment program described in
Subsection (2)(j);
- 1067 (l) collaborate with the Administrative Office of the Courts, the Department of Corrections, the
Department of Workforce Services, and the Board of Pardons and Parole to collect data on
recidivism in accordance with the metrics and requirements described in Section 63M-7-102;
- 1071 (m) at the division's discretion, use the data described in Subsection (2)(l) to make decisions regarding
the use of funds allocated to the division to provide treatment;
- 1073

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- (n) annually, on or before August 31, submit the data collected under Subsection (2)(l) and any recommendations to improve the data collection to the State Commission on Criminal and Juvenile Justice to be included in the report described in Subsection 63M-7-204(1)(x);
- 1077 (o) publish the following on the division's website:
- 1078 (i) the performance goals and outcome measurements described in Subsection (2)(j); and
- 1080 (ii) a description of the services provided and the contact information for the mental health and substance use treatment programs described in Subsection (2)(j) and residential, vocational and life skills programs, as defined in Section 13-53-102; and
- 1084 (p) consult and coordinate with the Division of Child and Family Services to develop and manage the operation of a program designed to reduce substance use during pregnancy and by parents of a newborn child that includes:
- 1087 (i) providing education and resources to health care providers and individuals in the state regarding prevention of substance use during pregnancy;
- 1089 (ii) providing training to health care providers in the state regarding screening of a pregnant woman or pregnant minor to identify a substance use disorder; and
- 1091 (iii) providing referrals to pregnant women, pregnant minors, or parents of a newborn child in need of substance use treatment services to a facility that has the capacity to provide the treatment services.
- 1094 (3) In addition to the responsibilities described in Subsection (2), the division shall, within funds appropriated by the Legislature for this purpose, implement and manage the operation of a firearm safety and suicide prevention program, in consultation with the Bureau of Criminal Identification created in Section 53-10-201, including:
- 1098 (a) coordinating with local mental health and substance abuse authorities, a nonprofit behavioral health advocacy group, and a representative from a Utah-based nonprofit organization with expertise in the field of firearm use and safety that represents firearm owners, to:
- 1102 (i) produce and periodically review and update a firearm safety brochure and other educational materials with information about the safe handling and use of firearms that includes:
- 1105 (A) information on safe handling, storage, and use of firearms in a home environment;
- 1107 (B) information about at-risk individuals and individuals who are legally prohibited from possessing firearms;
- 1109 (C) information about suicide prevention awareness; and
- 1110 (D) information about the availability of firearm safety packets;

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- 1111 (ii) procure cable-style gun locks for distribution under this section;
- 1112 (iii) produce a firearm safety packet that includes the firearm safety brochure and the cable-style gun
lock described in this Subsection (3); and
- 1114 (iv) create a suicide prevention education course that:
- 1115 (A) provides information for distribution regarding firearm safety education;
- 1116 (B) incorporates current information on how to recognize suicidal behaviors and identify individuals
who may be suicidal; and
- 1118 (C) provides information regarding crisis intervention resources;
- 1119 (b) distributing, free of charge, the firearm safety packet to the following persons, who shall make the
firearm safety packet available free of charge:
- 1121 (i) health care providers, including emergency rooms;
- 1122 (ii) mobile crisis outreach teams;
- 1123 (iii) mental health practitioners;
- 1124 (iv) other public health suicide prevention organizations;
- 1125 (v) entities that teach firearm safety courses;
- 1126 (vi) school districts for use in the seminar, described in Section 53G-9-702, for parents of students in
the school district; and
- 1128 (vii) firearm dealers to be distributed in accordance with Section ~~[76-10-526]~~ 53-5a-602;
- 1130 (c) creating and administering a rebate program that includes a rebate that offers between \$10 and \$200
off the purchase price of a firearm safe from a participating firearms dealer or a person engaged in
the business of selling firearm safes in Utah, by a Utah resident; and
- 1134 (d) in accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, making rules that
establish procedures for:
- 1136 (i) producing and distributing the suicide prevention education course and the firearm safety brochures
and packets;
- 1138 (ii) procuring the cable-style gun locks for distribution; and
- 1139 (iii) administering the rebate program.
- 1140 (4)
- (a) The division may refuse to contract with and may pursue legal remedies against any local substance
abuse authority or local mental health authority that fails, or has failed, to expend public funds in

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accordance with state law, division policy, contract provisions, or directives issued in accordance with state law.

- 1144 (b) The division may withhold funds from a local substance abuse authority or local mental health authority if the authority's contract provider of substance use or mental health programs or services fails to comply with state and federal law or policy.
- 1147 (5)
- (a) Before reissuing or renewing a contract with any local substance abuse authority or local mental health authority, the division shall review and determine whether the local substance abuse authority or local mental health authority is complying with the oversight and management responsibilities described in Sections 17-43-201, 17-43-203, 17-43-303, and 17-43-309.
- 1152 (b) Nothing in this Subsection (5) may be used as a defense to the responsibility and liability described in Section 17-43-303 and to the responsibility and liability described in Section 17-43-203.
- 1155 (6) In carrying out the division's duties and responsibilities, the division may not duplicate treatment or educational facilities that exist in other divisions or departments of the state, but shall work in conjunction with those divisions and departments in rendering the treatment or educational services that those divisions and departments are competent and able to provide.
- 1160 (7) The division may accept in the name of and on behalf of the state donations, gifts, devises, or bequests of real or personal property or services to be used as specified by the donor.
- 1163 (8) The division shall annually review with each local substance abuse authority and each local mental health authority the authority's statutory and contract responsibilities regarding:
- 1166 (a) use of public funds;
- 1167 (b) oversight of public funds; and
- 1168 (c) governance of substance use disorder and mental health programs and services.
- 1169 (9) The Legislature may refuse to appropriate funds to the division upon the division's failure to comply with the provisions of this part.
- 1171 (10) If a local substance abuse authority contacts the division under Subsection 17-43-201(10) for assistance in providing treatment services to a pregnant woman or pregnant minor, the division shall:
- 1174 (a) refer the pregnant woman or pregnant minor to a treatment facility that has the capacity to provide the treatment services; or

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

1178 (11) The division shall employ a school-based mental health specialist to be housed at the State Board
of Education who shall work with the State Board of Education to:

1180 (a) provide coordination between a local education agency and local mental health authority;

1182 (b) recommend evidence-based and evidence informed mental health screenings and intervention
assessments for a local education agency; and

1184 (c) coordinate with the local community, including local departments of health, to enhance and expand
mental health related resources for a local education agency.

1186 Section 6. Section 31A-21-501 is amended to read:

1187 **31A-21-501. Definitions.**

For purposes of this part:

1189 (1) "Applicant" means:

1190 (a) in the case of an individual life or accident and health policy, the person who seeks to contract for
insurance benefits; or

1192 (b) in the case of a group life or accident and health policy, the proposed certificate holder.

1194 (2) "Cohabitant" means an emancipated individual pursuant to Section 15-2-1 or an individual who is
16 years old or older who:

1196 (a) is or was a spouse of the other party;

1197 (b) is or was living as if a spouse of the other party;

1198 (c) is related by blood or marriage to the other party;

1199 (d) has one or more children in common with the other party; or

1200 (e) resides or has resided in the same residence as the other party.

1201 (3) "Child abuse" means the commission or attempt to commit against a child a criminal offense
described in:

1203 (a) Title 76, Chapter 5, Part 1, Assault and Related Offenses;

1204 (b) Title 76, Chapter 5, Part 4, Sexual Offenses;

1205 (c) Section 76-9-702, Lewdness;

1206 (d) Section 76-9-702.1, Sexual battery; or

1207 (e) Section 76-9-702.5, Lewdness involving a child.

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(4) "Domestic violence" means any criminal offense involving violence or physical harm or threat of violence or physical harm, or any attempt, conspiracy, or solicitation to commit a criminal offense involving violence or physical harm, when committed by one cohabitant against another and includes commission or attempt to commit, any of the following offenses by one cohabitant against another:

- 1213 (a) aggravated assault, as described in Section 76-5-103;
1214 (b) assault, as described in Section 76-5-102;
1215 (c) criminal homicide, as described in Section 76-5-201;
1216 (d) harassment, as described in Section 76-5-106;
1217 (e) electronic communication harassment, as described in Section 76-9-201;
1218 (f) kidnapping, child kidnapping, or aggravated kidnapping, as described in Sections 76-5-301, 76-5-301.1, and 76-5-302;
1220 (g) mayhem, as described in Section 76-5-105;
1221 (h) sexual offenses, as described in Title 76, Chapter 5, Part 4, Sexual Offenses, and Sections 76-5b-201 and 76-5b-201.1;
1223 (i) stalking, as described in Section 76-5-106.5;
1224 (j) unlawful detention or unlawful detention of a minor, as described in Section 76-5-304;
1225 (k) violation of a protective order or ex parte protective order, as described in Section 76-5-108;
1227 (l) any offense against property described in Title 76, Chapter 6, Part 1, Property Destruction, Part 2, Burglary and Criminal Trespass, or Part 3, Robbery;
1229 (m) possession of a ~~[deadly]~~ dangerous weapon with ~~[intent to assault]~~ criminal intent, as described in Section ~~[76-10-507]~~ 76-11-208; or
1231 (n) discharge of a firearm from a vehicle, near a highway, or in the direction of any ~~[person]~~ individual, building, or vehicle, as described in Section ~~[76-10-508]~~ 76-11-209.
1233 (5) "Subject of domestic abuse" means an individual who is, has been, may currently be, or may have been subject to domestic violence or child abuse.

1235 Section 7. Section 34-45-102 is amended to read:

1236 **34-45-102. Definitions.**

As used in this chapter:

- 1238 (1) "Firearm" has the same meaning as provided in Section ~~[76-10-501]~~ 76-11-101.
1239 (2) "Motor vehicle" has the same meaning as provided in Section 41-1a-102.

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- 1240 (3) "Person" means an individual, property owner, landlord, tenant, employer, business entity, or other
1242 legal entity.
Section 8. Section 34-45-107 is amended to read:
1243 **34-45-107. Exemptions -- Limitations on chapter -- School premises -- Government entities --
Religious organizations -- Single family detached residential units.**
1245 (1)
(a) School premises, as defined in Subsection 76-3-203.2(1), are exempt from the provisions of this
chapter.
1247 (b) [~~Possession of a firearm on or about school premises~~] Carrying a dangerous weapon
at an elementary school or secondary school is subject to the provisions of Section
[~~76-10-505.5~~] 76-11-205.
1250 (2) Government entities, including a local authority or state entity, are subject to the requirements of
[~~Title 53, Chapter 5a, Firearm Laws~~] Title 53, Chapter 5a, Firearms Laws, but are otherwise exempt
from the provisions of this chapter.
1253 (3) Religious organizations, including religious organizations acting as an employer, are exempt from,
and are not subject to the provisions of this chapter.
1255 (4) Owner-occupied single family detached residential units and tenant-occupied single family detached
residential units are exempt from the provisions of this chapter.
1257 (5) A person who is subject to federal law that specifically forbids the presence of a firearm on property
designated for motor vehicle parking, or a person who is subject to Section 550 of the United States
Department of Homeland Security Appropriations Act of 2007, Pub. L. No. 109-295 or regulations
enacted in accordance with that section, is exempt from Section 34-45-103 if:
1262 (a) providing alternative parking or a storage location under Subsection 34-45-103(2)(a) would pose an
undue burden on the person; and
1264 (b) the person files a statement with the attorney general citing the federal law that forbids the presence
of a firearm and detailing the reasons why providing alternative parking or a storage location poses
an undue burden.
1267 (6) A person who is subject to Section 550 of the United States Department of Homeland Security
Appropriations Act of 2007, Pub. L. No. 109-295 or regulations enacted in accordance with that
section is exempt from this chapter if:

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- 1272 (a) the person has attempted to provide alternative parking or a storage location in accordance with Subsection 34-45-103(2)(a);
- 1277 (b) the secretary of the federal Department of Homeland Security notifies the person that the provision of alternative parking or a storage location causes the person to be out of compliance with Section 550 of the United States Department of Homeland Security Appropriations Act of 2007, Pub. L. No. 109-295 or regulations enacted in accordance with that section and the person may be subject to punitive measures; and
- 1277 (c) the person files a detailed statement with the attorney general notifying the attorney general of the facts under Subsections (6)(a) and (b).

1279 Section 9. Section 36-29-111 is amended to read:

1280 **36-29-111. Public Safety Data Management Task Force.**

- 1281 (1) As used in this section:
- 1282 (a) "Cohabitant abuse protective order" means an order issued with or without notice to the respondent in accordance with Title 78B, Chapter 7, Part 6, Cohabitant Abuse Protective Orders.
- 1285 (b) "Lethality assessment" means an evidence-based assessment that is intended to identify a victim of domestic violence who is at a high risk of being killed by the perpetrator.
- 1288 (c) "Task force" means the Public Safety Data Management Task Force created in this section.
- 1290 (d) "Victim" means an individual who is a victim of domestic violence, as defined in Section 77-36-1.
- 1292 (2) There is created the Public Safety Data Management Task Force consisting of the following members:
- 1294 (a) three members of the Senate appointed by the president of the Senate, no more than two of whom may be from the same political party;
- 1296 (b) three members of the House of Representatives appointed by the speaker of the House of Representatives, no more than two of whom may be from the same political party; and
- 1299 (c) representatives from the following organizations as requested by the executive director of the State Commission on Criminal and Juvenile Justice:
- 1301 (i) the State Commission on Criminal and Juvenile Justice;
- 1302 (ii) the Judicial Council;
- 1303 (iii) the Statewide Association of Prosecutors;
- 1304 (iv) the Department of Corrections;
- 1305 (v) the Department of Public Safety;

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- 1306 (vi) the Utah Association of Counties;
- 1307 (vii) the Utah Chiefs of Police Association;
- 1308 (viii) the Utah Sheriffs Association;
- 1309 (ix) the Board of Pardons and Parole;
- 1310 (x) the Department of Health and Human Services;
- 1311 (xi) the Utah Division of Indian Affairs; and
- 1312 (xii) any other organizations or groups as recommended by the executive director of the Commission on
Criminal and Juvenile Justice.
- 1314 (3)
- (a) The president of the Senate shall designate a member of the Senate appointed under Subsection (2)
(a) as a cochair of the task force.
- 1316 (b) The speaker of the House of Representatives shall designate a member of the House of
Representatives appointed under Subsection (2)(b) as a cochair of the task force.
- 1318 (4)
- (a) A majority of the members of the task force present at a meeting constitutes a quorum.
- 1320 (b) The action of a majority of a quorum constitutes an action of the task force.
- 1321 (5)
- (a) Salaries and expenses of the members of the task force who are legislators shall be paid in
accordance with Section 36-2-2 and Legislative Joint Rules, Title 5, Chapter 3, Legislator
Compensation.
- 1324 (b) A member of the task force who is not a legislator:
- 1325 (i) may not receive compensation for the member's work associated with the task force; and
- 1327 (ii) may receive per diem and reimbursement for travel expenses incurred as a member of the task force
at the rates established by the Division of Finance under Sections 63A-3-106 and 63A-3-107.
- 1330 (6) The State Commission on Criminal and Juvenile Justice shall provide staff support to the task force.
- 1332 (7) The task force shall review the state's current criminal justice data collection requirements and make
recommendations regarding:
- 1334 (a) possible ways to connect the various records systems used throughout the state so that data can be
shared between criminal justice agencies and with policymakers;
- 1336 (b) ways to automate the collection, storage, and dissemination of the data;
- 1337 (c) standardizing the format of data collection and retention;

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- 1338 (d) the collection of domestic violence data in the state; and
- 1339 (e) the collection of data not already required related to criminal justice.
- 1340 (8) On or before November 30 of each year, the task force shall provide a report to the Law
Enforcement and Criminal Justice Interim Committee and the Legislative Management Committee
that includes:
- 1343 (a) recommendations in accordance with Subsection (7)(a);
- 1344 (b) information on:
- 1345 (i) lethality assessments conducted in the state, including:
- 1346 (A) the type of lethality assessments used by law enforcement agencies and other organizations that
provide domestic violence services; and
- 1348 (B) training and protocols implemented by law enforcement agencies and the organizations described in
Subsection (8)(b)(i)(A) regarding the use of lethality assessments;
- 1351 (ii) the data collection efforts implemented by law enforcement agencies and the organizations
described in Subsection (8)(b)(i)(A);
- 1353 (iii) the number of cohabitant abuse protective orders that, in the immediately preceding calendar year,
were:
- 1355 (A) issued;
- 1356 (B) amended or dismissed before the date of expiration; or
- 1357 (C) dismissed under Section 78B-7-605; and
- 1358 (iv) the prevalence of domestic violence in the state and the prevalence of the following in domestic
violence cases:
- 1360 (A) stalking;
- 1361 (B) strangulation;
- 1362 (C) violence in the presence of a child; and
- 1363 (D) threats of suicide or homicide;
- 1364 (c) a review of and feedback on:
- 1365 (i) lethality assessment training and protocols implemented by law enforcement agencies and the
organizations described in Subsection (8)(b)(i)(A); and
- 1367 (ii) the collection of domestic violence data in the state, including:
- 1368

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(A) the coordination between state, local, and not-for-profit agencies to collect data from lethality assessments and on the prevalence of domestic violence, including the number of voluntary commitments of firearms under Section [~~53-5e-201~~] 53-5a-502;

1372 (B) efforts to standardize the format for collecting domestic violence and lethality assessment data from state, local, and not-for-profit agencies within federal confidentiality requirements; and

1375 (C) the need for any additional data collection requirements or efforts; and

1376 (d) any proposed legislation.

1377 Section 10. Section 47-3-305 is amended to read:

1378 **47-3-305. Exceptions and prohibitions.**

1379 (1) This part does not apply to:

1380 (a) shooting ranges that are otherwise open to the public;

1381 (b) shooting ranges that are operated as a public shooting range staffed by and operated by Division of Wildlife Resources;

1383 (c) the Utah National Guard ranges located at Camp Williams and the Salt Lake International Airport;

1385 (d) Department of Corrections ranges; and

1386 (e) ranges owned, operated, or currently leased as of March 26, 2013, by a state or local public safety agency.

1388 (2) Firearms may not be allowed in a school building, except under the provision of Section [~~76-10-505.5~~] 76-11-205 or 76-11-205.5, unless there is an outdoor entrance to the shooting range and the most direct access to the range is used. An outdoor entrance to a shooting range may not be blocked by fences, structures, or gates for the purpose of blocking the outdoor entrance.

1393 (3) Only air guns may be used in public ranges where the ventilation systems do not meet current OSHA standards as applied to the duration of exposure of the participants. For the purposes of this part, an air gun does not include larger caliber pneumatic weapons, paintball guns, or air shotguns.

1397 (4) Group range use is a lawful, approved activity under Subsection [~~76-10-505.5(4)(a)~~] 76-11-205(4)(f) or 76-11-205.5(4)(g).

1399 Section 11. Section 53-1-104 is amended to read:

1400 **53-1-104. Boards, bureaus, councils, divisions, and offices.**

1401 (1) The following are the policymaking boards and committees within the department:

1402 (a) the Trauma System and Emergency Medical Services Committee created in Section 53-2d-104;

1404 (b) the Air Ambulance Committee created in Section 53-2d-107;

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- 1405 (c) the Driver License Medical Advisory Board, created in Section 53-3-303;
- 1406 (d) the Concealed Firearm Review Board, created in Section [53-5-703] 53-5a-302;
- 1407 (e) the Utah Fire Prevention Board, created in Section 53-7-203;
- 1408 (f) the Liquified Petroleum Gas Board, created in Section 53-7-304; and
- 1409 (g) the Bail Bond Recovery and Private Investigator Licensure Board created in Section 53-11-104.
- 1411 (2) The Peace Officer Standards and Training Council, created in Section 53-6-106, is within the department.
- 1413 (3) The following are the divisions within the department:
- 1414 (a) the Administrative Services Division, created in Section 53-1-203;
- 1415 (b) the Management Information Services Division, created in Section 53-1-303;
- 1416 (c) the Division of Emergency Management, created in Section 53-2a-103;
- 1417 (d) the Driver License Division, created in Section 53-3-103;
- 1418 (e) the Criminal Investigations and Technical Services Division, created in Section 53-10-103;
- 1420 (f) the Peace Officer Standards and Training Division, created in Section 53-6-103;
- 1421 (g) the State Fire Marshal Division, created in Section 53-7-103; and
- 1422 (h) the Utah Highway Patrol Division, created in Section 53-8-103.
- 1423 (4) The Office of Executive Protection is created in Section 53-1-112.
- 1424 (5) The following are the bureaus within the department:
- 1425 (a) the Bureau of Emergency Medical Services, created in Section 53-2d-102;
- 1426 (b) the Bureau of Criminal Identification, created in Section 53-10-201;
- 1427 (c) the State Bureau of Investigation, created in Section 53-10-301;
- 1428 (d) the Bureau of Forensic Services, created in Section 53-10-401; and
- 1429 (e) the Bureau of Communications, created in Section 53-10-501.

1430 **Section 12. Section 53-2a-214 is amended to read:**

1431 **53-2a-214. Prohibition of restrictions on and confiscation of a firearm or ammunition during an emergency.**

- 1433 (1) As used in this section:
- 1434 (a)
- (i) "Confiscate" means for an individual in Utah to intentionally deprive another of a privately owned firearm.
- 1436 (ii) "Confiscate" does not include the taking of a firearm from an individual:

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- 1437 (A) in self-defense;
- 1438 (B) possessing a firearm while the individual is committing a felony or misdemeanor; or
- 1440 (C) who may not, under state or federal law, possess the firearm.
- 1441 (b) "Firearm" has the same meaning as defined in Section [~~76-10-501~~] 76-11-101.
- 1442 (2) During a declared state of emergency or local emergency under this part:
- 1443 (a) neither the governor nor an agency of a governmental entity or political subdivision of the state may impose restrictions, which were not in force before the declared state of emergency, on the lawful possession, transfer, sale, transport, storage, display, or use of a firearm or ammunition; and
- 1447 (b) an individual, while acting or purporting to act on behalf of the state or a political subdivision of the state, may not confiscate a privately owned firearm of another individual.
- 1450 (3) A law or regulation passed during a declared state of emergency that does not relate specifically to the lawful possession or use of a firearm and that has attached criminal penalties may not be used to justify the confiscation of a firearm from an individual acting in defense of self, property, or others when on:
- 1454 (a) the individual's private property; or
- 1455 (b) the private property of another as an invitee.
- 1456 (4)
- (a) An individual who has a firearm confiscated in violation of Subsection (2) may bring a civil action in a court having the appropriate jurisdiction:
- 1458 (i) for damages, in the maximum amount of \$10,000, against a person who violates Subsection (2);
- 1460 (ii) for a civil penalty, in the amount of \$5,000 per violation, against a person who violates Subsection (2); and
- 1462 (iii) for return of the confiscated firearm.
- 1463 (b) As used in this Subsection (4), "person" means an individual, the governmental entity on whose behalf the individual is acting or purporting to act, or both the individual and the governmental entity.
- 1466 (5)
- (a) A law enforcement officer is not subject to disciplinary action for refusing to confiscate a firearm under this section if:
- 1468 (i) ordered or directed to do so by a superior officer; and
- 1469

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

1471 (b) For purposes of this Subsection (5), disciplinary action might include:

1472 (i) dismissal, suspension, or demotion;

1473 (ii) loss of or decrease in benefits, pay, privileges or conditions of employment; and

1474 (iii) any type of written or electronic indication, permanent or temporary, on the officer's personnel record of the officer's refusal to obey the unlawful order.

1476 (6)

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

1481 (b) The court shall assess the balance of the damages and civil penalty, the remaining 95%, against the superior officer or authority who ordered or directed the confiscation in violation of this section.

1484 Section 13. Section 53-3-220 is amended to read:

1485 **53-3-220. Offenses requiring mandatory revocation, denial, suspension, or disqualification of license -- Offense requiring an extension of period -- Hearing -- Limited driving privileges.**

1488 (1)

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

1492 (i) manslaughter or negligent homicide resulting from driving a motor vehicle, automobile homicide under Section 76-5-207, or automobile homicide involving using a handheld wireless communication device while driving under Section 76-5-207.5;

1496 (ii) driving or being in actual physical control of a motor vehicle while under the influence of alcohol, any drug, or combination of them to a degree that renders the person incapable of safely driving a motor vehicle as prohibited in Section 41-6a-502 or as prohibited in an ordinance that complies with the requirements of Subsection 41-6a-510(1);

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- (iii) driving or being in actual physical control of a motor vehicle while having a blood or breath alcohol content as prohibited in Section 41-6a-502 or as prohibited in an ordinance that complies with the requirements of Subsection 41-6a-510(1);
- 1504 (iv) perjury or the making of a false affidavit to the division under this chapter, Title 41, Motor Vehicles, or any other law of this state requiring the registration of motor vehicles or regulating driving on highways;
- 1507 (v) any felony under the motor vehicle laws of this state;
- 1508 (vi) any other felony in which a motor vehicle is used to facilitate the offense;
- 1509 (vii) failure to stop and render aid as required under the laws of this state if a motor vehicle accident results in the death or personal injury of another;
- 1511 (viii) two charges of reckless driving, impaired driving, or any combination of reckless driving and impaired driving committed within a period of 12 months; but if upon a first conviction of reckless driving or impaired driving the judge or justice recommends suspension of the convicted person's license, the division may after a hearing suspend the license for a period of three months;
- 1516 (ix) failure to bring a motor vehicle to a stop at the command of a law enforcement officer as required in Section 41-6a-210;
- 1518 (x) any offense specified in Part 4, Uniform Commercial Driver License Act, that requires disqualification;
- 1520 (xi) a felony violation of Section ~~[76-10-508]~~ 76-11-209 or ~~[76-10-508.1]~~ 76-11-210 involving discharging or allowing the discharge of a firearm from a vehicle;
- 1522 (xii) using, allowing the use of, or causing to be used any explosive, chemical, or incendiary device from a vehicle in violation of Subsection 76-10-306(4)(b);
- 1524 (xiii) operating or being in actual physical control of a motor vehicle while having any measurable controlled substance or metabolite of a controlled substance in the person's body in violation of Section 41-6a-517;
- 1527 (xiv) operating or being in actual physical control of a motor vehicle while having any measurable or detectable amount of alcohol in the person's body in violation of Section 41-6a-530;
- 1530 (xv) engaging in a motor vehicle speed contest or exhibition of speed on a highway in violation of Section 41-6a-606;

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

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reporting court notifies the Driver License Division, in a manner specified by the division, that the defendant is participating in or has successfully completed a drug court program as defined in Section 78A-5-201.

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

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- (I) a second or subsequent adjudication under Section 80-6-701 for a violation under Section 32B-4-411; and
- 1597 (II) the adjudication described in Subsection (1)(e)(ii)(B)(I) is within 10 years of a prior adjudication under Section 80-6-701 for a violation under Section 32B-4-411.
- 1600 (iii) Upon receipt of a record under Subsection (1)(e)(i) or (ii), the division shall:
- 1601 (A) for a conviction or adjudication described in Subsection (1)(e)(i):
- 1602 (I) impose a suspension for one year beginning on the date of conviction; or
- 1603 (II) if the person is under the age of eligibility for a driver license, impose a suspension that begins on the date of conviction and continues for one year beginning on the date of eligibility for a driver license; or
- 1606 (B) for a conviction or adjudication described in Subsection (1)(e)(ii):
- 1607 (I) impose a suspension for a period of two years; or
- 1608 (II) if the person is under the age of eligibility for a driver license, impose a suspension that begins on the date of conviction and continues for two years beginning on the date of eligibility for a driver license.
- 1611 (iv) Upon receipt of the first order suspending a person's driving privileges under Section 32B-4-411, the division shall reduce the suspension period under Subsection (1)(e)(i) if ordered by the court in accordance with Subsection 32B-4-411(3)(a).
- 1615 (v) Upon receipt of the second or subsequent order suspending a person's driving privileges under Section 32B-4-411, the division shall reduce the suspension period under Subsection (1)(e)(ii) if ordered by the court in accordance with Subsection 32B-4-411(3)(b).
- 1619 (f) The division shall immediately suspend a person's driver license for the conviction of an offense that is enhanced under Section 76-3-203.17 if the division receives:
- 1621 (i) an order from the sentencing court requiring the person's driver license to be suspended; and
- 1623 (ii) a record of the conviction.
- 1624 (2) The division shall extend the period of the first denial, suspension, revocation, or disqualification for an additional like period, to a maximum of one year for each subsequent occurrence, upon receiving:
- 1627 (a) a record of the conviction of any person on a charge of driving a motor vehicle while the person's license is denied, suspended, revoked, or disqualified;
- 1629

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- (b) a record of a conviction of the person for any violation of the motor vehicle law in which the person was involved as a driver;
- 1631 (c) a report of an arrest of the person for any violation of the motor vehicle law in which the person was involved as a driver; or
- 1633 (d) a report of an accident in which the person was involved as a driver.
- 1634 (3) When the division receives a report under Subsection (2)(c) or (d) that a person is driving while the person's license is denied, suspended, disqualified, or revoked, the person is entitled to a hearing regarding the extension of the time of denial, suspension, disqualification, or revocation originally imposed under Section 53-3-221.
- 1638 (4)
- (a) The division may extend to a person the limited privilege of driving a motor vehicle to and from the person's place of employment or within other specified limits on recommendation of the judge in any case where a person is convicted of any of the offenses referred to in Subsections (1) and (2) except:
- 1642 (i) those offenses referred to in Subsections (1)(a)(i), (ii), (iii), (xi), (xii), (xiii), (1)(b), and (1)(c)(i); and
- 1644 (ii) those offenses referred to in Subsection (2) when the original denial, suspension, revocation, or disqualification was imposed because of a violation of Section 41-6a-502, 41-6a-517, a local ordinance that complies with the requirements of Subsection 41-6a-510(1), Section 41-6a-520, 41-6a-520.1, 76-5-102.1, or 76-5-207, or a criminal prohibition that the person was charged with violating as a result of a plea bargain after having been originally charged with violating one or more of these sections or ordinances, unless:
- 1651 (A) the person has had the period of the first denial, suspension, revocation, or disqualification extended for a period of at least three years;
- 1653 (B) the division receives written verification from the person's primary care physician or physician assistant that:
- 1655 (I) to the physician's or physician assistant's knowledge the person has not used any narcotic drug or other controlled substance except as prescribed by a licensed medical practitioner within the last three years; and
- 1658 (II) the physician or physician assistant is not aware of any physical, emotional, or mental impairment that would affect the person's ability to operate a motor vehicle safely; and

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- 1661 (C) for a period of one year prior to the date of the request for a limited driving privilege:
- 1663 (I) the person has not been convicted of a violation of any motor vehicle law in which the person was involved as the operator of the vehicle;
- 1665 (II) the division has not received a report of an arrest for a violation of any motor vehicle law in which the person was involved as the operator of the vehicle; and
- 1668 (III) the division has not received a report of an accident in which the person was involved as an operator of a vehicle.
- 1670 (b)
- (i) Except as provided in Subsection (4)(b)(ii), the discretionary privilege authorized in this Subsection (4):
- 1672 (A) is limited to when undue hardship would result from a failure to grant the privilege; and
- 1674 (B) may be granted only once to any person during any single period of denial, suspension, revocation, or disqualification, or extension of that denial, suspension, revocation, or disqualification.
- 1677 (ii) The discretionary privilege authorized in Subsection (4)(a)(ii):
- 1678 (A) is limited to when the limited privilege is necessary for the person to commute to school or work; and
- 1680 (B) may be granted only once to any person during any single period of denial, suspension, revocation, or disqualification, or extension of that denial, suspension, revocation, or disqualification.
- 1683 (c) A limited CDL may not be granted to a person disqualified under Part 4, Uniform Commercial Driver License Act, or whose license has been revoked, suspended, cancelled, or denied under this chapter.

1686 Section 14. Section **14** is enacted to read:

1687 **CHAPTER 5a. FIREARM LAWS**

1688 **Part 1. General Firearm Laws**

1689 **53-5a-101.5. Definitions.**

As used in this part:

1691 (1) "Ammunition" means the same as that term is defined in Section 53-5d-102.

1692 (2)

(a) "Antique firearm" means:

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- 1693 (i) a firearm, including a firearm with a matchlock, flintlock, percussion cap, or similar type of
1695 ignition system, manufactured in or before 1898;
- 1697 (ii) a firearm that is a replica of a firearm described in this Subsection (2)(a), if the replica:
1699 (A) is not designed or redesigned for using rimfire or conventional centerfire fixed ammunition; or
1702 (B) uses rimfire or centerfire fixed ammunition which is no longer manufactured in the United States
1703 and is not readily available in ordinary channels of commercial trade; or
- 1704 (iii) a firearm that:
1705 (A) is a muzzle loading rifle, shotgun, or pistol; and
1706 (B) is designed to use black powder, or a black powder substitute, and cannot use fixed ammunition.
- 1707 (b) "Antique firearm" does not include:
1708 (i) a weapon that incorporates a firearm frame or receiver;
1709 (ii) a firearm that is converted into a muzzle loading weapon; or
1710 (iii) a muzzle loading weapon that can be readily converted to fire fixed ammunition by replacing the:
1711 (A) barrel;
1712 (B) bolt;
1713 (C) breechblock; or
1714 (D) any combination of Subsection (2)(b)(iii)(A), (B), or (C).
- 1715 (3) "Bureau" means the Bureau of Criminal Identification created in Section 53-10-201 within the
1716 department.
- 1717 (4)
1718 (a) "Concealed firearm" means a firearm that is:
1719 (i) covered, hidden, or secreted in a manner that the public would not be aware of the firearm's
1720 presence; and
1721 (ii) readily accessible for immediate use.
- 1722 (b) "Concealed firearm" does not include a firearm that is unloaded and securely encased.
- 1723 (5) "Court commissioner" means an individual appointed under Section 78A-5-107.
- 1724 (6) "Dangerous weapon" means the same as that term is defined in Section 76-11-101.
- 1725 (7) "Directive" means the same as that term is defined in Section 78B-6-2301.
- 1726 (8) "Firearm" means a pistol, revolver, shotgun, short barreled shotgun, rifle or short barreled rifle, or a
1727 device that could be used as a dangerous weapon from which is expelled a projectile by action of an
1728 explosive.

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- 1728 (9) "Firearm accessory" means the same as that term is defined in Section 53-5a-401.
- 1729 (10) "Handgun" means a pistol, revolver, or other firearm of any description, from which a shot, bullet, or other missile can be discharged, the length of which, not including any revolving, detachable, or magazine breech, does not exceed 12 inches.
- 1732 (11) "Judge" means the same as that term is defined in Section 53-5a-311.
- 1733 (12) "Law enforcement official" means the same as that term is defined in Section 53-5a-311.
- 1735 (13) "Local or state governmental entity" means the same as that term is defined in Section 78B-6-2301.
- 1737 (14) "Readily accessible for immediate use" means that a firearm or other dangerous weapon is carried on the person or within such close proximity and in such a manner that the weapon can be retrieved and used as readily as if carried on the person.
- 1740 (15) "Securely encased firearm" means the same as that term is defined in Section 76-11-201.
- 1742 (16) "Short barreled rifle" means the same as that term is defined in Section 53-5a-601.
- 1743 (17) "Short barreled shotgun" means the same as that term is defined in Section 53-5a-601.
- 1744 (18) "Shotgun" means the same as that term is defined in Section 53-5a-601.
- 1745 (19) "Slug" means the same as that term is defined in Section 53-5a-601.
- 1746 Section 15. Section 53-5a-102 is amended to read:
- 1747 **53-5a-102. Uniform firearms laws.**
- 1748 [(f) As used in this section:]
- 1749 [(a) "Ammunition" means the same as that term is defined in Section 53-5d-102.]
- 1750 [(b) "Dangerous weapon" means the same as that term is defined in Section 76-10-501.]
- 1751 [(c) "Firearm" means:]
- 1752 [(i) a pistol, revolver, shotgun, short barreled shotgun, rifle or short barreled rifle, or a device that could be used as a dangerous weapon from which is expelled a projectile by action of an explosive;]
- 1755 [(ii) ammunition; and]
- 1756 [(iii) a firearm accessory.]
- 1757 [(d) "Firearm accessory" means the same as that term is defined in Section 53-5b-103.]
- 1758 [(e) "Local or state governmental entity" means the same as that term is defined in Section 78B-6-2301.]
- 1760 [(f) "Short barreled shotgun" or "short barreled rifle" means the same as that term is defined in Section 76-10-501.]
- 1762 [(g) "Shotgun" means the same as that term is defined in Section 76-10-501.]

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- 1763 [(2)] (1) The individual right to keep and bear arms being a constitutionally protected right under Utah Constitution, Article I, Section 6~~[of the Utah Constitution]~~ , and the Second Amendment to the United States Constitution, the Legislature finds the need to provide uniform civil and criminal firearm laws throughout the state and declares that the Legislature occupies the whole field of state regulation of firearms.
- 1768 [(3)] (2) Except as specifically provided by state law, a local or state governmental entity may not:
- 1770 (a) prohibit an individual from owning, possessing, purchasing, selling, transferring, transporting, or keeping a firearm, ammunition, or a firearm accessory at the individual's place of residence, property, business, or in any vehicle ~~[lawfully in the individual's possession or lawfully under the individual's control]~~ in which the individual is lawfully present; or
- 1775 (b) require an individual to have a permit or license to purchase, own, possess, transport, or keep a firearm, ammunition, or a firearm accessory.
- 1777 [(4)] (3) ~~[In conjunction with Title 76, Chapter 10, Part 5, Weapons, this section is]~~ This part and Title 76, Chapter 11, Weapons, are uniformly applicable throughout ~~[this]~~ the state and in all the ~~[state's]~~ political subdivisions of the state.
- 1780 [(5)] (4) Authority to regulate firearms, ammunition, and firearm accessories is reserved to the state except where the Legislature specifically delegates responsibility to local or state governmental entities.
- 1783 [(6)] (5) Unless specifically authorized by the Legislature by statute, a local or state governmental entity may not enact, establish, or enforce ~~[any ordinance, regulation, rule, or policy]~~ a directive pertaining to firearms, ammunition, or firearm accessories that in any way inhibits or restricts the possession, ownership, purchase, sale, transfer, transport, or use of firearms, ammunition, or firearm accessories on either public or private property.
- 1789 [(7)] (6) This section does not restrict or expand private property rights.
- 1790 [(8)] (7) A violation of this section is subject to Title 78B, Chapter 6, Part 23, Firearm Preemption Enforcement Act.
- 1792 Section 16. Section **16** is enacted to read:
- 1793 **53-5a-102.1. When a firearm is considered to be loaded.**
For the purpose of this chapter, a firearm is considered to be loaded if the firearm meets the conditions described in Subsection 76-11-102(1).
- 1796 Section 17. Section **17** is enacted to read:

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- 1797 **53-5a-102.2. Open and concealed carry of a firearm outside of an individual's residence.**
- 1799 (1) To effectuate the Second Amendment to the United States Constitution and Utah Constitution,
Article I, Section 6, that prohibit the infringement of the right of the people of Utah to keep and bear
arms for security and defense of self, family, others, property, or the state, as well as for other lawful
purposes, and consistent with the Legislature's ability to define the lawful use of arms:
- 1804 (a) subject to Subsections (2)(a) and (b), an individual 18 years old or older but younger than 21 years
old without a provisional carry permit issued under Section 53-5a-305 may only carry in an open
manner:
- 1807 (i) an unloaded rifle, shotgun, or muzzle-loading rifle in a vehicle in which the individual is lawfully
present;
- 1809 (ii) an unloaded or loaded handgun in a vehicle in which the individual is lawfully present; and
- 1811 (iii) an unloaded firearm that the individual may otherwise lawfully carry, on a public street;
- 1813 (b) subject to Subsections (2)(a) and (b), an individual 21 years old or older may open or conceal carry,
without a conceal carry permit:
- 1815 (i) an unloaded or loaded firearm:
- 1816 (A) on a public street; or
- 1817 (B) in any other place not prohibited by, or pursuant to, state statute or federal law;
- 1818 (ii) an unloaded or loaded handgun in a vehicle in which the individual is lawfully present; and
- 1820 (iii) an unloaded rifle, shotgun, or muzzle-loading rifle in a vehicle in which the individual is lawfully
present; and
- 1822 (c) subject to Subsections (2)(c) and (d), an individual 18 years old or older with a concealed carry
permit issued under Section 53-5a-303, a temporary concealed carry permit issued under Section
53-5a-304, a provisional concealed carry permit issued under Section 53-5a-305, or a concealed
carry permit lawfully issued by or in another state, may open or conceal carry a loaded or unloaded
firearm:
- 1827 (i) in a vehicle in which the individual is lawfully present;
- 1828 (ii) on a public street; or
- 1829 (iii) in any other place not prohibited by, or pursuant to, state statute or federal law.
- 1830 (2)
- (a) An individual openly carrying a firearm under Subsection (1)(a) or (b) without a concealed carry
permit may not carry the firearm:

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- 1832 (i) in a secure area established in accordance with Section 76-8-311.1 in which dangerous weapons
1834 are prohibited and notice of the prohibition is posted;
- 1836 (ii) on or about the premises of a public or private elementary school or secondary school as
1838 described in Section 76-11-205;
- 1839 (iii) on or about the premises of an institution of higher education as described in Section
1840 76-11-205.5;
- 1842 (iv) on or about the premises of a daycare as described in Section 76-11-206;
- 1844 (v) in an airport secure area as described in Section 76-11-218;
- 1846 (vi) in a house of worship or in any private residence where dangerous weapons are prohibited as
1848 described in Section 76-11-219; or
- 1850 (vii) in any other place prohibited by, or pursuant to, another state statute or federal law.
- 1852 (b) An individual 21 years old or older concealing a firearm without a concealed carry permit under
1853 Subsection (1)(b) may not carry the firearm:
- 1854 (i) in a secure area established in accordance with Section 76-8-311.1 in which dangerous weapons are
1856 prohibited and notice of the prohibition is posted;
- 1858 (ii) on or about the school premises of a public or private elementary school or secondary school as
1860 described in Section 76-11-205;
- 1862 (iii) on or about the premises of an institution of higher education as described in Section 76-11-205.5;
- 1863 (iv) on or about a daycare premises as described in Section 76-11-206;
- 1865 (v) in an airport secure area as described in Section 76-11-218;
- (vi) in a house of worship or in any private residence where dangerous weapons are prohibited as
described in Section 76-11-219; or
- (vii) in any other place prohibited by, or pursuant to, another state statute or federal law.
- (c) Subject to Subsection (2)(d), an individual with a concealed carry permit under Subsection (1)(c)
may not carry the firearm in any manner:
- (i) in a secure area established in accordance with Section 76-8-311.1 in which dangerous weapons are
prohibited and notice of the prohibition posted;
- (ii) in an airport secure area as described in Section 76-11-218;
- (iii) in a house of worship or in any private residence where dangerous weapons are prohibited as
described in Section 76-11-219; or
- (iv) in any other place prohibited by, or pursuant to, another state statute or federal law.

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- 1867 (d) In addition to the locations described in Subsection (2)(c):
- 1868 (i) an individual 18 years old but younger than 21 years old with a provisional concealed carry permit
- under Section 53-5a-304 may not carry the firearm in any manner on or about the premises of a
- public or private elementary school or secondary school as described in Section 76-11-205; and
- 1872 (ii) an individual concealing a firearm only with a concealed carry permit lawfully issued by or in
- another state may not carry the firearm in any manner:
- 1874 (A) on or about the premises of a public or private elementary school or secondary school as described
- in Section 76-11-205;
- 1876 (B) on or about the premises of an institution of higher education as described in Section 76-11-205.5;
- or
- 1878 (C) on or about the premises of a daycare as described in Section 76-11-206.
- 1879 (3) This section does not prohibit:
- 1880 (a) the owner or lawful possessor of a vehicle from prohibiting another individual from carrying a
- firearm in the owner or lawful possessor's vehicle; or
- 1882 (b) except as provided in Section 53-5a-102.3, the owner or lawful lessee of private real property from
- prohibiting another individual from possessing a firearm on the property.
- 1885 (4) An individual is lawfully present in a vehicle while carrying a firearm under this section if:
- 1887 (a) the vehicle is in the lawful possession of the individual; or
- 1888 (b) the individual has the consent of the person lawfully in possession of the vehicle to carry the firearm
- in the vehicle.
- 1890 Section 18. Section **53-5a-102.3** is renumbered and amended to read:
- 1892 **[76-10-511]. Possession of a firearm at a residence or on real property.**
- 1894 (1) Except for [persons described in Section 76-10-503 and] an individual categorized as a restricted
- person under Section 76-11-302, Section 76-11-303, or 18 U.S.C. Sec. 922(g)[and as-] , or an
- individual otherwise [prescribed in this part, a person] prohibited by law, an individual 18 years old
- or older may have, and cannot be restricted from having, a loaded or unloaded firearm:
- 1899 [(1)] (a) at the [person's] individual's place of residence[, including any temporary residence or camp];
- or
- 1901 [(2)] (b) on the [person's] individual's real property.
- 1902 (2) An individual's place of residence described in Subsection (1)(a) includes:
- 1903 (a) a temporary residence or camp; or

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1904 (b) a residence that the individual has been granted the lawful right of possession to rent or lease.

1906 Section 19. Section 53-5a-103 is amended to read:

1907 **53-5a-103. Discharge of a firearm on private property -- Liability.**

1908 (1) As used in this section:

1909 (a) "Firearm possessor" means an individual who may lawfully possess a firearm.

1910 (b) "Property occupant" means:

1911 (i) a private property owner; or

1912 (ii) ~~[a person]~~ an individual who has the right to occupy a private property under an agreement.

1914 (2) Except as provided under Subsection (3), a property occupant, who knowingly allows a firearm possessor to lawfully bring a firearm onto the property occupant's property, is not civilly or criminally liable for any damage or harm resulting from the discharge of the firearm by the firearm possessor while on the property occupant's property.

1918 (3) Subsection (2) does not apply if the property occupant solicits, requests, commands, encourages, or intentionally aids the firearm possessor in discharging the firearm while on the property occupant's property for a purpose other than the lawful defense of an individual on the property.

1922 (4) This section does not alter the responsibilities a tenant owes to a landlord under the terms of the lease agreement entered into between the tenant and landlord.

1924 Section 20. Section **53-5a-105** is renumbered and amended to read:

1926 ~~[76-10-520].~~ **Number or mark assigned to a handgun by the department.**

1928 (1) The ~~[Department of Public Safety]~~ department, upon request, may assign a distinguishing number or mark of identification to ~~[any pistol or revolver]~~ a handgun whenever it is without a manufacturer's number, or other mark of identification or whenever the manufacturer's number or other mark of identification or the distinguishing number or mark assigned by the ~~[Department of Public Safety]~~ department has been destroyed or obliterated.

1934 (2) Except as provided in Subsection (3), an individual who places or stamps a mark of identification or distinguishing number on a handgun except one assigned to the handgun by the department is guilty of a class A misdemeanor.

1937 (3) This section does not:

1938 (a) prohibit restoration by the owner of the name of the maker, model, or of the original manufacturer's number or other mark of identification when the restoration is authorized by the department;

1941

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

1944 (c) apply to a handgun that is an antique firearm.

1945 Section 21. Section **53-5a-106** is renumbered and amended to read:

1947 ~~[76-10-522]~~. **Alteration of number or mark on a handgun.**

1948 (1) ~~[Any person who changes, alters, removes, or obliterates]~~ An individual may not change, alter, remove, or obliterate the name of the maker, the model, manufacturer's number, or other mark of identification, including any distinguishing number or mark assigned by the ~~[Department of Public Safety]~~ department, on ~~[any pistol or revolver]~~ a handgun, without first having secured written permission from the ~~[Department of Public Safety]~~ department to make the change, alteration, ~~[or]~~ removal, ~~[is guilty of a class A misdemeanor]~~ or obliteration.

1955 (2) Except as provided in Subsection (3), a violation of Subsection (1) is a class A misdemeanor.

1957 (3) This section does not apply to a handgun that is an antique firearm.

1958 Section 22. Section **53-5a-107** is renumbered and amended to read:

1960 ~~[76-10-523.5]~~. **Compliance with firearms prohibitions in secure facilities.**

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

1969 Section 23. Section **53-5a-108** is renumbered and amended to read:

1971 ~~[76-10-523]~~. **Individuals who are exempt from certain weapons laws.**

1972 (1) Except [for Sections 76-10-506, 76-10-508, and 76-10-508.1, this part and Title 53, Chapter 5, Part 7, Concealed Firearm Act,] as provided in Subsections (2) and (3), this part, Part 3, Concealed Firearm Permits, and Title 76, Chapter 11, Weapons, do not apply to any of the following:

1976 (a) a United States marshal;

1977 (b) a federal official required to carry a firearm;

1978 (c) a peace officer of ~~[this or]~~ any ~~[other]~~ jurisdiction;

1979 (d) a law enforcement official ~~[as defined and qualified under Section 53-5-711];~~

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- 1980 (e) a judge~~[-as defined and qualified under Section 53-5-711];~~
- 1981 (f) a court commissioner~~[-as defined and qualified under Section 53-5-711]; or~~
- 1982 (g) a common carrier while engaged in the regular and ordinary transport of firearms as merchandise.
- 1984 (2) Subsection (1) does not apply to Section 76-11-207, 76-11-209, or 76-11-210.
- 1985 ~~[(2)]~~ (3) Notwithstanding Subsection (1), the provisions of Section ~~[76-10-528]~~ 76-11-217 apply to any individual listed in Subsection (1) who is not employed by a state or federal agency or political subdivision that has adopted a policy or rule regarding the use of dangerous weapons.
- 1989 ~~[(3) Subsections 76-10-504(1) and (2), and Section 76-10-505 do not apply to:]~~
- 1990 ~~[(a) an individual to whom a permit to carry a concealed firearm has been issued:]~~
- 1991 ~~[(i) pursuant to Section 53-5-704; or]~~
- 1992 ~~[(ii) by another state or county; or]~~
- 1993 ~~[(b) a person who is issued a protective order under Subsection 78B-7-603(1)(b) or 78B-7-404(1)(b), unless the person is a restricted person as described in Subsection 76-10-503(1), for a period of 120 days after the day on which the person is issued the protective order.]~~
- 1997 ~~[(4) Except for Sections 76-10-503, 76-10-506, 76-10-508, and 76-10-508.1, this part and Title 53, Chapter 5, Part 7, Concealed Firearm Act, do not apply to a nonresident traveling in or though the state, provided that any firearm is:]~~
- 2000 ~~[(a) unloaded; and]~~
- 2001 ~~[(b) securely encased as defined in Section 76-10-501.]~~
- 2002 ~~[(5) Subsections 76-10-504(1) and (2), and 76-10-505(1)(b) do not apply to a person 21 years old or older who may otherwise lawfully possess a firearm.]~~
- 2004 Section 24. Section 53-5a-202 is amended to read:
- 2005 **53-5a-202. Definitions.**
As used in this part:
- 2007 (1)
- (a) "Federal regulation" means a federal executive order, rule, or regulation that infringes upon, prohibits, restricts, or requires individual licensure for, or registration of, the purchase, ownership, possession, transfer, or use of a firearm, ammunition, or firearm accessory.
- 2011 (b) "Federal regulation" does not include:
- 2012 (i) a federal firearm statute; or
- 2013 (ii) a federal executive order, rule, or regulation that is incorporated into the Utah Code by reference.

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- 2015 (2) "Firearm" means the same as that term is defined in Section ~~[76-10-501]~~ 76-11-101.
- 2016 (3) "Law enforcement officer" means the same as that term is defined in Section 53-13-103.
- 2017 (4) "Political subdivision" means a city, town, county, special district, or water conservancy district.
- 2019 Section 25. Section **53-5a-301** is renumbered and amended to read:
- 2021
- Part 3. Concealed Firearm Permits**
- 2022 ~~[53-5-702].~~ **Definitions.**
- [In addition to the definitions in Section 76-10-501, as] As used in this part:
- 2024 (1) "Active duty service member" means ~~[a person]~~ an individual on active military duty with the United States military and includes full time military active duty, military reserve active duty, and national guard military active duty service members stationed in Utah.
- 2028 (2) "Active duty service member spouse" means ~~[a person]~~ an individual recognized by the military as the spouse of an active duty service member and who resides with the active duty service member in Utah.
- 2031 (3) "Board" means the Concealed Firearm Review Board created in Section ~~[53-5-703]~~ 53-5a-302.
- 2033 (4) "Bureau" means the Bureau of Criminal Identification created in Section 53-10-201 within the ~~[Department of Public Safety]~~ department.
- 2035 (5) "Concealed firearm" means the same as that term is defined in Section 53-5a-101.5.
- 2036 ~~[(5) "Commissioner" means the commissioner of the Department of Public Safety.]~~
- 2037 (6) "Conviction" means criminal conduct ~~[where]~~ in which the filing of a criminal charge has resulted in:
- 2039 (a) a finding of guilt based on evidence presented to a judge or jury;
- 2040 (b) a guilty plea;
- 2041 (c) a plea of nolo contendere;
- 2042 (d) a plea of guilty or nolo contendere ~~[which]~~ that is held in abeyance pending the successful completion of probation;
- 2044 (e) a pending diversion agreement; or
- 2045 (f) a conviction ~~[which]~~ that has been reduced in accordance with Section 76-3-402.
- 2046 (7) "Dangerous weapon" means the same as that term is defined in Section 76-11-101.
- 2047 (8) "Domestic violence" means the same as that term is defined in Section 77-36-1.
- 2048 (9) "Firearm" means the same as that term is defined in Section 53-5a-101.5.
- 2049 ~~[(7)]~~ (10)

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

2053 (b) "School employee" also means a substitute teacher, as defined in Section 53E-6-901.

2054 ~~[(8)]~~ (11) "School year" means the period of time designated by a local school board, charter school governing board, or private school as the school year for high school, middle school, or elementary school students.

2057 Section 26. Section **53-5a-302** is renumbered and amended to read:

2059 ~~[53-5-703]~~. **Concealed Firearm Review Board -- Membership -- Compensation -- Terms -- Duties.**

2061 (1) There is created within the bureau the Concealed Firearm Review Board.

2062 (2)

(a) The board is comprised of not more than five members appointed by the commissioner on a bipartisan basis.

2064 (b) The board shall include a member representing law enforcement and at least two citizens, one of whom represents sporting interests.

2066 (3)

(a) Except as required by Subsection (3)(b), as terms of current board members expire, the commissioner shall appoint each new member or reappointed member to a four-year term.

2069 (b) Notwithstanding the requirements of Subsection (3)(a), the commissioner shall, at the time of appointment or reappointment, adjust the length of terms to ensure that the terms of board members are staggered so that approximately half of the board is appointed every two years.

2073 (4) When a vacancy occurs in the membership for any reason, the replacement shall be appointed for the unexpired term.

2075 (5) A member may not receive compensation or benefits for the member's service, but may receive per diem and travel expenses in accordance with:

2077 (a) Section 63A-3-106;

2078 (b) Section 63A-3-107; and

2079 (c) rules made by the Division of Finance pursuant to Sections 63A-3-106 and 63A-3-107.

2081 (6) The board shall meet at least quarterly, unless the board has no business to conduct during that quarter.

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- 2083 (7) The board, upon receiving a timely filed petition for review, shall review within a reasonable time
the denial, suspension, or revocation of a permit or a temporary permit to carry a concealed firearm.
- 2086 Section 27. Section **53-5a-303** is renumbered and amended to read:
- 2088 ~~[53-5-704].~~ **Bureau duties -- Permit to carry concealed firearm -- Certification for concealed
firearms instructor -- Requirements for issuance -- Violation -- Denial, suspension, or revocation --
Appeal procedure.**
- 2091 (1)
- (a) Except as provided in Subsection (1)(b), the bureau shall issue a concealed carry permit [~~to
carry~~] allowing the carrying of a concealed firearm for lawful self defense to an applicant who is 21
years old or older within 60 days after receiving an application, unless the bureau finds proof that
the applicant is not qualified to hold a permit under Subsection (2) or (3).
- 2096 (b)
- (i) Within 90 days before the day on which a provisional permit holder under Section
~~[53-5-704.5]~~ 53-5a-304 reaches 21 years old, the provisional permit holder may apply under this
section for a permit to carry a concealed firearm for lawful self defense.
- 2100 (ii) The bureau shall issue a permit for an applicant under Subsection (1)(b)(i) within 60 days after
receiving an application, unless the bureau finds proof that the applicant is not qualified to hold a
permit under Subsection (2) or (3).
- 2103 (iii) A permit issued under this Subsection (1)(b):
- 2104 (A) is not valid until an applicant is 21 years old; and
- 2105 (B) requires a \$10 application fee.
- 2106 (iv) ~~[A person]~~ An individual who applies for a permit under this Subsection (1)(b) is not required to
retake the firearms training described in Subsection ~~[53-5-704(8)]~~ 53-5a-303(8).
- 2109 (c) ~~[The]~~ A concealed firearm permit issued in accordance with this section is valid throughout the state
for five years, without restriction, except as otherwise provided by Section ~~[53-5-710]~~ 53-5a-102.2.
- 2112 ~~[(d) The provisions of Subsections 76-10-504(1) and (2), and Section 76-10-505 do not apply to an
individual issued a permit under Subsection (1)(a) or (b).]~~
- 2114 ~~[(e)]~~ (d) Subsection (4)(a) does not apply to a nonresident:
- 2115 (i) active duty service member, who presents to the bureau orders requiring the active duty service
member to report for duty in this state; or
- 2117

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(ii) active duty service member's spouse, stationed with the active duty service member, who presents to the bureau the active duty service member's orders requiring the service member to report for duty in this state.

2120 (2)

(a) The bureau may deny, suspend, or revoke a concealed firearm permit if the applicant or permit holder:

2122 (i) has been or is convicted of a felony;

2123 (ii) has been or is convicted of a crime of violence;

2124 (iii) has been or is convicted of an offense involving the use of alcohol;

2125 (iv) has been or is convicted of an offense involving the unlawful use of narcotics or other controlled substances;

2127 (v) has been or is convicted of an offense involving moral turpitude;

2128 (vi) has been or is convicted of an offense involving domestic violence;

2129 (vii) has been or is adjudicated by a state or federal court as mentally incompetent, unless the adjudication has been withdrawn or reversed; ~~and~~ or

2131 (viii) is not qualified to purchase and possess a firearm pursuant ~~[to Section 76-10-503 and]~~ to Title 76, Chapter 11, Part 3, Persons Restricted Regarding Dangerous Weapons, or federal law.

2134 (b) In determining whether an applicant or permit holder is qualified to hold a concealed firearm permit under Subsection (2)(a), the bureau shall consider mitigating circumstances.

2137 (3)

(a) The bureau may deny, suspend, or revoke a concealed firearm permit if ~~it~~ the bureau has reasonable cause to believe that the applicant or concealed firearm permit holder has been or is a danger to self or others as demonstrated by evidence, including:

2141 (i) past pattern of behavior involving unlawful violence or threats of unlawful violence;

2143 (ii) past participation in incidents involving unlawful violence or threats of unlawful violence; or

2145 (iii) conviction of an offense in ~~[violation of Title 76, Chapter 10, Part 5, Weapons]~~ Title 76, Chapter 11, Weapons.

2147 (b) The bureau may not deny, suspend, or revoke a concealed firearm permit solely for a single conviction of an infraction violation of ~~[Title 76, Chapter 10, Part 5, Weapons]~~ an offense in Title 76, Chapter 11, Weapons.

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- (c) In determining whether the applicant or concealed firearm permit holder has been or is a danger to self or others, the bureau may inspect:
- 2152 (i) expunged records of arrests and convictions of adults as provided in Section 77-40a-403; and
- 2154 (ii) juvenile court records as provided in Section 78A-6-209.
- 2155 (d)
- (i) The bureau shall suspend a concealed firearm permit if [a] the permit holder becomes a temporarily restricted person in accordance with Section [~~53-5e-301~~] 53-5a-504.
- 2158 (ii) Upon removal from the temporary restricted list described in Section 53-5a-504, the concealed firearm permit holder's permit shall be reinstated unless:
- 2160 (A) the concealed firearm permit has been revoked, been suspended for a reason other than the restriction described in Subsection (3)(d)(i), or expired; or
- 2162 (B) the concealed firearm permit holder has become a restricted person under Section [~~76-10-503~~] 76-11-302 or 76-11-303.
- 2164 (4)
- (a) In addition to meeting the other qualifications for the issuance of a concealed firearm permit under this section, a nonresident applicant who resides in a state that recognizes the validity of the Utah permit or has reciprocity with Utah's concealed firearm permit law shall:
- 2168 (i) hold a current concealed firearm or concealed weapon permit issued by the appropriate permitting authority of the nonresident applicant's state of residency; and
- 2171 (ii) submit a photocopy or electronic copy of the nonresident applicant's current concealed firearm or concealed weapon permit referred to in Subsection (4)(a)(i).
- 2173 (b) A nonresident applicant who knowingly and willfully provides false information to the bureau under Subsection (4)(a) is prohibited from holding a Utah concealed firearm permit for a period of 10 years.
- 2176 (c) Subsection (4)(a) applies to:
- 2177 (i) [~~-~~]all applications for the issuance of a concealed firearm permit [~~that are~~]received by the bureau[
after ~~May 10, 2011.~~] ; and
- 2179 [~~(d) Beginning January 1, 2012, Subsection (4)(a) also applies to]~~
- 2180 (ii) [~~-~~]an application for renewal of a concealed firearm permit by a nonresident.
- 2181

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- (5) The bureau shall issue a concealed firearm permit to a former peace officer who departs full-time employment as a peace officer, in an honorable manner, within five years of that departure if the officer meets the requirements of this section.
- 2184 (6) Except as provided in Subsection (7), the bureau shall also require the applicant to provide:
- 2186 (a) the address of the applicant's permanent residence;
- 2187 (b) one recent dated photograph;
- 2188 (c) one set of fingerprints; and
- 2189 (d) evidence of general familiarity with the types of firearms to be concealed as defined in Subsection (8).
- 2191 (7) An applicant who is a law enforcement officer under Section 53-13-103 may provide a letter of good standing from the officer's commanding officer in place of the evidence required by Subsection (6)(d).
- 2194 (8)
- (a) General familiarity with the types of firearms to be concealed includes training in:
- 2195 (i) the safe loading, unloading, storage, and carrying of the types of firearms to be concealed; and
- 2197 (ii) current laws defining lawful use of a firearm by a private citizen, including lawful self-defense, use of force by a private citizen, including use of deadly force, transportation, and concealment.
- 2200 (b) An applicant may satisfy the general familiarity requirement of Subsection (8)(a) by one of the following:
- 2202 (i) completion of a course of instruction conducted by a national, state, or local firearms training organization approved by the bureau;
- 2204 (ii) certification of general familiarity by an individual who has been certified by the bureau, which may include a law enforcement officer, military or civilian firearms instructor, or hunter safety instructor; or
- 2207 (iii) equivalent experience with a firearm through participation in an organized shooting competition, law enforcement, or military service.
- 2209 (c) Instruction taken by a student under this Subsection (8) shall be in person and not through electronic means.
- 2211 (d) ~~[A person]~~ An individual applying for a renewal permit is not required to retake the firearms training described in this Subsection ~~[53-5-704(8)]~~ (8) if the ~~[person]~~ individual:
- 2214 (i) has an unexpired permit; or

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- 2215 (ii) has a permit that expired less than one year before the date on which the renewal application was
submitted.
- 2217 (9)
- 2218 (a) An applicant for certification as a Utah concealed firearms instructor shall:
- 2219 (i) be at least 21 years old;
- 2221 (ii) be currently eligible to possess a firearm under Section [~~76-10-503~~] 76-11-302 or 76-11-303;
- 2222 (iii) have:
- 2222 (A) completed a firearm instruction training course from the National Rifle Association or another
nationally recognized firearm training organization that customarily offers firearm safety and
firearm law instructor training or the Department of Public Safety, Division of Peace Officer Safety
Standards and Training; or
- 2227 (B) received training equivalent to one of the courses referred to in Subsection (9)(a)(iii)(A) as
determined by the bureau;
- 2229 (iv) have taken a course of instruction and passed a certification test as described in Subsection (9)
(c); and
- 2231 (v) possess a Utah concealed firearm permit.
- 2232 (b) An instructor's certification is valid for three years from the date of issuance, unless revoked by the
bureau.
- 2234 (c)
- 2236 (i) In order to obtain initial certification or renew a certification, an instructor shall attend an
instructional course and pass a test under the direction of the bureau.
- 2238 (ii)
- 2241 (A) The bureau shall provide or contract to provide the course referred to in Subsection (9)(c)(i) twice
every year.
- 2243 (B) The course shall include instruction on current Utah law related to firearms, including concealed
carry statutes and rules, and the use of deadly force by private citizens.
- 2244 (d)
- 2243 (i) Each applicant for certification under this Subsection (9) shall pay a fee of \$50.00 at the time of
application for initial certification.
- 2244 (ii) The renewal fee for the certificate is \$25.

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- (iii) The bureau may use a fee paid under Subsections (9)(d)(i) and (ii) as a dedicated credit to cover the cost incurred in maintaining and improving the instruction program required for concealed firearm instructors under this Subsection (9).
- 2247 (10) A certified concealed firearms instructor shall provide each of the instructor's students with the required course of instruction outline approved by the bureau.
- 2249 (11)
- (a)
- (i) A concealed firearms instructor shall provide a signed certificate to an individual successfully completing the offered course of instruction.
- 2251 (ii) The instructor shall sign the certificate with the exact name indicated on the instructor's certification issued by the bureau under Subsection (9).
- 2253 (iii)
- (A) The certificate shall also have affixed to it the instructor's official seal, which is the exclusive property of the instructor and may not be used by any other individual.
- 2256 (B) The instructor shall destroy the seal upon revocation or expiration of the instructor's certification under Subsection (9).
- 2258 (C) The bureau shall determine the design and content of the seal to include at least the following:
- 2260 (I) the instructor's name as it appears on the instructor's certification;
- 2261 (II) the words "Utah Certified Concealed Firearms Instructor," "state of Utah," and "my certification expires on (the instructor's certification expiration date)"; and
- 2264 (III) the instructor's business or residence address.
- 2265 (D) The seal shall be affixed to each student certificate issued by the instructor in a manner that does not obscure or render illegible any information or signatures contained in the document.
- 2268 (b) The applicant shall provide the certificate to the bureau in compliance with Subsection (6)(d).
- 2270 (12) The bureau may deny, suspend, or revoke the certification of an applicant or a concealed firearms instructor if it has reason to believe the applicant or the instructor has:
- 2272 (a) become ineligible to possess a firearm under Section [~~76-10-503~~] 76-11-302 or 76-11-303, or federal law; or
- 2274 (b) knowingly and willfully provided false information to the bureau.
- 2275 (13) An applicant for certification or a concealed firearms instructor has the same appeal rights as described in Subsection (16).

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- 2277 (14) In providing instruction and issuing a permit under this part, the concealed firearms instructor and
the bureau are not vicariously liable for damages caused by the permit holder.
- 2280 (15) An individual who knowingly and willfully provides false information on an application filed
under this part is guilty of a class B misdemeanor, and the application may be denied, or the permit
may be suspended or revoked.
- 2283 (16)
- (a) In the event of a denial, suspension, or revocation of a permit, the applicant or permit holder may
file a petition for review with the board within 60 days from the date the denial, suspension, or
revocation is received by the applicant or permit holder by certified mail, return receipt requested.
- 2287 (b) The bureau's denial of a permit shall be in writing and shall include the general reasons for the
action.
- 2289 (c) If an applicant or permit holder appeals the denial to the review board, the applicant or permit holder
may have access to the evidence upon which the denial is based in accordance with Title 63G,
Chapter 2, Government Records Access and Management Act.
- 2293 (d) On appeal to the board, the bureau has the burden of proof by a preponderance of the evidence.
- 2295 (e)
- (i) Upon a ruling by the board on the appeal of a denial, the board shall issue a final order within 30
days stating the board's decision.
- 2297 (ii) The final order shall be in the form prescribed by Subsection 63G-4-203(1)(i).
- 2298 (iii) The final order is final bureau action for purposes of judicial review under Section 63G-4-402.
- 2300 (17) The commissioner may make rules in accordance with Title 63G, Chapter 3, Utah Administrative
Rulemaking Act, necessary to administer this chapter.
- 2302 Section 28. Section **53-5a-304** is renumbered and amended to read:
- 2304 ~~[53-5-704.5]~~. **Provisional permit to carry concealed firearm.**
- 2305 (1)
- (a) The bureau shall issue a provisional permit to carry a concealed firearm for lawful self-defense to an
applicant who is 18 years ~~[of age, but is no older than 20 years of age]~~ old but younger than 21 years
old, within 60 days after receiving an application, unless the bureau finds proof that the applicant
does not meet the qualifications set forth in Subsection ~~[53-5-704(2)]~~ 53-5a-303(2).
- 2310

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- (b) [The] Except as provided in Subsection (2), a provisional concealed carry permit is valid throughout the state until the applicant reaches the age of 21, without restriction, except as otherwise provided by Section [53-5-710] 53-5a-102.2.
- 2313 (2) The bureau may deny, suspend, or revoke a provisional concealed carry permit issued under this section as [set forth] described in Subsections [53-5-704(2) and (3)] 53-5a-303(2) and (3).
- 2316 (3)
- (a) In addition to meeting the other qualifications for the issuance of a provisional concealed carry permit under this section, a nonresident applicant who resides in a state that recognizes the validity of the Utah provisional concealed carry permit or has reciprocity with Utah's provisional concealed firearm permit law shall:
- 2320 (i) hold a current applicable concealed firearm or concealed weapon permit issued by the appropriate permitting authority of the nonresident applicant's state of residency; and
- 2323 (ii) submit a photocopy or electronic copy of the nonresident applicant's current concealed firearm or concealed weapon permit referred to in Subsection (3)(a)(i).
- 2325 (b) A nonresident applicant who knowingly and willfully provides false information to the bureau under Subsection (3)(a) is prohibited from holding a Utah concealed firearm permit of any kind for a period of 10 years.
- 2328 (4) The bureau shall also require the applicant to provide:
- 2329 (a) the address of the applicant's permanent residence;
- 2330 (b) one recent dated photograph;
- 2331 (c) one set of fingerprints; and
- 2332 (d) evidence of general familiarity with the types of firearms to be concealed as defined in [~~Subsection 53-5-704(8)] Section 53-5-303.~~
- 2334 (5) In the event of a decision to deny, suspend, or revoke a provisional concealed firearm permit, the applicant or permit holder under this section may appeal the decision through the same process set forth in Subsection [53-5-704(16)] 53-5a-303(16).
- 2337 (6) The applicant or permit holder of the provisional concealed firearm permit under this section must meet the eligibility requirements of another state, including age requirements, to carry a concealed firearm in that state.

2340 Section 29. Section **53-5a-305** is renumbered and amended to read:

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~~[53-5-705]~~ Temporary permit to carry concealed firearm -- Denial, suspension, or revocation -- Appeal.

- 2344 (1) The bureau or ~~[its]~~ the bureau's designated agent may issue a temporary permit to carry a concealed
firearm to ~~[a person]~~ an individual who:
- 2346 (a) has applied for a permit under Section ~~[53-5-704]~~ 53-5a-303;
- 2347 (b) has applied for a temporary permit under this section; and
- 2348 (c) meets the criteria required in Subsections (2) and (3).
- 2349 (2) To receive a temporary permit under this section, the applicant shall demonstrate in writing to the
satisfaction of the bureau extenuating circumstances that would justify issuing a temporary permit.
- 2352 (3) A temporary permit may not be issued under this section until preliminary record checks regarding
the applicant have been made with the National Crime Information Center and the bureau to
determine any criminal history.
- 2355 (4)
- ~~[(a)]~~ A temporary permit is valid only for a maximum of 90 days or any lesser period specified by the
bureau, or until a permit under Section 53-5-704 is issued to the holder of the temporary permit,
whichever period is shorter.
- 2358 ~~[(b) The provisions of Subsections 76-10-504(1) and (2) and Section 76-10-505 do not apply to a
person issued a temporary permit under this section during the time period for which the temporary
permit is valid.]~~
- 2361 (5) The bureau may deny, suspend, or revoke a temporary permit prior to expiration if the
commissioner determines:
- 2363 (a) the circumstances justifying the temporary permit no longer exist; or
- 2364 (b) the holder of the temporary permit does not meet the requirements for a permit under Section
~~[53-5-704]~~ 53-5a-303.
- 2366 (6)
- (a) The denial, suspension, or revocation of a temporary permit shall be in writing and shall include the
reasons for the action.
- 2368 (b) The bureau's decision to deny, suspend, or revoke a temporary permit may not be appealed to the
board.
- 2370 (c) Denial, suspension, or revocation under this subsection is final action for purposes of judicial review
under Section 63G-4-402.

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2372 Section 30. Section **53-5a-306** is renumbered and amended to read:

2374 **~~[53-5-706]~~. Permit -- Fingerprints transmitted to bureau -- Report from bureau.**

2376 (1)

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

2379 (b) Upon receipt of the fingerprints, the applicant fingerprint card fee prescribed in Section 53-10-108, and the fee prescribed in Section ~~[53-5-707]~~ 53-5a-307 or ~~[53-5-707.5]~~ 53-5a-308, the bureau shall conduct a search of ~~[its]~~ the bureau's files for criminal history information pertaining to the applicant, and shall request the Federal Bureau of Investigation to conduct a similar search through ~~[its]~~ the Federal Bureau of Investigation's files.

2385 (c) If the fingerprints are insufficient for the Federal Bureau of Investigation to conduct a search of ~~[its]~~ the Federal Bureau of Investigation's files for criminal history information, the application or concealed firearm permit may be denied, suspended, or revoked until sufficient fingerprints are submitted by the applicant.

2389 (2)

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

2394 (b) No additional application form, fingerprints, or fee are required under this Subsection (2).

2396 Section 31. Section **53-5a-307** is renumbered and amended to read:

2398 **~~[53-5-707]~~. Concealed firearm permit -- Fees -- Concealed Weapons Account.**

2400 (1)

(a) An applicant for a concealed firearm permit shall pay a fee of \$25 at the time of filing an application.

2402 (b) A nonresident applicant shall pay an additional \$10 for the additional cost of processing a nonresident application.

2404 (c) The bureau shall waive the initial fee for an applicant who is:

2405 (i) a law enforcement officer under Section 53-13-103;

2406 (ii) an active duty service member;

2407 (iii) the spouse of an active duty service member; or

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- 2408 (iv) a school employee.
- 2409 (2)
- 2410 (a) The renewal fee for the permit is \$20.
- 2410 (b) A nonresident shall pay an additional \$5 for the additional cost of processing a nonresidential renewal.
- 2412 (3) The replacement fee for the permit is \$10.
- 2413 (4)
- 2414 (a) The late fee for the renewal permit is \$7.50.
- 2414 (b) As used in this section, "late fee" means the fee charged by the bureau for a renewal submitted on a permit that has been expired for more than 30 days but less than one year.
- 2417 (5)
- 2419 (a) There is created a restricted account within the General Fund known as the "Concealed Weapons Account."
- 2419 (b) The account shall be funded from fees collected under this section and Section ~~[53-5-707.5]~~ 53-5a-308.
- 2421 (c) Funds in the account may only be used to cover costs relating to:
- 2422 (i) the issuance of concealed firearm permits under this part; or
- 2423 (ii) the programs described in Subsection 26B-5-102(3) and Section 26B-5-611.
- 2424 (d) No later than 90 days after the end of the fiscal year, 50% of the fund balance shall be transferred to the Suicide Prevention and Education Fund, created in Section 26B-1-326.
- 2427 (6)
- 2429 (a) The bureau may collect any fees charged by an outside agency for additional services required by statute as a prerequisite for issuance of a permit.
- 2429 (b) The bureau shall promptly forward any fees collected under Subsection (6)(a) to the appropriate agency.
- 2431 (7) The bureau shall make an annual report in writing to the Legislature's Law Enforcement and Criminal Justice Interim Committee on the amount and use of the fees collected under this section and Section ~~53-5-707.5~~.
- 2434 Section 32. Section ~~53-5a-308~~ is renumbered and amended to read:
- 2436 ~~[53-5-707.5]~~ **Provisional concealed firearm permit -- Fees -- Disposition of fees.**
- 2438 (1)

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- (a) An applicant for a provisional concealed firearm permit, as described in Section [53-5-704.5] 53-5a-304, shall pay a fee of \$25 at the time of filing an application.
- 2440 (b) A nonresident applicant shall pay an additional \$10 for the additional cost of processing a nonresident application.
- 2442 (2) The replacement fee for the permit is \$10.
- 2443 (3) Fees collected under this section shall be remitted to the Concealed Weapons Account, as described in [~~Subsection 53-5-707(5)~~] Section 53-5a-307.
- 2445 (4)
- (a) The bureau may collect any fees charged by an outside agency for additional services required by statute as a prerequisite for issuance of a permit.
- 2447 (b) The bureau shall promptly forward any fees collected under Subsection (4)(a) to the appropriate agency.
- 2449 Section 33. Section **53-5a-309** is renumbered and amended to read:
- 2451 [~~53-5-707.6~~]. **Concealed firearm permit renewal -- Firearm safety and suicide prevention video.**
- 2453 (1) The bureau, in conjunction with the Division of Integrated Healthcare created in Section 26B-1-204, shall create a firearm safety and suicide prevention video that:
- 2455 (a) is [~~web-accessible~~] Internet-accessible;
- 2456 (b) is no longer than 10 minutes in length; and
- 2457 (c) includes information about:
- 2458 (i) safe handling, storage, and use of firearms in a home environment;
- 2459 (ii) at-risk individuals and individuals who are legally prohibited from possessing firearms; and
- 2461 (iii) suicide prevention awareness.
- 2462 (2) Before renewing a firearm permit, an individual shall view the firearm safety and suicide prevention video and submit proof in the form required by the bureau.
- 2464 (3) In accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, the bureau shall make rules that establish procedures for:
- 2466 (a) producing and distributing the firearm safety and suicide prevention video; and
- 2467 (b) providing access to the video to an applicant seeking renewal of a firearm permit.
- 2468 Section 34. Section **53-5a-310** is renumbered and amended to read:
- 2470 [~~53-5-708~~]. **Permit -- Names private.**

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- 2471 (1)
- (a) The bureau shall maintain a record in [~~its~~] the bureau's office of any permit issued under this part.
- 2473 (b) Notwithstanding the requirements of Subsection 63G-2-301(2)(b), the names, addresses, telephone numbers, dates of birth, and [~~Social Security~~] social security numbers of [~~persons~~] individuals receiving permits are protected records under Subsection 63G-2-305(11).
- 2477 (c) Notwithstanding Section 63G-2-206, [~~a person~~] an individual may not share any of the information listed in Subsection (1)(b) with any office, department, division, or other agency of the federal government unless:
- 2480 (i) the disclosure is necessary to conduct a criminal background check on the individual who is the subject of the information;
- 2482 (ii) the disclosure of information is made pursuant to a court order directly associated with an active investigation or prosecution of the individual who is the subject of the information;
- 2485 (iii) the disclosure is made to a criminal justice agency in a criminal investigation or prosecution;
- 2487 (iv) the disclosure is made by a law enforcement agency within the state to another law enforcement agency in the state or in another state in connection with an investigation, including a preliminary investigation, or a prosecution of the individual who is the subject of the information;
- 2491 (v) the disclosure is made by a law enforcement agency within the state to an employee of a federal law enforcement agency in the course of a combined law enforcement effort involving the law enforcement agency within the state and the federal law enforcement agency; or
- 2495 (vi) the disclosure is made in response to a routine request that a federal law enforcement officer makes to obtain information on an individual whom the federal law enforcement officer detains, including for a traffic stop, or questions because of the individual's suspected violation of state law.
- 2499 (d) [~~A person~~] An individual is guilty of a class A misdemeanor if the [~~person~~] individual knowingly:
- 2501 (i) discloses information listed in Subsection (1)(b) in violation of the provisions under Title 63G, Chapter 2, Government Records Access and Management Act, applicable to protected records; or
- 2504 (ii) shares information in violation of Subsection (1)(c).
- 2505 (e)
- (i) As used in this Subsection (1)(e), "governmental agency" means:
- 2506 (A) the state or any department, division, agency, or other instrumentality of the state; or
- 2508 (B) a political subdivision of the state, including a county, city, town, school district, special district, and special service district.

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- 2510 (ii) A governmental agency may not compel or attempt to compel an individual who has been issued a
concealed firearm permit to divulge whether the individual:
- 2512 (A) has been issued a concealed firearm permit; or
- 2513 (B) is carrying a concealed firearm.
- 2514 (iii) Subsection (1)(e)(ii) does not apply to a law enforcement officer.
- 2515 (2) The bureau shall immediately file a copy of each permit [it] the bureau issues under this part.
- 2517 Section 35. Section **53-5a-311** is renumbered and amended to read:
- 2519 **[53-5-711]. Law enforcement officials, judges, and court commissioners exempt -- Training
requirements -- Qualification -- Revocation.**
- 2521 (1) As used in this section[~~and Section 76-10-523~~]:
- 2522 (a) "Court commissioner" means an individual appointed under Section 78A-5-107.
- 2523 (b)
- (i) "Judge" means a judge or justice of a court of record or a court not of record.
- 2524 (ii) "Judge" does not include a judge pro tem or senior judge.
- 2525 (c) "Law enforcement official" means:
- 2526 (i) a member of the Board of Pardons and Parole;
- 2527 (ii) a district attorney, deputy district attorney, county attorney or deputy county attorney of a county
not in a prosecution district;
- 2529 (iii) the attorney general;
- 2530 (iv) an assistant attorney general designated as a criminal prosecutor; or
- 2531 (v) a city attorney or a deputy city attorney designated as a criminal prosecutor.
- 2532 (2) To qualify for an exemption in Section [~~76-10-523~~] 53-5a-108, a law enforcement official, judge, or
court commissioner shall complete the following training requirements:
- 2535 (a) meet the requirements of Sections [~~53-5-704, 53-5-706, and 53-5-707~~] 53-5a-303, 53-5a-306, and
53-5a-307; and
- 2537 (b) successfully complete an additional course of training as established by the commissioner [~~of public
safety~~] designed to assist [~~them while~~] with carrying out [~~their~~] official law enforcement, judicial, or
court commissioner duties as agents for the state or [~~its~~] the state's political subdivisions.
- 2541 (3) Annual requalification requirements for law enforcement officials, judges, or court commissioners
shall be established by the commissioner [~~of public safety. Additional requalification
requirements~~] and may be established by the:

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- 2544 (a) Board of Pardons and Parole by rule for [its] the Board of Pardons and Parole's members;
- 2546 (b) Judicial Council by rule for judges and court commissioners; and
- 2547 (c) the district attorney, county attorney in a county not in a prosecution district, the attorney general, or
city attorney by policy for prosecutors under their jurisdiction.
- 2549 (4) The bureau may:
- 2550 (a) issue a certificate of qualification to a judge, law enforcement official, or court commissioner who
has completed the requirements of Subsection (2), which certificate of qualification is valid until
revoked;
- 2553 (b) revoke the certificate of qualification of a judge, law enforcement official, or court commissioner
who:
- 2555 (i) fails to meet the annual requalification criteria established pursuant to Subsection (3);
- 2557 (ii) would be subject to revocation of a concealed firearm permit under Subsection [53-5-704(2)]
(a) 53-5a-303(2)(a); or
- 2559 (iii) is no longer employed as a judge, law enforcement official, or court commissioner as defined in
Subsection (1); and
- 2561 (c) certify instructors for the training requirements of this section.

2562 Section 36. Section **53-5a-312** is renumbered and amended to read:

2564 ~~[53-5-712]~~. **Armed Forces -- Permit requirements -- Exemptions.**

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

2567 53-5a-303(4)(a) when renewing a Utah concealed firearm permit.

2568 Section 37. Section **53-5a-401** is renumbered and amended to read:

2570 **Part 4. Utah State-Made Firearms Protections**

2571 ~~[53-5b-103]~~. **Definitions.**

As used in this [chapter] part:

- 2573 (1) "Firearm" means a device from which is expelled a projectile by action of an explosive.
- 2574 (2) "Firearm accessory" means an item that is used in conjunction with or mounted upon a firearm,
firearm action, or firearm receiver but is not essential to the basic function of a firearm, including:
- 2577 (a) a telescopic or laser sight;
- 2578 (b) a magazine;
- 2579 (c) a flash or sound suppressor;

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- 2580 (d) a folding or aftermarket stock or grip;
- 2581 (e) a speed-loader;
- 2582 (f) an ammunition carrier; and
- 2583 (g) a light for target illumination.
- 2584 (3) "Generic and insignificant parts:"
- 2585 (a) means parts that have other manufacturing or consumer product applications; and
- 2586 (b) includes:
- 2587 (i) springs;
- 2588 (ii) screws;
- 2589 (iii) nuts; and
- 2590 (iv) pins.
- 2591 (4) "Manufactured" means creating a firearm, a firearm action or receiver, a firearm accessory, or ammunition from basic materials for functional usefulness, including:
- 2593 (a) forging;
- 2594 (b) casting;
- 2595 (c) machining; and
- 2596 (d) another process for working materials.

2597 Section 38. Section **53-5a-402** is renumbered and amended to read:

2599 **~~[53-5b-102]~~. Legal considerations.**

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

- 2602 (1) The Tenth Amendment to the United States Constitution guarantees to the state and its people all powers not granted to the federal government elsewhere in the Constitution and reserves to the state and people of Utah certain powers as they were understood at the time that Utah was admitted to statehood.
- 2606 (2) The guarantee of powers to the state and its people under the Tenth Amendment is a matter of contract between the state and people of Utah and the United States as of the time of statehood.
- 2609 (3) The Ninth Amendment to the United States Constitution guarantees to the people rights not granted in the Constitution and reserves to the people of Utah certain rights as they were understood at the time that Utah was admitted to statehood.

2612

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- (4) The guarantee of rights to the people under the Ninth Amendment is a matter of contract between the state and people of Utah and the United States as of the time of statehood.
- 2614 (5) The regulation of intrastate commerce is vested in the state under the Ninth and Tenth Amendments to the United States Constitution.
- 2616 (6) The Second Amendment to the United States Constitution reserves to the people the right to keep and bear arms as that right was understood at the time that Utah was admitted to statehood, and the guarantee of the right is a matter of contract between the state and people of Utah and the United States as of the time of statehood.
- 2620 (7) The Utah Constitution clearly secures to Utah citizens, and prohibits government interference with, the right of individual Utah citizens to keep and bear arms.
- 2622 (8) A personal firearm, a firearm action or receiver, a firearm accessory, or ammunition that is manufactured commercially or privately in the state to be used or sold within the state is not subject to federal law or federal regulation, including registration, under the authority of congress to regulate interstate commerce.
- 2626 (9) The Legislature declares that a firearm, a firearm action or receiver, a firearm accessory, and ammunition described in Subsection (8) does not travel in interstate commerce.
- 2628 (10) The importation into the state of generic and insignificant parts and those parts' incorporation into a firearm, a firearm action or receiver, a firearm accessory, or ammunition manufactured in the state does not subject the firearm, firearm accessory, firearm action or receiver, or ammunition to federal law or regulation.
- 2632 (11) Basic materials, including unmachined steel and unshaped wood, are not firearms, firearm actions or receivers, firearms accessories, or ammunition.
- 2634 (12) Trade in basic materials is not subject to congressional authority to regulate firearms, firearm actions or receivers, firearms accessories, and ammunition as if the basic materials were actually firearms, firearm actions or receivers, firearms accessories, or ammunition.
- 2638 (13) Congress's authority to regulate interstate commerce in basic materials does not include authority to regulate firearms, firearm actions or receivers, firearms accessories, and ammunition made in the state from basic materials.
- 2641 (14) The attachment or use of firearms accessories in conjunction with a firearm manufactured in the state does not subject the firearm to federal regulation under Congress's power to regulate interstate

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commerce, without regard to whether the firearms accessories are themselves subject to federal regulation.

2645 Section 39. Section **53-5a-403** is renumbered and amended to read:

2647 **~~[53-5b-201]~~. Intrastate firearm manufacturing.**

2648 (1) This chapter applies to a firearm, a firearm action or receiver, a firearm accessory, or ammunition that is manufactured in the state to remain in the state from basic materials that can be manufactured without the inclusion of any significant parts imported into the state.

2652 (2) This chapter does not apply to:

2653 (a) a firearm that cannot be carried and used by one ~~[person]~~ individual;

2654 (b) a firearm that has a bore diameter greater than 1-1/2 inches and that uses smokeless powder, not black powder, as a propellant;

2656 (c) a firearm that discharges two or more projectiles with one activation of the trigger or other firing device, other than a shotgun; or

2658 (d) ammunition with a projectile that explodes using an explosion of chemical energy after the projectile leaves the firearm.

2660 Section 40. Section **53-5a-404** is renumbered and amended to read:

2662 **~~[53-5b-202]~~. Required markings.**

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

2666 Section 41. Section **53-5a-501** is renumbered and amended to read:

2668 **Part 5. Firearms Safe Harbor**

2669 **~~[53-5c-102]~~. Definitions.**

As used in this [chapter] part:

2671 (1) "Bureau" means the Bureau of Criminal Identification created in Section 53-10-201.

2672 (2) "Cohabitant" means an individual who:

2673 (a) is 18 years old or older;

2674 (b) resides in the same home with another individual; and

2675 (c)

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

2676 (ii) is related by blood or marriage to the individual;

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- 2677 (iii) has one or more children in common with the individual; or
2678 (iv) has an interest in the safety and well-being of the individual.
2679 (3) "Domestic violence" means the same as that term is defined in Section 77-36-1.
2680 (4) "Firearm" means a pistol, revolver, shotgun, short barrel shotgun, rifle or short barrel rifle, or a device that could be used as a dangerous weapon from which is expelled a projectile by action of an explosive.
2683 (5) "Health care provider" means a person:
2684 (a) who provides health care or professional services related to health care; and
2685 (b) is acting within the scope of the person's license, certification, practice, education, or training.
2687 (6) "Illegal firearm" means a firearm the ownership or possession of which is prohibited under state or federal law.
2689 (7) "Jail release agreement" means the same as that term is defined in Section 78B-7-801.
2690 (8) "Jail release court order" means the same as that term is defined in Section 78B-7-801.
2691 (9) "Law enforcement agency" means a municipal or county police agency or an officer of that agency.
2693 (10) "Owner cohabitant" means a cohabitant who:
2694 (a) is 18 years old or older; and
2695 (b) owns a firearm.

2696 Section 42. Section **53-5a-502** is renumbered and amended to read:

2698 ~~[53-5e-201]~~. **Voluntary commitment of a firearm by cohabitant -- Law enforcement to hold firearm.**

- 2700 (1)
(a) A cohabitant or owner cohabitant may voluntarily commit a firearm to a law enforcement agency or request that a law enforcement officer receive a firearm for safekeeping if the owner cohabitant or cohabitant believes that the owner cohabitant or another cohabitant with access to the firearm is an immediate threat to:
2704 (i) a cohabitant;
2705 (ii) the owner cohabitant; or
2706 (iii) another individual.
2707 (b) Except as provided in Subsection (2), if the owner of a firearm requests return of the firearm in person at the law enforcement agency's office, the law enforcement agency:
2709 (i) may not hold the firearm under this section; and

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- 2710 (ii) shall return the firearm to the owner.
- 2711 (2) A law enforcement agency may not return a firearm to an owner under Subsection (1)(b) if the
owner of the firearm:
- 2713 (a) is a restricted person under Section [~~76-10-503~~] 76-11-302 or 76-11-303; or
- 2714 (b)
- (i) has been arrested and booked into a county jail on a class A misdemeanor or felony domestic
violence offense;
- 2716 (ii) has had a court:
- 2717 (A) review the probable cause statement detailing the incident leading to the owner's arrest; and
- 2719 (B) determine that probable cause existed for the arrest; and
- 2720 (iii) is subject to a jail release agreement or a jail release court order arising out of the domestic violence
offense.
- 2722 (3) Unless a firearm is an illegal firearm subject to Section [~~53-5e-202~~] 53-5a-503, a law enforcement
agency that receives a firearm in accordance with this chapter shall:
- 2724 (a) record:
- 2725 (i) the owner cohabitant's name, address, and phone number;
- 2726 (ii) the firearm serial number and the make and model of each firearm committed; and
- 2727 (iii) the date that the firearm was voluntarily committed;
- 2728 (b) require the cohabitant to sign a document attesting that the cohabitant resides in the home;
- 2730 (c) hold the firearm in safe custody:
- 2731 (i) for 60 days after the day on which the firearm is voluntarily committed; or
- 2732 (ii)
- (A) for an owner described in Subsection (2)(b), during the time the jail release agreement or jail
release court order is in effect; and
- 2734 (B) for 60 days after the day on which the jail release agreement or jail release court order expires; and
- 2736 (d) upon proof of identification, return the firearm to:
- 2737 (i)
- (A) the owner cohabitant after the expiration of the 60-day period; or
- 2738 (B) if the owner cohabitant requests return of the firearm before the expiration of the 60-day period, at
the time of the request; or
- 2740 (ii) an owner other than the owner cohabitant in accordance with Section [~~53-5e-202~~] 53-5a-503.

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- 2742 (4) The law enforcement agency shall hold the firearm for an additional 60 days:
2743 (a) if the initial 60-day period expires; and
2744 (b) the cohabitant or owner cohabitant requests that the law enforcement agency hold the firearm for an additional 60 days.
- 2746 (5) A law enforcement agency may not request or require that the owner cohabitant provide the name or other information of the cohabitant who poses an immediate threat or any other cohabitant.
- 2749 (6) Notwithstanding an ordinance or policy to the contrary adopted in accordance with Section 63G-2-701, a law enforcement agency shall destroy a record created under Subsection (3), Subsection [~~53-5e-202(3)(b)(iii)~~] 53-5a-503(3)(b)(iii), or any other record created in the application of this chapter immediately, if practicable, but no later than five days after immediately upon the:
- 2754 (a) return of a firearm in accordance with Subsection (3)(d); or
2755 (b) disposal of the firearm in accordance with Section [~~53-5e-202~~] 53-5a-503.
- 2756 (7) Unless otherwise provided, the provisions of Title 77, Chapter 11d, Lost or Mislaid Property, do not apply to a firearm received by a law enforcement agency in accordance with this [~~chapter~~] part.
- 2759 (8) A law enforcement agency shall adopt a policy for the safekeeping of a firearm held in accordance with this [~~chapter~~] part.
- 2761 (9) The department shall create a pamphlet to be distributed by a law enforcement officer under Section 77-36-2.1 that includes information about a cohabitant's or owner cohabitant's ability to have the owner cohabitant's firearm committed to a law enforcement agency for safekeeping in accordance with this section.

2765 Section 43. Section **53-5a-503** is renumbered and amended to read:

2767 **~~53-5e-202~~. Illegal firearms confiscated -- Disposition of unclaimed firearm.**

- 2769 (1) If a law enforcement agency receives a firearm in accordance with Section 53-5c-201, and the firearm is an illegal firearm, the law enforcement agency shall:
- 2771 (a) notify the owner cohabitant attempting to voluntarily commit the firearm that the firearm is an illegal firearm; and
- 2773 (b) confiscate the firearm and dispose of the firearm in accordance with Section 77-11a-403.
- 2775 (2)
- (a) If a law enforcement agency cannot, after a reasonable attempt, locate an owner cohabitant to return a firearm in accordance with Section [~~53-5e-201~~] 53-5a-502, the law enforcement agency shall dispose of the firearm in accordance with Section 77-11a-403.

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- 2779 (b) A law enforcement agency may not dispose of a firearm under Subsection (2)(a) before one year
after the day on which the cohabitant initially voluntarily committed the firearm in accordance with
Section ~~[53-5e-201]~~ 53-5a-502.
- 2782 (3)
- (a) If ~~[a person]~~ an individual other than an owner cohabitant claims ownership of the firearm, the
~~[person]~~ individual may:
- 2784 (i) request that the law enforcement agency return the firearm in accordance with Subsection (3)(b);
or
- 2786 (ii) petition the court for the firearm's return in accordance with Subsection (3)(c).
- 2787 (b) Except as provided in Section ~~[53-5e-201]~~ 53-5a-502, the law enforcement agency shall return a
firearm to ~~[a person]~~ an individual other than an owner cohabitant who claims ownership of the
firearm if:
- 2790 (i) the 60-day period described in Section ~~[53-5e-201]~~ 53-5a-502 has expired;
- 2791 (ii) the ~~[person]~~ individual provides identification; and
- 2792 (iii) the ~~[person]~~ individual signs a document attesting that the ~~[person]~~ individual has an ownership
interest in the firearm.
- 2794 (c) After sufficient notice is given to the prosecutor, the court may order that the firearm be:
- 2796 (i) returned to the rightful owner as determined by the court; or
- 2797 (ii) disposed of in accordance with Section 77-11a-403.
- 2798 (d) A law enforcement agency shall return a firearm ordered returned to the rightful owner as
expeditiously as possible after a court determination.
- 2800 Section 44. Section **53-5a-504** is renumbered and amended to read:
- 2802 ~~[53-5e-301]~~. **Voluntary restrictions on firearm purchase and possession.**
- 2804 (1) An individual who is not a restricted person under Section ~~[76-10-503]~~ 76-11-302 or 76-11-303
may voluntarily request to be restricted from the purchase or possession of firearms.
- 2807 (2) An individual requesting to be restricted under Subsection (1) may request placement on one of the
following restricted lists:
- 2809 (a) a restricted list that:
- 2810 (i) restricts the individual from purchasing or possessing a firearm for 180 days with automatic removal
of the individual from the restricted list at the end of the 180 days; and
- 2813

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- (ii) allows the individual to request removal 30 days after the day on which the individual is added to the restricted list; or
- 2815 (b) a restricted list that:
- 2816 (i) restricts the individual from purchasing or possessing a firearm indefinitely; and
- 2817 (ii) allows the individual to request removal 90 days after the day on which the individual is added to the restricted list.
- 2819 (3)
- (a) Subject to Subsections (8) and (9), the bureau shall develop a process and forms for inclusion on, and removal from, a restricted list as described in Subsection (2) to be maintained by the bureau.
- 2822 (b) The bureau shall make the forms for inclusion and removal available by download through the bureau's website and require, at a minimum, the following information for the individual described in Subsection (1):
- 2825 (i) name;
- 2826 (ii) address;
- 2827 (iii) date of birth;
- 2828 (iv) contact information;
- 2829 (v) signature; and
- 2830 (vi)
- (A) if the individual is entered on the restricted list as described in Subsection (2)(a), an acknowledgment of the statement in Subsection (8)(a); or
- 2832 (B) if the individual is entered on the restricted list as described in Subsection (2)(b), an acknowledgment of the statement in Subsection (8)(b).
- 2834 (4)
- (a) An individual requesting inclusion on a restricted list under Subsection (2) shall:
- 2835 (i) deliver the completed form in person to a law enforcement agency; or
- 2836 (ii) direct the individual's health care provider under Section [~~53-5e-302~~] 53-5a-505 to electronically deliver the individual's request to the bureau.
- 2838 (b) The law enforcement agency described in Subsection (4)(a)(i):
- 2839 (i) shall verify the individual's identity before accepting the form;
- 2840 (ii) may not accept a form from someone other than the individual named on the form; and
- 2842

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- (iii) shall transmit the form electronically to the bureau through the Utah Criminal Justice Information System.
- 2844 (5) Upon receipt of a verified form provided under this section or Section [~~53-5e-302~~] 53-5a-505 requesting inclusion on a restricted list, the bureau shall, within 24 hours, add the individual's name to the restricted list.
- 2847 (6)
- 2848 (a) For an individual added to the restricted list described in Subsection (2)(a):
- 2850 (i) the individual may not request removal from the restricted list unless the individual has been on the restricted list for at least 30 days;
- 2852 (ii) the bureau shall remove the individual from the restricted list 180 days after the day on which the individual was added to the restricted list, unless the individual:
- 2853 (A) requests to be removed from the restricted list after 30 days;
- 2854 (B) requests to remain on the restricted list; or
- 2856 (C) directs the individual's health care provider to request that the individual remain on the restricted list;
- 2858 (iii) a request for an extension shall be made in the same manner as the original request; and
- 2860 (iv) the individual may continue to request, or direct the individual's health care provider to continue to request, extensions every 180 days.
- 2861 (b) For an individual added to a restricted list under Subsection (2)(b), the individual:
- 2863 (i) may not request removal from the restricted list unless the individual has been on the restricted list for at least 90 days; and
- 2865 (ii) shall remain on the restricted list, unless the bureau receives a request from the individual to have the individual's name removed from the restricted list.
- 2867 (7) If an individual restricted under this section is a concealed firearm permit holder, the individual's permit shall be:
- 2868 (a) suspended upon entry on the restricted list; and
- 2869 (b) reinstated upon removal from the restricted list, unless:
- 2871 (i) the permit has been revoked, been suspended for a reason other than under this section, or has expired; or
- 2873 (ii) the individual has become a restricted person under Section [~~76-10-503~~] 76-11-302 or 76-11-303.
- (8)

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

2875

"ACKNOWLEDGMENT

2876

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

2888

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

2891

"ACKNOWLEDGMENT

2892

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

2904

(9)

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

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- 2906 (i) the law enforcement agency that processed the inclusion form if the individual was placed on the
restricted list under Subsection (4)(a)(i); or
- 2908 (ii) the individual's local law enforcement agency if the individual was placed on the restricted list
under Subsection (4)(a)(ii).
- 2910 (b) The law enforcement agency described in Subsection (9)(a):
- 2911 (i) shall verify the individual's identity before accepting the form;
- 2912 (ii) may not accept a removal form from someone other than the individual named on the form; and
- 2914 (iii) shall transmit the removal form electronically to the bureau through the Utah Criminal Justice
Information System.
- 2916 (10) Upon receipt of a verified removal form, the bureau shall, after three business days, remove the
individual from the restricted list and remove the information from the National Instant Criminal
Background Check System.
- 2919 (11) For an individual added to the restricted list under Subsection (2)(a), within 30 days before
the 180-day removal deadline, the bureau shall notify the individual at the address listed on the
inclusion form described in Subsection (4) and, if applicable, the law enforcement agency that
processed the inclusion form, that the individual is due to be removed from the restricted list, and
the date on which the removal will occur, unless the individual requests an extension of up to 180
days.
- 2925 (12)
- 2927 (a) A law enforcement agency that receives a request for inclusion under Subsection (4)(a)(i) shall:
- 2929 (i) maintain the completed form and all subsequent completed forms in a separate file; and
(ii) for an individual added to the restricted list under Subsection (2)(a), destroy the entire file
within five days after the date indicated in the notification if the individual does not request an
extension after notification in accordance with Subsection (11).
- 2933 (b) A law enforcement agency that receives a removal request under Subsection (9) shall destroy the
entire file associated with the individual within five days after the day on which the information is
transmitted to the bureau.
- 2936 (c) Upon removal of an individual from a restricted list, the bureau shall destroy all records related to
the inclusion and removal of the individual within five days after the day on which the individual
was removed.
- 2939

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(d) All forms and records created in accordance with this section are classified as private records in accordance with Title 63G, Chapter 2, Government Records Access and Management Act.

2942 (13) The bureau may make rules in accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, to develop the process and forms to implement this section.

2945 Section 45. Section **53-5a-505** is renumbered and amended to read:

2947 ~~[53-5e-302]~~. **Assistance from a health care provider -- Restricted list.**

2948 (1) An individual who is not a restricted person under Section ~~[76-10-503]~~ 76-11-302 or 76-11-303 and is seeking inclusion on a restricted list under Section ~~[53-5e-301]~~ 53-5a-504 may direct the individual's health care provider to electronically deliver the individual's inclusion request described in Section ~~[53-5e-301]~~ 53-5a-504 to the bureau.

2952 (2) In addition to the inclusion form described in Section ~~[53-5e-301]~~ 53-5a-504, the bureau shall create a form, available by download through the bureau's website, for:

2954 (a) an individual who is directing a health care provider to electronically deliver the individual's inclusion request and require, at a minimum, the following information:

2956 (i) the individual's signature;

2957 (ii) the name of the individual's health care provider; and

2958 (iii) the individual's acknowledgment of the statement in Subsection (4)(a); and

2959 (b) a health care provider who is delivering an individual's inclusion request and require, at a minimum, the following information for the health care provider:

2961 (i) the health care provider's name;

2962 (ii) the name of the health care provider's organization;

2963 (iii) the health care provider's license or certification, including the license or certification number;

2965 (iv) the health care provider's signature; and

2966 (v) the health care provider's acknowledgment of the statement in Subsection (4)(b).

2967 (3)

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

2971 (b) The health care provider:

2972 (i) shall verify the individual's identity before accepting the forms;

2973 (ii) may not accept forms from someone other than the individual named on the forms;

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- 2975 (iii) shall complete the form described in Subsection (2)(b); and
2976 (iv) shall deliver the request to the bureau electronically and maintain a copy of the completed request
in the individual's health record.

- 2978 (4)
(a) The form described in Subsection (2)(a) shall have the following language prominently displayed
before the signature:

2980 "ACKNOWLEDGMENT

2981 By presenting this completed form to my health care provider, I understand that I am requesting
that my health care provider present my name to the Bureau of Criminal Identification to be placed
on a restricted list that restricts my ability to purchase or possess firearms."

- 2985 (b) The form described in Subsection (2)(b) shall have the following language prominently displayed
before the signature:

2987 "ACKNOWLEDGMENT

2988 By presenting this completed form to the Bureau of Criminal Identification, I understand that
I am acknowledging that I have verified the identity of [name of individual seeking inclusion on
a restricted list] and have witnessed [name of individual] sign the form requesting that [name of
individual] be placed on a restricted list that restricts [name of individual]'s ability to purchase or
possess firearms. I affirm that [name of individual] is currently my patient, and I am a licensed
health care provider acting within the scope of my license, certification, practice, education, or
training."

- 2995 (5) The bureau may make rules in accordance with Title 63G, Chapter 3, Utah Administrative
Rulemaking Act, to develop the process and forms to implement this section.

2998 Section 46. Section **46** is enacted to read:

2999 **Part 6. Sale and Purchase of a Firearm**

3000 **53-5a-601. Definitions.**

As used in this part:

- 3002 (1) "Antique firearm" means the same as that term is defined in Section 53-5a-101.5.
3003 (2) "Bureau" means the Bureau of Criminal Identification created in Section 53-10-201 within the
department.
3005 (3) "Criminal history background check" means a criminal background check conducted through the
bureau or a local law enforcement agency.

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- 3007 (4) "Dangerous weapon" means the same as that term is defined in Section 76-11-101.
- 3008 (5) "Dealer" means a person who is:
- 3009 (a) licensed under 18 U.S.C. Sec. 923; and
- 3010 (b) engaged in the business of selling, leasing, or otherwise transferring a firearm, whether the person is a retail or wholesale dealer, pawnbroker, or other type of merchant or seller.
- 3013 (6) "Domestic violence" means the same as that term is defined in Section 77-36-1.
- 3014 (7) "Federal firearms licensee" means a person who:
- 3015 (a) holds a valid federal firearms license issued under 18 U.S.C. Sec. 923; and
- 3016 (b) is engaged in the activities authorized by the specific category of license held.
- 3017 (8)
- (a) "Firearm" means a pistol, revolver, shotgun, short barreled shotgun, rifle, or short barreled rifle, or a device that could be used as a dangerous weapon from which is expelled a projectile by action of an explosive.
- 3020 (b) "Firearm" does not include an antique firearm.
- 3021 (9)
- (a) "Short barreled rifle" means a rifle having a barrel or barrels of fewer than 16 inches in length.
- 3023 (b) "Short barreled rifle" includes a dangerous weapon made from a rifle by alteration, modification, or otherwise, if the weapon as modified has an overall length of fewer than 26 inches.
- 3026 (10)
- (a) "Short barreled shotgun" means a shotgun having a barrel or barrels of fewer than 18 inches in length.
- 3028 (b) "Short barreled shotgun" includes a dangerous weapon made from a shotgun by alteration, modification, or otherwise, if the weapon as modified has an overall length of fewer than 26 inches.
- 3031 (11) "Shotgun" means a smooth bore firearm designed to fire cartridges containing pellets or a single slug.
- 3033 (12) "Slug" means a single projectile discharged from a shotgun shell.
- 3034 Section 47. Section **53-5a-602** is renumbered and amended to read:
- 3036 **[76-10-526]. Criminal background check prior to purchase of a firearm -- Fee -- Exemption for concealed firearm permit holders and law enforcement officers.**
- 3039 [(1) For purposes of this section, "valid permit to carry a concealed firearm" does not include a temporary permit issued under Section 53-5-705.]

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- 3041 [~~2~~] (1)
- (a) To establish personal identification and residence in this state for purposes of this part, a dealer shall require an individual receiving a firearm to present one photo identification on a form issued by a governmental agency of the state.
- 3044 (b) A dealer may not accept a driving privilege card issued under Section 53-3-207 as proof of identification for the purpose of establishing personal identification and residence in this state as required under this Subsection [~~2~~] (1).
- 3047 [~~3~~] (2)
- (a) A criminal history background check is required for the sale of a firearm by a licensed firearm dealer in the state.
- 3049 (b) Subsection [~~3~~](a) (2)(a) does not apply to the sale of a firearm to a Federal Firearms Licensee.
- 3051 [~~4~~] (3)
- (a) An individual purchasing a firearm from a dealer shall consent in writing to a criminal background check, on a form provided by the bureau.
- 3053 (b) The form shall contain the following information:
- 3054 (i) the dealer identification number;
- 3055 (ii) the name and address of the individual receiving the firearm;
- 3056 (iii) the date of birth, height, weight, eye color, and hair color of the individual receiving the firearm;
and
- 3058 (iv) the social security number or any other identification number of the individual receiving the firearm.
- 3060 [~~5~~] (4)
- (a) The dealer shall send the information required by Subsection [~~4~~] (3) to the bureau immediately upon its receipt by the dealer.
- 3062 (b) A dealer may not sell or transfer a firearm to an individual until the dealer has provided the bureau with the information in Subsection [~~4~~] (3) and has received approval from the bureau under Subsection [~~7~~] (6).
- 3065 [~~6~~] (5) The dealer shall make a request for criminal history background information by telephone or other electronic means to the bureau and shall receive approval or denial of the inquiry by telephone or other electronic means.
- 3068 [~~7~~] (6) When the dealer calls for or requests a criminal history background check, the bureau shall:

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- 3070 (a) review the criminal history files, including juvenile court records, and the temporary restricted
file created under Section [~~53-5e-301~~] 53-5a-504, to determine if the individual is prohibited from
purchasing, possessing, or transferring a firearm by state or federal law;
- 3074 (b) inform the dealer that:
- 3075 (i) the records indicate the individual is prohibited; or
- 3076 (ii) the individual is approved for purchasing, possessing, or transferring a firearm;
- 3077 (c) provide the dealer with a unique transaction number for that inquiry; and
- 3078 (d) provide a response to the requesting dealer during the call for a criminal background check, or by
return call, or other electronic means, without delay, except in case of electronic failure or other
circumstances beyond the control of the bureau, the bureau shall advise the dealer of the reason for
the delay and give the dealer an estimate of the length of the delay.
- 3083 [~~(8)~~] (7)
- (a) The bureau may not maintain any records of the criminal history background check longer than
20 days from the date of the dealer's request, if the bureau determines that the individual receiving
the firearm is not prohibited from purchasing, possessing, or transferring the firearm under state or
federal law.
- 3087 (b) However, the bureau shall maintain a log of requests containing the dealer's federal firearms
number, the transaction number, and the transaction date for a period of 12 months.
- 3090 [~~(9)~~] (8)
- (a) If the criminal history background check discloses information indicating that the individual
attempting to purchase the firearm is prohibited from purchasing, possessing, or transferring a
firearm, the bureau shall:
- 3093 (i) within 24 hours after determining that the purchaser is prohibited from purchasing, possessing,
or transferring a firearm, notify the law enforcement agency in the jurisdiction where the dealer
is located; and
- 3096 (ii) inform the law enforcement agency in the jurisdiction where the individual resides.
- 3098 (b) Subsection [~~(9)(a)~~] (8)(a) does not apply to an individual prohibited from purchasing a firearm
solely due to placement on the temporary restricted list under Section [~~53-5e-301~~] 53-5a-504.
- 3101 (c) A law enforcement agency that receives information from the bureau under Subsection [~~(9)(a)~~] (8)
(a) shall provide a report before August 1 of each year to the bureau that includes:
- 3104

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- (i) based on the information the bureau provides to the law enforcement agency under Subsection ~~[(9)(a)]~~ (8)(a), the number of cases that involve an individual who is prohibited from purchasing, possessing, or transferring a firearm as a result of a conviction for an offense involving domestic violence; and
- 3108 (ii) of the cases described in Subsection ~~[(9)(e)(i)]~~ (8)(c)(i):
- 3109 (A) the number of cases the law enforcement agency investigates; and
- 3110 (B) the number of cases the law enforcement agency investigates that result in a criminal charge.
- 3112 (d) The bureau shall:
- 3113 (i) compile the information from the reports described in Subsection ~~[(9)(e)]~~ (8)(c);
- 3114 (ii) omit or redact any identifying information in the compilation; and
- 3115 (iii) submit the compilation to the Law Enforcement and Criminal Justice Interim Committee before November 1 of each year.
- 3117 ~~[(40)]~~ (9) If an individual is denied the right to purchase a firearm under this section, the individual may review the individual's criminal history information and may challenge or amend the information as provided in Section 53-10-108.
- 3120 ~~[(41)]~~ (10) The bureau shall make rules in accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, to ensure the identity, confidentiality, and security of all records provided by the bureau under this part are in conformance with the requirements of the Brady Handgun Violence Prevention Act, Pub. L. No. 103-159, 107 Stat. 1536 (1993).
- 3125 ~~[(42)]~~ (11)
- (a) A dealer shall collect a criminal history background check fee for the sale of a firearm under this section.
- 3127 (b) The fee described under Subsection ~~[(42)(a)]~~ (11)(a) remains in effect until changed by the bureau through the process described in Section 63J-1-504.
- 3129 (c)
- (i) The dealer shall forward at one time all fees collected for criminal history background checks performed during the month to the bureau by the last day of the month following the sale of a firearm.
- 3132 (ii) The bureau shall deposit the fees in the General Fund as dedicated credits to cover the cost of administering and conducting the criminal history background check program.
- 3135 ~~[(43)]~~ (12)

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

3139 [(a)] (i) the individual presents the individual's concealed firearm permit to the dealer prior to purchase of the firearm; and

3141 [(b)] (ii) the dealer verifies with the bureau that the individual's concealed firearm permit is valid.

3143 (b) An individual with a temporary permit to carry a concealed firearm issued under Section 53-5a-305 is not exempt from a background check and the corresponding fee required in this section for the purchase of a firearm.

3146 [(14)] (13)

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

3151 (b) Subsection [(14)(a)] (13)(a) may only be used by a law enforcement officer to purchase a personal firearm once in a 24-month period.

3153 [(15)] (14) A dealer engaged in the business of selling, leasing, or otherwise transferring a firearm shall:

3155 (a) make the firearm safety brochure described in Subsection 26B-5-211(3) available to a customer free of charge; and

3157 (b) at the time of purchase, distribute a cable-style gun lock provided to the dealer under Subsection 26B-5-211(3) to a customer purchasing a shotgun, short barreled shotgun, short barreled rifle, rifle, or another firearm that federal law does not require be accompanied by a gun lock at the time of purchase.

3161 Section 48. Section **53-5a-603** is renumbered and amended to read:

3163 ~~[76-10-526.1]~~. **Information check before private sale of firearm.**

3164 (1) As used in this section:

3165 (a) "Governmental entity" means the state and the state's political subdivisions.

3166 (b) "Law enforcement agency" means the same as that term is defined in Section 53-1-102.

3168 (c) "Personally identifiable information" means the same as that term is defined in Section 63D-2-102.

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- (2) Subject to Subsections (3) and (4), the bureau shall create an online process that allows an individual who is selling or purchasing a firearm to voluntarily determine:
- 3172 (a) if the other individual involved in the sale of the firearm has a valid concealed carry permit issued under Section 53-5a-303, a provisional concealed carry permit issued under Section 53-5a-304, or a temporary concealed carry permit issued under Section 53-5a-305; or
- 3176 (b) based on the serial number of the firearm, if the firearm is reported as stolen.
- 3177 (3) Subsection (2) does not apply to a federal firearms licensee or dealer.
- 3178 (4) The bureau may not:
- 3179 (a) provide information related to a request under Subsection (2) to a law enforcement agency; or
- 3181 (b) collect a user's personally identifiable information under Subsection (2).
- 3182 (5) A governmental entity may not require an individual who is selling or purchasing a firearm to use the process under Subsection (2).
- 3184 (6) If an individual uses the process under Subsection (2), the individual is not required, based on the information the individual receives from the bureau, to make a report to a law enforcement agency.
- 3187 (7) After responding to a request under Subsection (2), the bureau shall immediately dispose of all information related to the request.
- 3189 (8)
- (a) This section does not create a civil cause of action arising from the sale or purchase of a firearm under this section.
- 3191 (b) An individual's failure to use the process under Subsection (2) is not evidence of the individual's negligence in a civil cause of action.
- 3193 Section 49. Section **53-5a-604** is renumbered and amended to read:
- 3195 ~~[76-10-527]~~. **Penalties.**
- 3196 (1) A dealer is guilty of a class A misdemeanor ~~[who]~~ if the dealer willfully and intentionally:
- 3198 (a) requests, obtains, or seeks to obtain criminal history background information under false pretenses;
- 3200 (b) disseminates criminal history background information; or
- 3201 (c) violates Section ~~[76-10-526]~~ 53-5a-602.
- 3202 (2) ~~[A person]~~ An individual who purchases or transfers a firearm is guilty of a ~~[felony of the]~~ third degree felony if the ~~[person]~~ individual willfully and intentionally makes a false statement of the information required for a criminal background check in Section ~~[76-10-526]~~ 53-5a-602.
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(3) Except as otherwise provided in Subsection (1), a dealer is guilty of a ~~[felony of the]~~third degree felony if the dealer willfully and intentionally sells or transfers a firearm in violation of this part or Title 76, Chapter 11, Weapons.

3209 (4) ~~[A person]~~ An individual is guilty of a ~~[felony of the]~~third degree felony if the ~~[person]~~ individual purchases a firearm with the intent to:

3211 (a) resell or otherwise provide a firearm to ~~[a person]~~ an individual who is ineligible to purchase or receive a firearm from a dealer; or

3213 (b) transport a firearm out of this state to be resold to an ineligible ~~[person]~~ individual.

3214 Section 50. Section **53-5a-605** is renumbered and amended to read:

3216 ~~[76-10-524]~~. **Purchase of firearms pursuant to federal law.**

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

3219 Section 51. Section **53-5d-102** is amended to read:

3220 **53-5d-102. Definitions.**

As used in this chapter:

3222 (1) "Ammunition" means a bullet, a cartridge case, primer, propellant powder, or other ammunition designed for use in any firearm, either as an individual component part or in a completely assembled cartridge.

3225 (2) "Manufacturer" means, with respect to a qualified product, a person who is engaged in the business of manufacturing a qualified product and who is licensed to engage in business as a manufacturer under 18 U.S.C. Chapter 44.

3228 (3) "Negligent entrustment" means the supplying of a qualified product by a seller for use by another person when the seller knows, or reasonably should know, the person to whom the product is supplied is likely to, and does, use the product in a manner involving unreasonable risk of physical injury to the person or others.

3232 (4) "Person" means the same as that term is defined in Section 68-3-12.5.

3233 (5)

(a) "Qualified civil liability action" means a civil action or proceeding or an administrative proceeding brought by any person against a manufacturer or seller of a qualified product, or a trade association, for damages, punitive damages, injunctive or declaratory relief, abatement, restitution, fines, or

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penalties, or other relief, resulting from the criminal or unlawful misuse of a qualified product by the person or a third party.

- 3239 (b) "Qualified civil liability action" does not include:
- 3240 (i) an action brought against a transferor convicted under 18 U.S.C. Sec. 924(h) or Section 76-10-503
by a party directly harmed by the conduct of which the transferee was convicted;
- 3243 (ii) an action brought against a seller for negligent entrustment or negligence per se;
- 3244 (iii) an action in which a manufacturer or seller of a qualified product knowingly violated a state or
federal statute applicable to the sale or marketing of the product, and the violation was a proximate
cause of the harm for which relief is sought, including:
- 3248 (A) any incident in which the manufacturer or seller knowingly made any false entry in, or failed to
make appropriate entry in, any record required to be kept under federal or state law with respect
to the qualified product, or aided, abetted, or conspired with any person in making any false or
fictitious oral or written statement with respect to any fact material to the lawfulness of the sale or
other disposition of a qualified product; or
- 3254 (B) any case in which the manufacturer or seller aided, abetted, or conspired with any other person to
sell or otherwise dispose of a qualified product, knowing, or having reasonable cause to believe, that
the actual buyer of the qualified product was prohibited from possessing or receiving a firearm or
ammunition under 18 U.S.C. Sec. 922(g) or (n) or [~~Section 76-10-503~~] Title 76, Chapter 11, Part 3,
Persons Restricted Regarding Dangerous Weapons;
- 3260 (iv) an action for breach of contract or warranty in connection with the purchase of the product;
- 3262 (v) an action for death, physical injuries, or property damage resulting directly from a defect in design
or manufacture of the product, when used as intended or in a reasonably foreseeable manner, except
that where the discharge of the product was caused by a volitional act that constituted a criminal
offense, then the act shall be considered the sole proximate cause of any resulting death, personal
injuries, or property damage; or
- 3268 (vi) an action or proceeding commenced to enforce the provisions of 18 U.S.C. Chapter 44, 26 U.S.C.
Chapter 53, or [~~Title 76, Chapter 10, Part 5, Weapons~~] Title 76, Chapter 11, Weapons.
- 3271 (6) "Qualified product" means a firearm or antique firearm, as defined in Section
[~~76-10-501~~] 76-11-101, ammunition, or a component part of a firearm or ammunition.
- 3273 (7) "Seller" means, with respect to a qualified product, a federal firearms licensee, as defined in Section
[~~76-10-501~~] 53-5a-601.

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- 3275 (8) "Trade association" means:
- 3276 (a) any corporation, unincorporated association, federation, business league, or professional or business organization not organized or operated for profit and no part of the net earnings of which inures to the benefit of any private shareholder or individual;
- 3280 (b) an organization described in 26 U.S.C. Sec. 501(c)(6) and exempt from tax under 26 U.S.C. Sec. 501(a); and
- 3282 (c) an organization, two or more members of which are manufacturers or sellers of a qualified product.
- 3284 (9) "Unlawful misuse" means conduct that violates a statute, ordinance, or regulation as it relates to the use of a qualified product.

3286 Section 52. Section 53-10-202 is amended to read:

3287 **53-10-202. Criminal identification -- Duties of bureau.**

The bureau shall:

- 3289 (1) procure and file information relating to identification and activities of persons who:
- 3290 (a) are fugitives from justice;
- 3291 (b) are wanted or missing;
- 3292 (c) have been arrested for or convicted of a crime under the laws of any state or nation; and
- 3294 (d) are believed to be involved in racketeering, organized crime, or a dangerous offense;
- 3295 (2) establish a statewide uniform crime reporting system that shall include:
- 3296 (a) statistics concerning general categories of criminal activities;
- 3297 (b) statistics concerning crimes that exhibit evidence of prejudice based on race, religion, ancestry, national origin, ethnicity, or other categories that the division finds appropriate;
- 3300 (c) statistics concerning the use of force by law enforcement officers in accordance with the Federal Bureau of Investigation's standards; and
- 3302 (d) other statistics required by the Federal Bureau of Investigation;
- 3303 (3) make a complete and systematic record and index of the information obtained under this part;
- 3305 (4) subject to the restrictions in this part, establish policy concerning the use and dissemination of data obtained under this part;
- 3307 (5) publish an annual report concerning the extent, fluctuation, distribution, and nature of crime in Utah;
- 3309 (6) establish a statewide central register for the identification and location of missing persons, which may include:
- 3311 (a) identifying data including fingerprints of each missing person;

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- 3312 (b) identifying data of any missing person who is reported as missing to a law enforcement agency having jurisdiction;
- 3314 (c) dates and circumstances of any persons requesting or receiving information from the register; and
- 3316 (d) any other information, including blood types and photographs found necessary in furthering the purposes of this part;
- 3318 (7) publish a quarterly directory of missing persons for distribution to persons or entities likely to be instrumental in the identification and location of missing persons;
- 3320 (8) list the name of every missing person with the appropriate nationally maintained missing persons lists;
- 3322 (9) establish and operate a 24-hour communication network for reports of missing persons and reports of sightings of missing persons;
- 3324 (10) coordinate with the National Center for Missing and Exploited Children and other agencies to facilitate the identification and location of missing persons and the identification of unidentified persons and bodies;
- 3327 (11) receive information regarding missing persons as provided in Sections 26B-8-130 and 53G-6-602, and stolen vehicles, vessels, and outboard motors, as provided in Section 41-1a-1401;
- 3330 (12) adopt systems of identification, including the fingerprint system, to be used by the division to facilitate law enforcement;
- 3332 (13) assign a distinguishing number or mark of identification to any pistol or revolver, as provided in Section ~~[76-10-520]~~ 53-5a-105;
- 3334 (14) check certain criminal records databases for information regarding motor vehicle salesperson applicants, maintain a separate file of fingerprints for motor vehicle salespersons, and inform the Motor Vehicle Enforcement Division when new entries are made for certain criminal offenses for motor vehicle salespersons in accordance with the requirements of Section 41-3-205.5;
- 3339 (15) check certain criminal records databases for information regarding driving privilege card applicants or cardholders and maintain a separate file of fingerprints for driving privilege applicants and cardholders and inform the federal Immigration and Customs Enforcement Agency of the United States Department of Homeland Security when new entries are made in accordance with the requirements of Section 53-3-205.5;
- 3344 (16) review and approve or disapprove applications for license renewal that meet the requirements for renewal; and

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3346 (17) forward to the board those applications for renewal under Subsection (16) that do not meet the
requirements for renewal.

3348 Section 53. Section 53-10-202.5 is amended to read:

3349 **53-10-202.5. Bureau services -- Fees.**

The bureau shall collect fees for the following services:

- 3351 (1) applicant fingerprint card as determined by Section 53-10-108;
3352 (2) bail enforcement licensing as determined by Section 53-11-115;
3353 (3) concealed firearm permit as determined by Section [~~53-5-707~~] 53-5a-307;
3354 (4) provisional concealed firearm permit as determined by Section [~~53-5-707.5~~] 53-5a-308;
3355 (5) a certificate of eligibility for expungement as described in Section 77-40a-304;
3356 (6) firearm purchase background check as determined by Section [~~76-10-526~~] 53-5a-602;
3357 (7) name check as determined by Section 53-10-108;
3358 (8) private investigator licensing as determined by Section 53-9-111; and
3359 (9) right of access as determined by Section 53-10-108.

3360 Section 54. Section 53-10-208.1 is amended to read:

3361 **53-10-208.1. Magistrates and court clerks to supply information.**

- 3362 (1) Every magistrate or clerk of a court responsible for court records in this state shall, within 30 days
after the day of the disposition and on forms and in the manner provided by the division, furnish the
division with information pertaining to:
- 3365 (a) all dispositions of criminal matters, including:
- 3366 (i) guilty pleas;
3367 (ii) convictions;
3368 (iii) dismissals;
3369 (iv) acquittals;
3370 (v) pleas in abeyance;
3371 (vi) judgments of not guilty by reason of insanity;
3372 (vii) judgments of guilty with a mental condition;
3373 (viii) finding of mental incompetence to stand trial; and
3374 (ix) probations granted;
- 3375 (b) orders of civil commitment under the terms of Section 26B-5-332;

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- (c) the issuance, recall, cancellation, or modification of all warrants of arrest or commitment as described in Rule 6, Utah Rules of Criminal Procedure and Section 78B-6-303, within one day of the action and in a manner provided by the division; and
- 3380 (d) protective orders issued after notice and hearing, pursuant to:
- 3381 (i) Title 77, Chapter 36, Cohabitant Abuse Procedures Act;
- 3382 (ii) Title 78B, Chapter 7, Part 4, Dating Violence Protective Orders;
- 3383 (iii) Title 78B, Chapter 7, Part 5, Sexual Violence Protective Orders;
- 3384 (iv) Title 78B, Chapter 7, Part 6, Cohabitant Abuse Protective Orders; or
- 3385 (v) Title 78B, Chapter 7, Part 8, Criminal Protective Orders.
- 3386 (2) When transmitting information on a criminal matter under Subsection (1)(a)(i), (ii), (v), or (vii) for a conviction of misdemeanor assault under Section 76-5-102, the magistrate or clerk of a court shall include available information regarding whether the conviction for assault resulted from an assault against an individual:
- 3390 (a) who is included in at least one of the relationship categories described in Subsection [~~76-10-503(1)~~ ~~(b)(xii)~~] 76-11-303(13); or
- 3392 (b) with whom none of the relationships described in Subsection [~~76-10-503(1)(b)(xii)~~] 76-11-303(13) apply.
- 3394 (3) The court in the county where a determination or finding was made shall transmit a record of the determination or finding to the bureau no later than 48 hours after the determination is made, excluding Saturdays, Sundays, and legal holidays, if an individual is:
- 3398 (a) adjudicated as a mental defective; or
- 3399 (b) involuntarily committed to a mental institution in accordance with Subsection 26B-5-332(16).
- 3401 (4) The record described in Subsection (3) shall include:
- 3402 (a) an agency record identifier;
- 3403 (b) the individual's name, sex, race, and date of birth; and
- 3404 (c) the individual's social security number, government issued driver license or identification number, alien registration number, government passport number, state identification number, or FBI number.

Section 55. Section 53-10-403 is amended to read:

53-10-403. DNA specimen analysis -- Application to offenders, including minors.

- (1) Sections 53-10-403.6, 53-10-404, 53-10-404.5, 53-10-405, and 53-10-406 apply to:

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- (a) a person who has pled guilty to or has been convicted of any of the offenses under Subsection (2)(a) or (b) on or after July 1, 2002;
- 3412 (b) a person who has pled guilty to or has been convicted by any other state or by the United States government of an offense which if committed in this state would be punishable as one or more of the offenses listed in Subsection (2)(a) or (b) on or after July 1, 2003;
- 3416 (c) a person who has been booked on or after January 1, 2011, through December 31, 2014, for any offense under Subsection (2)(c);
- 3418 (d) a person who has been booked:
- 3419 (i) by a law enforcement agency that is obtaining a DNA specimen on or after May 13, 2014, through December 31, 2014, under Subsection 53-10-404(4)(b) for any felony offense; or
- 3422 (ii) on or after January 1, 2015, for any felony offense; or
- 3423 (e) a minor:
- 3424 (i)
- (A) who is adjudicated by the juvenile court for an offense described in Subsection (2) that is within the jurisdiction of the juvenile court on or after July 1, 2002; or
- 3427 (B) who is adjudicated by the juvenile court for an offense described in Subsection (2) and is in the legal custody of the Division of Juvenile Justice and Youth Services for the offense on or after July 1, 2002; and
- 3430 (ii) who is 14 years old or older at the time of the commission of the offense described in Subsection (2).
- 3432 (2) Offenses referred to in Subsection (1) are:
- 3433 (a) any felony or class A misdemeanor under the Utah Code;
- 3434 (b) any offense under Subsection (2)(a):
- 3435 (i) for which the court enters a judgment for conviction to a lower degree of offense under Section 76-3-402; or
- 3437 (ii) regarding which the court allows the defendant to enter a plea in abeyance as defined in Section 77-2a-1; or
- 3439 (c)
- (i) any violent felony as defined in Section 53-10-403.5;
- 3440 (ii) sale or use of body parts, Section 26B-8-315;
- 3441 (iii) failure to stop at an accident that resulted in death, Section 41-6a-401.5;

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- 3442 (iv) operating a motor vehicle with any amount of a controlled substance in an individual's body and causing serious bodily injury or death, as codified before May 4, 2022, Laws of Utah 2021, Chapter 236, Section 1, Subsection 58-37-8(2)(g);
- 3446 (v) a felony violation of enticing a minor, Section 76-4-401;
- 3447 (vi) negligently operating a vehicle resulting in injury, Subsection 76-5-102.1(2)(b);
- 3448 (vii) a felony violation of propelling a substance or object at a correctional officer, a peace officer, or an employee or a volunteer, including health care providers, Section 76-5-102.6;
- 3451 (viii) automobile homicide, Subsection 76-5-207(2)(b);
- 3452 (ix) aggravated human trafficking, Section 76-5-310, and aggravated human smuggling, Section 76-5-310.1;
- 3454 (x) a felony violation of unlawful sexual activity with a minor, Section 76-5-401;
- 3455 (xi) a felony violation of sexual abuse of a minor, Section 76-5-401.1;
- 3456 (xii) unlawful sexual contact with a 16 or 17-year old, Section 76-5-401.2;
- 3457 (xiii) sale of a child, Section 76-7-203;
- 3458 (xiv) aggravated escape, Section 76-8-309.3;
- 3459 (xv) a felony violation of threatened or attempted assault on an elected official, Section 76-8-313;
- 3461 (xvi) threat with intent to impede, intimidate, interfere, or retaliate against a judge or a member of the Board of Pardons and Parole or acting against a family member of a judge or a member of the Board of Pardons and Parole, Section 76-8-316;
- 3464 (xvii) assault with intent to impede, intimidate, interfere, or retaliate against a judge or a member of the Board of Pardons and Parole or acting against a family member of a judge or a member of the Board of Pardons and Parole, Section 76-8-316.2;
- 3468 (xviii) aggravated assault with intent to impede, intimidate, interfere, or retaliate against a judge or a member of the Board of Pardons and Parole or acting against a family member of a judge or a member of the Board of Pardons and Parole, Section 76-8-316.4;
- 3472 (xix) attempted murder with intent to impede, intimidate, interfere, or retaliate against a judge or a member of the Board of Pardons and Parole or acting against a family member of a judge or a member of the Board of Pardons and Parole, Section 76-8-316.6;
- 3476 (xx) advocating criminal syndicalism or sabotage, Section 76-8-902;
- 3477 (xxi) assembling for advocating criminal syndicalism or sabotage, Section 76-8-903;
- 3478 (xxii) a felony violation of sexual battery, Section 76-9-702.1;

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- 3479 (xxiii) a felony violation of lewdness involving a child, Section 76-9-702.5;
- 3480 (xxiv) a felony violation of abuse or desecration of a dead human body, Section 76-9-704;
- 3482 (xxv) manufacture, possession, sale, or use of a weapon of mass destruction, Section 76-10-402;
- 3484 (xxvi) manufacture, possession, sale, or use of a hoax weapon of mass destruction, Section 76-10-403;
- 3486 (xxvii) possession of a concealed firearm in the commission of a violent felony, Subsection
[76-10-504(4)] 76-11-202(3)(c);
- 3488 (xxviii) assault with the intent to commit bus hijacking with a dangerous weapon, Subsection
76-10-1504(3);
- 3490 (xxix) commercial obstruction, Subsection 76-10-2402(2);
- 3491 (xxx) a felony violation of failure to register as a sex or kidnap offender, Section 77-41-107;
- 3493 (xxxi) repeat violation of a protective order, Subsection 77-36-1.1(4); or
- 3494 (xxxii) violation of condition for release after arrest under Section 78B-7-802.

Section 56. Section 53-11-108 is amended to read:

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

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

- 3498 (1) An applicant shall be:
- 3499 (a) at least 21 years of age;
- 3500 (b) a citizen or legal resident of the United States; and
- 3501 (c) of good moral character.
- 3502 (2) An applicant may not:
- 3503 (a) have been convicted of:
- 3504 (i) a felony;
- 3505 (ii) any act involving illegally using, carrying, or possessing a dangerous weapon;
- 3506 (iii) any act of personal violence or force on any person or convicted of threatening to commit any act
of personal violence or force against another person;
- 3508 (iv) any act constituting dishonesty or fraud;
- 3509 (v) impersonating a peace officer; or
- 3510 (vi) any act involving moral turpitude;
- 3511 (b) be on probation, parole, community supervision, or named in an outstanding arrest warrant; or
- 3513 (c) be employed as a peace officer.

3514

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

3516

(4)

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

3518

(i) instruction on the duties and responsibilities of a licensee under this chapter, including:

3520

(A) search, seizure, and arrest procedure;

3521

(B) pursuit, arrest, detainment, and transportation of a bail bond suspect; and

3522

(C) specific duties and responsibilities regarding entering an occupied structure to carry out functions under this chapter;

3524

(ii) the laws and rules relating to the bail bond business;

3525

(iii) the rights of the accused; and

3526

(iv) ethics.

3527

(b) The program may be completed after the licensure application is submitted, but shall be completed before a license may be issued under this chapter.

3529

(5) If the applicant desires to carry a firearm as a licensee, the applicant shall:

3530

(a) successfully complete a course regarding the specified types of weapons he plans to carry. The course shall:

3532

(i) be not less than 16 hours;

3533

(ii) be conducted by any national, state, or local firearms training organization approved by the Criminal Investigations and Technical Services Division created in Section 53-10-103; and

3536

(iii) provide training regarding general familiarity with the types of firearms to be carried, including:

3538

(A) the safe loading, unloading, storage, and carrying of the types of firearms to be concealed; and

3540

(B) current laws defining lawful use of a firearm by a private citizen, including lawful self-defense, use of deadly force, transportation, and concealment; and

3542

(b) shall hold a valid license to carry a concealed weapon, issued under Section ~~[53-5-704]~~ 53-5a-303.

3544

Section 57. Section 53-13-116 is amended to read:

3545

53-13-116. Report required after pointing a firearm at an individual.

3546

(1) As used in this section:

3547

(a) "Conductive energy device" means a weapon that uses electrical current to disrupt voluntary control of muscles.

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- 3549 (b) "Firearm" means the same as that term is defined in Section [~~76-10-501~~] 76-11-101.
- 3550 (c) "Law enforcement officer" means the same as that term is defined in Section 53-13-103.
- 3552 (d) "Officer-involved critical incident" means the same as that term is defined in Section 76-2-408.
- 3554 (2) A law enforcement officer shall file a report described in Subsection (3) if, during the performance of the officer's duties:
- 3556 (a) the officer points a firearm at an individual; or
- 3557 (b) the officer aims a conductive energy device at an individual and displays the electrical current.
- 3559 (3)
- (a) A report described in Subsection (2) shall include:
- 3560 (i) a description of the incident;
- 3561 (ii) the identification of the individuals involved in the incident; and
- 3562 (iii) any other information required by the law enforcement agency.
- 3563 (b) A law enforcement officer shall submit a report required under Subsection (2) to the officer's law enforcement agency within 48 hours after the incident.
- 3565 (4) A supervisory law enforcement officer shall review a report submitted under Subsection (3)(b).
- 3567 (5) This section does not apply to:
- 3568 (a) law enforcement training exercises; or
- 3569 (b) an officer who, as part of an officer-involved critical incident, engaged in conduct described under Subsection (2)(a) or (2)(b).
- 3571 Section 58. Section ~~53-22-105~~ is amended to read:
- 3572 **53-22-105. School guardian program.**
- 3573 (1) As used in this section:
- 3574 (a) "Annual training" means an annual four-hour 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;
- 3578 (iv) allows an individual to practice and demonstrate firearms proficiency at a firearms range using the firearm the individual carries for self defense and defense of others;
- 3581 (v) includes the following components:
- 3582 (A) firearm safety, including safe storage of a firearm;
- 3583 (B) de-escalation tactics;

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- 3584 (C) the role of mental health in incidents; and
3585 (D) disability awareness and interactions; and
3586 (vi) contains other training needs as determined by the state security chief.
3587 (b) "Biannual training" means a twice-yearly training that:
3588 (i) is at least four hours, unless otherwise approved by the state security chief;
3589 (ii) a county security chief or a designee administers;
3590 (iii) the state security chief approves;
3591 (iv) can be tailored to local needs; and
3592 (v) through which a school guardian at a school or simulated school environment:
3593 (A) receives training on the specifics of the building or buildings of the school, including the location of
emergency supplies and security infrastructure; and
3595 (B) participates in a live-action practice plan with school administrators in responding to active threats
at the school; and
3597 (vi) shall be taken with at least three months in between the two trainings.
3598 (c) "Firearm" means the same as that term is defined in Section ~~[76-10-504]~~ 76-11-101.
3599 (d) "Initial training" means an in-person training that:
3600 (i) a county security chief or a designee administers;
3601 (ii) the state security chief approves;
3602 (iii) can be tailored to local needs; and
3603 (iv) provides:
3604 (A) training on general familiarity with the types of firearms that can be concealed for self-defense and
defense of others;
3606 (B) training on the safe loading, unloading, storage, and carrying of firearms in a school setting;
3608 (C) training at a firearms range with instruction regarding firearms fundamentals, marksmanship, the
demonstration and explanation of the difference between sight picture, sight alignment, and trigger
control, and a recognized pistol course;
3612 (D) current laws dealing with the lawful use of a firearm by a private citizen, including laws on self-
defense, defense of others, transportation of firearms, and concealment of firearms;
3615 (E) coordination with law enforcement officers in the event of an active threat;
3616 (F) basic trauma first aid;
3617

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(G) the appropriate use of force, emphasizing the de-escalation of force and alternatives to using force;
and

3619 (H) situational response evaluations, including:

3620 (I) protecting and securing a crime or accident scene;

3621 (II) notifying law enforcement;

3622 (III) controlling information; and

3623 (IV) other training that the county sheriff, designee, or department deems appropriate.

3625 (e) "Program" means the school guardian program created in this section.

3626 (f)

(i) "School employee" means an employee of a school whose duties and responsibilities require the employee to be physically present at a school's campus while school is in session.

3629 (ii) "School employee" does not include a principal, teacher, or individual whose primary responsibilities require the employee to be primarily present in a classroom to teach, care for, or interact with students, unless:

3632 (A) the principal, teacher, or individual is employed at a school with 100 or fewer students;

3634 (B) the principal, teacher, or individual is employed at a school with adjacent campuses as determined by the state security chief; or

3636 (C) as provided in Subsection 53G-8-701.5(3).

3637 (g) "School guardian" means a school employee who meets the requirements of Subsection (3).

3639 (2)

(a)

(i) There is created within the department the school guardian program[;] .

3640 (ii) [~~the~~] The state security chief shall oversee the school guardian program[;] .

3641 (iii) [~~the~~] The applicable county security chief shall administer the school guardian program in each county.

3643 (b) The state security chief shall ensure that the school guardian program includes:

3644 (i) initial training;

3645 (ii) biannual training; and

3646 (iii) annual training.

3647 (c) A county sheriff may partner or contract with:

3648

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- (i) another county sheriff to support the respective county security chiefs in jointly administering the school guardian program in the relevant counties; and
- 3650 (ii) a local law enforcement agency of relevant jurisdiction to provide the:
- 3651 (A) initial training;
- 3652 (B) biannual training; and
- 3653 (C) annual training.
- 3654 (3)
- (a) A school employee that volunteers to participate is eligible to join the program as a school guardian if:
- 3656 (i) the school administrator approves the volunteer school employee to be designated as a school guardian;
- 3658 (ii) the school employee satisfactorily completes initial training within six months before the day on which the school employee joins the program;
- 3660 (iii) the school employee holds a valid concealed carry permit issued under [~~Title 53, Chapter 5, Part 7, Concealed Firearm Act~~] Title 53, Chapter 5a, Part 3, Concealed Firearm Permits;
- 3663 (iv) the school employee certifies to the sheriff of the county where the school is located that the school employee has undergone the training in accordance with Subsection (3)(a)(ii) and intends to serve as a school guardian; and
- 3666 (v) the school employee successfully completes a mental health screening selected by the state security chief in collaboration with the Office of Substance Abuse and Mental Health established in Section 26B-5-102.
- 3669 (b) After joining the program a school guardian shall complete annual training and biannual training to retain the designation of a school guardian in the program.
- 3671 (4) The state security chief shall:
- 3672 (a) for each school that participates in the program, track each school guardian at the school by collecting the photograph and the name and contact information for each guardian;
- 3675 (b) make the information described in Subsection (4)(a) readily available to each law enforcement agency in the state categorized by school; and
- 3677 (c) provide each school guardian with a one-time stipend of \$500.
- 3678 (5) A school guardian:
- 3679 (a) may store the school guardian's firearm on the grounds of a school only if:

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- 3680 (i) the firearm is stored in a biometric gun safe;
- 3681 (ii) the biometric gun safe is located in the school guardian's office; and
- 3682 (iii) the school guardian is physically present on the grounds of the school while the firearm is stored in the safe;
- 3684 (b) shall carry the school guardian's firearm in a concealed manner; and
- 3685 (c) may not, unless during an active threat, display or open carry a firearm while on school grounds.
- 3687 (6) Except as provided in Subsection (5)(c), this section does not prohibit an individual who has a valid concealed carry permit but is not participating in the program from carrying a firearm on the grounds of a public school or charter school under Subsection [76-10-505.5(4)] 76-11-205(4).
- 3691 (7) A school guardian:
- 3692 (a) does not have authority to act in a law enforcement capacity; and
- 3693 (b) may, at the school where the school guardian is employed:
- 3694 (i) take actions necessary to prevent or abate an active threat; and
- 3695 (ii) temporarily detain an individual when the school guardian has reasonable cause to believe the individual has committed or is about to commit a forcible felony, as that term is defined in Section 76-2-402.
- 3698 (8) A school may designate a single volunteer or multiple volunteers to participate in the school guardian program to satisfy the school safety personnel requirements of Section 53G-8-701.5.
- 3701 (9) The department may adopt, according to Title 63G, Chapter 3, Utah Administrative Rulemaking Act, rules to administer this section.
- 3703 (10) A school guardian who has active status in the guardian program is not liable for any civil damages or penalties if the school guardian:
- 3705 (a) when carrying or storing a firearm:
- 3706 (i) is acting in good faith; and
- 3707 (ii) is not grossly negligent; or
- 3708 (b) threatens, draws, or otherwise uses a firearm reasonably believing the action to be
- 3709 necessary in compliance with Section 76-2-402.
- 3710 (11) A school guardian shall file a report described in Subsection (12) if, during the performance of the school guardian's duties, the school guardian points a firearm at an individual.
- 3713 (12)
- (a) A report described in Subsection (11) shall include:

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- 3714 (i) a description of the incident;
- 3715 (ii) the identification of the individuals involved in the incident; and
- 3716 (iii) any other information required by the state security chief.
- 3717 (b) A school guardian shall submit a report required under Subsection (11) to the school administrator, school safety and security director, and the state security chief within 48 hours after the incident.
- 3720 (c) The school administrator, school safety and security director, and the state security chief shall consult and review the report submitted under Subsection (12)(b).
- 3722 (13) The requirements of Subsections (11) and (12) do not apply to a training exercise.
- 3723 (14) A school guardian may have the designation of school guardian revoked at any time by the school principal, county sheriff, or state security chief.
- 3725 (15)
- 3727 (a) Any information or record created detailing a school guardian's participation in the program is:
- 3729 (i) a private, controlled, or protected record under Title 63G, Chapter 2, Government Records Access and Management Act; and
- 3730 (ii) available only to:
- 3731 (A) the state security chief;
- 3732 (B) administrators at the school guardian's school;
- 3733 (C) if applicable, other school safety personnel described in Section 53G-8-701.5;
- 3735 (D) a local law enforcement agency that would respond to the school in case of an emergency; and
- 3738 (E) the individual designated by the county sheriff in accordance with Section 53-22-103 of the county of the school where the school guardian in the program is located.
- 3743 (b) The information or record described in Subsection (15)(a) includes information related to the school guardian's identity and activity within the program as described in this section and any personal identifying information of a school guardian participating in the program collected or obtained during initial training, annual training, and biannual training.
- 3746 (c) An individual who intentionally or knowingly provides the information described in Subsection (15) (a) to an individual or entity not listed in Subsection (15)(a)(ii) is guilty of a class B misdemeanor.
- 3747 Section 59. Section 53-22-107 is amended to read:
- 3748 **53-22-107. Educator-Protector Program.**
- 3749 (1) As used in this section:
- (a) "Annual classroom response training" means a training for a teacher:

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- 3750 (i) that is held at least once a year and is administered, at no cost to a teacher, by the individual
identified by the county sheriff as described in Section 53-22-103; and
- 3752 (ii) where the teacher is trained:
- 3753 (A) on how to defend a classroom against active threats emphasizing the teacher's role in stationary
defense; and
- 3755 (B) on the safe loading, unloading, storage, and carrying of firearms in a school setting.
- 3757 (b) "Bureau" means the Bureau of Criminal Identification created in Section 53-10-201.
- 3758 (c) "Local education agency" means the same as that term is defined in Section 53E-1-102.
- 3760 (d) "Program" means the Educator-Protector Program created under this section.
- 3761 (e) "Teacher" means an individual employed by a local education agency who has an assignment to
teach in a classroom.
- 3763 (2) There is created the Educator-Protector Program to incentivize a teacher to responsibly secure or
carry a firearm on the grounds of the school where the teacher is employed.
- 3765 (3)
- (a) To participate in the program, a teacher shall:
- 3766 (i) have completed an annual classroom response training within six months before the day on
which the teacher joins the program;
- 3768 (ii) have a valid concealed carry permit issued under [~~Title 53, Chapter 5, Part 7, Concealed
Firearm Act~~] Title 53, Chapter 5a, Part 3, Concealed Firearm Permits; and
- 3771 (iii) certify to the department that:
- 3772 (A) the teacher satisfies the requirements described in Subsections (3)(a)(i) and (3)(a)(ii); and
- 3774 (B) if applicable, intends to securely store or carry a firearm on the grounds of a school where the
teacher is employed.
- 3776 (b) After joining the program, to retain the teacher's active status in the program, a teacher shall:
- 3778 (i) participate in annual classroom response training; and
- 3779 (ii) comply with any rules established by the department in accordance with Subsection (10).
- 3781 (4)
- (a) The state security chief shall:
- 3782 (i) track each teacher that participates in the program by collecting a photograph, name, and contact
information for each teacher;
- 3784

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- (ii) make the information described in Subsection (4)(a) readily available to each law enforcement agency in the state; and
- 3786 (iii) provide reasonable reimbursement, using funds appropriated by the Legislature, to a county sheriff for providing a teacher with annual classroom response training.
- 3788 (b) The state security chief shall categorize the information described in Subsection (4)(a)(i) by school.
- 3790 (5) A teacher participating in the program:
- 3791 (a) may store the teacher's firearm on the grounds of a school only if:
- 3792 (i) the firearm is stored in a biometric gun safe;
- 3793 (ii) the biometric gun safe is located in the teacher's classroom or office; and
- 3794 (iii) the teacher is physically present on the grounds of the school while the firearm is stored in the biometric gun safe; and
- 3796 (b) shall carry the teacher's firearm in a concealed manner unless during an active threat.
- 3797 (6) This section does not prohibit an individual who has a valid concealed carry permit but is not participating in the program from carrying firearms on the grounds of a school as described in Subsection [~~76-10-505.5(4)~~] 76-11-205(4).
- 3800 (7)
- (a) A teacher who has active status in the program is not liable for any civil damages or penalties if the teacher:
- 3802 (i) when carrying or storing a firearm:
- 3803 (A) is acting in good faith; and
- 3804 (B) is not grossly negligent; or
- 3805 (ii) threatens, draws, or otherwise uses a firearm reasonably believing the action to be necessary in compliance with Section 76-2-402.
- 3807 (b) A local education agency is not liable for civil damages or penalties resulting from a teacher who is participating in the program carrying, using, or storing a firearm at a school.
- 3810 (8) A local education agency may not prevent a teacher from participating in the program under this section.
- 3812 (9)
- (a) Any information or record created detailing a teacher's participation in the program is:
- 3814 (i) a private, controlled, or protected record under Title 63G, Chapter 2, Government Records Access and Management Act; and

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- 3816 (ii) available only to:
- 3817 (A) the state security chief;
- 3818 (B) a local law enforcement agency that would respond to the school in case of an emergency; and
- 3820 (C) the individual identified by the county sheriff as described in Section 53-22-103.
- 3822 (b) The information or record described in Subsection (9)(a) includes the information described in Subsection (4)(a)(i) and any personal identifying information of a teacher participating in the program collected or obtained during annual classroom response training.
- 3826 (c) An individual who intentionally or knowingly provides the information described in Subsection (9)(a) to an individual or entity not listed in Subsection (9)(a)(ii) is guilty of a class A misdemeanor.
- 3829 (10) In accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, the department may adopt rules to administer this section.
- 3831 Section 60. Section 53-25-103 is amended to read:
- 3832 **53-25-103. Airport dangerous weapon possession reporting requirements.**
- 3833 (1) As used in this section, "commission" means the State Commission on Criminal and Juvenile Justice created in Section 63M-7-201.
- 3835 (2) Beginning on January 1, 2026, a law enforcement agency having law enforcement jurisdiction over an airport shall annually, on or before April 30, submit a report to the commission detailing:
- 3838 (a) for an offense described in Subsection [~~76-10-529(2)(a)(i)~~] 76-11-218(2)(a):
- 3839 (i) the number of issued written warnings;
- 3840 (ii) the number of issued citations;
- 3841 (iii) the number of referrals to a detective; and
- 3842 (iv) the number of referrals to a prosecutor; and
- 3843 (b) for an offense described in Subsection [~~76-10-529(2)(a)(ii)~~] 76-11-218(2)(b):
- 3844 (i) the number of issued written warnings; and
- 3845 (ii) if applicable, the number of issued citations, including the number of individuals who have received more than one citation for the offense.
- 3847 (3) The commission shall:
- 3848 (a) develop a standardized format for reporting the data described in Subsection (2);
- 3849 (b) compile the data submitted under Subsection (2); and
- 3850 (c) annually on or before August 1, publish a report of the data described in Subsection (2) on the commission's website.

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3852 Section 61. Section 53-25-501 is amended to read:

3853 **53-25-501. Reporting requirements for seized firearms.**

3854 (1) As used in this section:

3855 (a) "Commission" means the State Commission on Criminal and Juvenile Justice created in Section
63M-7-201.

3857 (b) "Firearm" means the same as that term is defined in Section ~~[76-10-504]~~ 76-11-101.

3858 (c) "Restricted person" means a Category I or Category II restricted person ~~[as defined in Section
76-10-503]~~ under Section 76-11-302 or 76-11-303.

3860 (2) Beginning on July 1, 2026, a law enforcement agency, not including the Department of Corrections,
shall annually on or before April 30 report to the commission the following data for the previous
calendar year:

3863 (a) the number of firearms the law enforcement agency lawfully seized from restricted persons;

3865 (b) the types of firearms the law enforcement agency lawfully seized from restricted persons;

3867 (c) information on where the restricted persons obtained the firearms seized by the law enforcement
agency if the information is known or discoverable by the law enforcement agency; and

3870 (d) the reasons under Subsection 76-10-503(1)(a) or (b) that made the individuals who had weapons
seized restricted persons.

3872 Section 62. Section 53B-3-103 is amended to read:

3873 **53B-3-103. Power of board and institutions to adopt rules and enact regulations.**

3874 (1) As used in this section~~[,]~~ :

3875 (a) "Face covering" means the same as that term is defined in Section 53G-9-210.

3876 (b) ~~["institution"]~~ "Institution" means an institution listed in Section 53B-1-102.

3877 (2)

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

3879 (b) A president in consultation with the board of trustees, may enact policies governing the conduct of
university and college students, faculty, and employees.

3881 (3)

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

3883 (b)

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- (i) The board and an institution may not require proof of vaccination as a condition for enrollment or attendance within the system of higher education unless the board or an institution allows for the following exemptions:
- 3886 (A) a medical exemption if the student provides to the institution a statement that the claimed
exemption is for a medical reason; and
- 3888 (B) a personal exemption if the student provides to the institution a statement that the claimed
exemption is for a personal or religious belief.
- 3890 (ii) An institution that offers both remote and in-person learning options may not deny a student who is
exempt from a requirement to receive a vaccine under Subsection [~~(2)(b)(i)~~] (3)(b)(i) to participate
in an in-person learning option based upon the student's vaccination status.
- 3894 (iii) Subsections [~~(2)(b)(i)~~] (3)(b)(i) and (ii) do not apply to a student studying in a medical setting at an
institution of higher education.
- 3896 (iv) Nothing in this section restricts a state or local health department from acting under applicable law
to contain the spread of an infectious disease.
- 3898 [~~(e)~~]
- (i) ~~For purposes of this Subsection (2)(e), "face covering" means the same as that term is defined in
Section 53G-9-210.]~~
- 3900 [~~(ii)~~] (c)
- (i) The board or an institution may not require an individual to wear a face covering as a condition
of attendance for in-person instruction, institution-sponsored athletics, institution-sponsored
extracurricular activities, in dormitories, or in any other place on a campus of an institution within
the system of higher education at any time after the end of the spring semester in 2021.
- 3905 [~~(iii)~~] (ii) Subsection [~~(2)(e)(ii)~~] (3)(c)(i) does not apply to an individual in a medical setting at an
institution of higher education.
- 3907 (4) The board shall enact regulations that require all testimony be given under oath during an employee
grievance hearing for a non-faculty employee of an institution of higher education if the grievance
hearing relates to the non-faculty employee's:
- 3910 (a) demotion; or
- 3911 (b) termination.
- 3912 (5) Acknowledging that the Legislature has the authority to regulate, by law, firearms at higher
education institutions, the board may:

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- 3914 (a) authorize higher education institutions to establish no more than one secure area at each institution
as a hearing room in accordance with Section 76-8-311.1, but not otherwise restrict the lawful
possession or carrying of firearms; and
- 3917 (b) authorize a higher education institution to make a policy that allows a resident of a dormitory
located at the institution to request only roommates who are not licensed to carry a concealed
firearm under~~[Section 53-5-704 or 53-5-705]~~ Section 53-5a-303 or Section 53-5a-305.
- 3921 (6) In addition to the requirements and penalty prescribed in Sections 76-8-311.1 and 76-8-311.2, the
board shall make rules to ensure:
- 3923 (a) the use of reasonable means such as mechanical, electronic, x-ray, or similar devices, to detect
firearms, ammunition, or dangerous weapons contained in the personal property of or on the person
of any individual attempting to enter a secure area hearing room;
- 3927 (b) that an individual required or requested to attend a hearing in a secure area hearing room is notified
in writing of the requirements related to entering a secure area hearing room under this Subsection
(6)(b) and Section 76-8-311.1;
- 3930 (c) that the restriction of firearms, ammunition, or dangerous weapons in the secure area hearing
room is in effect only during the time the secure area hearing room is in use for hearings and for a
reasonable time before and after the hearing; and
- 3933 (d) the application of reasonable space limitations to the secure area hearing room as the number of
individuals involved in a typical hearing warrants.
- 3935 (7) The board and institutions may enforce the rules, regulations, and policies described in this section
in any reasonable manner, including the assessment of fees, fines, and forfeitures, through:
- 3938 (a) withholding from money owed the violator;
- 3939 (b) the imposition of probation, suspension, or expulsion from the institution;
- 3940 (c) the revocation of privileges;
- 3941 (d) the refusal to issue certificates, degrees, and diplomas;
- 3942 (e) judicial process; or
- 3943 (f) any reasonable combination of the alternatives described in this Subsection (7).

Section 63. Section 53G-8-701.8 is amended to read:

53G-8-701.8. School safety and security director.

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- (1) Except as provided in Subsection 53G-8-701.5(3), an LEA shall designate a school safety and security director as the LEA point of contact for the county security chief, local law enforcement, and the state security chief.
- 3949 (2) A school safety and security director shall:
- 3950 (a) participate in and satisfy the training requirements, including the annual and biannual requirements, described in:
- 3952 (i) Section 53-22-105 for school guardians;
- 3953 (ii) Section 53G-8-702 for school resource officers; and
- 3954 (iii) Section 53G-8-704 for armed school security guards;
- 3955 (b) have a valid concealed carry permit issued under [~~Title 53, Chapter 5, Part 7, Concealed Firearm Act~~] Title 53, Chapter 5a, Part 3, Concealed Firearm Permits;
- 3957 (c) if the designee is an employee of an LEA, participate on the multidisciplinary team the LEA establishes;
- 3959 (d) coordinate security responses among, if applicable, the following individuals in the LEA that employs the school safety and security director:
- 3961 (i) school safety and security specialists;
- 3962 (ii) school resource officers;
- 3963 (iii) armed school security guards; and
- 3964 (iv) school guardians; and
- 3965 (e) collaborate and maintain effective communications with local law enforcement, a county security chief, the LEA, and school-based behavioral and mental health professionals to ensure adherence with all policies, procedures, protocols, rules, and regulations relating to school safety and security.
- 3969 (3) A school safety and security director:
- 3970 (a) does not have authority to act in a law enforcement capacity; and
- 3971 (b) may, at the LEA that employs the director:
- 3972 (i) take actions necessary to prevent or abate an active threat; and
- 3973 (ii) temporarily detain an individual when the school safety and security director has reasonable cause to believe the individual has committed or is about to commit a forcible felony, as that term is defined in Section 76-2-402[;] .
- 3976 (4) Notwithstanding Subsection [~~76-10-505.5(4)~~] 76-11-205(4), if a school safety and security director is carrying a firearm, the school safety and security director shall carry the school safety and

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security director's firearm in a concealed manner and may not, unless during an active threat, display or open carry a firearm while on school grounds.

3980 (5) A school may use the services of the school safety and security director on a temporary basis to satisfy the school safety personnel requirement of Subsection 53G-8-701.5(2).

3982 (6) The state security chief shall:

3983 (a) for each school safety and security director, track each school safety and security director by collecting the photograph and the name and contact information for each school safety and security director; and

3986 (b) make the information described in Subsection (6)(a) readily available to each law enforcement agency in the state categorized by LEA.

3988 Section 64. Section 53G-8-704 is amended to read:

3989 **53G-8-704. Contracts between an LEA and a contract security company for armed school security guards.**

3991 (1) As used in this section:

3992 (a) "Armed private security officer" means the same as that term is defined in Section 58-63-102.

3994 (b) "Armed school security guard" means an armed private security officer who is:

3995 (i) licensed as an armed private security officer under Title 58, Chapter 63, Security Personnel Licensing Act; and

3997 (ii) has met the requirements described in Subsection (4)(a).

3998 (c) "Contract security company" means the same as that term is defined in Section 58-63-102.

4000 (d) "State security chief" means the same as that term is defined in Section 53-22-102.

4001 (2)

(a) An LEA may use an armed school security guard to satisfy the school safety personnel requirements of Section 53G-8-701.5.

4003 (b) An LEA that uses an armed school security guard under Subsection (2)(a) shall contract with a contract security company to provide armed school security guards at each school within the LEA.

4006 (3) The contract described in Subsection (2)(b) shall include a detailed description of:

4007 (a) the rights of a student under state and federal law with regard to:

4008 (i) searches;

4009 (ii) questioning;

4010 (iii) arrests; and

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- 4011 (iv) information privacy;
- 4012 (b) job assignment and duties of an armed school security guard, including:
- 4013 (i) the school to which an armed school security guard will be assigned;
- 4014 (ii) the hours an armed school security guard is present at the school;
- 4015 (iii) the point of contact at the school that an armed school security guard will contact in case of an
emergency;
- 4017 (iv) specific responsibilities for providing and receiving information;
- 4018 (v) types of records to be kept, and by whom; and
- 4019 (vi) training requirements; and
- 4020 (c) other expectations of the contract security company in relation to school security at the LEA.
- 4022 (4)
- (a) In addition to the requirements for licensure under Title 58, Chapter 63, Security Personnel
Licensing Act, an armed private security officer may only serve as an armed school security guard
under a contract described in Subsection (2)(b) if the armed private security officer:
- 4026 (i) ~~has a valid concealed carry permit issued under [Title 53, Chapter 5, Part 7, Concealed Firearm
Act]~~ Title 53, Chapter 5a, Part 3, Concealed Firearm Permits; and
- 4029 (ii) has undergone training from a county security chief regarding:
- 4030 (A) the safe loading, unloading, storage, and carrying of firearms in a school setting;
- 4032 (B) the role of armed security guards in a school setting; and
- 4033 (C) coordination with law enforcement and school officials during an active threat.
- 4034 (b) An armed school security guard that meets the requirements of Subsection (4)(a) shall, in order
to remain eligible to be assigned as an armed school security guard at any school under a contract
described in Subsection (2)(b), participate in and satisfy the training requirements of the initial,
annual, and biannual trainings as defined in Section 53-22-105.
- 4039 (5) An armed school security guard may conceal or openly carry a firearm at the school at which the
armed school security guard is employed under the contract described in Subsection (2)(b).
- 4042 (6) An LEA that enters a contract under this section shall inform the state security chief and the relevant
county security chief of the contract and provide the contact information of the contract security
company employing the armed security guard for use during an emergency.
- 4046 (7) The state security chief shall:
- 4047

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- (a) for each LEA that contracts with a contract security company under this section, track each contract security company providing armed school security guards by name and the contact information for use in case of an emergency; and
- 4050 (b) make the information described in Subsection (7)(a) readily available to each law enforcement agency in the state by school.
- 4052 (8) An armed school security guard shall file a report described in Subsection (9) if, during the performance of the armed school security guard's duties, the armed school security guard:
- 4055 (a) points a firearm at an individual; or
- 4056 (b) aims a conductive energy device at an individual and displays the electrical current.
- 4057 (9)
- (a) A report described in Subsection (8) shall include:
- 4058 (i) a description of the incident;
- 4059 (ii) the identification of the individuals involved in the incident; and
- 4060 (iii) any other information required by the state security chief.
- 4061 (b) An armed school security guard shall submit a report required under Subsection (8) to the school administrator, school safety and security director, and the state security chief within 48 hours after the incident.
- 4064 (c) The school administrator, school safety and security director, and the state security chief shall consult and review the report submitted under Subsection (9)(b).

Section 65. Section 58-37-8 is amended to read:

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

- 4068 (1) Prohibited acts A -- Penalties and reporting:
- 4069 (a) Except as authorized by this chapter, it is unlawful for a person to knowingly and intentionally:
- 4071 (i) produce, manufacture, or dispense, or to possess with intent to produce, manufacture, or dispense, a controlled or counterfeit substance;
- 4073 (ii) distribute a controlled or counterfeit substance, or to agree, consent, offer, or arrange to distribute a controlled or counterfeit substance;
- 4075 (iii) possess a controlled or counterfeit substance with intent to distribute; or
- 4076 (iv) engage in a continuing criminal enterprise where:
- 4077 (A) the person participates, directs, or engages in conduct that results in a violation of this chapter, Chapter 37a, Utah Drug Paraphernalia Act, Chapter 37b, Imitation Controlled Substances Act,

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Chapter 37c, Utah Controlled Substance Precursor Act, or Chapter 37d, Clandestine Drug Lab Act, that is a felony; and

- 4082 (B) the violation is a part of a continuing series of two or more violations of this chapter, Chapter 37a, Utah Drug Paraphernalia Act, Chapter 37b, Imitation Controlled Substances Act, Chapter 37c, Utah Controlled Substance Precursor Act, or Chapter 37d, Clandestine Drug Lab Act, on separate occasions that are undertaken in concert with five or more persons with respect to whom the person occupies a position of organizer, supervisor, or any other position of management.
- 4089 (b) A person convicted of violating Subsection (1)(a) with respect to:
- 4090 (i) a substance or a counterfeit of a substance classified in Schedule I or II, a controlled substance analog, or gammahydroxybutyric acid as listed in Schedule III is guilty of a second degree felony, punishable by imprisonment for not more than 15 years, and upon a second or subsequent conviction is guilty of a first degree felony;
- 4095 (ii) a substance or a counterfeit of a substance classified in Schedule III or IV, or marijuana, or a substance listed in Section 58-37-4.2 is guilty of a third degree felony, and upon a second or subsequent conviction is guilty of a second degree felony; or
- 4099 (iii) a substance or a counterfeit of a substance classified in Schedule V is guilty of a class A misdemeanor and upon a second or subsequent conviction is guilty of a third degree felony.
- 4102 (c)
- (i) Except as provided in Subsection (1)(c)(ii), a person who has been convicted of a violation of Subsection (1)(a)(ii) or (iii) may be sentenced to imprisonment for an indeterminate term as described in Subsection (1)(b) and Title 76, Chapter 3, Punishments.
- 4106 (ii) The court shall impose an indeterminate prison term for a person who has been convicted of a violation of Subsection (1)(a)(ii) or (iii) that is a first degree felony or a second degree felony if the trier of fact finds beyond a reasonable doubt that, during the commission or furtherance of the violation, the person intentionally or knowingly:
- 4111 (A) used, drew, or exhibited a dangerous weapon, as that term is defined in Section ~~[76-10-501]~~ 76-11-101, that is not a firearm, in an angry, threatening, intimidating, or coercive manner;
- 4114 (B) used a firearm, as that term is defined in Section 76-11-101, or had a firearm readily accessible for immediate use, as ~~[those terms are]~~ that term is defined in Section [76-10-501] 76-11-201; or
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- (C) distributed a firearm, as that term is defined in Section [~~76-10-501~~] 76-11-101, or possessed a firearm with intent to distribute the firearm.
- 4119 (iii) Notwithstanding Subsection (1)(c)(ii), a court may suspend the indeterminate prison term for a person convicted under Subsection (1)(c)(ii) if the court:
- 4121 (A) details on the record the reasons why it is in the interests of justice not to impose the indeterminate prison term;
- 4123 (B) makes a finding on the record that the person does not pose a significant safety risk to the public; and
- 4125 (C) orders the person to complete the terms and conditions of supervised probation provided by the Department of Corrections.
- 4127 (d)
- (i) A person convicted of violating Subsection (1)(a)(iv) is guilty of a first degree felony punishable by imprisonment for an indeterminate term of not less than:
- 4129 (A) seven years and which may be for life; or
- 4130 (B) 15 years and which may be for life if the trier of fact determined that the defendant knew or reasonably should have known that any subordinate under Subsection (1)(a)(iv)(B) was under 18 years old.
- 4133 (ii) Imposition or execution of the sentence may not be suspended, and the person is not eligible for probation.
- 4135 (iii) Subsection (1)(d)(i)(B) does not apply to any defendant who, at the time of the offense, was under 18 years old.
- 4137 (e) The Administrative Office of the Courts shall report to the Division of Professional Licensing the name, case number, date of conviction, and if known, the date of birth of each person convicted of violating Subsection (1)(a).
- 4140 (2) Prohibited acts B -- Penalties and reporting:
- 4141 (a) It is unlawful:
- 4142 (i) for a person knowingly and intentionally to possess or use a controlled substance analog or a controlled substance, unless it was obtained under a valid prescription or order, directly from a practitioner while acting in the course of the person's professional practice, or as otherwise authorized by this chapter;

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- (ii) for an owner, tenant, licensee, or person in control of a building, room, tenement, vehicle, boat, aircraft, or other place knowingly and intentionally to permit them to be occupied by persons unlawfully possessing, using, or distributing controlled substances in any of those locations; or
- 4150 (iii) for a person knowingly and intentionally to possess an altered or forged prescription or written order for a controlled substance.
- 4152 (b) A person convicted of violating Subsection (2)(a)(i) with respect to:
- 4153 (i) marijuana, if the amount is 100 pounds or more, is guilty of a second degree felony; or
- 4155 (ii) a substance classified in Schedule I or II, or a controlled substance analog, is guilty of a class A misdemeanor on a first or second conviction, and on a third or subsequent conviction if each prior offense was committed within seven years before the date of the offense upon which the current conviction is based is guilty of a third degree felony.
- 4160 (c) Upon a person's conviction of a violation of this Subsection (2) subsequent to a conviction under Subsection (1)(a), that person shall be sentenced to a one degree greater penalty than provided in this Subsection (2).
- 4163 (d) A person who violates Subsection (2)(a)(i) with respect to all other controlled substances not included in Subsection (2)(b)(i) or (ii), including a substance listed in Section 58-37-4.2, or marijuana, is guilty of a class B misdemeanor.
- 4166 (i) Upon a third conviction the person is guilty of a class A misdemeanor, if each prior offense was committed within seven years before the date of the offense upon which the current conviction is based.
- 4169 (ii) Upon a fourth or subsequent conviction the person is guilty of a third degree felony if each prior offense was committed within seven years before the date of the offense upon which the current conviction is based.
- 4172 (e) A person convicted of violating Subsection (2)(a)(i) while inside the exterior boundaries of property occupied by a correctional facility as defined in Section 64-13-1 or a public jail or other place of confinement shall be sentenced to a penalty one degree greater than provided in Subsection (2)(b), and if the conviction is with respect to controlled substances as listed in:
- 4177 (i) Subsection (2)(b), the person may be sentenced to imprisonment for an indeterminate term as provided by law, and:
- 4179 (A) the court shall additionally sentence the person convicted to a term of one year to run consecutively and not concurrently; and

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- 4181 (B) the court may additionally sentence the person convicted for an indeterminate term not to exceed
five years to run consecutively and not concurrently; and
- 4183 (ii) Subsection (2)(d), the person may be sentenced to imprisonment for an indeterminate term as
provided by law, and the court shall additionally sentence the person convicted to a term of six
months to run consecutively and not concurrently.
- 4187 (f) A person convicted of violating Subsection (2)(a)(ii) or (iii) is:
- 4188 (i) on a first conviction, guilty of a class B misdemeanor;
- 4189 (ii) on a second conviction, guilty of a class A misdemeanor; and
- 4190 (iii) on a third or subsequent conviction, guilty of a third degree felony.
- 4191 (g) The Administrative Office of the Courts shall report to the Division of Professional Licensing the
name, case number, date of conviction, and if known, the date of birth of each person convicted of
violating Subsection (2)(a).
- 4194 (3) Prohibited acts C -- Penalties:
- 4195 (a) It is unlawful for a person knowingly and intentionally:
- 4196 (i) to use in the course of the manufacture or distribution of a controlled substance a license number
which is fictitious, revoked, suspended, or issued to another person or, for the purpose of obtaining
a controlled substance, to assume the title of, or represent oneself to be, a manufacturer, wholesaler,
apothecary, physician, dentist, veterinarian, or other authorized person;
- 4201 (ii) to acquire or obtain possession of, to procure or attempt to procure the administration of, to obtain
a prescription for, to prescribe or dispense to a person known to be attempting to acquire or obtain
possession of, or to procure the administration of a controlled substance by misrepresentation
or failure by the person to disclose receiving a controlled substance from another source, fraud,
forgery, deception, subterfuge, alteration of a prescription or written order for a controlled
substance, or the use of a false name or address;
- 4208 (iii) to make a false or forged prescription or written order for a controlled substance, or to utter the
same, or to alter a prescription or written order issued or written under the terms of this chapter; or
- 4211 (iv) to make, distribute, or possess a punch, die, plate, stone, or other thing designed to print, imprint,
or reproduce the trademark, trade name, or other identifying mark, imprint, or device of another or
any likeness of any of the foregoing upon any drug or container or labeling so as to render a drug a
counterfeit controlled substance.
- 4216 (b)

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- 4218 (i) A first or second conviction under Subsection (3)(a)(i), (ii), or (iii) is a class A misdemeanor.
- 4220 (ii) A third or subsequent conviction under Subsection (3)(a)(i), (ii), or (iii) is a third degree felony.
- 4221 (c) A violation of Subsection (3)(a)(iv) is a third degree felony.
- 4222 (4) Prohibited acts D -- Penalties:
- 4226 (a) Notwithstanding other provisions of this section, a person not authorized under this chapter who commits any act that is unlawful under Subsection (1)(a) or Section 58-37b-4 is upon conviction subject to the penalties and classifications under this Subsection (4) if the trier of fact finds the act is committed:
- 4228 (i) in a public or private elementary or secondary school or on the grounds of any of those schools during the hours of 6 a.m. through 10 p.m.;
- 4231 (ii) in a public or private vocational school or postsecondary institution or on the grounds of any of those schools or institutions during the hours of 6 a.m. through 10 p.m.;
- 4233 (iii) in or on the grounds of a preschool or child-care facility during the preschool's or facility's hours of operation;
- 4235 (iv) in a public park, amusement park, arcade, or recreation center when the public or amusement park, arcade, or recreation center is open to the public;
- 4237 (v) in or on the grounds of a house of worship as defined in Section ~~[76-10-501]~~ 76-11-201;
- 4238 (vi) in or on the grounds of a library when the library is open to the public;
- 4240 (vii) within an area that is within 100 feet of any structure, facility, or grounds included in Subsections (4)(a)(i) through (vi);
- 4242 (viii) in the presence of a person younger than 18 years old, regardless of where the act occurs; or
- 4245 (ix) for the purpose of facilitating, arranging, or causing the transport, delivery, or distribution of a substance in violation of this section to an inmate or on the grounds of a correctional facility as defined in Section 76-8-311.3.
- 4249 (b)
- 4251 (i) A person convicted under this Subsection (4) is guilty of a first degree felony and shall be imprisoned for a term of not less than five years if the penalty that would otherwise have been established but for this Subsection (4) would have been a first degree felony.
- (ii) Imposition or execution of the sentence may not be suspended, and the person is not eligible for probation.

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- (c) If the classification that would otherwise have been established would have been less than a first degree felony but for this Subsection (4), a person convicted under this Subsection (4) is guilty of one degree more than the maximum penalty prescribed for that offense.
- 4255 (d)
- 4256 (i) If the violation is of Subsection (4)(a)(ix):
- (A) the person may be sentenced to imprisonment for an indeterminate term as provided by law, and the court shall additionally sentence the person convicted for a term of one year to run consecutively and not concurrently; and
- 4259 (B) the court may additionally sentence the person convicted for an indeterminate term not to exceed five years to run consecutively and not concurrently; and
- 4261 (ii) the penalties under this Subsection (4)(d) apply also to a person who, acting with the mental state required for the commission of an offense, directly or indirectly solicits, requests, commands, coerces, encourages, or intentionally aids another person to commit a violation of Subsection (4)(a)(ix).
- 4265 (e) It is not a defense to a prosecution under this Subsection (4) that:
- 4266 (i) the actor mistakenly believed the individual to be 18 years old or older at the time of the offense or was unaware of the individual's true age; or
- 4268 (ii) the actor mistakenly believed that the location where the act occurred was not as described in Subsection (4)(a) or was unaware that the location where the act occurred was as described in Subsection (4)(a).
- 4271 (5) A violation of this chapter for which no penalty is specified is a class B misdemeanor.
- 4272 (6)
- (a) For purposes of penalty enhancement under Subsections (1) and (2), a plea of guilty or no contest to a violation or attempted violation of this section or a plea which is held in abeyance under Title 77, Chapter 2a, Pleas in Abeyance, is the equivalent of a conviction, even if the charge has been subsequently reduced or dismissed in accordance with the plea in abeyance agreement.
- 4277 (b) A prior conviction used for a penalty enhancement under Subsection (2) shall be a conviction that is:
- 4279 (i) from a separate criminal episode than the current charge; and
- 4280 (ii) from a conviction that is separate from any other conviction used to enhance the current charge.
- 4282 (7) A person may be charged and sentenced for a violation of this section, notwithstanding a charge and sentence for a violation of any other section of this chapter.

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- 4284 (8)
- (a) A penalty imposed for violation of this section is in addition to, and not in lieu of, a civil or administrative penalty or sanction authorized by law.
- 4286 (b) When a violation of this chapter violates a federal law or the law of another state, conviction or acquittal under federal law or the law of another state for the same act is a bar to prosecution in this state.
- 4289 (9) In any prosecution for a violation of this chapter, evidence or proof that shows a person or persons produced, manufactured, possessed, distributed, or dispensed a controlled substance or substances, is prima facie evidence that the person or persons did so with knowledge of the character of the substance or substances.
- 4293 (10) This section does not prohibit a veterinarian, in good faith and in the course of the veterinarian's professional practice only and not for humans, from prescribing, dispensing, or administering controlled substances or from causing the substances to be administered by an assistant or orderly under the veterinarian's direction and supervision.
- 4297 (11) Civil or criminal liability may not be imposed under this section on:
- 4298 (a) a person registered under this chapter who manufactures, distributes, or possesses an imitation controlled substance for use as a placebo or investigational new drug by a registered practitioner in the ordinary course of professional practice or research;
- 4301 (b) a law enforcement officer acting in the course and legitimate scope of the officer's employment; or
- 4303 (c) a healthcare facility, substance use harm reduction services program, or drug addiction treatment facility that temporarily possesses a controlled or counterfeit substance to conduct a test or analysis on the controlled or counterfeit substance to identify or analyze the strength, effectiveness, or purity of the substance for a public health or safety reason.
- 4308 (12)
- (a) Civil or criminal liability may not be imposed under this section on any Indian, as defined in Section 58-37-2, who uses, possesses, or transports peyote for bona fide traditional ceremonial purposes in connection with the practice of a traditional Indian religion as defined in Section 58-37-2.
- 4312 (b) In a prosecution alleging violation of this section regarding peyote as defined in Section 58-37-4, it is an affirmative defense that the peyote was used, possessed, or transported by an Indian for bona fide traditional ceremonial purposes in connection with the practice of a traditional Indian religion.
- 4316 (c)

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- (i) The defendant shall provide written notice of intent to claim an affirmative defense under this Subsection (12) as soon as practicable, but not later than 10 days before trial.
- 4319 (ii) The notice shall include the specific claims of the affirmative defense.
- 4320 (iii) The court may waive the notice requirement in the interest of justice for good cause shown, if the prosecutor is not unfairly prejudiced by the lack of timely notice.
- 4323 (d) The defendant shall establish the affirmative defense under this Subsection (12) by a preponderance of the evidence. If the defense is established, it is a complete defense to the charges.
- 4326 (13)
- (a) It is an affirmative defense that the person produced, possessed, or administered a controlled substance listed in Section 58-37-4.2 if the person was:
- 4328 (i) engaged in medical research; and
- 4329 (ii) a holder of a valid license to possess controlled substances under Section 58-37-6.
- 4330 (b) It is not a defense under Subsection (13)(a) that the person prescribed or dispensed a controlled substance listed in Section 58-37-4.2.
- 4332 (14) It is an affirmative defense that the person possessed, in the person's body, a controlled substance listed in Section 58-37-4.2 if:
- 4334 (a) the person was the subject of medical research conducted by a holder of a valid license to possess controlled substances under Section 58-37-6; and
- 4336 (b) the substance was administered to the person by the medical researcher.
- 4337 (15) The application of any increase in penalty under this section to a violation of Subsection (2)(a)
- (i) may not result in any greater penalty than a second degree felony. This Subsection (15) takes precedence over any conflicting provision of this section.
- 4340 (16)
- (a) It is an affirmative defense to an allegation of the commission of an offense listed in Subsection (16)
- (b) that the person or bystander:
- 4342 (i) reasonably believes that the person or another person is experiencing an overdose event due to the ingestion, injection, inhalation, or other introduction into the human body of a controlled substance or other substance;
- 4345 (ii) reports, or assists a person who reports, in good faith the overdose event to a medical provider, an emergency medical service provider as defined in Section 53-2d-101, a law enforcement

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- officer, a 911 emergency call system, or an emergency dispatch system, or the person is the subject of a report made under this Subsection (16);
- 4350 (iii) provides in the report under Subsection (16)(a)(ii) a functional description of the actual location of the overdose event that facilitates responding to the person experiencing the overdose event;
- 4353 (iv) remains at the location of the person experiencing the overdose event until a responding law enforcement officer or emergency medical service provider arrives, or remains at the medical care facility where the person experiencing an overdose event is located until a responding law enforcement officer arrives;
- 4357 (v) cooperates with the responding medical provider, emergency medical service provider, and law enforcement officer, including providing information regarding the person experiencing the overdose event and any substances the person may have injected, inhaled, or otherwise introduced into the person's body; and
- 4361 (vi) is alleged to have committed the offense in the same course of events from which the reported overdose arose.
- 4363 (b) The offenses referred to in Subsection (16)(a) are:
- 4364 (i) the possession or use of less than 16 ounces of marijuana;
- 4365 (ii) the possession or use of a scheduled or listed controlled substance other than marijuana; and
- 4367 (iii) any violation of Chapter 37a, Utah Drug Paraphernalia Act, or Chapter 37b, Imitation Controlled Substances Act.
- 4369 (c) As used in this Subsection (16) and in Section 76-3-203.11, "good faith" does not include seeking medical assistance under this section during the course of a law enforcement agency's execution of a search warrant, execution of an arrest warrant, or other lawful search.
- 4373 (17) If any provision of this chapter, or the application of any provision to any person or circumstances, is held invalid, the remainder of this chapter shall be given effect without the invalid provision or application.
- 4376 (18) A legislative body of a political subdivision may not enact an ordinance that is less restrictive than any provision of this chapter.
- 4378 (19) If a minor who is under 18 years old is found by a court to have violated this section or Subsection 76-5-102.1(2)(b) or 76-5-207(2)(b), the court may order the minor to complete:
- 4381 (a) a screening as defined in Section 41-6a-501;

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- 4382 (b) an assessment as defined in Section 41-6a-501 if the screening indicates an assessment to be
appropriate; and
- 4384 (c) an educational series as defined in Section 41-6a-501 or substance use disorder treatment as
indicated by an assessment.

4386 Section 66. Section 58-63-307 is amended to read:

4387 **58-63-307. Use of firearms.**

- 4388 (1) An individual licensed as an armored car security officer or an armed private security officer may
carry a firearm only while acting as an armored car security officer or an armed private security
officer in accordance with this chapter and rules made under this chapter.
- 4392 (2) An individual licensed as an armored car security officer or an armed private security officer is
exempt from the provisions of [~~Section 76-10-505 and Title 53, Chapter 5, Part 7, Concealed
Firearm Act~~] Title 53, Chapter 5a, Part 3, Concealed Firearm Permits, while acting as an armored
car security officer or an armed private security officer in accordance with this chapter and rules
made under this chapter.

4397 Section 67. Section 63G-2-303 is amended to read:

4398 **63G-2-303. Private information concerning certain government employees.**

- 4399 (1) As used in this section:
- 4400 (a) "At-risk government employee" means a current or former:
- 4401 (i) peace officer as specified in Section 53-13-102;
- 4402 (ii) state or federal judge of an appellate, district, justice, or juvenile court, or court commissioner;
- 4404 (iii) judge authorized by Title 39A, Chapter 5, Utah Code of Military Justice;
- 4405 (iv) judge authorized by Armed Forces, Title 10, United States Code;
- 4406 (v) federal prosecutor;
- 4407 (vi) prosecutor appointed pursuant to Armed Forces, Title 10, United States Code;
- 4408 (vii) law enforcement official as defined in Section [~~53-5-711~~] 53-5a-311;
- 4409 (viii) prosecutor authorized by Title 39A, Chapter 5, Utah Code of Military Justice; or
- 4410 (ix) state or local government employee who, because of the unique nature of the employee's regular
work assignments or because of one or more recent credible threats directed to or against the
employee, would be at immediate and substantial risk of physical harm if the employee's personal
information is disclosed.

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- (b) "Family member" means the spouse, child, sibling, parent, or grandparent of an at-risk government employee who is living with the employee.
- 4416 (c) "Personal information" means the employee's or the employee's family member's home address, home telephone number, personal mobile telephone number, personal pager number, personal email address, social security number, insurance coverage, marital status, or payroll deductions.
- 4420 (2)
- (a) Pursuant to Subsection 63G-2-302(1)(h), an at-risk government employee may file a written application that:
- 4422 (i) gives notice of the employee's status as an at-risk government employee to each agency of a government entity holding a record or a part of a record that would disclose the employee's personal information; and
- 4425 (ii) requests that the government agency classify those records or parts of records as private.
- 4427 (b) An at-risk government employee desiring to file an application under this section may request assistance from the government agency to identify the individual records containing personal information.
- 4430 (c) Each government agency shall develop a form that:
- 4431 (i) requires the at-risk government employee to designate each specific record or part of a record containing the employee's personal information that the applicant desires to be classified as private;
- 4434 (ii) affirmatively requests that the government entity holding those records classify them as private;
- 4436 (iii) informs the employee that by submitting a completed form the employee may not receive official announcements affecting the employee's property, including notices about proposed municipal annexations, incorporations, or zoning modifications; and
- 4440 (iv) contains a place for the signature required under Subsection (2)(d).
- 4441 (d) A form submitted by an employee under Subsection (2)(c) shall be signed by the highest ranking elected or appointed official in the employee's chain of command certifying that the employee submitting the form is an at-risk government employee.
- 4444 (3) A county recorder, county treasurer, county auditor, or a county tax assessor may fully satisfy the requirements of this section by:
- 4446 (a) providing a method for the assessment roll and index and the tax roll and index that will block public access to the home address, home telephone number, situs address, and Social Security number; and

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- 4449 (b) providing the at-risk government employee requesting the classification with a disclaimer informing
the employee that the employee may not receive official announcements affecting the employee's
property, including notices about proposed annexations, incorporations, or zoning modifications.
- 4453 (4) A government agency holding records of an at-risk government employee classified as private under
this section may release the record or part of the record if:
- 4455 (a) the employee or former employee gives written consent;
- 4456 (b) a court orders release of the records;
- 4457 (c) the government agency receives a certified death certificate for the employee or former employee; or
- 4459 (d) as it relates to the employee's voter registration record:
- 4460 (i) the person to whom the record or part of the record is released is a qualified person under Subsection
20A-2-104(4)(n); and
- 4462 (ii) the government agency's release of the record or part of the record complies with the requirements
of Subsection 20A-2-104(4)(o).
- 4464 (5)
- (a) If the government agency holding the private record receives a subpoena for the records, the
government agency shall attempt to notify the at-risk government employee or former employee
by mailing a copy of the subpoena to the employee's last-known mailing address together with a
request that the employee either:
- 4468 (i) authorize release of the record; or
- 4469 (ii) within 10 days of the date that the copy and request are mailed, deliver to the government
agency holding the private record a copy of a motion to quash filed with the court who issued
the subpoena.
- 4472 (b) The government agency shall comply with the subpoena if the government agency has:
- 4474 (i) received permission from the at-risk government employee or former employee to comply with the
subpoena;
- 4476 (ii) not received a copy of a motion to quash within 10 days of the date that the copy of the subpoena
was mailed; or
- 4478 (iii) received a court order requiring release of the records.
- 4479 (6)
- (a) Except as provided in Subsection (6)(b), a form submitted under this section remains in effect until
the earlier of:

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4481 (i) four years after the date the employee signs the form, whether or not the employee's employment
terminates before the end of the four-year period; and

4483 (ii) one year after the government agency receives official notice of the death of the employee.

4485 (b) A form submitted under this section may be rescinded at any time by:

4486 (i) the at-risk government employee who submitted the form; or

4487 (ii) if the at-risk government employee is deceased, a member of the employee's immediate family.

4489 Section 68. Section 63G-2-801 is amended to read:

4490 **63G-2-801. Criminal penalties.**

4491 (1)

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

4497 (b) It is a defense to prosecution under Subsection (1)(a) that the actor used or released private, controlled, or protected information in the reasonable belief that the use or disclosure of the information was necessary to expose a violation of law involving government corruption, abuse of office, or misappropriation of public funds or property.

4502 (c) It is a defense to prosecution under Subsection (1)(a) that the record could have lawfully been released to the recipient if it had been properly classified.

4504 (d) It is a defense to prosecution under Subsection (1)(a) that the public employee or other person disclosed, provided, or used the record based on a good faith belief that the disclosure, provision, or use was in accordance with the law.

4507 (2)

(a) A person who by false pretenses, bribery, or theft, gains access to or obtains a copy of any private, controlled, or protected record to which the person is not legally entitled is guilty of a class B misdemeanor.

4510 (b) No person shall be guilty under Subsection (2)(a) who receives the record, information, or copy after the fact and without prior knowledge of or participation in the false pretenses, bribery, or theft.

4513 (3)

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(a) A public employee who intentionally refuses to release a record, the disclosure of which the employee knows is required by law, is guilty of a class B misdemeanor.

4515 (b) It is a defense to prosecution under Subsection (3)(a) that the public employee's failure to release the record was based on a good faith belief that the public employee was acting in accordance with the requirements of law.

4518 (c) A public employee who intentionally refuses to release a record, the disclosure of which the employee knows is required by a final unappealed order from a government entity, the State Records Committee, or a court is guilty of a class B misdemeanor.

4523 Section 69. Section 63I-1-253 is amended to read:

4524 **63I-1-253. Repeal dates: Titles 53 through 53G.**

4525 (1) Section 53-1-122, Road Rage Awareness and Prevention Restricted Account, is repealed July 1, 2028.

4527 (2) Section 53-2a-105, Emergency Management Administration Council created -- Function -- Composition -- Expenses, is repealed July 1, 2029.

4529 (3) Section 53-2a-1103, Search and Rescue Advisory Board -- Members -- Compensation, is repealed July 1, 2027.

4531 (4) Section 53-2a-1104, General duties of the Search and Rescue Advisory Board, is repealed July 1, 2027.

4533 (5) Title 53, Chapter 2a, Part 15, Grid Resilience Committee, is repealed July 1, 2027.

4534 (6) Section 53-2d-104, State Emergency Medical Services Committee -- Membership -- Expenses, is repealed July 1, 2029.

4536 (7) Section 53-2d-703, Volunteer Emergency Medical Service Personnel Health Insurance Program -- Creation -- Administration -- Eligibility -- Benefits -- Rulemaking -- Advisory board, is repealed July 1, 2027.

4539 (8) Section [~~53-5-703~~] 53-5a-302, Concealed Firearm Review Board -- Membership -- Compensation -- Terms -- Duties, is repealed July 1, 2029.

4541 (9) Section 53-5a-603, Information check before private sale of firearm, is repealed July 1, 2025.

4543 [~~(9)~~] (10) Section 53-11-104, Board, is repealed July 1, 2029.

4544 [~~(10)~~] (11) Section 53-22-104.1, School Security Task Force -- Membership -- Duties -- Per diem -- Report -- Expiration, is repealed December 31, 2025.

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- [~~(11)~~] (12) Section 53-22-104.2, The School Security Task Force -- Education Advisory Board, is repealed December 31, 2025.
- 4548 [~~(12)~~] (13) Subsection 53B-1-301(1)(j), regarding the Higher Education and Corrections Council, is repealed July 1, 2027.
- 4550 [~~(13)~~] (14) Section 53B-7-709, Five-year performance goals, is repealed July 1, 2027.
- 4551 [~~(14)~~] (15) Title 53B, Chapter 8a, Part 3, Education Savings Incentive Program, is repealed July 1, 2028.
- 4553 [~~(15)~~] (16) Title 53B, Chapter 17, Part 11, USTAR Researchers, is repealed July 1, 2028.
- 4554 [~~(16)~~] (17) Section 53B-17-1203, SafeUT and School Safety Commission established -- Members, is repealed January 1, 2030.
- 4556 [~~(17)~~] (18) Title 53B, Chapter 18, Part 16, USTAR Researchers, is repealed July 1, 2028.
- 4557 [~~(18)~~] (19) Title 53B, Chapter 18, Part 17, Food Security Council, is repealed July 1, 2027.
- 4558 [~~(19)~~] (20) Title 53B, Chapter 18, Part 18, Electrification of Transportation Infrastructure Research Center, is repealed July 1, 2028.
- 4560 [~~(20)~~] (21) Title 53B, Chapter 35, Higher Education and Corrections Council, is repealed July 1, 2027.
- 4562 [~~(21)~~] (22) Subsection 53C-3-203(4)(b)(vii), regarding the distribution of money from the Land Exchange Distribution Account to the Geological Survey for test wells and other hydrologic studies in the West Desert, is repealed July 1, 2030.
- 4565 [~~(22)~~] (23) Subsection 53E-1-201(1)(q), regarding the Higher Education and Corrections Council, is repealed July 1, 2027.
- 4567 [~~(23)~~] (24) Subsection 53E-2-304(6), regarding foreclosing a private right of action or waiver of governmental immunity, is repealed July 1, 2027.
- 4569 [~~(24)~~] (25) Subsection 53E-3-503(5), regarding coordinating councils for youth in care, is repealed July 1, 2027.
- 4571 [~~(25)~~] (26) Subsection 53E-3-503(6), regarding coordinating councils for youth in care, is repealed July 1, 2027.
- 4573 [~~(26)~~] (27) Subsection 53E-4-202(8)(b), regarding a standards review committee, is repealed January 1, 2028.
- 4575 [~~(27)~~] (28) Section 53E-4-203, Standards review committee, is repealed January 1, 2028.
- 4576 [~~(28)~~] (29) Title 53E, Chapter 6, Part 5, Utah Professional Practices Advisory Commission, is repealed July 1, 2033.

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- 4578 [(29)] (30) Subsection 53E-7-207(7), regarding a private right of action or waiver of governmental immunity, is repealed July 1, 2027.
- 4580 [(30)] (31) Section 53F-2-420, Intensive Services Special Education Pilot Program, is repealed July 1, 2024.
- 4582 [(31)] (32) Section 53F-5-214, Grant for professional learning, is repealed July 1, 2025.
- 4583 [(32)] (33) Section 53F-5-215, Elementary teacher preparation grant, is repealed July 1, 2025.
- 4585 [(33)] (34) Section 53F-5-219, Local Innovations Civics Education Pilot Program, is repealed July 1, 2025.
- 4587 [(34)] (35) Title 53F, Chapter 10, Part 2, Capital Projects Evaluation Panel, is repealed July 1, 2027.
- 4589 [(35)] (36) Subsection 53G-4-608(2)(b), regarding the Utah Seismic Safety Commission, is repealed January 1, 2025.
- 4591 [(36)] (37) Subsection 53G-4-608(4)(b), regarding the Utah Seismic Safety Commission, is repealed January 1, 2025.
- 4593 [(37)] (38) Section 53G-9-212, Drinking water quality in schools, is repealed July 1, 2027.
- 4594 Section 70. Section 63I-1-276 is amended to read:
- 4595 **63I-1-276. Repeal dates: Title 76.**
- 4596 [(1)] Subsection 76-7-313(6), regarding a report provided by the Department of Health and Human Services, is repealed July 1, 2027.
- 4598 [(2) Section 76-10-526.1, Information check before private sale of firearm, is repealed July 1, 2025.]
- 4600 Section 71. Section 63I-2-276 is amended to read:
- 4601 **63I-2-276. Repeal dates: Title 76.**
- 4602 (1) Subsection 76-5-102.7(2)(b), regarding assault or threat of violence against an employee of a health facility, is repealed January 1, 2027.
- 4604 (2) Subsection [76-10-529(9)] 76-11-218(10), regarding data collection requirements for a law enforcement agency that issues a written warning, citation, or referral, is repealed December 31, 2031.
- 4607 Section 72. Section 63M-7-220 is amended to read:
- 4608 **63M-7-220. Domestic violence data collection.**
- 4609 (1) As used in this section:
- 4610 (a) "Commission" means the State Commission on Criminal and Juvenile Justice created in Section 63M-7-201.

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- 4612 (b) "Cohabitant abuse protective order" means an order issued with or without notice to the respondent
in accordance with Title 78B, Chapter 7, Part 6, Cohabitant Abuse Protective Orders.
- 4615 (c) "Lethality assessment" means an evidence-based assessment that is intended to identify a victim of
domestic violence who is at a high risk of being killed by the perpetrator.
- 4618 (d) "Victim" means the same as that term is defined in Section 77-36-1.
- 4619 (2) Beginning July 1, 2025, each law enforcement agency and other organizations that provide
domestic violence services within the state shall submit the following data to the commission for
compilation and analysis in collaboration with the data collected by the Department of Public Safety
in accordance with Section 77-36-2.1 and the Administrative Office of the Courts:
- 4624 (a) lethality assessments conducted in the state, including:
- 4625 (i) the type of lethality assessments used by law enforcement agencies and other organizations that
provide domestic violence services; and
- 4627 (ii) training and protocols implemented by law enforcement agencies and the organizations described in
Subsection (2)(a)(i) regarding the use of lethality assessments;
- 4630 (b) the data collection efforts implemented by law enforcement agencies and the organizations
described in Subsection (2)(a)(i);
- 4632 (c) the number of cohabitant abuse protective orders that, in the immediately preceding calendar year,
were:
- 4634 (i) issued;
- 4635 (ii) amended or dismissed before the date of expiration; and
- 4636 (iii) dismissed under Section 78B-7-605; and
- 4637 (d) the prevalence of domestic violence in the state and the prevalence of the following in domestic
violence cases:
- 4639 (i) stalking;
- 4640 (ii) strangulation;
- 4641 (iii) violence in the presence of children; and
- 4642 (iv) threats of suicide or homicide.
- 4643 (3) The commission, in collaboration with domestic violence organizations and other related
stakeholders, shall conduct a review of and provide feedback on:
- 4645 (a) lethality assessment training and protocols implemented by law enforcement agencies and the
organizations described in Subsection (2)(a)(i); and

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- 4647 (b) the collection of domestic violence data in the state, including:
- 4648 (i) coordination between state, local, and not-for-profit agencies to collect data from lethality assessments and on the prevalence of domestic violence, including the number of voluntary commitments of firearms under Section [~~53-5e-201~~] 53-5a-502;
- 4652 (ii) efforts to standardize the format for collecting domestic violence and lethality assessment data from state, local, and not-for-profit agencies subject to federal confidentiality requirements; and
- 4655 (iii) the need for any additional data collection requirements or efforts.
- 4656 (4) On or before November 30 of each year, the commission shall provide a written report to the Law Enforcement and Criminal Justice Interim Committee describing:
- 4658 (a) the information gathered under Subsections (2) and (3); or
- 4659 (b) the progress and assessment of available data under Subsections (2) and (3).

4660 Section 73. Section 72-10-901 is amended to read:

4661 **72-10-901. Definitions.**

As used in this part, "weapon" means:

- 4663 (1) a firearm as that term is defined in Section [~~76-10-501~~] 76-11-101; or
- 4664 (2) an object that in the manner of the object's use or intended use is capable of causing death, bodily injury, or damage to property, as determined according to the following factors:
- 4667 (a) the location and circumstances in which the object is used or possessed;
- 4668 (b) the primary purpose for which the object is made;
- 4669 (c) the character of the damage, if any, the object is likely to cause;
- 4670 (d) the manner in which the object is used;
- 4671 (e) whether the manner in which the object is used or possessed constitutes a potential imminent threat to public safety; and
- 4673 (f) the lawful purposes for which the object may be used.

4674 Section 74. Section 73-29-102 is amended to read:

4675 **73-29-102. Definitions.**

As used in this chapter:

- 4677 (1) "Division" means the Division of Wildlife Resources.
- 4678 (2) "Floating access" means the right to access public water flowing over private property for floating and fishing while floating upon the water.

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- (3) "Impounded wetlands" means a wetland or wetland pond that is formed or the level of which is controlled by a dike, berm, or headgate that retains or manages the flow or depth of water, including connecting channels.
- 4683 (4) "Navigable water" means a water course that in its natural state without the aid of artificial means is useful for commerce and has a useful capacity as a public highway of transportation.
- 4686 (5) "Private property to which access is restricted" means privately owned real property:
- 4687 (a) that is cultivated land, as defined in Section 23A-5-317;
- 4688 (b) that is:
- 4689 (i) properly posted, as defined in Section 23A-5-317;
- 4690 (ii) posted as described in Subsection 76-6-206(2)(b)(iii); or
- 4691 (iii) posted as described in Subsection 76-6-206.3(2)(c);
- 4692 (c) that is fenced or enclosed as described in:
- 4693 (i) Subsection 76-6-206(2)(b)(ii); or
- 4694 (ii) Subsection 76-6-206.3(2)(b); or
- 4695 (d) that the owner or a person authorized to act on the owner's behalf has requested a person to leave as provided by:
- 4697 (i) Section 23A-5-317;
- 4698 (ii) Subsection 76-6-206(2)(b)(i); or
- 4699 (iii) Subsection 76-6-206.3(2)(a).
- 4700 (6) "Public access area" means the limited part of privately owned property that:
- 4701 (a) lies beneath or within three feet of a public water or that is the most direct, least invasive, and closest means of portage around an obstruction in a public water; and
- 4703 (b) is open to public recreational access under Section 73-29-203; and
- 4704 (c) can be accessed from an adjoining public access area or public right-of-way.
- 4705 (7) "Public recreational access" means the right to engage in recreational access established in accordance with Section 73-29-203.
- 4707 (8)
- (a) "Public water" means water:
- 4708 (i) described in Section 73-1-1; and
- 4709 (ii) flowing or collecting on the surface:
- 4710 (A) within a natural or realigned channel; or

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- 4711 (B) in a natural lake, pond, or reservoir on a natural or realigned channel.
- 4712 (b) "Public water" does not include water flowing or collecting:
- 4713 (i) on impounded wetland;
- 4714 (ii) on a migratory bird production area, as defined in Section 23A-13-101;
- 4715 (iii) on private property in a manmade:
- 4716 (A) irrigation canal;
- 4717 (B) irrigation ditch; or
- 4718 (C) impoundment or reservoir constructed outside of a natural or realigned channel; or
- 4720 (iv) on a jurisdictional wetland described in 33 C.F.R. 328.3.
- 4721 (9)
- (a) "Recreational access" means to use a public water and to touch a public access area incidental to the use of the public water for:
- 4723 (i) floating;
- 4724 (ii) fishing; or
- 4725 (iii) waterfowl hunting conducted:
- 4726 (A) in compliance with applicable law or rule, including Sections 23A-5-314, 73-29-203, and [76-10-508] 76-11-209; and
- 4728 (B) so that the individual who engages in the waterfowl hunting shoots a firearm only while within a public access area and no closer than 600 feet of any dwelling.
- 4731 (b) "Recreational access" does not include:
- 4732 (i) hunting, except as provided in Subsection (9)(a)(iii);
- 4733 (ii) wading without engaging in activity described in Subsection (9)(a); or
- 4734 (iii) any other activity.

4735 Section 75. Section 76-3-203.1 is amended to read:

4736 **76-3-203.1. Offenses committed in concert with three or more persons or in relation to a criminal street gang -- Notice -- Enhanced penalties.**

- 4738 (1) As used in this section:
- 4739 (a) "Criminal street gang" means the same as that term is defined in Section 76-9-802.
- 4740 (b) "In concert with three or more persons" means:
- 4741 (i) the defendant was aided or encouraged by at least three other persons in committing the offense and was aware of this aid or encouragement; and

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- 4743 (ii) each of the other persons:
- 4744 (A) was physically present; and
- 4745 (B) participated as a party to any offense listed in Subsection (4), (5), or (6).
- 4746 (c) "In concert with three or more persons" means, regarding intent:
- 4747 (i) other persons participating as parties need not have the intent to engage in the same offense or
degree of offense as the defendant; and
- 4749 (ii) a minor is a party if the minor's actions would cause the minor to be a party if the minor were an
adult.
- 4751 (2) A person who commits any offense in accordance with this section is subject to an enhanced penalty
as provided in Subsection (4), (5), or (6) if the trier of fact finds beyond a reasonable doubt that the
person acted:
- 4754 (a) in concert with three or more persons;
- 4755 (b) for the benefit of, at the direction of, or in association with any criminal street gang as defined in
Section 76-9-802; or
- 4757 (c) to gain recognition, acceptance, membership, or increased status with a criminal street gang as
defined in Section 76-9-802.
- 4759 (3) The prosecuting attorney, or grand jury if an indictment is returned, shall cause to be subscribed
upon the information or indictment notice that the defendant is subject to the enhanced penalties
provided under this section.
- 4762 (4)
- (a) For an offense listed in Subsection (4)(b), a person may be charged as follows:
- 4763 (i) for a class B misdemeanor, as a class A misdemeanor; and
- 4764 (ii) for a class A misdemeanor, as a third degree felony.
- 4765 (b) The following offenses are subject to Subsection (4)(a):
- 4766 (i) criminal mischief as described in Section 76-6-106;
- 4767 (ii) property damage or destruction as described in Section 76-6-106.1; and
- 4768 (iii) defacement by graffiti as described in Section 76-6-107.
- 4769 (5)
- (a) For an offense listed in Subsection (5)(b), a person may be charged as follows:
- 4770 (i) for a class B misdemeanor, as a class A misdemeanor;
- 4771 (ii) for a class A misdemeanor, as a third degree felony; and

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- 4772 (iii) for a third degree felony, as a second degree felony.
- 4773 (b) The following offenses are subject to Subsection (5)(a):
- 4774 (i) burglary, if committed in a dwelling as defined in Subsection 76-6-202(3)(b);
- 4775 (ii) any offense of obstructing government operations under Chapter 8, Part 3, Obstructing
Governmental Operations, except Sections 76-8-302, 76-8-303, 76-8-307, 76-8-308, and 76-8-312;
- 4778 (iii) tampering with a witness under Section 76-8-508;
- 4779 (iv) retaliation against a witness, victim, or informant, or other violation of Section 76-8-508.3;
- 4781 (v) receiving or soliciting a bribe as a witness under Section 76-8-508.7;
- 4782 (vi) extortion or bribery to dismiss a criminal proceeding as defined in Section 76-8-509;
- 4784 [~~(vii) any weapons offense under Chapter 10, Part 5, Weapons; and~~]
- 4785 [~~(viii)~~ (vii) any violation of Chapter 10, Part 16, Pattern of Unlawful Activity Act; and
- 4787 (viii) any weapons offense under Title 76, Chapter 11, Weapons.
- 4788 (6)
- (a) For an offense listed in Subsection (6)(b), a person may be charged as follows:
- 4789 (i) for a class B misdemeanor, as a class A misdemeanor;
- 4790 (ii) for a class A misdemeanor, as a third degree felony;
- 4791 (iii) for a third degree felony, as a second degree felony; and
- 4792 (iv) for a second degree felony, as a first degree felony.
- 4793 (b) The following offenses are subject to Subsection (6)(a):
- 4794 (i) assault and related offenses under Chapter 5, Part 1, Assault and Related Offenses;
- 4795 (ii) any criminal homicide offense under Chapter 5, Part 2, Criminal Homicide;
- 4796 (iii) kidnapping and related offenses under Chapter 5, Part 3, Kidnapping, Trafficking, and Smuggling;
- 4798 (iv) any felony sexual offense under Chapter 5, Part 4, Sexual Offenses;
- 4799 (v) sexual exploitation of a minor as defined in Section 76-5b-201;
- 4800 (vi) aggravated sexual exploitation of a minor as defined in Section 76-5b-201.1;
- 4801 (vii) robbery and aggravated robbery under Chapter 6, Part 3, Robbery; and
- 4802 (viii) aggravated exploitation of prostitution under Section 76-10-1306.
- 4803 (7) The sentence imposed under Subsection (4), (5), or (6) may be suspended and the individual placed
on probation for the higher level of offense.
- 4805

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- (8) It is not a bar to imposing the enhanced penalties under this section that the persons with whom the actor is alleged to have acted in concert are not identified, apprehended, charged, or convicted, or that any of those persons are charged with or convicted of a different or lesser offense.

4809 Section 76. Section 76-3-203.3 is amended to read:

4810 **76-3-203.3. Penalty for hate crimes -- Civil rights violation.**

As used in this section:

- 4812 (1) "Primary offense" means those offenses provided in Subsection (4).
4813 (2)
(a) A person who commits any primary offense with the intent to intimidate or terrorize another person or with reason to believe that his action would intimidate or terrorize that person is subject to Subsection (2)(b).
4816 (b)
(i) A class C misdemeanor primary offense is a class B misdemeanor; and
4817 (ii) a class B misdemeanor primary offense is a class A misdemeanor.
4818 (3) "Intimidate or terrorize" means an act which causes the person to fear for his physical safety or damages the property of that person or another. The act must be accompanied with the intent to cause or has the effect of causing a person to reasonably fear to freely exercise or enjoy any right secured by the Constitution or laws of the state or by the Constitution or laws of the United States.
4823 (4) Primary offenses referred to in Subsection (1) are the misdemeanor offenses for:
4824 (a) assault and related offenses under Sections 76-5-102, 76-5-102.4, 76-5-106, 76-5-107, and 76-5-108;
4826 (b) any misdemeanor property destruction offense under Sections 76-6-102 and 76-6-104, and Subsection 76-6-106(2)(a);
4828 (c) any criminal trespass offense under Sections 76-6-204 and 76-6-206;
4829 (d) any misdemeanor theft offense under Chapter 6, Offenses Against Property;
4830 (e) any offense of obstructing government operations under Sections 76-8-301, 76-8-301.2, 76-8-302, 76-8-305, 76-8-306, 76-8-307, 76-8-308, 76-8-309.2, and 76-8-313;
4833 (f) any offense of interfering or intending to interfere with activities of colleges and universities under [Title 76,]Chapter 8, Part 7, Colleges and Universities;
4835 (g) any misdemeanor offense against public order and decency as defined in [Title 76,]Chapter 9, Part 1, Breaches of the Peace and Related Offenses;

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- 4837 (h) any telephone abuse offense under [~~Title 76,~~]Chapter 9, Part 2, Electronic Communication and Telephone Abuse;
- 4839 (i) any cruelty to animals offense under Section 76-9-301;
- 4840 (j) any weapons offense under Section [~~76-10-506~~] 76-11-207; or
- 4841 (k) a violation of Section 76-9-102, if the violation occurs at an official meeting.
- 4842 (5) This section does not affect or limit any individual's constitutional right to the lawful expression of free speech or other recognized rights secured by the Constitution or laws of the state or by the Constitution or laws of the United States.
- 4845 Section 77. Section 76-3-203.5 is amended to read:
- 4846 **76-3-203.5. Habitual violent offender -- Definition -- Procedure -- Penalty.**
- 4847 (1) As used in this section:
- 4848 (a) "Felony" means any violation of a criminal statute of the state, any other state, the United States, or any district, possession, or territory of the United States for which the maximum punishment the offender may be subjected to exceeds one year in prison.
- 4852 (b) "Habitual violent offender" means a person convicted within the state of any violent felony and who on at least two previous occasions has been convicted of a violent felony and committed to either prison in Utah or an equivalent correctional institution of another state or of the United States either at initial sentencing or after revocation of probation.
- 4857 (c) "Violent felony" means:
- 4858 (i) any of the following offenses, or any attempt, solicitation, or conspiracy to commit any of the following offenses punishable as a felony:
- 4860 (A) arson as described in Section 76-6-102;
- 4861 (B) causing a catastrophe as described in Subsection 76-6-105(3)(a) or (3)(b);
- 4862 (C) criminal mischief as described in Section 76-6-106;
- 4863 (D) aggravated arson as described in Section 76-6-103;
- 4864 (E) assault by prisoner as described in Section 76-5-102.5;
- 4865 (F) disarming a police officer as described in Section 76-5-102.8;
- 4866 (G) aggravated assault as described in Section 76-5-103;
- 4867 (H) aggravated assault by prisoner as described in Section 76-5-103.5;
- 4868 (I) mayhem as described in Section 76-5-105;
- 4869 (J) stalking as described in Subsection 76-5-106.5(2);

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- 4870 (K) threat of terrorism as described in Section 76-5-107.3;
- 4871 (L) aggravated child abuse as described in Subsection 76-5-109.2(3)(a) or (b);
- 4872 (M) commission of domestic violence in the presence of a child as described in Section 76-5-114;
- 4874 (N) abuse or neglect of a child with a disability as described in Section 76-5-110;
- 4875 (O) abuse or exploitation of a vulnerable adult as described in Section 76-5-111, 76-5-111.2, 76-5-111.3, or 76-5-111.4;
- 4877 (P) endangerment of a child or vulnerable adult as described in Section 76-5-112.5;
- 4878 (Q) an offense described in Chapter 5, Part 2, Criminal Homicide;
- 4879 (R) kidnapping as described in Section 76-5-301;
- 4880 (S) child kidnapping as described in Section 76-5-301.1;
- 4881 (T) aggravated kidnapping as described in Section 76-5-302;
- 4882 (U) rape as described in Section 76-5-402;
- 4883 (V) rape of a child as described in Section 76-5-402.1;
- 4884 (W) object rape as described in Section 76-5-402.2;
- 4885 (X) object rape of a child as described in Section 76-5-402.3;
- 4886 (Y) forcible sodomy as described in Section 76-5-403;
- 4887 (Z) sodomy on a child as described in Section 76-5-403.1;
- 4888 (AA) forcible sexual abuse as described in Section 76-5-404;
- 4889 (BB) sexual abuse of a child as described in Section 76-5-404.1;
- 4890 (CC) aggravated sexual abuse of a child as described in Section 76-5-404.3;
- 4891 (DD) aggravated sexual assault as described in Section 76-5-405;
- 4892 (EE) sexual exploitation of a minor as described in Section 76-5b-201;
- 4893 (FF) aggravated sexual exploitation of a minor as described in Section 76-5b-201.1;
- 4894 (GG) sexual exploitation of a vulnerable adult as described in Section 76-5b-202;
- 4895 (HH) burglary as described in Subsection 76-6-202(3)(b);
- 4896 (II) aggravated burglary as described in Section 76-6-203;
- 4897 (JJ) robbery as described in Section 76-6-301;
- 4898 (KK) aggravated robbery as described in Section 76-6-302;
- 4899 (LL) theft by extortion as described in Subsection 76-6-406(1)(a)(i) or (1)(a)(ii);
- 4900 (MM) tampering with a witness as described in Section 76-8-508;
- 4901 (NN) retaliation against a witness, victim, or informant as described in Section 76-8-508.3;

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- 4903 (OO) tampering or retaliating against a juror as described in Subsection 76-8-508.5(2)(a)(iii);
- 4905 (PP) extortion to dismiss a criminal proceeding as described in Subsection 76-6-406(1)(a)(i), (ii), or
(ix);
- 4907 (QQ) possession, use, or removal of explosive, chemical, or incendiary devices as described in
Subsections 76-10-306(3) through (6);
- 4909 (RR) unlawful delivery of explosive, chemical, or incendiary devices as described in Section
76-10-307;
- 4911 (SS) purchase or possession of a dangerous weapon or handgun by a restricted person as described in
Section 76-10-503;
- 4913 (TT) aggravated exploitation of prostitution as described in Subsection 76-10-1306(1)(a);
- 4915 (UU) bus hijacking as described in Section 76-10-1504;~~and~~
- 4916 (VV) discharging firearms and hurling missiles as described in Section 76-10-1505;~~or~~ and
- 4918 (WW) felony discharge of a firearm as described in Section 76-11-210.
- 4919 (ii) any felony violation of a criminal statute of any other state, the United States, or any district,
possession, or territory of the United States which would constitute a violent felony as defined in
this Subsection (1) if committed in this state.
- 4922 (2) If a person is convicted in this state of a violent felony by plea or by verdict and the trier of fact
determines beyond a reasonable doubt that the person is a habitual violent offender under this
section, the penalty for a:
- 4925 (a) third degree felony is as if the conviction were for a first degree felony;
- 4926 (b) second degree felony is as if the conviction were for a first degree felony; or
- 4927 (c) first degree felony remains the penalty for a first degree penalty except:
- 4928 (i) the convicted person is not eligible for probation; and
- 4929 (ii) the Board of Pardons and Parole shall consider that the convicted person is a habitual violent
offender as an aggravating factor in determining the length of incarceration.
- 4932 (3)
- (a) The prosecuting attorney, or grand jury if an indictment is returned, shall provide notice in
the information or indictment that the defendant is subject to punishment as a habitual violent
offender under this section. Notice shall include the case number, court, and date of conviction or
commitment of any case relied upon by the prosecution.
- 4937 (b)

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- 4939 (i) The defendant shall serve notice in writing upon the prosecutor if the defendant intends to deny that:
- 4940 (A) the defendant is the person who was convicted or committed;
- 4941 (B) the defendant was represented by counsel or had waived counsel; or
- 4942 (C) the defendant's plea was understandingly or voluntarily entered.
- 4945 (ii) The notice of denial shall be served not later than five days prior to trial and shall state in detail the defendant's contention regarding the previous conviction and commitment.
- 4945 (4)
- 4948 (a) If the defendant enters a denial under Subsection (3)(b) and if the case is tried to a jury, the jury may not be told, until after it returns its verdict on the underlying felony charge, of the:
- 4950 (i) defendant's previous convictions for violent felonies, except as otherwise provided in the Utah Rules of Evidence; or
- 4951 (ii) allegation against the defendant of being a habitual violent offender.
- 4955 (b) If the jury's verdict is guilty, the defendant shall be tried regarding the allegation of being an habitual violent offender by the same jury, if practicable, unless the defendant waives the jury, in which case the allegation shall be tried immediately to the court.
- 4957 (c)
- 4960 (i) Before or at the time of sentencing the trier of fact shall determine if this section applies.
- 4962 (ii) The trier of fact shall consider any evidence presented at trial and the prosecution and the defendant shall be afforded an opportunity to present any necessary additional evidence.
- 4970 (iii) Before sentencing under this section, the trier of fact shall determine whether this section is applicable beyond a reasonable doubt.
- 4974 (d) If any previous conviction and commitment is based upon a plea of guilty or no contest, there is a rebuttable presumption that the conviction and commitment were regular and lawful in all respects if the conviction and commitment occurred after January 1, 1970. If the conviction and commitment occurred prior to January 1, 1970, the burden is on the prosecution to establish by a preponderance of the evidence that the defendant was then represented by counsel or had lawfully waived the right to have counsel present, and that the defendant's plea was understandingly and voluntarily entered.
- 4974 (e) If the trier of fact finds this section applicable, the court shall enter that specific finding on the record and shall indicate in the order of judgment and commitment that the defendant has been found by the trier of fact to be a habitual violent offender and is sentenced under this section.
- 4974 (5)

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(a) The sentencing enhancement provisions of Section 76-3-407 supersede the provisions of this section.

4976 (b) Notwithstanding Subsection (5)(a), the "violent felony" offense defined in Subsection (1)(c) shall include any felony sexual offense violation of Chapter 5, Part 4, Sexual Offenses, to determine if the convicted person is a habitual violent offender.

4979 (6) The sentencing enhancement described in this section does not apply if:

4980 (a) the offense for which the person is being sentenced is:

4981 (i) a grievous sexual offense;

4982 (ii) child kidnapping, Section 76-5-301.1;

4983 (iii) aggravated kidnapping, Section 76-5-302; or

4984 (iv) forcible sexual abuse, Section 76-5-404; and

4985 (b) applying the sentencing enhancement provided for in this section would result in a lower maximum penalty than the penalty provided for under the section that describes the offense for which the person is being sentenced.

4988 Section 78. Section 76-3-402 is amended to read:

4989 **76-3-402. Conviction of lower degree of offense -- Procedure and limitations.**

4990 (1) As used in this section:

4991 (a) "Lower degree of offense" includes an offense for which:

4992 (i) a statutory enhancement is charged in the information or indictment that would increase either the maximum or the minimum sentence; and

4994 (ii) the court removes the statutory enhancement in accordance with this section.

4995 (b) "Minor regulatory offense" means the same as that term is defined in Section 77-40a-101.

4997 (c)

(i) "Rehabilitation program" means a program designed to reduce criminogenic and recidivism risks.

4999 (ii) "Rehabilitation program" includes:

5000 (A) a domestic violence treatment program, as that term is defined in Section 26B-2-101;

5002 (B) a residential, vocational, and life skills program, as that term is defined in Section 13-53-102;

5004 (C) a substance abuse treatment program, as that term is defined in Section 26B-2-101;

5006 (D) a substance use disorder treatment program, as that term is defined in Section 26B-2-101;

5008 (E) a youth program, as that term is defined in Section 26B-2-101;

5009

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- (F) a program that meets the standards established by the Department of Corrections under Section 64-13-25;
- 5011 (G) a drug court, a veterans court, or a mental health court certified by the Judicial Council; or
- 5013 (H) a program that is substantially similar to a program described in Subsections (1)(c)(ii)(A) through (G).
- 5015 (d) "Serious offense" means a felony or misdemeanor offense that is not a minor regulatory offense or a traffic offense.
- 5017 (e) "Traffic offense" means the same as that term is defined in Section 77-40a-101.
- 5018 (f)
- (i) Except as provided in Subsection (1)(f)(ii), "violent felony" means the same as that term is defined in Section 76-3-203.5.
- 5020 (ii) "Violent felony" does not include an offense, or any attempt, solicitation, or conspiracy to commit an offense, for:
- 5022 (A) the possession, use, or removal of explosive, chemical, or incendiary devices under Subsection 76-10-306(3), (5), or (6); or
- 5024 (B) the purchase or possession of a dangerous weapon or ~~handgun~~ firearm by a restricted person under ~~[Section 76-10-503]~~ Section 76-11-305 or 76-11-306.
- 5026 (2) The court may enter a judgment of conviction for a lower degree of offense than established by statute and impose a sentence at the time of sentencing for the lower degree of offense if the court:
- 5029 (a) takes into account:
- 5030 (i) the nature and circumstances of the offense of which the defendant was found guilty; and
- 5032 (ii) the history and character of the defendant;
- 5033 (b) gives any victim present at the sentencing and the prosecuting attorney an opportunity to be heard; and
- 5035 (c) concludes that the degree of offense established by statute would be unduly harsh to record as a conviction on the record for the defendant.
- 5037 (3) Upon a motion from the prosecuting attorney or the defendant, the court may enter a judgment of conviction for a lower degree of offense than established by statute:
- 5039 (a) after the defendant is successfully discharged from probation or parole for the conviction; and
- 5041 (b) if the court finds that entering a judgment of conviction for a lower degree of offense is in the interest of justice in accordance with Subsection (7).

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- 5043 (4) Upon a motion from the prosecuting attorney or the defendant, the court may enter a judgment of conviction for a lower degree of offense than established by statute if:
- 5045 (a) the defendant's probation or parole for the conviction did not result in a successful discharge but the defendant is successfully discharged from probation or parole for a subsequent conviction of an offense;
- 5048 (b)
- (i) at least five years have passed after the day on which the defendant is sentenced for the subsequent conviction; or
- 5050 (ii) at least three years have passed after the day on which the defendant is sentenced for the subsequent conviction and the prosecuting attorney consents to the reduction;
- 5053 (c) the defendant is not convicted of a serious offense during the time period described in Subsection (4) (b);
- 5055 (d) there are no criminal proceedings pending against the defendant;
- 5056 (e) the defendant is not on probation, on parole, or currently incarcerated for any other offense;
- 5058 (f) if the offense for which the reduction is sought is a violent felony, the prosecuting attorney consents to the reduction; and
- 5060 (g) the court finds that entering a judgment of conviction for a lower degree of offense is in the interest of justice in accordance with Subsection (7).
- 5062 (5) Upon a motion from the prosecuting attorney or the defendant, the court may enter a judgment of conviction for a lower degree of offense than established by statute if:
- 5064 (a) the defendant's probation or parole for the conviction did not result in a successful discharge but the defendant is successfully discharged from a rehabilitation program;
- 5066 (b) at least three years have passed after the day on which the defendant is successfully discharged from the rehabilitation program;
- 5068 (c) the defendant is not convicted of a serious offense during the time period described in Subsection (5) (b);
- 5070 (d) there are no criminal proceedings pending against the defendant;
- 5071 (e) the defendant is not on probation, on parole, or currently incarcerated for any other offense;
- 5073 (f) if the offense for which the reduction is sought is a violent felony, the prosecuting attorney consents to the reduction; and
- 5075

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- (g) the court finds that entering a judgment of conviction for a lower degree of offense is in the interest of justice in accordance with Subsection (7).
- 5077 (6) Upon a motion from the prosecuting attorney or the defendant, the court may enter a judgment of conviction for a lower degree of offense than established by statute if:
- 5079 (a) at least five years have passed after the day on which the defendant's probation or parole for the conviction did not result in a successful discharge;
- 5081 (b) the defendant is not convicted of a serious offense during the time period described in Subsection (6)(a);
- 5083 (c) there are no criminal proceedings pending against the defendant;
- 5084 (d) the defendant is not on probation, on parole, or currently incarcerated for any other offense;
- 5086 (e) if the offense for which the reduction is sought is a violent felony, the prosecuting attorney consents to the reduction; and
- 5088 (f) the court finds that entering a judgment of conviction for a lower degree of offense is in the interest of justice in accordance with Subsection (7).
- 5090 (7) In determining whether entering a judgment of a conviction for a lower degree of offense is in the interest of justice under Subsection (3), (4), (5), or (6):
- 5092 (a) the court shall consider:
- 5093 (i) the nature, circumstances, and severity of the offense for which a reduction is sought;
- 5095 (ii) the physical, emotional, or other harm that the defendant caused any victim of the offense for which the reduction is sought; and
- 5097 (iii) any input from a victim of the offense; and
- 5098 (b) the court may consider:
- 5099 (i) any special characteristics or circumstances of the defendant, including the defendant's criminogenic risks and needs;
- 5101 (ii) the defendant's criminal history;
- 5102 (iii) the defendant's employment and community service history;
- 5103 (iv) whether the defendant participated in a rehabilitative program and successfully completed the program;
- 5105 (v) any effect that a reduction would have on the defendant's ability to obtain or reapply for a professional license from the Department of Commerce;
- 5107 (vi) whether the level of the offense has been reduced by law after the defendant's conviction;

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- 5109 (vii) any potential impact that the reduction would have on public safety; or
- 5110 (viii) any other circumstances that are reasonably related to the defendant or the offense for which the
reduction is sought.
- 5112 (8)
- (a) A court may only enter a judgment of conviction for a lower degree of offense under Subsection (3),
(4), (5), or (6) after:
- 5114 (i) notice is provided to the other party;
- 5115 (ii) reasonable efforts have been made by the prosecuting attorney to provide notice to any victims;
and
- 5117 (iii) a hearing is held if a hearing is requested by either party.
- 5118 (b) A prosecuting attorney is entitled to a hearing on a motion seeking to reduce a judgment of
conviction for a lower degree of offense under Subsection (3), (4), (5), or (6).
- 5121 (c) In a motion under Subsection (3), (4), (5), or (6) and at a requested hearing on the motion, the
moving party has the burden to provide evidence sufficient to demonstrate that the requirements
under Subsection (3), (4), (5), or (6) are met.
- 5124 (d) If a defendant files a motion under this section, the prosecuting attorney shall respond to the motion
within 35 days after the day on which the motion is filed with the court.
- 5127 (9) A court has jurisdiction to consider and enter a judgment of conviction for a lower degree of offense
under Subsection (3), (4), (5), or (6) regardless of whether the defendant is committed to jail as a
condition of probation or is sentenced to prison.
- 5130 (10)
- (a) An offense may be reduced only one degree under this section, unless the prosecuting attorney
specifically agrees in writing or on the court record that the offense may be reduced two degrees.
- 5133 (b) An offense may not be reduced under this section by more than two degrees.
- 5134 (11) This section does not preclude an individual from obtaining or being granted an expungement
of the individual's record in accordance with [~~Title 44, Chapter 40A, Expungement of Criminal
Records~~] Title 77, Chapter 40a, Expungement of Criminal Records.
- 5138 (12) The court may not enter a judgment for a conviction for a lower degree of offense under this
section if:
- 5140 (a) the reduction is specifically precluded by law; or
- 5141

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(b) any unpaid balance remains on court-ordered restitution for the offense for which the reduction is sought.

5143 (13) When the court enters a judgment for a lower degree of offense under this section, the actual title
of the offense for which the reduction is made may not be altered.

5145 (14)

(a) An individual may not obtain a reduction under this section of a conviction that requires the individual to register as a sex offender, kidnap offender, or child abuse offender until the registration requirements under Title 77, Chapter 41, Sex, Kidnap, and Child Abuse Offender Registry, have expired.

5149 (b) An individual required to register as a sex offender, kidnap offender, or child abuse offender for the individual's lifetime under Subsection 77-41-105(3)(c) may not be granted a reduction of the conviction for the offense or offenses that require the individual to register as a sex offender, kidnap offender, or child abuse offender.

5153 Section 79. Section 76-5-102.8 is amended to read:

5154 **76-5-102.8. Disarming a peace officer -- Penalties.**

5155 (1)

(a) As used in this section:

5156 (i) "Conductive energy device" means a weapon that uses electrical current to disrupt voluntary control of muscles.

5158 (ii) "Firearm" means the same as that term is defined in Section [~~76-10-501~~] 76-11-101.

5160 (b) Terms defined in Section 76-1-101.5 apply to this section.

5161 (2) An actor commits disarming a peace officer if the actor intentionally takes or removes, or attempts to take or remove a firearm or a conductive energy device from an individual or immediate presence of an individual who the actor knows is a peace officer:

5164 (a) without the consent of the peace officer; and

5165 (b) while the peace officer is acting within the scope of the peace officer's authority as a peace officer.

5167 (3)

(a) A violation of Subsection (2) regarding a firearm is a first degree felony.

5168 (b) A violation of Subsection (2) regarding a conductive energy device is a third degree felony.

5170 Section 80. Section 76-5-202 is amended to read:

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76-5-202. Aggravated murder -- Penalties -- Affirmative defense and special mitigation --

Separate offense.

- 5173 (1)
- (a) As used in this section:
- 5174 (i) "Correctional officer" means the same as that term is defined in Section 53-13-104.
- 5175 (ii) "Emergency responder" means the same as that term is defined in Section 53-2b-102.
- 5177 (iii) "Federal officer" means the same as that term is defined in Section 53-13-106.
- 5178 (iv) "Law enforcement officer" means the same as that term is defined in Section 53-13-103.
- 5180 (v) "Peace officer" means:
- 5181 (A) a correctional officer, federal officer, law enforcement officer, or special function officer; or
- 5183 (B) any other person who may exercise peace officer authority in accordance with Title 53, Chapter 13, Peace Officer Classifications.
- 5185 (vi) "Special function officer" means the same as that term is defined in Section 53-13-105.
- 5187 (vii) "Target a law enforcement officer" means an act:
- 5188 (A) involving the unlawful use of force and violence against a law enforcement officer;
- 5190 (B) that causes serious bodily injury or death; and
- 5191 (C) that is in furtherance of political or social objectives in order to intimidate or coerce a civilian population or to influence or affect the conduct of a government or a unit of government.
- 5194 (viii) "Weapon of mass destruction" means the same as that term is defined in Section 76-10-401.
- 5196 (b) Terms defined in Section 76-1-101.5 apply to this section.
- 5197 (2)
- (a) An actor commits aggravated murder if the actor intentionally or knowingly causes the death of another individual under any of the following circumstances:
- 5199 (i) the actor committed homicide while confined in a jail or other correctional institution;
- 5201 (ii)
- (A) the actor committed homicide incident to one act, scheme, course of conduct, or criminal episode during which two or more individuals other than the actor were killed; or
- 5204 (B) the actor, during commission of the homicide, attempted to kill one or more other individuals in addition to the deceased individual;
- 5206 (iii) the actor knowingly created a great risk of death to another individual other than the deceased individual and the actor;

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- 5208 (iv) the actor committed homicide incident to an act, scheme, course of conduct, or criminal episode during which the actor committed or attempted to commit aggravated robbery, robbery, rape, rape of a child, object rape, object rape of a child, forcible sodomy, sodomy upon a child, forcible sexual abuse, sexual abuse of a child, aggravated sexual abuse of a child, aggravated child abuse as described in Subsection 76-5-109.2(3)(a), or aggravated sexual assault, aggravated arson, arson, aggravated burglary, burglary, aggravated kidnapping, or kidnapping, or child kidnapping;
- 5216 (v) the actor committed homicide incident to one act, scheme, course of conduct, or criminal episode during which the actor committed the crime of abuse or desecration of a dead human body as described in Subsection 76-9-704(2)(e);
- 5219 (vi) the actor committed homicide for the purpose of avoiding or preventing an arrest of the actor or another individual by a peace officer acting under color of legal authority or for the purpose of effecting the actor's or another individual's escape from lawful custody;
- 5223 (vii) the actor committed homicide for pecuniary gain;
- 5224 (viii) the actor committed, engaged, or employed another person to commit the homicide subject to an agreement or contract for remuneration or the promise of remuneration for commission of the homicide;
- 5227 (ix) the actor previously committed or was convicted of:
- 5228 (A) aggravated murder under this section;
- 5229 (B) attempted aggravated murder under this section;
- 5230 (C) murder, under Section 76-5-203;
- 5231 (D) attempted murder, under Section 76-5-203; or
- 5232 (E) an offense committed in another jurisdiction which if committed in this state would be a violation of a crime listed in this Subsection (2)(a)(ix);
- 5234 (x) the actor was previously convicted of:
- 5235 (A) aggravated assault, under Section 76-5-103;
- 5236 (B) mayhem, under Section 76-5-105;
- 5237 (C) kidnapping, under Section 76-5-301;
- 5238 (D) child kidnapping, under Section 76-5-301.1;
- 5239 (E) aggravated kidnapping, under Section 76-5-302;
- 5240 (F) rape, under Section 76-5-402;

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- 5241 (G) rape of a child, under Section 76-5-402.1;
- 5242 (H) object rape, under Section 76-5-402.2;
- 5243 (I) object rape of a child, under Section 76-5-402.3;
- 5244 (J) forcible sodomy, under Section 76-5-403;
- 5245 (K) sodomy on a child, under Section 76-5-403.1;
- 5246 (L) aggravated sexual abuse of a child, under Section 76-5-404.3;
- 5247 (M) aggravated sexual assault, under Section 76-5-405;
- 5248 (N) aggravated arson, under Section 76-6-103;
- 5249 (O) aggravated burglary, under Section 76-6-203;
- 5250 (P) aggravated robbery, under Section 76-6-302;
- 5251 (Q) felony discharge of a firearm, under Section [~~76-10-508.1~~] 76-11-210; or
- 5252 (R) an offense committed in another jurisdiction which if committed in this state would be a violation of a crime listed in this Subsection (2)(a)(x);
- 5254 (xi) the actor committed homicide for the purpose of:
- 5255 (A) preventing a witness from testifying;
- 5256 (B) preventing a person from providing evidence or participating in any legal proceedings or official investigation;
- 5258 (C) retaliating against a person for testifying, providing evidence, or participating in any legal proceedings or official investigation; or
- 5260 (D) disrupting or hindering any lawful governmental function or enforcement of laws;
- 5262 (xii) the deceased individual was a local, state, or federal public official, or a candidate for public office, and the homicide is based on, is caused by, or is related to that official position, act, capacity, or candidacy;
- 5265 (xiii) the deceased individual was on duty in a verified position or the homicide is based on, is caused by, or is related to the deceased individual's position, and the actor knew, or reasonably should have known, that the deceased individual holds or has held the position of:
- 5269 (A) a peace officer;
- 5270 (B) an executive officer, prosecuting officer, jailer, or prison official;
- 5271 (C) a firefighter, search and rescue personnel, emergency medical personnel, ambulance personnel, or any other emergency responder;
- 5273 (D) a judge or other court official, juror, probation officer, or parole officer; or

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- 5274 (E) a security officer contracted to secure, guard, or otherwise protect tangible personal property, real property, or the life and well-being of human or animal life in the area of the offense;
- 5277 (xiv) the actor committed homicide:
- 5278 (A) by means of a destructive device, bomb, explosive, incendiary device, or similar device which was planted, hidden, or concealed in any place, area, dwelling, building, or structure, or was mailed or delivered;
- 5281 (B) by means of any weapon of mass destruction; or
- 5282 (C) to target a law enforcement officer;
- 5283 (xv) the actor committed homicide during the act of unlawfully assuming control of an aircraft, train, or other public conveyance by use of threats or force with intent to:
- 5286 (A) obtain any valuable consideration for the release of the public conveyance or any passenger, crew member, or any other person aboard;
- 5288 (B) direct the route or movement of the public conveyance; or
- 5289 (C) otherwise exert control over the public conveyance;
- 5290 (xvi) the actor committed homicide by means of the administration of a poison or of any lethal substance or of any substance administered in a lethal amount, dosage, or quantity;
- 5293 (xvii) the deceased individual was held or otherwise detained as a shield, hostage, or for ransom;
- 5295 (xviii) the actor committed homicide in an especially heinous, atrocious, cruel, or exceptionally depraved manner, any of which must be demonstrated by physical torture, serious physical abuse, or serious bodily injury of the deceased individual before death;
- 5299 (xix) the actor dismembers, mutilates, or disfigures the deceased individual's body, whether before or after death, in a manner demonstrating the actor's depravity of mind; or
- 5302 (xx) the deceased individual, at the time of the death of the deceased individual:
- 5303 (A) was younger than 14 years old; and
- 5304 (B) was not an unborn child.
- 5305 (b) An actor commits aggravated murder if the actor, with reckless indifference to human life, causes the death of another individual incident to an act, scheme, course of conduct, or criminal episode during which the actor is a major participant in the commission or attempted commission of:
- 5309 (i) aggravated child abuse, punishable as a felony of the second degree under Subsection 76-5-109.2(3) (a);
- 5311 (ii) child kidnapping, under Section 76-5-301.1;

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- 5312 (iii) rape of a child, under Section 76-5-402.1;
- 5313 (iv) object rape of a child, under Section 76-5-402.3;
- 5314 (v) sodomy on a child, under Section 76-5-403.1; or
- 5315 (vi) sexual abuse or aggravated sexual abuse of a child, under Section 76-5-404.1.
- 5316 (3)
- (a) If a notice of intent to seek the death penalty has been filed, a violation of Subsection (2) is a capital felony.
- 5318 (b) If a notice of intent to seek the death penalty has not been filed, aggravated murder is a noncapital first degree felony punishable as provided in Section 76-3-207.7.
- 5320 (c)
- (i) Within 60 days after arraignment of the defendant, the prosecutor may file notice of intent to seek the death penalty.
- 5322 (ii) The notice shall be served on the defendant or defense counsel and filed with the court.
- 5324 (iii) Notice of intent to seek the death penalty may be served and filed more than 60 days after the arraignment upon written stipulation of the parties or upon a finding by the court of good cause.
- 5327 (d) Without the consent of the prosecutor, the court may not accept a plea of guilty to noncapital first degree felony aggravated murder during the period in which the prosecutor may file a notice of intent to seek the death penalty under Subsection (3)(c)(i).
- 5331 (e) If the defendant was younger than 18 years old at the time the offense was committed, aggravated murder is a noncapital first degree felony punishable as provided in Section 76-3-207.7.
- 5334 (f) Notwithstanding Subsection (3)(a) or (3)(b), if the trier of fact finds the elements of aggravated murder, or alternatively, attempted aggravated murder, as described in this section, are proved beyond a reasonable doubt, and also finds that the existence of special mitigation is established by a preponderance of the evidence and in accordance with Section 76-5-205.5, the court shall enter a judgment of conviction as follows:
- 5340 (i) if the trier of fact finds the defendant guilty of aggravated murder, the court shall enter a judgment of conviction for murder; or
- 5342 (ii) if the trier of fact finds the defendant guilty of attempted aggravated murder, the court shall enter a judgment of conviction for attempted murder.
- 5344 (4)

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(a) It is an affirmative defense to a charge of aggravated murder or attempted aggravated murder that the actor caused the death of another or attempted to cause the death of another under a reasonable belief that the circumstances provided a legal justification or excuse for the conduct although the conduct was not legally justifiable or excusable under the existing circumstances.

5349 (b) The reasonable belief of the actor under Subsection (4)(a) shall be determined from the viewpoint of a reasonable person under the then existing circumstances.

5351 (c) Notwithstanding Subsection (3)(a) or (3)(b), if the trier of fact finds the elements of aggravated murder, or alternatively, attempted aggravated murder, as described in this section, are proved beyond a reasonable doubt, and also finds the affirmative defense described in this Subsection (4) is not disproven beyond a reasonable doubt, the court shall enter a judgment of conviction as follows:

5356 (i) if the trier of fact finds the defendant guilty of aggravated murder, the court shall enter a judgment of conviction for murder; or

5358 (ii) if the trier of fact finds the defendant guilty of attempted aggravated murder, the court shall enter a judgment of conviction for attempted murder.

5360 (5)

(a) Any aggravating circumstance described in Subsection (2) that constitutes a separate offense does not merge with the crime of aggravated murder.

5362 (b) An actor who is convicted of aggravated murder, based on an aggravating circumstance described in Subsection (2) that constitutes a separate offense, may also be convicted of, and punished for, the separate offense.

5365 Section 81. Section 76-5-203 is amended to read:

5366 **76-5-203. Murder -- Penalties-- Affirmative defense and special mitigation -- Separate offenses.**

5368 (1)

(a) As used in this section, "predicate offense" means:

5369 (i) a clandestine drug lab violation under Section 58-37d-4 or 58-37d-5;

5370 (ii) aggravated child abuse, under Subsection 76-5-109.2(3)(a), when the abused individual is younger than 18 years old;

5372 (iii) kidnapping under Section 76-5-301;

5373 (iv) child kidnapping under Section 76-5-301.1;

5374 (v) aggravated kidnapping under Section 76-5-302;

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- 5375 (vi) rape under Section 76-5-402;
- 5376 (vii) rape of a child under Section 76-5-402.1;
- 5377 (viii) object rape under Section 76-5-402.2;
- 5378 (ix) object rape of a child under Section 76-5-402.3;
- 5379 (x) forcible sodomy under Section 76-5-403;
- 5380 (xi) sodomy upon a child under Section 76-5-403.1;
- 5381 (xii) forcible sexual abuse under Section 76-5-404;
- 5382 (xiii) sexual abuse of a child under Section 76-5-404.1;
- 5383 (xiv) aggravated sexual abuse of a child under Section 76-5-404.3;
- 5384 (xv) aggravated sexual assault under Section 76-5-405;
- 5385 (xvi) arson under Section 76-6-102;
- 5386 (xvii) aggravated arson under Section 76-6-103;
- 5387 (xviii) burglary under Section 76-6-202;
- 5388 (xix) aggravated burglary under Section 76-6-203;
- 5389 (xx) robbery under Section 76-6-301;
- 5390 (xxi) aggravated robbery under Section 76-6-302;
- 5391 (xxii) escape under Section 76-8-309;
- 5392 (xxiii) aggravated escape under Section 76-8-309.3; or
- 5393 (xxiv) a felony violation of Section ~~[76-10-508]~~ 76-11-209 or ~~[76-10-508.1]~~ 76-11-210 regarding discharge of a firearm or dangerous weapon.
- 5395 (b) Terms defined in Section 76-1-101.5 apply to this section.
- 5396 (2) An actor commits murder if:
- 5397 (a) the actor intentionally or knowingly causes the death of another individual;
- 5398 (b) intending to cause serious bodily injury to another individual, the actor commits an act clearly dangerous to human life that causes the death of the other individual;
- 5400 (c) acting under circumstances evidencing a depraved indifference to human life, the actor knowingly engages in conduct that creates a grave risk of death to another individual and thereby causes the death of the other individual;
- 5403 (d)
- (i) the actor is engaged in the commission, attempted commission, or immediate flight from the commission or attempted commission of any predicate offense, or is a party to the predicate offense;

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- 5406 (ii) an individual other than a party described in Section 76-2-202 is killed in the course of the commission, attempted commission, or immediate flight from the commission or attempted commission of any predicate offense; and
- 5409 (iii) the actor acted with the intent required as an element of the predicate offense;
- 5410 (e) the actor recklessly causes the death of a peace officer or military service member in uniform while in the commission or attempted commission of:
- 5412 (i) an assault against a peace officer under Section 76-5-102.4;
- 5413 (ii) interference with a peace officer while making a lawful arrest under Section 76-8-305 if the actor uses force against the peace officer; or
- 5415 (iii) an assault against a military service member in uniform under Section 76-5-102.4; or
- 5417 (f) the actor commits a homicide that would be aggravated murder, but the offense is reduced in accordance with Subsection 76-5-202(4).
- 5419 (3)
- (a)
- (i) A violation of Subsection (2) is a first degree felony.
- 5420 (ii) A defendant who is convicted of murder shall be sentenced to imprisonment for an indeterminate term of not less than 15 years and which may be for life.
- 5422 (b) Notwithstanding Subsection (3)(a), if the trier of fact finds the elements of murder, or alternatively, attempted murder, as described in this section are proved beyond a reasonable doubt, and also finds that the existence of special mitigation is established by a preponderance of the evidence and in accordance with Section 76-5-205.5, the court shall enter a judgment of conviction as follows:
- 5427 (i) if the trier of fact finds the defendant guilty of murder, the court shall enter a judgment of conviction for manslaughter; or
- 5429 (ii) if the trier of fact finds the defendant guilty of attempted murder, the court shall, notwithstanding Subsection 76-4-102(1)(b) or 76-4-102(1)(c)(i), enter a judgment of conviction for attempted manslaughter.
- 5432 (4)
- (a) It is an affirmative defense to a charge of murder or attempted murder that the defendant caused the death of another individual or attempted to cause the death of another individual under a reasonable belief that the circumstances provided a legal justification or excuse for the conduct although the conduct was not legally justifiable or excusable under the existing circumstances.

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- 5437 (b) The reasonable belief of the actor under Subsection (4)(a) shall be determined from the viewpoint of
a reasonable person under the then existing circumstances.
- 5439 (c) Notwithstanding Subsection (3)(a), if the trier of fact finds the elements of murder, or alternatively,
attempted murder, as described in this section are proved beyond a reasonable doubt, and also finds
the affirmative defense described in this Subsection (4) is not disproven beyond a reasonable doubt,
the court shall enter a judgment of conviction as follows:
- 5444 (i) if the trier of fact finds the defendant guilty of murder, the court shall enter a judgment of conviction
for manslaughter; or
- 5446 (ii) if the trier of fact finds the defendant guilty of attempted murder, the court shall enter a judgment of
conviction for attempted manslaughter.
- 5448 (5)
- (a) Any predicate offense that constitutes a separate offense does not merge with the crime of murder.
- 5450 (b) An actor who is convicted of murder, based on a predicate offense that constitutes a separate
offense, may also be convicted of, and punished for, the separate offense.

5452 Section 82. Section 76-8-311.1 is amended to read:

5453 **76-8-311.1. Establishment of secure areas -- Items prohibited -- References to penalty
provisions.**

- 5455 (1)
- (a) As used in this section:
- 5456 (i) "Correctional facility" means the same as that term is defined in Section 76-8-311.3.
- 5458 (ii) "Dangerous weapon" means the same as that term is defined in Section ~~[76-10-501]~~ 76-11-101.
- 5460 (iii) "Explosive" means the same as the term "explosive, chemical, or incendiary device" defined in
Section 76-10-306.
- 5462 (iv) "Firearm" means the same as that term is defined in Section ~~[76-10-501]~~ 76-11-101.
- 5464 (v) "Law enforcement facility" means a facility that is owned, leased, or operated by a law
enforcement agency.
- 5466 (vi) "Mental health facility" means the same as that term is defined in Section 26B-5-301.
- 5468 (vii)
- (A) "Secure area" means an area created under this section into which certain ~~[persons]~~ individuals are
restricted from transporting a firearm or other dangerous weapon, ammunition, or explosive.
- 5471 (B) ~~[A "secure area" may]~~ "Secure area" does not include any area normally accessible to the public.

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- 5473 (b) Terms defined in Sections 76-1-101.5 and 76-8-101 apply to this section.
- 5474 (2)
- (a) The State Tax Commission or a correctional, law enforcement, or mental health facility may establish secure areas within the facility and may prohibit or control by rule any firearm or other dangerous weapon, ammunition, or explosive.
- 5477 (b) ~~[Subsections (2)(a), (3), (4), and (5) apply.]~~ This section applies to:
- 5478 (i) ~~[-]a higher education secure area hearing room [referred to in Subsections 53B-3-103(2)(a)(ii) and (b)] established in accordance with Section 53B-3-103; and~~
- 5480 (ii) a secure area established by the Judicial Council in accordance with Section 78A-2-203.
- 5482 (3) An entity that creates a secure area under this section shall ensure that at least one notice is prominently displayed at each entrance to the secure area in which a firearm, ammunition, dangerous weapon, or explosive is restricted.
- 5485 (4)
- (a) An entity that creates a secure area under this section shall provide a secure weapons storage area so that an individual entering the secure area may store the individual's weapon before entering the secure area.
- 5488 (b) The entity operating the facility shall be responsible for a weapon while the weapon is stored in the storage area described in Subsection (4)(a).
- 5490 (5)
- (a) An actor who transports a firearm or other dangerous weapon or ammunition into a secure area created under this section or a higher education secure area hearing room created under this section may be punished under Section 76-8-311.2.
- 5493 (b) An actor who knowingly or intentionally transports, possesses, distributes, or sells an explosive in a secure area or a higher education secure area hearing room created under this section may be punished under Section 76-10-306.
- 5496 (c) It is a defense to a prosecution related to this section that the actor acted in conformity with the facility's rule or policy established pursuant to this section.
- 5498 Section 83. Section 76-8-311.2 is amended to read:
- 5499 **76-8-311.2. Prohibited dangerous weapon or ammunition in a secure area.**
- 5500 (1)
- (a) As used in this section:

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- 5501 (i) "Correctional facility" means the same as that term is defined in Section 76-8-311.3.
- 5503 (ii) "Dangerous weapon" means the same as that term is defined in Section ~~[76-10-501]~~ 76-11-101.
- 5505 (iii) "Firearm" means the same as that term is defined in Section ~~[76-10-501]~~ 76-11-101.
- 5507 (iv) "Higher education secure area" means a higher education secure area hearing room created under Section 76-8-311.1.
- 5509 (v) "Law enforcement facility" means the same as that term is defined in Section 76-8-311.1.
- 5511 (vi) "Secure area" means the same as that term is defined in Section 76-8-311.1.
- 5512 (b) Terms defined in Sections 76-1-101.5 and 76-8-101 apply to this section.
- 5513 (2) An actor commits prohibited dangerous weapon or ammunition in a secure area if the actor knowingly or intentionally transports a firearm or other dangerous weapon or ammunition into:
- 5516 (a) a correctional facility;
- 5517 (b) a secure area created by the State Tax Commission;
- 5518 (c) a secure area in a law enforcement facility or a mental health facility; or
- 5519 (d) a higher education secure area.
- 5520 (3) Except as provided in Section 76-8-311.4, 76-8-311.6, or 76-8-311.7, a violation of Subsection (2) is a third degree felony.
- 5522 (4) It is a defense to a prosecution under this section that the actor acted in conformity with the facility's rule or policy established under Section 76-8-311.1.
- 5524 Section 84. Section 76-8-311.3 is amended to read:
- 5525 **76-8-311.3. Establishment of prohibited item policy in a correctional or mental health facility -- Reference to penalty provisions -- Exceptions -- Rulemaking.**
- 5527 (1)
- 5528 (a) As used in this section:
- 5528 (i) "Communication device" means a device designed to receive or transmit an image, text message, email, video, location information, or voice communication, or another device that can be used to communicate electronically.
- 5531 (ii) "Controlled substance" means a substance defined as a controlled substance under Title 58, Chapter 37, Utah Controlled Substances Act.
- 5533 (iii) "Correctional facility" means:
- 5534 (A) a facility operated by or contracting with the Department of Corrections to house an offender in either a secure or nonsecure setting;

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- 5536 (B) a facility operated by a municipality or a county to house or detain an offender;
- 5537 (C) a juvenile detention facility; or
- 5538 (D) a building or grounds appurtenant to a facility or land granted to the state, municipality, or county for use as a correctional facility.
- 5540 (iv) "Dangerous weapon" means the same as that term is defined in Section ~~[76-10-501]~~ 76-11-101.
- 5542 (v) "Electronic cigarette product" means the same as that term is defined in Section 76-10-101.
- 5544 (vi) "Firearm" means the same as that term is defined in Section ~~[76-10-501]~~ 76-11-101.
- 5546 (vii) "Medicine" means a prescription drug as defined in Title 58, Chapter 17b, Pharmacy Practice Act, but does not include a controlled substance as defined in Title 58, Chapter 37, Utah Controlled Substances Act.
- 5549 (viii) "Mental health facility" means the same as that term is defined in Section 26B-5-301.
- 5551 (ix) "Nicotine product" means the same as that term is defined in Section 76-10-101.
- 5552 (x) "Offender" means an individual in custody at a correctional facility.
- 5553 (xi) "Secure area" means the same as that term is defined in Section 76-8-311.1.
- 5554 (xii) "Tobacco product" means the same as that term is defined in Section 76-10-101.
- 5555 (b) Terms defined in Sections 76-1-101.5 and 76-8-101 apply to this section.
- 5556 (2)
- (a) Notwithstanding Section ~~[76-10-500]~~ 53-5a-102, a correctional facility or mental health facility may prohibit a firearm, ammunition, a dangerous weapon, an implement of escape, an explosive, a controlled substance, spirituous or fermented liquor, medicine, or poison from being:
- 5560 (i) transported to or within a correctional facility or mental health facility;
- 5561 (ii) sold or given away to an offender at a correctional facility or mental health facility; or
- 5563 (iii) possessed by an offender or another individual at a correctional facility or mental health facility.
- 5565 (b) A correctional facility may prohibit a communication device from being:
- 5566 (i) transported within the correctional facility for the purpose of being sold to an offender in the correctional facility;
- 5568 (ii) sold or given away to an offender in the correctional facility; or
- 5569 (iii) possessed by an offender or another individual at the correctional facility.
- 5570 (3) It is a defense to a prosecution related to this section that the actor, in committing the act made criminal by this section with respect to:

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- 5572 (a) a correctional facility operated by the Department of Corrections, acted in conformity with departmental rule or policy;
- 5574 (b) a correctional facility operated by a municipality, acted in conformity with the policy of the municipality;
- 5576 (c) a correctional facility operated by a county, acted in conformity with the policy of the county; or
- 5578 (d) a mental health facility, acted in conformity with the policy of the mental health facility.
- 5580 (4)
- (a) Except as provided by Subsection (4)(b) or (4)(c), an actor may be charged under 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 76-8-311.11 for a violation of a policy or rule created under this section.
- 5583 (b) An actor who knowingly or intentionally transports, possesses, distributes, or sells an explosive in a correctional facility or a mental health facility may be punished under Section 76-10-306.
- 5586 (c) The possession, distribution, or use of a controlled substance at a correctional facility or in a secure area of a mental health facility shall be charged under Title 58, Chapter 37, Utah Controlled Substances Act.
- 5589 Section 85. Section 76-8-311.4 is amended to read:
- 5590 **76-8-311.4. Prohibited item in correctional or mental health facility for use by offender or detainee.**
- 5592 (1)
- (a) As used in this section:
- 5593 (i) "Correctional facility" means the same as that term is defined in Section 76-8-311.3.
- 5595 (ii) "Dangerous weapon" means the same as that term is defined in Section ~~[76-10-501]~~ 76-11-101.
- 5597 (iii) "Mental health facility" means the same as that term is defined in Section 76-8-311.3.
- 5599 (iv) "Offender" means the same as that term is defined in Section 76-8-311.3.
- 5600 (v) "Secure area" means the same as that term is defined in Section 76-8-311.1.
- 5601 (b) Terms defined in Sections 76-1-101.5 and 76-8-101 apply to this section.
- 5602 (2) An actor commits prohibited item in correctional or mental health facility for use by offender or detainee if the actor:
- 5604 (a) transports a dangerous weapon, ammunition, or implement of escape to or within a correctional facility, or into a secure area of a mental health facility, with the intent to provide or sell to an offender or detainee the dangerous weapon, ammunition, or implement of escape; or

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- 5608 (b) provides or sells a dangerous weapon, ammunition, or implement of escape to:
- 5609 (i) an offender at a correctional facility; or
- 5610 (ii) a detainee at a secure area of a mental health facility.
- 5611 (3) Except as provided in Subsection (4), a violation of Subsection (2) is a second degree felony.
- 5613 (4) The defenses provided in Section 76-8-311.3 apply to this section.

5614 Section 86. Section 76-8-311.6 is amended to read:

5615 **76-8-311.6. Possession of prohibited item by offender or detainee in correctional or mental health facility.**

- 5617 (1)
- (a) As used in this section:
- 5618 (i) "Correctional facility" means the same as that term is defined in Section 76-8-311.3.
- 5620 (ii) "Dangerous weapon" means the same as that term is defined in Section ~~[76-10-501]~~ 76-11-101.
- 5622 (iii) "Mental health facility" means the same as that term is defined in Section 76-8-311.3.
- 5624 (iv) "Offender" means the same as that term is defined in Section 76-8-311.3.
- 5625 (v) "Secure area" means the same as that term is defined in Section 76-8-311.1.
- 5626 (b) Terms defined in Sections 76-1-101.5 and 76-8-101 apply to this section.
- 5627 (2) An actor commits possession of prohibited item by offender or detainee in correctional or mental health facility if the actor:
- 5629 (a)
- (i) is an offender at a correctional facility; or
- 5630 (ii) is a detainee at a mental health facility; and
- (b) possesses a dangerous weapon, ammunition, or an implement of escape.
- 5632 (3) Except as provided in Subsection (4), a violation of Subsection (2) is a second degree felony.
- 5634 (4) The defenses provided in Section 76-8-311.3 apply to this section.

5635 Section 87. Section 76-8-311.7 is amended to read:

5636 **76-8-311.7. Possession of prohibited item in correctional facility or secure area of mental health facility.**

- 5638 (1)
- (a) As used in this section:
- 5639 (i) "Correctional facility" means the same as that term is defined in Section 76-8-311.3.
- 5641 (ii) "Dangerous weapon" means the same as that term is defined in Section ~~[76-10-501]~~ 76-11-101.

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- 5643 (iii) "Mental health facility" means the same as that term is defined in Section 76-8-311.3.
- 5645 (iv) "Secure area" means the same as that term is defined in Section 76-8-311.1.
- 5646 (b) Terms defined in Sections 76-1-101.5 and 76-8-101 apply to this section.
- 5647 (2) An actor commits possession of prohibited item in correctional facility or secure area of mental health facility if the actor, without the permission of the authority operating the correctional facility or the secure area of a mental health facility, knowingly possesses a dangerous weapon, ammunition, or implement of escape at a correctional facility or in a secure area of a mental health facility.
- 5652 (3) Except as provided in Section 76-8-311.6 or Subsection (4), a violation of Subsection (2) is a third degree felony.
- 5654 (4) The defenses provided in Section 76-8-311.3 apply to this section.
- 5655 Section 88. Section 76-9-802 is amended to read:
- 5656 **76-9-802. Definitions.**
- As used in this part:
- 5658 (1) "Criminal street gang" means an organization, association in fact, or group of three or more persons, whether operated formally or informally:
- 5660 (a) that is currently in operation;
- 5661 (b) that has as one of its primary activities the commission of one or more predicate gang crimes;
- 5663 (c) that has, as a group, an identifying name or identifying sign or symbol, or both; and
- 5664 (d) whose members, acting individually or in concert with other members, engage in or have engaged in a pattern of criminal gang activity.
- 5666 (2) "Intimidate" means the use of force, duress, violence, coercion, menace, or threat of harm for the purpose of causing an individual to act or refrain from acting.
- 5668 (3) "Minor" means a person younger than 18 years old.
- 5669 (4) "Pattern of criminal gang activity" means:
- 5670 (a) committing, attempting to commit, conspiring to commit, or soliciting the commission of two or more predicate gang crimes within five years;
- 5672 (b) the predicate gang crimes are:
- 5673 (i) committed by two or more persons; or
- 5674 (ii) committed by an individual at the direction of, or in association with a criminal street gang; and
- 5676

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(c) the criminal activity was committed with the specific intent to promote, further, or assist in any criminal conduct by members of the criminal street gang.

5678

(5)

(a) "Predicate gang crime" means any of the following offenses:

5679

(i) Title 41, Chapter 1a, Motor Vehicle Act:

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(A) Section 41-1a-1313, regarding possession of a motor vehicle without an identification number;

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(B) Section 41-1a-1315, regarding false evidence of title and registration;

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(C) Section 41-1a-1316, regarding receiving or transferring stolen vehicles;

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(D) Section 41-1a-1317, regarding selling or buying a motor vehicle without an identification number;

or

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(E) Section 41-1a-1318, regarding the fraudulent alteration of an identification number;

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(ii) any criminal violation of the following provisions:

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(A) Title 58, Chapter 37, Utah Controlled Substances Act;

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(B) Title 58, Chapter 37a, Utah Drug Paraphernalia Act;

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(C) Title 58, Chapter 37b, Imitation Controlled Substances Act; or

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(D) Title 58, Chapter 37c, Utah Controlled Substance Precursor Act;

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(iii) Sections 76-5-102 through 76-5-103.5, which address assault offenses;

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(iv) [~~Title 76,~~]Chapter 5, Part 2, Criminal Homicide;

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(v) Sections 76-5-301 through 76-5-304, which address kidnapping and related offenses;

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(vi) a felony offense under Title 76, Chapter 5, Part 4, Sexual Offenses;

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(vii) [~~Title 76,~~]Chapter 6, Part 1, Property Destruction;

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(viii) [~~Title 76,~~]Chapter 6, Part 2, Burglary and Criminal Trespass;

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(ix) [~~Title 76,~~]Chapter 6, Part 3, Robbery;

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(x) a felony offense under [~~Title 76,~~]Chapter 6, Part 4, Theft, or under [~~Title 76,~~]Chapter 6, Part 6, Retail Theft, except Sections 76-6-404.5, 76-6-405, 76-6-407, 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, 76-6-409.9, 76-6-410, and 76-6-410.5;

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(xi) [~~Title 76,~~]Chapter 6, Part 5, Fraud, except Sections 76-6-504, 76-6-505, 76-6-507, 76-6-508, 76-6-509, 76-6-510, 76-6-511, 76-6-512, 76-6-513, 76-6-514, 76-6-516, 76-6-517, 76-6-518, and 76-6-520;

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(xii) [~~Title 76,~~]Chapter 6, Part 11, Identity Fraud Act;

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(xiii) [~~Title 76,~~]Chapter 8, Part 3, Obstructing Governmental Operations, except Sections 76-8-302, 76-8-303, 76-8-307, 76-8-308, and 76-8-312;

5711 (xiv) tampering with a witness under Section 76-8-508;

5712 (xv) retaliation against a witness, victim, or informant under Section 76-8-509.3;

5713 (xvi) receiving or soliciting a bribe as a witness under Section 76-8-508.7;

5714 (xvii) extortion or bribery to dismiss a criminal proceeding under Section 76-8-509;

5715 (xviii) a misdemeanor violation of disorderly conduct under Section 76-9-102, if the violation occurs at an official meeting;

5717 (xix) [~~Title 76,~~]Chapter 10, Part 3, Explosives;

5718 [~~(xx) Title 76, Chapter 10, Part 5, Weapons;~~]

5719 [~~(xxi)~~] (xx) [~~Title 76,~~]Chapter 10, Part 15, Bus Passenger Safety Act;

5720 [~~(xxii)~~] (xxi) [~~Title 76,~~]Chapter 10, Part 16, Pattern of Unlawful Activity Act;

5721 [~~(xxiii)~~] (xxii) communications fraud under Section 76-10-1801;

5722 [~~(xxiv)~~] (xxiii) [~~Title 76,~~]Chapter 10, Part 19, Money Laundering and Currency Transaction Reporting Act;[~~or~~]

5724 [~~(xxv)~~] (xxiv) burglary of a research facility under Section 76-10-2002; or

5725 (xxv) Chapter 11, Weapons.

5726 (b) "Predicate gang crime" also includes:

5727 (i) any state or federal criminal offense that by its nature involves a substantial risk that physical force may be used against another in the course of committing the offense; and

5730 (ii) any felony violation of a criminal statute of any other state, the United States, or any district, possession, or territory of the United States which would constitute a violation of any offense in Subsection (4)(a) if committed in this state.

5733 Section 89. Section 76-9-804 is amended to read:

5734 **76-9-804. Convicted criminal gang offender -- Prohibition.**

5735 (1) A person who has been convicted of a crime for which the penalty was enhanced under Section 76-3-203.1 may not, except where a greater penalty is applicable under this title, possess a dangerous weapon as defined in either Section 76-1-101.5 or [~~76-10-501~~] 76-11-101, ammunition, or a facsimile of a firearm within five years after the conviction.

5739 (2) A violation of Subsection (1) is a class A misdemeanor.

5740 Section 90. Section 76-9-902 is amended to read:

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76-9-902. Definitions.

As used in this part:

- (1) "Criminal street gang" means an organization, association in fact, or group of three or more persons, whether operated formally or informally:
 - (a) that is currently in operation;
 - (b) that has as one of its substantial activities the commission of one or more predicate gang crimes;
 - (c) that has, as a group, an identifying name or an identifying sign or symbol, or both; and
 - (d) whose members, acting individually or in concert with other members, engage in or have engaged in a pattern of criminal gang activity.
- (2) "Gang loitering" means a person remains in one place under circumstances that would cause a reasonable person to believe that the purpose or effect of that behavior is to enable or facilitate a criminal street gang to:
 - (a) establish control over one or more identifiable areas;
 - (b) intimidate others from entering those areas; or
 - (c) conceal illegal activities.
- (3) "Pattern of criminal gang activity" means committing, attempting to commit, conspiring to commit, or soliciting the commission of two or more predicate gang crimes within five years, if the predicate gang crimes are committed:
 - (a)
 - (i) by two or more persons; or
 - (ii) by an individual at the direction of or in association with a criminal street gang; and
 - (b) with the specific intent to promote, further, or assist in any criminal conduct by members of a criminal street gang.
 - (4)
 - (a) "Predicate gang crime" means any of the following offenses:
 - (i) a criminal violation of:
 - (A) Title 58, Chapter 37, Utah Controlled Substances Act;
 - (B) Title 58, Chapter 37a, Utah Drug Paraphernalia Act;
 - (C) Title 58, Chapter 37b, Imitation Controlled Substances Act; or
 - (D) Title 58, Chapter 37c, Utah Controlled Substance Precursor Act;
 - (ii) Sections 76-5-102 through 76-5-103.5, which address assault offenses;

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- 5773 (iii) ~~[Title 76,]~~Chapter 5, Part 2, Criminal Homicide;
- 5774 (iv) Sections 76-5-301 through 76-5-304, which address kidnapping and related offenses;
- 5776 (v) a felony offense under ~~[Title 76,]~~Chapter 5, Part 4, Sexual Offenses;
- 5777 (vi) ~~[Title 76,]~~Chapter 6, Part 1, Property Destruction;
- 5778 (vii) ~~[Title 76,]~~Chapter 6, Part 2, Burglary and Criminal Trespass;
- 5779 (viii) ~~[Title 76,]~~Chapter 6, Part 3, Robbery;
- 5780 (ix) a felony offense under ~~[Title 76,]~~Chapter 6, Part 4, Theft, except Sections 76-6-404.5,
76-6-405, 76-6-407, 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, 76-6-409.9, 76-6-410, and 76-6-410.5;
- 5783 (x) ~~[Title 76,]~~Chapter 6, Part 5, Fraud, except Sections 76-6-504, 76-6-505, 76-6-507, 76-6-508,
76-6-509, 76-6-510, 76-6-511, 76-6-512, 76-6-513, 76-6-514, 76-6-516, 76-6-517, 76-6-518,
and 76-6-520;
- 5786 (xi) ~~[Title 76,]~~Chapter 6, Part 11, Identity Fraud Act;
- 5787 (xii) ~~[Title 76,]~~Chapter 8, Part 3, Obstructing Governmental Operations, except Sections 76-8-302,
76-8-303, 76-8-307, 76-8-308, and 76-8-312;
- 5789 (xiii) tampering with a witness under Section 76-8-508;
- 5790 (xiv) retaliation against a witness, victim, or informant under Section 76-8-508.3;
- 5791 (xv) receiving or soliciting a bribe as a witness under Section 76-8-508.7;
- 5792 (xvi) extortion or bribery to dismiss a criminal proceeding under Section 76-8-509;
- 5793 (xvii) a misdemeanor violation of disorderly conduct under Section 76-9-102, if the violation
occurs at an official meeting;
- 5795 (xviii) ~~[Title 76,]~~Chapter 10, Part 3, Explosives;
- 5796 ~~[(xix) Title 76, Chapter 10, Part 5, Weapons;]~~
- 5797 ~~[(xx)]~~ (xix) ~~[Title 76,]~~Chapter 10, Part 15, Bus Passenger Safety Act;
- 5798 ~~[(xxi)]~~ (xx) ~~[Title 76,]~~Chapter 10, Part 16, Pattern of Unlawful Activity Act;
- 5799 ~~[(xxii)]~~ (xxi) communications fraud under Section 76-10-1801;
- 5800 ~~[(xxiii)]~~ (xxii) ~~[Title 76,]~~Chapter 10, Part 19, Money Laundering and Currency Transaction
Reporting Act;
- 5802 ~~[(xxiv)]~~ (xxiii) burglary of a research facility under Section 76-10-2002;
- 5803 (xxiv) Chapter 11, Weapons; or
- 5804 (xxv) Title 41, Chapter 1a, Motor Vehicle Act;

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- 5805 (A) Section 41-1a-1313, regarding possession of a motor vehicle without an identification number;
- 5807 (B) Section 41-1a-1315, regarding false evidence of title and registration;
- 5808 (C) Section 41-1a-1316, regarding receiving or transferring stolen vehicles;
- 5809 (D) Section 41-1a-1317, regarding selling or buying a vehicle without an identification number; and
- 5811 (E) Section 41-1a-1318, regarding the fraudulent alteration of an identification number.
- 5813 (b) "Predicate gang crime" also includes:
- 5814 (i) any state or federal criminal offense that by its nature involves a substantial risk that physical force may be used against another in the course of committing the offense; and
- 5817 (ii) any felony violation of a criminal statute of any other state, the United States, or any district, possession, or territory of the United States which would constitute any offense in Subsection (4)(a) if committed in this state.
- 5820 (5)
- (a) "Public place" means any location or structure to which the public or a substantial group of the public has access, and includes:
- 5822 (i) a sidewalk, street, or highway;
- 5823 (ii) a public park, public recreation facility, or any other area open to the public;
- 5824 (iii) a shopping mall, sports facility, stadium, arena, theater, movie house, or playhouse, or the parking lot or structure adjacent to any of these; and
- 5826 (iv) the common areas of schools, hospitals, apartment houses, office buildings, transport facilities, and businesses.
- 5828 (b) "Public place" includes the lobbies, hallways, elevators, restaurants and other dining areas, and restrooms of any of the locations or structures under Subsection (5)(a).

5830 Section 91. Section 76-10-306 is amended to read:

5831 **76-10-306. Explosive, chemical, or incendiary device and parts -- Definitions -- Persons exempted -- Penalties.**

5833 (1) As used in this section:

5834 (a) "Explosive, chemical, or incendiary device" means:

5835 (i) dynamite and all other forms of high explosives, including water gel, slurry, military C-4 (plastic explosives), blasting agents to include nitro-carbon-nitrate, ammonium nitrate, fuel oil mixtures, cast primers and boosters, R.D.X., P.E.T.N., electric and nonelectric blasting caps, exploding cords commonly called detonating cord, detcord, or primacord, picric acid explosives, T.N.T. and T.N.T.

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mixtures, nitroglycerin and nitroglycerin mixtures, or any other chemical mixture intended to explode with fire or force;

- 5842 (ii) any explosive bomb, grenade, missile, or similar device; and
- 5843 (iii) any incendiary bomb, grenade, fire bomb, chemical bomb, or similar device, including any device, except kerosene lamps, if criminal intent has not been established, which consists of or includes a breakable container including a flammable liquid or compound and a wick composed of any material which, when ignited, is capable of igniting the flammable liquid or compound or any breakable container which consists of, or includes a chemical mixture that explodes with fire or force and can be carried, thrown, or placed.
- 5850 (b) "Explosive, chemical, or incendiary device" does not include rifle, pistol, or shotgun ammunition, reloading components, or muzzleloading equipment.
- 5852 (c) "Explosive, chemical, or incendiary parts" means any substances or materials or combinations which have been prepared or altered for use in the creation of an explosive, chemical, or incendiary device. These substances or materials include:
- 5855 (i) timing device, clock, or watch which has been altered in such a manner as to be used as the arming device in an explosive;
- 5857 (ii) pipe, end caps, or metal tubing which has been prepared for a pipe bomb; and
- 5858 (iii) mechanical timers, mechanical triggers, chemical time delays, electronic time delays, or commercially made or improvised items which, when used singly or in combination, may be used in the construction of a timing delay mechanism, booby trap, or activating mechanism for any explosive, chemical, or incendiary device.
- 5862 (d) "Explosive, chemical, or incendiary parts" does not include rifle, pistol, or shotgun ammunition, or any signaling device customarily used in operation of railroad equipment.
- 5865 (2) The provisions in Subsections (3) and (6) do not apply to:
- 5866 (a) any public safety officer while acting in an official capacity transporting or otherwise handling explosives, chemical, or incendiary devices;
- 5868 (b) any member of the armed forces of the United States or Utah National Guard while acting in an official capacity;
- 5870 (c) any person possessing a valid permit issued under the provisions of the International Fire Code, Section 105 and Chapter 56, or any employee of the permittee acting within the scope of employment;

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- 5873 (d) any person possessing a valid license as an importer, wholesaler, display operator, special effects
operator, or flame effects operator under the provisions of Sections 11-3-3.5 and 53-7-223; and
- 5876 (e) any person or entity possessing or controlling an explosive, chemical, or incendiary device as part of
its lawful business operations.
- 5878 (3) Any person is guilty of a second degree felony who, under circumstances not amounting to a
violation of Part 4, Weapons of Mass Destruction, knowingly, intentionally, or recklessly possesses
or controls an explosive, chemical, or incendiary device.
- 5881 (4) Any person is guilty of a first degree felony who, under circumstances not amounting to a violation
of Part 4, Weapons of Mass Destruction, knowingly or intentionally:
- 5883 (a) uses or causes to be used an explosive, chemical, or incendiary device in the commission of or an
attempt to commit a felony;
- 5885 (b) injures another or attempts to injure another person or another person's property through the use of
an explosive, chemical, or incendiary device; or
- 5887 (c) transports, possesses, distributes, or sells any explosive, chemical, or incendiary device in a secure
area established pursuant to Section 76-8-311.1, 76-8-311.3, [~~76-10-529~~] 76-11-218, or 78A-2-203.
- 5890 (5) Any person who, under circumstances not amounting to a violation of Part 4, Weapons of Mass
Destruction, knowingly, intentionally, or recklessly removes or causes to be removed or carries
away any explosive, chemical, or incendiary device from the premises where the explosive,
chemical, or incendiary device is kept by the lawful user, vendor, transporter, or manufacturer
without the consent or direction of the lawful possessor is guilty of a second degree felony.
- 5896 (6) Any person who, under circumstances not amounting to a violation of Part 4, Weapons of Mass
Destruction, knowingly, intentionally, or recklessly possesses any explosive, chemical, or
incendiary parts is guilty of a third degree felony.

5899 Section 92. Section 76-10-1602 is amended to read:

5900 **76-10-1602. Definitions.**

As used in this part:

- 5902 (1) "Enterprise" means any individual, sole proprietorship, partnership, corporation, business trust,
association, or other legal entity, and any union or group of individuals associated in fact although
not a legal entity, and includes illicit as well as licit entities.
- 5905 (2) "Pattern of unlawful activity" means engaging in conduct which constitutes the commission of
at least three episodes of unlawful activity, which episodes are not isolated, but have the same

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or similar purposes, results, participants, victims, or methods of commission, or otherwise are interrelated by distinguishing characteristics. Taken together, the episodes shall demonstrate continuing unlawful conduct and be related either to each other or to the enterprise. At least one of the episodes comprising a pattern of unlawful activity shall have occurred after July 31, 1981. The most recent act constituting part of a pattern of unlawful activity as defined by this part shall have occurred within five years of the commission of the next preceding act alleged as part of the pattern.

- 5915 (3) "Person" includes any individual or entity capable of holding a legal or beneficial interest in property, including state, county, and local governmental entities.
- 5917 (4) "Unlawful activity" means to directly engage in conduct or to solicit, request, command, encourage, or intentionally aid another person to engage in conduct which would constitute any offense described by the following crimes or categories of crimes, or to attempt or conspire to engage in an act which would constitute any of those offenses, regardless of whether the act is in fact charged or indicted by any authority or is classified as a misdemeanor or a felony:
- 5923 (a) an act prohibited by the criminal provisions under Title 13, Chapter 10, Unauthorized Recording Practices Act;
- 5925 (b) an act prohibited by the criminal provisions under Title 19, Environmental Quality Code, Sections 19-1-101 through 19-7-109;
- 5927 (c) taking, destroying, or possessing wildlife or parts of wildlife for the primary purpose of sale, trade, or other pecuniary gain under Title 23A, Wildlife Resources Act, or Section 23A-5-311;
- 5930 (d) false claims for medical benefits, kickbacks, or other acts prohibited under Title 26B, Chapter 3, Part 11, Utah False Claims Act, Sections 26B-3-1101 through 26B-3-1112;
- 5932 (e) an act prohibited by the criminal provisions under Title 32B, Chapter 4, Criminal Offenses and Procedure Act;
- 5934 (f) unlawful marking of pistol or revolver under Section 53-5a-105;
- 5935 (g) alteration of number or mark on pistol or revolver under Section 53-5a-106;
- 5936 [~~(f)~~] (h) an act prohibited by the criminal provisions under Title 57, Chapter 11, Utah Uniform Land Sales Practices Act;
- 5938 [~~(g)~~] (i) an act prohibited by the criminal provisions under Title 58, Chapter 37, Utah Controlled Substances Act, or Title 58, Chapter 37b, Imitation Controlled Substances Act, Title 58, Chapter 37c, Utah Controlled Substance Precursor Act, or Title 58, Chapter 37d, Clandestine Drug Lab Act;
- 5942

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- [~~h~~] (j) an act prohibited by the criminal provisions under Title 61, Chapter 1, Utah Uniform Securities Act;
- 5944 [~~i~~] (k) an act prohibited by the criminal provisions under Title 63G, Chapter 6a, Utah Procurement Code;
- 5946 [~~j~~] (l) assault under Section_76-5-102;
- 5947 [~~k~~] (m) aggravated assault under Section 76-5-103;
- 5948 [~~l~~] (n) a threat of terrorism under Section 76-5-107.3;
- 5949 [~~m~~] (o) a criminal homicide offense under Section 76-5-201;
- 5950 [~~n~~] (p) kidnapping under Section_76-5-301;
- 5951 [~~o~~] (q) aggravated kidnapping under Section_76-5-302;
- 5952 [~~p~~] (r) human trafficking for labor under Section 76-5-308;
- 5953 [~~q~~] (s) human trafficking for sexual exploitation under Section 76-5-308.1;
- 5954 [~~r~~] (t) human smuggling under Section 76-5-308.3;
- 5955 [~~s~~] (u) human trafficking of a child under Section_76-5-308.5;
- 5956 [~~t~~] (v) benefiting from trafficking and human smuggling under Section_76-5-309;
- 5957 [~~u~~] (w) aggravated human trafficking under Section_76-5-310;
- 5958 [~~v~~] (x) sexual exploitation of a minor under Section 76-5b-201;
- 5959 [~~w~~] (y) aggravated sexual exploitation of a minor under Section_76-5b-201.1;
- 5960 [~~x~~] (z) arson under Section 76-6-102;
- 5961 [~~y~~] (aa) aggravated arson under Section76-6-103;
- 5962 [~~z~~] (bb) causing a catastrophe under Section 76-6-105;
- 5963 [~~aa~~] (cc) burglary under Section 76-6-202;
- 5964 [~~bb~~] (dd) aggravated burglary under Section_76-6-203;
- 5965 [~~cc~~] (ee) burglary of a vehicle under Section 76-6-204;
- 5966 [~~dd~~] (ff) manufacture or possession of an instrument for burglary or theft under Section 76-6-205;
- 5968 [~~ee~~] (gg) robbery under Section 76-6-301;
- 5969 [~~ff~~] (hh) aggravated robbery under Section_76-6-302;
- 5970 [~~gg~~] (ii) theft under Section 76-6-404;
- 5971 [~~hh~~] (jj) theft by deception under Section 76-6-405;
- 5972 [~~ii~~] (kk) theft by extortion under Section 76-6-406;
- 5973 [~~jj~~] (ll) receiving stolen property under Section 76-6-408;

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- 5974 [~~(kk)~~] (mm) theft of services under Section 76-6-409;
- 5975 [~~(H)~~] (nn) forgery under Section 76-6-501;
- 5976 [~~(mm)~~] (oo) unlawful use of financial transaction card under Section 76-6-506.2;
- 5977 [~~(nn)~~] (pp) unlawful acquisition, possession, or transfer of financial transaction card under Section 76-6-506.3;
- 5979 [~~(oo)~~] (qq) financial transaction card offenses under Section 76-6-506.6;
- 5980 [~~(pp)~~] (rr) deceptive business practices under Section 76-6-507;
- 5981 [~~(qq)~~] (ss) bribery or receiving bribe by person in the business of selection, appraisal, or criticism of goods under Section 76-6-508;
- 5983 [~~(rr)~~] (tt) bribery of a labor official under Section 76-6-509;
- 5984 [~~(ss)~~] (uu) defrauding creditors under Section 76-6-511;
- 5985 [~~(tt)~~] (vv) acceptance of deposit by insolvent financial institution under Section 76-6-512;
- 5986 [~~(uu)~~] (ww) unlawful dealing with property by fiduciary under Section 76-6-513;
- 5987 [~~(vv)~~] (xx) bribery or threat to influence contest under Section 76-6-514;
- 5988 [~~(ww)~~] (yy) making a false credit report under Section 76-6-517;
- 5989 [~~(xx)~~] (zz) criminal simulation under Section 76-6-518;
- 5990 [~~(yy)~~] (aaa) criminal usury under Section 76-6-520;
- 5991 [~~(zz)~~] (bbb) insurance fraud under Section 76-6-521;
- 5992 [~~(aaa)~~] (ccc) retail theft under Section 76-6-602;
- 5993 [~~(bbb)~~] (ddd) computer crimes under Section 76-6-703;
- 5994 [~~(ccc)~~] (eee) identity fraud under Section 76-6-1102;
- 5995 [~~(ddd)~~] (fff) mortgage fraud under Section 76-6-1203;
- 5996 [~~(eee)~~] (ggg) sale of a child under Section 76-7-203;
- 5997 [~~(fff)~~] (hhh) bribery to influence official or political actions under Section 76-8-103;
- 5998 [~~(ggg)~~] (iii) threat to influence official or political action under Section 76-8-104;
- 5999 [~~(hhh)~~] (jjj) receiving bribe or bribery by public servant under Section 76-8-105;
- 6000 [~~(iii)~~] (kkk) receiving bribe for endorsement of person as a public servant under Section 76-8-106;
- 6002 [~~(jjj)~~] (lll) bribery for endorsement of person as public servant under Section 76-8-106.1;
- 6003 [~~(kkk)~~] (mmm) official misconduct based on unauthorized act or failure of duty under Section 76-8-201;
- 6005 [~~(H)~~] (nnn) official misconduct concerning inside information under Section 76-8-202;

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- 6006 [~~(mmm)~~] (ooo) obstruction of justice in a criminal investigation or proceeding under Section 76-8-306;
- 6008 [~~(nnn)~~] (ppp) acceptance of bribe or bribery to prevent criminal prosecution under Section 76-8-308;
- 6010 [~~(ooo)~~] (qqq) harboring or concealing offender who has escaped from official custody under Section 76-8-309.2;
- 6012 [~~(ppp)~~] (rrr) making a false or inconsistent material statement under Section 76-8-502;
- 6013 [~~(qqq)~~] (sss) making a false or inconsistent statement under Section 76-8-503;
- 6014 [~~(rrr)~~] (ttt) making a written false statement under Section 76-8-504;
- 6015 [~~(sss)~~] (uuu) tampering with a witness under Section 76-8-508;
- 6016 [~~(ttt)~~] (vvv) retaliation against a witness, victim, or informant under Section 76-8-508.3;
- 6017 [~~(uuu)~~] (www) receiving or soliciting a bribe as a witness under Section 76-8-508.7;
- 6018 [~~(vvv)~~] (xxx) extortion or bribery to dismiss a criminal proceeding under Section 76-8-509;
- 6020 [~~(www)~~] (yyy) tampering with evidence under Section 76-8-510.5;
- 6021 [~~(xxx)~~] (zzz) falsification or alteration of a government record under Section 76-8-511, if the record is a record described in Title 20A, Election Code, or Title 36, Chapter 11, Lobbyist Disclosure and Regulation Act;
- 6024 [~~(yyy)~~] (aaaa) public assistance fraud by an applicant for public assistance under Section 76-8-1203.1;
- 6026 [~~(zzz)~~] (bbbb) public assistance fraud by a recipient of public assistance under Section 76-8-1203.3;
- 6028 [~~(aaaa)~~] (cccc) public assistance fraud by a provider under Section 76-8-1203.5;
- 6029 [~~(bbbb)~~] (dddd) fraudulently misappropriating public assistance funds under Section 76-8-1203.7;
- 6031 [~~(eeee)~~] (eeee) false statement to obtain or increase unemployment compensation under Section 76-8-1301;
- 6033 [~~(ddd)~~] (ffff) false statement to prevent or reduce unemployment compensation or liability under Section 76-8-1302;
- 6035 [~~(eeee)~~] (gggg) unlawful failure to comply with Employment Security Act requirements under Section 76-8-1303;
- 6037 [~~(ffff)~~] (hhhh) unlawful use or disclosure of employment information under Section 76-8-1304;
- 6039 [~~(gggg)~~] (iiii) intentionally or knowingly causing one animal to fight with another under Subsection 76-9-301(2)(d) or (e), or Section 76-9-301.1;
- 6041 [~~(hhhh)~~] (jjjj) possession, use, or removal of explosives, chemical, or incendiary devices or parts under Section 76-10-306;
- 6043

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6045 [(iiii)] (kkkk) delivery to common carrier, mailing, or placement on premises of an incendiary device under Section 76-10-307;

6046 [(jjjj)] ~~possession of a deadly weapon with intent to assault under Section 76-10-507;~~

6047 [(kkkk)] ~~unlawful marking of pistol or revolver under Section 76-10-521;~~

6048 [(mmmm)] (llll) forging or counterfeiting trademarks, trade name, or trade device under Section 76-10-1002;

6050 [(nnnn)] (mmmm) selling goods under counterfeited trademark, trade name, or trade devices under Section 76-10-1003;

6052 [(oooo)] (nnnn) sales in containers bearing registered trademark of substituted articles under Section 76-10-1004;

6054 [(pppp)] (oooo) selling or dealing with article bearing registered trademark or service mark with intent to defraud under Section 76-10-1006;

6056 [(qqqq)] (pppp) gambling under Section 76-10-1102;

6057 [(rrrr)] (qqqq) gambling fraud under Section 76-10-1103;

6058 [(ssss)] (rrrr) gambling promotion under Section 76-10-1104;

6059 [(tttt)] (ssss) possessing a gambling device or record under Section 76-10-1105;

6060 [(uuuu)] (tttt) confidence game under Section 76-10-1109;

6061 [(vvvv)] (uuuu) distributing pornographic material under Section 76-10-1204;

6062 [(wwww)] (vvvv) inducing acceptance of pornographic material under Section 76-10-1205;

6064 [(xxxx)] (wwww) dealing in harmful material to a minor under Section 76-10-1206;

6065 [(yyyy)] (xxxx) distribution of pornographic films under Section 76-10-1222;

6066 [(zzzz)] (yyyy) indecent public displays under Section 76-10-1228;

6067 [(aaaa)] (zzzz) prostitution under Section 76-10-1302;

6068 [(bbbb)] (aaaa) aiding prostitution under Section 76-10-1304;

6069 [(eeee)] (bbbb) exploiting prostitution under Section 76-10-1305;

6070 [(dddd)] (cccc) aggravated exploitation of prostitution under Section 76-10-1306;

6071 [(eeee)] (dddd) communications fraud under Section 76-10-1801;

6072 (eeee) possession of a dangerous weapon with criminal intent under Section 76-11-208;

6073 (ffff) an act prohibited by the criminal provisions of Part 19, Money Laundering and Currency Transaction Reporting Act;

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6075 (ggggg) vehicle compartment for contraband under Section 76-10-2801;
6076 (hhhhh) an act prohibited by the criminal provisions of the laws governing taxation in this state; or
6078 (iiii) an act illegal under the laws of the United States and enumerated in 18 U.S.C. Sec. 1961(1)(B),
(C), and (D).

6080 Section 93. Section **76-11-101** is renumbered and amended to read:

6082 **CHAPTER 11. WEAPONS**

6083 **Part 1. General Provisions**

6084 **~~76-10-501~~. Definitions.**

As used in this ~~part~~ chapter:

6086 (1)

(a) "Antique firearm" means:

6087 (i) any firearm, including any firearm with a matchlock, flintlock, percussion cap, or similar type of
ignition system, manufactured in or before 1898;

6089 (ii) a firearm that is a replica of any firearm described in this Subsection (1)(a), if the replica:

6091 (A) is not designed or redesigned for using rimfire or conventional centerfire fixed ammunition; or

6093 (B) uses rimfire or centerfire fixed ammunition ~~[which is:]~~ that is

6094 ~~[(H)]~~ no longer manufactured in the United States~~;~~ and

6095 ~~[(H)]~~ is not readily available in ordinary channels of commercial trade; or

6096 (iii)

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

6097 (B) is designed to use black powder, or a black powder substitute, and cannot use fixed ammunition.

6099 (b) "Antique firearm" does not include:

6100 (i) a weapon that incorporates a firearm frame or receiver;

6101 (ii) a firearm that is converted into a muzzle loading weapon; or

6102 (iii) a muzzle loading weapon that can be readily converted to fire fixed ammunition by replacing the:

6104 (A) barrel;

6105 (B) bolt;

6106 (C) breechblock; or

6107 (D) any combination of Subsection (1)(b)(iii)(A), (B), or (C).

6108

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

6110 [~~3~~]

(a) ~~"Concealed firearm" means a firearm that is:]~~

6111 [~~(i) covered, hidden, or secreted in a manner that the public would not be aware of its presence; and]~~

6113 [~~(ii) readily accessible for immediate use.]~~

6114 [~~(b) A firearm that is unloaded and securely encased is not a concealed firearm for the purposes of this part.]~~

6116 [~~(4) "Criminal history background check" means a criminal background check conducted by a licensed firearms dealer on every purchaser of a handgun, except a Federal Firearms Licensee, through the bureau or the local law enforcement agency where the firearms dealer conducts business.]~~

6120 [~~(5) "Curio or relic firearm" means a firearm that:]~~

6121 [~~(a) is of special interest to a collector because of a quality that is not associated with firearms intended for:]~~

6123 [~~(i) sporting use;]~~

6124 [~~(ii) use as an offensive weapon; or]~~

6125 [~~(iii) use as a defensive weapon;]~~

6126 [~~(b)~~

~~(i) was manufactured at least 50 years before the current date; and]~~

6127 [~~(ii) is not a replica of a firearm described in Subsection (5)(b)(i);]~~

6128 [~~(c) is certified by the curator of a municipal, state, or federal museum that exhibits firearms to be a curio or relic of museum interest;]~~

6130 [~~(d) derives a substantial part of its monetary value:]~~

6131 [~~(i) from the fact that the firearm is:]~~

6132 [~~(A) novel;]~~

6133 [~~(B) rare; or]~~

6134 [~~(C) bizarre; or]~~

6135 [~~(ii) because of the firearm's association with an historical:]~~

6136 [~~(A) figure;]~~

6137 [~~(B) period; or]~~

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- 6138 [~~(C)~~ event; and]
- 6139 [~~(e) has been designated as a curio or relic firearm by the director of the United States Treasury~~
Department Bureau of Alcohol, Tobacco, and Firearms under 27 C.F.R. Sec. 478.11.]
- 6142 [~~(6)~~ (3)]
- (a) "Dangerous weapon" means:
- 6143 (i) a firearm; or
- 6144 (ii) an object that in the manner of its use or intended use is capable of causing death or serious
bodily injury.
- 6146 (b) The following factors are used in determining whether any object, other than a firearm, is a
dangerous weapon:
- 6148 (i) the location and circumstances in which the object was used or possessed;
- 6149 (ii) the primary purpose for which the object was made;
- 6150 (iii) the character of the wound, if any, produced by the object's unlawful use;
- 6151 (iv) the manner in which the object was unlawfully used;
- 6152 (v) whether the manner in which the object is used or possessed constitutes a potential imminent threat
to public safety; and
- 6154 (vi) the lawful purposes for which the object may be used.
- 6155 (c) "Dangerous weapon" does not include an explosive, chemical, or incendiary device as defined by
Section 76-10-306.
- 6157 [~~(7)~~]
- (a) "~~Dating relationship~~" means a romantic or intimate relationship between individuals.]
- 6159 [~~(b) "Dating relationship" does not include a casual acquaintanceship or ordinary fraternization in a~~
business or social context.]
- 6161 [~~(8) "Dealer" means a person who is:]~~
- 6162 [~~(a) licensed under 18 U.S.C. Sec. 923; and]~~
- 6163 [~~(b) engaged in the business of selling, leasing, or otherwise transferring a handgun, whether the person~~
is a retail or wholesale dealer, pawnbroker, or otherwise.]
- 6165 [~~(9) "Domestic violence" means the same as that term is defined in Section 77-36-1.]~~
- 6166 [~~(10) "Enter" means intrusion of the entire body.]~~
- 6167 [~~(11) "Federal Firearms Licensee" means a person who:]~~
- 6168 [~~(a) holds a valid Federal Firearms License issued under 18 U.S.C. Sec. 923; and]~~

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- 6169 [~~(b) is engaged in the activities authorized by the specific category of license held.~~]
- 6170 [~~(12) (4)~~]
- 6171 [~~(a) "Firearm" means:~~
- 6172 [~~(a) [-]a pistol, revolver, shotgun, short barreled shotgun, rifle, or short barreled rifle[;] ; or~~
- 6172 [~~(b) [-]a device that could be used as a dangerous weapon from which a projectile is expelled [a~~
~~projectile-]by an explosive action[~~-of an explosive~~].~~]
- 6174 [~~(b) As used in Sections 76-10-526 and 76-10-527, "firearm" does not include an antique firearm.]~~
- 6176 [~~(13) "Firearms transaction record form" means a form created by the bureau to be completed by a~~
~~person purchasing, selling, or transferring a handgun from a dealer in the state.]~~]
- 6179 [~~(14) "Fully automatic weapon" means a firearm which fires, is designed to fire, or can be readily~~
~~restored to fire, automatically more than one shot without manual reloading by a single function of~~
~~the trigger.]~~]
- 6182 [~~(15) (5)~~]
- 6182 [~~(a) "Handgun" means a pistol, revolver, or other firearm of any description, [loaded or unloaded,~~
~~]from which a shot, bullet, or other missile can be discharged, the length of which, not including any~~
~~revolving, detachable, or magazine breech, does not exceed 12 inches.~~]
- 6186 [~~(b) As used in Sections 76-10-520, 76-10-521, and 76-10-522, "handgun" and "pistol or revolver" do~~
~~not include an antique firearm.]~~]
- 6188 [~~(16) "House of worship" means a church, temple, synagogue, mosque, or other building set apart~~
~~primarily for the purpose of worship in which religious services are held and the main body of~~
~~which is kept for that use and not put to any other use inconsistent with its primary purpose.]~~]
- 6192 [~~(17) "Machinegun firearm attachment" means any part or combination of parts added to a~~
~~semiautomatic firearm that allows the firearm to fire as a fully automatic weapon.]~~]
- 6194 [~~(18) "Prohibited area" means a place where it is unlawful to discharge a firearm.]~~]
- 6195 [~~(19) "Readily accessible for immediate use" means that a firearm or other dangerous weapon is carried~~
~~on the person or within such close proximity and in such a manner that it can be retrieved and used~~
~~as readily as if carried on the person.]~~]
- 6198 [~~(20) "Residence" means an improvement to real property used or occupied as a primary or secondary~~
~~residence.]~~]
- 6200

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[~~(21) "Securely encased" means not readily accessible for immediate use, such as held in a gun rack, or in a closed case or container, whether or not locked, or in a trunk or other storage area of a motor vehicle, not including a glove box or console box.~~]

6203 [~~(22)~~] (6) "Minor" means an individual under 18 years old.

6204 (7)

(a) "Short barreled rifle" means a rifle having a barrel or barrels of fewer than 16 inches in length.

6206 (b) "Short barreled rifle" includes a dangerous weapon made from a rifle by alteration, modification, or otherwise, if the weapon as modified has an overall length of fewer than 26 inches.

6209 (8)

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

6214 (b) "Short barreled shotgun" includes a dangerous weapon made from a shotgun by alteration, modification, or otherwise, if the weapon as modified has an overall length of fewer than 26 inches.

6217 [~~(23)~~] (9) "Shotgun" means a smooth bore firearm designed to fire cartridges containing pellets or a single slug.

6219 [~~(24) "Shoulder arm" means a firearm that is designed to be fired while braced against the shoulder.~~]

6221 [~~(25) "Single criminal episode" means the same as that term is defined in Section 76-1-401.~~]

6222 [~~(26)~~] (10) "Slug" means a single projectile discharged from a shotgun shell.

6223 [~~(27) "State entity" means a department, commission, board, council, agency, institution, officer, corporation, fund, division, office, committee, authority, laboratory, library, unit, bureau, panel, or other administrative unit of the state.~~]

6226 [~~(28)~~] (11) "Violent felony" means the same as that term is defined in Section 76-3-203.5.

6227 Section 94. Section **76-11-102** is renumbered and amended to read:

6229 **[~~76-10-502~~]. When a firearm is considered to be loaded.**

6230 (1) For the purpose of this chapter [~~, any pistol, revolver, shotgun, rifle, or other weapon described in this part shall be deemed to be~~] :

6232 (a) a firearm is considered to be loaded when there is an unexpended cartridge, shell, or projectile in the firing position [~~;~~] ;

6234

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6238 [(2)] (b) [~~Pistols and revolvers shall also be deemed to be~~] handguns are also considered to be loaded when an unexpended cartridge, shell, or projectile is in a position whereby the manual operation of any mechanism once would cause the unexpended cartridge, shell, or projectile to be fired[-] ; and

6238 [(3)] (c) [A] a muzzle loading firearm [shall be deemed to be] is considered loaded when [it] the muzzle loading firearm is capped or primed and has a powder charge and ball or shot in the barrel or cylinders.

6241 (2) If a provision of this chapter does not specify that the firearm in the prohibited or allowed conduct is loaded or unloaded, the prohibited or allowed conduct includes if the firearm is either loaded or unloaded.

6244 Section 95. Section **95** is enacted to read:

Part 2. General Weapons Violations

76-11-201. Definitions.

As used in this part:

6248 (1) "Enter" means intrusion of the entire body.

6249 (2) "Fully automatic weapon" means a firearm that fires, is designed to fire, or can be readily restored to fire, automatically more than one shot without manual reloading by a single function of the trigger.

6252 (3) "House of worship" means a church, temple, synagogue, mosque, or other building set apart primarily for the purpose of worship in which religious services are held and the main body of which is kept for that use and not put to any other use inconsistent with the building's primary purpose.

6256 (4) "Machinegun firearm attachment" means any part or combination of parts added to a semiautomatic firearm that allows the firearm to fire as a fully automatic weapon.

6258 (5)

(a) "Readily accessible for immediate use" means that a firearm or other dangerous weapon is carried on an individual's person or within such close proximity and in such a manner that it can be retrieved and used as readily as if carried on the individual's person.

6262 (b) "Readily accessible for immediate use" does not include a securely encased firearm.

6263 (6)

(a) "Securely encased firearm" means a firearm that is not readily accessible for immediate use.

6265 (b) "Securely encased firearm" includes a loaded or unloaded firearm located in a gun rack, in a closed locked or unlocked case or container, or in a trunk or other storage area of a motor vehicle.

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- 6268 (c) "Securely encased firearm" does not include a firearm in a glove box or console box unless the
6271 firearm is also in a holster or other case which covers the trigger mechanism.
- 6271 Section 96. Section **76-11-202** is renumbered and amended to read:
- 6273 **[76-10-504]. Unlawful carrying of a concealed firearm by an individual under 21 years old.**
- 6275 [(1) Except as provided in Sections 76-10-503 and 76-10-523 and in Subsections (2), (3), and (4), a
person who carries a concealed firearm, as defined in Section 76-10-501, including an unloaded
firearm on his or her person or one that is readily accessible for immediate use which is not securely
encased, as defined in this part, in or on a place other than the person's residence, property, a vehicle
in the person's lawful possession, or a vehicle, with the consent of the individual who is lawfully in
possession of the vehicle, or business under the person's control is guilty of a class B misdemeanor.]
- 6282 [(2) A person who carries a concealed firearm that is a loaded firearm in violation of Subsection (1) is
guilty of a class A misdemeanor.]
- 6284 [(3) A person who carries concealed an unlawfully possessed short barreled shotgun or a short barreled
rifle is guilty of a second degree felony.]
- 6286 [(4) If the concealed firearm is used in the commission of a violent felony as defined in Section
76-3-203.5, and the person is a party to the offense, the person is guilty of a second degree felony.]
- 6289 [(5) Nothing in Subsection (1) or (2) prohibits a person engaged in the lawful taking of protected or
unprotected wildlife as defined in Title 23A, Wildlife Resources Act, from carrying a concealed
firearm as long as the taking of wildlife does not occur:]
- 6292 [(a) within the limits of a municipality in violation of that municipality's ordinances; or]
- 6293 [(b) upon the highways of the state as defined in Section 41-6a-102.]
- 6294 (1) Terms defined in Sections 76-1-101.5, 76-11-101, and 76-11-201 apply to this section.
- 6295 (2) An actor commits unlawful carrying of a concealed firearm by an individual under 21 years old if:
- 6297 (a) the actor is younger than 21 years old;
- 6298 (b) the actor does not have a provisional concealed carry permit issued in accordance with Section
53-5a-304 or a concealed carry permit lawfully issued by or in another state;
- 6301 (c) the actor conceals a firearm in a covered, hidden, or secreted manner that the public would not be
aware of the firearm's presence;
- 6303 (d) the firearm described in Subsection (2)(c) is readily accessible for immediate use by the actor; and
- 6305 (e) the actor is in a location that is not:
- 6306 (i) the actor's residence;

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- 6307 (ii) the actor's real property;
6308 (iii) a vehicle that the actor is lawfully present in; or
6309 (iv) a business under the actor's control.
6310 (3)
(a) Except as provided in Subsection (3)(b) or (3)(c), a violation of Subsection (2) is a class B misdemeanor.
6312 (b) Except as provided in Subsection (3)(c), a violation of Subsection (2) is a class A misdemeanor if the firearm was loaded at the time of the violation.
6314 (c) A violation of Subsection (2) is a second degree felony if the firearm was used in the commission of a violent felony and the actor was a party to the offense.
6316 (4) This section does not:
6317 (a) apply to an individual who is categorized as a restricted person under Section 76-11-302 or 76-11-303 and may not possess a firearm in any manner or location and is subject to the penalties described in Part 3, Persons Restricted Regarding Dangerous Weapons;
6321 (b) prohibit an individual engaged in the lawful taking of protected or unprotected wildlife as defined in Title 23A, Wildlife Resources Act, from carrying a concealed firearm while performing an act to take the wildlife if the taking of wildlife does not occur:
6325 (i) within the limits of a municipality in violation of that municipality's ordinances; or
6326 (ii) upon the highways of the state as defined in Section 41-6a-102;
6327 (c) apply to an individual who is not a restricted person as described in Section 76-11-302 or 76-11-303 or 18 U.S.C. Sec. 922(g) and is issued a protective order under Subsection 78B-7-404(1)(b) or 78B-7-603(1)(b), for a period of 120 days after the day on which the individual is issued the protective order; or
6331 (d) prohibit the owner or lawful possessor of a vehicle from prohibiting another individual from carrying a firearm in the owner's or lawful possessor's vehicle.
6333 (5) An actor is lawfully present in a vehicle while carrying a firearm under this section if:
6334 (a) the vehicle is in the lawful possession of the actor; or
6335 (b) the actor has the consent of the person lawfully in possession of the vehicle to carry the firearm in the vehicle.

6337 Section 97. Section **97** is enacted to read:

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76-11-203. Concealing an unlawfully possessed short barreled shotgun or short barreled rifle.

- 6340 (1) Terms defined in Sections 76-1-101.5, 76-11-101, and 76-11-201 apply to this section.
- 6341 (2) An actor commits concealing an unlawfully possessed short barreled shotgun or short barreled rifle
if:
- 6343 (a) the actor unlawfully possesses a short barreled shotgun or short barreled rifle;
- 6344 (b) the actor conceals the unlawfully possessed short barreled shotgun or short barreled rifle in a
covered, hidden, or secreted manner that the public would not be aware of the short barreled
shotgun's or short barreled rifle's presence; and
- 6347 (c) the short barreled shotgun or short barreled rifle is readily accessible for immediate use by the actor.
- 6349 (3) A violation of Subsection (2) is a second degree felony.

6350 Section 98. Section **76-11-204** is renumbered and amended to read:

[76-10-505]. Unlawfully carrying a firearm in a vehicle .

- 6353 [~~(1) Unless otherwise authorized by law, a person may not carry a loaded firearm:]~~
- 6354 [~~(a) in or on a vehicle, unless:~~]
- 6355 [~~(i) the vehicle is in the person's lawful possession; or]~~
- 6356 [~~(ii) the person is carrying the loaded firearm in a vehicle with the consent of the person lawfully in~~
~~possession of the vehicle;]~~
- 6358 [~~(b) on a public street; or]~~
- 6359 [~~(c) in a posted prohibited area.]~~
- 6360 [~~(2) Subsection (1)(a) does not apply to a minor under 18 years of age, since a minor under 18 years of~~
~~age may not carry a loaded firearm in or on a vehicle.]~~
- 6362 [~~(3) Notwithstanding Subsections (1)(a)(i) and (ii), and Subsection 76-10-523(5), a person may not~~
~~possess a loaded rifle, shotgun, or muzzle-loading rifle in a vehicle.]~~
- 6364 [~~(4)~~] (1) Terms defined in Sections 76-1-101.5, 76-11-101, and 76-11-201 apply to this section.
- 6366 (2) An actor commits unlawfully carrying a firearm in a vehicle if the actor:
- 6367 (a) is 18 years old or older; and
- 6368 (b)
- (i)
- (A) is carrying a firearm that is readily accessible by the actor for immediate use; and
- 6370 (B) is in a vehicle in which the actor is not lawfully present; or

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- 6371 (ii) is carrying a loaded rifle, shotgun, or muzzle-loading rifle in any vehicle.
- 6372 (3) A violation of [this section] Subsection (2) is a class B misdemeanor.
- 6373 (4) This section does not prohibit the owner or lawful possessor of a vehicle from prohibiting another individual who may otherwise lawfully carry a firearm from carrying a firearm in the owner's or lawful possessor's vehicle.
- 6376 (5) An actor is lawfully present in a vehicle while carrying a firearm under this section if:
- 6377 (a) the vehicle is in the lawful possession of the actor; or
- 6378 (b) the actor has the consent of the person lawfully in possession of the vehicle to carry the firearm in the vehicle.
- 6380 (6) This section does not apply if the actor has a concealed carry permit issued under Section 53-5a-303, a temporary concealed carry permit issued under Section 53-5a-304, a provisional concealed carry permit issued under Section 53-5a-305, or a concealed carry permit lawfully issued by or in another state.

6384 Section 99. Section **76-11-205** is renumbered and amended to read:

6386 ~~[76-10-505.5]~~ **76-11-205. Possession of a dangerous weapon on or about school premises.**

<compare mode="add">(Compare Error)</compare>

- 23 (1)
- (a) As used in this section, "on or about school premises" means:
- 24 ~~(a)~~ (i)
- (i) (A) or secondary school; or
- 25 (ii) (B) any of those schools;
- 26 ~~(b)~~ (ii)
- (i) (A) in a public or private institution of higher education; or
- 27 (ii) (B) on the grounds of a public or private institution of higher education; or
- 28 ~~(c)~~ (iii)
- (i) (A) inside the building where a preschool or child care is being held, if the entire building is being used for the operation of the preschool or child care; or
- 31 (ii) (B) if only a portion of a building is being used to operate a preschool or child care, in that room or rooms where the preschool or child care operation is being held.

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(2) An actor [~~who is 18 years old or older may not possess~~] commits possession of a dangerous weapon on or about school premises if the actor possesses a dangerous weapon[~~-, firearm, or short barreled shotgun~~].

40 (3)

(a) [~~Possession of a dangerous weapon on or about school premises is a class B misdemeanor.~~] A violation of Subsection (2) is a class B misdemeanor if the dangerous weapon carried by the actor is not a firearm.

43 (b) [~~Possession of a firearm or short barreled shotgun on or about school premises is a class A misdemeanor.~~] A violation of Subsection (2) is a class A misdemeanor if the dangerous weapon carried by the actor is a firearm.

46 (4) This section does not apply if:

47 (a) ;

49 (b) the actor is authorized to possess a firearm as described in Section 53-5-704.5, unless the actor is in a location where the actor is prohibited from carrying a firearm under Subsection 53-5-710(2);

52 (c) the possession of the dangerous weapon is approved by the responsible school administrator;

54 (d) the [~~item~~] dangerous weapon is present or to be used in connection with a lawful, approved activity and is in the possession or under the control of the actor responsible for the [~~item's~~] dangerous weapon's possession or use;

57 (e) the actor is an armed school security guard as described in Section 53G-8-704; or

58 (f) possession is:

59 (i) at the actor's place of residence or on the actor's property; or

60 (ii) a vehicle owned by the school or used by the school to transport students.

62 (5) This section does not[~~±~~] :

63 (a) prohibit prosecution of [~~a more serious weapons~~] another criminal offense that may occur on or about school premises;

65 (b) prevent an actor from securely storing a firearm on the grounds of a school if the actor:

67 (i) participates in:

68 (A) the school guardian program created in Section 53-22-105; [~~and~~] or

69 (B) the Educator-Protector Program created in Section 53-22-107; and

70 (ii) ; or

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(c) prohibit the prosecution of possession of a dangerous weapon by a minor, as described in Section 76-10-509.4, that occurs on or about school premises.

6449 Section 100. Section **100** is enacted to read:

6450 **76-11-205.5. Carrying a dangerous weapon at an institution of higher education.**

6451 (1) As used in this section, "on or about school premises" means:

6452 (a) in a public or private institution of higher education; or

6453 (b) on the grounds of a public or private institution of higher education.

6454 (2) An actor commits carrying a dangerous weapon at an institution of higher education if the actor:

6456 (a) is not an individual listed in Subsection (4);

6457 (b) carries a dangerous weapon on or about school premises; and

6458 (c) knows or reasonably believes that the actor is on or about school premises at the time the actor carries the dangerous weapon.

6460 (3)

(a) A violation of Subsection (2) is a class B misdemeanor if the dangerous weapon carried by the actor is not a firearm.

6462 (b) A violation of Subsection (2) is a class A misdemeanor if the dangerous weapon carried by the actor is a firearm.

6464 (4) This section does not apply if:

6465 (a) the actor is an individual exempt from certain weapons laws as described in Section 53-5a-108;

6467 (b) the actor has a concealed carry permit as described in Section 53-5a-303;

6468 (c) the actor has a provisional concealed carry permit as described in Section 53-5a-304;

6469 (d) the actor has a temporary concealed carry permit issued under Section 53-5a-305;

6470 (e) the actor is carrying the dangerous weapon at the actor's place of residence or on the actor's real property;

6472 (f) the possession of the dangerous weapon is approved by the responsible school administrator;

6474 (g) the dangerous weapon is present or to be used in connection with a lawful, approved activity and is in the possession or under the control of the actor responsible for the dangerous weapon's possession or use; or

6477 (h) the actor is carrying the dangerous weapon in a vehicle lawfully under the actor's control, not including a vehicle owned by the school or used by the school to transport students.

6480

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(5) This section does not prohibit prosecution of another criminal offense that may occur on or about school premises.

6482 Section 101. Section **101** is enacted to read:

6483 **76-11-206. Carrying a dangerous weapon at a daycare.**

6484 (1)

(a) As used in this section:

6485 (i) "Daycare" means a preschool or child care center.

6486 (ii) "On or about daycare premises" means:

6487 (A) inside the building where a daycare is being held, if the entire building is being used for the operation of the daycare; or

6489 (B) if only a portion of a building is being used to operate a daycare, in the room or rooms where the daycare operation is being held.

6491 (b) Terms defined in Sections 76-1-101.5, 76-11-101, and 76-11-201 apply to this section.

6493 (2) An actor commits carrying a dangerous weapon at a daycare if the actor:

6494 (a) is not an individual listed in Subsection (4);

6495 (b) carries a dangerous weapon on or about daycare premises; and

6496 (c) has reasonable cause to believe that the actor is on or about daycare premises at the time the actor carried the dangerous weapon.

6498 (3)

(a) A violation of Subsection (2) is a class B misdemeanor if the dangerous weapon carried by the actor is not a firearm.

6500 (b) A violation of Subsection (2) is a class A misdemeanor if the dangerous weapon carried by the actor is a firearm.

6502 (4) This section does not apply if:

6503 (a) the actor is an individual exempted from certain weapons laws as described in Section 53-5a-108;

6505 (b) the actor has a concealed carry permit as described in Section 53-5a-303;

6506 (c) the actor has a provisional concealed carry permit as described in Section 53-5a-304;

6507 (d) the actor has a temporary concealed carry permit issued under Section 53-5a-305;

6508 (e) the actor is carrying the dangerous weapon at the actor's place of residence or on the actor's real property;

6510 (f) the actor's carrying of the dangerous weapon is approved by the responsible daycare administrator;

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- 6512 (g) the dangerous weapon is present or to be used in connection with a lawful, approved activity and is in the possession or under the control of the actor responsible for the dangerous weapon's possession or use; or
- 6515 (h) the actor is carrying the dangerous weapon in a vehicle lawfully under the actor's control, not including a vehicle owned by the daycare or used by the daycare to transport minors enrolled in the daycare.
- 6518 (5) This section does not prohibit the prosecution of another criminal offense that may occur on or about daycare premises.
- 6520 Section 102. Section **76-11-207** is renumbered and amended to read:
- 6522 **[76-10-506]. Threatening with or using a dangerous weapon in a fight or quarrel.**
- 6524 [(1) As used in this section:]
- 6525 [(a) "Dangerous weapon" means an item that in the manner of its use or intended use is capable of causing death or serious bodily injury. The following factors shall be used in determining whether an item, object, or thing is a dangerous weapon:]
- 6528 [(i) the character of the instrument, object, or thing;]
- 6529 [(ii) the character of the wound produced, if any; and]
- 6530 [(iii) the manner in which the instrument, object, or thing was exhibited or used.]
- 6531 [(b) "Threatening manner" does not include:]
- 6532 [(i) the possession of a dangerous weapon, whether visible or concealed, without additional behavior which is threatening; or]
- 6534 [(ii) informing another of the actor's possession of a deadly weapon to prevent what the actor reasonably perceives as a possible use of unlawful force by the other and the actor is not engaged in any activity described in Subsection 76-2-402(3)(a).]
- 6537 [(2) Except as otherwise provided in Section 76-2-402 and for an individual described in Section 76-10-503, an individual who, in the presence of two or more individuals, and not amounting to a violation of Section 76-5-103,]
- 6540 (1) Terms defined in Sections 76-1-101.5, 76-11-101, and 76-11-201 apply to this section.
- 6541 (2) An actor commits threatening with or using a dangerous weapon in a fight or quarrel if the actor, in the presence of two or more individuals:
- 6543 (a) unlawfully draws or exhibits a dangerous weapon in an angry and threatening manner; or
- 6545 (b) [-]unlawfully uses a dangerous weapon in a fight or quarrel[- is guilty of a class A misdemeanor].

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- 6547 (3) A violation of Subsection (2) is a class A misdemeanor.
- 6548 [~~(3)~~] (4) This section does not apply to:
- 6549 (a) ~~[-]~~an individual who, reasonably believing the action to be necessary in compliance with Section
76-2-402, with purpose to prevent another's use of unlawful force:
- 6551 [~~(a)~~] (i) threatens the use of a dangerous weapon; or
- 6552 [~~(b)~~] (ii) draws or exhibits a dangerous weapon~~[-]~~; or
- 6553 [~~(4)~~] (b) ~~[This section does not apply to an individual listed in Subsections 76-10-523(1)(a) through
(f)]~~ an individual exempted from certain weapons laws as described in Subsections 53-5a-108(1)(a)
through (f) acting in performance of the individual's duties.
- 6557 (5) For purposes of this section, the following conduct by an actor does not constitute drawing or
exhibiting a dangerous weapon in an angry and threatening manner as described in Subsection (2):
- 6560 (a) possession of a dangerous weapon, whether visible or concealed, without additional threatening
behavior; or
- 6562 (b)
- (i) informing another individual of the actor's possession of a dangerous weapon to prevent what the
actor reasonably perceives as a possible use of unlawful force by the individual; and
- 6565 (ii) the actor is not engaged in any activity described in Subsection 76-2-402(3)(a).
- 6566 Section 103. Section **76-11-208** is renumbered and amended to read:
- 6568 **~~[76-10-507]~~. Possession of a dangerous weapon with criminal intent.**
- 6570 (1) Terms defined in Sections 76-1-101.5, 76-11-101, and 76-11-201 apply to this section.
- 6571 (2) ~~[Every person having upon his person any]~~ An actor commits possession of a dangerous weapon
with criminal intent if the actor possesses a dangerous weapon with the intent to use [it] the
dangerous weapon to commit a criminal offense.
- 6574 (3) A violation of Subsection (2) is ~~[guilty of]~~ a class A misdemeanor.
- 6575 Section 104. Section **76-11-209** is renumbered and amended to read:
- 6577 **~~[76-10-508]~~. Improper discharging of a dangerous weapon.**
- 6578 (1) Terms defined in Sections 76-1-101.5, 76-11-101, and 76-11-201 apply to this section.
- 6579 [~~(1)~~] (2)
- [~~(a) An individual may not discharge]~~ An actor commits improper discharging of a dangerous weapon
[or firearm] if the actor discharges a dangerous weapon:
- 6581 [~~(i)~~] (a) from ~~[an automobile or other]~~ a vehicle;

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- 6582 [(ii)] (b) from, upon, or across a highway;
- 6583 [(iii)] (c) at a road sign placed [~~upon a highway of the~~] on a state highway;
- 6584 [(iv)] (d) at communications equipment or property of public utilities including facilities, lines, poles, or devices of transmission or distribution;
- 6586 [(v)] (e) at railroad equipment or facilities including a sign or signal;
- 6587 [(vi)] (f) within a Utah State Park building, designated camp or picnic sites, overlooks, golf courses, boat ramps, and developed beaches; or
- 6589 [(vii)] (g) without written permission to discharge the dangerous weapon from the owner or person in charge of the property within 600 feet of:
- 6591 [(A)] (i) a house, dwelling, or [~~any~~] other building; or
- 6592 [(B)] (ii) [~~any~~] a structure in which a domestic animal is kept or fed, including a barn, poultry yard, corral, feeding pen, or stockyard.
- 6594 [(b) It is a defense to any charge for violating this section that the individual being accused had actual permission of the owner or person in charge of the property at the time in question.]
- 6597 [(2)] (3) A violation of [~~any provision of~~] Subsection [(1)] (2) is a class B misdemeanor.
- 6598 [(3)] (4) In addition to any other penalties, the court shall:
- 6599 (a) notify the Driver License Division of the conviction for purposes of any revocation, denial, suspension, or disqualification of a driver license under Subsection 53-3-220(1)(a)(xi); and
- 6602 (b) specify in court at the time of sentencing the length of the revocation under Subsection 53-3-225(1) (c).
- 6604 [(4)] (5) This section does not apply to an [~~individual~~] actor who:
- 6605 (a) discharges a [~~firearm when that individual is~~] dangerous weapon in the lawful defense of [self or others] the actor or another individual;
- 6607 (b) is an individual listed in Subsections 53-5a-108(1)(a) through (f) and is performing official duties as provided in Section 23A-5-202 [and Subsections 76-10-523(1)(a) through (f) and] or as otherwise provided by law; or
- 6610 (c) discharges a dangerous weapon [~~or firearm~~] from an automobile or other vehicle, if:
- 6611 (i) the discharge occurs at a firing range or training ground;
- 6612 (ii) at no time after the discharge does the projectile that is discharged cross over or stop at a location other than within the boundaries of the firing range or training ground described in Subsection [(4)] (e)(i)] (5)(c)(i);

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- 6615 (iii) the discharge is made as practice or training for a lawful purpose;
- 6616 (iv) the discharge and the location, time, and manner of the discharge are approved by the owner or operator of the firing range or training ground before the discharge; and
- 6619 (v) the discharge is not made in violation of Subsection [(1)] (2).
- 6620 (6) It is a defense to a charge for violating this section that the actor had actual permission of the person in charge of the property at the time the actor discharged the dangerous weapon as described in Subsection (2).

6623 Section 105. Section **76-11-210** is renumbered and amended to read:

6625 **[76-10-508.1]. Felony discharge of a firearm.**

6626 (1)

(a) As used in this section, "habitable structure" means the same as that term is defined in Section 76-6-101.

6628 (b) Terms defined in Sections 76-1-101.5, 76-11-101, and 76-11-201 apply to this section.

6630 (2) ~~[Except as provided under Subsection (2) or (3), an individual who discharges a firearm is guilty of a third-degree felony punishable by imprisonment for a term of not less than three years nor more than five years-]~~ An actor commits felony discharge of a firearm if:

6633 (a) the actor discharges a firearm in the direction of ~~[one or more individuals]~~ an individual, knowing or having reason to believe that ~~[any]~~ an individual may be endangered by the discharge of the firearm;

6636 (b) the actor, with intent to intimidate or harass another individual or with intent to damage a habitable structure~~[as defined in Section 76-6-101]~~, discharges a firearm in the direction of ~~[any]~~ an individual or a habitable structure; or

6639 (c) the actor, with intent to intimidate or harass another individual, discharges a firearm in the direction of ~~[any]~~ a vehicle.

6641 ~~[(2)]~~ (3)

(a) ~~[A]~~ Except as provided in Subsection (3)(b) or (3)(c), a violation of Subsection [(1)-] (2) is a third degree felony punishable by a term of imprisonment of not less than three years nor more than five years.

6644 (b) Except as provided in Subsection (3)(c), a violation of Subsection (2) that causes bodily injury to any individual is a second degree felony punishable by imprisonment for a term of not less than three years nor more than 15 years.

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~~[(3)]~~ (c) A violation of Subsection ~~[(1)]~~ (2) that causes serious bodily injury to ~~[any]~~ an individual is a first degree felony.

6649 (4) In addition to any other penalties for a violation of this section, the court shall:

6650 (a) notify the Driver License Division of the conviction for purposes of any revocation, denial, suspension, or disqualification of a driver license under Subsection 53-3-220(1)(a)(xi); and

6653 (b) specify in court at the time of sentencing the length of the revocation under Subsection 53-3-225(1)(c).

6655 (5) This section does not apply to an ~~[individual]~~ actor:

6656 (a) who discharges a firearm ~~[when that individual is-]~~ in the lawful defense of ~~[self]~~ the actor or ~~[others]~~ another individual;

6658 (b) who is an individual listed in Subsections 53-5a-108(1)(a) through (f) and is performing official duties as provided in Section 23A-5-202~~[or Subsections 76-10-523(1)(a) through (f)]~~ , or as otherwise authorized by law; or

6661 (c) who discharges a dangerous weapon~~[or firearm]~~ from an automobile or other vehicle, if:

6663 (i) the discharge occurs at a firing range or training ground;

6664 (ii) at no time after the discharge does the projectile that is discharged cross over or stop at a location other than within the boundaries of the firing range or training ground described in Subsection (5)(c)(i);

6667 (iii) the discharge is made as practice or training for a lawful purpose;

6668 (iv) the discharge and the location, time, and manner of the discharge are approved by the owner or operator of the firing range or training ground before the discharge; and

6671 (v) the discharge is not made in violation of Subsection ~~[(1)]~~ (2).

6672 Section 106. Section **76-11-211** is renumbered and amended to read:

6674 ~~[76-10-509.4]~~. **Possession of a dangerous weapon by a minor.**

6675 (1)

(a) As used in this section, "responsible adult" means an individual:

6676 ~~[(a)]~~ (i) who is 18 years old or older; and

6677 ~~[(b)]~~ (ii) who may lawfully possess a dangerous weapon.

6678 (b) Terms defined in Sections 76-1-101.5, 76-11-101, and 76-11-201 apply to this section.

6680 (2) An actor ~~[who is under 18 years old may not possess a dangerous weapon]~~ commits possession of a dangerous weapon by a minor if the actor:

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- 6682 (a) is a minor; and
- 6683 (b) possesses a dangerous weapon.
- 6684 (3)
- (a) Except as provided in Subsection (3)(b), a violation of Subsection (2) is:
- 6685 (i) a class B misdemeanor for a first offense; and
- 6686 (ii) a class A misdemeanor for each subsequent offense.
- 6687 (b) A violation of Subsection (2) is a third degree felony if the dangerous weapon is:
- 6688 (i) a handgun;
- 6689 (ii) a short barreled rifle;
- 6690 (iii) a short barreled shotgun;
- 6691 (iv) a fully automatic weapon; or
- 6692 (v) a machinegun firearm attachment.
- 6693 (4) For an actor who is younger than 14 years old, this section does not apply if the actor:
- 6694 (a) possesses a dangerous weapon;
- 6695 (b) has permission from the actor's parent or guardian to possess the dangerous weapon;
- 6696 (c) is accompanied by the actor's parent or guardian, or a responsible adult, while the actor has the dangerous weapon in the actor's possession; and
- 6698 (d) does not use the dangerous weapon in the commission of a crime.
- 6699 (5) For an actor who is 14 years old or older but younger than 18 years old, this section does not apply if the actor:
- 6701 (a) possesses a dangerous weapon;
- 6702 (b) has permission from the actor's parent or guardian to possess the dangerous weapon; and
- 6704 (c) does not use the dangerous weapon in the commission of a crime.
- 6705 (6) This section does not apply to the following minors who are otherwise complying with Subsection (4) or (5):
- 6707 (a) a minor who is a patron at an amusement park, pier, or similar location and is possessing a firearm to participate in lawfully operated target concessions if the firearm to be used is firmly chained or affixed to the counters;
- 6710 (b) a minor attending a hunter's safety course or a firearms safety course and possessing a weapon as part of the course;
- 6712

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(c) a minor using a firearm at an established range or other area where the discharge of a firearm is not prohibited by state or local law;

6714 (d) a minor participating in an organized competition involving the use of a firearm, or practicing for the competition;

6716 (e) a minor who is on real property with the permission of the owner, licensee, or lessee of the property and who has the permission of a parent or legal guardian or the owner, licensee, or lessee of the property to possess a firearm not otherwise in violation of law;

6720 (f) a minor who has a valid hunting license and is possessing a firearm to lawfully engage in hunting; or

6722 (g) a minor traveling to or from an activity described in Subsections (6)(a) through (f) with an unloaded firearm in the minor's possession.

6724 Section 107. Section **76-11-212** is renumbered and amended to read:

6726 **[76-10-509.5]. Transferring a handgun, short barreled rifle, short barreled shotgun, or fully automatic weapon to a minor.**

6728 [(1) Any person who provides a handgun to a minor when the possession of the handgun by the minor is a violation of Section 76-10-509.4 is guilty of:]

6730 [(a) a class B misdemeanor upon the first offense; and]

6731 [(b) a class A misdemeanor for each subsequent offense.]

6732 [(2) Any person who transfers in violation of applicable state or federal law a short barreled rifle, short barreled shotgun, or fully automatic weapon to a minor is guilty of a third-degree felony.]

6735 (1) Terms defined in Sections 76-1-101.5, 76-11-101, and 76-11-201 apply to this section.

6736 (2) An actor is guilty of transferring a handgun, short barreled rifle, short barreled shotgun, or fully automatic weapon to a minor if:

6738 (a) the actor transfers:

6739 (i) a handgun to a minor; or

6740 (ii) a short barreled rifle, short barreled shotgun, or fully automatic weapon to a minor; and

6742 (b) the transferring of the firearm described in Subsection (2)(a):

6743 (i) would result in the minor committing a violation of Section 76-11-211, Possession of a dangerous weapon by a minor; or

6745 (ii) is in violation of any other applicable state or federal law.

6746 (3) A violation of Subsection (2)(a) is:

6747 (a) if the violation is the result of transferring a handgun:

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- 6748 (i) a class B misdemeanor upon the first offense; and
6749 (ii) a class A misdemeanor for each subsequent offense; or
6750 (b) a third degree felony if the violation is the result of transferring a short barreled rifle, short barreled
shotgun, or fully automatic weapon to a minor.

6752 Section 108. Section **76-11-213** is renumbered and amended to read:

6754 **[76-10-509.6]. Parent or guardian providing a firearm to a violent minor.**

- 6756 (1) Terms defined in Sections 76-1-101.5, 76-11-101, and 76-11-201 apply to this section.
6757 (2) [A parent or guardian may not] An actor is guilty of a parent or guardian providing a firearm to a
violent minor if:
6759 (a) [-] the actor intentionally or knowingly [provide] provides a firearm to, or [permit] permits the
possession of a firearm by, [any] a minor;
6761 (b) [-] the minor is the actor's biological or adopted child or the actor is the legal guardian of the minor;
and
6763 (c) [who] the minor has previously been:
6764 (i) [-]convicted of a violent felony[as defined in Section 76-3-203.5] ; or
6765 (ii) [-any minor who has been]adjudicated in juvenile court for an offense which would constitute a
violent felony if the minor were an adult.
6767 [(2)] (3) [Any person who violates this section is guilty of] A violation of Subsection (2) is:
6768 (a) a class A misdemeanor upon the first offense; and
6769 (b) a third degree felony for each subsequent offense.

6770 Section 109. Section **76-11-214** is renumbered and amended to read:

6772 **[76-10-509.7]. Parent or guardian knowing a minor is in possession of a dangerous weapon.**

- 6774 (1) Terms defined in Sections 76-1-101.5, 76-11-101, and 76-11-201 apply to this section.
6775 (2) [— Any parent or guardian of a minor who knows that the minor is in] An actor is guilty of parent
or guardian knowing a minor is in possession of a dangerous weapon if:
6777 (a) the actor knows a minor is in possession of a dangerous weapon in violation of
Section[76-10-509.4] 76-11-211, Possession of a dangerous weapon by a minor;
6779 (b) the minor is the actor's biological or adopted child or the actor is the legal guardian of the minor;
and
6781 (c) the actor fails to make reasonable efforts to remove the dangerous weapon from the minor's
possession.

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- 6783 (3) ~~[is guilty of]~~ A violation of Subsection (2) is a class B misdemeanor.
- 6784 Section 110. Section **76-11-215** is renumbered and amended to read:
- 6786 **[76-10-509.9]. Selling a firearm to a minor.**
- 6787 (1) Terms defined in Sections 76-1-101.5, 76-11-101, and 76-11-201 apply to this section.
- 6788 (2) ~~[A person may not sell any-]~~ An actor commits selling a firearm to a minor [under 18 years of age unless] if:
- 6790 (a) the actor sells a firearm to a minor; and
- 6791 (b) at the time the actor sells the weapon to a minor, the minor is not accompanied by a parent of the minor or a legal guardian of the minor.
- 6793 ~~[(2)]~~ (3) ~~[Any person who violates this section is guilty of-]~~ A violation of Subsection (2) is a third degree felony.
- 6795 Section 111. Section **111** is enacted to read:
- 6796 **76-11-216. Prohibited conduct in the sale of a dangerous weapon.**
- 6797 (1)
- 6800 (a) As used in this section, "materially false information" means information that portrays an illegal dangerous weapon transaction as legal or a legal dangerous weapon transaction as illegal.
- 6802 (b) Terms defined in Sections 76-1-101.5, 76-11-101, and 76-11-201 apply to this section.
- 6802 (2) An actor commits prohibited conduct in the sale of a dangerous weapon if the actor:
- 6803 (a)
- 6805 (i) knowingly solicits, persuades, encourages, or entices a person to sell, transfer, or otherwise provide a dangerous weapon to the actor or another individual; and
- 6807 (ii) knows that the sale, transfer, or providing of the dangerous weapon to the actor or other individual would be a violation of state or federal law; or
- 6809 (b)
- 6812 (i) provides information that the actor knows is materially false information to a person; and
- 6812 (ii) knowingly provides the materially false information to the person with intent to deceive the person about the lawfulness of a sale, transfer, or providing of a dangerous weapon to the actor or another individual.
- 6812 (3)
- 6812 (a) A violation of Subsection (2) is a class A misdemeanor if the dangerous weapon sold, transferred, or provided is not a firearm.

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- 6814 (b) A violation of Subsection (2) is a third degree felony if the dangerous weapon sold, transferred, or
provided is a firearm.
- 6816 Section 112. Section **76-11-217** is renumbered and amended to read:
- 6818 ~~[76-10-528]~~. **Carrying a dangerous weapon while under the influence of alcohol or drugs.**
- 6820 (1) Terms defined in Sections 76-1-101.5, 76-11-101, and 76-11-201 apply to this section.
- 6821 (2) ~~[It is a class B misdemeanor for an actor to carry-]~~ An actor commits carrying a dangerous weapon
while under the influence of alcohol or drugs if the actor:
- 6823 (a) carries a dangerous weapon that is readily accessible by the actor for immediate use; and
- 6825 (b) is under the influence of:
- 6826 [(a)]
- (i) alcohol as determined by the actor's blood or breath alcohol concentration in accordance with
Subsections 41-6a-502(1)(a) through (c); or
- 6828 [(b)] (ii) a controlled substance as defined in Section 58-37-2.
- 6829 (3) A violation of Subsection (2) is a class B misdemeanor.
- 6830 [(2)] (4) This section does not apply to:
- 6831 [(a) ~~an actor carrying a dangerous weapon that is either securely encased, as defined in this part, or not~~
- ~~within such close proximity and in such a manner that it can be retrieved and used as readily as if~~
~~carried on the person;~~]
- 6834 [(b)] (a) an actor who uses or threatens to use force in compliance with Section 76-2-402;
- 6835 [(e)] (b) an actor carrying a dangerous weapon in the actor's residence or the residence of another
individual with the consent of the individual who is lawfully in possession of the residence;
- 6838 [(d)] (c) an actor under the influence of cannabis or a cannabis product, as those terms are defined in
Section 26B-4-201, if the actor's use of the cannabis or cannabis product complies with Title 26B,
Chapter 4, Part 2, Cannabinoid Research and Medical Cannabis; or
- 6842 [(e)] (d) an actor who:
- 6843 (i) has a valid prescription for a controlled substance;
- 6844 (ii) takes the controlled substance described in Subsection [(2)(e)(i)] (4)(d)(i) as prescribed; and
- 6846 (iii) after taking the controlled substance, the actor:
- 6847 (A) is not a danger to the actor or another individual; or
- 6848 (B) is capable of safely handling a dangerous weapon.
- 6849 [(3)] (5) It is not a defense to prosecution under this section that the actor:

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- 6850 (a) is licensed in the pursuit of wildlife of any kind;~~[-or]~~
- 6851 (b) has a ~~[valid]~~ concealed carry permit ~~[to carry a concealed firearm.]~~ as described in Section 53-5a-303;
- 6853 (c) has a provisional concealed carry permit as described in Section 53-5a-304;
- 6854 (d) has a temporary concealed carry permit issued under Section 53-5a-305;
- 6855 (e) has a concealed carry permit lawfully issued by or in another state; or
- 6856 (f) is 21 years old or older and may otherwise lawfully possess a concealed loaded firearm without a concealed carry permit as described in Section 53-5a-101.5.

6858 Section 113. Section **76-11-218** is renumbered and amended to read:

6860 ~~[76-10-529].~~ **Possession of a dangerous weapon in an airport secure area -- Reporting requirements.**

6862 (1)

(a) As used in this section:

6863 (i) "Airport authority" has the same meaning as defined in Section 72-10-102.

6864 (ii) "Explosive" is the same as defined for "explosive, chemical, or incendiary device" in Section 76-10-306.

6866 (iii) "Law enforcement officer" means the same as that term is defined in Section 53-13-103.

6868 (b) ~~[Terms defined in Sections 76-1-101.5 and 76-10-501 apply to this section]~~ Terms defined in Sections 76-1-101.5, 76-11-101, and 76-11-201 apply to this section.

6870 (2)

~~[(a) Within a secure area of an airport established pursuant to this section, an actor,] Except as provided in Subsection (4), an actor commits possession of a dangerous weapon in an airport secure area if the actor, including an actor ~~[licensed to carry a]~~ with a concealed firearm permit issued under [Title 53, Chapter 5, Part 7, Concealed Firearm Act, is guilty of] Title 53, Chapter 5a, Part 3, Concealed Firearm Permits:~~

6875 (a) intentionally or knowingly possesses a dangerous weapon within the secure area of an airport established under Subsection (5); or

6877 (b) recklessly or with criminal negligence possesses a dangerous weapon within the secure area of an airport established under Subsection (5).

6879 ~~[(i) a class A misdemeanor if the actor knowingly or intentionally possesses a firearm or other dangerous weapon;]~~

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- 6881 [~~(ii) subject to Subsection (5), an infraction if the actor recklessly or with criminal negligence possesses a firearm or other dangerous weapon; or]~~
- 6883 [~~(iii) a violation of Section 76-10-306 if the actor transports, possesses, distributes, or sells an explosive, chemical, or incendiary device.]~~
- 6885 [~~(b) Subsection (2)(a) does not apply to:~~
- 6886 [~~(i) individuals exempted under Section 76-10-523; and]~~
- 6887 [~~(ii) a member of the state or federal military forces while engaged in the performance of the member's official duties.]~~
- 6889 (3)
- (a) A violation of Subsection (2)(a) is a class A misdemeanor.
- 6890 (b) Subject to Subsection (6), a violation of Subsection (2)(b) is an infraction.
- 6891 (4) Subsection (2) does not apply to:
- 6892 (a) an individual exempted from certain weapons laws as described in Section 53-5a-108; or
- 6894 (b) a member of the state or federal military forces while engaged in the performance of the member's official duties.
- 6896 [~~(3)~~] (5)
- (a) An airport authority, county, municipality, or other entity regulating an airport may:
- 6898 [~~(a)~~] (i) establish a secure area located beyond the main area where the public generally buys tickets, checks and retrieves luggage; and
- 6900 [~~(b)~~] (ii) use reasonable means, including mechanical, electronic, x-ray, or another device, to detect firearms, other dangerous weapons, or explosives concealed in baggage or upon the person of an individual attempting to enter the secure area.
- 6903 [~~(4)~~] (b) At least one notice shall be prominently displayed at each entrance to a secure area in which a firearm, other dangerous weapon, or explosive is restricted.
- 6905 (c) An actor who transports, possesses, distributes, or sells an explosive, chemical, or incendiary device within the secure area of an airport commits a violation of Section 76-10-306.
- 6908 [~~(5)~~] (6)
- (a) An actor who violates Subsection [~~(2)(a)(ii)~~] (2)(b) on a first offense may receive a written warning for the offense and may not receive a citation or any other form of punishment.
- 6911 (b) An actor who violates Subsection [~~(2)(a)(ii)~~] (2)(b) on a second or subsequent offense may receive a written warning or a citation.

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- 6913 ~~[(6)]~~ (7)
- (a) Except as provided in Subsection ~~[(6)(d)]~~ (7)(d), if a law enforcement officer issues a citation to an actor for an infraction as a result of the actor's conduct described in Subsection ~~[(2)(a)(ii)]~~ (2)(b), or provides an oral or written warning for that conduct, the law enforcement officer shall:
- 6917 (i) if the law enforcement officer is able to confirm that the actor may lawfully possess the ~~[firearm or other]~~ dangerous weapon, allow the actor, at the actor's option, to:
- 6920 (A) temporarily surrender custody of the ~~[firearm or other]~~ dangerous weapon into the custody of the law enforcement agency so that the ~~[firearm or other]~~ dangerous weapon may be retrieved by the actor at a later date; or
- 6923 (B) exit the secure area of the airport with the ~~[firearm or other]~~ dangerous weapon; or
- 6925 (ii) if the law enforcement officer is unable to confirm that the actor may lawfully possess the ~~[firearm or other]~~ dangerous weapon, or the airport authority under Subsection ~~[(6)(d)]~~ (7)(d) prohibits the procedure described in Subsection ~~[(6)(a)(i)]~~ (7)(a)(i), take temporary custody of the ~~[firearm or other]~~ dangerous weapon so that the ~~[firearm or other]~~ dangerous weapon may be retrieved by the actor at a later date if legally permitted to do so.
- 6931 (b) If a law enforcement officer takes temporary custody of a ~~[firearm or other]~~ dangerous weapon under Subsection ~~[(6)(a)]~~ (7)(a):
- 6933 (i) at the time the ~~[firearm or other]~~ dangerous weapon is obtained from the actor, the law enforcement officer, or another law enforcement officer, or an employee who works in the secure area of the airport, shall provide the actor with written instructions on how, when, and where the actor may retrieve the actor's ~~[firearm or other]~~ dangerous weapon; and
- 6938 (ii) within three business days from the time when the law enforcement officer receives the ~~[firearm or other]~~ dangerous weapon, the law enforcement agency shall determine whether the actor is legally permitted to possess the ~~[firearm or other]~~ dangerous weapon, and if so, ensure that the ~~[firearm or other]~~ dangerous weapon is available for the actor to retrieve.
- 6943 (c) An unclaimed ~~[firearm or other]~~ dangerous weapon that is surrendered into the custody of a law enforcement agency under this Subsection ~~[(6)]~~ (7) may be disposed of pursuant to Section 77-11d-105, disposition of unclaimed property.
- 6946 (d) An airport authority may implement a policy that prohibits the law enforcement agency with jurisdiction over the airport from utilizing the procedure described in Subsection ~~[(6)(a)(i)]~~ (7)(a)(i).
- 6949 ~~[(7)]~~ (8)

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- (a) An actor's firearm that is confiscated based on a violation of Subsection ~~[(2)(a)(i)]~~ (2)(a) shall be returned to the actor in accordance with Subsection 77-11a-402(1)(b)[-].
- 6952 (b) In accordance with Subsection 77-11b-102(5), a firearm seized under Subsection ~~[(2)(a)(i)]~~ (2)(a) is not subject to forfeiture if the actor may lawfully possess the firearm.
- 6955 (c) In a prosecution brought under this section, a prosecutor may not condition a plea on the forfeiture of a firearm.
- 6957 ~~[(8)]~~ (9) An airport authority, county, municipality, or other entity regulating an airport or with local jurisdiction over an airport may not:
- 6959 (a) charge, cite, or prosecute an actor with a different offense under the Utah Code, local ordinance, or another state or local law or regulation for conduct described in Subsection ~~[(2)(a)(ii)]~~ (2)(b);
- 6962 (b) assess a civil penalty for conduct described in Subsection ~~[(2)(a)(i) or (ii)]~~ (2); or
- 6963 (c) enact a regulation, ordinance, or law covering conduct described in Subsection (2).
- 6964 ~~[(9)]~~ (10) A law enforcement agency that issues a written warning, citation, or referral for prosecution under this section shall record and report the information as required under Section 53-25-103.
- 6967 Section 114. Section **76-11-219** is renumbered and amended to read:
- 6969 ~~[76-10-530].~~ **Trespass with a firearm in a house of worship or a private residence.**
- 6971 (1) Terms defined in Sections 76-1-101.5, 76-11-101, and 76-11-201 apply to this section.
- 6972 ~~[(1)]~~ (2) ~~[A person, including a person licensed to carry a concealed firearm pursuant to Title 53, Chapter 5, Part 7, Concealed Firearm Act,]~~ An actor is guilty of trespass with a firearm in a house of worship or a private residence if the actor:
- 6975 (a) ~~[after notice]~~ has been given notice as ~~[provided]~~ described in Subsection ~~[(2)]~~ (4) that firearms are prohibited~~[-]~~ in the house or worship or the private residence; and
- 6977 (b) ~~[may not]~~ knowingly and intentionally:
- 6978 ~~[(a)]~~ (i) ~~[transport]~~ transports a firearm into~~[-]~~ the house of worship or private residence; or
- 6980 ~~[(i) a house of worship; or]~~
- 6981 ~~[(ii) a private residence; or]~~
- 6982 ~~[(b)]~~ (ii) while in possession of a firearm, ~~[enter or remain in:]~~ enters or remains in the house of worship or private residence.
- 6984 ~~[(i) a house of worship; or]~~
- 6985 ~~[(ii) a private residence.]~~
- 6986 (3) A violation of Subsection (2) is an infraction.

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- 6987 [~~(2)~~] (4) Notice that firearms are prohibited may be given by:
- 6988 (a) personal communication to the actor by:
- 6989 (i) the church or organization operating the house of worship;
- 6990 (ii) the owner, lessee, or person with lawful right of possession of the private residence; or
- 6992 (iii) a person with authority to act for the person or entity in Subsections [~~(2)~~](a)(i)] (4)(a)(i) and (ii);
- 6994 (b) posting of signs reasonably likely to come to the attention of persons entering the house of worship or private residence;
- 6996 (c) announcement, by a person with authority to act for the church or organization operating the house of worship, in a regular congregational meeting in the house of worship;
- 6999 (d) publication in a bulletin, newsletter, worship program, or similar document generally circulated or available to the members of the congregation regularly meeting in the house of worship; or
- 7002 (e) publication:
- 7003 (i) in a newspaper of general circulation in the county in which the house of worship is located or the church or organization operating the house of worship has its principal office in this state; and
- 7006 (ii) as required in Section 45-1-101.
- 7007 [~~(3)~~] (5) A church or organization operating a house of worship and giving notice that firearms are prohibited may:
- 7009 (a) revoke the notice, with or without supersedure, by giving further notice in any manner provided in Subsection [~~(2)~~] (4); and
- 7011 (b) provide or allow exceptions to the prohibition as the church or organization considers advisable.
- 7013 [~~(4)~~] (6)
- (a)
- (i) Within 30 days of giving or revoking any notice pursuant to Subsection [~~(2)~~](e)] (4)(c), (d), or (e), a church or organization operating a house of worship shall notify the division on a form and in a manner as the division shall prescribe.
- 7016 (ii) The division shall post on its website a list of the churches and organizations operating houses of worship who have given notice under Subsection [~~(4)~~](a)(i)] (6)(a)(i).
- 7019 (b) Any notice given pursuant to Subsection [~~(2)~~](e)] (4)(c), (d), or (e) shall remain in effect until revoked or for a period of one year from the date the notice was originally given, whichever occurs first.
- 7022

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[~~(5)~~] (7) [~~Nothing in this section permits-~~] This section does not permit an owner who has granted the lawful right of possession to a renter or lessee to restrict the renter or lessee from lawfully possessing a firearm in the residence.

7025 [~~(6) A violation of this section is an infraction.~~]

7026 Section 115. Section **115** is enacted to read:

7027 **76-11-220. Carrying a loaded firearm on a public street by an 18 to 20 year old.**

7028 (1) Terms defined in Sections 76-1-101.5, 76-11-101, and 76-11-201 apply to this section.

7029 (2) An actor commits carrying a loaded firearm on a public street by an 18 to 20 year old if the actor:

7031 (a) is 18 years old or older but younger than 21 years old; and

7032 (b) carries a loaded firearm on a public street.

7033 (3) A violation of Subsection (2) is a class B misdemeanor.

7034 (4) This section does not apply if the actor has a provisional concealed carry permit issued under Section 53-5a-305.

7036 Section 116. Section **116** is enacted to read:

7037 **Part 3. Persons Restricted Regarding Dangerous Weapons**

7038 **76-11-301. Definitions.**

As used in this part:

7040 (1) "Adjudicated" means a judgment has been entered against a minor for an offense by a juvenile court under Section 80-6-701.

7042 (2) "Category I restricted person" means an individual described in Section 76-11-302.

7043 (3) "Category II restricted person" means an individual described in Section 76-11-304.

7044 (4) "Carry" means for an individual to have an item under the individual's custody or control.

7046 (5) "Controlled substance" means the same as that term is defined in Section 58-37-2.

7047 (6)

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

7049 (b) "Dating relationship" does not include a casual acquaintanceship or ordinary fraternization in a business or social context.

7051 (7) "Dealer" means a person who is:

7052 (a) licensed under 18 U.S.C. Sec. 923; and

7053 (b) engaged in the business of selling, leasing, or otherwise transferring a firearm, whether the person is a retail or wholesale dealer, pawnbroker, or other type of merchant or seller.

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- 7056 (8) "Domestic violence" means the same as that term is defined in Section 77-36-1.
- 7057 (9) "Intimate partner" means the same as that term is defined in 18 U.S.C. Sec. 921.
- 7058 (10) "Schedule I controlled substance" means a substance listed as a schedule I controlled substance in Section 58-37-4.
- 7060 (11) "Schedule II controlled substance" means a substance listed as a schedule II controlled substance in Section 58-37-4.
- 7062 (12) "Secure care" means the same as that term is defined in Section 80-1-102.
- 7063 (13) "Single criminal episode" means the same as that term is defined in Section 76-1-401.
- 7064 Section 117. Section **117** is enacted to read:
- 7065 **76-11-302. Category I restricted person established.**
Except as provided in Section 76-11-304, Exceptions, limitations, and exclusions to restricted person categories, an individual is categorized as a category I restricted person and subject to the restrictions and penalties described in Section 76-11-305:
- 7069 (1) if the individual has been convicted of a violent felony;
- 7070 (2) if the individual is on probation or parole for a felony;
- 7071 (3) if the individual is on parole from secure care;
- 7072 (4) for 10 years after the day on which the individual was adjudicated for an offense which if committed by an adult would have been a violent felony;
- 7074 (5) if the individual is an alien who is illegally or unlawfully in the United States; or
- 7075 (6) if the individual is on probation for a conviction of possessing:
- 7076 (a) a substance classified in Section 58-37-4 as a Schedule I or II controlled substance;
- 7077 (b) a controlled substance analog; or
- 7078 (c) a substance listed in Section 58-37-4.2.
- 7079 Section 118. Section **118** is enacted to read:
- 7080 **76-11-303. Category II restricted person established.**
Except as provided in Section 76-11-304, Exceptions, limitations, and exclusions to restricted person categories, an individual is categorized as a category II restricted person and subject to the restrictions and penalties described in Section 76-11-306:
- 7084 (1) if the individual has been convicted of:
- 7085 (a) a domestic violence offense that is a felony; or
- 7086 (b) multiple felonies that are not part of a single criminal episode;

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- 7087 (2) if the individual has:
- 7088 (a) been convicted of:
- 7089 (i) a felony that is not a domestic violence offense or a violent felony; or
- 7090 (ii) multiple felonies that are part of a single criminal episode and are not domestic violence offenses or
violent felonies; and
- 7092 (b) within seven years after completing the sentence for the conviction described in Subsection (2)(a),
been convicted of, or charged with, another felony or class A misdemeanor;
- 7095 (3) for seven years after the day on which the individual completes a sentence for:
- 7096 (a) a conviction for a felony that is not a domestic violence offense or a violent felony; or
- 7097 (b) convictions for multiple felonies that are part of a single criminal episode and are not domestic
violence offenses or violent felonies;
- 7099 (4) for seven years after the day on which the individual was an adjudicated delinquent for an offense
which if committed by an adult would have been a felony;
- 7101 (5) if the individual is an unlawful user of a controlled substance;
- 7102 (6) if the individual is in possession of a dangerous weapon while knowingly and intentionally being in
unlawful possession of a schedule I controlled substance or a schedule II controlled substance;
- 7105 (7) if the individual has been found not guilty by reason of insanity for a felony offense;
- 7106 (8) if the individual has been found mentally incompetent to stand trial for a felony offense;
- 7107 (9) if the individual has been adjudicated as mentally defective as provided in the Brady Handgun
Violence Prevention Act, Pub. L. No. 103-159, 107 Stat. 1536 (1993), or having been committed to
a mental institution;
- 7110 (10) if the individual has been dishonorably discharged from the armed forces;
- 7111 (11) if the individual has renounced the individual's citizenship after having been a citizen of the United
States;
- 7113 (12) if the individual is a respondent or defendant subject to a protective order or child protective order
that:
- 7115 (a) is issued after a hearing for which the individual received actual notice and at which the individual
had an opportunity to participate;
- 7117 (b) restrains the individual from harassing, stalking, threatening, or engaging in other conduct that
would place an intimate partner, or a child of the intimate partner, in reasonable fear of bodily injury
to the intimate partner or child of the intimate partner; and

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- 7121 (c)
- (i) includes a finding that the individual represents a credible threat to the physical safety of an intimate partner or the child of the intimate partner; or
- 7123 (ii) explicitly prohibits the use, attempted use, or threatened use of physical force that would reasonably be expected to cause bodily harm against an intimate partner or the child of an intimate partner; or
- 7126 (13) except as provided in Subsection 76-11-304(2), if the individual has been convicted of the commission or attempted commission of misdemeanor assault under Section 76-5-102, or aggravated assault under Section 76-5-103, against a victim:
- 7129 (a) who is a current or former spouse, parent, or guardian of the individual;
- 7130 (b) with whom the individual shares a child in common;
- 7131 (c) who is cohabitating or has cohabitated with the individual as a spouse, parent, or guardian;
- 7133 (d) involved in a dating relationship with the individual within the last five years; or
- 7134 (e) similarly situated to a spouse, parent, or guardian of the individual.

7135 Section 119. Section 119 is enacted to read:

7136 **76-11-304. Exceptions, limitations, and exclusions to restricted person categories -- Burden on defendant to prove exception.**

- 7138 (1)
- (a) Subject to Subsection (1)(c), an individual convicted of a felony, or adjudicated for an offense which would be a felony if committed by an adult, is not a category I restricted person, or a category II restricted person, if:
- 7141 (i) the felony or adjudication has, in accordance with the law of the jurisdiction in which the conviction or adjudication occurred, been:
- 7143 (A) expunged;
- 7144 (B) set aside;
- 7145 (C) reduced to a misdemeanor by court order; or
- 7146 (D) pardoned;
- 7147 (ii) the individual has had the individual's civil rights that had been limited by the conviction or adjudication restored in accordance with the law of the jurisdiction in which the conviction or adjudication occurred; or

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(iii) the felony or adjudication is an offense pertaining to antitrust violations, unfair trade practices, restraint of trade, or other similar offenses relating to the regulation of business practices not involving theft or fraud.

7153 (b) Subject to Subsection (1)(c), an individual convicted of a misdemeanor assault under Subsection 76-11-303(13) that qualifies to make the individual a category II restricted person is otherwise not a category II restricted person, if, in accordance with the law of the jurisdiction in which the conviction occurred:

7157 (i) the misdemeanor has been:

7158 (A) expunged;

7159 (B) set aside;

7160 (C) reduced to an infraction by court order; or

7161 (D) pardoned; or

7162 (ii) the individual has had the individual's civil rights that had been limited by the conviction restored.

7164 (c) An individual who has received a pardon, reduction, expungement, setting aside, or restoration of civil rights as described in Subsection (1)(a) or (b) remains a category I or category II restricted person that corresponds with the individual's conviction if the pardon, reduction, expungement, setting aside, or restoration of civil rights expressly provides that the person may not ship, transport, possess, or receive firearms.

7169 (2) An individual is not a category II restricted person resulting from a conviction for a misdemeanor assault committed against an individual involved in a dating relationship as described in Subsection 76-11-303(13)(d) if:

7172 (a) five years have elapsed from the later of:

7173 (i) the day on which the conviction is entered;

7174 (ii) the day on which the individual is released from incarceration following the conviction; or

7176 (iii) the day on which the individual's probation for the conviction is successfully terminated;

7178 (b) the individual only has a single conviction for misdemeanor assault as described in Subsection 76-11-303(12)(d); and

7180 (c) the individual is not otherwise a category I restricted person or a category II restricted person.

7182 (3)

(a) In a criminal case brought against the defendant in which the question of whether the defendant meets an exception, limitation, or exclusion under this section arises and therefore makes the

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defendant not a category I or category II restricted person, the defendant has the burden to provide evidence that an exception, limitation, or exclusion described in Subsection (1) or (2) applies.

7187 (b) If the defendant satisfies the defendant's burden to provide evidence described in Subsection (3)(a), the burden shifts to the state to prove beyond a reasonable doubt that the defendant's conviction or adjudication is not subject to an exception, limitation, or exclusion described in Subsection (1) or (2).

7191 Section 120. Section **120** is enacted to read:

7192 **76-11-305. Category I restricted person participating in prohibited dangerous weapon conduct.**

7194 (1) Terms defined in Sections 76-1-101.5, 76-11-101, and 76-11-301 apply to this section.

7195 (2) An actor commits category I restricted person participating in prohibited dangerous weapon conduct if the actor:

7197 (a) is a category I restricted person; and

7198 (b) intentionally or knowingly:

7199 (i) agrees, consents, offers, or arranges to:

7200 (A) purchase a dangerous weapon;

7201 (B) transfer a dangerous weapon;

7202 (C) use a dangerous weapon; or

7203 (D) carry or otherwise possess a dangerous weapon; or

7204 (ii) purchases, transfers, uses, carries, or otherwise possesses a dangerous weapon.

7205 (3)

(a) A violation of Subsection (2) is a third degree felony if the dangerous weapon is not a firearm.

7207 (b) A violation of Subsection (2) is a second degree felony if the dangerous weapon is a firearm.

7209 (4) For purposes of this section, using a dangerous weapon includes using an antique firearm for an activity regulated under Title 23A, Wildlife Resources Act.

7211 (5) It is an affirmative defense to a prosecution for transferring a dangerous weapon by an actor under Subsection (2) that the dangerous weapon:

7213 (a) was possessed by the actor or was under the actor's custody or control before the actor became a restricted person;

7215 (b) was not used in or possessed during the commission of a crime or subject to disposition under Title 77, Chapter 11a, Part 4, Disposal of Seized Property and Contraband;

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- 7218 (c) is not being held as evidence by a court or law enforcement agency;
- 7219 (d) was transferred to an individual not legally prohibited from possessing the weapon; and
- 7221 (e) unless a different time is ordered by the court, was transferred within 10 days after the day on which
the actor became a restricted person.
- 7223 (6)
- (a) It is not a violation of this section for an actor who is a category I restricted person to own, carry, or
otherwise possess, archery equipment, including crossbows, for the purpose of lawful hunting and
lawful target shooting.
- 7226 (b) Notwithstanding Subsection (6)(a), this section applies if the owning, carrying, or otherwise
possessing archery equipment, including crossbows, is prohibited by:
- 7228 (i) a court, as a condition of pre-trial release or probation; or
- 7229 (ii) the Board of Pardons and Parole, as a condition of parole.
- 7230 Section 121. Section **121** is enacted to read:
- 7231 **76-11-306. Category II restricted person participating in prohibited dangerous weapon**
conduct.
- 7233 (1) Terms defined in Sections 76-1-101.5, 76-11-101, and 76-11-301 apply to this section.
- 7234 (2) An actor commits category II restricted person participating in prohibited dangerous weapon
conduct if the actor:
- 7236 (a) is a category II restricted person; and
- 7237 (b) intentionally or knowingly:
- 7238 (i) purchases a dangerous weapon;
- 7239 (ii) transfers a dangerous weapon;
- 7240 (iii) uses a dangerous weapon; or
- 7241 (iv) carries or otherwise possesses a dangerous weapon.
- 7242 (3)
- (a) A violation of Subsection (2) is a class A misdemeanor if the dangerous weapon is not a firearm.
- 7244 (b) A violation of Subsection (2) is a third degree felony if the dangerous weapon is a firearm.
- 7246 (4) For purposes of this section using a dangerous weapon includes using an antique firearm for an
activity regulated under Title 23A, Wildlife Resources Act.
- 7248 (5) It is an affirmative defense to:
- 7249

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- (a) a prosecution under this section that is based on proving that an actor is a category II restricted person as a result of being in possession of a dangerous weapon while knowingly and intentionally being in unlawful possession of a schedule I controlled substance or a schedule II controlled substance as described in Subsection 76-11-303(6) that the actor was:
- 7254 (i) in possession of the controlled substance pursuant to a lawful order of a practitioner for use of a member of the person's household or for administration to an animal owned by the person or a member of the person's household; or
- 7257 (ii) otherwise authorized by law to possess the controlled substance; and
- 7258 (b) a prosecution for transferring a dangerous weapon by an actor under Subsection (2) that the dangerous weapon:
- 7260 (i) was possessed by the actor or was under the actor's custody or control before the actor became a restricted person;
- 7262 (ii) was not used in or possessed during the commission of a crime or subject to disposition under Title 77, Chapter 11a, Part 4, Disposal of Seized Property and Contraband;
- 7265 (iii) is not being held as evidence by a court or law enforcement agency;
- 7266 (iv) was transferred to an individual not legally prohibited from possessing the weapon; and
- 7268 (v) unless a different time is ordered by the court, was transferred within 10 days after the day on which the actor became a restricted person.
- 7270 (6)
- (a) It is not a violation of this section for an actor who is a category II restricted person to own, carry, or otherwise possess, archery equipment, including crossbows, for the purpose of lawful hunting and lawful target shooting.
- 7273 (b) Notwithstanding Subsection (6)(a), this section applies if the owning, carrying, or otherwise possessing of archery equipment, including crossbows, is prohibited by:
- 7275 (i) a court, as a condition of pre-trial release or probation; or
- 7276 (ii) the Board of Pardons and Parole, as a condition of parole.
- 7277 Section 122. Section **122** is enacted to read:
- 7278 **76-11-307. Selling a dangerous weapon to a category I restricted person.**
- 7279 (1) Terms defined in Sections 76-1-101.5, 76-11-101, and 76-11-301 apply to this section.
- 7280 (2) An actor commits selling a dangerous weapon to a category I restricted person if the actor:
- 7282

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(a) sells, transfers, or otherwise provides a dangerous weapon to an individual who is a category I restricted person; and

7284 (b) knows the individual that the actor has sold, transferred, or provided the dangerous weapon to is a category I restricted person.

7286 (3)

(a) A violation of Subsection (2) is a second degree felony if the dangerous weapon sold, transferred, or provided is a firearm.

7288 (b) A violation of Subsection (2) is a third degree felony if the dangerous weapon sold, transferred, or provided is not a firearm and the actor knew that the recipient intended to use the dangerous weapon for an unlawful purpose.

7291 Section 123. Section **123** is enacted to read:

7292 **76-11-308. Selling a dangerous weapon to a category II restricted person.**

7293 (1) Terms defined in Sections 76-1-101.5, 76-11-101, and 76-11-301 apply to this section.

7294 (2) An actor commits selling a dangerous weapon to a category II restricted person if the actor:

7296 (a) sells, transfers, or otherwise provides a dangerous weapon to an individual who is a category II restricted person; and

7298 (b) knows the individual that the actor has sold, transferred, or provided the dangerous weapon to is a category II restricted person.

7300 (3)

(a) A violation of Subsection (2) is a third degree felony if the dangerous weapon sold, transferred, or provided is a firearm.

7302 (b) A violation of Subsection (2) is a class A misdemeanor if the dangerous weapon sold, transferred, or provided is not a firearm and the actor knew that the recipient intended to use the dangerous weapon for an unlawful purpose.

7305 Section 124. Section **76-11-309** is renumbered and amended to read:

7307 **[76-10-503.1]. Firearm restriction notification requirement for restricted persons.**

7309 (1) As used in this section:

7310 (a) "Peace officer" means an officer described Section 53-13-102.

7311 [(b) "Possess" means actual physical possession, actual or purported ownership, or exercising control of an item.]

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~~[(e)]~~ (b) "Restricted person" means an individual who is restricted from ~~[possessing,~~
]purchasing, transferring, ~~[or owning]~~ using, or otherwise possessing a firearm under Section
~~[76-10-503]~~ 76-11-302 or 76-11-303 or federal law.

- 7316 (2) A defendant intending to plead guilty or no contest to a criminal charge that will, upon conviction,
cause the defendant to become a restricted person shall, before entering a plea before a court, sign
an acknowledgment that states:
- 7319 (a) the defendant's attorney or the prosecuting attorney has informed the defendant:
- 7320 (i) that conviction of the charge will classify the defendant as a restricted person;
- 7321 (ii) that a restricted person may not ~~[possess]~~ purchase, transfer, use, or otherwise possess a firearm; and
- 7323 (iii) of the criminal penalties associated with ~~[possession of]~~ purchasing, transferring, using, or
otherwise possessing a firearm by a restricted person of the same category the defendant will
become upon entering a plea for the criminal charge; and
- 7327 (b) the defendant acknowledges and understands that, by pleading guilty or no contest to the criminal
charge, the defendant:
- 7329 (i) will be a restricted person;
- 7330 (ii) upon conviction, shall forfeit possession of each firearm currently ~~[possessed by the defendant]~~ in
the defendant's possession; and
- 7332 (iii) will be in violation of federal and state law if the defendant purchases, transfers, uses, or otherwise
possesses a firearm.
- 7334 (3) The prosecuting attorney or the defendant's attorney shall provide the acknowledgment described in
Subsection (2) to the court before the defendant's entry of a plea, if the defendant pleads guilty or no
contest.
- 7337 (4) A defendant who is convicted by trial of a criminal charge resulting in the defendant becoming a
restricted person shall, at the time of sentencing:
- 7339 (a) be verbally informed by the court, prosecuting attorney, or defendant's attorney:
- 7340 (i) that the defendant is a restricted person;
- 7341 (ii) that, as a restricted person, the defendant may not purchase, transfer, use, or otherwise possess a
firearm; and
- 7343 (iii) of the criminal penalties associated with ~~[possession of]~~ purchasing, transferring, using, or
otherwise possessing a firearm by a restricted person of the defendant's category; and
- 7346

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(b) sign an acknowledgment in the presence of the court attesting that the defendant acknowledges and understands that the defendant:

- 7348 (i) is a restricted person;
- 7349 (ii) shall forfeit possession of each firearm; and
- 7350 (iii) will be in violation of federal and state law if the defendant purchases, transfers, uses, or otherwise
possesses a firearm.
- 7352 (5) The prosecuting attorney and the defendant's attorney shall inform the court at the preliminary
hearing if a charge filed against the defendant would qualify the defendant as a restricted person if
the defendant is convicted of the charge.
- 7355 (6) The failure to inform or obtain a signed acknowledgment from the defendant may not render the
plea invalid, form the basis for withdrawal of the plea, or create a basis to challenge a conviction or
sentence.
- 7358 (7) An individual who becomes a restricted person as a result of being served with a pretrial protective
order in accordance with Section 78B-7-803, a sentencing protective order in accordance with
Section 77-36-5, or a continuous protective order in accordance with Section 77-36-5, shall, at the
time of service of the protective order:
- 7362 (a) be verbally informed by the court, prosecuting attorney, defendant's attorney, or, if a peace officer is
serving the protective order, the peace officer:
- 7364 (i) that the individual is a restricted person;
- 7365 (ii) that, as a restricted person, the individual may not purchase, transfer, use, or otherwise possess a
firearm; and
- 7367 (iii) of the criminal penalties associated with [~~possession of~~] purchasing, transferring, using, or
otherwise possessing a firearm by a restricted person of the individual's category; and
- 7370 (b) sign, in the presence of the court or, if a peace officer serves the protective order, in the presence of
the peace officer, an acknowledgment contained within the protective order document attesting that
the individual acknowledges and understands that the individual:
- 7374 (i) is a restricted person;
- 7375 (ii) is required to relinquish possession of each firearm in the individual's possession;
- 7376 (iii) will be in violation of federal and state law if the individual purchases, transfers, uses, or otherwise
possesses a firearm; and

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(iv) may be eligible for an affirmative defense to a state-law prosecution for ~~[possession of]~~ transferring a firearm under Section ~~[76-10-503]~~ 76-11-305 or 76-11-306 if the individual lawfully transfers the individual's firearms within 10 days ~~[of becoming]~~ after the day on which the individual became a restricted person.

7383 Section 125. Section **76-11-310** is renumbered and amended to read:

7385 ~~[76-10-532]~~. **Removal from National Instant Check System database for certain category II restricted persons.**

- 7387 (1) ~~[A person]~~ An individual who is subject to the restrictions in Subsection ~~[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 (g)(4) based on a commitment, finding, or adjudication that occurred in this state may petition the district court in the county in which the commitment, finding, or adjudication occurred to remove the disability imposed.
- 7392 (2) The petition shall be filed in the district court in the county where the commitment, finding, or adjudication occurred~~[-The petition]~~ and shall include:
- 7394 (a) a listing of facilities, with their addresses, where the petitioner has ever received mental health treatment;
- 7396 (b) a release signed by the petitioner to allow the prosecutor or county attorney to obtain the petitioner's mental health records;
- 7398 (c) a verified report of a mental health evaluation conducted by a licensed psychiatrist occurring within 30 days prior to the filing of the petition, which shall include a statement regarding:
- 7401 (i) the nature of the commitment, finding, or adjudication that resulted in the restriction on the petitioner's ability to purchase or possess a dangerous weapon;
- 7403 (ii) the petitioner's previous and current mental health treatment;
- 7404 (iii) the petitioner's previous violent behavior, if any;
- 7405 (iv) the petitioner's current mental health medications and medication management;
- 7406 (v) the length of time the petitioner has been stable;
- 7407 (vi) external factors that may influence the petitioner's stability;
- 7408 (vii) the ability of the petitioner to maintain stability with or without medication; and
- 7409 (viii) whether the petitioner is dangerous to public safety; and
- 7410 (d) a copy of the petitioner's state and federal criminal history record.
- 7411 (3) The petitioner shall serve the petition on the prosecuting entity that prosecuted the case or, if the disability is not based on a criminal case, on the county or district attorney's office having

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jurisdiction where the petition was filed and the individual who filed the original action which resulted in the disability.

- 7415 (4)
- (a) The court shall schedule a hearing as soon as practicable~~[- The]~~ in which the petitioner may present evidence and subpoena witnesses to appear at the hearing.~~[-]~~
- 7417 (b) The prosecuting, county attorney, or the individual who filed the original action which resulted in the disability may object to the petition and present evidence in support of the objection.
- 7420 (5) The court shall consider the following evidence:
- 7421 (a) the facts and circumstances that resulted in the commitment, finding, or adjudication;
- 7422 (b) the ~~[person's]~~ petitioner's mental health and criminal history records; and
- 7423 (c) the ~~[person's]~~ petitioner's reputation, including the testimony of character witnesses.
- 7424 (6) The court shall grant the relief if the court finds by clear and convincing evidence that:
- 7425 (a) the ~~[person]~~ petitioner is not a danger to the ~~[person]~~ petitioner or to ~~[others]~~ another individual;
- 7427 (b) the ~~[person]~~ petitioner is not likely to act in a manner dangerous to public safety; and
- 7428 (c) the requested relief would not be contrary to the public interest.
- 7429 (7) The court shall issue an order with its findings and send a copy to the bureau.
- 7430 (8)
- (a) The bureau, upon receipt of a court order removing ~~[a person's]~~ a petitioner's disability under Subsection ~~[76-10-503(1)(b)(viii),]~~ 76-11-303(9), shall send a copy of the court order to the National Instant Check System requesting removal of the ~~[person's]~~ petitioner's name from the database.~~[-]~~
- 7434 (b) In addition to the action described in Subsection (8)(a), if the ~~[person]~~ petitioner is listed in a state database utilized by the bureau to determine eligibility for the purchase or possession of a firearm or to obtain a concealed firearm permit under Title 53, Chapter 5a, Part 3, Concealed Firearm Permits, the bureau shall remove the petitioner's name or send a copy of the court's order to the agency responsible for the database for removal of the petitioner's name.
- 7440 (9) If the court denies the petition, the petitioner may not petition again for relief until at least two years after the date of the court's final order.
- 7442 (10) The petitioner may appeal a denial of the requested relief~~[- The]~~ and the review on appeal shall be de novo.

7444 [Section 126. Section 77-11a-402 is amended to read:](#)

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- 7445 **77-11a-402. Disposition of seized property and contraband -- Return of seized property.**
7447 (1)
(a) Except as provided in Subsection (1)(b), if a prosecuting attorney determines that seized property no longer needs to be retained as evidence under Chapter 11c, Retention of Evidence, the prosecuting attorney may:
- 7450 (i) petition the court to apply the property that is money towards restitution, fines, fees, or monetary judgments owed by the owner of the property;
- 7452 (ii) petition the court for an order transferring ownership of weapons to the agency with custody for the agency's use and disposal in accordance with Section 77-11a-403 if the owner:
- 7455 (A) is the individual who committed the offense for which the weapon was seized; or
7457 (B) may not lawfully possess the weapon; or
7458 (iii) notify the agency with custody of the property or contraband that:
- 7459 (A) the property may be returned to the owner in accordance with Section 77-11a-301 if the owner may lawfully possess the property; or
7461 (B) the contraband may be disposed of or destroyed.
- 7462 (b) If a prosecuting attorney determines that a firearm seized from an individual as a result of an offense committed under Subsection [~~76-10-529(2)(a)(i)~~] 76-11-218(2)(a) no longer needs to be retained for court proceedings, the prosecuting attorney shall notify the agency with custody of the firearm that the property shall be returned to the individual if the individual may lawfully possess the firearm.
- 7467 (2) Before returning a firearm to an individual, the agency returning the firearm shall confirm, through the Bureau of Criminal Identification, that the individual is eligible to lawfully possess and receive firearms.
- 7470 (3)
(a) Except as provided in Subsection (3)(b), if the agency is unable to locate the owner of the property or the owner is not entitled to lawfully possess the property, the agency may:
- 7473 (i) apply the property to a public interest use;
7474 (ii) sell the property at public auction and apply the proceeds of the sale to a public interest use; or
7476 (iii) destroy the property if the property is unfit for a public interest use or for sale.
- 7477 (b) If the property described in Subsection (3)(a) is a firearm, the agency shall dispose of the firearm in accordance with Section 77-11a-403.
- 7479

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(4) Before applying the property or the proceeds from the sale of the property to a public interest use, the agency shall obtain from the legislative body of the agency's jurisdiction:

7481 (a) permission to apply the property or the proceeds to public interest use; and

7482 (b) the designation and approval of the public interest use of the property or the proceeds.

7483 (5) If a peace officer seizes property that at the time of seizure is held by a pawn or secondhand business in the course of the pawn or secondhand business's business, the provisions of Section 13-32a-116 shall apply to the disposition of the property.

7486 Section 127. Section 77-11a-403 is amended to read:

7487 **77-11a-403. Disposition of firearms no longer needed as evidence.**

7488 (1) As used in this section:

7489 (a) "Confiscated or unclaimed firearm" means a firearm that is subject to disposal by an agency under Section [~~53-5e-202~~] 53-5a-503 or 77-11a-402.

7491 (b) "Department" means the Department of Public Safety created in Section 53-1-103.

7492 (c) "Federally licensed firearms dealer" means a person:

7493 (i) licensed as a dealer under 18 U.S.C. Sec. 923; and

7494 (ii) engaged in the business of selling firearms.

7495 (d) "State-approved dealer" means the federally licensed firearms dealer that contracts with the department under Subsection (4).

7497 (2) An agency shall dispose of a confiscated or unclaimed firearm by:

7498 (a) selling or destroying the confiscated or unclaimed firearm in accordance with Subsection (3);

7500 (b) giving the confiscated or unclaimed firearm to the state-approved dealer to sell or destroy in accordance with Subsection (4) and the agreement between the state-approved dealer and the department; or

7503 (c) after the agency obtains approval from the legislative body of the agency's jurisdiction, transferring the confiscated or unclaimed firearm to the Bureau of Forensic Services, created in Section 53-10-401, or another public forensic laboratory for testing.

7507 (3)

(a) An agency that elects to dispose of a confiscated or unclaimed firearm under Subsection (2)(a) shall:

7509 (i) sell the confiscated or unclaimed firearm to a federally licensed firearms dealer and apply the proceeds from the sale to a public interest use; or

7511 (ii) destroy the firearm, if the agency determines that:

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- 7512 (A) the condition of a confiscated or unclaimed firearm makes the firearm unfit for sale; or
7514 (B) the confiscated or unclaimed firearm is associated with a notorious crime.
- 7515 (b) Before an agency applies the proceeds of a sale of a confiscated or unclaimed firearm to a public
interest use, the agency shall obtain from the legislative body of the agency's jurisdiction:
- 7518 (i) permission to apply the proceeds of the sale to a public interest use; and
7519 (ii) the designation and approval of the public interest use to which the agency applies the proceeds.
- 7521 (4)
(a)
(i) The department shall, in accordance with Title 63G, Chapter 6a, Utah Procurement Code,
contract with a federally licensed firearms dealer to sell or destroy all confiscated or unclaimed
firearms in the state.
- 7524 (ii) The term of an agreement executed in accordance with this Subsection (4) may not exceed five
years.
- 7526 (iii) Nothing in this Subsection (4) prevents the department from contracting with the same
federally licensed firearms dealer more than once.
- 7528 (b) An agreement executed in accordance with Subsection (4)(a) shall:
- 7529 (i) address the amount of money that the federally licensed firearms dealer is entitled to retain from the
sale of each confiscated or unclaimed firearm as compensation for the federally licensed firearms
dealer's performance under the agreement;
- 7532 (ii) require the federally licensed firearms dealer to donate, on behalf of the state, all proceeds from the
sale of a confiscated or unclaimed firearm, except the amount described in Subsection (4)(b)(i), to
an organization that:
- 7535 (A) is exempt from taxation under Section 501(c)(3), Internal Revenue Code;
7536 (B) complies with any applicable licensing or registration requirements in the state;
7537 (C) primarily helps the families of law enforcement officers in the state who die in the line of duty;
7539 (D) gives financial assistance to the families of law enforcement officers in the state who die in the line
of duty; and
7541 (E) provides other assistance to children of active law enforcement officers, including scholarships;
- 7543 (iii) state that if the federally licensed firearms dealer determines that the condition of a confiscated
or unclaimed firearm makes the firearm unfit for sale, the federally licensed firearms dealer shall
destroy the firearm; and

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7546 (iv) provide a procedure by which the department can ensure that the federally licensed firearms dealer
7547 complies with the provisions of the agreement and applicable law.

7549 Section 128. Section 77-11b-102 is amended to read:

7550 **77-11b-102. Property subject to forfeiture.**

7551 (1)

(a) Except as provided in Subsection (2), (3), (4), or (5), an agency may seek to forfeit:

7553 (i) seized property that was used to facilitate the commission of an offense that is a violation of
federal or state law; or

7555 (ii) seized proceeds.

7556 (b) An agency, or the prosecuting attorney, may not forfeit the seized property of an innocent owner or
an interest holder.

7558 (2) If seized property is used to facilitate an offense that is a violation of Section 76-10-1204,
76-10-1205, 76-10-1206, or 76-10-1222, an agency may not forfeit the property if the forfeiture
would constitute a prior restraint on the exercise of an affected party's rights under the First
Amendment to the Constitution of the United States or Utah Constitution, Article I, Section 15,
or would otherwise unlawfully interfere with the exercise of the party's rights under the First
Amendment to the Constitution of the United States or Utah Constitution, Article I, Section 15.

7565 (3) If a motor vehicle is used in an offense that is a violation of Section 41-6a-502, 41-6a-517, a
local ordinance that complies with the requirements of Subsection 41-6a-510(1), Subsection
76-5-102.1(2)(b), or Section 76-5-207, an agency may not seek forfeiture of the motor vehicle,
unless:

7569 (a) the operator of the vehicle has previously been convicted of an offense committed after May 12,
2009, that is:

7571 (i) a felony driving under the influence violation under Section 41-6a-502 or Subsection 76-5-102.1(2)
(a);

7573 (ii) a felony violation under Subsection 76-5-102.1(2)(b);

7574 (iii) a violation under Section 76-5-207; or

7575 (iv) operating a motor vehicle with any amount of a controlled substance in an individual's body and
causing serious bodily injury or death, as codified before May 4, 2022, Laws of Utah 2021, Chapter
236, Section 1, Subsection 58-37-8(2)(g); or

7579 (b) the operator of the vehicle was driving on a denied, suspended, revoked, or disqualified license and:

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- 7581 (i) the denial, suspension, revocation, or disqualification under Subsection (3)(b)(ii) was imposed
because of a violation under:
- 7583 (A) Section 41-6a-502;
- 7584 (B) Section 41-6a-517;
- 7585 (C) a local ordinance that complies with the requirements of Subsection 41-6a-510(1);
- 7587 (D) Section 41-6a-520.1;
- 7588 (E) operating a motor vehicle with any amount of a controlled substance in an individual's body and
causing serious bodily injury or death, as codified before May 4, 2022, Laws of Utah 2021, Chapter
236, Section 1, Subsection 58-37-8(2)(g);
- 7592 (F) Section 76-5-102.1;
- 7593 (G) Section 76-5-207; or
- 7594 (H) a criminal prohibition as a result of a plea bargain after having been originally charged with
violating one or more of the sections or ordinances described in Subsections (3)(b)(i)(A) through
(G); or
- 7597 (ii) the denial, suspension, revocation, or disqualification described in Subsection (3)(b)(i):
- 7599 (A) is an extension imposed under Subsection 53-3-220(2) of a denial, suspension, revocation, or
disqualification; and
- 7601 (B) the original denial, suspension, revocation, or disqualification was imposed because of a violation
described in Subsection (3)(b)(i).
- 7603 (4) If a peace officer seizes property incident to an arrest solely for possession of a controlled substance
under Subsection 58-37-8(2)(a)(i) but not Subsection 58-37-8(2)(b)(i), an agency may not seek to
forfeit the property that was seized in accordance with the arrest.
- 7607 (5) If a peace officer seizes an individual's firearm as the result of an offense under Section
[76-10-529] 76-11-218, an agency may not seek to forfeit the individual's firearm if the individual
may lawfully possess the firearm.
- 7610 Section 129. Section 77-11d-101 is amended to read:
- 7611 **77-11d-101. Definitions.**
As used in this chapter:
- 7613 (1) "Interest holder" means the same as that term is defined in Section 77-11a-101.
- 7614 (2)
- (a) "Lost or mislaid property":

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- 7615 (i) means any property that comes into the possession of a peace officer or law enforcement agency:
7617 (A) that is not claimed by anyone who is identified as the owner of the property; or
7618 (B) for which no owner or interest holder can be found after a reasonable and diligent search;
7620 (ii) includes any property received by a peace officer or law enforcement agency from a person
claiming to have found the property; and
7622 (iii) does not include property seized by a peace officer in accordance with Chapter 11a, Seizure of
Property and Contraband.
- 7624 (b) "Lost or mislaid property" includes a firearm or other dangerous weapon received by a law
enforcement agency at an airport under Subsection [~~76-10-529(6)~~] 76-11-218(7).
- 7626 (3) "Owner" means the same as that term is defined in Section 77-11a-101.
- 7627 (4) "Public interest use" means:
- 7628 (a) use by a governmental agency as determined by the agency's legislative body; or
7629 (b) donation to a nonprofit charity registered with the state.
- 7630 Section 130. Section 77-11d-105 is amended to read:
- 7631 **77-11d-105. Disposition of unclaimed property.**
- 7632 (1)
- (a) Except as provided in Subsection (6), if the owner of any lost or mislaid property cannot be
determined or notified, or if the owner of the property is determined and notified, and fails to appear
and claim the property after three months of the property's receipt by the local law enforcement
agency, the agency shall:
- 7636 (i) publish notice of the intent to dispose of the unclaimed property on Utah's Public Legal Notice
Website established in Subsection 45-1-101(2)(b);
7638 (ii) post a similar notice on the public website of the political subdivision within which the law
enforcement agency is located; and
7640 (iii) post a similar notice in a public place designated for notice within the law enforcement agency.
- 7642 (b) The notice shall:
- 7643 (i) give a general description of the item; and
7644 (ii) the date of intended disposition.
- 7645 (c) The agency may not dispose of the lost or mislaid property until at least eight days after the date of
publication and posting.
- 7647 (2)

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- (a) If no claim is made for the lost or mislaid property within nine days of publication and posting, the agency shall notify the person who turned the property over to the local law enforcement agency, if it was turned over by a person under Section 77-11d-103.
- 7651 (b) Except as provided in Subsection (4), if that person has complied with the provisions of this chapter, the person may take the lost or mislaid property if the person:
- 7653 (i) pays the costs incurred for advertising and storage; and
- 7654 (ii) signs a receipt for the item.
- 7655 (3) If the person who found the lost or mislaid property fails to take the property under the provisions of this chapter, the agency shall:
- 7657 (a) apply the property to a public interest use as provided in Subsection (4);
- 7658 (b) sell the property at public auction and apply the proceeds of the sale to a public interest use; or
- 7660 (c) destroy the property if it is unfit for a public interest use or sale.
- 7661 (4)
- (a) Before applying the lost or mislaid property to a public interest use, the agency having possession of the property shall obtain from the agency's legislative body:
- 7663 (i) permission to apply the property to a public interest use; and
- 7664 (ii) the designation and approval of the public interest use of the property.
- 7665 (b) If the agency is a private law enforcement agency as defined in Subsection 53-19-102(4), the agency may apply the lost or mislaid property to a public interest use as provided in Subsection (4)(a) after obtaining the permission, designation, and approval of the legislative body of the municipality in which the agency is located.
- 7669 (5) Any person employed by a law enforcement agency who finds property may not claim or receive property under this section.
- 7671 (6)
- (a) If the lost or mislaid property is a firearm or other dangerous weapon received by a law enforcement agency under Subsection [~~76-10-529(6)~~] 76-11-218(7), the law enforcement agency may dispose of the firearm or other dangerous weapon three months after the property's receipt by the law enforcement agency if the owner of the firearm or other dangerous weapon, or the owner's agent:
- 7676 (i) fails to retrieve the firearm or other dangerous weapon; or
- 7677 (ii) is legally prohibited from possessing the firearm or other dangerous weapon.
- 7678

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(b) A law enforcement agency may dispose of a firearm under Subsection (6)(a) by following the procedures described in Section 77-11a-403, disposition of firearms no longer needed as evidence.

7681 Section 131. Section 77-36-1 is amended to read:

7682 **77-36-1. Definitions.**

As used in this chapter:

7684 (1) "Cohabitant" means the same as that term is defined in Section 78B-7-102.

7685 (2) "Department" means the Department of Public Safety.

7686 (3) "Divorced" means an individual who has obtained a divorce under Title 81, Chapter 4, Part 4, Divorce.

7688 (4)

(a) "Domestic violence" or "domestic violence offense" means any criminal offense involving violence or physical harm or threat of violence or physical harm, or any attempt, conspiracy, or solicitation to commit a criminal offense involving violence or physical harm, when committed by one cohabitant against another.

7692 (b) "Domestic violence" or "domestic violence offense" includes the commission of or attempt to commit, any of the following offenses by one cohabitant against another:

7694 (i) aggravated assault under Section 76-5-103;

7695 (ii) aggravated cruelty to an animal under Subsection 76-9-301(4), with the intent to harass or threaten the other cohabitant;

7697 (iii) assault under Section 76-5-102;

7698 (iv) criminal homicide under Section 76-5-201;

7699 (v) harassment under Section 76-5-106;

7700 (vi) electronic communication harassment under Section 76-9-201;

7701 (vii) kidnapping, child kidnapping, or aggravated kidnapping under Sections 76-5-301, 76-5-301.1, and 76-5-302;

7703 (viii) mayhem under Section 76-5-105;

7704 (ix) propelling a bodily substance or material, as described in Section 76-5-102.9

7705 (x) sexual offenses under Title 76, Chapter 5, Part 4, Sexual Offenses, and [-]sexual exploitation of a minor and aggravated sexual exploitation of a minor, as described in Sections 76-5b-201 and 76-5b-201.1;

7708 (xi) stalking under Section 76-5-106.5;

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- 7709 (xii) unlawful detention and unlawful detention of a minor under Section 76-5-304;
- 7710 (xiii) violation of a protective order or ex parte protective order under Section 76-5-108;
- 7712 (xiv) an offense against property under Title 76, Chapter 6, Part 1, Property Destruction, Title 76, Chapter 6, Part 2, Burglary and Criminal Trespass, or Title 76, Chapter 6, Part 3, Robbery;
- 7715 [~~(xv)~~ possession of a deadly weapon with criminal intent under Section 76-10-507;]
- 7716 [~~(xvi)~~ discharge of a firearm from a vehicle, near a highway, or in the direction of any person, building, or vehicle under Section 76-10-508;]
- 7718 [~~(xvii)~~ (xv) disorderly conduct under Section 76-9-102, if a conviction or adjudication of disorderly conduct is the result of a plea agreement in which the perpetrator was originally charged with a domestic violence offense otherwise described in this Subsection (4), except that a conviction or adjudication of disorderly conduct as a domestic violence offense, in the manner described in this Subsection [~~(4)(p)~~ (4)(b)(xv)], does not constitute a misdemeanor crime of domestic violence under 18 U.S.C. Sec. 921, and is exempt from the federal Firearms Act, 18 U.S.C. Sec. 921 et seq.;
- 7726 [~~(xviii)~~ (xvi) child abuse under Section 76-5-114;
- 7727 [~~(xix)~~ threatening use of a dangerous weapon under Section 76-10-506;]
- 7728 [~~(xx)~~ (xvii) threatening violence under Section 76-5-107;
- 7729 [~~(xxi)~~ (xviii) tampering with a witness under Section 76-8-508;
- 7730 [~~(xxii)~~ (xix) retaliation against a witness, victim, or informant under Section 76-8-508.3;
- 7732 [~~(xxiii)~~ (xx) receiving or soliciting a bribe as a witness under Section 76-8-508.7;
- 7733 [~~(xxiv)~~ (xxi) unlawful distribution of an intimate image under Section 76-5b-203;
- 7734 [~~(xxv)~~ (xxii) unlawful distribution of a counterfeit intimate image under Section 76-5b-205;
- 7736 [~~(xxvi)~~ (xxiii) sexual battery under Section 76-9-702.1;
- 7737 [~~(xxvii)~~ (xxiv) voyeurism under Section 76-9-702.7;
- 7738 [~~(xxviii)~~ (xxv) damage to or interruption of a communication device under Section 76-6-108;[~~or~~]
- 7740 (xxvi) threatening with or using a dangerous weapon in a fight or quarrel under Section 76-11-207;
- 7742 (xxvii) possession of a dangerous weapon with criminal intent under Section 76-11-208;
- 7744 (xxviii) improper discharging of a dangerous weapon under Section 76-11-209; or
- 7745 (xxix) an offense under Subsection 78B-7-806(1).
- 7746 (5) "Jail release agreement" means the same as that term is defined in Section 78B-7-801.
- 7747 (6) "Jail release court order" means the same as that term is defined in Section 78B-7-801.
- 7748 (7) "Marital status" means married and living together, divorced, separated, or not married.

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- 7749 (8) "Married and living together" means a couple whose marriage was solemnized under Section 81-2-305 or 81-2-407 and who are living in the same residence.
- 7751 (9) "Not married" means any living arrangement other than married and living together, divorced, or separated.
- 7753 (10) "Protective order" includes an order issued under Subsection 78B-7-804(3).
- 7754 (11) "Pretrial protective order" means a written order:
- 7755 (a) specifying and limiting the contact a person who has been charged with a domestic violence offense may have with an alleged victim or other specified individuals; and
- 7757 (b) specifying other conditions of release under Section 78B-7-802 or 78B-7-803, pending trial in the criminal case.
- 7759 (12) "Sentencing protective order" means a written order of the court as part of sentencing in a domestic violence case that limits the contact an individual who is convicted or adjudicated of a domestic violence offense may have with a victim or other specified individuals under Section 78B-7-804.
- 7763 (13) "Separated" means a couple who have had their marriage solemnized under Section 81-2-305 or 81-2-407 and who are not living in the same residence.
- 7765 (14) "Victim" means a cohabitant who has been subjected to domestic violence.
- 7766 Section 132. Section 77-36-2.1 is amended to read:
- 7767 **77-36-2.1. Duties of law enforcement officers -- Notice to victims -- Lethality assessments.**
- 7769 (1) As used in this section:[)]
- 7770 (a) "Criminal justice system victim advocate" means the same as that term is defined in Section 77-38-403.
- 7772 (b)
- 7775 (i) "Dating relationship" means a social relationship of a romantic or intimate nature, or a relationship which has romance or intimacy as a goal by one or both parties, regardless of whether the relationship involves sexual intimacy.
- 7777 (ii) "Dating relationship" does not include casual fraternization in a business, educational, or social context.
- 7777 (c) "Intimate partner" means an emancipated individual under Section 15-2-1 or an individual who is 16 years old or older who:
- 7779 (i) is or was a spouse of the other party;
- 7780 (ii) is or was living as if a spouse of the other party;

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- 7781 (iii) has or had one or more children in common with the other party;
- 7782 (iv) is the biological parent of the other party's unborn child;
- 7783 (v) is or was in a consensual sexual relationship with the other party; or
- 7784 (vi) is or was in a dating relationship with the other party.
- 7785 (d) "Nongovernment organization victim advocate" means the same as that term is defined in Section 77-38-403.
- 7787 (e) "Primary purpose domestic violence organization" means a contract provider of domestic violence services as described in Section 80-2-301.
- 7789 (2) A law enforcement officer who responds to an allegation of domestic violence shall:
- 7790 (a) use all reasonable means to protect the victim and prevent further violence, including:
- 7791 (i) taking the action that, in the officer's discretion, is reasonably necessary to provide for the safety of the victim and any family or household member;
- 7793 (ii) confiscating the weapon or weapons involved in the alleged domestic violence;
- 7794 (iii) making arrangements for the victim and any child to obtain emergency housing or shelter;
- 7796 (iv) providing protection while the victim removes essential personal effects;
- 7797 (v) arrange, facilitate, or provide for the victim and any child to obtain medical treatment;
- 7799 (vi) arrange, facilitate, or provide the victim with immediate and adequate notice of the rights of victims and of the remedies and services available to victims of domestic violence, in accordance with Subsection (3); and
- 7802 (vii) providing the pamphlet created by the department under Section [~~53-5e-201~~] 53-5a-502 to the victim if the allegation of domestic violence:
- 7804 (A) includes a threat of violence as described in Section 76-5-107;
- 7805 (B) results, or would result, in the owner cohabitant becoming a restricted person under Section [~~76-10-503~~] 76-11-302 or 76-11-303; or
- 7807 (C) is accompanied by a completed lethality assessment that demonstrates the cohabitant is at high risk of being further victimized; and
- 7809 (b) if the allegation of domestic violence is against an intimate partner, complete the lethality assessment protocols described in this section.
- 7811 (3)

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- (a) A law enforcement officer shall give written notice to the victim in simple language, describing the rights and remedies available under this chapter, Title 78B, Chapter 7, Part 6, Cohabitant Abuse Protective Orders, and Title 78B, Chapter 7, Part 2, Child Protective Orders.
- 7815 (b) The written notice shall include:
- 7816 (i) a statement that the forms needed in order to obtain an order for protection are available from the court clerk's office in the judicial district where the victim resides or is temporarily domiciled;
- 7819 (ii) a list of shelters, services, and resources available in the appropriate community, together with telephone numbers, to assist the victim in accessing any needed assistance; and
- 7822 (iii) the information required to be provided to both parties in accordance with Subsections 78B-7-802(8) and (9) .
- 7824 (4) If a weapon is confiscated under this section, the law enforcement agency shall return the weapon to the individual from whom the weapon is confiscated if a domestic violence protective order is not issued or once the domestic violence protective order is terminated.
- 7828 (5) A law enforcement officer shall complete a lethality assessment form by asking the victim:
- 7830 (a) if the aggressor has ever used a weapon against the victim or threatened the victim with a weapon;
- 7832 (b) if the aggressor has ever threatened to kill the victim or the victim's children;
- 7833 (c) if the victim believes the aggressor will try to kill the victim;
- 7834 (d) if the aggressor has ever tried to choke the victim;
- 7835 (e) if the aggressor has a gun or could easily get a gun;
- 7836 (f) if the aggressor is violently or constantly jealous, or controls most of the daily activities of the victim;
- 7838 (g) if the victim left or separated from the aggressor after they were living together or married;
- 7840 (h) if the aggressor is unemployed;
- 7841 (i) if the aggressor has ever attempted suicide, to the best of the victim's knowledge;
- 7842 (j) if the victim has a child that the aggressor believes is not the aggressor's biological child;
- 7844 (k) if the aggressor follows or spies on the victim, or leaves threatening messages for the victim; and
- 7846 (l) if there is anything else that worries the victim about the victim's safety and, if so, what worries the victim.
- 7848 (6) A law enforcement officer shall comply with Subsection (7) if:
- 7849 (a) the victim answers affirmatively to any of the questions in Subsections (5)(a) through (d);
- 7851

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- (b) the victim answers negatively to the questions in Subsections (5)(a) through (d), but affirmatively to at least four of the questions in Subsections (5)(e) through (k); or
- 7853 (c) as a result of the victim's response to the question in Subsection (5)(l), the law enforcement officer believes the victim is in a potentially lethal situation.
- 7855 (7) If the criteria in Subsections (6)(a), (b), or (c) are met, the law enforcement officer shall:
- 7856 (a) advise the victim of the results of the assessment;
- 7857 (b) refer the victim to a nongovernment organization victim advocate at a primary purpose domestic violence organization; and
- 7859 (c) refer the victim to a criminal justice system victim advocate if the responding law enforcement agency has a criminal justice system victim advocate available.
- 7861 (8) If a victim does not or is unable to provide information to a law enforcement officer sufficient to allow the law enforcement officer to complete a lethality assessment form, or does not speak or is unable to speak with a nongovernment organization victim advocate, the law enforcement officer shall document this information on the lethality assessment form and submit the information to the Department of Public Safety under Subsection (9).
- 7867 (9)
- (a) Except as provided in Subsection (9)(b), a law enforcement officer shall submit the results of a lethality assessment to the Department of Public Safety while on scene.
- 7870 (b) If a law enforcement officer is not reasonably able to submit the results of a lethality assessment while on scene, the law enforcement officer shall submit the results of the lethality assessment to the Department of Public Safety as soon as practicable.
- 7873 (c)
- (i) Before the reporting mechanism described in Subsection (10)(a) is developed, a law enforcement officer shall submit the results of a lethality assessment to the Department of Public Safety using means prescribed by the Department of Public Safety.
- 7877 (ii) After the reporting mechanism described in Subsection (10)(a) is developed, a law enforcement officer shall submit the results of a lethality assessment to the Department of Public Safety using that reporting mechanism.
- 7880 (10) The Department of Public Safety shall:
- 7881 (a) as soon as practicable, develop and maintain a reporting mechanism by which a law enforcement officer will submit the results of a lethality assessment as required by Subsection (9);

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- 7884 (b) provide prompt analytical support to a law enforcement officer who submits the results of a lethality
assessment using the reporting mechanism described in Subsection (10)(a); and
- 7887 (c) create and maintain a database of lethality assessment data provided under this section.
- 7889 (11)
- (a) Subject to Subsection (11)(b), a law enforcement officer shall include the results of a lethality
assessment and any related, relevant analysis provided by the Department of Public Safety under
Subsection (10), with:
- 7892 (i) a probable cause statement submitted in accordance with Rule 9 of the Utah Rules of Criminal
Procedure; and
- 7894 (ii) an incident report prepared in accordance with Section 77-36-2.2.
- 7895 (b) In a probable cause statement or incident report, a law enforcement officer may not include
information about how or where a victim was referred under Subsection (7)(b).
- 7898 Section 133. Section 77-40a-205 is amended to read:
- 7899 **77-40a-205. Automatic expungement of state records for a clean slate case.**
- 7900 (1) A court shall issue an order of expungement, without the filing of a petition, for all records of the
case that are held by the court and the bureau if:
- 7902 (a) on and after October 1, 2024, but before January 1, 2026, the individual submitted a form requesting
expungement of a case as described in Section 77-40a-204;
- 7904 (b) the case is eligible for expungement under this section; and
- 7905 (c) the prosecuting agency does not object to the expungement of the case as described in Subsection
(6).
- 7907 (2) Except as otherwise provided in Subsection (3), a case is eligible for expungement under this section
if:
- 7909 (a)
- (i) each conviction within the case is a conviction for:
- 7910 (A) a misdemeanor offense for possession of a controlled substance in violation of Subsection
58-37-8(2)(a)(i);
- 7912 (B) a class B misdemeanor offense;
- 7913 (C) a class C misdemeanor offense; or
- 7914 (D) an infraction; and
- 7915 (ii) the following time periods have passed after the day on which the individual is adjudicated:

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- 7917 (A) at least five years for the conviction of a class C misdemeanor offense or an infraction;
- 7919 (B) at least six years for the conviction of a class B misdemeanor offense; or
- 7920 (C) at least seven years for the conviction of a class A misdemeanor offense for possession of a
controlled substance in violation of Subsection 58-37-8(2)(a)(i); or
- 7923 (b)
- (i) the case is dismissed as a result of a successful completion of a plea in abeyance agreement governed
by Subsection 77-2a-3(2)(b) or the case is dismissed without prejudice;
- 7926 (ii) each charge within the case is:
- 7927 (A) a misdemeanor offense for possession of a controlled substance in violation of Subsection
58-37-8(2)(a)(i);
- 7929 (B) a class B misdemeanor offense;
- 7930 (C) a class C misdemeanor offense; or
- 7931 (D) an infraction; and
- 7932 (iii) the following time periods have passed after the day on which the case is dismissed:
- 7934 (A) at least five years for a charge in the case for a class C misdemeanor offense or an infraction;
- 7936 (B) at least six years for a charge in the case for a class B misdemeanor offense; or
- 7937 (C) at least seven years for a charge in the case for a class A misdemeanor offense for possession of a
controlled substance in violation of Subsection 58-37-8(2)(a)(i).
- 7940 (3) A case is not eligible for expungement under this section if:
- 7941 (a) the individual has a total number of convictions in courts of this state that exceed the limits under
Subsection 77-40a-303(4) or (5) without taking into consideration:
- 7943 (i) the exception in Subsection 77-40a-303(7); or
- 7944 (ii) any infraction, traffic offense, or minor regulatory offense;
- 7945 (b) there is a criminal proceeding for a misdemeanor or felony offense pending in a court of this state
against the individual, unless the proceeding is for a traffic offense;
- 7947 (c) for an individual seeking an automatic expungement on and after January 1, 2025, the individual
is incarcerated in the state prison or on probation or parole that is supervised by the Department of
Corrections;
- 7950 (d) the case resulted in the individual being found not guilty by reason of insanity;
- 7951 (e) the case establishes a criminal accounts receivable that:
- 7952

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- (i) has been entered as a civil accounts receivable or a civil judgment of restitution and transferred to the Office of State Debt Collection under Section 77-18-114; or
- 7954 (ii) has not been satisfied according to court records; or
- 7955 (f) the case resulted in a plea held in abeyance or a conviction for the following offenses:
- 7956 (i) any of the offenses listed in Subsection 77-40a-303(2)(a);
- 7957 (ii) an offense against the person in violation of Title 76, Chapter 5, Offenses Against the Individual;
- 7959 (iii) a weapons offense in violation of [~~Title 76, Chapter 10, Part 5, Weapons~~] Title 76, Chapter 11, Weapons;
- 7961 (iv) sexual battery in violation of Section 76-9-702.1;
- 7962 (v) an act of lewdness in violation of Section 76-9-702 or 76-9-702.5;
- 7963 (vi) an offense in violation of Title 41, Chapter 6a, Part 5, Driving Under the Influence and Reckless Driving;
- 7965 (vii) damage to or interruption of a communication device in violation of Section 76-6-108;
- 7967 (viii) a domestic violence offense as defined in Section 77-36-1; or
- 7968 (ix) any other offense classified in the Utah Code as a felony or a class A misdemeanor other than a class A misdemeanor conviction for possession of a controlled substance in violation of Subsection 58-37-8(2)(a)(i).
- 7971 (4) A prosecuting agency that has complied with Rule 42 of the Utah Rules of Criminal Procedure shall receive notice on a monthly basis for any case prosecuted by that agency that appears to be eligible for automatic expungement under this section.
- 7974 (5) Within 35 days after the day on which the notice described in Subsection (4) is sent, the prosecuting agency shall provide written notice in accordance with Rule 42 of the Utah Rules of Criminal Procedure if the prosecuting agency objects to an automatic expungement for any of the following reasons:
- 7978 (a) the prosecuting agency believes that the case is not eligible for expungement under this section after reviewing the agency record;
- 7980 (b) the individual has not paid restitution to the victim as ordered by the court; or
- 7981 (c) the prosecuting agency has a reasonable belief, grounded in supporting facts, that an individual involved in the case is continuing to engage in criminal activity within or outside of the state.
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(6) If a prosecuting agency provides written notice of an objection for a reason described in Subsection (5) within 35 days after the day on which the notice under Subsection (4) is sent, the court may not proceed with automatic expungement of the case.

7987 (7) If 35 days pass after the day on which the notice described in Subsection (4) is sent without the prosecuting agency providing written notice of an objection under Subsection (5), the court shall proceed with automatic expungement of the case.

7990 (8) If a court issues an order of expungement under Subsection (1), the court shall:

7991 (a) expunge all records of the case held by the court in accordance with Section 77-40a-401; and

7993 (b) notify the bureau and the prosecuting agency identified in the case, based on information available to the court, of the order of expungement.

7995 Section 134. Section 77-40a-403 is amended to read:

7996 **77-40a-403. Release and use of expunged records -- Agencies.**

7997 (1)

(a) An agency with an expunged record, or any employee of an agency with an expunged record, may not knowingly or intentionally divulge any information contained in the expunged record to any person, or another agency, without a court order unless:

8001 (i) specifically authorized by Subsection (4) or Section 77-40a-404; or

8002 (ii) subject to Subsection (1)(b), the information in an expunged record is being shared with another agency through a records management system that both agencies use for the purpose of record management.

8005 (b) An agency with a records management system may not disclose any information in an expunged record to another agency or person, or allow another agency or person access to an expunged record, if that agency or person does not use the records management system for the purpose of record management.

8009 (2) The following entities or agencies may receive information contained in expunged records upon specific request:

8011 (a) the Board of Pardons and Parole;

8012 (b) Peace Officer Standards and Training;

8013 (c) federal authorities if required by federal law;

8014 (d) the State Board of Education;

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- (e) the Commission on Criminal and Juvenile Justice, for purposes of investigating applicants for judicial office; and
- 8017 (f) a research institution or an agency engaged in research regarding the criminal justice system if:
- 8019 (i) the research institution or agency provides a legitimate research purpose for gathering information from the expunged records;
- 8021 (ii) the research institution or agency enters into a data sharing agreement with the court or agency with custody of the expunged records that protects the confidentiality of any identifying information in the expunged records;
- 8024 (iii) any research using expunged records does not include any individual's name or identifying information in any product of that research; and
- 8026 (iv) any product resulting from research using expunged records includes a disclosure that expunged records were used for research purposes.
- 8028 (3) Except as otherwise provided by this section or by court order, a person, an agency, or an entity authorized by this section to view expunged records may not reveal or release any information obtained from the expunged records to anyone outside the specific request, including distribution on a public website.
- 8032 (4) A prosecuting attorney may communicate with another prosecuting attorney, or another prosecutorial agency, regarding information in an expunged record that includes a conviction, or a charge dismissed as a result of a successful completion of a plea in abeyance agreement, for:
- 8036 (a) stalking as described in Section 76-5-106.5;
- 8037 (b) a domestic violence offense as defined in Section 77-36-1;
- 8038 (c) an offense that would require the individual to register as a sex offender, kidnap offender, or child abuse offender as defined in Section 77-41-102; or
- 8040 (d) a weapons offense under [~~Title 76, Chapter 10, Part 5, Weapons~~] Title 76, Chapter 11, Weapons.
- 8042 (5) Except as provided in Subsection (7), a prosecuting attorney may not use an expunged record for the purpose of a sentencing enhancement or as a basis for charging an individual with an offense that requires a prior conviction.
- 8045 (6) The bureau may also use the information in the bureau's index as provided in Section [~~53-5-704~~] 53-5a-303.
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(7) If an individual is charged with a felony, or an offense eligible for enhancement based on a prior conviction, after obtaining an order of expungement, the prosecuting attorney may petition the court in which the individual is charged to open the expunged records upon a showing of good cause.

8051 (8)

(a) For judicial sentencing, a court may order any records expunged under this chapter or Section 77-27-5.1 to be opened and admitted into evidence.

8053 (b) The records are confidential and are available for inspection only by the court, parties, counsel for the parties, and any other person who is authorized by the court to inspect them.

8056 (c) At the end of the action or proceeding, the court shall order the records expunged again.

8058 (d) Any person authorized by this Subsection (8) to view expunged records may not reveal or release any information obtained from the expunged records to anyone outside the court.

8061 (9) Records released under this chapter are classified as protected under Section 63G-2-305 and are accessible only as provided under Title 63G, Chapter 2, Part 2, Access to Records, and Subsection 53-10-108(2)(k) for records held by the bureau.

8064 Section 135. Section 78A-6-209 is amended to read:

8065 **78A-6-209. Court records -- Inspection.**

8066 (1) The juvenile court and the juvenile court's probation department shall keep records as required by the board and the presiding judge.

8068 (2) A court record shall be open to inspection by:

8069 (a) the parents or guardian of a child, a minor who is at least 18 years old, other parties in the case, the attorneys, and agencies to which custody of a minor has been transferred;

8072 (b) for information relating to adult offenders alleged to have committed a sexual offense, a felony or class A misdemeanor drug offense, or an offense against the person under Title 76, Chapter 5, Offenses Against the Individual, the State Board of Education for the purpose of evaluating whether an individual should be permitted to obtain or retain a license as an educator or serve as an employee or volunteer in a school, with the understanding that the State Board of Education must provide the individual with an opportunity to respond to any information gathered from the State Board of Education's inspection of the records before the State Board of Education makes a decision concerning licensure or employment;

8081 (c) the Criminal Investigations and Technical Services Division, established in Section 53-10-103, for the purpose of a criminal history background check for the purchase of a firearm and

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establishing good character for issuance of a concealed firearm permit as provided in Section [53-5-704] 53-5a-303;

- 8085 (d) the Division of Child and Family Services for the purpose of Child Protective Services Investigations in accordance with Sections 80-2-602 and 80-2-701 and administrative hearings in accordance with Section 80-2-707;
- 8088 (e) the Division of Licensing and Background Checks for the purpose of conducting a background check in accordance with Section 26B-2-120;
- 8090 (f) for information related to a minor who has committed a sexual offense, a felony, or an offense that if committed by an adult would be a misdemeanor, the Department of Health and Human Services for the purpose of evaluating under the provisions of Subsection 26B-2-406(3) whether a person should be permitted to operate a residential child care without a license or a certificate or to obtain or retain a license to provide child care, with the understanding that the department must provide the individual who committed the offense with an opportunity to respond to any information gathered from the Department of Health and Human Services' inspection of records before the Department of Health and Human Services makes a decision concerning licensure;
- 8100 (g) for information related to a minor who has committed a sexual offense, a felony, or an offense that if committed by an adult would be a misdemeanor, the Department of Health and Human Services to determine whether an individual meets the background screening requirements of Sections 26B-2-238 through 26B-2-241, with the understanding that the department must provide the individual who committed the offense an opportunity to respond to any information gathered from the Department of Health and Human Services' inspection of records before the Department of Health and Human Services makes a decision under that part; and
- 8108 (h) for information related to a minor who has committed a sexual offense, a felony, or an offense that if committed by an adult would be a misdemeanor, the Bureau of Emergency Medical Services to determine whether to grant, deny, or revoke background clearance under Section 53-2d-410 for an individual who is seeking or who has obtained an emergency medical service personnel license under Section 53-2d-402, with the understanding that the Bureau of Emergency Medical Services must provide the individual who committed the offense an opportunity to respond to any information gathered from the inspection of records before the Bureau of Emergency Medical Services makes a determination.

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(3) With the consent of the juvenile court, a court record may be inspected by the child, by persons having a legitimate interest in the proceedings, and by persons conducting pertinent research studies.

8120 (4)

(a) Except as provided in Subsection (4)(b), if a petition is filed charging a minor who is 14 years old or older with an offense that would be a felony if committed by an adult, the juvenile court shall make available to any person upon request the petition, any adjudication or disposition orders, and the delinquency history summary for the minor.

8125 (b) A juvenile court may close the records described in Subsection (4)(a) to the public if the juvenile court finds, on the record, that the records are closed for good cause.

8127 (5) A juvenile probation officer's records and reports of social and clinical studies are not open to inspection, except by consent of the juvenile court, given under rules adopted by the board.

8130 (6) The juvenile court may charge a reasonable fee to cover the costs associated with retrieving a requested record that has been archived.

8132 Section 136. Section 78B-4-511 is amended to read:

8133 **78B-4-511. Regulation of firearms reserved to state -- Lawsuits prohibited.**

8134 (1) As prescribed by Section ~~[76-10-500]~~ 53-5a-102, all authority to regulate firearms is reserved to the state through the Legislature.

8136 (2) A person who lawfully designs, manufactures, markets, advertises, transports, or sells firearms or ammunition to the public may not be sued by the state or any of its political subdivisions for the subsequent use, whether lawfully or unlawfully, of the firearm or ammunition, unless the suit is based on the breach of a contract or warranty for a firearm or ammunition purchased by the state or political subdivision.

8141 Section 137. Section 78B-5-502 is amended to read:

8142 **78B-5-502. Definitions.**

As used in this part:

8144 (1) "Civil accounts receivable" means the same as that term is defined in Section 77-32b-102.

8146 (2) "Civil judgment of restitution" means the same as that term is defined in Section 77-32b-102.

8148 (3) "Curio or relic firearm" means a firearm that:

8149 (a) is of special interest to a collector because of a quality that is not associated with firearms intended for:

8151 (i) sporting use;

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- 8152 (ii) use as an offensive weapon; or
- 8153 (iii) use as a defensive weapon;
- 8154 (b)
- (i) was manufactured at least 50 years before the current date; and
- 8155 (ii) is not a replica of a firearm described in Subsection (3)(b)(i);
- 8156 (c) is certified by the curator of a municipal, state, or federal museum that exhibits firearms to be a curio or relic of museum interest;
- 8158 (d) derives a substantial part of the firearm's monetary value:
- 8159 (i) from the fact that the firearm is:
- 8160 (A) novel;
- 8161 (B) rare; or
- 8162 (C) bizarre; or
- 8163 (ii) because of the firearm's association with an historical:
- 8164 (A) figure;
- 8165 (B) period; or
- 8166 (C) event; and
- 8167 (e) has been designated as a curio or relic firearm by the director of the United States Treasury Department Bureau of Alcohol, Tobacco, and Firearms under 27 C.F.R. Sec. 478.11.
- 8170 [~~3~~] (4) "Debt" means a legally enforceable monetary obligation or liability of an individual, whether arising out of contract, tort, or otherwise.
- 8172 [~~4~~] (5) "Dependent" means the spouse of an individual, and the grandchild or the natural or adoptive child of an individual who derives support primarily from that individual.
- 8174 [~~5~~] (6) "Exempt" means protected, and "exemption" means protection from subjection to a judicial process to collect an unsecured debt.
- 8176 (7) "Firearm" means the same as that term is defined in Section 76-11-101.
- 8177 [~~6~~] (8) "Judicial lien" means a lien on property obtained by judgment or other legal process instituted for the purpose of collecting an unsecured debt.
- 8179 [~~7~~] (9) "Levy" means the seizure of property pursuant to any legal process issued for the purpose of collecting an unsecured debt.
- 8181 [~~8~~] (10) "Lien" means a judicial, or statutory lien, in property securing payment of a debt or performance of an obligation.

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- 8183 [~~(9)~~] (11) "Liquid assets" means deposits, securities, notes, drafts, unpaid earnings not otherwise
exempt, accrued vacation pay, refunds, prepayments, and other receivables.
- 8185 [~~(10)~~] (12) "Security interest" means an interest in property created by contract to secure payment or
performance of an obligation.
- 8187 [~~(11)~~] (13) "Statutory lien" means a lien arising by force of a statute, but does not include a security
interest or a judicial lien.
- 8189 [~~(12)~~] (14) "Value" means fair market value of an individual's interest in property, exclusive of valid
liens.

8191 Section 138. Section 78B-5-505 is amended to read:

8192 **78B-5-505. Property exempt from execution.**

- 8193 (1)
- (a) An individual is entitled to exemption of the following property:
- 8194 (i) a burial plot for the individual and the individual's family;
- 8195 (ii) health aids reasonably necessary to enable the individual or a dependent to work or sustain
health;
- 8197 (iii) benefits that the individual or the individual's dependent have received or are entitled to receive
from any source because of:
- 8199 (A) disability;
- 8200 (B) illness; or
- 8201 (C) unemployment;
- 8202 (iv) benefits paid or payable for medical, surgical, or hospital care to the extent that the benefits are
used by an individual or the individual's dependent to pay for that care;
- 8205 (v) veterans benefits;
- 8206 (vi) money or property received, and rights to receive money or property for child support;
- 8208 (vii) money or property received, and rights to receive money or property for alimony or separate
maintenance, to the extent reasonably necessary for the support of the individual and the
individual's dependents;
- 8211 (viii)
- (A) one:
- 8212 (I) clothes washer and dryer;
- 8213 (II) refrigerator;

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- 8214 (III) freezer;
- 8215 (IV) stove;
- 8216 (V) microwave oven; and
- 8217 (VI) sewing machine;
- 8218 (B) all carpets in use;
- 8219 (C) provisions sufficient for 12 months actually provided for individual or family use;
- 8221 (D) all wearing apparel of every individual and dependent, not including jewelry or furs; and
- 8223 (E) all beds and bedding for every individual or dependent;
- 8224 (ix) except for works of art held by the debtor as part of a trade or business, works of art:
- 8226 (A) depicting the debtor or the debtor and the debtor's resident family; or
- 8227 (B) produced by the debtor or the debtor and the debtor's resident family;
- 8228 (x) proceeds of insurance, a judgment, or a settlement, or other rights accruing as a result of bodily injury of the individual or of the wrongful death or bodily injury of another individual of whom the individual was or is a dependent to the extent that those proceeds are compensatory;
- 8232 (xi) the proceeds or benefits of any life insurance contracts or policies paid or payable to the debtor or any trust of which the debtor is a beneficiary upon the death of the spouse or children of the debtor, provided that the contract or policy has been owned by the debtor for a continuous unexpired period of one year;
- 8236 (xii) the proceeds or benefits of any life insurance contracts or policies paid or payable to the spouse or children of the debtor or any trust of which the spouse or children are beneficiaries upon the death of the debtor, provided that the contract or policy has been in existence for a continuous unexpired period of one year;
- 8240 (xiii) proceeds and avails of any unmatured life insurance contracts owned by the debtor or any revocable grantor trust created by the debtor, excluding any payments made on the contract during the one year immediately preceding a creditor's levy or execution;
- 8244 (xiv) except as provided in Subsection (1)(b), and except for a judgment described in Subsection 75-7-503(2)(c), any money or other assets held for or payable to the individual as an owner, participant, or beneficiary from or an interest of the individual as an owner, participant, or beneficiary in a fund or account, including an inherited fund or account, in a retirement plan or arrangement that is described in Section 401(a), 401(h), 401(k), 403(a), 403(b), 408, 408A,

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409, 414(d), 414(e), or 457, Internal Revenue Code, including an owner's, a participant's, or a beneficiary's interest that arises by inheritance, designation, appointment, or otherwise;

8253 (xv) the interest of or any money or other assets payable to an alternate payee under a qualified domestic relations order as those terms are defined in Section 414(p), Internal Revenue Code;

8256 (xvi) unpaid earnings of the household of the filing individual due as of the date of the filing of a bankruptcy petition in the amount of 1/24 of the Utah State annual median family income for the household size of the filing individual as determined by the Utah State Annual Median Family Income reported by the United States Census Bureau and as adjusted based upon the Consumer Price Index for All Urban Consumers for an individual whose unpaid earnings are paid more often than once a month or, if unpaid earnings are not paid more often than once a month, then in the amount of 1/12 of the Utah State annual median family income for the household size of the individual as determined by the Utah State Annual Median Family Income reported by the United States Census Bureau and as adjusted based upon the Consumer Price Index for All Urban Consumers;

8267 (xvii) except for curio or relic firearms[~~, as defined in Section 76-10-501,~~] any three of the following:

8269 (A) one handgun and ammunition for the handgun not exceeding 1,000 rounds;

8270 (B) one shotgun and ammunition for the shotgun not exceeding 1,000 rounds; and

8271 (C) one shoulder arm and ammunition for the shoulder arm not exceeding 1,000 rounds; and

8273 (xviii) money, not exceeding \$200,000, in the aggregate, that an individual deposits, more than 18 months before the day on which the individual files a petition for bankruptcy or an action is filed by a creditor against the individual, as applicable, in all tax-advantaged accounts for saving for higher education costs on behalf of a particular individual that meets the requirements of Section 529, Internal Revenue Code.

8279 (b)

(i) Any money, asset, or other interest in a fund or account that is exempt from a claim of a creditor of the owner, beneficiary, or participant under Subsection (1)(a)(xiv) does not cease to be exempt after the owner's, participant's, or beneficiary's death by reason of a direct transfer or eligible rollover to an inherited individual retirement account as defined in Section 408(d)(3), Internal Revenue Code.

8285 (ii) Subsections (1)(a)(xiv) and (1)(b)(i) apply to all inherited individual retirement accounts without regard to the date on which the account was created.

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- 8287 (c)
- 8288 (i) The exemption granted by Subsection (1)(a)(xiv) does not apply to:
- 8290 (A) an alternate payee under a qualified domestic relations order, as those terms are defined in Section 414(p), Internal Revenue Code; or
- 8293 (B) amounts contributed or benefits accrued by or on behalf of a debtor within one year before the debtor files for bankruptcy, except amounts directly rolled over from other funds that are exempt from attachment under this section.
- 8297 (ii) The exemptions in Subsections (1)(a)(xi), (xii), and (xiii) do not apply to the secured creditor's interest in proceeds and avails of any matured or unmatured life insurance contract assigned or pledged as collateral for repayment of a loan or other legal obligation.
- 8301 (2)
- 8303 (a) Disability benefits, as described in Subsection (1)(a)(iii)(A), and veterans benefits, as described in Subsection (1)(a)(v), may be garnished on behalf of a victim who is a child if the person receiving the benefits has been convicted of a felony sex offense against the victim and ordered by the sentencing court to pay restitution to the victim.
- 8305 (b) The exemption from execution under this Subsection (2) shall be reinstated upon payment of the restitution in full.
- 8309 (3) The exemptions under this section do not limit items that may be claimed as exempt under Section 78B-5-506.
- 8311 (4)
- 8312 (a) The exemptions described in Subsections (1)(a)(iii), (iv), (vi), (vii), (x), (xii), (xiii), (xiv), (xv), (xvii), and (xviii) do not apply to a civil accounts receivable or a civil judgment of restitution for an individual who is found in contempt under Section 78B-6-317.
- 8314 (b) Subsection (4)(a) does not apply to the benefits described in Subsection (1)(a)(iii) if the individual's dependent received, or is entitled to receive, the benefits.
- 8315 Section 139. Section 78B-6-1107 is amended to read:
- 78B-6-1107. Nuisance -- Drug houses and drug dealing -- Gambling -- Group criminal activity -- Party house -- Prostitution -- Weapons -- Abatement by eviction.**
- (1) Every building or place is a nuisance where:

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- (a) the unlawful sale, manufacture, service, storage, distribution, dispensing, or acquisition occurs of any controlled substance, precursor, or analog specified in Title 58, Chapter 37, Utah Controlled Substances Act;
- 8318 (b) gambling is permitted to be played, conducted, or dealt upon as prohibited in Title 76, Chapter 10, Part 11, Gambling, which creates the conditions of a nuisance as defined in Subsection 78B-6-1101(1);
- 8321 (c) criminal activity is committed in concert with three or more persons as provided in Section 76-3-203.1;
- 8323 (d) criminal activity is committed for the benefit of, at the direction of, or in association with any criminal street gang as defined in Section 76-9-802;
- 8325 (e) criminal activity is committed to gain recognition, acceptance, membership, or increased status with a criminal street gang as defined in Section 76-9-802;
- 8327 (f) parties occur frequently which create the conditions of a nuisance as defined in Subsection 78B-6-1101(1);
- 8329 (g) prostitution or promotion of prostitution is regularly carried on by one or more persons as provided in Title 76, Chapter 10, Part 13, Prostitution; and
- 8331 (h) a violation of [~~Title 76, Chapter 10, Part 5, Weapons~~] an offense under Title 76, Chapter 11, Weapons, occurs on the premises.
- 8333 (2) It is a defense to nuisance under Subsection (1)(a) if the defendant can prove that the defendant is lawfully entitled to possession of a controlled substance.
- 8335 (3) Sections 78B-6-1108 through 78B-6-1114 govern only an abatement by eviction of the nuisance as defined in Subsection (1).

8337 Section 140. Section 78B-6-2301 is amended to read:

8338 **78B-6-2301. Definitions.**

As used in this part:

- 8340 (1) "Directive" means an ordinance, regulation, measure, rule, enactment, order, or policy issued, enacted, or required by a local or state governmental entity.
- 8342 (2) "Firearm" means the same as that term is defined in Section 53-5a-102.
- 8343 (3) "Legislative firearm preemption" means the preemption provided for in [~~Sections~~] Section 53-5a-102[~~and 76-10-500~~].
- 8345 (4) "Local or state governmental entity" means:

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- 8346 (a) a department, commission, board, council, agency, institution, officer, corporation, fund, division, office, committee, authority, laboratory, library, unit, bureau, panel, or other administrative unit of the state, including the Utah Board of Higher Education, each institution of higher education, and the boards of trustees of each higher education institution; or
- 8351 (b) a county, city, town, special district, local education agency, public school, school district, charter school, special service district under Title 17D, Chapter 1, Special Service District Act, an entity created by interlocal cooperation agreement under Title 11, Chapter 13, Interlocal Cooperation Act, or any other governmental entity designated in statute as a political subdivision of the state.
- 8356 Section 141. Section 80-6-103 is amended to read:
- 8357 **80-6-103. Notification to a school -- Civil and criminal liability.**
- 8358 (1) As used in this section:
- 8359 (a) "School" means a school in a local education agency.
- 8360 (b) "Local education agency" means a school district, a charter school, or the Utah Schools for the Deaf and the Blind.
- 8362 (c) "School official" means the superintendent of a school district or the director of a charter school or designee in which the minor resides or attends school.
- 8364 (d) "Serious offense" means:
- 8365 (i) a violent felony as defined in Section 76-3-203.5;
- 8366 (ii) an offense that is a violation of an offense under Title 76, Chapter 6, Part 4, Theft, and the property stolen is a firearm; or
- 8368 (iii) an offense that is a violation of [~~Title 76, Chapter 10, Part 5, Weapons~~] an offense under Title 76, Chapter 11, Weapons.
- 8370 (e) "Transferee school official" means the superintendent of a school district or the director of a charter school or designee in which the minor resides or attends school if the minor is admitted to home detention.
- 8373 (2) A notification under this section is provided for a minor's supervision and student safety.
- 8374 (3)
- (a) If a minor is taken into temporary custody under Section 80-6-201 for a serious offense, the peace officer, or other person who has taken the minor into temporary custody, shall notify a school official within five days after the day on which the minor is taken into temporary custody.
- 8378 (b) A notification under this Subsection (3) shall only disclose:

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- 8379 (i) the name of the minor;
- 8380 (ii) the offense for which the minor was taken into temporary custody or admitted to detention; and
- 8382 (iii) if available, the name of the victim if the victim resides in the same school district as the minor or attends the same school as the minor.
- 8384 (4) After a detention hearing for a minor who is alleged to have committed a serious offense, the juvenile court shall order a juvenile probation officer to notify a school official, or a transferee school official, and the appropriate local law enforcement agency of the juvenile court's decision, including any disposition, order, or no-contact order.
- 8388 (5) If a designated staff member of a detention facility admits a minor to home detention under Section 80-6-205 and notifies the juvenile court of that admission, the juvenile court shall order a juvenile probation officer to notify a school official, or a transferee school official, and the appropriate local law enforcement agency that the minor has been admitted to home detention.
- 8393 (6)
- (a) If the juvenile court adjudicates a minor for a serious offense, the juvenile court shall order a juvenile probation officer to notify a school official, or a transferee school official, of the adjudication.
- 8396 (b) A notification under this Subsection (6) shall be given to a school official, or a transferee school official, within three days after the day on which the minor is adjudicated.
- 8399 (c) A notification under this section shall include:
- 8400 (i) the name of the minor;
- 8401 (ii) the offense for which the minor was adjudicated; and
- 8402 (iii) if available, the name of the victim if the victim:
- 8403 (A) resides in the same school district as the minor; or
- 8404 (B) attends the same school as the minor.
- 8405 (7) If the juvenile court orders formal probation under Section 80-6-702, the juvenile court shall order a juvenile probation officer to notify the appropriate local law enforcement agency and the school official of the juvenile court's order for formal probation.
- 8408 (8)
- (a) An employee of the local law enforcement agency, or the school the minor attends, who discloses a notification under this section is not:
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- (i) civilly liable except when the disclosure constitutes fraud or willful misconduct as provided in Section 63G-7-202; and
- 8412 (ii) civilly or criminally liable except when the disclosure constitutes a knowing violation of Section 63G-2-801.
- 8414 (b) An employee of a governmental agency is immune from any criminal liability for failing to provide the information required by this section, unless the employee fails to act due to malice, gross negligence, or deliberate indifference to the consequences.
- 8417 (9)
- (a) A notification under this section shall be classified as a protected record under Section 63G-2-305.
- 8419 (b) All other records of disclosures under this section are governed by Title 63G, Chapter 2, Government Records Access and Management Act, and the Family Educational Rights and Privacy Act, 20 U.S.C. Sec. 1232g.
- 8422 Section 142. Section 80-6-104 is amended to read:
- 8423 **80-6-104. Data collection on offenses committed by minors -- Reporting requirement.**
- 8425 (1) As used in this section:
- 8426 (a) "Firearm" means the same as that term is defined in Section ~~[76-10-501]~~ 76-11-101.
- 8427 (b) "Firearm-related offense" means a criminal offense involving a firearm.
- 8428 (c) "School is in session" means the same as that term is defined in Section 53E-3-516.
- 8429 (d) "School-sponsored activity" means the same as that term is defined in Section 53E-3-516.
- 8431 (2) Before July 1 of each year, the Administrative Office of the Courts shall submit the following data to the State Commission on Criminal and Juvenile Justice, broken down by judicial district, for the preceding calendar year:
- 8434 (a) the number of referrals to the juvenile court;
- 8435 (b) the number of minors diverted to a nonjudicial adjustment;
- 8436 (c) the number of minors that satisfy the conditions of a nonjudicial adjustment;
- 8437 (d) the number of minors for whom a petition for an offense is filed in the juvenile court;
- 8438 (e) the number of minors for whom an information is filed in the juvenile court;
- 8439 (f) the number of minors bound over to the district court by the juvenile court;
- 8440 (g) the number of petitions for offenses committed by minors that were dismissed by the juvenile court;
- 8442 (h) the number of adjudications in the juvenile court for offenses committed by minors;
- 8443 (i) the number of guilty pleas entered into by minors in the juvenile court;

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- 8444 (j) the number of dispositions resulting in secure care, community-based placement, formal probation, and intake probation; and
- 8446 (k) for each minor charged in the juvenile court with a firearm-related offense:
- 8447 (i) the minor's age at the time the offense was committed or allegedly committed;
- 8448 (ii) the minor's zip code at the time that the offense was referred to the juvenile court;
- 8449 (iii) whether the minor is a restricted person under [~~Subsection 76-10-503(1)(a)(iv) or (1)(b)~~
(iii)] Subsection 76-11-302(4) or 76-11-303(4);
- 8451 (iv) the type of offense for which the minor is charged;
- 8452 (v) the outcome of the minor's case in juvenile court, including whether the minor was bound over to the district court or adjudicated by the juvenile court; and
- 8454 (vi) if a disposition was entered by the juvenile court, whether the disposition resulted in secure care, community-based placement, formal probation, or intake probation.
- 8457 (3) The State Commission on Criminal and Juvenile Justice shall track the disposition of a case resulting from a firearm-related offense committed, or allegedly committed, by a minor when the minor is found in possession of a firearm while school is in session or during a school-sponsored activity.
- 8461 (4) In collaboration with the Administrative Office of the Courts, the division, and other agencies, the State Commission on Criminal and Juvenile Justice shall collect data for the preceding calendar year on:
- 8464 (a) the length of time that minors spend in the juvenile justice system, including the total amount of time minors spend under juvenile court jurisdiction, on community supervision, and in each out-of-home placement;
- 8467 (b) recidivism of minors who are diverted to a nonjudicial adjustment and minors for whom dispositions are ordered by the juvenile court, including tracking minors into the adult corrections system;
- 8470 (c) changes in aggregate risk levels from the time minors receive services, are under supervision, and are in out-of-home placement; and
- 8472 (d) dosages of programming.
- 8473 (5) On and before October 1 of each year, the State Commission on Criminal and Juvenile Justice shall prepare and submit a written report to the Judiciary Interim Committee and the Law Enforcement and Criminal Justice Interim Committee that includes:
- 8476 (a) data collected by the State Commission on Criminal and Juvenile Justice under this section;

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- 8478 (b) data collected by the State Board of Education under Section 53E-3-516; and
8479 (c) recommendations for legislative action with respect to the data described in this Subsection (5).
8481 (6) After submitting the written report described in Subsection (5), the State Commission on Criminal
and Juvenile Justice may supplement the report at a later time with updated data and information the
State Board of Education collects under Section 53E-3-516.
8484 (7) Nothing in this section shall be construed to require the disclosure of information or data that is
classified as controlled, private, or protected under Title 63G, Chapter 2, Government Records
Access and Management Act.

8487 Section 143. Section 80-6-303.5 is amended to read:

8488 **80-6-303.5. Preliminary inquiry by juvenile probation officer -- Eligibility for nonjudicial
adjustment.**

- 8490 (1) If the juvenile court receives a referral for an offense committed by a minor that is, or appears to be,
within the juvenile court's jurisdiction, or for the minor being a habitual truant, a juvenile probation
officer shall make a preliminary inquiry in accordance with this section to determine whether the
minor is eligible to enter into a nonjudicial adjustment.
- 8495 (2) If a minor is referred to the juvenile court for multiple offenses arising from a single criminal
episode, and the minor is eligible under this section for a nonjudicial adjustment, the juvenile
probation officer shall offer the minor one nonjudicial adjustment for all offenses arising from the
single criminal episode.
- 8499 (3)
- (a) The juvenile probation officer may:
- 8500 (i) conduct a validated risk and needs assessment; and
8501 (ii) request that a prosecuting attorney review a referral in accordance with Section 80-6-304.5 if:
8503 (A) the results of the validated risk and needs assessment indicate the minor is high risk; or
8505 (B) the results of the validated risk and needs assessment indicate the minor is moderate risk and the
referral is for a class A misdemeanor violation under Title 76, Chapter 5, Offenses Against the
Individual, or Title 76, Chapter 9, Part 7, Miscellaneous Provisions.
- 8509 (b) If the referral involves an offense that is a violation of Section 41-6a-502, the minor shall:
- 8511 (i) undergo a drug and alcohol screening;
8512 (ii) if found appropriate by the screening, participate in an assessment; and
8513 (iii) if warranted by the screening and assessment, follow the recommendations of the assessment.

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- 8515 (4) Except for an offense that is not eligible under Subsection (8), the juvenile probation officer shall offer a nonjudicial adjustment to a minor if:
- 8517 (a) the minor:
- 8518 (i) is referred for an offense that is a misdemeanor, infraction, or status offense;
- 8519 (ii) has no more than two prior adjudications; and
- 8520 (iii) has no more than two prior unsuccessful nonjudicial adjustment attempts;
- 8521 (b) the minor is referred for an offense that is alleged to have occurred before the minor was 12 years old; or
- 8523 (c) the minor is referred for being a habitual truant.
- 8524 (5) For purposes of determining a minor's eligibility for a nonjudicial adjustment under Subsection (4), the juvenile probation officer shall treat all offenses arising out of a single criminal episode that resulted in a nonjudicial adjustment as one prior nonjudicial adjustment.
- 8528 (6) For purposes of determining a minor's eligibility for a nonjudicial adjustment under Subsection (4), the juvenile probation officer shall treat all offenses arising out of a single criminal episode that resulted in one or more prior adjudications as a single adjudication.
- 8532 (7) Except for a referral that involves an offense described in Subsection (8), the juvenile probation officer may offer a nonjudicial adjustment to a minor who does not meet the criteria described in Subsection (4)(a).
- 8535 (8) The juvenile probation officer may not offer a minor a nonjudicial adjustment if the referral involves:
- 8537 (a) an offense alleged to have occurred when the minor was 12 years old or older that is:
- 8538 (i) a felony offense; or
- 8539 (ii) a misdemeanor violation of:
- 8540 (A) Section 41-6a-502, driving under the influence;
- 8541 (B) Section 76-5-107, threat of violence;
- 8542 (C) Section 76-5-107.1, threats against schools;
- 8543 (D) Section 76-5-112, reckless endangerment creating a substantial risk of death or serious bodily injury;
- 8545 (E) Section 76-5-206, negligent homicide;
- 8546 (F) Section 76-9-702.1, sexual battery;
- 8547

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[(G) Section 76-10-505.5, possession of a dangerous weapon, firearm, or short barreled shotgun on or about school premises;]

8549 [(H) Section 76-10-506, threatening with or using a dangerous weapon in fight or quarrel;]

8551 [(F) Section 76-10-507, possession of a deadly weapon with criminal intent; or]

8552 [(J) Section 76-10-509.4, possession of a dangerous weapon by a minor;]

8553 (G) Section 76-11-205, carrying a dangerous weapon at an elementary school or secondary school;

8555 (H) Section 76-11-206, carrying a dangerous weapon at a daycare;

8556 (I) Section 76-11-207, threatening with or using a dangerous weapon in a fight or quarrel;

8558 (J) Section 76-11-208, possession of a dangerous weapon with criminal intent; or

8559 (K) Section 76-11-211, possession of a dangerous weapon by a minor; or

8560 (b) an offense alleged to have occurred before the minor is 12 years old that is a felony violation of:

8562 (i) Section 76-5-103, aggravated assault resulting in serious bodily injury to another;

8563 (ii) Section 76-5-202, aggravated murder or attempted aggravated murder;

8564 (iii) Section 76-5-203, murder or attempted murder;

8565 (iv) Section 76-5-302, aggravated kidnapping;

8566 (v) Section 76-5-405, aggravated sexual assault;

8567 (vi) Section 76-6-103, aggravated arson;

8568 (vii) Section 76-6-203, aggravated burglary;

8569 (viii) Section 76-6-302, aggravated robbery; or

8570 (ix) Section [76-10-508.1] 76-11-210, felony discharge of a firearm.

8571 (9) The juvenile probation officer shall request that a prosecuting attorney review a referral if:

8573 (a) the referral involves an offense described in Subsection (8); or

8574 (b) the minor has a current suspended order for custody under Section 80-6-711.

8575 Section 144. Section 80-6-305 is amended to read:

8576 **80-6-305. Petition for a delinquency proceeding -- Amending a petition -- Continuance.**

8578 (1) A prosecuting attorney shall file a petition, in accordance with Utah Rules of Juvenile Procedure, Rule 17, to commence a proceeding against a minor for an adjudication of an alleged offense, except as provided in:

8581 (a) Subsection (2);

8582 (b) Section 80-6-302;

8583 (c) Section 80-6-502; and

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- 8584 (d) Section 80-6-503.
- 8585 (2) A prosecuting attorney may not file a petition under Subsection (1) against an individual for an offense alleged to have occurred before the individual was 12 years old, unless:
- 8587 (a) the individual is alleged to have committed a felony violation of:
- 8588 (i) Section 76-5-103, aggravated assault resulting in serious bodily injury to another;
- 8589 (ii) Section 76-5-202, aggravated murder or attempted aggravated murder;
- 8590 (iii) Section 76-5-203, murder or attempted murder;
- 8591 (iv) Section 76-5-302, aggravated kidnapping;
- 8592 (v) Section 76-5-405, aggravated sexual assault;
- 8593 (vi) Section 76-6-103, aggravated arson;
- 8594 (vii) Section 76-6-203, aggravated burglary;
- 8595 (viii) Section 76-6-302, aggravated robbery; or
- 8596 (ix) Section ~~[76-10-508.1]~~ 76-11-210, felony discharge of a firearm; or
- 8597 (b) an offer for a nonjudicial adjustment is made under Section 80-6-303.5 and the minor:
- 8599 (i) declines to accept the offer for the nonjudicial adjustment; or
- 8600 (ii) fails to substantially comply with the conditions agreed upon as part of the nonjudicial adjustment.
- 8602 (3) A juvenile court may dismiss a petition under this section at any stage of the proceedings.
- 8604 (4)
- (a) When evidence is presented during any proceeding in a minor's case that points to material facts not alleged in the petition, the juvenile court may consider the additional or different material facts raised by the evidence if the parties consent.
- 8607 (b) The juvenile court, on a motion from any interested party or on the court's own motion, shall direct that the petition be amended to conform to the evidence.
- 8609 (c) If an amended petition under Subsection (4)(b) results in a substantial departure from the material facts originally alleged, the juvenile court shall grant a continuance as justice may require in accordance with Utah Rules of Juvenile Procedure, Rule 54.

8612 Section 145. Section 80-6-503 is amended to read:

8613 **80-6-503. Criminal information for a minor in juvenile court -- Extending juvenile court jurisdiction.**

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(1) If a prosecuting attorney charges a minor with a felony, the prosecuting attorney may file a criminal information in the juvenile court if the minor was a principal actor in an offense and the information alleges:

- 8618 (a)
- (i) the minor was 16 or 17 years old at the time of the offense; and
- 8619 (ii) the offense for which the minor is being charged is a felony violation of:
- 8620 (A) Section 76-5-103, aggravated assault resulting in serious bodily injury to another;
- 8622 (B) Section 76-5-202, attempted aggravated murder;
- 8623 (C) Section 76-5-203, attempted murder;
- 8624 (D) Section 76-5-302, aggravated kidnapping;
- 8625 (E) Section 76-5-405, aggravated sexual assault;
- 8626 (F) Section 76-6-103, aggravated arson;
- 8627 (G) Section 76-6-203, aggravated burglary;
- 8628 (H) Section 76-6-302, aggravated robbery;
- 8629 (I) Section ~~[76-10-508.1]~~ 76-11-210, felony discharge of a firearm; or
- 8630 (J) an offense other than an offense listed in Subsections (1)(a)(ii)(A) through (I) involving the use of a dangerous weapon if the offense would be a felony had an adult committed the offense, and the minor has been previously adjudicated or convicted of an offense involving the use of a dangerous weapon that would have been a felony if committed by an adult; or

- 8635 (b)
- (i) the minor was 14 or 15 years old at the time of the offense; and
- 8636 (ii) the offense for which the minor is being charged is a felony violation of:
- 8637 (A) Section 76-5-202, aggravated murder or attempted aggravated murder; or
- 8638 (B) Section 76-5-203, murder or attempted murder.
- 8639 (2) At the time that a prosecuting attorney files an information under this section, a party may file a motion to extend the juvenile court's continuing jurisdiction in accordance with Section 80-6-605.

8642 Section 146. Section 80-6-605 is amended to read:

8643 **80-6-605. Extension of juvenile court jurisdiction -- Procedure.**

- 8644 (1) At the time that a prosecuting attorney files a petition under Section 80-6-305, or a criminal information under Section 80-6-503, for a felony offense alleged to have been committed by a

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minor who is 14 years old or older, either party may file a motion to extend the juvenile court's continuing jurisdiction over the minor's case until the minor is 25 years old if:

- 8649 (a) the minor was the principal actor in the offense; and
- 8650 (b) the petition or information alleges a felony violation of:
- 8651 (i) Section 76-5-103, aggravated assault resulting in serious bodily injury to another;
- 8652 (ii) Section 76-5-202, aggravated murder or attempted aggravated murder;
- 8653 (iii) Section 76-5-203, murder or attempted murder;
- 8654 (iv) Section 76-5-302, aggravated kidnapping;
- 8655 (v) Section 76-5-405, aggravated sexual assault;
- 8656 (vi) Section 76-6-103, aggravated arson;
- 8657 (vii) Section 76-6-203, aggravated burglary;
- 8658 (viii) Section 76-6-302, aggravated robbery;
- 8659 (ix) Section ~~[76-10-508.1]~~ 76-11-210, felony discharge of a firearm; or
- 8660 (x)
- (A) an offense other than the offenses listed in Subsections (1)(b)(i) through (ix) involving the use of a dangerous weapon that would be a felony if committed by an adult; and
- 8663 (B) the minor has been previously adjudicated or convicted of an offense involving the use of a dangerous weapon that would have been a felony if committed by an adult.
- 8666 (2)
- (a) Notwithstanding Subsection (1), either party may file a motion to extend the juvenile[-] court's continuing jurisdiction after a determination by the juvenile court that the minor will not be bound over to the district court under Section 80-6-504.
- 8669 (3) The juvenile[-] court shall make a determination on a motion under Subsection (1) or (2) at the time of disposition.
- 8671 (4) The juvenile[-] court shall extend the continuing jurisdiction over the minor's case until the minor is 25 years old if the juvenile[-] court finds, by a preponderance of the evidence, that extending continuing jurisdiction is in the best interest of the minor and the public.
- 8675 (5) In considering whether it is in the best interest of the minor and the public for the court to extend jurisdiction over the minor's case until the minor is 25 years old, the juvenile[-] court shall consider and base the juvenile[-] court's decision on:
- 8678 (a) whether the protection of the community requires an extension of jurisdiction beyond the age of 21;

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- 8680 (b) the extent to which the minor's actions in the offense were committed in an aggressive, violent, premeditated, or willful manner;
- 8682 (c) the minor's mental, physical, educational, trauma, and social history; and
- 8683 (d) the criminal record and previous history of the minor.
- 8684 (6) The amount of weight that each factor in Subsection (5) is given is in the juvenile[-] court's discretion.
- 8686 (7)
- (a) The juvenile[-] court may consider written reports and other materials relating to the minor's mental, physical, educational, trauma, and social history.
- 8688 (b) Upon request by the minor, the minor's parent, guardian, or other interested party, the juvenile[-] court shall require the person preparing the report or other material to appear and be subject to both direct and cross-examination.
- 8691 (8) A minor may testify under oath, call witnesses, cross-examine witnesses, and present evidence on the factors described in Subsection (5).

8693 Section 147. Section 80-6-712 is amended to read:

8694 **80-6-712. Time periods for supervision of probation or placement -- Termination of continuing jurisdiction.**

- 8696 (1) If the juvenile court places a minor on probation under Section 80-6-702, the juvenile court shall establish a period of time for supervision for the minor that is:
- 8698 (a) if the minor is placed on intake probation, no more than three months; or
- 8699 (b) if the minor is placed on formal probation, from four to six months, but may not exceed six months.
- 8701 (2)
- (a) If the juvenile court commits a minor to the division under Section 80-6-703, and the minor's case is under the jurisdiction of the court, the juvenile court shall establish:
- 8704 (i) for a minor placed out of the home, a period of custody from three to six months, but may not exceed six months; and
- 8706 (ii) for aftercare services if the minor was placed out of the home, a period of supervision from three to four months, but may not exceed four months.
- 8708 (b) A minor may be supervised for aftercare services under Subsection (2)(a)(ii):
- 8709 (i) in the home of a qualifying relative or guardian;
- 8710 (ii) at an independent living program contracted or operated by the division; or

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- 8711 (iii) in a family-based setting with approval by the director or the director's designee if the minor does not qualify for an independent living program due to age, disability, or another reason or the minor cannot be placed with a qualifying relative or guardian.
- 8715 (3) If the juvenile court orders a minor to secure care, the authority shall:
- 8716 (a) have jurisdiction over the minor's case; and
- 8717 (b) apply the provisions of Part 8, Commitment and Parole.
- 8718 (4)
- (a) The juvenile court shall terminate continuing jurisdiction over a minor's case at the end of the time period described in Subsection (1) for probation or Subsection (2) for commitment to the division, unless:
- 8721 (i) termination would interrupt the completion of the treatment program determined to be necessary by the results of a validated risk and needs assessment under Section 80-6-606;
- 8724 (ii) the minor commits a new misdemeanor or felony offense;
- 8725 (iii) the minor has not completed community or compensatory service hours;
- 8726 (iv) there is an outstanding fine; or
- 8727 (v) the minor has not paid restitution in full.
- 8728 (b) The juvenile court shall determine whether a minor has completed a treatment program under Subsection (4)(a)(i) by considering:
- 8730 (i) the recommendations of the licensed service provider for the treatment program;
- 8731 (ii) the minor's record in the treatment program; and
- 8732 (iii) the minor's completion of the goals of the treatment program.
- 8733 (5) Subject to Subsections (6) and (7), if one of the circumstances under Subsection (4) exists the juvenile court may extend supervision for the time needed to address the specific circumstance.
- 8736 (6) If the juvenile court extends supervision solely on the ground that the minor has not yet completed community or compensatory service hours under Subsection (4)(a)(iii), the juvenile court may only extend supervision:
- 8739 (a) one time for no more than three months; and
- 8740 (b) as intake probation.
- 8741 (7)
- (a) If the juvenile court extends jurisdiction solely on the ground that the minor has not paid restitution in full as described in Subsection (4)(a)(v):

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- 8743 (i) the juvenile court may only:
- 8744 (A) extend jurisdiction up to four times for no more than three months at a time;
- 8745 (B) consider the efforts of the minor to pay restitution in full when determining whether to extend
jurisdiction under Subsection (7)(a)(i); and
- 8747 (C) make orders concerning the payment of restitution during the period for which jurisdiction is
extended;
- 8749 (ii) the juvenile court shall terminate any intake probation or formal probation of the minor; and
- 8751 (iii) a designated staff member of the juvenile court shall submit a report to the juvenile court every
three months regarding the minor's efforts to pay restitution.
- 8753 (b) If the juvenile court finds that a minor is not making an effort to pay restitution, the juvenile court
shall:
- 8755 (i) terminate jurisdiction over the minor's case; and
- 8756 (ii) record the amount of unpaid restitution as a civil judgment in accordance with Subsection
80-6-709(8).
- 8758 (8) If the juvenile court extends supervision or jurisdiction under this section, the grounds for the
extension and the length of any extension shall be recorded in the court records and tracked in the
data system used by the Administrative Office of the Courts and the division.
- 8762 (9) If a minor leaves supervision without authorization for more than 24 hours, the supervision period
for the minor shall toll until the minor returns.
- 8764 (10) This section does not apply to any minor adjudicated under this chapter for:
- 8765 (a) Section 76-5-103, aggravated assault resulting in serious bodily injury to another;
- 8766 (b) Section 76-5-202, aggravated murder or attempted aggravated murder;
- 8767 (c) Section 76-5-203, murder or attempted murder;
- 8768 (d) Section 76-5-205, manslaughter;
- 8769 (e) Section 76-5-206, negligent homicide;
- 8770 (f) Section 76-5-207, automobile homicide;
- 8771 (g) Section 76-5-207.5, automobile homicide involving using a wireless communication device while
operating a motor vehicle;
- 8773 (h) Section 76-5-208, child abuse homicide;
- 8774 (i) Section 76-5-209, homicide by assault;
- 8775 (j) Section 76-5-302, aggravated kidnapping;

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- 8776 (k) Section 76-5-405, aggravated sexual assault;
- 8777 (l) a felony violation of Section 76-6-103, aggravated arson;
- 8778 (m) Section 76-6-203, aggravated burglary;
- 8779 (n) Section 76-6-302, aggravated robbery;
- 8780 (o) Section [~~76-10-508.1~~] 76-11-210, felony discharge of a firearm;
- 8781 (p)
- (i) an offense other than an offense listed in Subsections (10)(a) through (o) involving the use of a dangerous weapon, as defined in Section 76-1-101.5, that is a felony; and
- 8784 (ii) the minor has been previously adjudicated or convicted of an offense involving the use of a dangerous weapon; or
- 8786 (q) a felony offense other than an offense listed in Subsections (10)(a) through (p) and the minor has been previously committed to the division for secure care.
- 8788 Section 148. Section **80-6-804** is amended to read:
- 8789 **80-6-804. Review and termination of secure care.**
- 8790 (1) If a juvenile offender is ordered to secure care under Section 80-6-705, the juvenile offender shall appear before the authority within 45 days after the day on which the juvenile offender is ordered to secure care for review of a treatment plan and to establish parole release guidelines.
- 8794 (2)
- (a) Except as provided in Subsections (2)(b) and (2)(h), if a juvenile offender is ordered to secure care under Section 80-6-705, the authority shall set a presumptive term of secure care for the juvenile offender from three to six months, but the presumptive term may not exceed six months.
- 8798 (b) If a juvenile offender is ordered to secure care for a misdemeanor offense, the authority may immediately release the juvenile offender on parole if there is a treatment program available for the juvenile offender in a community-based setting.
- 8801 (c) Except as provided in Subsection (2)(h), the authority shall release the juvenile offender on parole at the end of the presumptive term of secure care unless:
- 8803 (i) termination would interrupt the completion of a treatment program determined to be necessary by the results of a validated risk and needs assessment under Section 80-6-606; or
- 8806 (ii) the juvenile offender commits a new misdemeanor or felony offense.
- 8807 (d) The authority shall determine whether a juvenile offender has completed a treatment program under Subsection (2)(c)(i) by considering:

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- 8809 (i) the recommendations of the licensed service provider for the treatment program;
- 8810 (ii) the juvenile offender's record in the treatment program; and
- 8811 (iii) the juvenile offender's completion of the goals of the treatment program.
- 8812 (e) Except as provided in Subsection (2)(h), the authority may extend the length of secure care and delay parole release for the time needed to address the specific circumstance if one of the circumstances under Subsection (2)(c) exists.
- 8815 (f) The authority shall:
- 8816 (i) record the length of the extension and the grounds for the extension; and
- 8817 (ii) report annually the length and grounds of extension to the commission.
- 8818 (g) Records under Subsection (2)(f) shall be tracked in the data system used by the juvenile court and the division.
- 8820 (h) If a juvenile offender is ordered to secure care for a misdemeanor offense, the authority may not:
- 8822 (i) set a juvenile offender's presumptive term of secure care under Subsection (2)(a) that would result in a term of secure care that exceeds a term of incarceration for an adult under Section 76-3-204 for the same misdemeanor offense; or
- 8825 (ii) extend the juvenile offender's term of secure care under Subsections (2)(c) and (e) if the extension would result in a term of secure care that exceeds the term of incarceration for an adult under Section 76-3-204 for the same misdemeanor offense.
- 8829 (3)
- (a) If a juvenile offender is ordered to secure care, the authority shall set a presumptive term of parole supervision, including aftercare services, from three to four months, but the presumptive term may not exceed four months.
- 8832 (b) If the authority determines that a juvenile offender is unable to return home immediately upon release, the juvenile offender may serve the term of parole:
- 8834 (i) in the home of a qualifying relative or guardian;
- 8835 (ii) at an independent living program contracted or operated by the division; or
- 8836 (iii) in a family-based setting with approval by the director or the director's designee if the minor does not qualify for an independent living program due to age, disability, or another reason or the minor cannot be placed with a qualifying relative or guardian.
- 8840 (c) The authority shall release a juvenile offender from parole and terminate the authority's jurisdiction at the end of the presumptive term of parole, unless:

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- 8842 (i) termination would interrupt the completion of a treatment program that is determined to be necessary
by the results of a validated risk and needs assessment under Section 80-6-606;
- 8845 (ii) the juvenile offender commits a new misdemeanor or felony offense; or
- 8846 (iii) restitution has not been completed.
- 8847 (d) The authority shall determine whether a juvenile offender has completed a treatment program under
Subsection (3)(c)(i) by considering:
- 8849 (i) the recommendations of the licensed service provider;
- 8850 (ii) the juvenile offender's record in the treatment program; and
- 8851 (iii) the juvenile offender's completion of the goals of the treatment program.
- 8852 (e) If one of the circumstances under Subsection (3)(c) exists, the authority may delay parole release
only for the time needed to address the specific circumstance.
- 8854 (f) The authority shall:
- 8855 (i) record the grounds for extension of the presumptive length of parole and the length of the extension;
and
- 8857 (ii) report annually the extension and the length of the extension to the commission.
- 8858 (g) Records under Subsection (3)(f) shall be tracked in the data system used by the juvenile court and
the division.
- 8860 (h) If a juvenile offender leaves parole supervision without authorization for more than 24 hours, the
term of parole shall toll until the juvenile offender returns.
- 8862 (4) Subsections (2) and (3) do not apply to a juvenile offender ordered to secure care for:
- 8863 (a) Section 76-5-103, aggravated assault resulting in serious bodily injury to another;
- 8864 (b) Section 76-5-202, aggravated murder or attempted aggravated murder;
- 8865 (c) Section 76-5-203, murder or attempted murder;
- 8866 (d) Section 76-5-205, manslaughter;
- 8867 (e) Section 76-5-206, negligent homicide;
- 8868 (f) Section 76-5-207, automobile homicide;
- 8869 (g) Section 76-5-207.5, automobile homicide involving using a wireless communication device while
operating a motor vehicle;
- 8871 (h) Section 76-5-208, child abuse homicide;
- 8872 (i) Section 76-5-209, homicide by assault;
- 8873 (j) Section 76-5-302, aggravated kidnapping;

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- 8874 (k) Section 76-5-405, aggravated sexual assault;
- 8875 (l) a felony violation of Section 76-6-103, aggravated arson;
- 8876 (m) Section 76-6-203, aggravated burglary;
- 8877 (n) Section 76-6-302, aggravated robbery;
- 8878 (o) Section ~~[76-10-508.1]~~ 76-11-210, felony discharge of a firearm;
- 8879 (p)
- (i) an offense other than an offense listed in Subsections (4)(a) through (o) involving the use of a dangerous weapon, as defined in Section 76-1-101.5, that is a felony; and
- 8882 (ii) the juvenile offender has been previously adjudicated or convicted of an offense involving the use of a dangerous weapon, as defined in Section 76-1-101.5; or
- 8884 (q) an offense other than an offense listed in Subsections (4)(a) through (p) and the juvenile offender has been previously ordered to secure care.
- 8886 Section 149. Section ~~80-6-1004.1~~ is amended to read:
- 8887 **80-6-1004.1. Petition to expunge adjudication -- Hearing and notice -- Waiver -- Order.**
- 8889 (1) An individual may petition the juvenile court for an order to expunge the individual's juvenile record if:
- 8891 (a) the individual was adjudicated for an offense in the juvenile court;
- 8892 (b) the individual has reached 18 years old; and
- 8893 (c) at least one year has passed from the day on which:
- 8894 (i) the juvenile court's continuing jurisdiction was terminated; or
- 8895 (ii) if the individual was committed to secure care, the individual was unconditionally released from the custody of the division.
- 8897 (2) If a petitioner is 18 years old or older and seeks an expungement under Subsection (1), the petition shall include a criminal history report obtained from the Bureau of Criminal Identification in accordance with Section 53-10-108.
- 8900 (3) If the juvenile court finds and states on the record the reason why the waiver is appropriate, the juvenile court may waive:
- 8902 (a) the age requirement under Subsection (1)(b) for a petition; or
- 8903 (b) the one-year requirement under Subsection (1)(c) for a petition.
- 8904 (4)
- (a) Upon the filing of a petition described in Subsection ~~[(1)(a)]~~ (1), the juvenile court shall:

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- 8906 (i) set a date for a hearing; and
- 8907 (ii) at least 30 days before the day on which the hearing on the petition is scheduled, notify the prosecuting attorney and any affected agency identified in the petitioner's juvenile record:
- 8910 (A) that the petition has been filed; and
- 8911 (B) of the date of the hearing.
- 8912 (b)
- (i) The juvenile court shall provide a victim with the opportunity to request notice of a petition described in Subsection (1).
- 8914 (ii) Upon the victim's request under Subsection (4)(b)(i), the victim shall receive notice of the petition at least 30 days before the day on which the hearing is scheduled if, before the day on which an expungement order is made, the victim, or the victim's next of kin or authorized representative if the victim is a child or an individual who is incapacitated or deceased, submits a written and signed request for notice to the juvenile court in the judicial district in which the offense occurred or judgment is entered.
- 8921 (iii) The notice described in Subsection (4)(b)(ii) shall include a copy of the petition and any statutes and rules applicable to the petition.
- 8923 (c) At the hearing, the prosecuting attorney, a victim, and any other individual who may have relevant information about the petitioner may testify.
- 8925 (d) The juvenile court may waive the hearing for the petition if:
- 8926 (i)
- (A) there is no victim; or
- 8927 (B) if there is a victim, the victim agrees to the waiver; and
- 8928 (ii) the prosecuting attorney agrees to the waiver.
- 8929 (5)
- (a) Except as provided in Subsection (6), the juvenile court may grant a petition described in Subsection (1) and order expungement of the petitioner's juvenile record if the juvenile court finds that the petitioner is rehabilitated to the satisfaction of the court in accordance with Subsection (5)(b).
- 8933 (b) In deciding whether to grant a petition described in Subsection (1), the juvenile court shall consider:
- 8935 (i) whether expungement of the petitioner's juvenile record is in the best interest of the petitioner;
- 8937 (ii) the petitioner's response to programs and treatment;
- 8938 (iii) the nature and seriousness of the conduct for which the petitioner was adjudicated;

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- 8940 (iv) the petitioner's behavior subsequent to adjudication;
- 8941 (v) the petitioner's reason for seeking expungement of the petitioner's juvenile record; and
- 8943 (vi) if the petitioner is a restricted person under Subsection [~~76-10-503(1)(a)(iv) or (b)~~
(iii)] 76-11-302(4) or 76-11-303(4):
- 8945 (A) whether the offense for which the petitioner is a restricted person was committed with a weapon;
- 8947 (B) whether expungement of the petitioner's juvenile record poses an unreasonable risk to public safety;
and
- 8949 (C) the amount of time that has passed since the adjudication of the offense for which the petitioner is a
restricted person.
- 8951 (6) The juvenile court may not grant a petition described in Subsection (1) and order expungement of
the petitioner's juvenile record if:
- 8953 (a) the petitioner has been convicted of a violent felony within five years before the day on which the
petition for expungement is filed;
- 8955 (b) there are delinquency or criminal proceedings pending against the petitioner;
- 8956 (c) the petitioner has not satisfied a judgment of restitution entered by the juvenile court for an
adjudication in the petitioner's juvenile record;
- 8958 (d) the petitioner has not satisfied restitution that was a condition of a nonjudicial adjustment in the
petitioner's juvenile record; or
- 8960 (e) the petitioner's juvenile record contains an adjudication for a violation of:
- 8961 (i) Section 76-5-202, aggravated murder; or
- 8962 (ii) Section 76-5-203, murder.

8963 Section 150. Section 80-6-1004.5 is amended to read:

8964 **80-6-1004.5. Automatic expungement of successful nonjudicial adjustment -- Effect of
successful nonjudicial adjustment.**

- 8966 (1) Except as provided in Subsection (2), the juvenile court shall issue, without a petition, an order to
expunge an individual's juvenile record if:
- 8968 (a) the individual has reached 18 years old;
- 8969 (b) the individual's juvenile record consists solely of nonjudicial adjustments;
- 8970 (c) the individual has successfully completed each nonjudicial adjustment; and
- 8971 (d) all nonjudicial adjustments were completed on or after October 1, 2023.

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(2) An individual's juvenile record is not eligible for expungement under Subsection (1) if the individual's juvenile record contains a nonjudicial adjustment for a violation of:

- 8974 (a) Section 41-6a-502, driving under the influence;
- 8975 (b) Section 76-5-112, reckless endangerment creating a substantial risk of death or serious bodily injury;
- 8977 (c) Section 76-5-206, negligent homicide;
- 8978 (d) Section 76-9-702.1, sexual battery;
- 8979 (e) Section [~~76-10-505.5, possession of a dangerous weapon, firearm, or short barreled shotgun on or about school premises~~] 76-11-205, carrying a dangerous weapon at an elementary school or secondary school;
- 8982 (f) Section 76-11-206, carrying a dangerous weapon at a daycare; or
- 8983 [~~(f)~~] (g) Section [76-10-509.4] 76-11-211, possession of a dangerous weapon by a minor.
- 8984 (3) If an individual's juvenile record consists solely of nonjudicial adjustments that were completed before October 1, 2023:
- 8986 (a) any nonjudicial adjustment in the individual's juvenile record is considered to never have occurred if:
- 8988 (i) the individual has reached 18 years old;
- 8989 (ii) the individual has satisfied restitution that was a condition of any nonjudicial adjustment in the individual's juvenile record; and
- 8991 (iii) the nonjudicial adjustment was for an offense that is not an offense described in Subsection (2); and
- 8993 (b) the individual may reply to any inquiry about the nonjudicial adjustment as though there never was a nonjudicial adjustment.

8995 Section 151. **Repealer.**

This Bill Repeals:

8996 This bill repeals:

8997 Section **53-5-701, Title.**

8998 Section **53-5-710, Cross-references to concealed firearm permit restrictions.**

8999 Section **53-5b-101, Title.**

9000 Section **76-10-500, Uniform law.**

9001 Section **76-10-503, Restrictions on possession, purchase, transfer, and ownership of**

9002 Section **76-10-512, Target concessions, shooting ranges, competitions, and hunting**

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9003 Section **76-10-521, Unlawful marking of pistol or revolver.**

9004 Section 152. **Effective date.**

This bill takes effect on May 7, 2025.

9006 Section 153. **Coordinating H.B. 128 with H.B. 183.**

If H.B. 128, Dangerous Weapons Recodification and Cross References, and H.B. 183, Noncitizen Restricted Person Amendments, both pass and become law, the Legislature intends that, on May 7, 2025, Subsection 76-11-302(5), enacted in H.B. 128, be amended to read:

"(5) if the individual is an alien who is illegally or unlawfully in the United States, including an alien who has:

_____ (a) submitted an asylum application in accordance with 8 U.S.C. Sec. 1158 and is waiting for a disposition on the application; or

_____ (b) submitted a temporary protected status application in accordance with 8 U.S.C. Sec. 1254a and is waiting for a disposition on the application; or".

9016 Section 154. **Coordinating H.B. 128 with H.B. 227.**

If H.B. 128, Dangerous Weapons Recodification and Cross References, and H.B. 227, Restricted Person Amendments, both pass and become law, the Legislature intends that, on May 7, 2025:

(1) Subsection 76-11-303(7), enacted in H.B. 128, be amended to read:

_____ "(7) if the individual has been found not guilty by reason of insanity for a criminal offense;"; and

(2) Subsection 76-11-303(8), enacted in H.B. 128, be amended to read:

_____ "(8) if the individual has been found mentally incompetent to stand trial for a criminal offense;".

9026 Section 155. **Coordinating H.B. 128 with H.B. 21.**

If H.B. 128, Dangerous Weapons Recodification and Cross References, and H.B. 21, Criminal Code Recodification and Cross References, both pass and become law, the Legislature intends that, on May 7, 2025:

(1) the amendments to the following sections or subsections in H.B. 128 supersede the amendments to those sections or subsections in H.B. 21:

_____ (a) Section 23A-4-1106;

_____ (b) Subsection 26B-2-120(5)(a)(i)(V);

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- (c) Subsections 31A-21-501(4)(m) and (4)(n);
- (d) Subsection 34-45-107(1);
- (e) Section 47-3-305;
- (f) Subsections 53-3-220(1)(a)(xi) and (1)(b)(i);
- (g) Subsections 53-5d-102(5)(b)(iii) and (7);
- (h) Section 53-10-208.1;
- (i) Subsection 53-10-403(2)(c)(xxvii);
- (j) Subsection 53-22-105(6);
- (k) Subsection 53-22-107(6);
- (l) Subsection 53-25-103(2);
- (m) Subsection 53G-8-701.8(4);
- (n) Section 58-63-307;
- (o) Section 63I-2-276;
- (p) Section 73-29-102;
- (q) Subsection 76-3-203.3(4)(j);
- (r) Subsection 76-3-402(1)(f)(ii)(B);
- (s) Subsection 76-5-202(2)(a)(x)(Q);
- (t) Section 76-5-203;
- (u) Section 76-11-101 (renumbered from Section 76-10-501);
- (v) Section 76-11-309 (renumbered from Section 76-10-503.1);
- (w) Section 76-11-310 (renumbered from Section 76-10-532);
- (x) subject to the coordination clause in H.B. 195, Firearm Retention Amendments, which coordinates H.B. 195 with H.B. 128 and H.B. 21, Section 77-11a-402;
- (y) Subsection 77-11b-102(5);
- (z) Section 77-11d-101;
- (aa) Section 77-11d-105;
- (bb) Section 78B-5-505;
- (cc) Section 80-6-104;
- (dd) Section 80-6-305;
- (ee) Section 80-6-503;
- (ff) Section 80-6-605;

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(gg) Section 80-6-712;

(hh) Section 80-6-804;

(ii) Section 80-6-1004.1;

(jj) Subsections 80-6-1004.5(2)(e) and (2)(f); and

(kk) Section 53-5a-108 (renumbered from Section 76-10-523).

(2) Subsection 76-3-203.5(1)(c)(i)(TT) enacted in H.B. 21 be amended to read:

"(TT) purchase or possession of a dangerous weapon or firearm by a restricted person as described in Section 76-11-305 or 76-11-306;"

(3) Section 76-11-204 (renumbered from Section 76-10-505) in H.B. 128 supersede the amendments to Section 76-10-505 in H.B. 21;

(4) Section 76-11-205 (renumbered from Section 76-10-505.5) in H.B. 128 supersede the amendments to Section 76-10-505.5 in H.B. 21;

(5) Section 76-11-207 (renumbered from Section 76-10-506) in H.B. 128 supersede the amendments to Section 76-10-506 in H.B. 21;

(6) Section 76-11-208 (renumbered from Section 76-10-507) in H.B. 128 supersede the amendments to Section 76-10-507 in H.B. 21;

(7) Section 76-11-209 (renumbered from Section 76-10-508) in H.B. 128 supersede the amendments to Section 76-10-508 in H.B. 21;

(8) Section 76-11-210 (renumbered from Section 76-10-508.1) in H.B. 128 supersede the amendments to Section 76-10-508.1 in H.B. 21;

(9) Section 76-11-211 (renumbered from Section 76-10-509.4) in H.B. 128 supersede the amendments to Section 76-10-509.4 in H.B. 21;

(10) Section 76-11-212 (renumbered from Section 76-10-509.5) in H.B. 128 supersede the amendments to Section 76-10-509.5 in H.B. 21;

(11) Section 76-11-213 (renumbered from Section 76-10-509.6) in H.B. 128 supersede the amendments to Section 76-10-509.6 in H.B. 21;

(12) Section 76-11-214 (renumbered from Section 76-10-509.7) in H.B. 128 supersede the amendments to Section 76-10-509.7 in H.B. 21;

(13) Section 76-11-215 (renumbered from Section 76-10-509.9) in H.B. 128 supersede the amendments to Section 76-10-509.9 in H.B. 21;

(14) Section 53-5a-605 (renumbered from Section 76-10-524) in H.B. 128 supersede the

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amendments to Section 76-10-524 in H.B. 21;

(15) Section 53-5a-602 (renumbered from Section 76-10-526) in H.B. 128 supersede the amendments to Section 76-10-526 in H.B. 21;

(16) Section 53-5a-603 (renumbered from Section 76-10-526.1) in H.B. 128 supersede the amendments to Section 76-10-526.1 in H.B. 21;

(17) Section 53-5a-604 (renumbered from Section 76-10-527) in H.B. 128 supersede the amendments to Section 76-10-527 in H.B. 21;

(18) Section 76-11-217 (renumbered from Section 76-10-528) in H.B. 128 supersede the amendments to Section 76-10-528 in H.B. 21;

(19) (a) Section 76-11-218 (renumbered from Section 76-10-529) in H.B. 128 supersede the amendments to Section 76-10-529 in H.B. 21;

(b) Subsection 76-11-218(1)(a)(ii) in H.B. 128 be amended to read:

____"(ii) "Explosive is the same as defined for "explosive, chemical, or incendiary device" in Section [~~76-10-306~~] 76-15-210."; and ____

(c) Subsection 76-11-218(5)(c) enacted in H.B. 128 be amended to read:

____"(c) An actor who transports, possesses, distributes, or sells an explosive, chemical, or incendiary device within the secure area of an airport commits a violation of Section 76-15-210.";

(20) Section 76-11-219 (renumbered from Section 76-10-530) in H.B. 128 supersede the amendments to Section 76-10-530 in H.B. 21;

(21) (a) Section 76-15-210 (renumbered from Section 76-10-306) in H.B. 21 supersede the amendments to Section 76-10-306 in H.B. 128; and

(b) Subsection 76-15-210(2)(b)(iii) in H.B. 21 be amended to read:

____"(iii) transports, possesses, distributes, or sells any explosive, chemical, or incendiary device in a secure area established pursuant to Section 76-8-311.1, 76-8-311.3, 76-11-218, or 78A-2-203.";

(22) the amendments to Section 76-11-201 enacted in H.B. 128 supersede the amendments to Section 76-11-201 enacted in H.B. 21;

(23) the amendments to Section 76-11-301 enacted in H.B. 128 supersede the amendments to Section 76-11-301 enacted in H.B. 21; and

(24) the amendments to Section 53-5a-102.1 enacted in H.B. 128 supersede the

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amendments to Section 53-5a-102.1 enacted in H.B. 21.

9128

Section 156. **Coordinating H.B. 128 with S.B. 14.**

If H.B. 128, Dangerous Weapons Recodification and Cross References, and S.B. 14, Private Sale of a Firearm Sunset Review Amendments, both pass and become law, the Legislature intends that, on May 7, 2025, Subsection 63I-1-253(9) enacted by H.B. 128 be deleted and the remaining subsections renumbered accordingly.

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