

HB0491S02 compared with HB0491

~~{Omitted text}~~ shows text that was in HB0491 but was omitted in HB0491S02

inserted text shows text that was not in HB0491 but was inserted into HB0491S02

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1

Behavioral Health Modifications

2025 GENERAL SESSION

STATE OF UTAH

Chief Sponsor: Steve Eliason

Senate Sponsor:Evan J. Vickers

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LONG TITLE

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General Description:

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This bill amends provisions relating to behavioral health.

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Highlighted Provisions:

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This bill:

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- defines terms;

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- requires a behavioral health receiving center to comply with licensing requirements from the

Department of Health and Human Services;

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- grants the Department of Health and Human Services authority to enact rules and assess and collect fees in relation to the licensing of behavioral health receiving centers;

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- addresses Medicaid directed payments for the Utah State Hospital and the Huntsman Mental Health Institute;

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- requires the Department of Public Safety to:

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- survey all law enforcement agencies in the state and publish a publicly searchable registry that will allow the public to see whether each law enforcement agency is or is not available to receive a voluntarily committed firearm in accordance with safe harbor provisions; and

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• subject to available funding, create and implement a marketing plan to educate law enforcement agencies and the public about safe harbor options for firearms; and

▸ makes technical and conforming changes.

Money Appropriated in this Bill:

▸ This bill appropriates \$5,835,600 in operating and capital budgets for fiscal year 2026, including:

- {\$107,471,800} \$4,899,000 from General Fund; and
- {\$17,956,600} \$936,600 from various sources as detailed in this bill.

Other Special Clauses:

None

AMENDS:

26B-2-101 , as last amended by Laws of Utah 2024, Chapters 240, 267, 307, and 438 , as last amended by Laws of Utah 2024, Chapters 240, 267, 307, and 438

53-5c-201 , as last amended by Laws of Utah 2023, Chapters 138, 448 , as last amended by Laws of Utah 2023, Chapters 138, 448

ENACTS:

26B-2-135 , Utah Code Annotated 1953 , Utah Code Annotated 1953

26B-5-383 , Utah Code Annotated 1953 , Utah Code Annotated 1953

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

Section 1. Section **26B-2-101** is amended to read:

26B-2-101. Definitions.

As used in this part:

- (1) "Adoption services" means the same as that term is defined in Section 80-2-801.
- (2) "Adult day care" means nonresidential care and supervision:
 - (a) for three or more adults for at least four but less than 24 hours a day; and
 - (b) that meets the needs of functionally impaired adults through a comprehensive program that provides a variety of health, social, recreational, and related support services in a protective setting.
- (3) "Applicant" means a person that applies for an initial license or a license renewal under this part.
- (4)
 - (a) "Associated with the licensee" means that an individual is:

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- 48 (i) affiliated with a licensee as an owner, director, member of the governing body, employee, agent,
provider of care, department contractor, or volunteer; or
- 50 (ii) applying to become affiliated with a licensee in a capacity described in Subsection (4)(a)(i).
- 52 (b) "Associated with the licensee" does not include:
- 53 (i) service on the following bodies, unless that service includes direct access to a child or a vulnerable
adult:
- 55 (A) a local mental health authority described in Section 17-43-301;
- 56 (B) a local substance abuse authority described in Section 17-43-201; or
- 57 (C) a board of an organization operating under a contract to provide mental health or substance use
programs, or services for the local mental health authority or substance abuse authority; or
- 60 (ii) a guest or visitor whose access to a child or a vulnerable adult is directly supervised at all times.
- 62 (5) "Behavioral health receiving center" means a 23-hour non-secure program or facility that is
responsible for, and provides mental health crisis services to, an individual experiencing a mental
health crisis.
- 65 ~~[(5)]~~ (6)
- (a) "Boarding school" means a private school that:
- 66 (i) uses a regionally accredited education program;
- 67 (ii) provides a residence to the school's students:
- 68 (A) for the purpose of enabling the school's students to attend classes at the school; and
- 70 (B) as an ancillary service to educating the students at the school;
- 71 (iii) has the primary purpose of providing the school's students with an education, as defined in
Subsection ~~[(5)(b)(i)]~~ (6)(b)(i); and
- 73 (iv)
- (A) does not provide the treatment or services described in Subsection ~~[(40)(a)]~~ (41)(a); or
- 75 (B) provides the treatment or services described in Subsection ~~[(40)(a)]~~ (41)(a) on a limited basis, as
described in Subsection ~~[(5)(b)(ii)]~~ (6)(b)(ii).
- 77 (b)
- (i) For purposes of Subsection ~~[(5)(a)(iii)]~~ (6)(a)(iii), "education" means a course of study for one or
more grades from kindergarten through grade 12.
- 79 (ii) For purposes of Subsection ~~[(5)(a)(iv)(B)]~~ (6)(a)(iv)(B), a private school provides the treatment or
services described in Subsection ~~[(40)(a)]~~ (41)(a) on a limited basis if:

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(A) the treatment or services described in Subsection [~~(40)~~(a)] (41)(a) are provided only as an incidental service to a student; and

(B) the school does not:

(I) specifically solicit a student for the purpose of providing the treatment or services described in Subsection [~~(40)~~(a)] (41)(a); or

(II) have a primary purpose of providing the treatment or services described in Subsection [~~(40)~~(a)] (41)(a).

(c) "Boarding school" does not include a therapeutic school.

[~~(6)~~] (7) "Certification" means a less restrictive level of licensure issued by the department.

[~~(7)~~] (8) "Child" means an individual under 18 years old.

[~~(8)~~] (9) "Child placing" means receiving, accepting, or providing custody or care for any child, temporarily or permanently, for the purpose of:

(a) finding a person to adopt the child;

(b) placing the child in a home for adoption; or

(c) foster home placement.

[~~(9)~~] (10) "Child-placing agency" means a person that engages in child placing.

[~~(10)~~] (11) "Client" means an individual who receives or has received services from a licensee.

[~~(11)~~] (12)

(a) "Congregate care program" means any of the following that provide services to a child:

(i) an outdoor youth program;

(ii) a residential support program;

(iii) a residential treatment program; or

(iv) a therapeutic school.

(b) "Congregate care program" does not include a human services program that:

(i) is licensed to serve adults; and

(ii) is approved by the office to service a child for a limited time.

[~~(12)~~] (13) "Day treatment" means specialized treatment that is provided to:

(a) a client less than 24 hours a day; and

(b) four or more persons who:

(i) are unrelated to the owner or provider; and

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(ii) have emotional, psychological, developmental, physical, or behavioral dysfunctions, impairments, or chemical dependencies.

[~~(13)~~] (14) "Department contractor" means an individual who:

(a) provides services under a contract with the department; and

(b) due to the contract with the department, has or will likely have direct access to a child or vulnerable adult.

[~~(14)~~] (15) "Direct access" means that an individual has, or likely will have:

(a) contact with or access to a child or vulnerable adult that provides the individual with an opportunity for personal communication or touch; or

(b) an opportunity to view medical, financial, or other confidential personal identifying information of the child, the child's parents or legal guardians, or the vulnerable adult.

[~~(15)~~] (16) "Directly supervised" means that an individual is being supervised under the uninterrupted visual and auditory surveillance of another individual who has a current background check approval issued by the office.

[~~(16)~~] (17) "Director" means the director of the office.

[~~(17)~~] (18) "Domestic violence" means the same as that term is defined in Section 77-36-1.

[~~(18)~~] (19) "Domestic violence treatment program" means a nonresidential program designed to provide psychological treatment and educational services to perpetrators and victims of domestic violence.

[~~(19)~~] (20) "Elder adult" means a person 65 years old or older.

[~~(20)~~] (21) "Emergency safety intervention" means a tactic used to protect staff or a client from being physically injured, utilized by an appropriately trained direct care staff and only performed in accordance with a nationally or regionally recognized curriculum in the least restrictive manner to restore staff or client safety.

[~~(21)~~] (22) "Foster home" means a residence that is licensed or certified by the office for the full-time substitute care of a child.

[~~(22)~~] (23) "Health benefit plan" means the same as that term is defined in Section 31A-22-634.

[~~(23)~~] (24) "Health care provider" means the same as that term is defined in Section 78B-3-403.

[~~(24)~~] (25) "Health insurer" means the same as that term is defined in Section 31A-22-615.5.

[~~(25)~~] (26)

(a) "Human services program" means:

(i) a foster home;

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- 146 (ii) a therapeutic school;
147 (iii) a youth program;
148 (iv) an outdoor youth program;
149 (v) a residential treatment program;
150 (vi) a residential support program;
151 (vii) a resource family home;
152 (viii) a recovery residence;[-or]
153 (ix) a behavioral health receiving center; or
154 [~~(ix)~~] (x) a facility or program that provides:
155 (A) adult day care;
156 (B) day treatment;
157 (C) outpatient treatment;
158 (D) domestic violence treatment;
159 (E) child-placing services;
160 (F) social detoxification; or
161 (G) any other human services that are required by contract with the department to be licensed with the
department.
163 (b) "Human services program" does not include:
164 (i) a boarding school;
165 (ii) a residential, vocational and life skills program, as defined in Section 13-53-102; or
166 (iii) a short-term relief care provider.
167 [~~(26)~~] (27) "Indian child" means the same as that term is defined in 25 U.S.C. Sec. 1903.
168 [~~(27)~~] (28) "Indian country" means the same as that term is defined in 18 U.S.C. Sec. 1151.
169 [~~(28)~~] (29) "Indian tribe" means the same as that term is defined in 25 U.S.C. Sec. 1903.
170 [~~(29)~~] (30) "Intermediate secure treatment" means 24-hour specialized residential treatment or care for
171 an individual who:
172 (a) cannot live independently or in a less restrictive environment; and
173 (b) requires, without the individual's consent or control, the use of locked doors to care for the
174 individual.
175 [~~(30)~~] (31) "Licensee" means an individual or a human services program licensed by the office.
176 [~~(31)~~] (32) "Local government" means a city, town, or county.

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- 179 ~~[(32)]~~ (33) "Minor" means child.
- 180 ~~[(33)]~~ (34) "Office" means the Office of Licensing within the department.
- 181 ~~[(34)]~~ (35) "Outdoor youth program" means a program that provides:
- 182 (a) services to a child that has:
- 183 (i) a chemical dependency; or
- 184 (ii) a dysfunction or impairment that is emotional, psychological, developmental, physical, or
- behavioral;
- 186 (b) a 24-hour outdoor group living environment; and
- 187 (c)
- (i) regular therapy, including group, individual, or supportive family therapy; or
- 188 (ii) informal therapy or similar services, including wilderness therapy, adventure therapy, or outdoor
- behavioral healthcare.
- 190 ~~[(35)]~~ (36) "Outpatient treatment" means individual, family, or group therapy or counseling designed
- to improve and enhance social or psychological functioning for those whose physical and emotional
- status allows them to continue functioning in their usual living environment.
- 194 ~~[(36)]~~ (37) "Practice group" or "group practice" means two or more health care providers legally
- organized as a partnership, professional corporation, or similar association, for which:
- 197 (a) substantially all of the services of the health care providers who are members of the group are
- provided through the group and are billed in the name of the group and amounts received are treated
- as receipts of the group; and
- 200 (b) the overhead expenses of and the income from the practice are distributed in accordance with
- methods previously determined by members of the group.
- 202 ~~[(37)]~~ (38) "Private-placement child" means a child whose parent or guardian enters into a contract with
- a congregate care program for the child to receive services.
- 204 ~~[(38)]~~ (39)
- (a) "Recovery residence" means a home, residence, or facility that meets at least two of the following
- requirements:
- 206 (i) provides a supervised living environment for individuals recovering from a substance use
- disorder;
- 208 (ii) provides a living environment in which more than half of the individuals in the residence are
- recovering from a substance use disorder;

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- 210 (iii) provides or arranges for residents to receive services related to the resident's recovery from a
211 substance use disorder, either on or off site;
- 212 (iv) is held out as a living environment in which individuals recovering from substance abuse
213 disorders live together to encourage continued sobriety; or
- 214 (v)
- 215 (A) receives public funding; or
- 216 (B) is run as a business venture, either for-profit or not-for-profit.
- 217 (b) "Recovery residence" does not mean:
- 218 (i) a residential treatment program;
- 219 (ii) residential support program; or
- 220 (iii) a home, residence, or facility, in which:
- 221 (A) residents, by a majority vote of the residents, establish, implement, and enforce policies governing
222 the living environment, including the manner in which applications for residence are approved and
223 the manner in which residents are expelled;
- 224 (B) residents equitably share rent and housing-related expenses; and
- 225 (C) a landlord, owner, or operator does not receive compensation, other than fair market rental income,
226 for establishing, implementing, or enforcing policies governing the living environment.
- 227 ~~[(39)]~~ (40) "Regular business hours" means:
- 228 (a) the hours during which services of any kind are provided to a client; or
- 229 (b) the hours during which a client is present at the facility of a licensee.
- 230 ~~[(40)]~~ (41)
- 231 (a) "Residential support program" means a program that arranges for or provides the necessities of life
232 as a protective service to individuals or families who have a disability or who are experiencing a
233 dislocation or emergency that prevents them from providing these services for themselves or their
234 families.
- 235 (b) "Residential support program" includes a program that provides a supervised living environment for
236 individuals with dysfunctions or impairments that are:
- 237 (i) emotional;
- 238 (ii) psychological;
- 239 (iii) developmental; or
- 240 (iv) behavioral.

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- 241 (c) Treatment is not a necessary component of a residential support program.
- 242 (d) "Residential support program" does not include:
- 243 (i) a recovery residence; or
- 244 (ii) a program that provides residential services that are performed:
- 245 (A) exclusively under contract with the department and provided to individuals through the Division of
Services for People with Disabilities; or
- 247 (B) in a facility that serves fewer than four individuals.
- 248 [~~(41)~~] (42)
- (a) "Residential treatment" means a 24-hour group living environment for four or more individuals
unrelated to the owner or provider that offers room or board and specialized treatment, behavior
modification, rehabilitation, discipline, emotional growth, or habilitation services for persons with
emotional, psychological, developmental, or behavioral dysfunctions, impairments, or chemical
dependencies.
- 253 (b) "Residential treatment" does not include a:
- 254 (i) boarding school;
- 255 (ii) foster home; or
- 256 (iii) recovery residence.
- 257 [~~(42)~~] (43) "Residential treatment program" means a program or facility that provides:
- 258 (a) residential treatment; or
- 259 (b) intermediate secure treatment.
- 260 [~~(43)~~] (44) "Seclusion" means the involuntary confinement of an individual in a room or an area:
- 262 (a) away from the individual's peers; and
- 263 (b) in a manner that physically prevents the individual from leaving the room or area.
- 264 [~~(44)~~] (45) "Short-term relief care provider" means an individual who:
- 265 (a) provides short-term and temporary relief care to a foster parent:
- 266 (i) for less than six consecutive nights; and
- 267 (ii) in the short-term relief care provider's home;
- 268 (b) is an immediate family member or relative, as those terms are defined in Section 80-3-102, of the
foster parent;
- 270 (c) is direct access qualified, as that term is defined in Section 26B-2-120;
- 271 (d) has been approved to provide short-term relief care by the department;

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- 272 (e) is not reimbursed by the department for the temporary relief care provided; and
273 (f) is not an immediate family member or relative, as those terms are defined in Section 80-3-102, of the
foster child.
- 275 ~~[(45)]~~ (46) "Social detoxification" means short-term residential services for persons who are
experiencing or have recently experienced drug or alcohol intoxication, that are provided outside of
a health care facility licensed under Part 2, Health Care Facility Licensing and Inspection, and that
include:
- 279 (a) room and board for persons who are unrelated to the owner or manager of the facility;
280 (b) specialized rehabilitation to acquire sobriety; and
281 (c) aftercare services.
- 282 ~~[(46)]~~ (47) "Substance abuse disorder" or "substance use disorder" mean the same as "substance use
disorder" is defined in Section 26B-5-501.
- 284 ~~[(47)]~~ (48) "Substance abuse treatment program" or "substance use disorder treatment program" means
a program:
- 286 (a) designed to provide:
287 (i) specialized drug or alcohol treatment;
288 (ii) rehabilitation; or
289 (iii) habilitation services; and
290 (b) that provides the treatment or services described in Subsection ~~[(47)(a)]~~ (48)(a) to persons with:
292 (i) a diagnosed substance use disorder; or
293 (ii) chemical dependency disorder.
- 294 ~~[(48)]~~ (49) "Therapeutic school" means a residential group living facility:
295 (a) for four or more individuals that are not related to:
296 (i) the owner of the facility; or
297 (ii) the primary service provider of the facility;
298 (b) that serves students who have a history of failing to function:
299 (i) at home;
300 (ii) in a public school; or
301 (iii) in a nonresidential private school; and
302 (c) that offers:
303 (i) room and board; and

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- 304 (ii) an academic education integrated with:
305 (A) specialized structure and supervision; or
306 (B) services or treatment related to:
307 (I) a disability;
308 (II) emotional development;
309 (III) behavioral development;
310 (IV) familial development; or
311 (V) social development.
- 312 ~~[(49)]~~ (50) "Unrelated persons" means persons other than parents, legal guardians, grandparents,
brothers, sisters, uncles, or aunts.
- 314 ~~[(50)]~~ (51) "Vulnerable adult" means an elder adult or an adult who has a temporary or permanent
mental or physical impairment that substantially affects the person's ability to:
316 (a) provide personal protection;
317 (b) provide necessities such as food, shelter, clothing, or mental or other health care;
318 (c) obtain services necessary for health, safety, or welfare;
319 (d) carry out the activities of daily living;
320 (e) manage the adult's own resources; or
321 (f) comprehend the nature and consequences of remaining in a situation of abuse, neglect, or
exploitation.
- 323 ~~[(51)]~~ (52)
(a) "Youth program" means a program designed to provide behavioral, substance use, or mental health
services to minors that:
325 (i) serves adjudicated or nonadjudicated youth;
326 (ii) charges a fee for the program's services;
327 (iii) may provide host homes or other arrangements for overnight accommodation of the youth;
329 (iv) may provide all or part of the program's services in the outdoors;
330 (v) may limit or censor access to parents or guardians; and
331 (vi) prohibits or restricts a minor's ability to leave the program at any time of the minor's own free
will.
- 333 (b) "Youth program" does not include recreational programs such as Boy Scouts, Girl Scouts, 4-H, and
other such organizations.

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335 [~~(52)~~] (53)

(a) "Youth transportation company" means any person that transports a child for payment to or from a congregate care program in Utah.

337 (b) "Youth transportation company" does not include:

338 (i) a relative of the child;

339 (ii) a state agency; or

340 (iii) a congregate care program's employee who transports the child from the congregate care program that employs the employee and returns the child to the same congregate care program.

346 Section 2. Section 2 is enacted to read:

347 **26B-2-135. Licensing behavioral health receiving centers.**

In accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, and Section 63J-1-504, the office:

350 (1) shall adopt and enforce rules to establish the process for initial and renewal applications to operate a behavioral health receiving center;

352 (2) may assess and collect application and renewal fees for behavioral health receiving center licenses; and

354 (3) shall deposit any fees collected under Subsection (2) into the General Fund as a dedicated credit to be used solely to pay for or offset the office's costs incurred in performing the duties under this section.

357 Section 3. Section 3 is enacted to read:

358 **26B-5-383. Directed payments.**

345 (1) To preserve and improve access to behavioral health hospital services, the department shall incorporate into the local mental health authorities' Medicaid prepaid mental health plan contract rate structure calculation, consistent with the certified actuarial rate range, an amount equal to the difference between payments made by local mental health authorities for the Medicaid eligibility categories for Medicaid-eligible services covered in Utah based on submitted encounter data and the maximum amount that could be paid for those services to be used for directed payments to the Utah State Hospital and the Huntsman Mental Health Institute within the University of Utah for inpatient and outpatient behavioral health services.

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(2) By June 30, 2025, the department shall submit to the Centers for Medicare and Medicaid Services the necessary request and supporting documentation to seek approval to make the Medicaid directed payments described in Subsection (1) with an effective date of July 1, 2025.

(3) The department may implement directed payments for the Utah State Hospital when operationally feasible.

Section 4. Section **53-5c-201** is amended to read:

53-5c-201. Voluntary commitment of a firearm by cohabitant -- Law enforcement to hold firearm.

(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:

(i) a cohabitant;

(ii) the owner cohabitant; or

(iii) another individual.

(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:

(i) may not hold the firearm under this section; and

(ii) shall return the firearm to the owner.

(2) A law enforcement agency may not return a firearm to an owner under Subsection (1)(b) if the owner of the firearm:

(a) is a restricted person under Section 76-10-503; or

(b)

(i) has been arrested and booked into a county jail on a class A misdemeanor or felony domestic violence offense;

(ii) has had a court:

(A) review the probable cause statement detailing the incident leading to the owner's arrest; and

(B) determine that probable cause existed for the arrest; and

(iii) is subject to a jail release agreement or a jail release court order arising out of the domestic violence offense.

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- 385 (3) Unless a firearm is an illegal firearm subject to Section 53-5c-202, a law enforcement agency that
receives a firearm in accordance with this chapter shall:
- 387 (a) record:
- 388 (i) the owner cohabitant's name, address, and phone number;
- 389 (ii) the firearm serial number and the make and model of each firearm committed; and
- 390 (iii) the date that the firearm was voluntarily committed;
- 391 (b) require the cohabitant to sign a document attesting that the cohabitant resides in the home;
- 393 (c) hold the firearm in safe custody:
- 394 (i) for 60 days after the day on which the firearm is voluntarily committed; or
- 395 (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
- 397 (B) for 60 days after the day on which the jail release agreement or jail release court order expires; and
- 399 (d) upon proof of identification, return the firearm to:
- 400 (i)
- (A) the owner cohabitant after the expiration of the 60-day period; or
- 401 (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
- 403 (ii) an owner other than the owner cohabitant in accordance with Section 53-5c-202.
- 404 (4) The law enforcement agency shall hold the firearm for an additional 60 days:
- 405 (a) if the initial 60-day period expires; and
- 406 (b) the cohabitant or owner cohabitant requests that the law enforcement agency hold the firearm for an
additional 60 days.
- 408 (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.
- 411 (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 53-5c-202(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:
- 416 (a) return of a firearm in accordance with Subsection (3)(d); or
- 417 (b) disposal of the firearm in accordance with Section 53-5c-202.

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- 418 (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.
- 421 (8) A law enforcement agency shall adopt a policy for the safekeeping of a firearm held in accordance
with this chapter.
- 423 (9) The department shall:
- 424 (a) 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[-] ;
- 428 (b) survey all law enforcement agencies in the state and publish a publicly searchable registry that
will allow the public to see whether each law enforcement agency is or is not available to receive a
voluntarily committed firearm in accordance with this section; and
- 432 (c) subject to available funding, create and implement a marketing plan to educate law enforcement
agencies and the public regarding the options available under this chapter.

449 Section 5. **FY 2026 Appropriations.**

486 Section 6. **Effective date.**

Effective Date.

This bill takes effect on May 7, 2025.

3-4-25 5:36 PM