

Chapter 5c Firearms Safe Harbor

Part 1 General Provisions

53-5c-101 Title.

This chapter is known as "Firearms Safe Harbor."

Enacted by Chapter 188, 2013 General Session

53-5c-102 Definitions.

- (1) "Cohabitant" means a person who is 21 years of age or older who resides in the same residence as the other party.
- (2) "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.
- (3) "Illegal firearm" means a firearm the ownership or possession of which is prohibited under state or federal law.
- (4) "Law enforcement agency" means a municipal or county police agency or an officer of that agency.
- (5) "Owner cohabitant" means a cohabitant who owns, in whole or in part, a firearm.
- (6) "Public interest use" means:
 - (a) use by a government agency as determined by the legislative body of the agency's jurisdiction; or
 - (b) donation to a bona fide charity.

Enacted by Chapter 188, 2013 General Session

Part 2 Voluntary Commitment of Firearm

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

- (1) As used in this section, "cohabitant" means any individual 18 years of age or older residing in the home who:
 - (a) is living as if a spouse of the owner cohabitant;
 - (b) is related by blood or marriage to the owner cohabitant;
 - (c) has one or more children in common with the owner cohabitant; or
 - (d) has an interest in the safety and wellbeing of the owner cohabitant.
- (2)
 - (a) A cohabitant may voluntarily commit a firearm to a law enforcement agency for safekeeping if the cohabitant believes that the owner cohabitant or another cohabitant with access to the firearm is an immediate threat to:
 - (i) himself or herself;
 - (ii) the owner cohabitant; or

- (iii) any other person.
- (b) A law enforcement agency may not hold a firearm under this section if the law enforcement agency obtains the firearm in a manner other than the owner cohabitant voluntarily presenting, of the owner cohabitant's own free will, the firearm to the law enforcement agency at the agency's office.
- (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:
 - (a) record:
 - (i) the owner cohabitant's name, address, and phone number;
 - (ii) the firearm serial number and the make and model of each firearm committed; and
 - (iii) the date that the firearm was voluntarily committed;
 - (b) require the cohabitant to sign a document attesting that the cohabitant resides in the home;
 - (c) hold the firearm in safe custody for 60 days after the day on which the firearm is voluntarily committed; and
 - (d) upon proof of identification, return the firearm to:
 - (i) the owner cohabitant after the expiration of the 60-day period or, if the owner cohabitant requests return of the firearm before the expiration of the 60-day period, at the time of the request; or
 - (ii) an owner other than the owner cohabitant in accordance with Section 53-5c-202.
- (4) The law enforcement agency shall hold the firearm for an additional 60 days:
 - (a) if the initial 60-day period expires; and
 - (b) the cohabitant or owner cohabitant requests that the law enforcement agency hold the firearm for an additional 60 days.
- (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.
- (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:
 - (a) return of a firearm in accordance with Subsection (3)(d); or
 - (b) disposal of the firearm in accordance with Section 53-5c-202.
- (7) Unless otherwise provided, the provisions of Title 77, Chapter 24a, Lost or Mislaid Personal Property, do not apply to a firearm received by a law enforcement agency in accordance with this chapter.
- (8) A law enforcement agency shall adopt a policy for the safekeeping of a firearm held in accordance with this chapter.

Amended by Chapter 136, 2019 General Session

Amended by Chapter 369, 2019 General Session

53-5c-202 Illegal firearms confiscated -- Disposition of unclaimed firearm.

- (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:
 - (a) notify the owner cohabitant attempting to voluntarily commit the firearm that the firearm is an illegal firearm; and
 - (b) confiscate the firearm and dispose of the firearm in accordance with Section 24-3-103.5 .
- (2)

- (a) If a law enforcement agency cannot, after a reasonable attempt, locate an owner cohabitant to return a firearm in accordance with Section 53-5c-201, the law enforcement agency shall dispose of the firearm in accordance with Section 24-3-103.5.
 - (b) A law enforcement agency may not dispose of a firearm under Subsection (2)(a) before one year after the day on which the owner cohabitant initially voluntarily commits the firearm in accordance with Section 53-5c-201.
- (3)
- (a) If a person other than an owner cohabitant who voluntarily commits a firearm in accordance with Section 53-5c-201 claims ownership of the firearm, the person may:
 - (i) request that the law enforcement agency return the firearm in accordance with Subsection (3)(b); or
 - (ii) petition the court for the firearm's return in accordance with Subsection (3)(c).
 - (b) Except as provided in Section 53-5c-201, the law enforcement agency shall return a firearm to a person other than an owner cohabitant who claims ownership of the firearm if:
 - (i) the 60-day period described in Section 53-5c-201 has expired;
 - (ii) the person provides identification; and
 - (iii) the person signs a document attesting that the person has an ownership interest in the firearm.
 - (c) After sufficient notice is given to the prosecutor, the court may order that the firearm be:
 - (i) returned to the rightful owner as determined by the court; or
 - (ii) disposed of in accordance with Section 24-3-103.5.
 - (d) A law enforcement agency shall return a firearm ordered returned to the rightful owner as expeditiously as possible after a court determination.

Amended by Chapter 334, 2017 General Session