

Representative Brian M. Greene proposes the following substitute bill:

FIREARMS AMENDMENTS

2018 GENERAL SESSION

STATE OF UTAH

Chief Sponsor: Brian M. Greene

Senate Sponsor: _____

LONG TITLE

General Description:

This bill makes changes to statutes regarding concealed firearm, background checks.

Highlighted Provisions:

This bill:

- ▶ eliminates the state's performance of the federal background check requirement for a firearm purchase;
- ▶ requires the bureau to provide a report to the National Instant Criminal Background Check System of persons restricted from purchasing or possessing firearms under state or federal law; and
- ▶ makes technical and conforming amendments.

Money Appropriated in this Bill:

None

Other Special Clauses:

None

Utah Code Sections Affected:

AMENDS:

53-10-202, as last amended by Laws of Utah 2017, Chapter 296

53-10-202.5, as last amended by Laws of Utah 2017, Chapter 286



26 **76-10-526**, as last amended by Laws of Utah 2014, Chapter 226



27
28 *Be it enacted by the Legislature of the state of Utah:*

29 Section 1. Section **53-10-202** is amended to read:

30 **53-10-202. Criminal identification -- Duties of bureau.**

31 The bureau shall:

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

33 (a) are fugitives from justice;

34 (b) are wanted or missing;

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

36 and

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

38 offense;

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

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

41 (b) statistics concerning crimes that exhibit evidence of prejudice based on race,

42 religion, ancestry, national origin, ethnicity, or other categories that the division finds

43 appropriate; and

44 (c) other statistics as required by the Federal Bureau of Investigation;

45 (3) make a complete and systematic record and index of the information obtained

46 under this part;

47 (4) subject to the restrictions in this part, establish policy concerning the use and

48 dissemination of data obtained under this part;

49 (5) publish an annual report concerning the extent, fluctuation, distribution, and nature

50 of crime in Utah;

51 (6) establish a statewide central register for the identification and location of missing

52 persons, which may include:

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

54 (b) identifying data of any missing person who is reported as missing to a law

55 enforcement agency having jurisdiction;

56 (c) dates and circumstances of any persons requesting or receiving information from

57 the register; and

58 (d) any other information, including blood types and photographs found necessary in
59 furthering the purposes of this part;

60 (7) publish a quarterly directory of missing persons for distribution to persons or
61 entities likely to be instrumental in the identification and location of missing persons;

62 (8) list the name of every missing person with the appropriate nationally maintained
63 missing persons lists;

64 (9) establish and operate a 24-hour communication network for reports of missing
65 persons and reports of sightings of missing persons;

66 (10) coordinate with the National Center for Missing and Exploited Children and other
67 agencies to facilitate the identification and location of missing persons and the identification of
68 unidentified persons and bodies;

69 (11) receive information regarding missing persons, as provided in Sections 26-2-27
70 and 53A-11-502, and stolen vehicles, vessels, and outboard motors, as provided in Section
71 41-1a-1401;

72 (12) adopt systems of identification, including the fingerprint system, to be used by the
73 division to facilitate law enforcement;

74 (13) assign a distinguishing number or mark of identification to any pistol or revolver,
75 as provided in Section 76-10-520;

76 (14) check certain criminal records databases for information regarding motor vehicle
77 salesperson applicants, maintain a separate file of fingerprints for motor vehicle salespersons,
78 and inform the Motor Vehicle Enforcement Division when new entries are made for certain
79 criminal offenses for motor vehicle salespersons in accordance with the requirements of
80 Section 41-3-205.5;

81 (15) check certain criminal records databases for information regarding driving
82 privilege card applicants or cardholders and maintain a separate file of fingerprints for driving
83 privilege applicants and cardholders and inform the federal Immigration and Customs
84 Enforcement Agency of the United States Department of Homeland Security when new entries
85 are made in accordance with the requirements of Section 53-3-205.5.

86 (16) review and approve or disapprove applications for license renewal that meet the
87 requirements for renewal;

88 (17) forward to the board those applications for renewal under Subsection (16) that do
89 not meet the requirements for renewal; [~~and~~]

90 (18) within funds appropriated by the Legislature for the purpose, implement and
91 manage the operation of firearm safety and suicide prevention education programs, in
92 conjunction with the state suicide prevention coordinator, as described in this section and
93 Section 62A-15-1101, including:

94 (a) coordinating with the Department of Health, local mental health and substance
95 abuse authorities, a nonprofit behavioral health advocacy group, and a representative from a
96 Utah-based nonprofit organization with expertise in the field of firearm use and safety that
97 represents firearm owners, to:

98 (i) produce a firearm safety brochure with information about the safe handling and use
99 of firearms that includes:

100 (A) rules for safe handling, storage, and use of firearms in a home environment;

101 (B) information about at-risk individuals and individuals who are legally prohibited
102 from possessing firearms;

103 (C) information about suicide prevention and awareness; and

104 (D) information about the availability of firearm safety packets;

105 (ii) procure cable-style gun locks for distribution pursuant to this section;

106 (iii) produce a firearm safety packet that includes both the firearm safety brochure
107 described in Subsection (18)(a)(i) and the cable-style gun lock described in Subsection
108 (18)(a)(ii); and

109 (iv) create a suicide prevention education course that:

110 (A) provides information that includes posters for display and pamphlets or brochures
111 for distribution regarding firearm safety education;

112 (B) incorporates current information on how to recognize suicidal behaviors and
113 identify persons who may be suicidal;

114 (C) provides information regarding crisis intervention resources; and

115 (D) provides continuing education in the area of suicide prevention;

116 (b) distributing, free of charge, the firearm safety packet to the following persons, who
117 shall make the firearm safety packet available free of charge:

118 (i) health care providers, including emergency rooms;

- 119 (ii) mental health practitioners;
- 120 (iii) other public health suicide prevention organizations;
- 121 (iv) entities that teach firearm safety courses; and
- 122 (v) school districts for use in the seminar, described in Section 53A-15-1302, for
123 parents of students in the school district;
- 124 (c) creating and administering a redeemable coupon program described in this section
125 and Section 76-10-526, that may include:
- 126 (i) producing a redeemable coupon that offers between \$10 and \$200 off the purchase
127 of a gun safe from a participating federally licensed firearms dealer, as defined in Section
128 76-10-501, by a Utah resident who has filed an application for a concealed firearm permit;
- 129 (ii) advertising the redeemable coupon program to all federally licensed firearms
130 dealers and maintaining a list of dealers who wish to participate in the program;
- 131 (iii) printing or writing the name of a Utah resident who has filed an application for a
132 concealed firearm permit on the redeemable coupon;
- 133 (iv) mailing the redeemable coupon and the firearm safety brochure to Utah residents
134 who have filed an application for a concealed firearm permit; and
- 135 (v) collecting from the participating dealers receipts described in Section 76-10-526
136 and reimbursing the dealers;
- 137 (d) in accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act,
138 making rules that establish procedures for:
- 139 (i) producing and distributing the firearm safety brochures and packets;
- 140 (ii) procuring the cable-style gun locks for distribution; and
- 141 (iii) administering the redeemable coupon program; and
- 142 (e) reporting to the Law Enforcement and Criminal Justice Interim Committee
143 regarding implementation and success of the firearm safety program:
- 144 (i) during the 2016 interim, before November 1; and
- 145 (ii) during the 2018 interim, before June 1~~[-]~~; and
- 146 (19) regularly and timely provide to the United States attorney general, for inclusion in
147 the National Instant Criminal Background Check System, identifying information on persons
148 who, by reason of adjudication by the state, are disqualified from possessing or receiving a
149 firearm under Section 76-10-503 or federal law.

150 Section 2. Section 53-10-202.5 is amended to read:

151 **53-10-202.5. Bureau services -- Fees.**

152 The bureau shall collect fees for the following services:

- 153 (1) [applicant] fingerprint card as determined by Section 53-10-108;
- 154 (2) bail enforcement licensing as determined by Section 53-11-115;
- 155 (3) concealed firearm permit as determined by Section 53-5-707;
- 156 (4) provisional concealed firearm permit as determined by Section 53-5-707.5;
- 157 (5) application for and issuance of a certificate of eligibility for expungement as
- 158 determined by Section 77-40-106;
- 159 [~~(6) firearm purchase background check as determined by Section 76-10-526;~~]
- 160 [~~(7)~~] (6) name check as determined by Section 53-10-108;
- 161 [~~(8)~~] (7) private investigator licensing as determined by Section 53-9-111; and
- 162 [~~(9)~~] (8) right of access as determined by Section 53-10-108.

163 Section 3. Section 76-10-526 is amended to read:

164 **76-10-526. Criminal background check prior to purchase of a firearm.**

165 (1) For purposes of this section, "valid permit to carry a concealed firearm" does not

166 include a temporary permit issued under Section 53-5-705.

167 (2) (a) To establish personal identification and residence in this state for purposes of

168 this part, a dealer shall require an individual receiving a firearm to present one photo

169 identification on a form issued by a governmental agency of the state.

170 (b) A dealer may not accept a driving privilege card issued under Section 53-3-207 as

171 proof of identification for the purpose of establishing personal identification and residence in

172 this state as required under this Subsection (2).

173 [~~(3)(a) A criminal history background check is required for the sale of a firearm by a~~

174 ~~licensed firearm dealer in the state.]~~

175 (3) A dealer may not sell or transfer a firearm to an individual until the dealer has

176 conducted a background check of the individual in accordance with 27 C.F.R. Sec. 478.102.

177 [~~(b)~~] (4) Subsection (3)[~~(a)~~] does not apply to the sale or transfer of a firearm to:

178 (a) a Federal Firearms Licensee[-]; or

179 (b) an individual with a concealed firearm permit issued under Title 53, Chapter 5, Part

180 7, Concealed Firearm Act, if:

181 (i) the individual presents the individual's concealed firearm permit to the dealer prior
182 to purchase of the firearm; and

183 (ii) the dealer verifies with the bureau that the individual's concealed firearm permit is
184 valid.

185 ~~[(4) (a) An individual purchasing a firearm from a dealer shall consent in writing to a~~
186 ~~criminal background check, on a form provided by the bureau.]~~

187 ~~[(b) The form shall contain the following information:]~~

188 ~~[(i) the dealer identification number;]~~

189 ~~[(ii) the name and address of the individual receiving the firearm;]~~

190 ~~[(iii) the date of birth, height, weight, eye color, and hair color of the individual~~
191 ~~receiving the firearm; and]~~

192 ~~[(iv) the Social Security number or any other identification number of the individual~~
193 ~~receiving the firearm.]~~

194 ~~[(5) (a) The dealer shall send the information required by Subsection (4) to the bureau~~
195 ~~immediately upon its receipt by the dealer.]~~

196 ~~[(b) A dealer may not sell or transfer a firearm to an individual until the dealer has~~
197 ~~provided the bureau with the information in Subsection (4) and has received approval from the~~
198 ~~bureau under Subsection (7).]~~

199 ~~[(6) The dealer shall make a request for criminal history background information by~~
200 ~~telephone or other electronic means to the bureau and shall receive approval or denial of the~~
201 ~~inquiry by telephone or other electronic means.]~~

202 ~~[(7) When the dealer calls for or requests a criminal history background check, the~~
203 ~~bureau shall:]~~

204 ~~[(a) review the criminal history files, including juvenile court records, to determine if~~
205 ~~the individual is prohibited from purchasing, possessing, or transferring a firearm by state or~~
206 ~~federal law;]~~

207 ~~[(b) inform the dealer that:]~~

208 ~~[(i) the records indicate the individual is prohibited; or]~~

209 ~~[(ii) the individual is approved for purchasing, possessing, or transferring a firearm;]~~

210 ~~[(c) provide the dealer with a unique transaction number for that inquiry; and]~~

211 ~~[(d) provide a response to the requesting dealer during the call for a criminal~~

212 ~~background check, or by return call, or other electronic means, without delay, except in case of~~
213 ~~electronic failure or other circumstances beyond the control of the bureau, the bureau shall~~
214 ~~advise the dealer of the reason for the delay and give the dealer an estimate of the length of the~~
215 ~~delay.]~~

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

220 ~~[(b) However, the bureau shall maintain a log of requests containing the dealer's federal~~
221 ~~firearms number, the transaction number, and the transaction date for a period of 12 months.]~~

222 ~~[(9) If the criminal history background check discloses information indicating that the~~
223 ~~individual attempting to purchase the firearm is prohibited from purchasing, possessing, or~~
224 ~~transferring a firearm, the bureau shall inform the law enforcement agency in the jurisdiction~~
225 ~~where the individual resides.]~~

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

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

233 ~~[(12) (a) (i) A dealer shall collect a criminal history background check fee of \$7.50 for~~
234 ~~the sale of a firearm under this section.]~~

235 ~~[(ii) This fee remains in effect until changed by the bureau through the process under~~
236 ~~Section [63J-1-504](#).]~~

237 ~~[(b) (i) The dealer shall forward at one time all fees collected for criminal history~~
238 ~~background checks performed during the month to the bureau by the last day of the month~~
239 ~~following the sale of a firearm.]~~

240 ~~[(ii) The bureau shall deposit the fees in the General Fund as dedicated credits to cover~~
241 ~~the cost of administering and conducting the criminal history background check program.]~~

242 ~~[(13) An individual with a concealed firearm permit issued under Title 53, Chapter 5,~~

243 ~~Part 7, Concealed Firearm Act, is exempt from the background check and corresponding fee~~
244 ~~required in this section for the purchase of a firearm if:]~~

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

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

249 ~~[(14) A law enforcement officer, as defined in Section 53-13-103, is exempt from the~~
250 ~~background check fee required in this section for the purchase of a personal firearm to be~~
251 ~~carried while off-duty if the law enforcement officer verifies current employment by providing~~
252 ~~a letter of good standing from the officer's commanding officer and current law enforcement~~
253 ~~photo identification. This section may only be used by a law enforcement officer to purchase a~~
254 ~~personal firearm once in a 24-month period.]~~

255 ~~[(15)]~~ (5) (a) A dealer may participate in the redeemable coupon program described in
256 this Subsection ~~[(15)]~~ (5) and Subsection 53-10-202(18).

257 (b) A participating dealer shall:

258 (i) accept the redeemable coupon only from the individual whose name is on the
259 coupon and apply it only toward the purchase of a gun safe;

260 (ii) collect the receipts from the purchase of gun safes using the redeemable coupon
261 and send them to the Bureau of Criminal Identification for redemption; and

262 (iii) make the firearm safety brochure described in Subsection 53-10-202(18) available
263 to customers free of charge.