

**Representative Andrew Stoddard** proposes the following substitute bill:

**LIABILITY OF FIREARM CUSTODIAN**

2019 GENERAL SESSION

STATE OF UTAH

**Chief Sponsor: Andrew Stoddard**

Senate Sponsor: \_\_\_\_\_

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**LONG TITLE**

**General Description:**

This bill addresses liability for the discharge of a firearm custodian's firearm.

**Highlighted Provisions:**

This bill:

- ▶ defines terms; and
- ▶ describes the circumstances under which a firearm owner or possessor is strictly liable for personal injury caused by the discharge of the firearm.

**Money Appropriated in this Bill:**

None

**Other Special Clauses:**

None

**Utah Code Sections Affected:**

ENACTS:

**53-5a-103.5**, Utah Code Annotated 1953

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

Section 1. Section **53-5a-103.5** is enacted to read:

**53-5a-103.5. Liability of firearm custodian.**



26 (1) As used in this section:

27 (a) "Firearm" means the same as that term is defined in Section 76-10-501.

28 (b) "Firearm custodian" means a person who owns or knowingly possesses a firearm.

29 (c) "Peace officer" means:

30 (i) an animal control officer as that term is defined in Section 11-46-102; or

31 (ii) a law enforcement officer as that term is defined in Section 53-13-103.

32 (d) "Violent felony" means the same as that term is defined in Section 76-3-203.5.

33 (2) A firearm custodian is strictly liable for personal injury proximately caused by the  
34 discharge of the firearm custodian's firearm if the discharge results from conduct that  
35 constitutes a violent felony, regardless of whether the individual who engages in the conduct is  
36 charged with a violent felony.

37 (3) A firearm custodian is not strictly liable for personal injury or property damage  
38 proximately caused by the discharge of the firearm custodian's firearm if:

39 (a) (i) the individual causing the discharge takes the firearm custodian's firearm without  
40 the firearm custodian's permission; and

41 (ii) the firearm custodian:

42 (A) reports the theft to the police before the discharge;

43 (B) fails to discover and report the theft despite the firearm custodian's exercise of  
44 reasonable care in storing and securing the firearm; or

45 (C) is not reasonably able to report the theft before the discharge occurs;

46 (b) the discharge occurs in self defense or is otherwise legally justified; or

47 (c) the firearm custodian is a peace officer who discharges the peace officer's firearm in  
48 the course of the peace officer's official duties.

49 (4) It is a defense to liability under this section if the firearm custodian demonstrates,  
50 by clear and convincing evidence, that the firearm custodian:

51 (a) loaned the firearm custodian's firearm to an individual with whom the firearm  
52 custodian had a close personal relationship; and

53 (b) had no reason to suspect that the individual to whom the firearm custodian loaned  
54 the firearm would use the firearm to commit a dangerous felony.