

1 **DOMESTIC VIOLENCE -- WEAPONS AMENDMENTS**

2 2019 GENERAL SESSION

3 STATE OF UTAH

4 **Chief Sponsor: Brian S. King**

5 Senate Sponsor: Deidre M. Henderson

6

7 **LONG TITLE**

8 **General Description:**

9 This bill requires a law enforcement agency to report certain information relating to
10 domestic violence.

11 **Highlighted Provisions:**

12 This bill:

- 13 ▶ requires a law enforcement agency to report certain information relating to domestic
- 14 violence to the Law Enforcement and Criminal Justice Interim Committee; and
- 15 ▶ makes technical changes.

16 **Money Appropriated in this Bill:**

17 None

18 **Other Special Clauses:**

19 None

20 **Utah Code Sections Affected:**

21 AMENDS:

22 **76-10-526**, as last amended by Laws of Utah 2018, Chapter 417

23

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

25 Section 1. Section **76-10-526** is amended to read:

26 **76-10-526. Criminal background check prior to purchase of a firearm -- Fee --**
27 **Exemption for concealed firearm permit holders and law enforcement officers.**



28 (1) For purposes of this section, "valid permit to carry a concealed firearm" does not
29 include a temporary permit issued under Section 53-5-705.

30 (2) (a) To establish personal identification and residence in this state for purposes of
31 this part, a dealer shall require an individual receiving a firearm to present one photo
32 identification on a form issued by a governmental agency of the state.

33 (b) A dealer may not accept a driving privilege card issued under Section 53-3-207 as
34 proof of identification for the purpose of establishing personal identification and residence in
35 this state as required under this Subsection (2).

36 (3) (a) A criminal history background check is required for the sale of a firearm by a
37 licensed firearm dealer in the state.

38 (b) Subsection (3)(a) does not apply to the sale of a firearm to a Federal Firearms
39 Licensee.

40 (4) (a) An individual purchasing a firearm from a dealer shall consent in writing to a
41 criminal background check, on a form provided by the bureau.

42 (b) The form shall contain the following information:

43 (i) the dealer identification number;

44 (ii) the name and address of the individual receiving the firearm;

45 (iii) the date of birth, height, weight, eye color, and hair color of the individual
46 receiving the firearm; and

47 (iv) the social security number or any other identification number of the individual
48 receiving the firearm.

49 (5) (a) The dealer shall send the information required by Subsection (4) to the bureau
50 immediately upon its receipt by the dealer.

51 (b) A dealer may not sell or transfer a firearm to an individual until the dealer has
52 provided the bureau with the information in Subsection (4) and has received approval from the
53 bureau under Subsection (7).

54 (6) The dealer shall make a request for criminal history background information by
55 telephone or other electronic means to the bureau and shall receive approval or denial of the
56 inquiry by telephone or other electronic means.

57 (7) When the dealer calls for or requests a criminal history background check, the
58 bureau shall:

59 (a) review the criminal history files, including juvenile court records, to determine if
60 the individual is prohibited from purchasing, possessing, or transferring a firearm by state or
61 federal law;

62 (b) inform the dealer that:

63 (i) the records indicate the individual is prohibited; or

64 (ii) the individual is approved for purchasing, possessing, or transferring a firearm;

65 (c) provide the dealer with a unique transaction number for that inquiry; and

66 (d) provide a response to the requesting dealer during the call for a criminal
67 background check, or by return call, or other electronic means, without delay, except in case of
68 electronic failure or other circumstances beyond the control of the bureau, the bureau shall
69 advise the dealer of the reason for the delay and give the dealer an estimate of the length of the
70 delay.

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

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

77 (9) (a) If the criminal history background check discloses information indicating that
78 the individual attempting to purchase the firearm is prohibited from purchasing, possessing, or
79 transferring a firearm, the bureau shall inform the law enforcement agency in the jurisdiction
80 where the individual resides.

81 (b) A law enforcement agency that receives information from the bureau under
82 Subsection (9)(a) shall provide a report before August 1 of each year to the bureau that
83 includes:

84 (i) based on the information the bureau provides to the law enforcement agency under
85 Subsection (9)(a), the number of cases that involve an individual who is prohibited from
86 purchasing, possessing, or transferring a firearm as a result of a conviction for an offense
87 involving domestic violence; and

88 (ii) of the cases described in Subsection (9)(b)(i):

89 (A) the number of cases the law enforcement agency investigates; and

90 (B) the number of cases the law enforcement agency investigates that result in a
91 criminal charge.

92 (c) The bureau shall:

93 (i) compile the information from the reports described in Subsection (9)(b);

94 (ii) omit or redact any identifying information in the compilation; and

95 (iii) submit the compilation to the Law Enforcement and Criminal Justice Interim
96 Committee before November 1 of each year.

97 (10) If an individual is denied the right to purchase a firearm under this section, the
98 individual may review the individual's criminal history information and may challenge or
99 amend the information as provided in Section 53-10-108.

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

104 (12) (a) A dealer shall collect a criminal history background check fee for the sale of a
105 firearm under this section. This fee remains in effect until changed by the bureau through the
106 process in accordance with Section 63J-1-504.

107 (b) (i) The dealer shall forward at one time all fees collected for criminal history
108 background checks performed during the month to the bureau by the last day of the month
109 following the sale of a firearm.

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

112 (13) An individual with a concealed firearm permit issued under Title 53, Chapter 5,
113 Part 7, Concealed Firearm Act, is exempt from the background check and corresponding fee
114 required in this section for the purchase of a firearm if:

115 (a) the individual presents the individual's concealed firearm permit to the dealer prior
116 to purchase of the firearm; and

117 (b) the dealer verifies with the bureau that the individual's concealed firearm permit is
118 valid.

119 (14) A law enforcement officer, as defined in Section 53-13-103, is exempt from the
120 background check fee required in this section for the purchase of a personal firearm to be

121 carried while off-duty if the law enforcement officer verifies current employment by providing
122 a letter of good standing from the officer's commanding officer and current law enforcement
123 photo identification. This section may only be used by a law enforcement officer to purchase a
124 personal firearm once in a 24-month period.