

## SB0087S01 compared with SB0087

~~text~~ shows text that was in SB0087 but was deleted in SB0087S01.

text shows text that was not in SB0087 but was inserted into SB0087S01.

**DISCLAIMER:** This document is provided to assist you in your comparison of the two bills. Sometimes this automated comparison will NOT be completely accurate. Therefore, you need to read the actual bills. This automatically generated document could contain inaccuracies caused by: limitations of the compare program; bad input data; or other causes.

Senator Daniel W. Thatcher proposes the following substitute bill:

### FIREARM COMMITMENT AMENDMENTS

2020 GENERAL SESSION

STATE OF UTAH

**Chief Sponsor: Daniel W. Thatcher**

House Sponsor: \_\_\_\_\_

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#### LONG TITLE

##### General Description:

This bill modifies provisions regarding the commitment of firearms.

##### Highlighted Provisions:

This bill:

- ▶ provides for circumstances where a cohabitant may commit the firearm of ~~a~~ an owner cohabitant without the permission of the owner cohabitant;
- ▶ sets procedures for law enforcement to follow when accepting a firearm committed by a cohabitant without the owner cohabitant's permission; and
- ▶ makes technical changes.

##### Money Appropriated in this Bill:

None

##### Other Special Clauses:

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None

### Utah Code Sections Affected:

AMENDS:

**53-5c-201**, as last amended by Laws of Utah 2019, Chapters 136 and 369

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

Section 1. Section **53-5c-201** is amended to read:

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

(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)§§(a)§§~~ himself or herself;
- ~~§§(ii)§§(b)§§~~ the owner cohabitant; or
- ~~§§(iii)§§(c)§§~~ 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.]~~

(b) A law enforcement agency may not hold a firearm received in accordance with this section unless:

(i) the owner cohabitant voluntarily commits the firearm to the law enforcement agency; or

(ii) a cohabitant of the owner cohabitant voluntarily commits the firearm to the law enforcement agency.

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(3) (a) 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]~~ section shall:

~~[(a)]~~ (i) record:

~~[(i)]~~ (A) the owner cohabitant's name, address, and phone number;

~~[(ii)]~~ (B) the firearm serial number and the make and model of each firearm committed; ~~{}~~ and ~~{}~~

~~[(iii)]~~ (C) the date and time that the firearm was ~~{}~~ voluntarily ~~{}~~ committed;

~~{(iv) if the law enforcement agency receives documentation under Subsection (8), a notation of the pending determination of which the owner cohabitant is the subject, and~~

~~—— (v) any other information the law enforcement agency has been made aware of and determines is relevant to the commitment of the firearm;~~

~~—— (b){}~~ (b) (ii) require the cohabitant to sign a document attesting that the cohabitant resides in the home of the owner cohabitant; and

(c) (iii) hold the firearm in safe custody for 60 days after the day on which the firearm is ~~{}~~ voluntarily ~~{}~~ committed~~[-and]~~ or for a longer period of time if properly requested ~~for~~ required~~}~~ under this section.

(b) Except as provided in Subsection (3)(a), a law enforcement agency may not require an individual committing a firearm under this section to disclose any information relating to the circumstances under which the individual is committing the firearm.

~~[(d)]~~ (4) (a) ~~[upon proof of identification,]~~ ~~{}~~ Except as provided in Subsection (6), and after complying with Subsection (7), a A law enforcement agency that receives a firearm in accordance with this section shall return the firearm to:

~~[(i)]~~ ~~{}~~ (a) 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)]~~ ~~(b){}~~

(i) the owner cohabitant:

(A) after the expiration of the 60-day period described in Subsection (3)(a)(iii); or

(B) at the owner cohabitant's request, if the owner cohabitant makes the request 12 or more business hours after the firearm is voluntarily committed to the law enforcement agency;

or

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(ii) an owner other than the owner cohabitant in accordance with Section 53-5c-202.

(b) Notwithstanding Subsection (4)(a), a law enforcement agency may not return a firearm to an individual who is a restricted person under Section 76-10-503.

~~[(4)] (5)~~ The law enforcement agency shall hold the firearm for an additional 60 days if:

(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.

~~{ } (6) A law enforcement agency may not return a firearm to an owner cohabitant requesting return of the firearm if the owner cohabitant is the subject of any pending determination that may result in the owner cohabitant becoming a restricted person under Section 76-10-503.~~

~~(7) Before returning a firearm to an owner cohabitant under Subsection (4), a law enforcement agency shall take reasonable measures to verify that the owner cohabitant seeking return of the owner cohabitant's firearm is not the subject of a pending determination described in Subsection (6) and is not currently a restricted person under Section 76-10-503 by reviewing:~~

~~(a) all accessible and relevant databases;~~

~~(b) any documentation provided by a cohabitant or owner cohabitant; or~~

~~(c) any other resources available to the law enforcement agency.~~

~~(8) A cohabitant who commits, to a law enforcement agency, the firearm of an owner cohabitant who is awaiting a determination for commitment to a mental health authority shall provide the law enforcement agency with documentation supporting that the owner cohabitant is awaiting a determination for commitment to a mental health authority.~~

~~{ } [(5)] { A } { (9) } (6) { Except as provided in Subsection (8), a } Δ law enforcement agency may not request or require that the ~~{ }~~ owner ~~{ }~~ cohabitant provide the name or other information of the ~~{ owner }~~ cohabitant who poses an immediate threat or ~~{ of any other owner cohabitant }~~.~~

~~(6) (10) any other cohabitant charge a fee to an individual who commits or retrieves a firearm under this section.~~

(6) (7) Notwithstanding an ordinance or policy to the contrary adopted in accordance

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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)~~] (4); or

(b) disposal of the firearm in accordance with Section 53-5c-202.

[~~(7)~~] (~~(11)~~)8 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)~~] (~~(12)~~)9 A law enforcement agency shall adopt a policy for the safekeeping of a firearm held in accordance with this chapter.