

FIREARM SAFE HARBOR AMENDMENTS

2021 GENERAL SESSION

STATE OF UTAH

Chief Sponsor: A. Cory Maloy

Senate Sponsor: Jacob L. Anderegg

LONG TITLE

General Description:

This bill amends the safe harbor provisions for firearms.

Highlighted Provisions:

This bill:

- ▶ defines terms;
 - ▶ clarifies that a cohabitant or an owner cohabitant may surrender a firearm to law enforcement;
 - ▶ allows law enforcement officers to receive firearms;
 - ▶ requires a law enforcement agency to return a firearm to the owner upon request;
- and
- ▶ makes technical and conforming corrections.

Money Appropriated in this Bill:

None

Other Special Clauses:

None

Utah Code Sections Affected:

AMENDS:

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

53-5c-202, as last amended by Laws of Utah 2017, Chapter 334



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

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

30 **53-5c-201. Voluntary commitment of a firearm by cohabitant -- Law enforcement**
31 **to hold firearm.**

32 (1) As used in this section[~~,"cohabitant"~~]:

33 (a) "Cohabitant" means any individual 18 years [~~of age~~] old or older residing in the
34 home who:

35 [~~(a)~~] (i) is living as if a spouse of the owner cohabitant;

36 [~~(b)~~] (ii) is related by blood or marriage to the owner cohabitant;

37 [~~(c)~~] (iii) has one or more children in common with the owner cohabitant; or

38 [~~(d)~~] (iv) has an interest in the safety and [~~wellbeing~~] well-being of the owner
39 cohabitant.

40 (b) "Owner cohabitant" means an individual:

41 (i) in relation to a cohabitant as described in Subsection (1)(a); and

42 (ii) who owns a firearm.

43 (2) (a) A cohabitant or owner cohabitant may voluntarily commit a firearm to a law
44 enforcement agency or request that a law enforcement officer receive a firearm for safekeeping
45 if the owner cohabitant or cohabitant believes that the owner cohabitant or another cohabitant
46 with access to the firearm is an immediate threat to:

47 (i) himself or herself;

48 (ii) the owner cohabitant; or

49 (iii) any other person.

50 (b) [~~A~~] If the owner of a firearm requests return of the firearm in person at the law
51 enforcement agency's office, the law enforcement agency:

52 (i) may not hold [a] the firearm under this section [if the law enforcement agency
53 obtains the firearm in a manner other than the owner cohabitant voluntarily presenting, of the
54 owner cohabitant's own free will, the firearm to the law enforcement agency at the agency's
55 office.]; and

56 (ii) shall return the firearm to the owner.

57 (3) Unless a firearm is an illegal firearm subject to Section **53-5c-202**, a law
58 enforcement agency that receives a firearm in accordance with this chapter shall:

- 59 (a) record:
- 60 (i) the owner cohabitant's name, address, and phone number;
- 61 (ii) the firearm serial number and the make and model of each firearm committed; and
- 62 (iii) the date that the firearm was voluntarily committed;
- 63 (b) require the cohabitant to sign a document attesting that the cohabitant resides in the
- 64 home;
- 65 (c) hold the firearm in safe custody for 60 days after the day on which the firearm is
- 66 voluntarily committed; and
- 67 (d) upon proof of identification, return the firearm to:
- 68 (i) (A) the owner cohabitant after the expiration of the 60-day period [~~or~~]; or
- 69 (B) if the owner cohabitant requests return of the firearm before the expiration of the
- 70 60-day period, at the time of the request; or
- 71 (ii) an owner other than the owner cohabitant in accordance with Section 53-5c-202.
- 72 (4) The law enforcement agency shall hold the firearm for an additional 60 days:
- 73 (a) if the initial 60-day period expires; and
- 74 (b) the cohabitant or owner cohabitant requests that the law enforcement agency hold
- 75 the firearm for an additional 60 days.
- 76 (5) A law enforcement agency may not request or require that the owner cohabitant
- 77 provide the name or other information of the cohabitant who poses an immediate threat or any
- 78 other cohabitant.
- 79 (6) Notwithstanding an ordinance or policy to the contrary adopted in accordance with
- 80 Section 63G-2-701, a law enforcement agency shall destroy a record created under Subsection
- 81 (3), Subsection 53-5c-202(3)(b)(iii), or any other record created in the application of this
- 82 chapter immediately, if practicable, but no later than five days after immediately upon the:
- 83 (a) return of a firearm in accordance with Subsection (3)(d); or
- 84 (b) disposal of the firearm in accordance with Section 53-5c-202.
- 85 (7) Unless otherwise provided, the provisions of Title 77, Chapter 24a, Lost or Mislaid
- 86 Personal Property, do not apply to a firearm received by a law enforcement agency in
- 87 accordance with this chapter.
- 88 (8) A law enforcement agency shall adopt a policy for the safekeeping of a firearm held
- 89 in accordance with this chapter.

90 Section 2. Section **53-5c-202** is amended to read:

91 **53-5c-202. Illegal firearms confiscated -- Disposition of unclaimed firearm.**

92 (1) If a law enforcement agency receives a firearm in accordance with Section
93 **53-5c-201**, and the firearm is an illegal firearm, the law enforcement agency shall:

94 (a) notify the owner cohabitant attempting to voluntarily commit the firearm that the
95 firearm is an illegal firearm; and

96 (b) confiscate the firearm and dispose of the firearm in accordance with Section
97 **24-3-103.5**.

98 (2) (a) If a law enforcement agency cannot, after a reasonable attempt, locate an owner
99 cohabitant to return a firearm in accordance with Section **53-5c-201**, the law enforcement
100 agency shall dispose of the firearm in accordance with Section **24-3-103.5**.

101 (b) A law enforcement agency may not dispose of a firearm under Subsection (2)(a)
102 before one year after the day on which the [owner] cohabitant initially voluntarily [commits]
103 committed the firearm in accordance with Section **53-5c-201**.

104 (3) (a) If a person other than an owner cohabitant [~~who voluntarily commits a firearm~~
105 ~~in accordance with Section **53-5c-201**~~] claims ownership of the firearm, the person may:

106 (i) request that the law enforcement agency return the firearm in accordance with
107 Subsection (3)(b); or

108 (ii) petition the court for the firearm's return in accordance with Subsection (3)(c).

109 (b) Except as provided in Section **53-5c-201**, the law enforcement agency shall return a
110 firearm to a person other than an owner cohabitant who claims ownership of the firearm if:

111 (i) the 60-day period described in Section **53-5c-201** has expired;

112 (ii) the person provides identification; and

113 (iii) the person signs a document attesting that the person has an ownership interest in
114 the firearm.

115 (c) After sufficient notice is given to the prosecutor, the court may order that the
116 firearm be:

117 (i) returned to the rightful owner as determined by the court; or

118 (ii) disposed of in accordance with Section **24-3-103.5**.

119 (d) A law enforcement agency shall return a firearm ordered returned to the rightful
120 owner as expeditiously as possible after a court determination.