

**FIREARM AMENDMENTS**

2023 GENERAL SESSION

STATE OF UTAH

**Chief Sponsor: Brian S. King**

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

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**LONG TITLE**

**General Description:**

This bill amends provisions relating to firearms and ammunition.

**Highlighted Provisions:**

This bill:

- ▶ defines terms;
  - ▶ amends offenses related to a restricted person in possession of a dangerous weapon to include ammunition;
  - ▶ makes possession of a firearm on which the identifying marks have been altered or removed a crime;
  - ▶ requires the Bureau of Criminal Identification to inform local law enforcement when a prohibited person attempts to purchase a firearm from a firearm dealer;
  - ▶ requires a firearm dealer to distribute a firearm safety brochure at the time of the transfer of a firearm;
  - ▶ requires a firearm dealer to post a written notice of potential liability for the negligent storage of a firearm and provides a penalty for failure to post the notice;
- and
- ▶ makes technical and conforming changes.

**Money Appropriated in this Bill:**

None

**Other Special Clauses:**



28 None

29 **Utah Code Sections Affected:**

30 AMENDS:

31 **76-3-203.5**, as last amended by Laws of Utah 2022, Chapters 181, 185 and 418

32 **76-10-503**, as last amended by Laws of Utah 2021, Chapter 262

33 **76-10-522**, as last amended by Laws of Utah 1993, Chapter 234

34 **76-10-526**, as last amended by Laws of Utah 2021, Chapters 166, 277

35 **76-10-532**, as last amended by Laws of Utah 2015, Chapter 37

36 **76-10-1602**, as last amended by Laws of Utah 2022, Chapters 181, 185

37 ENACTS:

38 **76-10-527.5**, Utah Code Annotated 1953



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

41 Section 1. Section **76-3-203.5** is amended to read:

42 **76-3-203.5. Habitual violent offender -- Definition -- Procedure -- Penalty.**

43 (1) As used in this section:

44 (a) "Felony" means any violation of a criminal statute of the state, any other state, the  
45 United States, or any district, possession, or territory of the United States for which the  
46 maximum punishment the offender may be subjected to exceeds one year in prison.

47 (b) "Habitual violent offender" means a person convicted within the state of any violent  
48 felony and who on at least two previous occasions has been convicted of a violent felony and  
49 committed to either prison in Utah or an equivalent correctional institution of another state or  
50 of the United States either at initial sentencing or after revocation of probation.

51 (c) "Violent felony" means:

52 (i) any of the following offenses, or any attempt, solicitation, or conspiracy to commit  
53 any of the following offenses punishable as a felony:

54 (A) aggravated arson, arson, knowingly causing a catastrophe, and criminal mischief,  
55 Chapter 6, Part 1, Property Destruction;

56 (B) assault by prisoner, Section **76-5-102.5**;

57 (C) disarming a police officer, Section **76-5-102.8**;

58 (D) aggravated assault, Section **76-5-103**;

- 59 (E) aggravated assault by prisoner, Section 76-5-103.5;
- 60 (F) mayhem, Section 76-5-105;
- 61 (G) stalking, Subsection 76-5-106.5(2);
- 62 (H) threat of terrorism, Section 76-5-107.3;
- 63 (I) aggravated child abuse, Subsection 76-5-109.2(3)(a) or (b);
- 64 (J) commission of domestic violence in the presence of a child, Section 76-5-114;
- 65 (K) abuse or neglect of a child with a disability, Section 76-5-110;
- 66 (L) abuse or exploitation of a vulnerable adult, Section 76-5-111, 76-5-111.2,
- 67 76-5-111.3, or 76-5-111.4;
- 68 (M) endangerment of a child or vulnerable adult, Section 76-5-112.5;
- 69 (N) criminal homicide offenses under Chapter 5, Part 2, Criminal Homicide;
- 70 (O) kidnapping, child kidnapping, and aggravated kidnapping under Chapter 5, Part 3,
- 71 Kidnapping, Trafficking, and Smuggling;
- 72 (P) rape, Section 76-5-402;
- 73 (Q) rape of a child, Section 76-5-402.1;
- 74 (R) object rape, Section 76-5-402.2;
- 75 (S) object rape of a child, Section 76-5-402.3;
- 76 (T) forcible sodomy, Section 76-5-403;
- 77 (U) sodomy on a child, Section 76-5-403.1;
- 78 (V) forcible sexual abuse, Section 76-5-404;
- 79 (W) sexual abuse of a child, Section 76-5-404.1, or aggravated sexual abuse of a child,
- 80 Section 76-5-404.3;
- 81 (X) aggravated sexual assault, Section 76-5-405;
- 82 (Y) sexual exploitation of a minor, Section 76-5b-201;
- 83 (Z) aggravated sexual exploitation of a minor, Section 76-5b-201.1;
- 84 (AA) sexual exploitation of a vulnerable adult, Section 76-5b-202;
- 85 (BB) aggravated burglary and burglary of a dwelling under Chapter 6, Part 2, Burglary
- 86 and Criminal Trespass;
- 87 (CC) aggravated robbery and robbery under Chapter 6, Part 3, Robbery;
- 88 (DD) theft by extortion under Subsection 76-6-406(2)(a) or (b);
- 89 (EE) tampering with a witness under Subsection 76-8-508(1);

90 (FF) retaliation against a witness, victim, or informant under Section 76-8-508.3;

91 (GG) tampering with a juror under Subsection 76-8-508.5(2)(c);

92 (HH) extortion to dismiss a criminal proceeding under Section 76-8-509 if by any

93 threat or by use of force theft by extortion has been committed pursuant to Subsections

94 76-6-406(2)(a), (b), and (i);

95 (II) possession, use, or removal of explosive, chemical, or incendiary devices under

96 Subsections 76-10-306(3) through (6);

97 (JJ) unlawful delivery of explosive, chemical, or incendiary devices under Section

98 76-10-307;

99 (KK) purchase or possession of a dangerous weapon or handgun or ammunition by a  
100 restricted person under Section 76-10-503;

101 (LL) unlawful discharge of a firearm under Section 76-10-508;

102 (MM) aggravated exploitation of prostitution under Subsection 76-10-1306(1)(a);

103 (NN) bus hijacking under Section 76-10-1504; and

104 (OO) discharging firearms and hurling missiles under Section 76-10-1505; or

105 (ii) any felony violation of a criminal statute of any other state, the United States, or  
106 any district, possession, or territory of the United States which would constitute a violent  
107 felony as defined in this Subsection (1) if committed in this state.

108 (2) If a person is convicted in this state of a violent felony by plea or by verdict and the  
109 trier of fact determines beyond a reasonable doubt that the person is a habitual violent offender  
110 under this section, the penalty for a:

111 (a) third degree felony is as if the conviction were for a first degree felony;

112 (b) second degree felony is as if the conviction were for a first degree felony; or

113 (c) first degree felony remains the penalty for a first degree penalty except:

114 (i) the convicted person is not eligible for probation; and

115 (ii) the Board of Pardons and Parole shall consider that the convicted person is a  
116 habitual violent offender as an aggravating factor in determining the length of incarceration.

117 (3) (a) The prosecuting attorney, or grand jury if an indictment is returned, shall  
118 provide notice in the information or indictment that the defendant is subject to punishment as a  
119 habitual violent offender under this section. Notice shall include the case number, court, and  
120 date of conviction or commitment of any case relied upon by the prosecution.

121 (b) (i) The defendant shall serve notice in writing upon the prosecutor if the defendant  
122 intends to deny that:

123 (A) the defendant is the person who was convicted or committed;

124 (B) the defendant was represented by counsel or had waived counsel; or

125 (C) the defendant's plea was understandingly or voluntarily entered.

126 (ii) The notice of denial shall be served not later than five days prior to trial and shall  
127 state in detail the defendant's contention regarding the previous conviction and commitment.

128 (4) (a) If the defendant enters a denial under Subsection (3)(b) and if the case is tried to  
129 a jury, the jury may not be told, until after [it] the jury returns [its] the jury's verdict on the  
130 underlying felony charge, of the:

131 (i) defendant's previous convictions for violent felonies, except as otherwise provided  
132 in the Utah Rules of Evidence; or

133 (ii) allegation against the defendant of being a habitual violent offender.

134 (b) If the jury's verdict is guilty, the defendant shall be tried regarding the allegation of  
135 being an habitual violent offender by the same jury, if practicable, unless the defendant waives  
136 the jury, in which case the allegation shall be tried immediately to the court.

137 (c) (i) Before or at the time of sentencing the trier of fact shall determine if this section  
138 applies.

139 (ii) The trier of fact shall consider any evidence presented at trial and the prosecution  
140 and the defendant shall be afforded an opportunity to present any necessary additional  
141 evidence.

142 (iii) Before sentencing under this section, the trier of fact shall determine whether this  
143 section is applicable beyond a reasonable doubt.

144 (d) If any previous conviction and commitment is based upon a plea of guilty or no  
145 contest, there is a rebuttable presumption that the conviction and commitment were regular and  
146 lawful in all respects if the conviction and commitment occurred after January 1, 1970. If the  
147 conviction and commitment occurred prior to January 1, 1970, the burden is on the prosecution  
148 to establish by a preponderance of the evidence that the defendant was then represented by  
149 counsel or had lawfully waived the right to have counsel present, and that the defendant's plea  
150 was understandingly and voluntarily entered.

151 (e) If the trier of fact finds this section applicable, the court shall enter that specific

152 finding on the record and shall indicate in the order of judgment and commitment that the  
153 defendant has been found by the trier of fact to be a habitual violent offender and is sentenced  
154 under this section.

155 (5) (a) The sentencing enhancement provisions of Section 76-3-407 supersede the  
156 provisions of this section.

157 (b) Notwithstanding Subsection (5)(a), the "violent felony" offense defined in  
158 Subsection (1)(c) shall include any felony sexual offense violation of Chapter 5, Part 4, Sexual  
159 Offenses, to determine if the convicted person is a habitual violent offender.

160 (6) The sentencing enhancement described in this section does not apply if:

161 (a) the offense for which the person is being sentenced is:

- 162 (i) a grievous sexual offense;
- 163 (ii) child kidnapping, Section 76-5-301.1;
- 164 (iii) aggravated kidnapping, Section 76-5-302; or
- 165 (iv) forcible sexual abuse, Section 76-5-404; and

166 (b) applying the sentencing enhancement provided for in this section would result in a  
167 lower maximum penalty than the penalty provided for under the section that describes the  
168 offense for which the person is being sentenced.

169 Section 2. Section 76-10-503 is amended to read:

170 **76-10-503. Restrictions on possession, purchase, transfer, and ownership of**  
171 **dangerous weapons or ammunition by certain persons -- Exceptions.**

172 (1) [~~For purposes of~~] As used in this section:

173 (a) "Ammunition" means a live round with a projectile, designed for use in and capable  
174 of being fired from a firearm.

175 [~~(a)~~] (b) A Category I restricted person is a person who:

- 176 (i) has been convicted of any violent felony as defined in Section 76-3-203.5;
- 177 (ii) is on probation or parole for any felony;
- 178 (iii) is on parole from secure care, as defined in Section 80-1-102;
- 179 (iv) within the last 10 years has been adjudicated under Section 80-6-701 for an offense  
180 which if committed by an adult would have been a violent felony as defined in Section  
181 76-3-203.5;

182 (v) is an alien who is illegally or unlawfully in the United States; or

- 183 (vi) is on probation for a conviction of possessing:
- 184 (A) a substance classified in Section 58-37-4 as a Schedule I or II controlled substance;
- 185 (B) a controlled substance analog; or
- 186 (C) a substance listed in Section 58-37-4.2.
- 187 ~~(b)~~ (c) A Category II restricted person is a person who:
- 188 (i) has been convicted of any felony;
- 189 (ii) within the last seven years has been adjudicated delinquent for an offense which if
- 190 committed by an adult would have been a felony;
- 191 (iii) is an unlawful user of a controlled substance as defined in Section 58-37-2;
- 192 (iv) is in possession of a dangerous weapon and is knowingly and intentionally in
- 193 unlawful possession of a Schedule I or II controlled substance as defined in Section 58-37-2;
- 194 (v) has been found not guilty by reason of insanity for a felony offense;
- 195 (vi) has been found mentally incompetent to stand trial for a felony offense;
- 196 (vii) has been adjudicated as mentally defective as provided in the Brady Handgun
- 197 Violence Prevention Act, Pub. L. No. 103-159, 107 Stat. 1536 (1993), or has been committed
- 198 to a mental institution;
- 199 (viii) has been dishonorably discharged from the armed forces;
- 200 (ix) has renounced the individual's citizenship after having been a citizen of the United
- 201 States;
- 202 (x) is a respondent or defendant subject to a protective order or child protective order
- 203 that is issued after a hearing for which the respondent or defendant received actual notice and at
- 204 which the respondent or defendant has an opportunity to participate, that restrains the
- 205 respondent or defendant from harassing, stalking, threatening, or engaging in other conduct that
- 206 would place an intimate partner, as defined in 18 U.S.C. Sec. 921, or a child of the intimate
- 207 partner, in reasonable fear of bodily injury to the intimate partner or child of the intimate
- 208 partner, and that:
- 209 (A) includes a finding that the respondent or defendant represents a credible threat to
- 210 the physical safety of an individual who meets the definition of an intimate partner in 18 U.S.C.
- 211 Sec. 921 or the child of the individual; or
- 212 (B) explicitly prohibits the use, attempted use, or threatened use of physical force that
- 213 would reasonably be expected to cause bodily harm against an intimate partner or the child of

214 an intimate partner; or

215 (xi) has been convicted of the commission or attempted commission of assault under  
216 Section 76-5-102 or aggravated assault under Section 76-5-103 against a current or former  
217 spouse, parent, guardian, individual with whom the restricted person shares a child in common,  
218 individual who is cohabitating or has cohabitated with the restricted person as a spouse, parent,  
219 or guardian, or against an individual similarly situated to a spouse, parent, or guardian of the  
220 restricted person.

221 ~~(c)~~ (d) As used in this section, a conviction of a felony or adjudication of delinquency  
222 for an offense which would be a felony if committed by an adult does not include:

223 (i) a conviction or an adjudication under Section 80-6-701 for an offense pertaining to  
224 antitrust violations, unfair trade practices, restraint of trade, or other similar offenses relating to  
225 the regulation of business practices not involving theft or fraud; or

226 (ii) a conviction or an adjudication under Section 80-6-701 which, according to the law  
227 of the jurisdiction in which it occurred, has been expunged, set aside, reduced to a  
228 misdemeanor by court order, pardoned or regarding which the person's civil rights have been  
229 restored unless the pardon, reduction, expungement, or restoration of civil rights expressly  
230 provides that the person may not ship, transport, possess, or receive firearms.

231 ~~(d)~~ (e) It is the burden of the defendant in a criminal case to provide evidence that a  
232 conviction or an adjudication under Section 80-6-701 is subject to an exception provided in  
233 Subsection ~~(1)(c)~~ (1)(d), after which it is the burden of the state to prove beyond a reasonable  
234 doubt that the conviction or the adjudication is not subject to that exception.

235 (2) A Category I restricted person who intentionally or knowingly agrees, consents,  
236 offers, or arranges to purchase, transfer, possess, use, or have under the person's custody or  
237 control, or who intentionally or knowingly purchases, transfers, possesses, uses, or has under  
238 the person's custody or control:

239 (a) any firearm or ammunition is guilty of a second degree felony; or

240 (b) any dangerous weapon other than a firearm is guilty of a third degree felony.

241 (3) A Category II restricted person who intentionally or knowingly purchases, transfers,  
242 possesses, uses, or has under the person's custody or control:

243 (a) any firearm or ammunition is guilty of a third degree felony; or

244 (b) any dangerous weapon other than a firearm is guilty of a class A misdemeanor.

245 (4) A person may be subject to the restrictions of both categories at the same time.

246 (5) If a higher penalty than is prescribed in this section is provided in another section  
247 for one who purchases, transfers, possesses, uses, or has under this custody or control any  
248 dangerous weapon or ammunition, the penalties of that section control.

249 (6) It is an affirmative defense to a charge based on the definition in Subsection  
250 ~~[(1)(b)(iv)]~~ (1)(c)(iv) that the person was:

251 (a) in possession of a controlled substance ~~[pursuant to]~~ under a lawful order of a  
252 practitioner for use of a member of the person's household or for administration to an animal  
253 owned by the person or a member of the person's household; or

254 (b) otherwise authorized by law to possess the substance.

255 (7) (a) It is an affirmative defense to transferring a firearm or other dangerous weapon  
256 or ammunition by a person restricted under Subsection (2) or (3) that the firearm ~~[or]~~ ,  
257 dangerous weapon, or ammunition:

258 (i) was possessed by the person or was under the person's custody or control before the  
259 person became a restricted person;

260 (ii) was not used in or possessed during the commission of a crime or subject to  
261 disposition under Section [24-3-103](#);

262 (iii) is not being held as evidence by a court or law enforcement agency;

263 (iv) was transferred to a person not legally prohibited from possessing the firearm or  
264 other dangerous weapon or ammunition; and

265 (v) unless a different time is ordered by the court, was transferred within 10 days of the  
266 person becoming a restricted person.

267 (b) Subsection (7)(a) is not a defense to the use, purchase, or possession on the person  
268 of a firearm or other dangerous weapon or ammunition by a restricted person.

269 (8) (a) A person may not sell, transfer, or otherwise dispose of any firearm or other  
270 dangerous weapon or ammunition to any person, knowing that the recipient is a person  
271 described in Subsection ~~[(1)(a) or (b)]~~ (1)(b) or (c).

272 (b) A person who violates Subsection (8)(a) when the recipient is:

273 (i) a person described in Subsection ~~[(1)(a)]~~ (1)(b) and the transaction involves a  
274 firearm or ammunition, is guilty of a second degree felony;

275 (ii) a person described in Subsection ~~[(1)(a)]~~ (1)(b) and the transaction involves any

276 dangerous weapon other than a firearm, and the transferor has knowledge that the recipient  
277 intends to use the weapon for any unlawful purpose, is guilty of a third degree felony;

278 (iii) a person described in Subsection ~~[(1)(b)]~~ (1)(c) and the transaction involves a  
279 firearm or ammunition, is guilty of a third degree felony; or

280 (iv) a person described in Subsection ~~[(1)(b)]~~ (1)(c) and the transaction involves any  
281 dangerous weapon other than a firearm, and the transferor has knowledge that the recipient  
282 intends to use the dangerous weapon for any unlawful purpose, is guilty of a class A  
283 misdemeanor.

284 (9) (a) As used in this Subsection (9), "materially false information" means information  
285 that portrays an illegal transaction as legal or a legal transaction as illegal.

286 ~~[(a)]~~ (b) A person may not knowingly solicit, persuade, encourage or entice a dealer or  
287 other person to sell, transfer or otherwise dispose of a firearm or other dangerous weapon or  
288 ammunition under circumstances which the person knows would be a violation of the law.

289 ~~[(b)]~~ (c) A person may not provide to a dealer or other person any information that the  
290 person knows to be materially false information with intent to deceive the dealer or other  
291 person about the legality of a sale, transfer or other disposition of a firearm or other dangerous  
292 weapon or ammunition.

293 ~~[(c)]~~ (d) "Materially false information" means information that portrays an illegal  
294 transaction as legal or a legal transaction as illegal.

295 ~~[(d)]~~ (e) A person who violates this Subsection (9) is guilty of:

296 (i) a third degree felony if the transaction involved a firearm or ammunition; or

297 (ii) a class A misdemeanor if the transaction involved a dangerous weapon other than a  
298 firearm.

299 Section 3. Section **76-10-522** is amended to read:

300 **76-10-522. Alteration of number or mark on firearm -- Possession of firearm that**  
301 **has been altered.**

302 (1) Any person who changes, alters, removes, or obliterates the name of the  
303 maker, the model, manufacturer's number, or other mark of identification, including any  
304 distinguishing number or mark assigned by the Department of Public Safety, on any ~~[pistol or~~  
305 ~~revolver]~~ firearm, without first having secured written permission from the Department of  
306 Public Safety to make the change, alteration, or removal, is guilty of a class A misdemeanor.

307           (2) Any person who is found in possession of a firearm that has been altered as  
308 described in Subsection (1) is guilty of a class A misdemeanor.

309           Section 4. Section **76-10-526** is amended to read:

310           **76-10-526. Criminal background check prior to purchase of a firearm -- Fee --**  
311 **Exemption for concealed firearm permit holders and law enforcement officers.**

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

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

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

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

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

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

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

327           (i) the dealer identification number;

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

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

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

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

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

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

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

343 (a) review the criminal history files, including juvenile court records, and the  
344 temporary restricted file created under Section 53-5c-301, to determine if the individual is  
345 prohibited from purchasing, possessing, or transferring a firearm by state or federal law;

346 (b) inform the dealer that:

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

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

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

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

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

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

361 (9) (a) If the criminal history background check discloses information indicating that  
362 the individual attempting to purchase the firearm is prohibited from purchasing, possessing, or  
363 transferring a firearm, the bureau shall:

364 (i) within 30 minutes of determining the purchaser is prohibited from purchasing,  
365 possessing, or transferring a firearm, and before informing the dealer as described in  
366 Subsection (7)(b), notify the law enforcement agency with jurisdiction where the dealer is  
367 located; and

368 (ii) inform the law enforcement agency in the jurisdiction where the individual resides.

369 (b) Subsection (9)(a) does not apply to an individual prohibited from purchasing a  
370 firearm solely due to placement on the temporary restricted list under Section 53-5c-301.

371 (c) A law enforcement agency that receives information from the bureau under  
372 Subsection (9)(a) shall provide a report before August 1 of each year to the bureau that  
373 includes:

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

378 (ii) of the cases described in Subsection (9)(c)(i):

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

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

382 (d) The bureau shall:

383 (i) compile the information from the reports described in Subsection (9)(c);

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

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

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

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

394 (12) (a) A dealer shall collect a criminal history background check fee for the sale of a  
395 firearm under this section.

396 (b) The fee described under Subsection (12)(a) remains in effect until changed by the  
397 bureau through the process described in Section 63J-1-504.

398 (c) (i) The dealer shall forward at one time all fees collected for criminal history  
399 background checks performed during the month to the bureau by the last day of the month

400 following the sale of a firearm.

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

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

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

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

410 (14) (a) A law enforcement officer, as defined in Section 53-13-103, is exempt from  
411 the background check fee required in this section for the purchase of a personal firearm to be  
412 carried while off-duty if the law enforcement officer verifies current employment by providing  
413 a letter of good standing from the officer's commanding officer and current law enforcement  
414 photo identification.

415 (b) Subsection (14)(a) may only be used by a law enforcement officer to purchase a  
416 personal firearm once in a 24-month period.

417 (15) A dealer engaged in the business of selling, leasing, or otherwise transferring any  
418 firearm shall:

419 (a) ~~make~~ distribute the firearm safety brochure described in Subsection  
420 62A-15-103(3) ~~available~~ to a customer free of charge at the time of the transfer of a firearm;  
421 and

422 (b) at the time of purchase, distribute a cable-style gun lock provided to the dealer  
423 under Subsection 62A-15-103(3) to a customer purchasing a shotgun, short barreled shotgun,  
424 short barreled rifle, rifle, or another firearm that federal law does not require be accompanied  
425 by a gun lock at the time of purchase.

426 Section 5. Section **76-10-527.5** is enacted to read:

427 **76-10-527.5. Dealer requirement for storage warning -- Penalty.**

428 (1) (a) A dealer shall conspicuously post the following written warning at a purchase  
429 counter: "A FIREARM SHOULD BE SECURED WITH A LOCKING DEVICE OR STORED  
430 IN A LOCKED CONTAINER OR LOCATION. FAILURE TO PROPERLY SECURE A

431 FIREARM MAY RESULT IN CRIMINAL OR CIVIL LIABILITY."

432 (b) A dealer shall print the written warning described in Subsection (1)(a) on yellow  
433 paper in black, capital letters using Arial, Calibri, Cambria, or Times New Roman in no  
434 smaller than 35-point font.

435 (2) A dealer who violates Subsection (1) is guilty of a class C misdemeanor.

436 Section 6. Section **76-10-532** is amended to read:

437 **76-10-532. Removal from National Instant Check System database.**

438 (1) A person who is subject to the restrictions in Subsection [~~76-10-503(1)(b)(v)~~]  
439 ~~76-10-503(1)(c)(v)~~, (vi), or (vii), or 18 U.S.C. 922(d)(4) and (g)(4) based on a commitment,  
440 finding, or adjudication that occurred in this state may petition the district court in the county in  
441 which the commitment, finding, or adjudication occurred to remove the disability imposed.

442 (2) The petition shall be filed in the district court in the county where the commitment,  
443 finding, or adjudication occurred. The petition shall include:

444 (a) a listing of facilities, with their addresses, where the petitioner has ever received  
445 mental health treatment;

446 (b) a release signed by the petitioner to allow the prosecutor or county attorney to  
447 obtain the petitioner's mental health records;

448 (c) a verified report of a mental health evaluation conducted by a licensed psychiatrist  
449 occurring within 30 days prior to the filing of the petition, which shall include a statement  
450 regarding:

451 (i) the nature of the commitment, finding, or adjudication that resulted in the restriction  
452 on the petitioner's ability to purchase or possess a dangerous weapon;

453 (ii) the petitioner's previous and current mental health treatment;

454 (iii) the petitioner's previous violent behavior, if any;

455 (iv) the petitioner's current mental health medications and medication management;

456 (v) the length of time the petitioner has been stable;

457 (vi) external factors that may influence the petitioner's stability;

458 (vii) the ability of the petitioner to maintain stability with or without medication; and

459 (viii) whether the petitioner is dangerous to public safety; and

460 (d) a copy of the petitioner's state and federal criminal history record.

461 (3) The petitioner shall serve the petition on the prosecuting entity that prosecuted the

462 case or, if the disability is not based on a criminal case, on the county or district attorney's  
463 office having jurisdiction where the petition was filed and the individual who filed the original  
464 action which resulted in the disability.

465 (4) The court shall schedule a hearing as soon as practicable. The petitioner may  
466 present evidence and subpoena witnesses to appear at the hearing. The prosecuting, county  
467 attorney, or the individual who filed the original action which resulted in the disability may  
468 object to the petition and present evidence in support of the objection.

469 (5) The court shall consider the following evidence:

470 (a) the facts and circumstances that resulted in the commitment, finding, or  
471 adjudication;

472 (b) the person's mental health and criminal history records; and

473 (c) the person's reputation, including the testimony of character witnesses.

474 (6) The court shall grant the relief if the court finds by clear and convincing evidence  
475 that:

476 (a) the person is not a danger to the person or to others;

477 (b) the person is not likely to act in a manner dangerous to public safety; and

478 (c) the requested relief would not be contrary to the public interest.

479 (7) The court shall issue an order with its findings and send a copy to the bureau.

480 (8) The bureau, upon receipt of a court order removing a person's disability under  
481 Subsection [~~76-10-503(1)(b)(vii)~~] 76-10-503(1)(c)(vii), shall send a copy of the court order to  
482 the National Instant Check System requesting removal of the person's name from the database.  
483 In addition, if the person is listed in a state database utilized by the bureau to determine  
484 eligibility for the purchase or possession of a firearm or to obtain a concealed firearm permit,  
485 the bureau shall remove the petitioner's name or send a copy of the court's order to the agency  
486 responsible for the database for removal of the petitioner's name.

487 (9) If the court denies the petition, the petitioner may not petition again for relief until  
488 at least two years after the date of the court's final order.

489 (10) The petitioner may appeal a denial of the requested relief. The review on appeal  
490 shall be de novo.

491 Section 7. Section **76-10-1602** is amended to read:

492 **76-10-1602. Definitions.**

493 As used in this part:

494 (1) "Enterprise" means any individual, sole proprietorship, partnership, corporation,  
495 business trust, association, or other legal entity, and any union or group of individuals  
496 associated in fact although not a legal entity, and includes illicit as well as licit entities.

497 (2) "Pattern of unlawful activity" means engaging in conduct which constitutes the  
498 commission of at least three episodes of unlawful activity, which episodes are not isolated, but  
499 have the same or similar purposes, results, participants, victims, or methods of commission, or  
500 otherwise are interrelated by distinguishing characteristics. Taken together, the episodes shall  
501 demonstrate continuing unlawful conduct and be related either to each other or to the  
502 enterprise. At least one of the episodes comprising a pattern of unlawful activity shall have  
503 occurred after July 31, 1981. The most recent act constituting part of a pattern of unlawful  
504 activity as defined by this part shall have occurred within five years of the commission of the  
505 next preceding act alleged as part of the pattern.

506 (3) "Person" includes any individual or entity capable of holding a legal or beneficial  
507 interest in property, including state, county, and local governmental entities.

508 (4) "Unlawful activity" means to directly engage in conduct or to solicit, request,  
509 command, encourage, or intentionally aid another person to engage in conduct which would  
510 constitute any offense described by the following crimes or categories of crimes, or to attempt  
511 or conspire to engage in an act which would constitute any of those offenses, regardless of  
512 whether the act is in fact charged or indicted by any authority or is classified as a misdemeanor  
513 or a felony:

514 (a) any act prohibited by the criminal provisions of Title 13, Chapter 10, Unauthorized  
515 Recording Practices Act;

516 (b) any act prohibited by the criminal provisions of Title 19, Environmental Quality  
517 Code, Sections [19-1-101](#) through [19-7-109](#);

518 (c) taking, destroying, or possessing wildlife or parts of wildlife for the primary  
519 purpose of sale, trade, or other pecuniary gain, in violation of Title 23, Wildlife Resources  
520 Code of Utah, or Section [23-20-4](#);

521 (d) false claims for medical benefits, kickbacks, and any other act prohibited by Title  
522 26, Chapter 20, Utah False Claims Act, Sections [26-20-1](#) through [26-20-12](#);

523 (e) any act prohibited by the criminal provisions of Title 32B, Chapter 4, Criminal

524 Offenses and Procedure Act;

525 (f) any act prohibited by the criminal provisions of Title 57, Chapter 11, Utah Uniform  
526 Land Sales Practices Act;

527 (g) any act prohibited by the criminal provisions of Title 58, Chapter 37, Utah  
528 Controlled Substances Act, or Title 58, Chapter 37b, Imitation Controlled Substances Act,  
529 Title 58, Chapter 37c, Utah Controlled Substance Precursor Act, or Title 58, Chapter 37d,  
530 Clandestine Drug Lab Act;

531 (h) any act prohibited by the criminal provisions of Title 61, Chapter 1, Utah Uniform  
532 Securities Act;

533 (i) any act prohibited by the criminal provisions of Title 63G, Chapter 6a, Utah  
534 Procurement Code;

535 (j) assault or aggravated assault, Sections 76-5-102 and 76-5-103;

536 (k) a threat of terrorism, Section 76-5-107.3;

537 (l) a criminal homicide offense, as described in Section 76-5-201;

538 (m) kidnapping or aggravated kidnapping, Sections 76-5-301 and 76-5-302;

539 (n) human trafficking, human trafficking of a child, human smuggling, or aggravated  
540 human trafficking, Sections 76-5-308, 76-5-308.1, 76-5-308.3, 76-5-308.5, 76-5-309, and  
541 76-5-310;

542 (o) sexual exploitation of a minor or aggravated sexual exploitation of a minor,  
543 Sections 76-5b-201 and 76-5b-201.1;

544 (p) arson or aggravated arson, Sections 76-6-102 and 76-6-103;

545 (q) causing a catastrophe, Section 76-6-105;

546 (r) burglary or aggravated burglary, Sections 76-6-202 and 76-6-203;

547 (s) burglary of a vehicle, Section 76-6-204;

548 (t) manufacture or possession of an instrument for burglary or theft, Section 76-6-205;

549 (u) robbery or aggravated robbery, Sections 76-6-301 and 76-6-302;

550 (v) theft, Section 76-6-404;

551 (w) theft by deception, Section 76-6-405;

552 (x) theft by extortion, Section 76-6-406;

553 (y) receiving stolen property, Section 76-6-408;

554 (z) theft of services, Section 76-6-409;

- 555 (aa) forgery, Section 76-6-501;
- 556 (bb) fraudulent use of a credit card, Sections 76-6-506.2, 76-6-506.3, 76-6-506.5, and  
557 76-6-506.6;
- 558 (cc) deceptive business practices, Section 76-6-507;
- 559 (dd) bribery or receiving bribe by person in the business of selection, appraisal, or  
560 criticism of goods, Section 76-6-508;
- 561 (ee) bribery of a labor official, Section 76-6-509;
- 562 (ff) defrauding creditors, Section 76-6-511;
- 563 (gg) acceptance of deposit by insolvent financial institution, Section 76-6-512;
- 564 (hh) unlawful dealing with property by fiduciary, Section 76-6-513;
- 565 (ii) bribery or threat to influence contest, Section 76-6-514;
- 566 (jj) making a false credit report, Section 76-6-517;
- 567 (kk) criminal simulation, Section 76-6-518;
- 568 (ll) criminal usury, Section 76-6-520;
- 569 (mm) fraudulent insurance act, Section 76-6-521;
- 570 (nn) retail theft, Section 76-6-602;
- 571 (oo) computer crimes, Section 76-6-703;
- 572 (pp) identity fraud, Section 76-6-1102;
- 573 (qq) mortgage fraud, Section 76-6-1203;
- 574 (rr) sale of a child, Section 76-7-203;
- 575 (ss) bribery to influence official or political actions, Section 76-8-103;
- 576 (tt) threats to influence official or political action, Section 76-8-104;
- 577 (uu) receiving bribe or bribery by public servant, Section 76-8-105;
- 578 (vv) receiving bribe or bribery for endorsement of person as public servant, Section  
579 76-8-106;
- 580 (ww) official misconduct, Sections 76-8-201 and 76-8-202;
- 581 (xx) obstruction of justice, Section 76-8-306;
- 582 (yy) acceptance of bribe or bribery to prevent criminal prosecution, Section 76-8-308;
- 583 (zz) false or inconsistent material statements, Section 76-8-502;
- 584 (aaa) false or inconsistent statements, Section 76-8-503;
- 585 (bbb) written false statements, Section 76-8-504;

- 586 (ccc) tampering with a witness or soliciting or receiving a bribe, Section 76-8-508;
- 587 (ddd) retaliation against a witness, victim, or informant, Section 76-8-508.3;
- 588 (eee) extortion or bribery to dismiss criminal proceeding, Section 76-8-509;
- 589 (fff) tampering with evidence, Section 76-8-510.5;
- 590 (ggg) falsification or alteration of government record, Section 76-8-511, if the record is
- 591 a record described in Title 20A, Election Code, Title 36, Chapter 11, Lobbyist Disclosure and
- 592 Regulation Act[, or Title 36, Chapter 11a, Local Government and Board of Education Lobbyist
- 593 Disclosure and Regulation Act];
- 594 (hhh) public assistance fraud in violation of Section 76-8-1203, 76-8-1204, or
- 595 76-8-1205;
- 596 (iii) unemployment insurance fraud, Section 76-8-1301;
- 597 (jjj) intentionally or knowingly causing one animal to fight with another, Subsection
- 598 76-9-301(2)(d) or (e), or Section 76-9-301.1;
- 599 (kkk) possession, use, or removal of explosives, chemical, or incendiary devices or
- 600 parts, Section 76-10-306;
- 601 (lll) delivery to common carrier, mailing, or placement on premises of an incendiary
- 602 device, Section 76-10-307;
- 603 (mmm) possession of a deadly weapon with intent to assault, Section 76-10-507;
- 604 (nnn) unlawful marking of pistol or revolver, Section 76-10-521;
- 605 (ooo) alteration of number or mark on pistol or revolver or possession of firearm that
- 606 has been altered, Section 76-10-522;
- 607 (ppp) forging or counterfeiting trademarks, trade name, or trade device, Section
- 608 76-10-1002;
- 609 (qqq) selling goods under counterfeited trademark, trade name, or trade devices,
- 610 Section 76-10-1003;
- 611 (rrr) sales in containers bearing registered trademark of substituted articles, Section
- 612 76-10-1004;
- 613 (sss) selling or dealing with article bearing registered trademark or service mark with
- 614 intent to defraud, Section 76-10-1006;
- 615 (ttt) gambling, Section 76-10-1102;
- 616 (uuu) gambling fraud, Section 76-10-1103;

617 (vvv) gambling promotion, Section 76-10-1104;  
618 (www) possessing a gambling device or record, Section 76-10-1105;  
619 (xxx) confidence game, Section 76-10-1109;  
620 (yyy) distributing pornographic material, Section 76-10-1204;  
621 (zzz) inducing acceptance of pornographic material, Section 76-10-1205;  
622 (aaaa) dealing in harmful material to a minor, Section 76-10-1206;  
623 (bbbb) distribution of pornographic films, Section 76-10-1222;  
624 (cccc) indecent public displays, Section 76-10-1228;  
625 (dddd) prostitution, Section 76-10-1302;  
626 (eeee) aiding prostitution, Section 76-10-1304;  
627 (ffff) exploiting prostitution, Section 76-10-1305;  
628 (gggg) aggravated exploitation of prostitution, Section 76-10-1306;  
629 (hhhh) communications fraud, Section 76-10-1801;  
630 (iii) any act prohibited by the criminal provisions of Part 19, Money Laundering and  
631 Currency Transaction Reporting Act;  
632 (jjjj) vehicle compartment for contraband, Section 76-10-2801;  
633 (kkkk) any act prohibited by the criminal provisions of the laws governing taxation in  
634 this state; and  
635 (lll) any act illegal under the laws of the United States and enumerated in 18 U.S.C.  
636 Sec. 1961(1)(B), (C), and (D).