

HB0426S01 compared with HB0426

~~text~~ shows text that was in HB0426 but was deleted in HB0426S01.

inserted text shows text that was not in HB0426 but was inserted into HB0426S01.

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Representative Brian S. King proposes the following substitute bill:

FIREARM AMENDMENTS

2024 GENERAL SESSION

STATE OF UTAH

Chief Sponsor: {} Brian S. King

Senate Sponsor: {} _____

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;
- ▶ amends provisions requiring the Bureau of Criminal Identification to inform local law enforcement when a prohibited person attempts to purchase a firearm from a firearm dealer;

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- ▶ 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:

~~{ None }~~ This bill provides a coordination clause.

Utah Code Sections Affected:

AMENDS:

- 53-5-704, as last amended by Laws of Utah 2022, Chapter 250
- 53-10-208.1, as last amended by Laws of Utah 2023, Chapters 184, 328 and 397
- 76-3-203.5, as last amended by Laws of Utah 2023, Chapter 111
- 76-3-402, as last amended by Laws of Utah 2023, Chapter 132
- 76-10-501, as last amended by Laws of Utah 2023, Chapters 161, 397 and 425
- 76-10-503, as last amended by Laws of Utah 2023, First Special Session, Chapter 2
- 76-10-503.1, as last amended by Laws of Utah 2023, Chapter 203
- 76-10-522, as last amended by Laws of Utah 1993, Chapter 234
- 76-10-526, as last amended by Laws of Utah 2023, Chapters 330, 397
- 76-10-532, as last amended by Laws of Utah 2023, Chapter 425
- 76-10-1602, as last amended by Laws of Utah 2023, Chapters 34, 111, 139, and 330
- 80-6-104, as enacted by Laws of Utah 2023, Chapter 161
- 80-6-1004.1, as enacted by Laws of Utah 2023, Chapter 115

ENACTS:

- 76-10-527.5, Utah Code Annotated 1953

Utah Code Sections Affected By Coordination Clause:

- 53-10-208.1, as last amended by Laws of Utah 2023, Chapters 184, 328 and 397

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

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Section 1. Section **53-5-704** is amended to read:

53-5-704. Bureau duties -- Permit to carry concealed firearm -- Certification for concealed firearms instructor -- Requirements for issuance -- Violation -- Denial, suspension, or revocation -- Appeal procedure.

(1) (a) Except as provided in Subsection (1)(b), the bureau shall issue a permit to carry a concealed firearm for lawful self defense to an applicant who is 21 years old or older within 60 days after receiving an application, unless the bureau finds proof that the applicant is not qualified to hold a permit under Subsection (2) or (3).

(b) (i) Within 90 days before the day on which a provisional permit holder under Section 53-5-704.5 reaches 21 years old, the provisional permit holder may apply under this section for a permit to carry a concealed firearm for lawful self defense.

(ii) The bureau shall issue a permit for an applicant under Subsection (1)(b)(i) within 60 days after receiving an application, unless the bureau finds proof that the applicant is not qualified to hold a permit under Subsection (2) or (3).

(iii) A permit issued under this Subsection (1)(b):

(A) is not valid until an applicant is 21 years old; and

(B) requires a \$10 application fee.

(iv) A person who applies for a permit under this Subsection (1)(b) is not required to retake the firearms training described in Subsection 53-5-704(8).

(c) The permit is valid throughout the state for five years, without restriction, except as otherwise provided by Section 53-5-710.

(d) The provisions of Subsections 76-10-504(1) and (2), and Section 76-10-505 do not apply to an individual issued a permit under Subsection (1)(a) or (b).

(e) Subsection (4)(a) does not apply to a nonresident:

(i) active duty service member, who presents to the bureau orders requiring the active duty service member to report for duty in this state; or

(ii) active duty service member's spouse, stationed with the active duty service member, who presents to the bureau the active duty service member's orders requiring the service member to report for duty in this state.

(2) (a) The bureau may deny, suspend, or revoke a concealed firearm permit if the applicant or permit holder:

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- (i) has been or is convicted of a felony;
- (ii) has been or is convicted of a crime of violence;
- (iii) has been or is convicted of an offense involving the use of alcohol;
- (iv) has been or is convicted of an offense involving the unlawful use of narcotics or other controlled substances;
- (v) has been or is convicted of an offense involving moral turpitude;
- (vi) has been or is convicted of an offense involving domestic violence;
- (vii) has been or is adjudicated by a state or federal court as mentally incompetent, unless the adjudication has been withdrawn or reversed; and
- (viii) is not qualified to purchase and possess a firearm and ammunition pursuant to Section 76-10-503 and federal law.

(b) In determining whether an applicant or permit holder is qualified to hold a permit under Subsection (2)(a), the bureau shall consider mitigating circumstances.

(3) (a) The bureau may deny, suspend, or revoke a concealed firearm permit if it has reasonable cause to believe that the applicant or permit holder has been or is a danger to self or others as demonstrated by evidence, including:

- (i) past pattern of behavior involving unlawful violence or threats of unlawful violence;
- (ii) past participation in incidents involving unlawful violence or threats of unlawful violence; or
- (iii) conviction of an offense in violation of Title 76, Chapter 10, Part 5, Weapons.

(b) The bureau may not deny, suspend, or revoke a concealed firearm permit solely for a single conviction of an infraction violation of Title 76, Chapter 10, Part 5, Weapons.

(c) In determining whether the applicant or permit holder has been or is a danger to self or others, the bureau may inspect:

(i) expunged records of arrests and convictions of adults as provided in Section 77-40a-403; and

(ii) juvenile court records as provided in Section 78A-6-209.

(d) (i) The bureau shall suspend a concealed firearm permit if a permit holder becomes a temporarily restricted person in accordance with Section 53-5c-301.

(ii) Upon removal from the temporary restricted list, the permit holder's permit shall be reinstated unless:

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(A) the permit has been revoked, been suspended for a reason other than the restriction described in Subsection (3)(d)(i), or expired; or

(B) the permit holder has become a restricted person under Section 76-10-503.

(4) (a) In addition to meeting the other qualifications for the issuance of a concealed firearm permit under this section, a nonresident applicant who resides in a state that recognizes the validity of the Utah permit or has reciprocity with Utah's concealed firearm permit law shall:

(i) hold a current concealed firearm or concealed weapon permit issued by the appropriate permitting authority of the nonresident applicant's state of residency; and

(ii) submit a photocopy or electronic copy of the nonresident applicant's current concealed firearm or concealed weapon permit referred to in Subsection (4)(a)(i).

(b) A nonresident applicant who knowingly and willfully provides false information to the bureau under Subsection (4)(a) is prohibited from holding a Utah concealed firearm permit for a period of 10 years.

(c) Subsection (4)(a) applies to all applications for the issuance of a concealed firearm permit that are received by the bureau after May 10, 2011.

(d) Beginning January 1, 2012, Subsection (4)(a) also applies to an application for renewal of a concealed firearm permit by a nonresident.

(5) The bureau shall issue a concealed firearm permit to a former peace officer who departs full-time employment as a peace officer, in an honorable manner, within five years of that departure if the officer meets the requirements of this section.

(6) Except as provided in Subsection (7), the bureau shall also require the applicant to provide:

(a) the address of the applicant's permanent residence;

(b) one recent dated photograph;

(c) one set of fingerprints; and

(d) evidence of general familiarity with the types of firearms to be concealed as defined in Subsection (8).

(7) An applicant who is a law enforcement officer under Section 53-13-103 may provide a letter of good standing from the officer's commanding officer in place of the evidence required by Subsection (6)(d).

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(8) (a) General familiarity with the types of firearms to be concealed includes training in:

(i) the safe loading, unloading, storage, and carrying of the types of firearms to be concealed; and

(ii) current laws defining lawful use of a firearm by a private citizen, including lawful self-defense, use of force by a private citizen, including use of deadly force, transportation, and concealment.

(b) An applicant may satisfy the general familiarity requirement of Subsection (8)(a) by one of the following:

(i) completion of a course of instruction conducted by a national, state, or local firearms training organization approved by the bureau;

(ii) certification of general familiarity by an individual who has been certified by the bureau, which may include a law enforcement officer, military or civilian firearms instructor, or hunter safety instructor; or

(iii) equivalent experience with a firearm through participation in an organized shooting competition, law enforcement, or military service.

(c) Instruction taken by a student under this Subsection (8) shall be in person and not through electronic means.

(d) A person applying for a renewal permit is not required to retake the firearms training described in this Subsection 53-5-704(8) if the person:

(i) has an unexpired permit; or

(ii) has a permit that expired less than one year before the date on which the renewal application was submitted.

(9) (a) An applicant for certification as a Utah concealed firearms instructor shall:

(i) be at least 21 years old;

(ii) be currently eligible to possess a firearm and ammunition under Section 76-10-503;

(iii) have:

(A) completed a firearm instruction training course from the National Rifle Association or the Department of Public Safety, Division of Peace Officer Safety Standards and Training; or

(B) received training equivalent to one of the courses referred to in Subsection

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(9)(a)(iii)(A) as determined by the bureau;

(iv) have taken a course of instruction and passed a certification test as described in Subsection (9)(c); and

(v) possess a Utah concealed firearm permit.

(b) An instructor's certification is valid for three years from the date of issuance, unless revoked by the bureau.

(c) (i) In order to obtain initial certification or renew a certification, an instructor shall attend an instructional course and pass a test under the direction of the bureau.

(ii) (A) The bureau shall provide or contract to provide the course referred to in Subsection (9)(c)(i) twice every year.

(B) The course shall include instruction on current Utah law related to firearms, including concealed carry statutes and rules, and the use of deadly force by private citizens.

(d) (i) Each applicant for certification under this Subsection (9) shall pay a fee of \$50.00 at the time of application for initial certification.

(ii) The renewal fee for the certificate is \$25.

(iii) The bureau may use a fee paid under Subsections (9)(d)(i) and (ii) as a dedicated credit to cover the cost incurred in maintaining and improving the instruction program required for concealed firearm instructors under this Subsection (9).

(10) A certified concealed firearms instructor shall provide each of the instructor's students with the required course of instruction outline approved by the bureau.

(11) (a) (i) A concealed firearms instructor shall provide a signed certificate to an individual successfully completing the offered course of instruction.

(ii) The instructor shall sign the certificate with the exact name indicated on the instructor's certification issued by the bureau under Subsection (9).

(iii) (A) The certificate shall also have affixed to it the instructor's official seal, which is the exclusive property of the instructor and may not be used by any other individual.

(B) The instructor shall destroy the seal upon revocation or expiration of the instructor's certification under Subsection (9).

(C) The bureau shall determine the design and content of the seal to include at least the following:

(I) the instructor's name as it appears on the instructor's certification;

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(II) the words "Utah Certified Concealed Firearms Instructor," "state of Utah," and "my certification expires on (the instructor's certification expiration date)"; and

(III) the instructor's business or residence address.

(D) The seal shall be affixed to each student certificate issued by the instructor in a manner that does not obscure or render illegible any information or signatures contained in the document.

(b) The applicant shall provide the certificate to the bureau in compliance with Subsection (6)(d).

(12) The bureau may deny, suspend, or revoke the certification of an applicant or a concealed firearms instructor if it has reason to believe the applicant or the instructor has:

(a) become ineligible to possess a firearm or ammunition under Section 76-10-503 or federal law; or

(b) knowingly and willfully provided false information to the bureau.

(13) An applicant for certification or a concealed firearms instructor has the same appeal rights as described in Subsection (16).

(14) In providing instruction and issuing a permit under this part, the concealed firearms instructor and the bureau are not vicariously liable for damages caused by the permit holder.

(15) An individual who knowingly and willfully provides false information on an application filed under this part is guilty of a class B misdemeanor, and the application may be denied, or the permit may be suspended or revoked.

(16) (a) In the event of a denial, suspension, or revocation of a permit, the applicant or permit holder may file a petition for review with the board within 60 days from the date the denial, suspension, or revocation is received by the applicant or permit holder by certified mail, return receipt requested.

(b) The bureau's denial of a permit shall be in writing and shall include the general reasons for the action.

(c) If an applicant or permit holder appeals the denial to the review board, the applicant or permit holder may have access to the evidence upon which the denial is based in accordance with Title 63G, Chapter 2, Government Records Access and Management Act.

(d) On appeal to the board, the bureau has the burden of proof by a preponderance of

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the evidence.

(e) (i) Upon a ruling by the board on the appeal of a denial, the board shall issue a final order within 30 days stating the board's decision.

(ii) The final order shall be in the form prescribed by Subsection 63G-4-203(1)(i).

(iii) The final order is final bureau action for purposes of judicial review under Section 63G-4-402.

(17) The commissioner may make rules in accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, necessary to administer this chapter.

The following section is affected by a coordination clause at the end of this bill.

Section 2. Section **53-10-208.1** is amended to read:

53-10-208.1. Magistrates and court clerks to supply information.

(1) Every magistrate or clerk of a court responsible for court records in this state shall, within 30 days after the day of the disposition and on forms and in the manner provided by the division, furnish the division with information pertaining to:

(a) all dispositions of criminal matters, including:

(i) guilty pleas;

(ii) convictions;

(iii) dismissals;

(iv) acquittals;

(v) pleas in abeyance;

(vi) judgments of not guilty by reason of insanity;

(vii) judgments of guilty with a mental condition;

(viii) finding of mental incompetence to stand trial; and

(ix) probations granted;

(b) orders of civil commitment under the terms of Section 26B-5-332;

(c) the issuance, recall, cancellation, or modification of all warrants of arrest or commitment as described in Rule 6, Utah Rules of Criminal Procedure and Section 78B-6-303, within one day of the action and in a manner provided by the division; and

(d) protective orders issued after notice and hearing, pursuant to:

(i) Title 77, Chapter 36, Cohabitant Abuse Procedures Act;

(ii) Title 78B, Chapter 7, Part 4, Dating Violence Protective Orders;

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- (iii) Title 78B, Chapter 7, Part 5, Sexual Violence Protective Orders;
- (iv) Title 78B, Chapter 7, Part 6, Cohabitant Abuse Protective Orders; or
- (v) Title 78B, Chapter 7, Part 8, Criminal Protective Orders.

(2) When transmitting information on a criminal matter under Subsection (1)(a)(i), (ii), (v), or (vii) for a conviction of misdemeanor assault under Section 76-5-102, the magistrate or clerk of a court shall include available information regarding whether the conviction for assault resulted from an assault against an individual:

(a) who is included in at least one of the relationship categories described in Subsection [~~76-10-503(1)(b)(xi)~~] 76-10-503(1)(c)(xi); or

(b) with whom none of the relationships described in Subsection [~~76-10-503(1)(b)(xi)~~] 76-10-503(1)(c)(xi) apply.

(3) The court in the county where a determination or finding was made shall transmit a record of the determination or finding to the bureau no later than 48 hours after the determination is made, excluding Saturdays, Sundays, and legal holidays, if an individual is:

- (a) adjudicated as a mental defective; or
- (b) involuntarily committed to a mental institution in accordance with Subsection 26B-5-332(16).

(4) The record described in Subsection (3) shall include:

- (a) an agency record identifier;
- (b) the individual's name, sex, race, and date of birth; and
- (c) the individual's social security number, government issued driver license or identification number, alien registration number, government passport number, state identification number, or FBI number.

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

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

(1) As used in this section:

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

(b) "Habitual violent offender" means a person convicted within the state of any violent felony and who on at least two previous occasions has been convicted of a violent felony and

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committed to either prison in Utah or an equivalent correctional institution of another state or of the United States either at initial sentencing or after revocation of probation.

(c) "Violent felony" means:

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

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

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

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

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

(E) aggravated assault by prisoner, Section 76-5-103.5;

(F) mayhem, Section 76-5-105;

(G) stalking, Subsection 76-5-106.5(2);

(H) threat of terrorism, Section 76-5-107.3;

(I) aggravated child abuse, Subsection 76-5-109.2(3)(a) or (b);

(J) commission of domestic violence in the presence of a child, Section 76-5-114;

(K) abuse or neglect of a child with a disability, Section 76-5-110;

(L) abuse or exploitation of a vulnerable adult, Section 76-5-111, 76-5-111.2, 76-5-111.3, or 76-5-111.4;

(M) endangerment of a child or vulnerable adult, Section 76-5-112.5;

(N) criminal homicide offenses under Chapter 5, Part 2, Criminal Homicide;

(O) kidnapping, child kidnapping, and aggravated kidnapping under Chapter 5, Part 3, Kidnapping, Trafficking, and Smuggling;

(P) rape, Section 76-5-402;

(Q) rape of a child, Section 76-5-402.1;

(R) object rape, Section 76-5-402.2;

(S) object rape of a child, Section 76-5-402.3;

(T) forcible sodomy, Section 76-5-403;

(U) sodomy on a child, Section 76-5-403.1;

(V) forcible sexual abuse, Section 76-5-404;

(W) sexual abuse of a child, Section 76-5-404.1, or aggravated sexual abuse of a child,

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Section 76-5-404.3;

(X) aggravated sexual assault, Section 76-5-405;

(Y) sexual exploitation of a minor, Section 76-5b-201;

(Z) aggravated sexual exploitation of a minor, Section 76-5b-201.1;

(AA) sexual exploitation of a vulnerable adult, Section 76-5b-202;

(BB) aggravated burglary and burglary of a dwelling under Chapter 6, Part 2, Burglary and Criminal Trespass;

(CC) aggravated robbery and robbery under Chapter 6, Part 3, Robbery;

(DD) theft by extortion under Section 76-6-406 under the circumstances described in Subsection 76-6-406(1)(a)(i) or (ii);

(EE) tampering with a witness under Subsection 76-8-508(1);

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

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

(HH) extortion to dismiss a criminal proceeding under Section 76-8-509 if by any threat or by use of force theft by extortion has been committed under Section 76-6-406 under the circumstances described in Subsection 76-6-406(1)(a)(i), (ii), or (ix);

(II) possession, use, or removal of explosive, chemical, or incendiary devices under Subsections 76-10-306(3) through (6);

(JJ) unlawful delivery of explosive, chemical, or incendiary devices under Section 76-10-307;

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

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

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

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

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

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

(2) If a person is convicted in this state of a violent felony by plea or by verdict and the trier of fact determines beyond a reasonable doubt that the person is a habitual violent offender

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under this section, the penalty for a:

- (a) third degree felony is as if the conviction were for a first degree felony;
- (b) second degree felony is as if the conviction were for a first degree felony; or
- (c) first degree felony remains the penalty for a first degree penalty except:
 - (i) the convicted person is not eligible for probation; and
 - (ii) the Board of Pardons and Parole shall consider that the convicted person is a

habitual violent offender as an aggravating factor in determining the length of incarceration.

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

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

- (A) the defendant is the person who was convicted or committed;
- (B) the defendant was represented by counsel or had waived counsel; or
- (C) the defendant's plea was understandingly or voluntarily entered.

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

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

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

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

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

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

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

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evidence.

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

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

(e) If the trier of fact finds this section applicable, the court shall enter that specific finding on the record and shall indicate in the order of judgment and commitment that the defendant has been found by the trier of fact to be a habitual violent offender and is sentenced under this section.

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

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

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

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

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

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

Section 4. Section **76-3-402** is amended to read:

76-3-402. Conviction of lower degree of offense -- Procedure and limitations.

(1) As used in this section:

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(a) "Lower degree of offense" includes an offense for which:

(i) a statutory enhancement is charged in the information or indictment that would increase either the maximum or the minimum sentence; and

(ii) the court removes the statutory enhancement in accordance with this section.

(b) "Minor regulatory offense" means the same as that term is defined in Section 77-40a-101.

(c) (i) "Rehabilitation program" means a program designed to reduce criminogenic and recidivism risks.

(ii) "Rehabilitation program" includes:

(A) a domestic violence treatment program, as that term is defined in Section 62A-2-101;

(B) a residential, vocational, and life skills program, as that term is defined in Section 13-53-102;

(C) a substance abuse treatment program, as that term is defined in Section 62A-2-101;

(D) a substance use disorder treatment program, as that term is defined in Section 62A-2-101;

(E) a youth program, as that term is defined in Section 62A-2-101;

(F) a program that meets the standards established by the Department of Corrections under Section 64-13-25;

(G) a drug court, a veterans court, or a mental health court certified by the Judicial Council; or

(H) a program that is substantially similar to a program described in Subsections (1)(c)(ii)(A) through (G).

(d) "Serious offense" means a felony or misdemeanor offense that is not a minor regulatory offense or a traffic offense.

(e) "Traffic offense" means the same as that term is defined in Section 77-40a-101.

(f) (i) Except as provided in Subsection (1)(f)(ii), "violent felony" means the same as that term is defined in Section 76-3-203.5.

(ii) "Violent felony" does not include an offense, or any attempt, solicitation, or conspiracy to commit an offense, for:

(A) the possession, use, or removal of explosive, chemical, or incendiary devices under

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Subsection 76-10-306(3), (5), or (6); or

(B) the purchase or possession of a dangerous weapon or [~~handgun~~] ammunition by a restricted person under Section 76-10-503.

(2) The court may enter a judgment of conviction for a lower degree of offense than established by statute and impose a sentence at the time of sentencing for the lower degree of offense if the court:

(a) takes into account:

(i) the nature and circumstances of the offense of which the defendant was found guilty; and

(ii) the history and character of the defendant;

(b) gives any victim present at the sentencing and the prosecuting attorney an opportunity to be heard; and

(c) concludes that the degree of offense established by statute would be unduly harsh to record as a conviction on the record for the defendant.

(3) Upon a motion from the prosecuting attorney or the defendant, the court may enter a judgment of conviction for a lower degree of offense than established by statute:

(a) after the defendant is successfully discharged from probation or parole for the conviction; and

(b) if the court finds that entering a judgment of conviction for a lower degree of offense is in the interest of justice in accordance with Subsection (7).

(4) Upon a motion from the prosecuting attorney or the defendant, the court may enter a judgment of conviction for a lower degree of offense than established by statute if:

(a) the defendant's probation or parole for the conviction did not result in a successful discharge but the defendant is successfully discharged from probation or parole for a subsequent conviction of an offense;

(b) (i) at least five years have passed after the day on which the defendant is sentenced for the subsequent conviction; or

(ii) at least three years have passed after the day on which the defendant is sentenced for the subsequent conviction and the prosecuting attorney consents to the reduction;

(c) the defendant is not convicted of a serious offense during the time period described in Subsection (4)(b);

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(d) there are no criminal proceedings pending against the defendant;

(e) the defendant is not on probation, on parole, or currently incarcerated for any other offense;

(f) if the offense for which the reduction is sought is a violent felony, the prosecuting attorney consents to the reduction; and

(g) the court finds that entering a judgment of conviction for a lower degree of offense is in the interest of justice in accordance with Subsection (7).

(5) Upon a motion from the prosecuting attorney or the defendant, the court may enter a judgment of conviction for a lower degree of offense than established by statute if:

(a) the defendant's probation or parole for the conviction did not result in a successful discharge but the defendant is successfully discharged from a rehabilitation program;

(b) at least three years have passed after the day on which the defendant is successfully discharged from the rehabilitation program;

(c) the defendant is not convicted of a serious offense during the time period described in Subsection (5)(b);

(d) there are no criminal proceedings pending against the defendant;

(e) the defendant is not on probation, on parole, or currently incarcerated for any other offense;

(f) if the offense for which the reduction is sought is a violent felony, the prosecuting attorney consents to the reduction; and

(g) the court finds that entering a judgment of conviction for a lower degree of offense is in the interest of justice in accordance with Subsection (7).

(6) Upon a motion from the prosecuting attorney or the defendant, the court may enter a judgment of conviction for a lower degree of offense than established by statute if:

(a) at least five years have passed after the day on which the defendant's probation or parole for the conviction did not result in a successful discharge;

(b) the defendant is not convicted of a serious offense during the time period described in Subsection (6)(a);

(c) there are no criminal proceedings pending against the defendant;

(d) the defendant is not on probation, on parole, or currently incarcerated for any other offense;

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(e) if the offense for which the reduction is sought is a violent felony, the prosecuting attorney consents to the reduction; and

(f) the court finds that entering a judgment of conviction for a lower degree of offense is in the interest of justice in accordance with Subsection (7).

(7) In determining whether entering a judgment of a conviction for a lower degree of offense is in the interest of justice under Subsection (3), (4), (5), or (6):

(a) the court shall consider:

(i) the nature, circumstances, and severity of the offense for which a reduction is sought;

(ii) the physical, emotional, or other harm that the defendant caused any victim of the offense for which the reduction is sought; and

(iii) any input from a victim of the offense; and

(b) the court may consider:

(i) any special characteristics or circumstances of the defendant, including the defendant's criminogenic risks and needs;

(ii) the defendant's criminal history;

(iii) the defendant's employment and community service history;

(iv) whether the defendant participated in a rehabilitative program and successfully completed the program;

(v) any effect that a reduction would have on the defendant's ability to obtain or reapply for a professional license from the Department of Commerce;

(vi) whether the level of the offense has been reduced by law after the defendant's conviction;

(vii) any potential impact that the reduction would have on public safety; or

(viii) any other circumstances that are reasonably related to the defendant or the offense for which the reduction is sought.

(8) (a) A court may only enter a judgment of conviction for a lower degree of offense under Subsection (3), (4), (5), or (6) after:

(i) notice is provided to the other party;

(ii) reasonable efforts have been made by the prosecuting attorney to provide notice to any victims; and

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(iii) a hearing is held if a hearing is requested by either party.

(b) A prosecuting attorney is entitled to a hearing on a motion seeking to reduce a judgment of conviction for a lower degree of offense under Subsection (3), (4), (5), or (6).

(c) In a motion under Subsection (3), (4), (5), or (6) and at a requested hearing on the motion, the moving party has the burden to provide evidence sufficient to demonstrate that the requirements under Subsection (3), (4), (5), or (6) are met.

(9) A court has jurisdiction to consider and enter a judgment of conviction for a lower degree of offense under Subsection (3), (4), (5), or (6) regardless of whether the defendant is committed to jail as a condition of probation or is sentenced to prison.

(10) (a) An offense may be reduced only one degree under this section, unless the prosecuting attorney specifically agrees in writing or on the court record that the offense may be reduced two degrees.

(b) An offense may not be reduced under this section by more than two degrees.

(11) This section does not preclude an individual from obtaining or being granted an expungement of the individual's record in accordance with Title 77, Chapter 40a, Expungement.

(12) The court may not enter a judgment for a conviction for a lower degree of offense under this section if:

(a) the reduction is specifically precluded by law; or

(b) any unpaid balance remains on court-ordered restitution for the offense for which the reduction is sought.

(13) When the court enters a judgment for a lower degree of offense under this section, the actual title of the offense for which the reduction is made may not be altered.

(14) (a) An individual may not obtain a reduction under this section of a conviction that requires the individual to register as a sex offender until the registration requirements under Title 77, Chapter 41, Sex and Kidnap Offender Registry, have expired.

(b) An individual required to register as a sex offender for the individual's lifetime under Subsection 77-41-105(3)(c) may not be granted a reduction of the conviction for the offense or offenses that require the individual to register as a sex offender.

(15) (a) An individual may not obtain a reduction under this section of a conviction that requires the individual to register as a child abuse offender until the registration

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requirements under Title 77, Chapter 43, Child Abuse Offender Registry, have expired.

(b) An individual required to register as a child abuse offender for the individual's lifetime under Subsection 77-43-105(3)(c) may not be granted a reduction of the conviction for the offense or offenses that require the individual to register as a child abuse offender.

Section 5. Section **76-10-501** is amended to read:

76-10-501. Definitions.

As used in this part:

(1) (a) "Antique firearm" means:

(i) any firearm, including any firearm with a matchlock, flintlock, percussion cap, or similar type of ignition system, manufactured in or before 1898;

(ii) a firearm that is a replica of any firearm described in this Subsection (1)(a), if the replica:

(A) is not designed or redesigned for using rimfire or conventional centerfire fixed ammunition; or

(B) uses rimfire or centerfire fixed ammunition which is:

(I) no longer manufactured in the United States; and

(II) is not readily available in ordinary channels of commercial trade; or

(iii) (A) that is a muzzle loading rifle, shotgun, or pistol; and

(B) is designed to use black powder, or a black powder substitute, and cannot use fixed ammunition.

(b) "Antique firearm" does not include:

(i) a weapon that incorporates a firearm frame or receiver;

(ii) a firearm that is converted into a muzzle loading weapon; or

(iii) a muzzle loading weapon that can be readily converted to fire fixed ammunition by replacing the:

(A) barrel;

(B) bolt;

(C) breechblock; or

(D) any combination of Subsection (1)(b)(iii)(A), (B), or (C).

(2) "Bureau" means the Bureau of Criminal Identification created in Section 53-10-201 within the Department of Public Safety.

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(3) (a) "Concealed firearm" means a firearm that is:

(i) covered, hidden, or secreted in a manner that the public would not be aware of its presence; and

(ii) readily accessible for immediate use.

(b) A firearm that is unloaded and securely encased is not a concealed firearm for the purposes of this part.

(4) "Criminal history background check" means a criminal background check conducted by a licensed firearms dealer on every purchaser of a handgun, except a Federal Firearms Licensee, through the bureau or the local law enforcement agency where the firearms dealer conducts business.

(5) "Curio or relic firearm" means a firearm that:

(a) is of special interest to a collector because of a quality that is not associated with firearms intended for:

(i) sporting use;

(ii) use as an offensive weapon; or

(iii) use as a defensive weapon;

(b) (i) was manufactured at least 50 years before the current date; and

(ii) is not a replica of a firearm described in Subsection (5)(b)(i);

(c) is certified by the curator of a municipal, state, or federal museum that exhibits firearms to be a curio or relic of museum interest;

(d) derives a substantial part of its monetary value:

(i) from the fact that the firearm is:

(A) novel;

(B) rare; or

(C) bizarre; or

(ii) because of the firearm's association with an historical:

(A) figure;

(B) period; or

(C) event; and

(e) has been designated as a curio or relic firearm by the director of the United States Treasury Department Bureau of Alcohol, Tobacco, and Firearms under 27 C.F.R. Sec. 478.11.

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(6) (a) "Dangerous weapon" means:

(i) a firearm; or

(ii) an object that in the manner of its use or intended use is capable of causing death or serious bodily injury.

(b) The following factors are used in determining whether any object, other than a firearm, is a dangerous weapon:

(i) the location and circumstances in which the object was used or possessed;

(ii) the primary purpose for which the object was made;

(iii) the character of the wound, if any, produced by the object's unlawful use;

(iv) the manner in which the object was unlawfully used;

(v) whether the manner in which the object is used or possessed constitutes a potential imminent threat to public safety; and

(vi) the lawful purposes for which the object may be used.

(c) "Dangerous weapon" does not include an explosive, chemical, or incendiary device as defined by Section 76-10-306.

(7) (a) "Dating relationship" means a romantic or intimate relationship between individuals.

(b) "Dating relationship" does not include a casual acquaintanceship or ordinary fraternization in a business or social context.

(8) "Dealer" means a person who is:

(a) licensed under 18 U.S.C. Sec. 923; and

(b) engaged in the business of selling, leasing, or otherwise transferring a handgun, whether the person is a retail or wholesale dealer, pawnbroker, or otherwise.

(9) "Domestic violence" means the same as that term is defined in Section 77-36-1.

(10) "Enter" means intrusion of the entire body.

(11) "Federal Firearms Licensee" means a person who:

(a) holds a valid Federal Firearms License issued under 18 U.S.C. Sec. 923; and

(b) is engaged in the activities authorized by the specific category of license held.

(12) (a) "Firearm" means a pistol, revolver, shotgun, short barreled shotgun, rifle or short barreled rifle, or a device that could be used as a dangerous weapon from which is expelled a projectile by action of an explosive.

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(b) As used in Sections 76-10-526 and 76-10-527, "firearm" does not include an antique firearm.

(13) "Firearms transaction record form" means a form created by the bureau to be completed by a person purchasing, selling, or transferring a handgun from a dealer in the state.

(14) "Fully automatic weapon" means a firearm which fires, is designed to fire, or can be readily restored to fire, automatically more than one shot without manual reloading by a single function of the trigger.

(15) (a) "Handgun" means a pistol, revolver, or other firearm of any description, loaded or unloaded, from which a shot, bullet, or other missile can be discharged, the length of which, not including any revolving, detachable, or magazine breech, does not exceed 12 inches.

(b) As used in Sections 76-10-520[;] ~~+~~ and 76-10-521, [~~and 76-10-522;~~] "handgun" and "pistol or revolver" do not include an antique firearm.

(16) "House of worship" means a church, temple, synagogue, mosque, or other building set apart primarily for the purpose of worship in which religious services are held and the main body of which is kept for that use and not put to any other use inconsistent with its primary purpose.

(17) "Machinegun firearm attachment" means any part or combination of parts added to a semiautomatic firearm that allows the firearm to fire as a fully automatic weapon.

(18) "Prohibited area" means a place where it is unlawful to discharge a firearm.

(19) "Readily accessible for immediate use" means that a firearm or other dangerous weapon is carried on the person or within such close proximity and in such a manner that it can be retrieved and used as readily as if carried on the person.

(20) "Residence" means an improvement to real property used or occupied as a primary or secondary residence.

(21) "Securely encased" means not readily accessible for immediate use, such as held in a gun rack, or in a closed case or container, whether or not locked, or in a trunk or other storage area of a motor vehicle, not including a glove box or console box.

(22) "Short barreled shotgun" or "short barreled rifle" means a shotgun having a barrel or barrels of fewer than 18 inches in length, or in the case of a rifle, having a barrel or barrels of fewer than 16 inches in length, or a dangerous weapon made from a rifle or shotgun by alteration, modification, or otherwise, if the weapon as modified has an overall length of fewer

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than 26 inches.

(23) "Shotgun" means a smooth bore firearm designed to fire cartridges containing pellets or a single slug.

(24) "Shoulder arm" means a firearm that is designed to be fired while braced against the shoulder.

(25) "Single criminal episode" means the same as that term is defined in Section 76-1-401.

(26) "Slug" means a single projectile discharged from a shotgun shell.

(27) "State entity" means a department, commission, board, council, agency, institution, officer, corporation, fund, division, office, committee, authority, laboratory, library, unit, bureau, panel, or other administrative unit of the state.

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

Section 6. Section **76-10-503** is amended to read:

76-10-503. Restrictions on possession, purchase, transfer, and ownership of a dangerous weapon or ammunition by certain persons -- Exceptions.

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

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

(b) A Category I restricted person is a person who:

(i) has been convicted of a violent felony;

(ii) is on probation or parole for a felony;

(iii) is on parole from secure care, as defined in Section 80-1-102;

(iv) within the last 10 years has been adjudicated under Section 80-6-701 for an offense which if committed by an adult would have been a violent felony as defined in Section 76-3-203.5;

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

(vi) is on probation for a conviction of possessing:

(A) a substance classified in Section 58-37-4 as a Schedule I or II controlled substance;

(B) a controlled substance analog; or

(C) a substance listed in Section 58-37-4.2.

~~(b)~~ (c) A Category II restricted person is a person who:

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(i) has been convicted of:

(A) a domestic violence offense that is a felony;

(B) a felony that is not a domestic violence offense or a violent felony and within seven years after completing the sentence for the conviction, has been convicted of or charged with another felony or class A misdemeanor;

(C) multiple felonies that are part of a single criminal episode and are not domestic violence offenses or violent felonies and within seven years after completing the sentence for the convictions, has been convicted of or charged with another felony or class A misdemeanor;

or

(D) multiple felonies that are not part of a single criminal episode;

(ii) (A) within the last seven years has completed a sentence for:

(I) a conviction for a felony that is not a domestic violence offense or a violent felony;

or

(II) convictions for multiple felonies that are part of a single criminal episode and are not domestic violence offenses or violent felonies; and

(B) within the last seven years and after the completion of a sentence for a conviction described in Subsection [~~(1)(b)(ii)(A)~~] (1)(c)(ii)(A), has not been convicted of or charged with another felony or class A misdemeanor;

(iii) within the last seven years has been adjudicated delinquent for an offense which if committed by an adult would have been a felony;

(iv) is an unlawful user of a controlled substance as defined in Section 58-37-2;

(v) is in possession of a dangerous weapon and is knowingly and intentionally in unlawful possession of a Schedule I or II controlled substance as defined in Section 58-37-2;

(vi) has been found not guilty by reason of insanity for a felony offense;

(vii) has been found mentally incompetent to stand trial for a felony offense;

(viii) has been adjudicated as mentally defective as provided in the Brady Handgun Violence Prevention Act, Pub. L. No. 103-159, 107 Stat. 1536 (1993), or has been committed to a mental institution;

(ix) has been dishonorably discharged from the armed forces;

(x) has renounced the individual's citizenship after having been a citizen of the United States;

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(xi) is a respondent or defendant subject to a protective order or child protective order that is issued after a hearing for which the respondent or defendant received actual notice and at which the respondent or defendant has an opportunity to participate, that restrains the respondent or defendant from harassing, stalking, threatening, or engaging in other conduct that would place an intimate partner, as defined in 18 U.S.C. Sec. 921, or a child of the intimate partner, in reasonable fear of bodily injury to the intimate partner or child of the intimate partner, and that:

(A) includes a finding that the respondent or defendant represents a credible threat to the physical safety of an individual who meets the definition of an intimate partner in 18 U.S.C. Sec. 921 or the child of the individual; or

(B) explicitly prohibits the use, attempted use, or threatened use of physical force that would reasonably be expected to cause bodily harm against an intimate partner or the child of an intimate partner; or

(xii) except as provided in Subsection [~~(1)(d)~~] (1)(e), has been convicted of the commission or attempted commission of misdemeanor assault under Section 76-5-102 or aggravated assault under Section 76-5-103 against an individual:

(A) who is a current or former spouse, parent, or guardian;

(B) with whom the restricted person shares a child in common;

(C) who is cohabitating or has cohabitated with the restricted person as a spouse, parent, or guardian;

(D) involved in a dating relationship with the restricted person within the last five years; or

(E) similarly situated to a spouse, parent, or guardian of the restricted person.

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

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

(B) a conviction or an adjudication under Section 80-6-701 which, in accordance with the law of the jurisdiction in which the conviction or adjudication occurred, has been expunged, set aside, reduced to a misdemeanor by court order, pardoned or regarding which the

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person's civil rights have been restored unless the pardon, reduction, expungement, or restoration of civil rights expressly provides that the person may not ship, transport, possess, or receive firearms.

(ii) As used in this section, a conviction for misdemeanor assault under Subsection ~~[(1)(b)(xii)]~~ (1)(c)(xii), does not include a conviction which, in accordance with the law of the jurisdiction in which the conviction occurred, has been expunged, set aside, reduced to an infraction by court order, pardoned, or regarding which the person's civil rights have been restored, unless the pardon, reduction, expungement, or restoration of civil rights expressly provides that the person may not ship, transport, possess, or receive firearms.

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

~~[(d)]~~ (e) A person is not a restricted person for a conviction under Subsection ~~[(1)(b)(xii)(D)]~~ (1)(c)(xii)(D) if:

(i) five years have elapsed from the later of:

(A) the day on which the conviction is entered;

(B) the day on which the person is released from incarceration following the conviction; or

(C) the day on which the person's probation for the conviction is successfully terminated;

(ii) the person only has a single conviction for misdemeanor assault as described in Subsection ~~[(1)(b)(xii)(D)]~~ (1)(c)(xii)(D); and

(iii) the person is not otherwise a restricted person under Subsection ~~[(1)(a)]~~ (1)(b) or ~~[(b)]~~ (c).

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

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

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

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

- (a) a firearm or ammunition is guilty of a third degree felony; or
- (b) a dangerous weapon other than a firearm is guilty of a class A misdemeanor.

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

(5) A Category I or Category II restricted person may not use an antique firearm for an activity regulated under Title 23A, Wildlife Resources Act.

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

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

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

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

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

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

(ii) was not used in or possessed during the commission of a crime or subject to disposition under Section Title 77, Chapter 11a, Part 4, Disposal of Seized Property and Contraband;

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

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

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

(b) Subsection (8)(a) is not a defense to the use, purchase, or possession on the person of a firearm or other dangerous weapon or ammunition by a restricted person.

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

(b) A person who violates Subsection (9)(a) when the recipient is:

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

(ii) a person described in Subsection [~~(1)(a)~~] (1)(b) and the transaction involves a dangerous weapon other than a firearm, and the transferor has knowledge that the recipient intends to use the dangerous weapon for any unlawful purpose, is guilty of a third degree felony;

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

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

(10) (a) As used in this Subsection (10), "materially false information" means information that portrays an illegal transaction as legal or a legal transaction as illegal.

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

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

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

(d) A person who violates this Subsection (10) is guilty of:

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

(ii) a class A misdemeanor if the transaction involved a dangerous weapon other than a

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firearm.

Section 7. Section **76-10-503.1** is amended to read:

76-10-503.1. Firearm restriction notification requirement.

(1) As used in this section:

(a) "Peace officer" means an officer described Section 53-13-102.

(b) "Possess" means actual physical possession, actual or purported ownership, or exercising control of an item.

(c) "Restricted person" means an individual who is restricted from possessing, purchasing, transferring, or owning a firearm or ammunition under Section 76-10-503.

(2) A defendant intending to plead guilty or no contest to a criminal charge that will, upon conviction, cause the defendant to become a restricted person shall, before entering a plea before a court, sign an acknowledgment that states:

(a) the defendant's attorney or the prosecuting attorney has informed the defendant:

(i) that conviction of the charge will classify the defendant as a restricted person;

(ii) that a restricted person may not possess a firearm or ammunition; and

(iii) of the criminal penalties associated with possession of a firearm or ammunition by a restricted person of the same category the defendant will become upon entering a plea for the criminal charge; and

(b) the defendant acknowledges and understands that, by pleading guilty or no contest to the criminal charge, the defendant:

(i) will be a restricted person;

(ii) upon conviction, shall forfeit possession of each firearm and all ammunition currently possessed by the defendant; and

(iii) will be in violation of federal and state law if the defendant possesses a firearm or ammunition.

(3) The prosecuting attorney or the defendant's attorney shall provide the acknowledgment described in Subsection (2) to the court before the defendant's entry of a plea, if the defendant pleads guilty or no contest.

(4) A defendant who is convicted by trial of a criminal charge resulting in the defendant becoming a restricted person shall, at the time of sentencing:

(a) be verbally informed by the court, prosecuting attorney, or defendant's attorney:

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(i) that the defendant is a restricted person;

(ii) that, as a restricted person, the defendant may not possess a firearm or ammunition;

and

(iii) of the criminal penalties associated with possession of a firearm or ammunition by a restricted person of the defendant's category; and

(b) sign an acknowledgment in the presence of the court attesting that the defendant acknowledges and understands that the defendant:

(i) is a restricted person;

(ii) shall forfeit possession of each firearm and all ammunition; and

(iii) will be in violation of federal and state law if the defendant possesses a firearm or ammunition.

(5) The prosecuting attorney and the defendant's attorney shall inform the court at the preliminary hearing if a charge filed against the defendant would qualify the defendant as a restricted person if the defendant is convicted of the charge.

(6) The failure to inform or obtain a signed acknowledgment from the defendant may not render the plea invalid, form the basis for withdrawal of the plea, or create a basis to challenge a conviction or sentence.

(7) An individual who becomes a restricted person as a result of being served with a pretrial protective order in accordance with Section 78B-7-803, a sentencing protective order in accordance with Section 77-36-5, or a continuous protective order in accordance with Section 77-36-5, shall, at the time of service of the protective order:

(a) be verbally informed by the court, prosecuting attorney, defendant's attorney, or, if a peace officer is serving the protective order, the peace officer:

(i) that the individual is a restricted person;

(ii) that, as a restricted person, the individual may not possess a firearm or ammunition;

and

(iii) of the criminal penalties associated with possession of a firearm or ammunition by a restricted person of the individual's category; and

(b) sign, in the presence of the court or, if a peace officer serves the protective order, in the presence of the peace officer, an acknowledgment contained within the protective order document attesting that the individual acknowledges and understands that the individual:

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- (i) is a restricted person;
- (ii) is required to relinquish possession of each firearm and all ammunition;
- (iii) will be in violation of federal and state law if the individual possesses a firearm or ammunition; and
- (iv) may be eligible for an affirmative defense to a state-law prosecution for possession of a firearm or ammunition under Section 76-10-503 if the individual lawfully transfers the individual's firearms within 10 days of becoming a restricted person.

Section 8. Section **76-10-522** is amended to read:

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

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

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

Section 9. Section **76-10-526** is amended to read:

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

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

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

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

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

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

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Licensee.

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

(b) The form shall contain the following information:

(i) the dealer identification number;

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

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

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

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

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

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

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

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

(b) inform the dealer that:

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

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

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

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

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delay.

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

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

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

(i) within [~~24 hours~~] 30 minutes after determining that the purchaser is prohibited from purchasing, possessing, or transferring a firearm, and before informing the dealer as described in Subsection (7)(b), notify the law enforcement agency in the jurisdiction where the dealer is located; and

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

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

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

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

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

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

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

(d) The bureau shall:

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

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

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

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

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

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

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

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

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

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

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

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

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

(b) Subsection (14)(a) may only be used by a law enforcement officer to purchase a

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personal firearm once in a 24-month period.

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

(a) ~~make~~ distribute the firearm safety brochure described in Subsection 26B-5-211(3) ~~available~~ to a customer free of charge at the time of the transfer of a firearm; and

(b) at the time of purchase, distribute a cable-style gun lock provided to the dealer under Subsection 26B-5-211(3) to a customer purchasing a shotgun, short barreled shotgun, short barreled rifle, rifle, or another firearm that federal law does not require be accompanied by a gun lock at the time of purchase.

Section 10. Section ~~76-10-527.5~~ is enacted to read:

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

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

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

(2) A violation of Subsection (1) is a class C misdemeanor.

Section 11. Section ~~76-10-532~~ is amended to read:

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

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

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

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

(b) a release signed by the petitioner to allow the prosecutor or county attorney to

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obtain the petitioner's mental health records;

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

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

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

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

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

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

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

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

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

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

(3) The petitioner shall serve the petition on the prosecuting entity that prosecuted the case or, if the disability is not based on a criminal case, on the county or district attorney's office having jurisdiction where the petition was filed and the individual who filed the original action which resulted in the disability.

(4) (a) The court shall schedule a hearing as soon as practicable.

(b) The petitioner may present evidence and subpoena witnesses to appear at the hearing.

(c) The prosecuting, county attorney, or the individual who filed the original action which resulted in the disability may object to the petition and present evidence in support of the objection.

(5) The court shall consider the following evidence:

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

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

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

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

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- (a) the person is not a danger to the person or to others;
 - (b) the person is not likely to act in a manner dangerous to public safety; and
 - (c) the requested relief would not be contrary to the public interest.
- (7) The court shall issue an order with its findings and send a copy to the bureau.

(8) (a) The bureau, upon receipt of a court order removing a person's disability under Subsection [~~76-10-503(1)(b)(viii)~~] 76-10-503(1)(c)(viii), shall send a copy of the court order to the National Instant Check System requesting removal of the person's name from the database.

(b) In addition, if the person is listed in a state database utilized by the bureau to determine eligibility for the purchase or possession of a firearm or to obtain a concealed firearm permit, the bureau shall remove the petitioner's name or send a copy of the court's order to the agency responsible for the database for removal of the petitioner's name.

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

(10) (a) The petitioner may appeal a denial of the requested relief.

(b) The review on appeal shall be de novo.

Section 12. Section **76-10-1602** is amended to read:

76-10-1602. Definitions.

As used in this part:

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

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

(3) "Person" includes any individual or entity capable of holding a legal or beneficial

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interest in property, including state, county, and local governmental entities.

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

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

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

(c) taking, destroying, or possessing wildlife or parts of wildlife for the primary purpose of sale, trade, or other pecuniary gain, in violation of Title 23A, Wildlife Resources Act, or Section 23A-5-311;

(d) false claims for medical benefits, kickbacks, and any other act prohibited by Title 26B, Chapter 3, Part 11, Utah False Claims Act, Sections 26B-3-1101 through 26B-3-1112;

(e) any act prohibited by the criminal provisions of Title 32B, Chapter 4, Criminal Offenses and Procedure Act;

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

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

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

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

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

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

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

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- (m) kidnapping or aggravated kidnapping, Sections 76-5-301 and 76-5-302;
- (n) human trafficking, human trafficking of a child, human smuggling, or aggravated human trafficking, Sections 76-5-308, 76-5-308.1, 76-5-308.3, 76-5-308.5, 76-5-309, and 76-5-310;
- (o) sexual exploitation of a minor or aggravated sexual exploitation of a minor, Sections 76-5b-201 and 76-5b-201.1;
- (p) arson or aggravated arson, Sections 76-6-102 and 76-6-103;
- (q) causing a catastrophe, Section 76-6-105;
- (r) burglary or aggravated burglary, Sections 76-6-202 and 76-6-203;
- (s) burglary of a vehicle, Section 76-6-204;
- (t) manufacture or possession of an instrument for burglary or theft, Section 76-6-205;
- (u) robbery or aggravated robbery, Sections 76-6-301 and 76-6-302;
- (v) theft, Section 76-6-404;
- (w) theft by deception, Section 76-6-405;
- (x) theft by extortion, Section 76-6-406;
- (y) receiving stolen property, Section 76-6-408;
- (z) theft of services, Section 76-6-409;
- (aa) forgery, Section 76-6-501;
- (bb) fraudulent use of a credit card, Sections 76-6-506.2, 76-6-506.3., and 76-6-506.6;
- (cc) deceptive business practices, Section 76-6-507;
- (dd) bribery or receiving bribe by person in the business of selection, appraisal, or criticism of goods, Section 76-6-508;
- (ee) bribery of a labor official, Section 76-6-509;
- (ff) defrauding creditors, Section 76-6-511;
- (gg) acceptance of deposit by insolvent financial institution, Section 76-6-512;
- (hh) unlawful dealing with property by fiduciary, Section 76-6-513;
- (ii) bribery or threat to influence contest, Section 76-6-514;
- (jj) making a false credit report, Section 76-6-517;
- (kk) criminal simulation, Section 76-6-518;
- (ll) criminal usury, Section 76-6-520;
- (mm) insurance fraud, Section 76-6-521;

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- (nn) retail theft, Section 76-6-602;
- (oo) computer crimes, Section 76-6-703;
- (pp) identity fraud, Section 76-6-1102;
- (qq) mortgage fraud, Section 76-6-1203;
- (rr) sale of a child, Section 76-7-203;
- (ss) bribery to influence official or political actions, Section 76-8-103;
- (tt) threats to influence official or political action, Section 76-8-104;
- (uu) receiving bribe or bribery by public servant, Section 76-8-105;
- (vv) receiving bribe or bribery for endorsement of person as public servant, Section 76-8-106;
- (ww) official misconduct, Sections 76-8-201 and 76-8-202;
- (xx) obstruction of justice, Section 76-8-306;
- (yy) acceptance of bribe or bribery to prevent criminal prosecution, Section 76-8-308;
- (zz) false or inconsistent material statements, Section 76-8-502;
- (aaa) false or inconsistent statements, Section 76-8-503;
- (bbb) written false statements, Section 76-8-504;
- (ccc) tampering with a witness or soliciting or receiving a bribe, Section 76-8-508;
- (ddd) retaliation against a witness, victim, or informant, Section 76-8-508.3;
- (eee) extortion or bribery to dismiss criminal proceeding, Section 76-8-509;
- (fff) tampering with evidence, Section 76-8-510.5;
- (ggg) falsification or alteration of government record, Section 76-8-511, if the record is a record described in Title 20A, Election Code, or Title 36, Chapter 11, Lobbyist Disclosure and Regulation Act;
- (hhh) public assistance fraud in violation of Section 76-8-1203, 76-8-1204, or 76-8-1205;
- (iii) unemployment insurance fraud, Section 76-8-1301;
- (jjj) intentionally or knowingly causing one animal to fight with another, Subsection 76-9-301(2)(d) or (e), or Section 76-9-301.1;
- (kkk) possession, use, or removal of explosives, chemical, or incendiary devices or parts, Section 76-10-306;
- (lll) delivery to common carrier, mailing, or placement on premises of an incendiary

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device, Section 76-10-307;

(mmm) possession of a deadly weapon with intent to assault, Section 76-10-507;

(nnn) unlawful marking of pistol or revolver, Section 76-10-521;

(ooo) alteration of number or mark on [~~pistol or revolver~~] firearm or possession of firearm that has been altered, Section 76-10-522;

(ppp) forging or counterfeiting trademarks, trade name, or trade device, Section 76-10-1002;

(qqq) selling goods under counterfeited trademark, trade name, or trade devices, Section 76-10-1003;

(rrr) sales in containers bearing registered trademark of substituted articles, Section 76-10-1004;

(sss) selling or dealing with article bearing registered trademark or service mark with intent to defraud, Section 76-10-1006;

(ttt) gambling, Section 76-10-1102;

(uuu) gambling fraud, Section 76-10-1103;

(vvv) gambling promotion, Section 76-10-1104;

(www) possessing a gambling device or record, Section 76-10-1105;

(xxx) confidence game, Section 76-10-1109;

(yyy) distributing pornographic material, Section 76-10-1204;

(zzz) inducing acceptance of pornographic material, Section 76-10-1205;

(aaaa) dealing in harmful material to a minor, Section 76-10-1206;

(bbbb) distribution of pornographic films, Section 76-10-1222;

(cccc) indecent public displays, Section 76-10-1228;

(dddd) prostitution, Section 76-10-1302;

(eeee) aiding prostitution, Section 76-10-1304;

(ffff) exploiting prostitution, Section 76-10-1305;

(gggg) aggravated exploitation of prostitution, Section 76-10-1306;

(hhhh) communications fraud, Section 76-10-1801;

(iiii) any act prohibited by the criminal provisions of Part 19, Money Laundering and Currency Transaction Reporting Act;

(jjjj) vehicle compartment for contraband, Section 76-10-2801;

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(kkkk) any act prohibited by the criminal provisions of the laws governing taxation in this state; and

(llll) any act illegal under the laws of the United States and enumerated in 18 U.S.C. Sec. 1961(1)(B), (C), and (D).

Section 13. Section **80-6-104** is amended to read:

80-6-104. Data collection on offenses committed by minors -- Reporting requirement.

(1) As used in this section:

- (a) "Firearm" means the same as that term is defined in Section 76-10-501.
- (b) "Firearm-related offense" means a criminal offense involving a firearm.
- (c) "School is in session" means the same as that term is defined in Section 53E-3-516.
- (d) "School-sponsored activity" means the same as that term is defined in Section

53E-3-516.

(2) Before July 1 of each year, the Administrative Office of the Courts shall submit the following data to the State Commission on Criminal and Juvenile Justice, broken down by judicial district, for the preceding calendar year:

- (a) the number of referrals to the juvenile court;
- (b) the number of minors diverted to a nonjudicial adjustment;
- (c) the number of minors that satisfy the conditions of a nonjudicial adjustment;
- (d) the number of minors for whom a petition for an offense is filed in the juvenile court;
- (e) the number of minors for whom an information is filed in the juvenile court;
- (f) the number of minors bound over to the district court by the juvenile court;
- (g) the number of petitions for offenses committed by minors that were dismissed by the juvenile court;
- (h) the number of adjudications in the juvenile court for offenses committed by minors;
- (i) the number of guilty pleas entered into by minors in the juvenile court;
- (j) the number of dispositions resulting in secure care, community-based placement, formal probation, and intake probation; and
- (k) for each minor charged in the juvenile court with a firearm-related offense:
 - (i) the minor's age at the time the offense was committed or allegedly committed;

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- (ii) the minor's zip code at the time that the offense was referred to the juvenile court;
- (iii) whether the minor is a restricted person under Subsection [~~76-10-503(1)(a)(iv) or (1)(b)(iii)~~] 76-10-503(1)(b)(iv) or (1)(c)(iii);
- (iv) the type of offense for which the minor is charged;
- (v) the outcome of the minor's case in juvenile court, including whether the minor was bound over to the district court or adjudicated by the juvenile court; and
- (vi) if a disposition was entered by the juvenile court, whether the disposition resulted in secure care, community-based placement, formal probation, or intake probation.

(3) The State Commission on Criminal and Juvenile Justice shall track the disposition of a case resulting from a firearm-related offense committed, or allegedly committed, by a minor when the minor is found in possession of a firearm while school is in session or during a school-sponsored activity.

(4) In collaboration with the Administrative Office of the Courts, the division, and other agencies, the State Commission on Criminal and Juvenile Justice shall collect data for the preceding calendar year on:

(a) the length of time that minors spend in the juvenile justice system, including the total amount of time minors spend under juvenile court jurisdiction, on community supervision, and in each out-of-home placement;

(b) recidivism of minors who are diverted to a nonjudicial adjustment and minors for whom dispositions are ordered by the juvenile court, including tracking minors into the adult corrections system;

(c) changes in aggregate risk levels from the time minors receive services, are under supervision, and are in out-of-home placement; and

(d) dosages of programming.

(5) On and before October 1 of each year, the State Commission on Criminal and Juvenile Justice shall prepare and submit a written report to the Judiciary Interim Committee and the Law Enforcement and Criminal Justice Interim Committee that includes:

(a) data collected by the State Commission on Criminal and Juvenile Justice under this section;

(b) data collected by the State Board of Education under Section 53E-3-516; and

(c) recommendations for legislative action with respect to the data described in this

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Subsection (5).

(6) Nothing in this section shall be construed to require the disclosure of information or data that is classified as controlled, private, or protected under Title 63G, Chapter 2, Government Records Access and Management Act.

Section 14. Section **80-6-1004.1** is amended to read:

80-6-1004.1. Petition to expunge adjudication -- Hearing and notice -- Waiver -- Order.

(1) An individual may petition the juvenile court for an order to expunge the individual's juvenile record if:

- (a) the individual was adjudicated for an offense in the juvenile court;
- (b) the individual has reached 18 years old; and
- (c) at least one year has passed from the day on which:
 - (i) the juvenile court's continuing jurisdiction was terminated; or
 - (ii) if the individual was committed to secure care, the individual was unconditionally

released from the custody of the division.

(2) If a petitioner is 18 years old or older and seeks an expungement under Subsection (1), the petition shall include a criminal history report obtained from the Bureau of Criminal Identification in accordance with Section 53-10-108.

(3) If the juvenile court finds and states on the record the reason why the waiver is appropriate, the juvenile court may waive:

- (a) the age requirement under Subsection (1)(b) for a petition; or
- (b) the one-year requirement under Subsection (1)(c) for a petition.

(4) (a) Upon the filing of a petition described in Subsection (1)(a), the juvenile court shall:

- (i) set a date for a hearing; and
- (ii) at least 30 days before the day on which the hearing on the petition is scheduled,

notify the prosecuting attorney and any affected agency identified in the petitioner's juvenile record:

- (A) that the petition has been filed; and
- (B) of the date of the hearing.

(b) (i) The juvenile court shall provide a victim with the opportunity to request notice

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of a petition described in Subsection (1).

(ii) Upon the victim's request under Subsection (4)(b)(i), the victim shall receive notice of the petition at least 30 days before the day on which the hearing is scheduled if, before the day on which an expungement order is made, the victim, or the victim's next of kin or authorized representative if the victim is a child or an individual who is incapacitated or deceased, submits a written and signed request for notice to the juvenile court in the judicial district in which the offense occurred or judgment is entered.

(iii) The notice described in Subsection (4)(b)(ii) shall include a copy of the petition and any statutes and rules applicable to the petition.

(c) At the hearing, the prosecuting attorney, a victim, and any other individual who may have relevant information about the petitioner may testify.

(d) The juvenile court may waive the hearing for the petition if:

(i) (A) there is no victim; or

(B) if there is a victim, the victim agrees to the waiver; and

(ii) the prosecuting attorney agrees to the waiver.

(5) (a) Except as provided in Subsection (6), the juvenile court may grant a petition described in Subsection (1) and order expungement of the petitioner's juvenile record if the juvenile court finds that the petitioner is rehabilitated to the satisfaction of the court in accordance with Subsection (5)(b).

(b) In deciding whether to grant a petition described in Subsection (1), the juvenile court shall consider:

(i) whether expungement of the petitioner's juvenile record is in the best interest of the petitioner;

(ii) the petitioner's response to programs and treatment;

(iii) the nature and seriousness of the conduct for which the petitioner was adjudicated;

(iv) the petitioner's behavior subsequent to adjudication;

(v) the petitioner's reason for seeking expungement of the petitioner's juvenile record;

and

(vi) if the petitioner is a restricted person under Subsection [~~76-10-503(1)(a)(iv)~~ or ~~(b)(iii)~~] 76-10-503(1)(b)(iv) or (c)(iii):

(A) whether the offense for which the petitioner is a restricted person was committed

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with a weapon;

(B) whether expungement of the petitioner's juvenile record poses an unreasonable risk to public safety; and

(C) the amount of time that has passed since the adjudication of the offense for which the petitioner is a restricted person.

(6) The juvenile court may not grant a petition described in Subsection (1) and order expungement of the petitioner's juvenile record if:

(a) the petitioner has been convicted of a violent felony within five years before the day on which the petition for expungement is filed;

(b) there are delinquency or criminal proceedings pending against the petitioner;

(c) the petitioner has not satisfied a judgment of restitution entered by the juvenile court for an adjudication in the petitioner's juvenile record;

(d) the petitioner has not satisfied restitution that was a condition of a nonjudicial adjustment in the petitioner's juvenile record; or

(e) the petitioner's juvenile record contains an adjudication for a violation of:

(i) Section 76-5-202, aggravated murder; or

(ii) Section 76-5-203, murder.

Section 15. Effective date.

This bill takes effect on May 1, 2024.

Section 16. Coordinating H.B. 426 with H.B. 166.

If H.B. 426, Firearm Amendments, and H.B. 166, Restricted Persons Amendments, both pass and become law, the Legislature intends that, on May 1, 2024, the amendments to Section 53-10-208.1 in H.B. 166 supersede the amendments to Section 53-10-208.1 in H.B. 426.