

**FIREARM POSSESSION AMENDMENTS**

2023 GENERAL SESSION

STATE OF UTAH

**Chief Sponsor: Ryan D. Wilcox**

Senate Sponsor: Todd D. Weiler

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**LONG TITLE**

**General Description:**

This bill addresses provisions regarding firearm restrictions.

**Highlighted Provisions:**

This bill:

- ▶ requires agencies to run a background check when returning a firearm to an individual from evidence;
- ▶ requires a court that reports criminal information to the Criminal Investigations and Technical Service Division to provide the relationship between the victim and the perpetrator in certain circumstances;
- ▶ amends the definition of a "restricted person";
- ▶ classifies an alien in the state on a nonimmigrant visa in certain circumstances as a restricted person not able to possess, own, or purchase a firearm;
- ▶ requires the Bureau of Criminal Identification to inform the local law enforcement agency with jurisdiction over a firearms dealer when a restricted person attempts to purchase a firearm from that dealer;
- ▶ clarifies that a restricted person may not use an antique firearm for an activity regulated under the Wildlife Resources Code of Utah; and
- ▶ makes technical changes.

**Money Appropriated in this Bill:**

None

**Other Special Clauses:**

29 This bill provides a coordination clause.

30 **Utah Code Sections Affected:**

31 AMENDS:

32 **24-3-103**, as last amended by Laws of Utah 2021, Chapter 230

33 **53-10-208.1**, as last amended by Laws of Utah 2021, Chapter 159

34 **53-10-213**, as last amended by Laws of Utah 2020, Chapter 142

35 **76-10-501**, as last amended by Laws of Utah 2015, Chapters 212, 406

36 **76-10-503**, as last amended by Laws of Utah 2021, Chapter 262

37 **76-10-526**, as last amended by Laws of Utah 2021, Chapters 166, 277

38 **Utah Code Sections Affected by Coordination Clause:**

39 **76-10-503**, as last amended by Laws of Utah 2021, Chapter 262



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

42 Section 1. Section **24-3-103** is amended to read:

43 **24-3-103. Disposition of property.**

44 (1) If a prosecuting attorney determines that seized property no longer needs to be  
45 retained for court proceedings, the prosecuting attorney may:

46 (a) petition the court to apply the property that is money towards restitution, fines, fees,  
47 or monetary judgments owed by the owner of the property;

48 (b) petition the court for an order transferring ownership of ~~any~~ weapons to the  
49 agency with custody for the agency's use and disposal in accordance with Section **24-3-103.5**,  
50 if the owner:

51 (i) is the individual who committed the offense for which the weapon was seized; or

52 (ii) may not lawfully possess the weapon; or

53 (c) notify the agency with custody of the property or contraband that:

54 (i) the property may be returned to the rightful owner if the rightful owner may  
55 lawfully possess the property; or

56 (ii) the contraband may be disposed of or destroyed.

57 (2) Before returning a firearm to an individual, the agency returning the firearm shall  
58 confirm, through the Bureau of Criminal Identification, that the individual is eligible to  
59 lawfully possess and receive firearms.

60 [~~2~~] (3) The agency shall exercise due diligence in attempting to notify the rightful  
61 owner of the property to advise the owner that the property is to be returned.

62 [~~3~~] (4) (a) For a computer determined to be contraband, a court may order the  
63 reasonable extraction and return of specifically described personal digital data to the rightful  
64 owner.

65 (b) The law enforcement agency shall determine a reasonable cost to extract the data.

66 (c) At the time of the request to extract the data, the owner of the computer shall pay  
67 the agency the cost to extract the data.

68 [~~4~~] (5) (a) Before an agency may release seized property to a person claiming  
69 ownership of the property, the person shall establish in accordance with Subsection [~~4~~](b)  
70 (5)(b) that the person:

71 (i) is the rightful owner; and

72 (ii) may lawfully possess the property.

73 (b) The person shall establish ownership under Subsection [~~4~~](a) (5)(a) by providing  
74 to the agency:

75 (i) identifying proof or documentation of ownership of the property; or

76 (ii) a notarized statement if proof or documentation is not available.

77 [~~5~~] (6) (a) When seized property is returned to the owner, the owner shall sign a  
78 receipt listing in detail the property that is returned.

79 (b) The agency shall:

80 (i) retain a copy of the receipt; and

81 (ii) provide a copy of the receipt to the owner.

82 [~~6~~] (7) (a) Except as provided in Subsection [~~6~~](b) (7)(b), if the agency is unable to

83 locate the rightful owner of the property or the rightful owner is not entitled to lawfully possess  
84 the property, the agency may:

- 85 (i) apply the property to a public interest use;
- 86 (ii) sell the property at public auction and apply the proceeds of the sale to a public  
87 interest use; or
- 88 (iii) destroy the property if the property is unfit for a public interest use or for sale.

89 (b) If the property described in Subsection [~~(6)(a)~~] (7)(a) is a firearm, the agency shall  
90 dispose of the firearm in accordance with Section 24-3-103.5.

91 [~~(7)~~] (8) Before applying the property or the proceeds from the sale of the property to a  
92 public interest use, the agency shall obtain from the legislative body of the agency's  
93 jurisdiction:

- 94 (a) permission to apply the property or the proceeds to public interest use; and
- 95 (b) the designation and approval of the public interest use of the property or the  
96 proceeds.

97 [~~(8)~~] (9) If a peace officer seizes property that at the time of seizure is held by a pawn  
98 or secondhand business in the course of the pawn or secondhand business's business, the  
99 provisions of Section 13-32a-116 shall apply to the disposition of the property.

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

101 **53-10-208.1. Magistrates and court clerks to supply information.**

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

- 105 (a) all dispositions of criminal matters, including:
  - 106 (i) guilty pleas;
  - 107 (ii) convictions;
  - 108 (iii) dismissals;
  - 109 (iv) acquittals;

- 110 (v) pleas [~~held~~] in abeyance;
- 111 (vi) judgments of not guilty by reason of insanity;
- 112 (vii) judgments of guilty with a mental illness;
- 113 (viii) finding of mental incompetence to stand trial; and
- 114 (ix) probations granted;
- 115 (b) orders of civil commitment under the terms of Section 62A-15-631;
- 116 (c) the issuance, recall, cancellation, or modification of all warrants of arrest or
- 117 commitment as described in Rule 6, Utah Rules of Criminal Procedure and Section 78B-6-303,
- 118 within one day of the action and in a manner provided by the division; and
- 119 (d) protective orders issued after notice and hearing, pursuant to:
  - 120 (i) Title 77, Chapter 36, Cohabitant Abuse Procedures Act;
  - 121 (ii) Title 78B, Chapter 7, Part 4, Dating Violence Protective Orders;
  - 122 (iii) Title 78B, Chapter 7, Part 5, Sexual Violence Protective Orders;
  - 123 (iv) Title 78B, Chapter 7, Part 6, Cohabitant Abuse Protective Orders; or
  - 124 (v) Title 78B, Chapter 7, Part 8, Criminal Protective Orders.
- 125 (2) When transmitting information on a criminal matter under Subsection (1)(a)(i), (ii),
- 126 (v), or (vii) for a conviction of misdemeanor assault under Section 76-5-102, the magistrate or
- 127 clerk of a court shall include available information regarding whether the conviction for assault
- 128 resulted from an assault against an individual:
  - 129 (a) who is included in at least one of the relationship categories described in
  - 130 Subsection 76-10-503(1)(b)(xi); or
  - 131 (b) with whom none of the relationships described in Subsection 76-10-503(1)(b)(xi)
  - 132 apply.
- 133 [~~(2)~~] (3) The court in the county where a determination or finding was made shall
- 134 transmit a record of the determination or finding to the bureau no later than 48 hours after the
- 135 determination is made, excluding Saturdays, Sundays, and legal holidays, if an individual is:
  - 136 (a) adjudicated as a mental defective; or

137 (b) involuntarily committed to a mental institution in accordance with Subsection  
138 [62A-15-631](#)(16).

139 ~~[(3)]~~ (4) The record described in Subsection ~~[(2)]~~ (3) shall include:

140 (a) an agency record identifier;

141 (b) the individual's name, sex, race, and date of birth; and

142 (c) the individual's social security number, government issued driver license or  
143 identification number, alien registration number, government passport number, state  
144 identification number, or FBI number.

145 Section 3. Section **53-10-213** is amended to read:

146 **53-10-213. Reporting requirements.**

147 (1) The bureau shall submit the record received from the court in accordance with  
148 Subsection [78B-7-603](#)(5)(e) to the National Crime Information Center within 48 hours of  
149 receipt, excluding Saturdays, Sundays, and legal holidays.

150 (2) The bureau shall submit the record received from the court in accordance with  
151 Subsection ~~[[53-10-208.1](#)(2)]~~ [53-10-208.1](#)(3) to the National Instant Criminal Background  
152 Check System within 48 hours of receipt, excluding Saturdays, Sundays, and legal holidays.

153 Section 4. Section **76-10-501** is amended to read:

154 **76-10-501. Definitions.**

155 As used in this part:

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

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

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

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

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

- 164 (I) no longer manufactured in the United States; and  
165 (II) is not readily available in ordinary channels of commercial trade; or  
166 (iii) (A) that is a muzzle loading rifle, shotgun, or pistol; and  
167 (B) is designed to use black powder, or a black powder substitute, and cannot use fixed  
168 ammunition.
- 169 (b) "Antique firearm" does not include:  
170 (i) a weapon that incorporates a firearm frame or receiver;  
171 (ii) a firearm that is converted into a muzzle loading weapon; or  
172 (iii) a muzzle loading weapon that can be readily converted to fire fixed ammunition by  
173 replacing the:  
174 (A) barrel;  
175 (B) bolt;  
176 (C) breechblock; or  
177 (D) any combination of Subsection (1)(b)(iii)(A), (B), or (C).
- 178 (2) "Bureau" means the Bureau of Criminal Identification created in Section [53-10-201](#)  
179 within the Department of Public Safety.
- 180 (3) (a) "Concealed firearm" means a firearm that is:  
181 (i) covered, hidden, or secreted in a manner that the public would not be aware of its  
182 presence; and  
183 (ii) readily accessible for immediate use.
- 184 (b) A firearm that is unloaded and securely encased is not a concealed firearm for the  
185 purposes of this part.
- 186 (4) "Criminal history background check" means a criminal background check  
187 conducted by a licensed firearms dealer on every purchaser of a handgun, except a Federal  
188 Firearms Licensee, through the bureau or the local law enforcement agency where the firearms  
189 dealer conducts business.
- 190 (5) "Curio or relic firearm" means a firearm that:

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

193 (i) sporting use;

194 (ii) use as an offensive weapon; or

195 (iii) use as a defensive weapon;

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

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

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

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

201 (i) from the fact that the firearm is:

202 (A) novel;

203 (B) rare; or

204 (C) bizarre; or

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

206 (A) figure;

207 (B) period; or

208 (C) event; and

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

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

212 (i) a firearm; or

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

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

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



- 218 (ii) the primary purpose for which the object was made;
- 219 (iii) the character of the wound, if any, produced by the object's unlawful use;
- 220 (iv) the manner in which the object was unlawfully used;
- 221 (v) whether the manner in which the object is used or possessed constitutes a potential
- 222 imminent threat to public safety; and
- 223 (vi) the lawful purposes for which the object may be used.

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

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

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

230 [~~7~~] (8) "Dealer" means a person who is:

- 231 (a) licensed under 18 U.S.C. Sec. 923; and
- 232 (b) engaged in the business of selling, leasing, or otherwise transferring a handgun,
- 233 whether the person is a retail or wholesale dealer, pawnbroker, or otherwise.

234 [~~8~~] (9) "Enter" means intrusion of the entire body.

235 [~~9~~] (10) "Federal Firearms Licensee" means a person who:

- 236 (a) holds a valid Federal Firearms License issued under 18 U.S.C. Sec. 923; and
- 237 (b) is engaged in the activities authorized by the specific category of license held.

238 [~~10~~] (11) (a) "Firearm" means a pistol, revolver, shotgun, short barreled shotgun, rifle  
239 or short barreled rifle, or a device that could be used as a dangerous weapon from which is  
240 expelled a projectile by action of an explosive.

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

243 [~~11~~] (12) "Firearms transaction record form" means a form created by the bureau to  
244 be completed by a person purchasing, selling, or transferring a handgun from a dealer in the

245 state.

246 ~~[(12)]~~ (13) "Fully automatic weapon" means a firearm which fires, is designed to fire,  
247 or can be readily restored to fire, automatically more than one shot without manual reloading  
248 by a single function of the trigger.

249 ~~[(13)]~~ (14) (a) "Handgun" means a pistol, revolver, or other firearm of any description,  
250 loaded or unloaded, from which a shot, bullet, or other missile can be discharged, the length of  
251 which, not including any revolving, detachable, or magazine breech, does not exceed 12 inches.

252 (b) As used in Sections 76-10-520, 76-10-521, and 76-10-522, "handgun" and "pistol  
253 or revolver" do not include an antique firearm.

254 ~~[(14)]~~ (15) "House of worship" means a church, temple, synagogue, mosque, or other  
255 building set apart primarily for the purpose of worship in which religious services are held and  
256 the main body of which is kept for that use and not put to any other use inconsistent with its  
257 primary purpose.

258 ~~[(15)]~~ (16) "Prohibited area" means a place where it is unlawful to discharge a firearm.

259 ~~[(16)]~~ (17) "Readily accessible for immediate use" means that a firearm or other  
260 dangerous weapon is carried on the person or within such close proximity and in such a manner  
261 that it can be retrieved and used as readily as if carried on the person.

262 ~~[(17)]~~ (18) "Residence" means an improvement to real property used or occupied as a  
263 primary or secondary residence.

264 ~~[(18)]~~ (19) "Securely encased" means not readily accessible for immediate use, such as  
265 held in a gun rack, or in a closed case or container, whether or not locked, or in a trunk or other  
266 storage area of a motor vehicle, not including a glove box or console box.

267 ~~[(19)]~~ (20) "Short barreled shotgun" or "short barreled rifle" means a shotgun having a  
268 barrel or barrels of fewer than 18 inches in length, or in the case of a rifle, having a barrel or  
269 barrels of fewer than 16 inches in length, or a dangerous weapon made from a rifle or shotgun  
270 by alteration, modification, or otherwise, if the weapon as modified has an overall length of  
271 fewer than 26 inches.

272            [~~(20)~~] (21) "Shotgun" means a smooth bore firearm designed to fire cartridges  
273 containing pellets or a single slug.

274            [~~(21)~~] (22) "Shoulder arm" means a firearm that is designed to be fired while braced  
275 against the shoulder.

276            [~~(22)~~] (23) "Slug" means a single projectile discharged from a shotgun shell.

277            [~~(23)~~] (24) "State entity" means a department, commission, board, council, agency,  
278 institution, officer, corporation, fund, division, office, committee, authority, laboratory, library,  
279 unit, bureau, panel, or other administrative unit of the state.

280            [~~(24)~~] (25) "Violent felony" means the same as that term is defined in Section  
281 [76-3-203.5](#).

282            Section 5. Section **76-10-503** is amended to read:

283            **76-10-503. Restrictions on possession, purchase, transfer, and ownership of**  
284 **dangerous weapons by certain persons -- Exceptions.**

285            (1) For purposes of this section:

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

287            (i) has been convicted of [~~any~~] a violent felony as defined in Section [76-3-203.5](#);

288            (ii) is on probation or parole for [~~any~~] a felony;

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

290            (iv) within the last 10 years has been adjudicated under Section [80-6-701](#) for an offense  
291 which if committed by an adult would have been a violent felony as defined in Section  
292 [76-3-203.5](#);

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

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

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

296            (B) a controlled substance analog; or

297            (C) a substance listed in Section [58-37-4.2](#).

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

- 299 (i) has been convicted of [~~any~~] a felony;
- 300 (ii) within the last seven years has been adjudicated delinquent for an offense which if
- 301 committed by an adult would have been a felony;
- 302 (iii) is an unlawful user of a controlled substance as defined in Section 58-37-2;
- 303 (iv) is in possession of a dangerous weapon and is knowingly and intentionally in
- 304 unlawful possession of a Schedule I or II controlled substance as defined in Section 58-37-2;
- 305 (v) has been found not guilty by reason of insanity for a felony offense;
- 306 (vi) has been found mentally incompetent to stand trial for a felony offense;
- 307 (vii) has been adjudicated as mentally defective as provided in the Brady Handgun
- 308 Violence Prevention Act, Pub. L. No. 103-159, 107 Stat. 1536 (1993), or has been committed
- 309 to a mental institution;
- 310 (viii) has been dishonorably discharged from the armed forces;
- 311 (ix) has renounced the individual's citizenship after having been a citizen of the United
- 312 States;
- 313 (x) is a respondent or defendant subject to a protective order or child protective order
- 314 that is issued after a hearing for which the respondent or defendant received actual notice and at
- 315 which the respondent or defendant has an opportunity to participate, that restrains the
- 316 respondent or defendant from harassing, stalking, threatening, or engaging in other conduct that
- 317 would place an intimate partner, as defined in 18 U.S.C. Sec. 921, or a child of the intimate
- 318 partner, in reasonable fear of bodily injury to the intimate partner or child of the intimate
- 319 partner, and that:
  - 320 (A) includes a finding that the respondent or defendant represents a credible threat to
  - 321 the physical safety of an individual who meets the definition of an intimate partner in 18 U.S.C.
  - 322 Sec. 921 or the child of the individual; or
  - 323 (B) explicitly prohibits the use, attempted use, or threatened use of physical force that
  - 324 would reasonably be expected to cause bodily harm against an intimate partner or the child of
  - 325 an intimate partner; [~~or~~]

326 (xi) except as provided in Subsection (1)(d), has been convicted of the commission or  
327 attempted commission of assault under Section 76-5-102 or aggravated assault under Section  
328 76-5-103 against an individual:

329 (A) who is a current or former spouse, parent, or guardian<sup>[;]</sup>;

330 (B) [~~individual~~] with whom the restricted person shares a child in common<sup>[;]</sup>;

331 (C) [~~individual~~] who is cohabitating or has cohabitated with the restricted person as a  
332 spouse, parent, or guardian<sup>[;]</sup>;

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

335 (E) [~~against an individual~~] similarly situated to a spouse, parent, or guardian of the  
336 restricted person; or

337 (xii) is an alien who has been admitted to the United States under a nonimmigrant visa  
338 as defined in 8 U.S.C. Sec. 1101(a)(26).

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

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

344 [(ii)] (B) a conviction or an adjudication under Section 80-6-701 which, [~~according to~~]  
345 in accordance with the law of the jurisdiction in which [(i)] the conviction or adjudication  
346 occurred, has been expunged, set aside, reduced to a misdemeanor by court order, pardoned or  
347 regarding which the person's civil rights have been restored unless the pardon, reduction,  
348 expungement, or restoration of civil rights expressly provides that the person may not ship,  
349 transport, possess, or receive firearms.

350 [(d)] (ii) It is the burden of the defendant in a criminal case to provide evidence that a  
351 conviction or an adjudication under Section 80-6-701 is subject to an exception provided in  
352 Subsection (1)(c)(i), after which it is the burden of the state to prove beyond a reasonable doubt

353 that the conviction or the adjudication is not subject to that exception.

354 (d) A person is not a restricted person for a conviction under Subsection (1)(b)(xi)(D)

355 if:

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

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

358 (B) the day on which the person is released from incarceration following the

359 conviction; or

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

361 terminated;

362 (ii) the person only has a single conviction for assault as described in Subsection

363 (1)(b)(xi)(D); and

364 (iii) the person is not otherwise a restricted person under Subsection (1)(a) or (b).

365 (2) A Category I restricted person who intentionally or knowingly agrees, consents,

366 offers, or arranges to purchase, transfer, possess, use, or have under the person's custody or

367 control, or who intentionally or knowingly purchases, transfers, possesses, uses, or has under

368 the person's custody or control:

369 (a) [~~any~~] a firearm is guilty of a second degree felony; or

370 (b) [~~any~~] a dangerous weapon other than a firearm is guilty of a third degree felony.

371 (3) [~~A~~] Except as provided in Subsection (4), a Category II restricted person who

372 intentionally or knowingly purchases, transfers, possesses, uses, or has under the person's

373 custody or control:

374 (a) [~~any~~] a firearm is guilty of a third degree felony; or

375 (b) [~~any~~] a dangerous weapon other than a firearm is guilty of a class A misdemeanor.

376 (4) A Category II restricted person may possess, use, or have under the person's control

377 a firearm or dangerous weapon if:

378 (a) the person is a Category II restricted person solely due to Subsection (1)(b)(xii);

379 (b) the person has been admitted to the United States under a nonimmigrant visa solely

380 for lawful hunting or sporting purposes;

381 (c) the person is in possession of a valid hunting license or permit; and

382 (d) the possession, use, or control of the firearm or dangerous weapon is directly  
383 related to the lawful hunting or sporting purposes described in Subsection (4)(b).

384 ~~[(4)]~~ (5) A person may be subject to the restrictions of both categories at the same time.

385 (6) A Category I or Category II restricted person may not use an antique firearm for an  
386 activity regulated under Title 23, Wildlife Resources Code of Utah.

387 ~~[(5)]~~ (7) If a higher penalty than is prescribed in this section is provided in another  
388 section for one who purchases, transfers, possesses, uses, or has under this custody or control  
389 ~~[any]~~ a dangerous weapon, the penalties of that section control.

390 ~~[(6)]~~ (8) It is an affirmative defense to a charge based on the definition in Subsection  
391 (1)(b)(iv) that the person was:

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

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

396 ~~[(7)]~~ (9) (a) It is an affirmative defense to transferring a firearm or other dangerous  
397 weapon by a person restricted under Subsection (2) or (3) that the firearm or dangerous  
398 weapon:

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

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

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

404 (iv) was transferred to a person not legally prohibited from possessing the weapon; and

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

407 (b) Subsection [~~(7)(a)~~] (9)(a) is not a defense to the use, purchase, or possession on the  
408 person of a firearm or other dangerous weapon by a restricted person.

409 [~~(8)~~] (10) (a) A person may not sell, transfer, or otherwise dispose of [~~any~~] a firearm or  
410 dangerous weapon to [~~any~~] a person, knowing that the recipient is a person described in  
411 Subsection (1)(a) or (b).

412 (b) A person who violates Subsection [~~(8)(a)~~] (10)(a) when the recipient is:

413 (i) a person described in Subsection (1)(a) and the transaction involves a firearm, is  
414 guilty of a second degree felony;

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

418 (iii) a person described in Subsection (1)(b) and the transaction involves a firearm, is  
419 guilty of a third degree felony; or

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

423 [~~(9)~~] (11) (a) A person may not knowingly solicit, persuade, encourage or entice a  
424 dealer or other person to sell, transfer or otherwise dispose of a firearm or dangerous weapon  
425 under circumstances which the person knows would be a violation of the law.

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

430 (c) "Materially false information" means information that portrays an illegal transaction  
431 as legal or a legal transaction as illegal.

432 (d) A person who violates this Subsection [~~(9)~~] (11) is guilty of:

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



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

436 Section 6. Section **76-10-526** is amended to read:

437 **76-10-526. Criminal background check prior to purchase of a firearm -- Fee --**  
438 **Exemption for concealed firearm permit holders and law enforcement officers.**

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

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

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

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

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

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

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

454 (i) the dealer identification number;

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

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

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

460 (5) (a) The dealer shall send the information required by Subsection (4) to the bureau

461 immediately upon its receipt by the dealer.

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

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

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

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

473 (b) inform the dealer that:

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

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

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

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

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

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

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

491 (i) within 24 hours after determining that the purchaser is prohibited from purchasing,  
492 possessing, or transferring a firearm, notify the law enforcement agency in the jurisdiction  
493 where the dealer is located; and

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

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

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

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

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

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

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

508 (d) The bureau shall:

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

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

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

513 (10) If an individual is denied the right to purchase a firearm under this section, the  
514 individual may review the individual's criminal history information and may challenge or

515 amend the information as provided in Section [53-10-108](#).

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

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

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

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

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

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

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

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

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

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

542 personal firearm once in a 24-month period.

543 (15) A dealer engaged in the business of selling, leasing, or otherwise transferring  
544 ~~[any]~~ a firearm shall:

545 (a) make the firearm safety brochure described in Subsection 62A-15-103(3) available  
546 to a customer free of charge; and

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

551 Section 7. **Coordinating H.B. 225 with H.B. 120 -- Technical and substantive**  
552 **amendment.**

553 If this H.B. 225 and H.B. 120, Weapon Possession Amendments, both pass and become  
554 law, it is the intent of the Legislature that the Office of Legislative Research and General  
555 Counsel prepare the Utah Code database for publication by amending Subsection  
556 76-10-503(1)(d)(ii) in this H.B. 225 to read:

557 "(ii) the person only has a single conviction for misdemeanor assault as described in  
558 Subsection (1)(b)(xi)(D); and".