

VOLUNTARY FIREARMS RESTRICTIONS AMENDMENTS

2020 GENERAL SESSION

STATE OF UTAH

Chief Sponsor: A. Cory Maloy

Senate Sponsor: _____

LONG TITLE

General Description:

This bill creates a voluntary process for a person to restrict their ability to purchase a firearm.

Highlighted Provisions:

This bill:

- requires the Bureau of Criminal Identification to create a process and forms to allow a non-restricted person to voluntarily become a restricted person for a limited period of time;
- requires the person to acknowledge the consequences of the restrictions;
- allows the person to request removal after 30 days; and
- requires the law enforcement agency and bureau to destroy all records after a person is removed from the voluntary restricted list.

Money Appropriated in this Bill:

None

Other Special Clauses:

None

Utah Code Sections Affected:

AMENDS:

53-5-704, as last amended by Laws of Utah 2013, Chapter 280

53-5c-102, as enacted by Laws of Utah 2013, Chapter 188



28 **76-10-526**, as last amended by Laws of Utah 2019, Chapters 386 and 440

29 ENACTS:

30 **53-5c-301**, Utah Code Annotated 1953

31

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

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

33 **53-5-704. Bureau duties -- Permit to carry concealed firearm -- Certification for**
34 **concealed firearms instructor -- Requirements for issuance -- Violation -- Denial,**
35 **suspension, or revocation -- Appeal procedure.**

36 (1) (a) The bureau shall issue a permit to carry a concealed firearm for lawful self
37 defense to an applicant who is 21 years of age or older within 60 days after receiving an
38 application, unless the bureau finds proof that the applicant does not meet the qualifications set
39 forth in Subsection (2).

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

42 (c) The provisions of Subsections **76-10-504**(1) and (2), and Section **76-10-505** do not
43 apply to a person issued a permit under Subsection (1)(a).

44 (d) Subsection (4)(a) does not apply to a nonresident:

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

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

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

52 (i) has been or is convicted of a felony;

53 (ii) has been or is convicted of a crime of violence;

54 (iii) has been or is convicted of an offense involving the use of alcohol;

55 (iv) has been or is convicted of an offense involving the unlawful use of narcotics or
56 other controlled substances;

57 (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 pursuant to Section 76-10-503 and federal law.

(b) In determining whether an applicant or permit holder meets the qualifications set forth in 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 77-40-109; and
- (ii) juvenile court records as provided in Section 78A-6-209.

(d) The bureau shall suspend a concealed firearm permit if a permit holder becomes a temporarily restricted person in accordance with Section 53-5c-301. Upon removal from the temporary restricted list, the permit holder's permit shall be reinstated unless:

(i) the permit has been revoked, been suspended for a reason other than this subsection, or expired; or

(ii) the person has become a restricted person in accordance with 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:

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

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

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

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

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

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

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

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

107 (b) one recent dated photograph;

108 (c) one set of fingerprints; and

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

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

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

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

118 (ii) current laws defining lawful use of a firearm by a private citizen, including lawful
119 self-defense, use of force by a private citizen, including use of deadly force, transportation, and
120 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 a person 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 Subsection (8) shall be in person and not through electronic means.

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

(i) be at least 21 years of age;

(ii) be currently eligible to possess a firearm 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 (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 a person 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 person.

(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;

(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 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 set forth 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 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.

Section 2. Section **53-5c-102** is amended to read:

53-5c-102. Definitions.

As used in this chapter:

(1) "Bureau" means the Bureau of Criminal Identification created in Section 53-5-703.

(2) "Cohabitant" means a person who is 21 years of age or older who resides in

the same residence as the other party.

~~[(2)]~~ (3) "Firearm" means a pistol, revolver, shotgun, short barrel shotgun, rifle or short barrel rifle, or a device that could be used as a dangerous weapon from which is expelled a projectile by action of an explosive.

~~[(3)]~~ (4) "Illegal firearm" means a firearm the ownership or possession of which is prohibited under state or federal law.

~~[(4)]~~ (5) "Law enforcement agency" means a municipal or county police agency or an officer of that agency.

~~[(5)]~~ (6) "Owner cohabitant" means a cohabitant who owns, in whole or in part, a firearm.

~~[(6)]~~ (7) "Public interest use" means:

(a) use by a government agency as determined by the legislative body of the agency's jurisdiction; or

(b) donation to a bona fide charity.

Section 3. Section **53-5c-301** is enacted to read:

53-5c-301. Voluntary restrictions on firearm purchase and possession.

(1) An individual who is not a restricted person in accordance with Section [76-10-503](#) may be restricted from the purchase and possession of firearms through a voluntary process.

(2) The bureau shall develop a process for inclusion on and removal from a temporary restricted list to be maintained by the bureau. Forms for inclusion and removal developed by the bureau shall be available by download through the bureau's website and require, at a minimum, the following information:

(a) name;

(b) address;

(c) date of birth;

(d) contact information;

(e) a signature; and

(f) an acknowledgment of the statement in Subsection (7).

(3) An individual requesting inclusion on the temporary restricted list shall deliver the completed form in person to a law enforcement agency. The law enforcement agency:

(a) shall verify the individual's identity before accepting the form;

(b) may not accept a form from someone other than the individual named on the form;
and

(c) shall transmit the form electronically to the bureau through the Utah Criminal
Justice Information System.

(4) Upon receipt of a verified form requesting inclusion on the temporary restricted list,
the bureau shall, within 24 hours, add the individual's name to the list and enter the information
in the National Instant Criminal Background Check System Indices. The entry shall be dated
and noted for removal after 180 days. If the bureau does not receive a request for extension by
the removal date, the individual shall be removed from the temporary restricted list.

(5) An individual who is added to the temporary restricted list may not request removal
from the list unless the individual has been on the list for at least 30 days. The bureau shall
remove an individual from the list 180 days after the individual was added to the list, unless the
individual requests that he or she remain on the list. Requests for extensions shall be made in
the same manner as the original request. An individual may continue to request extensions
every 180 days.

(6) If an individual is a concealed firearm permit holder, the individual's permit shall
be suspended upon entry on the temporary list. Upon removal, the individual's permit shall be
reinstated unless:

(a) the permit has been revoked, been suspended for a reason other than this section, or
expired; or

(b) the individual has become a restricted person in accordance with Section
76-10-503.

(7) The form shall have the following language prominently displayed before the
signature:

ACKNOWLEDGMENT

By presenting this completed form to a law enforcement agency, I understand that I am
requesting that my name be placed on a list that restricts my ability to purchase or possess
firearms for a minimum of 30 days, and up to 6 months. I understand that by voluntarily
making myself a temporarily restricted person, I may not have a firearm in my possession and
any attempt to purchase a firearm while I am on the list will be declined. I also understand that
any time after 30 days, I may request removal from the temporary restricted list and all

previous rights will be restored. In addition, if I am in possession of a valid concealed firearm permit, my permit will be suspended during the time I am on the list, but will be reinstated upon my removal, unless the permit has expired, been revoked, been suspended for another reason, or I become ineligible to possess a firearm. Additionally, I acknowledge that if I possess a firearm or attempt to purchase a firearm while outside Utah, I will be subject to the law of that location regarding restricted persons.

(8) An individual requesting removal from the temporary restricted list shall deliver a completed removal form in person to the law enforcement agency that processed the inclusion form in Subsection (3). The law enforcement agency:

(a) shall verify the individual's identity before accepting the form;

(b) may not accept a form from someone other than the individual named on the form; and

(c) shall transmit the form electronically to the bureau through the Utah Criminal Justice Information System.

(9) Upon receipt of a verified removal form, the bureau shall, within 24 hours, remove the person from the temporary restricted list and remove the information from the National Instant Criminal Background Check System.

(10) Within 30 days before the removal date, the bureau shall notify the individual at the address listed on the form and the law enforcement agency that processed the inclusion form that the individual is due to be removed from the temporary list, and the date on which the removal will occur, unless the individual requests an extension of up to 180 days.

(11) A law enforcement agency that receives a request for inclusion shall maintain the form and all subsequent forms in a separate file.

(a) If the individual requests removal before the end of 180 days, the law enforcement agency shall destroy the entire file within five days of transmission of the information to the bureau.

(b) If the individual does not request an extension after notification in accordance with Subsection (10), the law enforcement agency shall destroy the entire file within five days of the date indicated in the notification.

(c) Upon removal of an individual from the voluntary restricted list, the bureau shall destroy all records related to the inclusion and removal of the individual.

(d) All forms and records created in accordance with this section are classified as private records in accordance with Title 63G, Chapter 2, Government Records Access and Management Act.

(12) The bureau may make rules in accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, to develop the process and forms to implement this section.

Section 4. 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 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 in accordance with 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 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 inform the law enforcement agency in the jurisdiction where the individual resides. This subsection does not apply to individuals prohibited from

purchasing a firearm due to placement on a temporary restricted list in accordance with Section 53-5c-301.

(b) 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)(b)(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.

(c) The bureau shall:

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

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

(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~~ into 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 personal firearm once in a 24-month period.

(15) (a) A dealer or a person engaged in the business of selling firearm safes in Utah may participate in the redeemable coupon program described in this Subsection (15) and Subsection [62A-15-103\(3\)](#).

(b) A participating dealer or person shall:

(i) apply the coupon only toward the purchase of a gun safe;

(ii) collect the receipts from the purchase of a firearm safe using the redeemable coupons and send the receipts to the Division of Substance Abuse and Mental Health for redemption; and

(iii) make the firearm safety brochure described in Subsection [62A-15-103\(3\)](#) available to a customer free of charge.

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

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

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