

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;
- ▶ 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



28 **Other Special Clauses:**

29 None

30 **Utah Code Sections Affected:**

31 AMENDS:

- 32 **53-5-704**, as last amended by Laws of Utah 2022, Chapter 250
- 33 **53-10-208.1**, as last amended by Laws of Utah 2023, Chapters 184, 328 and 397
- 34 **76-3-203.5**, as last amended by Laws of Utah 2023, Chapter 111
- 35 **76-3-402**, as last amended by Laws of Utah 2023, Chapter 132
- 36 **76-10-501**, as last amended by Laws of Utah 2023, Chapters 161, 397 and 425
- 37 **76-10-503**, as last amended by Laws of Utah 2023, First Special Session, Chapter 2
- 38 **76-10-503.1**, as last amended by Laws of Utah 2023, Chapter 203
- 39 **76-10-522**, as last amended by Laws of Utah 1993, Chapter 234
- 40 **76-10-526**, as last amended by Laws of Utah 2023, Chapters 330, 397
- 41 **76-10-532**, as last amended by Laws of Utah 2023, Chapter 425
- 42 **76-10-1602**, as last amended by Laws of Utah 2023, Chapters 34, 111, 139, and 330
- 43 **80-6-104**, as enacted by Laws of Utah 2023, Chapter 161
- 44 **80-6-1004.1**, as enacted by Laws of Utah 2023, Chapter 115

45 ENACTS:

46 **76-10-527.5**, Utah Code Annotated 1953



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

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

50 **53-5-704. Bureau duties -- Permit to carry concealed firearm -- Certification for**
51 **concealed firearms instructor -- Requirements for issuance -- Violation -- Denial,**
52 **suspension, or revocation -- Appeal procedure.**

53 (1) (a) Except as provided in Subsection (1)(b), the bureau shall issue a permit to carry
54 a concealed firearm for lawful self defense to an applicant who is 21 years old or older within
55 60 days after receiving an application, unless the bureau finds proof that the applicant is not
56 qualified to hold a permit under Subsection (2) or (3).

57 (b) (i) Within 90 days before the day on which a provisional permit holder under
58 Section **53-5-704.5** reaches 21 years old, the provisional permit holder may apply under this

59 section for a permit to carry a concealed firearm for lawful self defense.

60 (ii) The bureau shall issue a permit for an applicant under Subsection (1)(b)(i) within
61 60 days after receiving an application, unless the bureau finds proof that the applicant is not
62 qualified to hold a permit under Subsection (2) or (3).

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

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

65 (B) requires a \$10 application fee.

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

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

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

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

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

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

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

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

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

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

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

85 (v) has been or is convicted of an offense involving moral turpitude;

86 (vi) has been or is convicted of an offense involving domestic violence;

87 (vii) has been or is adjudicated by a state or federal court as mentally incompetent,
88 unless the adjudication has been withdrawn or reversed; and

89 (viii) is not qualified to purchase and possess a firearm and ammunition pursuant to

90 Section 76-10-503 and federal law.

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

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

96 (i) past pattern of behavior involving unlawful violence or threats of unlawful violence;

97 (ii) past participation in incidents involving unlawful violence or threats of unlawful
98 violence; or

99 (iii) conviction of an offense in violation of Title 76, Chapter 10, Part 5, Weapons.

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

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

104 (i) expunged records of arrests and convictions of adults as provided in Section
105 77-40a-403; and

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

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

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

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

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

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

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

120 (ii) submit a photocopy or electronic copy of the nonresident applicant's current

121 concealed firearm or concealed weapon permit referred to in Subsection (4)(a)(i).

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

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

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

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

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

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

135 (b) one recent dated photograph;

136 (c) one set of fingerprints; and

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

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

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

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

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

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

151 (i) completion of a course of instruction conducted by a national, state, or local

152 firearms training organization approved by the bureau;

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

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

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

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

162 (i) has an unexpired permit; or

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

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

166 (i) be at least 21 years old;

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

168 (iii) have:

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

172 (B) received training equivalent to one of the courses referred to in Subsection
173 (9)(a)(iii)(A) as determined by the bureau;

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

176 (v) possess a Utah concealed firearm permit.

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

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

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

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

185 (d) (i) Each applicant for certification under this Subsection (9) shall pay a fee of
186 \$50.00 at the time of application for initial certification.

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

239 (iii) The final order is final bureau action for purposes of judicial review under Section
240 63G-4-402.

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

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

244 **53-10-208.1. Magistrates and court clerks to supply information.**

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

248 (a) all dispositions of criminal matters, including:

249 (i) guilty pleas;

250 (ii) convictions;

251 (iii) dismissals;

252 (iv) acquittals;

253 (v) pleas in abeyance;

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

255 (vii) judgments of guilty with a mental condition;

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

257 (ix) probations granted;

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

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

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

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

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

265 (iii) Title 78B, Chapter 7, Part 5, Sexual Violence Protective Orders;

266 (iv) Title 78B, Chapter 7, Part 6, Cohabitant Abuse Protective Orders; or

267 (v) Title 78B, Chapter 7, Part 8, Criminal Protective Orders.

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

272 (a) who is included in at least one of the relationship categories described in

273 Subsection [~~76-10-503(1)(b)(xi)~~] [76-10-503\(1\)\(c\)\(xi\)](#); or

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

275 [76-10-503\(1\)\(c\)\(xi\)](#) apply.

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

- 279 (a) adjudicated as a mental defective; or
- 280 (b) involuntarily committed to a mental institution in accordance with Subsection
281 [26B-5-332](#)(16).

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

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

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

289 **76-3-203.5. Habitual violent offender -- Definition -- Procedure -- Penalty.**

290 (1) As used in this section:

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

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

298 (c) "Violent felony" means:

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

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

303 (B) assault by prisoner, Section [76-5-102.5](#);

304 (C) disarming a police officer, Section [76-5-102.8](#);

305 (D) aggravated assault, Section [76-5-103](#);

306 (E) aggravated assault by prisoner, Section [76-5-103.5](#);

- 307 (F) mayhem, Section 76-5-105;
- 308 (G) stalking, Subsection 76-5-106.5(2);
- 309 (H) threat of terrorism, Section 76-5-107.3;
- 310 (I) aggravated child abuse, Subsection 76-5-109.2(3)(a) or (b);
- 311 (J) commission of domestic violence in the presence of a child, Section 76-5-114;
- 312 (K) abuse or neglect of a child with a disability, Section 76-5-110;
- 313 (L) abuse or exploitation of a vulnerable adult, Section 76-5-111, 76-5-111.2,
- 314 76-5-111.3, or 76-5-111.4;
- 315 (M) endangerment of a child or vulnerable adult, Section 76-5-112.5;
- 316 (N) criminal homicide offenses under Chapter 5, Part 2, Criminal Homicide;
- 317 (O) kidnapping, child kidnapping, and aggravated kidnapping under Chapter 5, Part 3,
- 318 Kidnapping, Trafficking, and Smuggling;
- 319 (P) rape, Section 76-5-402;
- 320 (Q) rape of a child, Section 76-5-402.1;
- 321 (R) object rape, Section 76-5-402.2;
- 322 (S) object rape of a child, Section 76-5-402.3;
- 323 (T) forcible sodomy, Section 76-5-403;
- 324 (U) sodomy on a child, Section 76-5-403.1;
- 325 (V) forcible sexual abuse, Section 76-5-404;
- 326 (W) sexual abuse of a child, Section 76-5-404.1, or aggravated sexual abuse of a child,
- 327 Section 76-5-404.3;
- 328 (X) aggravated sexual assault, Section 76-5-405;
- 329 (Y) sexual exploitation of a minor, Section 76-5b-201;
- 330 (Z) aggravated sexual exploitation of a minor, Section 76-5b-201.1;
- 331 (AA) sexual exploitation of a vulnerable adult, Section 76-5b-202;
- 332 (BB) aggravated burglary and burglary of a dwelling under Chapter 6, Part 2, Burglary
- 333 and Criminal Trespass;
- 334 (CC) aggravated robbery and robbery under Chapter 6, Part 3, Robbery;
- 335 (DD) theft by extortion under Section 76-6-406 under the circumstances described in
- 336 Subsection 76-6-406(1)(a)(i) or (ii);
- 337 (EE) tampering with a witness under Subsection 76-8-508(1);

338 (FF) retaliation against a witness, victim, or informant under Section 76-8-508.3;
339 (GG) tampering with a juror under Subsection 76-8-508.5(2)(c);
340 (HH) extortion to dismiss a criminal proceeding under Section 76-8-509 if by any
341 threat or by use of force theft by extortion has been committed under Section 76-6-406 under
342 the circumstances described in Subsection 76-6-406(1)(a)(i), (ii), or (ix);
343 (II) possession, use, or removal of explosive, chemical, or incendiary devices under
344 Subsections 76-10-306(3) through (6);
345 (JJ) unlawful delivery of explosive, chemical, or incendiary devices under Section
346 76-10-307;
347 (KK) purchase or possession of a dangerous weapon [~~or handgun~~] or ammunition by a
348 restricted person under Section 76-10-503;
349 (LL) unlawful discharge of a firearm under Section 76-10-508;
350 (MM) aggravated exploitation of prostitution under Subsection 76-10-1306(1)(a);
351 (NN) bus hijacking under Section 76-10-1504; and
352 (OO) discharging firearms and hurling missiles under Section 76-10-1505; or
353 (ii) any felony violation of a criminal statute of any other state, the United States, or
354 any district, possession, or territory of the United States which would constitute a violent
355 felony as defined in this Subsection (1) if committed in this state.
356 (2) If a person is convicted in this state of a violent felony by plea or by verdict and the
357 trier of fact determines beyond a reasonable doubt that the person is a habitual violent offender
358 under this section, the penalty for a:
359 (a) third degree felony is as if the conviction were for a first degree felony;
360 (b) second degree felony is as if the conviction were for a first degree felony; or
361 (c) first degree felony remains the penalty for a first degree penalty except:
362 (i) the convicted person is not eligible for probation; and
363 (ii) the Board of Pardons and Parole shall consider that the convicted person is a
364 habitual violent offender as an aggravating factor in determining the length of incarceration.
365 (3) (a) The prosecuting attorney, or grand jury if an indictment is returned, shall
366 provide notice in the information or indictment that the defendant is subject to punishment as a
367 habitual violent offender under this section. Notice shall include the case number, court, and
368 date of conviction or commitment of any case relied upon by the prosecution.

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

410 (i) a grievous sexual offense;

411 (ii) child kidnapping, Section 76-5-301.1;

412 (iii) aggravated kidnapping, Section 76-5-302; or

413 (iv) forcible sexual abuse, Section 76-5-404; and

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

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

418 **76-3-402. Conviction of lower degree of offense -- Procedure and limitations.**

419 (1) As used in this section:

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

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

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

424 (b) "Minor regulatory offense" means the same as that term is defined in Section
425 77-40a-101.

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

428 (ii) "Rehabilitation program" includes:

429 (A) a domestic violence treatment program, as that term is defined in Section

430 62A-2-101;

431 (B) a residential, vocational, and life skills program, as that term is defined in Section
432 13-53-102;

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

434 (D) a substance use disorder treatment program, as that term is defined in Section
435 62A-2-101;

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

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

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

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

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

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

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

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

450 (A) the possession, use, or removal of explosive, chemical, or incendiary devices under
451 Subsection 76-10-306(3), (5), or (6); or

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

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

457 (a) takes into account:

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

460 (ii) the history and character of the defendant;

461 (b) gives any victim present at the sentencing and the prosecuting attorney an

462 opportunity to be heard; and

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

519 (a) the court shall consider:

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

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

- 524 (iii) any input from a victim of the offense; and
- 525 (b) the court may consider:
 - 526 (i) any special characteristics or circumstances of the defendant, including the
 - 527 defendant's criminogenic risks and needs;
 - 528 (ii) the defendant's criminal history;
 - 529 (iii) the defendant's employment and community service history;
 - 530 (iv) whether the defendant participated in a rehabilitative program and successfully
 - 531 completed the program;
 - 532 (v) any effect that a reduction would have on the defendant's ability to obtain or
 - 533 reapply for a professional license from the Department of Commerce;
 - 534 (vi) whether the level of the offense has been reduced by law after the defendant's
 - 535 conviction;
 - 536 (vii) any potential impact that the reduction would have on public safety; or
 - 537 (viii) any other circumstances that are reasonably related to the defendant or the
 - 538 offense for which the reduction is sought.
- 539 (8) (a) A court may only enter a judgment of conviction for a lower degree of offense
- 540 under Subsection (3), (4), (5), or (6) after:
 - 541 (i) notice is provided to the other party;
 - 542 (ii) reasonable efforts have been made by the prosecuting attorney to provide notice to
 - 543 any victims; and
 - 544 (iii) a hearing is held if a hearing is requested by either party.
- 545 (b) A prosecuting attorney is entitled to a hearing on a motion seeking to reduce a
- 546 judgment of conviction for a lower degree of offense under Subsection (3), (4), (5), or (6).
- 547 (c) In a motion under Subsection (3), (4), (5), or (6) and at a requested hearing on the
- 548 motion, the moving party has the burden to provide evidence sufficient to demonstrate that the
- 549 requirements under Subsection (3), (4), (5), or (6) are met.
- 550 (9) A court has jurisdiction to consider and enter a judgment of conviction for a lower
- 551 degree of offense under Subsection (3), (4), (5), or (6) regardless of whether the defendant is
- 552 committed to jail as a condition of probation or is sentenced to prison.
- 553 (10) (a) An offense may be reduced only one degree under this section, unless the
- 554 prosecuting attorney specifically agrees in writing or on the court record that the offense may

555 be reduced two degrees.

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

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

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

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

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

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

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

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

573 (15) (a) An individual may not obtain a reduction under this section of a conviction
574 that requires the individual to register as a child abuse offender until the registration
575 requirements under Title 77, Chapter 43, Child Abuse Offender Registry, have expired.

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

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

580 **76-10-501. Definitions.**

581 As used in this part:

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

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

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

586 replica:

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

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

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

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

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

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

595 (b) "Antique firearm" does not include:

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

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

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

600 (A) barrel;

601 (B) bolt;

602 (C) breechblock; or

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

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

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

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

609 (ii) readily accessible for immediate use.

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

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

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

- 617 (a) is of special interest to a collector because of a quality that is not associated with
618 firearms intended for:
- 619 (i) sporting use;
- 620 (ii) use as an offensive weapon; or
- 621 (iii) use as a defensive weapon;
- 622 (b) (i) was manufactured at least 50 years before the current date; and
- 623 (ii) is not a replica of a firearm described in Subsection (5)(b)(i);
- 624 (c) is certified by the curator of a municipal, state, or federal museum that exhibits
625 firearms to be a curio or relic of museum interest;
- 626 (d) derives a substantial part of its monetary value:
- 627 (i) from the fact that the firearm is:
- 628 (A) novel;
- 629 (B) rare; or
- 630 (C) bizarre; or
- 631 (ii) because of the firearm's association with an historical:
- 632 (A) figure;
- 633 (B) period; or
- 634 (C) event; and
- 635 (e) has been designated as a curio or relic firearm by the director of the United States
636 Treasury Department Bureau of Alcohol, Tobacco, and Firearms under 27 C.F.R. Sec. 478.11.
- 637 (6) (a) "Dangerous weapon" means:
- 638 (i) a firearm; or
- 639 (ii) an object that in the manner of its use or intended use is capable of causing death or
640 serious bodily injury.
- 641 (b) The following factors are used in determining whether any object, other than a
642 firearm, is a dangerous weapon:
- 643 (i) the location and circumstances in which the object was used or possessed;
- 644 (ii) the primary purpose for which the object was made;
- 645 (iii) the character of the wound, if any, produced by the object's unlawful use;
- 646 (iv) the manner in which the object was unlawfully used;
- 647 (v) whether the manner in which the object is used or possessed constitutes a potential

648 imminent threat to public safety; and

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

678 (b) As used in Sections 76-10-520[;] and 76-10-521, [~~and 76-10-522;~~] "handgun" and

679 "pistol or revolver" do not include an antique firearm.

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

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

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

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

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

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

695 (22) "Short barreled shotgun" or "short barreled rifle" means a shotgun having a barrel
696 or barrels of fewer than 18 inches in length, or in the case of a rifle, having a barrel or barrels
697 of fewer than 16 inches in length, or a dangerous weapon made from a rifle or shotgun by
698 alteration, modification, or otherwise, if the weapon as modified has an overall length of fewer
699 than 26 inches.

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

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

704 (25) "Single criminal episode" means the same as that term is defined in Section
705 [76-1-401](#).

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

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

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

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

712 **76-10-503. Restrictions on possession, purchase, transfer, and ownership of a**
713 **dangerous weapon or ammunition by certain persons -- Exceptions.**

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

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

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

718 (i) has been convicted of a violent felony;

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

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

721 (iv) within the last 10 years has been adjudicated under Section 80-6-701 for an offense
722 which if committed by an adult would have been a violent felony as defined in Section
723 76-3-203.5;

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

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

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

727 (B) a controlled substance analog; or

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

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

730 (i) has been convicted of:

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

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

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

738 or

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

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

- 741 (I) a conviction for a felony that is not a domestic violence offense or a violent felony;
742 or
- 743 (II) convictions for multiple felonies that are part of a single criminal episode and are
744 not domestic violence offenses or violent felonies; and
- 745 (B) within the last seven years and after the completion of a sentence for a conviction
746 described in Subsection [~~(1)(b)(ii)(A)~~] (1)(c)(ii)(A), has not been convicted of or charged with
747 another felony or class A misdemeanor;
- 748 (iii) within the last seven years has been adjudicated delinquent for an offense which if
749 committed by an adult would have been a felony;
- 750 (iv) is an unlawful user of a controlled substance as defined in Section 58-37-2;
- 751 (v) is in possession of a dangerous weapon and is knowingly and intentionally in
752 unlawful possession of a Schedule I or II controlled substance as defined in Section 58-37-2;
- 753 (vi) has been found not guilty by reason of insanity for a felony offense;
- 754 (vii) has been found mentally incompetent to stand trial for a felony offense;
- 755 (viii) has been adjudicated as mentally defective as provided in the Brady Handgun
756 Violence Prevention Act, Pub. L. No. 103-159, 107 Stat. 1536 (1993), or has been committed
757 to a mental institution;
- 758 (ix) has been dishonorably discharged from the armed forces;
- 759 (x) has renounced the individual's citizenship after having been a citizen of the United
760 States;
- 761 (xi) is a respondent or defendant subject to a protective order or child protective order
762 that is issued after a hearing for which the respondent or defendant received actual notice and at
763 which the respondent or defendant has an opportunity to participate, that restrains the
764 respondent or defendant from harassing, stalking, threatening, or engaging in other conduct that
765 would place an intimate partner, as defined in 18 U.S.C. Sec. 921, or a child of the intimate
766 partner, in reasonable fear of bodily injury to the intimate partner or child of the intimate
767 partner, and that:
- 768 (A) includes a finding that the respondent or defendant represents a credible threat to
769 the physical safety of an individual who meets the definition of an intimate partner in 18 U.S.C.
770 Sec. 921 or the child of the individual; or
- 771 (B) explicitly prohibits the use, attempted use, or threatened use of physical force that

772 would reasonably be expected to cause bodily harm against an intimate partner or the child of
773 an intimate partner; or

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

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

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

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

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

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

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

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

789 (B) a conviction or an adjudication under Section 80-6-701 which, in accordance with
790 the law of the jurisdiction in which the conviction or adjudication occurred, has been
791 expunged, set aside, reduced to a misdemeanor by court order, pardoned or regarding which the
792 person's civil rights have been restored unless the pardon, reduction, expungement, or
793 restoration of civil rights expressly provides that the person may not ship, transport, possess, or
794 receive firearms.

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

801 (iii) It is the burden of the defendant in a criminal case to provide evidence that a
802 conviction or an adjudication under Section 80-6-701 is subject to an exception provided in

803 this Subsection ~~[(1)(e)]~~ (1)(d), after which it is the burden of the state to prove beyond a
804 reasonable doubt that the conviction or the adjudication is not subject to that exception.

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

833 (7) It is an affirmative defense to a charge based on the definition in Subsection

834 [~~(1)(b)(v)~~] (1)(c)(v) that the person was:

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

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

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

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

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

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

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

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

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

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

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

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

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

864 (iii) a person described in Subsection [~~(1)(b)~~] (1)(c) and the transaction involves a

865 firearm or ammunition, is guilty of a third degree felony; or

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

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

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

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

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

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

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

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

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

887 **76-10-503.1. Firearm restriction notification requirement.**

888 (1) As used in this section:

889 (a) "Peace officer" means an officer described Section [53-13-102](#).

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

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

894 (2) A defendant intending to plead guilty or no contest to a criminal charge that will,
895 upon conviction, cause the defendant to become a restricted person shall, before entering a plea

896 before a court, sign an acknowledgment that states:

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

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

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

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

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

905 (i) will be a restricted person;

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

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

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

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

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

916 (i) that the defendant is a restricted person;

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

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

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

923 (i) is a restricted person;

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

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

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

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

933 (7) An individual who becomes a restricted person as a result of being served with a
934 pretrial protective order in accordance with Section 78B-7-803, a sentencing protective order in
935 accordance with Section 77-36-5, or a continuous protective order in accordance with Section
936 77-36-5, shall, at the time of service of the protective order:

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

939 (i) that the individual is a restricted person;

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

941 and

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

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

947 (i) is a restricted person;

948 (ii) is required to relinquish possession of each firearm and all ammunition;

949 (iii) will be in violation of federal and state law if the individual possesses a firearm or
950 ammunition; and

951 (iv) may be eligible for an affirmative defense to a state-law prosecution for possession
952 of a firearm or ammunition under Section 76-10-503 if the individual lawfully transfers the
953 individual's firearms within 10 days of becoming a restricted person.

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

955 **76-10-522. Alteration of number or mark on firearm -- Possession of firearm that**
956 **has been altered.**

957 (1) Any person who changes, alters, removes, or obliterates the name of the maker, the

958 model, manufacturer's number, or other mark of identification, including any distinguishing
959 number or mark assigned by the Department of Public Safety, on any [~~pistol or revolver~~]
960 firearm, without first having secured written permission from the Department of Public Safety
961 to make the change, alteration, or removal, is guilty of a class A misdemeanor.

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

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

965 **76-10-526. Criminal background check prior to purchase of a firearm -- Fee --**
966 **Exemption for concealed firearm permit holders and law enforcement officers.**

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

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

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

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

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

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

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

982 (i) the dealer identification number;

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

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

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

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

989 immediately upon its receipt by the dealer.

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

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

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

998 (a) review the criminal history files, including juvenile court records, and the
999 temporary restricted file created under Section 53-5c-301, to determine if the individual is
1000 prohibited from purchasing, possessing, or transferring a firearm by state or federal law;

1001 (b) inform the dealer that:

1002 (i) the records indicate the individual is prohibited; or

1003 (ii) the individual is approved for purchasing, possessing, or transferring a firearm;

1004 (c) provide the dealer with a unique transaction number for that inquiry; and

1005 (d) provide a response to the requesting dealer during the call for a criminal
1006 background check, or by return call, or other electronic means, without delay, except in case of
1007 electronic failure or other circumstances beyond the control of the bureau, the bureau shall
1008 advise the dealer of the reason for the delay and give the dealer an estimate of the length of the
1009 delay.

1010 (8) (a) The bureau may not maintain any records of the criminal history background
1011 check longer than 20 days from the date of the dealer's request, if the bureau determines that
1012 the individual receiving the firearm is not prohibited from purchasing, possessing, or
1013 transferring the firearm under state or federal law.

1014 (b) However, the bureau shall maintain a log of requests containing the dealer's federal
1015 firearms number, the transaction number, and the transaction date for a period of 12 months.

1016 (9) (a) If the criminal history background check discloses information indicating that
1017 the individual attempting to purchase the firearm is prohibited from purchasing, possessing, or
1018 transferring a firearm, the bureau shall:

1019 (i) within [~~24 hours~~] 30 minutes after determining that the purchaser is prohibited from

1020 purchasing, possessing, or transferring a firearm, and before informing the dealer as described
1021 in Subsection (7)(b), notify the law enforcement agency in the jurisdiction where the dealer is
1022 located; and

1023 (ii) inform the law enforcement agency in the jurisdiction where the individual resides.

1024 (b) Subsection (9)(a) does not apply to an individual prohibited from purchasing a
1025 firearm solely due to placement on the temporary restricted list under Section [53-5c-301](#).

1026 (c) A law enforcement agency that receives information from the bureau under
1027 Subsection (9)(a) shall provide a report before August 1 of each year to the bureau that
1028 includes:

1029 (i) based on the information the bureau provides to the law enforcement agency under
1030 Subsection (9)(a), the number of cases that involve an individual who is prohibited from
1031 purchasing, possessing, or transferring a firearm as a result of a conviction for an offense
1032 involving domestic violence; and

1033 (ii) of the cases described in Subsection (9)(c)(i):

1034 (A) the number of cases the law enforcement agency investigates; and

1035 (B) the number of cases the law enforcement agency investigates that result in a
1036 criminal charge.

1037 (d) The bureau shall:

1038 (i) compile the information from the reports described in Subsection (9)(c);

1039 (ii) omit or redact any identifying information in the compilation; and

1040 (iii) submit the compilation to the Law Enforcement and Criminal Justice Interim
1041 Committee before November 1 of each year.

1042 (10) If an individual is denied the right to purchase a firearm under this section, the
1043 individual may review the individual's criminal history information and may challenge or
1044 amend the information as provided in Section [53-10-108](#).

1045 (11) The bureau shall make rules in accordance with Title 63G, Chapter 3, Utah
1046 Administrative Rulemaking Act, to ensure the identity, confidentiality, and security of all
1047 records provided by the bureau under this part are in conformance with the requirements of the
1048 Brady Handgun Violence Prevention Act, Pub. L. No. 103-159, 107 Stat. 1536 (1993).

1049 (12) (a) A dealer shall collect a criminal history background check fee for the sale of a
1050 firearm under this section.

1051 (b) The fee described under Subsection (12)(a) remains in effect until changed by the
1052 bureau through the process described in Section 63J-1-504.

1053 (c) (i) The dealer shall forward at one time all fees collected for criminal history
1054 background checks performed during the month to the bureau by the last day of the month
1055 following the sale of a firearm.

1056 (ii) The bureau shall deposit the fees in the General Fund as dedicated credits to cover
1057 the cost of administering and conducting the criminal history background check program.

1058 (13) An individual with a concealed firearm permit issued under Title 53, Chapter 5,
1059 Part 7, Concealed Firearm Act, is exempt from the background check and corresponding fee
1060 required in this section for the purchase of a firearm if:

1061 (a) the individual presents the individual's concealed firearm permit to the dealer prior
1062 to purchase of the firearm; and

1063 (b) the dealer verifies with the bureau that the individual's concealed firearm permit is
1064 valid.

1065 (14) (a) A law enforcement officer, as defined in Section 53-13-103, is exempt from
1066 the background check fee required in this section for the purchase of a personal firearm to be
1067 carried while off-duty if the law enforcement officer verifies current employment by providing
1068 a letter of good standing from the officer's commanding officer and current law enforcement
1069 photo identification.

1070 (b) Subsection (14)(a) may only be used by a law enforcement officer to purchase a
1071 personal firearm once in a 24-month period.

1072 (15) A dealer engaged in the business of selling, leasing, or otherwise transferring a
1073 firearm shall:

1074 (a) ~~make~~ distribute the firearm safety brochure described in Subsection 26B-5-211(3)
1075 ~~available~~ to a customer free of charge at the time of the transfer of a firearm; and

1076 (b) at the time of purchase, distribute a cable-style gun lock provided to the dealer
1077 under Subsection 26B-5-211(3) to a customer purchasing a shotgun, short barreled shotgun,
1078 short barreled rifle, rifle, or another firearm that federal law does not require be accompanied
1079 by a gun lock at the time of purchase.

1080 Section 10. Section 76-10-527.5 is enacted to read:

1081 76-10-527.5. Dealer requirement for storage warning -- Penalty.

1082 (1) (a) A dealer shall conspicuously post the following written warning at a purchase
1083 counter: "A FIREARM SHOULD BE SECURED WITH A LOCKING DEVICE OR STORED
1084 IN A LOCKED CONTAINER OR LOCATION. FAILURE TO PROPERLY SECURE A
1085 FIREARM MAY RESULT IN CRIMINAL OR CIVIL LIABILITY."

1086 (b) A dealer shall print the written warning described in Subsection (1)(a) on yellow
1087 paper in black, capital letters using Arial, Calibri, Cambria, or Times New Roman in no
1088 smaller than 35-point font.

1089 (2) A violation of Subsection (1) is a class C misdemeanor.

1090 Section 11. Section **76-10-532** is amended to read:

1091 **76-10-532. Removal from National Instant Check System database.**

1092 (1) A person who is subject to the restrictions in Subsection [~~76-10-503(1)(b)(vi), (vii),~~
1093 ~~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
1094 commitment, finding, or adjudication that occurred in this state may petition the district court
1095 in the county in which the commitment, finding, or adjudication occurred to remove the
1096 disability imposed.~~

1097 (2) The petition shall be filed in the district court in the county where the commitment,
1098 finding, or adjudication occurred. The petition shall include:

1099 (a) a listing of facilities, with their addresses, where the petitioner has ever received
1100 mental health treatment;

1101 (b) a release signed by the petitioner to allow the prosecutor or county attorney to
1102 obtain the petitioner's mental health records;

1103 (c) a verified report of a mental health evaluation conducted by a licensed psychiatrist
1104 occurring within 30 days prior to the filing of the petition, which shall include a statement
1105 regarding:

1106 (i) the nature of the commitment, finding, or adjudication that resulted in the restriction
1107 on the petitioner's ability to purchase or possess a dangerous weapon;

1108 (ii) the petitioner's previous and current mental health treatment;

1109 (iii) the petitioner's previous violent behavior, if any;

1110 (iv) the petitioner's current mental health medications and medication management;

1111 (v) the length of time the petitioner has been stable;

1112 (vi) external factors that may influence the petitioner's stability;

1113 (vii) the ability of the petitioner to maintain stability with or without medication; and

1114 (viii) whether the petitioner is dangerous to public safety; and

1115 (d) a copy of the petitioner's state and federal criminal history record.

1116 (3) The petitioner shall serve the petition on the prosecuting entity that prosecuted the
1117 case or, if the disability is not based on a criminal case, on the county or district attorney's
1118 office having jurisdiction where the petition was filed and the individual who filed the original
1119 action which resulted in the disability.

1120 (4) (a) The court shall schedule a hearing as soon as practicable.

1121 (b) The petitioner may present evidence and subpoena witnesses to appear at the
1122 hearing.

1123 (c) The prosecuting, county attorney, or the individual who filed the original action
1124 which resulted in the disability may object to the petition and present evidence in support of the
1125 objection.

1126 (5) The court shall consider the following evidence:

1127 (a) the facts and circumstances that resulted in the commitment, finding, or
1128 adjudication;

1129 (b) the person's mental health and criminal history records; and

1130 (c) the person's reputation, including the testimony of character witnesses.

1131 (6) The court shall grant the relief if the court finds by clear and convincing evidence
1132 that:

1133 (a) the person is not a danger to the person or to others;

1134 (b) the person is not likely to act in a manner dangerous to public safety; and

1135 (c) the requested relief would not be contrary to the public interest.

1136 (7) The court shall issue an order with its findings and send a copy to the bureau.

1137 (8) (a) The bureau, upon receipt of a court order removing a person's disability under
1138 Subsection [~~76-10-503(1)(b)(viii)~~] 76-10-503(1)(c)(viii), shall send a copy of the court order to
1139 the National Instant Check System requesting removal of the person's name from the database.

1140 (b) In addition, if the person is listed in a state database utilized by the bureau to
1141 determine eligibility for the purchase or possession of a firearm or to obtain a concealed
1142 firearm permit, the bureau shall remove the petitioner's name or send a copy of the court's order
1143 to the agency responsible for the database for removal of the petitioner's name.

1144 (9) If the court denies the petition, the petitioner may not petition again for relief until
1145 at least two years after the date of the court's final order.

1146 (10) (a) The petitioner may appeal a denial of the requested relief.

1147 (b) The review on appeal shall be de novo.

1148 Section 12. Section **76-10-1602** is amended to read:

1149 **76-10-1602. Definitions.**

1150 As used in this part:

1151 (1) "Enterprise" means any individual, sole proprietorship, partnership, corporation,
1152 business trust, association, or other legal entity, and any union or group of individuals
1153 associated in fact although not a legal entity, and includes illicit as well as licit entities.

1154 (2) "Pattern of unlawful activity" means engaging in conduct which constitutes the
1155 commission of at least three episodes of unlawful activity, which episodes are not isolated, but
1156 have the same or similar purposes, results, participants, victims, or methods of commission, or
1157 otherwise are interrelated by distinguishing characteristics. Taken together, the episodes shall
1158 demonstrate continuing unlawful conduct and be related either to each other or to the
1159 enterprise. At least one of the episodes comprising a pattern of unlawful activity shall have
1160 occurred after July 31, 1981. The most recent act constituting part of a pattern of unlawful
1161 activity as defined by this part shall have occurred within five years of the commission of the
1162 next preceding act alleged as part of the pattern.

1163 (3) "Person" includes any individual or entity capable of holding a legal or beneficial
1164 interest in property, including state, county, and local governmental entities.

1165 (4) "Unlawful activity" means to directly engage in conduct or to solicit, request,
1166 command, encourage, or intentionally aid another person to engage in conduct which would
1167 constitute any offense described by the following crimes or categories of crimes, or to attempt
1168 or conspire to engage in an act which would constitute any of those offenses, regardless of
1169 whether the act is in fact charged or indicted by any authority or is classified as a misdemeanor
1170 or a felony:

1171 (a) any act prohibited by the criminal provisions of Title 13, Chapter 10, Unauthorized
1172 Recording Practices Act;

1173 (b) any act prohibited by the criminal provisions of Title 19, Environmental Quality
1174 Code, Sections [19-1-101](#) through [19-7-109](#);

- 1175 (c) taking, destroying, or possessing wildlife or parts of wildlife for the primary
1176 purpose of sale, trade, or other pecuniary gain, in violation of Title 23A, Wildlife Resources
1177 Act, or Section [23A-5-311](#);
- 1178 (d) false claims for medical benefits, kickbacks, and any other act prohibited by Title
1179 26B, Chapter 3, Part 11, Utah False Claims Act, Sections [26B-3-1101](#) through [26B-3-1112](#);
- 1180 (e) any act prohibited by the criminal provisions of Title 32B, Chapter 4, Criminal
1181 Offenses and Procedure Act;
- 1182 (f) any act prohibited by the criminal provisions of Title 57, Chapter 11, Utah Uniform
1183 Land Sales Practices Act;
- 1184 (g) any act prohibited by the criminal provisions of Title 58, Chapter 37, Utah
1185 Controlled Substances Act, or Title 58, Chapter 37b, Imitation Controlled Substances Act,
1186 Title 58, Chapter 37c, Utah Controlled Substance Precursor Act, or Title 58, Chapter 37d,
1187 Clandestine Drug Lab Act;
- 1188 (h) any act prohibited by the criminal provisions of Title 61, Chapter 1, Utah Uniform
1189 Securities Act;
- 1190 (i) any act prohibited by the criminal provisions of Title 63G, Chapter 6a, Utah
1191 Procurement Code;
- 1192 (j) assault or aggravated assault, Sections [76-5-102](#) and [76-5-103](#);
- 1193 (k) a threat of terrorism, Section [76-5-107.3](#);
- 1194 (l) a criminal homicide offense, as described in Section [76-5-201](#);
- 1195 (m) kidnapping or aggravated kidnapping, Sections [76-5-301](#) and [76-5-302](#);
- 1196 (n) human trafficking, human trafficking of a child, human smuggling, or aggravated
1197 human trafficking, Sections [76-5-308](#), [76-5-308.1](#), [76-5-308.3](#), [76-5-308.5](#), [76-5-309](#), and
1198 [76-5-310](#);
- 1199 (o) sexual exploitation of a minor or aggravated sexual exploitation of a minor,
1200 Sections [76-5b-201](#) and [76-5b-201.1](#);
- 1201 (p) arson or aggravated arson, Sections [76-6-102](#) and [76-6-103](#);
- 1202 (q) causing a catastrophe, Section [76-6-105](#);
- 1203 (r) burglary or aggravated burglary, Sections [76-6-202](#) and [76-6-203](#);
- 1204 (s) burglary of a vehicle, Section [76-6-204](#);
- 1205 (t) manufacture or possession of an instrument for burglary or theft, Section [76-6-205](#);

- 1206 (u) robbery or aggravated robbery, Sections 76-6-301 and 76-6-302;
- 1207 (v) theft, Section 76-6-404;
- 1208 (w) theft by deception, Section 76-6-405;
- 1209 (x) theft by extortion, Section 76-6-406;
- 1210 (y) receiving stolen property, Section 76-6-408;
- 1211 (z) theft of services, Section 76-6-409;
- 1212 (aa) forgery, Section 76-6-501;
- 1213 (bb) fraudulent use of a credit card, Sections 76-6-506.2, 76-6-506.3,, and 76-6-506.6;
- 1214 (cc) deceptive business practices, Section 76-6-507;
- 1215 (dd) bribery or receiving bribe by person in the business of selection, appraisal, or
- 1216 criticism of goods, Section 76-6-508;
- 1217 (ee) bribery of a labor official, Section 76-6-509;
- 1218 (ff) defrauding creditors, Section 76-6-511;
- 1219 (gg) acceptance of deposit by insolvent financial institution, Section 76-6-512;
- 1220 (hh) unlawful dealing with property by fiduciary, Section 76-6-513;
- 1221 (ii) bribery or threat to influence contest, Section 76-6-514;
- 1222 (jj) making a false credit report, Section 76-6-517;
- 1223 (kk) criminal simulation, Section 76-6-518;
- 1224 (ll) criminal usury, Section 76-6-520;
- 1225 (mm) insurance fraud, Section 76-6-521;
- 1226 (nn) retail theft, Section 76-6-602;
- 1227 (oo) computer crimes, Section 76-6-703;
- 1228 (pp) identity fraud, Section 76-6-1102;
- 1229 (qq) mortgage fraud, Section 76-6-1203;
- 1230 (rr) sale of a child, Section 76-7-203;
- 1231 (ss) bribery to influence official or political actions, Section 76-8-103;
- 1232 (tt) threats to influence official or political action, Section 76-8-104;
- 1233 (uu) receiving bribe or bribery by public servant, Section 76-8-105;
- 1234 (vv) receiving bribe or bribery for endorsement of person as public servant, Section
- 1235 76-8-106;
- 1236 (ww) official misconduct, Sections 76-8-201 and 76-8-202;

- 1237 (xx) obstruction of justice, Section 76-8-306;
- 1238 (yy) acceptance of bribe or bribery to prevent criminal prosecution, Section 76-8-308;
- 1239 (zz) false or inconsistent material statements, Section 76-8-502;
- 1240 (aaa) false or inconsistent statements, Section 76-8-503;
- 1241 (bbb) written false statements, Section 76-8-504;
- 1242 (ccc) tampering with a witness or soliciting or receiving a bribe, Section 76-8-508;
- 1243 (ddd) retaliation against a witness, victim, or informant, Section 76-8-508.3;
- 1244 (eee) extortion or bribery to dismiss criminal proceeding, Section 76-8-509;
- 1245 (fff) tampering with evidence, Section 76-8-510.5;
- 1246 (ggg) falsification or alteration of government record, Section 76-8-511, if the record is
- 1247 a record described in Title 20A, Election Code, or Title 36, Chapter 11, Lobbyist Disclosure
- 1248 and Regulation Act;
- 1249 (hhh) public assistance fraud in violation of Section 76-8-1203, 76-8-1204, or
- 1250 76-8-1205;
- 1251 (iii) unemployment insurance fraud, Section 76-8-1301;
- 1252 (jjj) intentionally or knowingly causing one animal to fight with another, Subsection
- 1253 76-9-301(2)(d) or (e), or Section 76-9-301.1;
- 1254 (kkk) possession, use, or removal of explosives, chemical, or incendiary devices or
- 1255 parts, Section 76-10-306;
- 1256 (lll) delivery to common carrier, mailing, or placement on premises of an incendiary
- 1257 device, Section 76-10-307;
- 1258 (mmm) possession of a deadly weapon with intent to assault, Section 76-10-507;
- 1259 (nnn) unlawful marking of pistol or revolver, Section 76-10-521;
- 1260 (ooo) alteration of number or mark on [~~pistol or revolver~~] firearm or possession of
- 1261 firearm that has been altered, Section 76-10-522;
- 1262 (ppp) forging or counterfeiting trademarks, trade name, or trade device, Section
- 1263 76-10-1002;
- 1264 (qqq) selling goods under counterfeited trademark, trade name, or trade devices,
- 1265 Section 76-10-1003;
- 1266 (rrr) sales in containers bearing registered trademark of substituted articles, Section
- 1267 76-10-1004;

1268 (sss) selling or dealing with article bearing registered trademark or service mark with
1269 intent to defraud, Section 76-10-1006;
1270 (ttt) gambling, Section 76-10-1102;
1271 (uuu) gambling fraud, Section 76-10-1103;
1272 (vvv) gambling promotion, Section 76-10-1104;
1273 (www) possessing a gambling device or record, Section 76-10-1105;
1274 (xxx) confidence game, Section 76-10-1109;
1275 (yyy) distributing pornographic material, Section 76-10-1204;
1276 (zzz) inducing acceptance of pornographic material, Section 76-10-1205;
1277 (aaaa) dealing in harmful material to a minor, Section 76-10-1206;
1278 (bbbb) distribution of pornographic films, Section 76-10-1222;
1279 (cccc) indecent public displays, Section 76-10-1228;
1280 (dddd) prostitution, Section 76-10-1302;
1281 (eeee) aiding prostitution, Section 76-10-1304;
1282 (ffff) exploiting prostitution, Section 76-10-1305;
1283 (gggg) aggravated exploitation of prostitution, Section 76-10-1306;
1284 (hhhh) communications fraud, Section 76-10-1801;
1285 (iiii) any act prohibited by the criminal provisions of Part 19, Money Laundering and
1286 Currency Transaction Reporting Act;
1287 (jjjj) vehicle compartment for contraband, Section 76-10-2801;
1288 (kkkk) any act prohibited by the criminal provisions of the laws governing taxation in
1289 this state; and
1290 (llll) any act illegal under the laws of the United States and enumerated in 18 U.S.C.
1291 Sec. 1961(1)(B), (C), and (D).

1292 Section 13. Section **80-6-104** is amended to read:

1293 **80-6-104. Data collection on offenses committed by minors -- Reporting**
1294 **requirement.**

1295 (1) As used in this section:

1296 (a) "Firearm" means the same as that term is defined in Section 76-10-501.

1297 (b) "Firearm-related offense" means a criminal offense involving a firearm.

1298 (c) "School is in session" means the same as that term is defined in Section 53E-3-516.

1299 (d) "School-sponsored activity" means the same as that term is defined in Section
 1300 [53E-3-516](#).

1301 (2) Before July 1 of each year, the Administrative Office of the Courts shall submit the
 1302 following data to the State Commission on Criminal and Juvenile Justice, broken down by
 1303 judicial district, for the preceding calendar year:

1304 (a) the number of referrals to the juvenile court;

1305 (b) the number of minors diverted to a nonjudicial adjustment;

1306 (c) the number of minors that satisfy the conditions of a nonjudicial adjustment;

1307 (d) the number of minors for whom a petition for an offense is filed in the juvenile
 1308 court;

1309 (e) the number of minors for whom an information is filed in the juvenile court;

1310 (f) the number of minors bound over to the district court by the juvenile court;

1311 (g) the number of petitions for offenses committed by minors that were dismissed by
 1312 the juvenile court;

1313 (h) the number of adjudications in the juvenile court for offenses committed by minors;

1314 (i) the number of guilty pleas entered into by minors in the juvenile court;

1315 (j) the number of dispositions resulting in secure care, community-based placement,
 1316 formal probation, and intake probation; and

1317 (k) for each minor charged in the juvenile court with a firearm-related offense:

1318 (i) the minor's age at the time the offense was committed or allegedly committed;

1319 (ii) the minor's zip code at the time that the offense was referred to the juvenile court;

1320 (iii) whether the minor is a restricted person under Subsection ~~[76-10-503(1)(a)(iv) or~~
 1321 ~~(1)(b)(iii)]~~ [76-10-503\(1\)\(b\)\(iv\) or \(1\)\(c\)\(iii\)](#);

1322 (iv) the type of offense for which the minor is charged;

1323 (v) the outcome of the minor's case in juvenile court, including whether the minor was
 1324 bound over to the district court or adjudicated by the juvenile court; and

1325 (vi) if a disposition was entered by the juvenile court, whether the disposition resulted
 1326 in secure care, community-based placement, formal probation, or intake probation.

1327 (3) The State Commission on Criminal and Juvenile Justice shall track the disposition
 1328 of a case resulting from a firearm-related offense committed, or allegedly committed, by a
 1329 minor when the minor is found in possession of a firearm while school is in session or during a

1330 school-sponsored activity.

1331 (4) In collaboration with the Administrative Office of the Courts, the division, and
1332 other agencies, the State Commission on Criminal and Juvenile Justice shall collect data for the
1333 preceding calendar year on:

1334 (a) the length of time that minors spend in the juvenile justice system, including the
1335 total amount of time minors spend under juvenile court jurisdiction, on community
1336 supervision, and in each out-of-home placement;

1337 (b) recidivism of minors who are diverted to a nonjudicial adjustment and minors for
1338 whom dispositions are ordered by the juvenile court, including tracking minors into the adult
1339 corrections system;

1340 (c) changes in aggregate risk levels from the time minors receive services, are under
1341 supervision, and are in out-of-home placement; and

1342 (d) dosages of programming.

1343 (5) On and before October 1 of each year, the State Commission on Criminal and
1344 Juvenile Justice shall prepare and submit a written report to the Judiciary Interim Committee
1345 and the Law Enforcement and Criminal Justice Interim Committee that includes:

1346 (a) data collected by the State Commission on Criminal and Juvenile Justice under this
1347 section;

1348 (b) data collected by the State Board of Education under Section [53E-3-516](#); and

1349 (c) recommendations for legislative action with respect to the data described in this
1350 Subsection (5).

1351 (6) Nothing in this section shall be construed to require the disclosure of information or
1352 data that is classified as controlled, private, or protected under Title 63G, Chapter 2,
1353 Government Records Access and Management Act.

1354 Section 14. Section **80-6-1004.1** is amended to read:

1355 **80-6-1004.1. Petition to expunge adjudication -- Hearing and notice -- Waiver --**
1356 **Order.**

1357 (1) An individual may petition the juvenile court for an order to expunge the
1358 individual's juvenile record if:

1359 (a) the individual was adjudicated for an offense in the juvenile court;

1360 (b) the individual has reached 18 years old; and

- 1361 (c) at least one year has passed from the day on which:
1362 (i) the juvenile court's continuing jurisdiction was terminated; or
1363 (ii) if the individual was committed to secure care, the individual was unconditionally
1364 released from the custody of the division.
- 1365 (2) If a petitioner is 18 years old or older and seeks an expungement under Subsection
1366 (1), the petition shall include a criminal history report obtained from the Bureau of Criminal
1367 Identification in accordance with Section 53-10-108.
- 1368 (3) If the juvenile court finds and states on the record the reason why the waiver is
1369 appropriate, the juvenile court may waive:
- 1370 (a) the age requirement under Subsection (1)(b) for a petition; or
1371 (b) the one-year requirement under Subsection (1)(c) for a petition.
- 1372 (4) (a) Upon the filing of a petition described in Subsection (1)(a), the juvenile court
1373 shall:
- 1374 (i) set a date for a hearing; and
1375 (ii) at least 30 days before the day on which the hearing on the petition is scheduled,
1376 notify the prosecuting attorney and any affected agency identified in the petitioner's juvenile
1377 record:
- 1378 (A) that the petition has been filed; and
1379 (B) of the date of the hearing.
- 1380 (b) (i) The juvenile court shall provide a victim with the opportunity to request notice
1381 of a petition described in Subsection (1).
1382 (ii) Upon the victim's request under Subsection (4)(b)(i), the victim shall receive notice
1383 of the petition at least 30 days before the day on which the hearing is scheduled if, before the
1384 day on which an expungement order is made, the victim, or the victim's next of kin or
1385 authorized representative if the victim is a child or an individual who is incapacitated or
1386 deceased, submits a written and signed request for notice to the juvenile court in the judicial
1387 district in which the offense occurred or judgment is entered.
- 1388 (iii) The notice described in Subsection (4)(b)(ii) shall include a copy of the petition
1389 and any statutes and rules applicable to the petition.
- 1390 (c) At the hearing, the prosecuting attorney, a victim, and any other individual who
1391 may have relevant information about the petitioner may testify.

- 1392 (d) The juvenile court may waive the hearing for the petition if:
- 1393 (i) (A) there is no victim; or
- 1394 (B) if there is a victim, the victim agrees to the waiver; and
- 1395 (ii) the prosecuting attorney agrees to the waiver.
- 1396 (5) (a) Except as provided in Subsection (6), the juvenile court may grant a petition
- 1397 described in Subsection (1) and order expungement of the petitioner's juvenile record if the
- 1398 juvenile court finds that the petitioner is rehabilitated to the satisfaction of the court in
- 1399 accordance with Subsection (5)(b).
- 1400 (b) In deciding whether to grant a petition described in Subsection (1), the juvenile
- 1401 court shall consider:
- 1402 (i) whether expungement of the petitioner's juvenile record is in the best interest of the
- 1403 petitioner;
- 1404 (ii) the petitioner's response to programs and treatment;
- 1405 (iii) the nature and seriousness of the conduct for which the petitioner was adjudicated;
- 1406 (iv) the petitioner's behavior subsequent to adjudication;
- 1407 (v) the petitioner's reason for seeking expungement of the petitioner's juvenile record;
- 1408 and
- 1409 (vi) if the petitioner is a restricted person under Subsection [~~76-10-503(1)(a)(iv) or~~
- 1410 ~~(b)(iii)] 76-10-503(1)(b)(iv) or (c)(iii):~~
- 1411 (A) whether the offense for which the petitioner is a restricted person was committed
- 1412 with a weapon;
- 1413 (B) whether expungement of the petitioner's juvenile record poses an unreasonable risk
- 1414 to public safety; and
- 1415 (C) the amount of time that has passed since the adjudication of the offense for which
- 1416 the petitioner is a restricted person.
- 1417 (6) The juvenile court may not grant a petition described in Subsection (1) and order
- 1418 expungement of the petitioner's juvenile record if:
- 1419 (a) the petitioner has been convicted of a violent felony within five years before the day
- 1420 on which the petition for expungement is filed;
- 1421 (b) there are delinquency or criminal proceedings pending against the petitioner;
- 1422 (c) the petitioner has not satisfied a judgment of restitution entered by the juvenile

1423 court for an adjudication in the petitioner's juvenile record;

1424 (d) the petitioner has not satisfied restitution that was a condition of a nonjudicial
1425 adjustment in the petitioner's juvenile record; or

1426 (e) the petitioner's juvenile record contains an adjudication for a violation of:

1427 (i) Section 76-5-202, aggravated murder; or

1428 (ii) Section 76-5-203, murder.

1429 Section 15. **Effective date.**

1430 This bill takes effect on May 1, 2024.