

**FIREARM RECORDS PROTECTION AMENDMENTS**

2017 GENERAL SESSION

STATE OF UTAH

**Chief Sponsor: Val K. Potter**

Senate Sponsor: Peter C. Knudson

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**LONG TITLE**

**General Description:**

This bill modifies provisions related to firearm transfer certifications and notifications.

**Highlighted Provisions:**

This bill:

- ▶ defines terms;
- ▶ addresses the retention of certain federally required firearm transfer certifications and notifications;
- ▶ classifies as a private record:
  - any firearm transfer certification or notification; and
  - any record or portion of a record that contains information from a firearm transfer certification or notification; and
- ▶ makes technical changes.

**Money Appropriated in this Bill:**

None

**Other Special Clauses:**

None

**Utah Code Sections Affected:**

AMENDS:

**53-5a-104**, as last amended by Laws of Utah 2015, Chapters 258 and 406

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

Section 1. Section **53-5a-104** is amended to read:

30 **53-5a-104. Firearm transfer certification or notification.**

31 (1) As used in this section:

32 (a) "Certification" means the participation and assent of the chief law enforcement  
33 officer necessary under federal law for the approval of the application to transfer or make a  
34 firearm.

35 (b) "Chief law enforcement officer" means any official that the Bureau of Alcohol,  
36 Tobacco, Firearms and Explosives, or any successor agency, identifies by regulation or  
37 otherwise as eligible to provide any required certification for the making or transfer of a  
38 firearm.

39 (c) "Firearm" means the same as that term is defined in the National Firearms Act, 26  
40 U.S.C. Sec. 5845(a).

41 (d) "Local law enforcement agency" means the same as that term is described in 18  
42 U.S.C. Sec. 923.

43 (e) "Notification" means any form or record that is subject to 18 U.S.C. Sec.  
44 923(g)(3)(B).

45 (2) A chief law enforcement officer may not make a certification under this section that  
46 the chief law enforcement officer knows to be untrue. The chief law enforcement officer may  
47 not refuse to provide certification based on a generalized objection to private persons or entities  
48 making, possessing, or receiving firearms or any certain type of firearm, the possession of  
49 which is not prohibited by law.

50 (3) Upon receiving a federal firearm transfer form a chief law enforcement officer or  
51 the chief law enforcement officer's designee shall provide certification if the applicant:

52 (a) is not prohibited by law from receiving or possessing the firearm; or

53 (b) is not the subject of a proceeding that could result in the applicant being prohibited  
54 by law from receiving or possessing the firearm.

55 (4) The chief law enforcement officer, the chief law enforcement officer's designee, or  
56 official signing the federal transfer form shall:

57 (a) return the federal transfer form to the applicant within 15 calendar days; or

58 (b) if the applicant is denied, provide to the applicant the reasons for denial in writing  
59 within 15 calendar days.

60 (5) Chief law enforcement officers and their employees who act in good faith when  
61 acting within the scope of their duties are immune from liability arising from any act or  
62 omission in making a certification as required by this section. Any action taken against a chief  
63 law enforcement officer or an employee shall be in accordance with Title 63G, Chapter 7,  
64 Governmental Immunity Act of Utah.

65 (6) A chief law enforcement officer or local law enforcement agency that receives a  
66 certification or notification shall destroy and delete the certification or notification and any  
67 other record that contains information obtained from the certification or notification within 15  
68 days after the day on which the chief law enforcement officer or local law enforcement agency  
69 receives the certification or notification.

70 (7) A certification or notification and any other record or portion of a record that  
71 contains information gathered from the certification or notification is classified as a private  
72 record in accordance with Title 63G, Chapter 2, Government Records Access and Management  
73 Act.