

VOLUNTARY FIREARM RESTRICTIONS AMENDMENTS

2023 GENERAL SESSION

STATE OF UTAH

Chief Sponsor: Steve Eliason

Senate Sponsor: Michael S. Kennedy

LONG TITLE

General Description:

This bill addresses provisions regarding voluntary firearm restrictions.

Highlighted Provisions:

This bill:

▶ creates a voluntary firearm restricted list that allows an individual to request:

- to be restricted from purchasing or possessing firearms indefinitely; and
- removal from the list after 90 days;

▶ directs the Bureau of Criminal Identification (bureau) to create a process for an individual to request to be placed on or removed from the voluntary firearm restricted list;

▶ allows an individual seeking to be placed on a voluntary firearm restricted list to direct the individual's health care provider to deliver the individual's forms for inclusion on the list to the bureau;

▶ directs that when the bureau receives a request from an individual to be removed from a voluntary firearm restricted list, the bureau shall remove the individual after a certain time period after the day on which the individual requests the removal;

▶ removes the requirement for the bureau to enter the information received from an individual requesting to be placed on a voluntary firearm restricted list into the National Instant Criminal Background Check System; and

▶ makes technical and conforming changes.

Money Appropriated in this Bill:

None

30 **Other Special Clauses:**

31 None

32 **Utah Code Sections Affected:**

33 AMENDS:

34 **53-5c-102**, as last amended by Laws of Utah 2021, Chapter 166

35 **53-5c-301**, as enacted by Laws of Utah 2021, Chapter 166

36 ENACTS:

37 **53-5c-302**, Utah Code Annotated 1953

38 REPEALS:

39 **53-5c-101**, as enacted by Laws of Utah 2013, Chapter 188



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

42 Section 1. Section **53-5c-102** is amended to read:

43 **53-5c-102. Definitions.**

44 As used in this ~~[part]~~ chapter:

45 (1) "Bureau" means the Bureau of Criminal Identification created in Section
46 **53-10-201**.

47 (2) "Cohabitant" means ~~[a person]~~ an individual who is 21 years ~~[of age]~~ old or older
48 who resides in the same residence as the other party.

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

52 (4) "Health care provider" means a person:

53 (a) who provides health care or professional services related to health care; and

54 (b) is acting within the scope of the person's license, certification, practice, education,
55 or training.

56 ~~[(4)]~~ (5) "Illegal firearm" means a firearm the ownership or possession of which is
57 prohibited under state or federal law.

58 ~~[(5)]~~ (6) "Law enforcement agency" means a municipal or county police agency or an
59 officer of that agency.

60 ~~[(6)]~~ (7) "Owner cohabitant" means a cohabitant who owns, in whole or in part, a
61 firearm.

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

63 ~~[(a) use by a government agency as determined by the legislative body of the agency's~~
64 ~~jurisdiction; or]~~

65 ~~[(b) donation to a bona fide charity.]~~

66 Section 2. Section **53-5c-301** is amended to read:

67 **53-5c-301. Voluntary restrictions on firearm purchase and possession.**

68 (1) An individual who is not a restricted person under Section **76-10-503** may
69 voluntarily request to be restricted from the purchase ~~[and]~~ or possession of firearms ~~[through a~~
70 ~~voluntary process].~~

71 (2) An individual requesting to be restricted under Subsection (1) may request
72 placement on one of the following restricted lists:

73 (a) a restricted list that:

74 (i) restricts the individual from purchasing or possessing a firearm for 180 days with
75 automatic removal of the individual from the restricted list at the end of the 180 days; and

76 (ii) allows the individual to request removal 30 days after the day on which the
77 individual is added to the restricted list; or

78 (b) a restricted list that:

79 (i) restricts the individual from purchasing or possessing a firearm indefinitely; and

80 (ii) allows the individual to request removal 90 days after the day on which the
81 individual is added to the restricted list.

82 ~~[(2)]~~ (3) (a) ~~[The]~~ Subject to Subsections (8) and (9), the bureau shall develop a
83 process and forms for inclusion on, and removal from, a ~~[temporary]~~ restricted list as described
84 in Subsection (2) to be maintained by the bureau.

85 (b) The bureau shall make the forms for inclusion and removal available by download

86 through the bureau's website and require, at a minimum, the following information for the
87 individual described in Subsection (1):

- 88 (i) name;
- 89 (ii) address;
- 90 (iii) date of birth;
- 91 (iv) contact information;
- 92 (v) ~~the~~ signature ~~of the individual~~; and
- 93 (vi) (A) if the individual is entered on the restricted list as described in Subsection
94 (2)(a), an acknowledgment of the statement in Subsection ~~(8)~~ (8)(a); or
95 (B) if the individual is entered on the restricted list as described in Subsection (2)(b),
96 an acknowledgment of the statement in Subsection (8)(b).

97 ~~(3)~~ (4) (a) An individual requesting inclusion on ~~the temporary~~ a restricted list
98 under Subsection (2) shall:

- 99 (i) deliver the completed form in person to a law enforcement agency; or
- 100 (ii) direct the individual's health care provider under Section [53-5c-302](#) to
101 electronically deliver the individual's completed form to the bureau.

102 (b) The law enforcement agency described in Subsection ~~(3)(a):~~ (4)(a)(i):

- 103 (i) shall verify the individual's identity before accepting the form;
- 104 (ii) may not accept a form from someone other than the individual named on the form;

105 and

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

108 ~~(4)~~ (5) Upon receipt of a verified form provided under this section or Section
109 [53-5c-302](#) requesting inclusion on ~~the temporary~~ a restricted list, the bureau shall, within 24
110 hours~~[(a)]~~, add the individual's name to the restricted list~~[, and]~~.

111 ~~[(b) enter the information in the National Instant Criminal Background Check System~~
112 ~~Indices, including:]~~

113 ~~[(i) the date of the entry; and]~~

114 ~~[(ii) that the restriction ends 180 days after the date of the entry.]~~

115 ~~[(5) If the bureau does not receive a request for extension before the removal date, the~~
116 ~~bureau shall remove the individual from the temporary restricted list.]~~

117 (6) (a) ~~[An individual who is added to the temporary restricted list]~~ For an individual
118 added to the restricted list described in Subsection (2)(a):

119 (i) the individual may not request removal from the restricted list unless the individual
120 has been on the restricted list for at least 30 days[-];

121 ~~[(b)]~~ (ii) [The] the bureau shall remove [an] the individual from the restricted list 180
122 days after the day on which the individual was added to the restricted list, unless the individual
123 [requests]:

124 (A) requests to be removed from the restricted list after 30 days;

125 (B) requests to remain on the restricted list[-]; or

126 (C) directs the individual's health care provider to request that the individual remain on
127 the restricted list;

128 ~~[(c)]~~ (iii) [Requests] a request for [extensions] an extension shall be made in the same
129 manner as the original request[-]; and

130 ~~[(d)]~~ (iv) [An] the individual may continue to request, or direct the individual's health
131 care provider to continue to request, extensions every 180 days.

132 (b) For an individual added to a restricted list under Subsection (2)(b), the individual:

133 (i) may not request removal from the restricted list unless the individual has been on
134 the restricted list for at least 90 days; and

135 (ii) shall remain on the restricted list, unless the bureau receives a request from the
136 individual to have the individual's name removed from the restricted list.

137 (7) If an individual restricted under this section is a concealed firearm permit holder,
138 the individual's permit shall be:

139 (a) suspended upon entry on the ~~[temporary]~~ restricted list; and

140 (b) reinstated upon removal from the restricted list, unless:

141 (i) the permit has been revoked, been suspended for a reason other than under this

142 section, or has expired; or

143 (ii) the individual has become a restricted person under Section 76-10-503.

144 (8) (a) The form for an individual seeking to be placed on the restricted list described
145 in Subsection (2)(a) shall have the following language prominently displayed before the
146 signature:

147 ACKNOWLEDGMENT

148 "By presenting this completed form to a law enforcement agency, I understand that I am
149 requesting that my name be placed on a restricted list that restricts my ability to purchase or
150 possess firearms for a minimum of 30 days, and up to 6 months. I understand that by
151 voluntarily making myself a temporarily restricted person, I may not have a firearm in my
152 possession and any attempt to purchase a firearm while I am on the restricted list will be
153 declined. I also understand that any time after 30 days, I may request removal from the
154 [~~temporary~~] restricted list and all previous rights will be restored. In addition, if I am in
155 possession of a valid concealed firearm permit, my permit will be suspended during the time I
156 am on the restricted list, but will be reinstated upon my removal, unless the permit has expired,
157 been revoked, been suspended for another reason, or I become ineligible to possess a firearm.
158 Additionally, I acknowledge that if I possess a firearm or attempt to purchase a firearm while
159 outside Utah, I will be subject to the law of that location regarding restricted persons."

160 (b) The form for an individual seeking to be placed on the restricted list described in
161 Subsection (2)(b) shall have the following language prominently displayed before the
162 signature:

163 ACKNOWLEDGMENT

164 "By presenting this completed form to a law enforcement agency, I understand that I am
165 requesting that my name be placed on a restricted list that restricts my ability to purchase or
166 possess firearms indefinitely. I understand that by voluntarily making myself a temporarily
167 restricted person, I may not have a firearm in my possession and any attempt to purchase a
168 firearm while I am on the restricted list will be declined. I also understand that any time after
169 90 days, I may request removal from the restricted list and all previous rights will be restored.

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

176 (9) (a) An individual requesting removal from [~~the temporary~~] a restricted list shall
177 deliver a completed removal form in person to:

178 (i) the law enforcement agency that processed the inclusion form if the individual was
179 placed on the restricted list under Subsection [~~(3)~~] (4)(a)(i); or

180 (ii) the individual's local law enforcement agency if the individual was placed on the
181 restricted list under Subsection (4)(a)(ii).

182 (b) The law enforcement agency described in Subsection (9)(a):

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

184 (ii) may not accept a removal form from someone other than the individual named on
185 the form; and

186 (iii) shall transmit the removal form electronically to the bureau through the Utah
187 Criminal Justice Information System.

188 (10) Upon receipt of a verified removal form, the bureau shall, [~~within 24 hours~~] after
189 three business days, remove the individual from the [~~temporary~~] restricted list and remove the
190 information from the National Instant Criminal Background Check System.

191 (11) [~~Within~~] For an individual added to the restricted list under Subsection (2)(a),
192 within 30 days before the 180-day removal deadline, the bureau shall notify the individual at
193 the address listed on the [~~form and~~] inclusion form described in Subsection (4) and, if
194 applicable, the law enforcement agency that processed the inclusion form, that the individual is
195 due to be removed from the [~~temporary~~] restricted list, and the date on which the removal will
196 occur, unless the individual requests an extension of up to 180 days.

197 (12) (a) A law enforcement agency that receives a request for inclusion under

198 Subsection (4)(a)(i) shall:

199 (i) maintain the completed form and all subsequent completed forms in a separate
200 file[-]; and

201 [~~(b)~~ If the individual requests removal before the end of the 180 days, the law
202 enforcement agency shall destroy the entire file within five days after transmission of the
203 information to the bureau.]

204 [~~(c)~~] (ii) [~~If the individual does not request an extension after notification in accordance~~
205 ~~with Subsection (11), the law enforcement agency shall]~~ for an individual added to the
206 restricted list under Subsection (2)(a), destroy the entire file within five days after the date
207 indicated in the notification if the individual does not request an extension after notification in
208 accordance with Subsection (11).

209 (b) A law enforcement agency that receives a removal request under Subsection (9)
210 shall destroy the entire file associated with the individual within five days after the day on
211 which the information is transmitted to the bureau.

212 [~~(d)~~] (c) Upon removal of an individual from [~~the voluntary]~~ a restricted list, the bureau
213 shall destroy all records related to the inclusion and removal of the individual within five days
214 after the day on which the individual was removed.

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

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

220 Section 3. Section **53-5c-302** is enacted to read:

221 **53-5c-302. Assistance from a health care provider -- Restricted list.**

222 (1) An individual who is not a restricted person under Section [76-10-503](#) and is
223 seeking inclusion on a restricted list under Section [53-5c-301](#) may direct the individual's health
224 care provider to electronically deliver the individual's inclusion form described in Section
225 [53-5c-301](#) to the bureau.

226 (2) In addition to the inclusion form described in Section 53-5c-301, the bureau shall
227 create a form, available by download through the bureau's website, for:

228 (a) an individual who is directing a health care provider to electronically deliver the
229 individual's inclusion form and require, at a minimum, the following information:

230 (i) the individual's signature;

231 (ii) the name of the individual's health care provider; and

232 (iii) the individual's acknowledgment of the statement in Subsection (4)(a); and

233 (b) a health care provider who is delivering an individual's inclusion forms and require,
234 at a minimum, the following information for the health care provider:

235 (i) the health care provider's name;

236 (ii) the name of the health care provider's organization;

237 (iii) the health care provider's license or certification, including the license or
238 certification number;

239 (iv) the health care provider's signature; and

240 (v) the health care provider's acknowledgment of the statement in Subsection (4)(b).

241 (3) (a) An individual who is directing a health care provider to electronically deliver
242 the individual's inclusion form shall, in the presence of the health care provider, complete the
243 forms described in Section 53-5c-301 and Subsection (2)(a).

244 (b) The health care provider:

245 (i) shall verify the individual's identity before accepting the forms;

246 (ii) may not accept forms from someone other than the individual named on the forms;

247 (iii) shall complete the form described in Subsection (2)(b); and

248 (iv) shall deliver the individual's and health care provider's forms electronically to the
249 bureau.

250 (4) (a) The form described in Subsection (2)(a) shall have the following language
251 prominently displayed before the signature:

252 ACKNOWLEDGMENT

253 "By presenting this completed form to my health care provider, I understand that I am

254 requesting that my health care provider present my name to the Bureau of Criminal
255 Identification to be placed on a restricted list that restricts my ability to purchase or possess
256 firearms."

257 (b) The form described in Subsection (2)(b) shall have the following language
258 prominently displayed before the signature:

259 ACKNOWLEDGMENT

260 "By presenting this completed form to the Bureau of Criminal Identification, I
261 understand that I am acknowledging that I have verified the identity of [name of individual
262 seeking inclusion on a restricted list] and have witnessed [name of individual] sign the form
263 requesting that [name of individual] be placed on a restricted list that restricts [name of
264 individual]'s ability to purchase or possess firearms. I affirm that [name of individual] is
265 currently my patient, and I am a licensed health care provider acting within the scope of my
266 license, certification, practice, education, or training."

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

269 **Section 4. Repealer.**

270 This bill repeals:

271 Section **53-5c-101**, Title.