

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

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

3 **53-5-704. Division duties -- Permit to carry concealed firearm -- Requirements for**
4 **issuance -- Violation -- Denial, suspension, or revocation -- Appeal procedure.**

5 (1) The division or its designated agent shall issue a permit to carry a concealed firearm
6 for lawful self defense to an applicant who is 21 years of age or older within 60 days after
7 receiving an application and upon proof that the person applying is of good character. The permit
8 is valid for two years throughout the state, without restriction, [~~for two years~~] except as provided
9 by Section 53-5-710.

10 (2) An applicant satisfactorily demonstrates good character if he:

11 (a) has not been convicted of a felony;

12 (b) has not been convicted of any crime of violence;

13 (c) has not been convicted of any offenses involving the use of alcohol;

14 (d) has not been convicted of any offense involving the unlawful use of narcotics or other
15 controlled substances;

16 (e) has not been convicted of any offenses involving moral turpitude;

17 (f) has not been convicted of any offense involving domestic violence;

18 (g) has not been adjudicated by a court of a state or of the United States as mentally
19 incompetent, unless the adjudication has been withdrawn or reversed.

20 (3) (a) The division may deny, suspend, or revoke a concealed firearm permit if the
21 licensing authority has reasonable cause to believe that the applicant has been or is a danger to self
22 or others as demonstrated by evidence including, but not limited to:

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

24 (ii) past participation in incidents involving unlawful violence or threats of unlawful
25 violence; or

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

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

29 [~~(b)~~] (c) In determining whether the applicant has been or is a danger to self or others, the
30 division may inspect:

31 (i) expunged records of arrests and convictions of adults as provided in Section 77-18-15;

1 and

2 (ii) juvenile court records as provided in Section 78-3a-206.

3 [~~(c)~~] (d) (i) If a person granted a permit under this part has been charged with a crime of
4 violence in Utah or any other state, the division shall suspend the permit.

5 (ii) Upon notice of the acquittal of the person charged, or notice of the charges having been
6 dropped, the division shall immediately reinstate the suspended permit.

7 (4) A former peace officer who departs full-time employment as a peace officer, in an
8 honorable manner, shall be issued a concealed firearm permit within five years of that departure
9 if the officer meets the requirements of this section.

10 (5) In assessing good character under Subsection (2), the licensing authority shall consider
11 mitigating circumstances.

12 (6) The licensing authority shall also require the applicant to provide:

13 (a) letters of character reference;

14 (b) two recent dated photographs;

15 (c) two sets of fingerprints;

16 (d) a five-year employment history;

17 (e) a five-year residential history; and

18 (f) evidence of general familiarity with the types of firearms to be concealed as defined
19 in Subsection (7).

20 (7) (a) General familiarity with the types of firearms to be concealed includes training in:

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

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

25 (b) Evidence of general familiarity with the types of firearms to be concealed may be
26 satisfied by one of the following:

27 (i) completion of a course of instruction conducted by any national, state, or local firearms
28 training organization approved by the division;

29 (ii) certification of general familiarity by a person who has been approved by the division,
30 which may include a law enforcement officer, military or civilian firearms instructor, or hunter
31 safety instructor; or

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

3 (8) In issuing a permit under this part, the licensing authority is not vicariously liable for
4 damages caused by the permit holder.

5 (9) If any person knowingly and willfully provides false information on an application
6 filed under this part, he is guilty of a class B misdemeanor, and his application may be denied, or
7 his permit may be suspended or revoked.

8 (10) (a) In the event of a denial, suspension, or revocation by the agency, the applicant
9 may file a petition for review with the board within 60 days from the date the denial, suspension,
10 or revocation is received by the applicant by certified mail, return receipt requested.

11 (b) The denial of a permit shall be in writing and shall include the general reasons for the
12 action.

13 (c) If an applicant appeals his denial to the review board, the applicant may have access
14 to the evidence upon which the denial is based in accordance with Title 63, Chapter 2, Government
15 Records Access and Management Act.

16 (d) On appeal to the board, the agency shall have the burden of proof by a preponderance
17 of the evidence.

18 (e) Upon a ruling by the board on the appeal of a denial, the division shall issue a final
19 order within 30 days stating the board's decision. The final order shall be in the form prescribed
20 by Subsection 63-46b-5(1)(i). The final order is final agency action for purposes of judicial review
21 under Section 63-46b-15.

22 [~~12~~] (11) The commissioner may make rules in accordance with Title 63, Chapter 46a,
23 Utah Administrative Rulemaking Act, necessary to administer this chapter.

24 Section 2. Section **53-5-710** is amended to read:

25 **53-5-710. Cross-references to concealed firearm permit restrictions.**

26 A person with a permit to carry a concealed firearm may not carry a concealed firearm in
27 the following locations:

28 (1) any secure area prescribed in Section 76-10-523.5 in which firearms are prohibited and
29 notice of the prohibition posted; [~~and~~]

30 (2) in any airport secure area as provided in Section 76-10-529[-];

31 (3) in houses of worship in violation of Section 76-10-530;

1 (4) in a private residence in violation of Section 76-10-531; and

2 (5) on school premises in violation of Section 76-10-505.5.

3 Section 3. Section **53A-3-502** is amended to read:

4 **53A-3-502. Dangerous materials in the public schools -- Class B misdemeanor --**
5 **Exceptions.**

6 (1) A person who possesses [~~a weapon, explosive, flammable material, or other~~] material
7 dangerous to persons or property, other than a dangerous weapon restricted under Section
8 76-10-505.5, in a public or private elementary or secondary school, on the grounds of the school,
9 or in those parts of a building, park, or stadium which are being used for an activity sponsored by
10 or through the school is guilty of a class B misdemeanor, unless a higher penalty is prescribed in
11 Title 76, Criminal Code, in which case the penalty provisions of that title control.

12 (2) Subsection (1) does not apply under the following circumstances:

13 (a) possession is approved by the responsible school administrator; or

14 (b) the item or material is present or to be used in connection with a lawful, approved
15 activity and is in the possession or under the control of the person responsible for its possession
16 or use.

17 Section 4. Section **53A-11-904** is amended to read:

18 **53A-11-904. Grounds for suspension or expulsion from a public school.**

19 (1) A student may be suspended or expelled from a public school for any of the following
20 reasons:

21 (a) frequent or flagrant willful disobedience, defiance of proper authority, or disruptive
22 behavior, including the use of foul, profane, vulgar, or abusive language;

23 (b) willful destruction or defacing of school property;

24 (c) behavior or threatened behavior which poses an immediate and significant threat to the
25 welfare, safety, or morals of other students or school personnel or to the operation of the school;

26 (d) possession, control, or use of an alcoholic beverage as defined in Section 32A-1-105;

27 or

28 (e) behavior proscribed under Subsection (2) which threatens harm or does harm to the
29 school or school property, to a person associated with the school, or property associated with any
30 such person, regardless of where it occurs.

31 (2) (a) A student shall be suspended or expelled from a public school for any of the

1 following reasons:

2 (i) any serious violation affecting another student or a staff member, or any serious
3 violation occurring in a school building, in or on school property, or in conjunction with any
4 school activity, including the possession, control, or actual or threatened use of a real, look alike,
5 or pretend weapon, explosive, or noxious or flammable material under [Section] Sections
6 53A-3-502 and 76-10-505.5, or the sale, control, or distribution of a drug or controlled substance
7 as defined in Section 58-37-2, an imitation controlled substance defined in Section 58-37b-2, or
8 drug paraphernalia as defined in Section 58-37a-3; or

9 (ii) the commission of an act involving the use of force or the threatened use of force
10 which if committed by an adult would be a felony or class A misdemeanor.

11 (b) A student who commits a violation of Subsection (2)(a) involving a real, look alike,
12 or pretend firearm, explosive, or flammable material shall be expelled from school for a period of
13 not less than one year, unless the district superintendent determines, on a case-by-case basis, that
14 a lesser penalty would be more appropriate.

15 (3) A student may be denied admission to a public school on the basis of having been
16 expelled from that or any other school during the preceding 12 months.

17 (4) A suspension or expulsion under this section is not subject to the age limitations under
18 Subsection 53A-11-102(1).

19 Section 5. Section **76-3-203.2** is amended to read:

20 **76-3-203.2. Definitions -- Use of dangerous weapon in offenses committed on or**
21 **about school premises -- Enhanced penalties.**

22 For purposes of this section:

23 (1) (a) "On or about school premises" as used in this section [~~and Section 76-10-505.5~~]
24 means any of the following:

25 (i) in a public or private elementary, secondary, or on the grounds of any of those schools;

26 (ii) in a public or private vocational school or postsecondary institution or on the grounds
27 of any of those schools or institutions;

28 (iii) in those portions of any building, park, stadium, or other structure or grounds which
29 are, at the time of the act, being used for an activity sponsored by or through a school or institution
30 under Subsections (1)(a)(i) and (ii);

31 (iv) in or on the grounds of a preschool or child-care facility; and

1 (v) within 1,000 feet of any structure, facility, or grounds included in Subsections (1)(a)(i),
2 (ii), (iii), and (iv).

3 (b) As used in this section:

4 (i) "Educator" means any person who is employed by a public school district and who is
5 required to hold a certificate issued by the State Board of Education in order to perform duties of
6 employment.

7 (ii) "Within the course of employment" means that an educator is providing services or
8 engaging in conduct required by the educator's employer to perform the duties of employment.

9 (2) Any person who, on or about school premises, commits any offense and uses or
10 threatens to use a dangerous weapon, as defined in Section 76-1-601, in the commission of the
11 offense is subject to an enhanced degree of offense as provided in [Subsection] Subsections (4) and
12 (5).

13 (3) (a) Any person who commits an offense against an educator when the educator is
14 acting within the course of employment is subject to an enhanced degree of offense as provided
15 in [Subsection] Subsections (4) and (5).

16 (b) As used in Subsection (3)(a), "offense" means [an] any offense:

17 (i) under Title 76, Chapter 5, Offenses Against The Person; [and] or
18 [~~(c) an offense~~] (ii) under Title 76, Chapter 6, Part 3, Robbery.

19 (4) The enhanced degree of offense for offenses committed under this section are:

20 (a) if the offense is otherwise a class B misdemeanor it is a class A misdemeanor;

21 (b) if the offense is otherwise a class A misdemeanor it is a third degree felony;

22 (c) if the offense is otherwise a third degree felony it is a second degree felony; or

23 (d) if the offense is otherwise a second degree felony it is a first degree felony.

24 (5) The enhanced penalty for a first degree felony offense of a convicted person:

25 (a) shall be imprisonment for a term of not less than five years and which may be for life,
26 and imposition or execution of the sentence may not be suspended unless the court:

27 (i) finds that the interests of justice would be best served; and

28 (ii) states the specific circumstances justifying the disposition on the record; and

29 (b) shall [be] subject the person also to the dangerous weapon enhancement provided in
30 Section 76-3-203 except for an offense committed under Subsection (3) that does not involve a
31 firearm.

1 (6) (a) The prosecuting attorney, or grand jury if an indictment is returned, shall provide
2 notice upon the information or indictment that the defendant is subject to the enhanced degree of
3 offense or penalty under Subsection (4) or (5).

4 (b) The notice shall be in a clause separate from and in addition to the substantive offense
5 charged.

6 [(b)] (c) If the notice is not included initially, the court may subsequently allow the
7 prosecutor to amend the charging documents to include the notice if the court finds:

8 (i) the charging document, including any statement of probable cause, provide notice to
9 the defendant of the allegation he committed the offense on or about school premises[;] or [if the
10 court finds]

11 (ii) the defendant has not otherwise been substantially prejudiced by the omission.

12 (7) ~~[(h)]~~ The convicted person shall not be subject to the dangerous weapon enhancement
13 in Section 76-3-203:

14 (a) in cases where an offense is enhanced pursuant to Subsection (4)(a), (b), (c), or (d)[;];
15 or

16 (b) under Subsection (5)(a) for an offense committed under Subsection (2) that does not
17 involve a firearm[; ~~the convicted person shall not be subject to the dangerous weapon enhancement~~
18 ~~in Section 76-3-203~~].

19 Section 6. Section **76-8-311.3** is amended to read:

20 **76-8-311.3. Items prohibited in correctional and mental health facilities -- Penalties.**

21 (1) As used in this section:

22 (a) "Contraband" means any item not specifically prohibited for possession by offenders
23 under this section or Title 58, Chapter 37, Utah Controlled Substances Act.

24 (b) "Controlled substance" means any substance defined as a controlled substance under
25 Title 58, Chapter 37, Utah Controlled Substances Act.

26 (c) "Correctional facility" means:

27 (i) any facility operated by the Department of Corrections to house offenders in either a
28 secure or nonsecure setting;

29 (ii) any facility operated by a municipality or a county to house or detain criminal
30 offenders;

31 (iii) any juvenile detention facility; and

1 (iv) any building or grounds appurtenant to the facility or lands granted to the state,
2 municipality, or county for use as a correctional facility.

3 (d) "Medicine" means any prescription drug as defined in Title 58, Chapter 17a, Pharmacy
4 Practice Act, but does not include any controlled substances as defined in Title 58, Chapter 37,
5 Utah Controlled Substances Act.

6 (e) "Mental health facility" has the same meaning as defined in Section 62A-12-202.

7 (f) "Offender" means a person in custody at a correctional facility.

8 (g) "Secure area" has the same meaning as provided in Section 76-8-311.1.

9 (2) Notwithstanding any other statute to the contrary, including [~~Subsection 76-10-501(b)~~]
10 Section 76-10-501.5, a correctional or mental health facility may provide by rule that no firearm,
11 ammunition, dangerous weapon, implement of escape, explosive, controlled substance, spirituous
12 or fermented liquor, medicine, or poison in any quantity may be:

13 (a) transported to or upon a correctional or mental health facility;

14 (b) sold or given away at any correctional or mental health facility;

15 (c) given to or used by any offender at a correctional or mental health facility; or

16 (d) knowingly or intentionally possessed at a correctional or mental health facility.

17 (3) It is a defense to any prosecution under this section if the accused in committing the
18 act made criminal by this section:

19 (a) with respect to a correctional facility operated by the Department of Corrections, acted
20 in conformity with departmental rule or policy;

21 (b) with respect to a correctional facility operated by a municipality, acted in conformity
22 with the policy of the municipality;

23 (c) with respect to a correctional facility operated by a county, acted in conformity with
24 the policy of the county; or

25 (d) with respect to a mental health facility, acted in conformity with the policy of the
26 mental health facility.

27 (4) (a) Any person who transports to or upon a correctional facility, or into a secure area
28 of a mental health facility, any firearm, ammunition, dangerous weapon, explosive, or implement
29 of escape with intent to provide or sell it to any offender, is guilty of a second degree felony.

30 (b) Any person who provides or sells to any offender at a correctional facility, or any
31 detainee at a secure area of a mental health facility, any firearm, ammunition, dangerous weapon,

1 explosive, or implement of escape is guilty of a second degree felony.

2 (c) Any offender who possesses at a correctional facility, or any detainee who possesses
3 at a secure area of a mental health facility, any firearm, ammunition, dangerous weapon, explosive,
4 or implement of escape is guilty of a second degree felony.

5 (d) Any person who, without the permission of the authority operating the correctional
6 facility or the secure area of a mental health facility, knowingly possesses at a correctional facility
7 or a secure area of a mental health facility any firearm, ammunition, dangerous weapon, implement
8 of escape, or explosive is guilty of a third degree felony.

9 (5) (a) A person is guilty of a third degree felony who, without the permission of the
10 authority operating the correctional facility or secure area of a mental health facility, knowingly
11 transports to or upon a correctional facility or into a secure area of a mental health facility any:

12 (i) spirituous or fermented liquor;

13 (ii) medicine, whether or not lawfully prescribed for the offender; or

14 (iii) poison in any quantity.

15 (b) A person is guilty of a third degree felony who knowingly violates correctional or
16 mental health facility policy or rule by providing or selling to any offender at a correctional facility
17 or detainee within a secure area of a mental health facility any:

18 (i) spirituous or fermented liquor;

19 (ii) medicine, whether or not lawfully prescribed for the offender; or

20 (iii) poison in any quantity.

21 (c) An inmate is guilty of a third degree felony who, in violation of correctional or mental
22 health facility policy or rule, possesses at a correctional facility or in a secure area of a mental
23 health facility any:

24 (i) spirituous or fermented liquor;

25 (ii) medicine, other than medicine provided by the facility's health care providers in
26 compliance with facility policy; or

27 (iii) poison in any quantity.

28 (d) A person is guilty of a class A misdemeanor who, without the permission of the
29 authority operating the correctional or mental health facility, fails to declare or knowingly
30 possesses at a correctional facility or in a secure area of a mental health facility any:

31 (i) spirituous or fermented liquor;

1 (ii) medicine; or

2 (iii) poison in any quantity.

3 (e) A person is guilty of a class B misdemeanor who, without the permission of the
4 authority operating the facility, knowingly engages in any activity that would facilitate the
5 possession of any contraband by an offender in a correctional facility.

6 (f) Exemptions may be granted for worship for Native American inmates pursuant to
7 Section 64-13-40.

8 (6) The possession, distribution, or use of a controlled substance at a correctional facility
9 or in a secure area of a mental health facility shall be prosecuted in accordance with Title 58,
10 Chapter 37, Utah Controlled Substances Act.

11 Section 7. Section **76-10-501** is amended to read:

12 **76-10-501. Definitions.**

13 ~~[(1) (a) The individual right to keep and bear arms being a constitutionally protected right,~~
14 ~~the Legislature finds the need to provide uniform laws throughout the state. Except as specifically~~
15 ~~provided by state law, a citizen of the United States or a lawfully admitted alien shall not be:]~~

16 ~~[(i) prohibited from owning, possessing, purchasing, transporting, or keeping any firearm~~
17 ~~at his place of residence, property, business, or in any vehicle under his control; or]~~

18 ~~[(ii) required to have a permit or license to purchase, own, possess, transport, or keep a~~
19 ~~firearm.]~~

20 ~~[(b) This part is uniformly applicable throughout this state and in all its political~~
21 ~~subdivisions and municipalities. All authority to regulate firearms shall be reserved to the state~~
22 ~~except where the Legislature specifically delegates responsibility to local authorities. Unless~~
23 ~~specifically authorized by the Legislature by statute, a local authority may not enact or enforce any~~
24 ~~ordinance, regulation, or rule pertaining to firearms.]~~

25 ~~[(2)]~~ As used in this part:

26 ~~[(a) (i)]~~ (1) (a) "Concealed dangerous weapon" means a dangerous weapon that is covered,
27 hidden, or secreted in a manner that the public would not be aware of its presence and is readily
28 accessible for immediate use.

29 ~~[(ii)]~~ (b) A dangerous weapon shall not be considered a concealed dangerous weapon if it
30 is a firearm which is unloaded and is securely encased.

31 ~~[(b)]~~ (2) "Crime of violence" means aggravated murder, murder, manslaughter, rape,

1 mayhem, kidnapping, robbery, burglary, housebreaking, extortion, or blackmail accompanied by
2 threats of violence, assault with a dangerous weapon, assault with intent to commit any offense
3 punishable by imprisonment for more than one year, arson punishable by imprisonment for more
4 than one year, or an attempt to commit any of these offenses.

5 [(c)] (3) "Criminal history background check" means a criminal background check
6 conducted by a licensed firearms dealer on every purchaser of a handgun through the division or
7 the local law enforcement agency where the firearms dealer conducts business.

8 [(d)] (4) "Dangerous weapon" means any item that in the manner of its use or intended use
9 is capable of causing death or serious bodily injury. The following factors shall be used in
10 determining whether a knife, or any other item, object, or thing not commonly known as a
11 dangerous weapon is a dangerous weapon:

12 [(i)] (a) the character of the instrument, object, or thing;

13 [(ii)] (b) the character of the wound produced, if any;

14 [(iii)] (c) the manner in which the instrument, object, or thing was used; and

15 [(iv)] (d) the other lawful purposes for which the instrument, object, or thing may be used.

16 [(e)] (5) "Dealer" means every person who is licensed under crimes and criminal
17 procedure, 18 U.S.C. 923 and engaged in the business of selling, leasing, or otherwise transferring
18 a handgun, whether the person is a retail or wholesale dealer, pawnbroker, or otherwise.

19 [(f)] (6) "Division" means the Law Enforcement and Technical Services Division of the
20 Department of Public Safety, created in Section 53-5-103.

21 (7) "Enter" means intrusion of the entire body.

22 [(g)] (8) "Firearm" means a pistol, revolver, shotgun, sawed-off shotgun, rifle or
23 sawed-off rifle, or any device that could be used as a dangerous weapon from which is expelled
24 a projectile by action of an explosive.

25 [(h)] (9) "Fully automatic weapon" means any firearm which fires, is designed to fire, or
26 can be readily restored to fire, automatically more than one shot without manual reloading by a
27 single function of the trigger.

28 [(i)] (10) "Firearms transaction record form" means a form created by the division to be
29 completed by a person purchasing, selling, or transferring a handgun from a dealer in the state.

30 [(j)] (11) "Handgun" means a pistol, revolver, or other firearm of any description, loaded
31 or unloaded, from which any shot, bullet, or other missile can be discharged, the length of which,

1 not including any revolving, detachable, or magazine breech, does not exceed 12 inches.

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

6 (13) (a) "On school premises" means:

7 (i) in a public or private elementary or secondary school building; or

8 (ii) on school grounds made readily identifiable by enclosure or posting of signs.

9 (b) "On school premises" does not include outdoor areas of implied access to the school,
10 which area consists of roadways, parking lots, and walkways and sidewalks which are adjacent to
11 a roadway or parking lot.

12 ~~[(k)]~~ (14) "Prohibited area" means any place where it is unlawful to discharge a firearm.

13 (15) "Private residence" means an improvement to real property used or occupied as a
14 primary or secondary residence.

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

18 (17) "Responsible school administrator" means any person authorized by the public school
19 district or the governing board of a private elementary or secondary school to grant case-by-case
20 exceptions to any weapons prohibition.

21 ~~[(m)]~~ (18) "Sawed-off shotgun" or "sawed-off rifle" means a shotgun having a barrel or
22 barrels of fewer than 18 inches in length, or in the case of a rifle, having a barrel or barrels of fewer
23 than 16 inches in length, or any dangerous weapon made from a rifle or shotgun by alteration,
24 modification, or otherwise, if the weapon as modified has an overall length of fewer than 26
25 inches.

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

29 Section 8. Section **76-10-501.5** is enacted to read:

30 **76-10-501.5. Uniform law.**

31 (1) The individual right to keep and bear arms being a constitutionally protected right, the

1 Legislature finds the need to provide uniform laws throughout the state. Except as specifically
 2 provided by state law, a citizen of the United States or a lawfully admitted alien shall not be:

3 (a) prohibited from owning, possessing, purchasing, transporting, or keeping any firearm
 4 at his place of residence, property, business, or in any vehicle under his control; or

5 (b) required to have a permit or license to purchase, own, possess, transport, or keep a
 6 firearm.

7 (2) This part is uniformly applicable throughout this state and in all its political
 8 subdivisions and municipalities. All authority to regulate firearms shall be reserved to the state
 9 except where the Legislature specifically delegates responsibility to local authorities. Unless
 10 specifically authorized by the Legislature by statute, a local authority may not enact or enforce any
 11 ordinance, regulation, or rule pertaining to firearms.

12 Section 9. Section **76-10-505.5** is amended to read:

13 **76-10-505.5. Possession of a dangerous weapon, firearm, on school premises --**
 14 **Penalties -- Exceptions.**

15 (1) A person, including a person licensed to carry a concealed firearm under Title 53,
 16 Chapter 5, Part 7, Concealed Weapon Act, may not knowingly and intentionally possess any
 17 dangerous weapon, including a firearm[, or sawed-off shotgun], as those terms are defined in
 18 Section 76-10-501, at a place that the person knows, or has reasonable cause to believe, is on [or
 19 about] school premises.

20 (2) (a) [~~Possession~~] Except as provided in Subsection (2)(c), possession of a dangerous
 21 weapon which is not a firearm on [or about] school premises is a class B misdemeanor.

22 (b) [~~Possession~~] Except as provided in Subsection (2)(c), possession of a firearm [~~or~~
 23 ~~sawed-off shotgun~~] on [or about] school premises is a class A misdemeanor.

24 (c) A person licensed to carry a concealed firearm pursuant to Title 53, Chapter 5, Part 7,
 25 Concealed Weapon Act, who violates Subsection (1) is guilty of:

26 (i) an infraction for the first offense; or

27 (ii) a class C misdemeanor:

28 (A) for each subsequent offense; or

29 (B) if the person remains or enters on school premises while in possession of a dangerous
 30 weapon after receiving notice to remove the dangerous weapon from school premises.

31 (3) This section [~~applies~~] does not apply to any person[~~, except persons authorized to~~

1 possess a firearm as provided under Sections 53-5-704, 53-5-705, 53A-3-502, 76-10-511,
2 76-10-523, Subsection 76-10-504(2), and as otherwise authorized by law.] whose possession of
3 the dangerous weapon or firearm is lawful and:

4 (a) the possession is approved by the responsible school administrator, including for
5 self-protection on a case-by-case basis; or

6 (b) the item or material is present or to be used in connection with a lawful, approved
7 activity and is in the possession or under the control of the person responsible for its possession
8 or use.

9 (4) This section does not prohibit prosecution of a more serious weapons offense that may
10 occur on [or about] school premises.

11 Section 10. Section **76-10-530** is enacted to read:

12 **76-10-530. Restricting dangerous weapons in a house of worship -- Defense -- Penalty.**

13 (1) A person, including a person licensed to carry a concealed firearm pursuant to Title 53,
14 Chapter 5, Part 7, Concealed Weapon Act, may not knowingly or intentionally:

15 (a) transport a dangerous weapon into a house of worship; or

16 (b) enter or remain in a house of worship while in possession of a dangerous weapon.

17 (2) It is a defense to prosecution under this section that the person had permission of the
18 church or organization operating the house of worship to possess the dangerous weapon in or to
19 transport it into the house of worship.

20 (3) A violation of this section is:

21 (a) an infraction for the first offense; or

22 (b) a class C misdemeanor:

23 (i) for each subsequent offense; or

24 (ii) if notice that dangerous weapons are prohibited has been given by:

25 (A) personal communication to the actor by the church or organization operating the house
26 of worship or a person with apparent authority to act on behalf of the church or organization
27 operating the house of worship; or

28 (B) posting of signs reasonably likely to come to the attention of persons entering the
29 house of worship.

30 Section 11. Section **76-10-531** is enacted to read:

31 **76-10-531. Restricting dangerous weapons in private residences -- Defense -- Penalty.**

- 1 (1) A person, including a person licensed to carry a concealed firearm pursuant to Title 53,
2 Chapter 5, Part 7, Concealed Weapon Act, may not knowingly or intentionally:
3 (a) transport a dangerous weapon into a private residence; or
4 (b) enter or remain in a private residence while in possession of a dangerous weapon.
5 (2) It is a defense to prosecution under this section that the person had prior permission
6 to possess the dangerous weapon in or to transport it into the private residence of:
7 (a) the owner, lessee, or person with lawful right of possession of the private residence;
8 or
9 (b) a person with apparent authority to act for the person in Subsection (2)(a).
10 (3) A violation of this section is a class C misdemeanor.
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Legislative Review Note
as of 1-26-98 3:40 PM

A limited legal review of this bill raises no obvious constitutional or statutory concerns.

Office of Legislative Research and General Counsel