

**Private Individual Detention Amendments**

2025 GENERAL SESSION

STATE OF UTAH

**Chief Sponsor: Walt Brooks**

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**LONG TITLE****General Description:**

This bill concerns a detention made by a private individual.

**Highlighted Provisions:**

This bill:

▸ amends the circumstances under which a private individual may lawfully detain another individual, including removing the use of the term "arrest";

▸ provides a limitation on civil and criminal liability for a private individual who temporarily detains another individual under certain circumstances;

▸ revises provisions concerning the use of force when conducting an arrest or a temporary detention;

▸ amends procedures that govern the subsequent arrest and transportation of an individual who has been temporarily detained by another private individual; and

▸ makes technical and conforming changes.

**Money Appropriated in this Bill:**

None

**Other Special Clauses:**

None

**Utah Code Sections Affected:****AMENDS:**

**77-7-3**, as enacted by Laws of Utah 1980, Chapter 15

**77-7-7**, as enacted by Laws of Utah 1980, Chapter 15

**77-7-23**, as last amended by Laws of Utah 2018, Chapter 140

**78B-6-1605**, as enacted by Laws of Utah 2009, Chapter 187

**80-6-201**, as last amended by Laws of Utah 2024, Chapter 301

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

Section 1. Section **77-7-3** is amended to read:

**77-7-3 . Temporary detention made by a private individual.**

- 32 (1) A private ~~[person]~~ individual may ~~[arrest]~~ temporarily detain another individual:  
 33 ~~[(1)]~~ (a) ~~[For]~~ for a public offense committed or attempted in [his] the private individual's  
 34 presence; or  
 35 ~~[(2)]~~ (b) ~~[When]~~ when a felony has been committed and [he] the private individual has  
 36 reasonable cause to believe the [person-arrested] individual who the private individual  
 37 seeks to temporarily detain has committed [it] the felony.
- 38 (2)(a) A temporary detention under Subsection (1) is lawful only if:  
 39 (i) the private individual immediately contacts law enforcement to notify law  
 40 enforcement of the situation and the temporary detention; and  
 41 (ii) the temporary detention lasts only until a law enforcement officer arrives.  
 42 (b) A private individual is not required to immediately contact law enforcement as  
 43 described in Subsection (2)(a)(i) if the private individual knows that another  
 44 individual has already contacted law enforcement to notify law enforcement of the  
 45 situation and the temporary detention.
- 46 (3) A private individual who in good faith conducts a lawful temporary detention under this  
 47 section is not liable for criminal or civil damages or penalties as a result of an act or  
 48 omission by the private individual in performing the temporary detention unless the  
 49 private individual was grossly negligent.

50 Section 2. Section ~~77-7-7~~ is amended to read:

51 **77-7-7 . Force in making an arrest or temporary detention.**

- 52 (1) If ~~[a person]~~ an individual who is being arrested ~~[and]~~ by a peace officer, or  
 53 temporarily detained by a private individual under Section 77-7-3, flees or forcibly  
 54 resists after being informed of the intention to make the arrest or the temporary detention,  
 55 the ~~[person-arresting]~~ peace officer who is effecting the arrest, or the private individual  
 56 who is effecting the temporary detention, may use reasonable force to effect the arrest or  
 57 temporary detention.

- 58 (2) Deadly force may be used only as provided in Section 76-2-404.

59 Section 3. Section ~~77-7-23~~ is amended to read:

60 **77-7-23 . Delivery of an individual arrested without a warrant to a magistrate --**  
 61 **Transfer to a court with jurisdiction -- Transfer of duties -- Violation as misdemeanor.**

- 62 (1)(a) ~~[When]~~  
 63 (i)(A) If an arrest is made without a warrant by a peace officer~~[or private person],~~  
 64 the ~~[person-arrested]~~ individual who has been arrested shall be taken by a peace  
 65 officer without unnecessary delay to the magistrate in the district court, the

66 precinct of the county, or the municipality in which the offense occurred,  
67 except under Subsection (2).

68 (B) An information stating the charge against the ~~[person]~~ arrested individual shall  
69 be made before the magistrate.

70 (ii) If a private individual temporarily detains another individual under Section 77-7-3,  
71 a peace officer shall determine whether to release or arrest the individual who has  
72 been detained, and if the peace officer arrests the individual who has been  
73 detained, the peace officer shall follow the procedures described in Subsection  
74 (1)(a)(i).

75 (b) If the justice court judge of the precinct or municipality or the district court judge is  
76 not available, the arrested ~~[person]~~ individual shall be taken before the magistrate  
77 within the same county who is nearest to the scene of the alleged offense or nearest to  
78 the jail under Subsection (2), who may act as committing magistrate for arraigning  
79 the accused individual, setting bail, or issuing warrants.

80 (2)(a) If the arrested ~~[person]~~ individual under Subsection (1) must be transported from  
81 jail to a magistrate, the ~~[person]~~ individual may be taken before the magistrate nearest  
82 to the jail rather than the magistrate specified in Subsection (1) for arraignment,  
83 setting bail, or issuing warrants.

84 (b) The case shall then be transferred to the court having jurisdiction.

85 (3) If a jail accepts custody of ~~[a person]~~ an individual arrested under Subsection (1), the  
86 duties under this section of the peace officer ~~[or private person]~~ who makes the arrest are  
87 transferred to the jail and the jail's personnel.

88 (4) This section does not confer jurisdiction upon a court unless otherwise provided by law.

89 (5) ~~[Any officer or person violating this section is guilty of.]~~ A violation of this section is a  
90 class B misdemeanor.

91 Section 4. Section **78B-6-1605** is amended to read:

92 **78B-6-1605 . Reservation of legal options -- Ordinances.**

93 (1)(a) This part may not be construed as a waiver by a local entity of a right to seek  
94 reimbursement for actual costs of response services through another legal remedy or  
95 procedure.

96 (b) The procedure provided for in this part is in addition to any other civil or criminal  
97 statute.

98 (c) This part does not limit the authority of a law enforcement officer to make an arrest,  
99 or a private [citizen to make an arrest] individual to make a lawful temporary

100            detention under Section 77-7-3, for a criminal offense arising out of conduct  
101            regulated by this part.

102        (2) A local entity may impose by ordinance a stricter provision related to the conduct of an  
103            underage drinking gathering, including the imposition of a different civil penalty  
104            amount, except that the ordinance shall provide that a civil penalty for an underage  
105            drinking gathering may only be imposed by a local entity for which an emergency  
106            response provider provides services at the underage drinking gathering.

107            Section 5. Section **80-6-201** is amended to read:

108            **80-6-201 . Minor taken into temporary custody by peace officer, private**  
109            **individual, or probation officer -- Grounds -- Protective custody.**

110        (1) A minor may be taken into temporary [-]custody by a peace officer without a court  
111            order, or a warrant under Section 80-6-202, [-]if the peace officer has probable cause to  
112            believe that:

113            (a) the minor has committed an offense under municipal, state, or federal law;

114            (b) the minor seriously endangers the minor's own welfare or the welfare of others and  
115            taking the minor into temporary custody appears to be necessary for the protection of  
116            the minor or others;

117            (c) the minor has run away or escaped from the minor's parents, guardian, or custodian;  
118            or

119            (d) the minor is:

120            (i) subject to the state's compulsory education law; and

121            (ii) subject to Sections 53G-6-208 and 53G-8-211, absent from school without  
122            legitimate or valid excuse.

123        (2) A private [~~citizen~~] individual may take a minor into temporary [-]custody if under the  
124            circumstances the private [~~citizen could make a citizen's arrest~~] individual would be  
125            lawfully able to effect a temporary detention under Section 77-7-3 [-]if the minor was an  
126            adult.

127        (3) A juvenile probation officer may take a minor into temporary custody:

128            (a) under the same circumstances as a peace officer in Subsection (1); or

129            (b) if the juvenile probation officer has a reasonable suspicion that [-]the minor has  
130            violated the conditions of the minor's probation.

131        (4)(a) Nothing in this part shall be construed to prevent a peace officer or the Division  
132            of Child and Family Services from taking a minor into protective custody under  
133            Section 80-2a-202 or 80-3-204.

134 (b) If a peace officer or the Division of Child and Family Services takes a minor into  
135 protective custody, the provisions of Chapter 2, Child Welfare Services, Chapter 2a,  
136 Removal and Protective Custody of a Child, and Chapter 3, Abuse, Neglect, and  
137 Dependency Proceedings shall govern.

138 Section 6. **Effective date.**

139 This bill takes effect on May 7, 2025.