

Verona Mauga proposes the following substitute bill:

Restricted Person Amendments

2025 GENERAL SESSION

STATE OF UTAH

Chief Sponsor: Verona Mauga

2

3 **LONG TITLE**

4 **General Description:**

5 This bill amends provisions relating to those who are restricted persons regarding
6 dangerous weapons.

7 **Highlighted Provisions:**

8 This bill:

- 9 ▶ makes a person a restricted person if the person has been found not guilty by reason of
- 10 insanity for any criminal offense not just a felony level offense;
- 11 ▶ makes a person a restricted person if the person has been found mentally incompetent to
- 12 stand trial for any criminal offense not just a felony level offense; and
- 13 ▶ contains a coordination clause to coordinate technical changes between this bill and H.B.
- 14 133, Dangerous Weapon Amendments.

15 **Money Appropriated in this Bill:**

16 None

17 **Other Special Clauses:**

18 This bill provides a coordination clause.

19 **Utah Code Sections Affected:**

20 AMENDS:

21 **76-10-503**, as last amended by Laws of Utah 2023, First Special Session, Chapter 2

22 **Utah Code Sections affected by Coordination Clause:**

23

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

25 Section 1. Section **76-10-503** is amended to read:

26 **76-10-503 . Restrictions on possession, purchase, transfer, and ownership of**
27 **dangerous weapons by certain persons -- Exceptions.**

28 (1) For purposes of this section:

29 (a) A Category I restricted person is a person who:

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

- 31 (ii) is on probation or parole for a felony;
- 32 (iii) is on parole from secure care, as defined in Section 80-1-102;
- 33 (iv) within the last 10 years has been adjudicated under Section 80-6-701 for an
- 34 offense which if committed by an adult would have been a violent felony as
- 35 defined in Section 76-3-203.5;
- 36 (v) is an alien who is illegally or unlawfully in the United States; or
- 37 (vi) is on probation for a conviction of possessing:
- 38 (A) a substance classified in Section 58-37-4 as a Schedule I or II controlled
- 39 substance;
- 40 (B) a controlled substance analog; or
- 41 (C) a substance listed in Section 58-37-4.2.
- 42 (b) A Category II restricted person is a person who:
- 43 (i) has been convicted of:
- 44 (A) a domestic violence offense that is a felony;
- 45 (B) a felony that is not a domestic violence offense or a violent felony and within
- 46 seven years after completing the sentence for the conviction, has been
- 47 convicted of or charged with another felony or class A misdemeanor;
- 48 (C) multiple felonies that are part of a single criminal episode and are not
- 49 domestic violence offenses or violent felonies and within seven years after
- 50 completing the sentence for the convictions, has been convicted of or charged
- 51 with another felony or class A misdemeanor; or
- 52 (D) multiple felonies that are not part of a single criminal episode;
- 53 (ii)(A) within the last seven years has completed a sentence for:
- 54 (I) a conviction for a felony that is not a domestic violence offense or a violent
- 55 felony; or
- 56 (II) convictions for multiple felonies that are part of a single criminal episode
- 57 and are not domestic violence offenses or violent felonies; and
- 58 (B) within the last seven years and after the completion of a sentence for a
- 59 conviction described in Subsection (1)(b)(ii)(A), has not been convicted of or
- 60 charged with another felony or class A misdemeanor;
- 61 (iii) within the last seven years has been adjudicated delinquent for an offense which
- 62 if committed by an adult would have been a felony;
- 63 (iv) is an unlawful user of a controlled substance as defined in Section 58-37-2;
- 64 (v) is in possession of a dangerous weapon and is knowingly and intentionally in

- 65 unlawful possession of a Schedule I or II controlled substance as defined in
66 Section 58-37-2;
- 67 (vi) has been found not guilty by reason of insanity for a [~~felony~~] criminal offense;
68 (vii) has been found mentally incompetent to stand trial for a [~~felony~~] criminal offense;
69 (viii) has been adjudicated as mentally defective as provided in the Brady Handgun
70 Violence Prevention Act, Pub. L. No. 103-159, 107 Stat. 1536 (1993), or has been
71 committed to a mental institution;
- 72 (ix) has been dishonorably discharged from the armed forces;
- 73 (x) has renounced the individual's citizenship after having been a citizen of the
74 United States;
- 75 (xi) is a respondent or defendant subject to a protective order or child protective order
76 that is issued after a hearing for which the respondent or defendant received actual
77 notice and at which the respondent or defendant has an opportunity to participate,
78 that restrains the respondent or defendant from harassing, stalking, threatening, or
79 engaging in other conduct that would place an intimate partner, as defined in 18
80 U.S.C. Sec. 921, or a child of the intimate partner, in reasonable fear of bodily
81 injury to the intimate partner or child of the intimate partner, and that:
- 82 (A) includes a finding that the respondent or defendant represents a credible threat
83 to the physical safety of an individual who meets the definition of an intimate
84 partner in 18 U.S.C. Sec. 921 or the child of the individual; or
- 85 (B) explicitly prohibits the use, attempted use, or threatened use of physical force
86 that would reasonably be expected to cause bodily harm against an intimate
87 partner or the child of an intimate partner; or
- 88 (xii) except as provided in Subsection (1)(d), has been convicted of the commission
89 or attempted commission of misdemeanor assault under Section 76-5-102 or
90 aggravated assault under Section 76-5-103 against an individual:
- 91 (A) who is a current or former spouse, parent, or guardian;
92 (B) with whom the restricted person shares a child in common;
93 (C) who is cohabitating or has cohabitated with the restricted person as a spouse,
94 parent, or guardian;
95 (D) involved in a dating relationship with the restricted person within the last five
96 years; or
97 (E) similarly situated to a spouse, parent, or guardian of the restricted person.
- 98 (c)(i) As used in this section, a conviction of a felony or adjudication of delinquency

- 99 for an offense which would be a felony if committed by an adult does not include:
- 100 (A) a conviction or an adjudication under Section 80-6-701 for an offense
101 pertaining to antitrust violations, unfair trade practices, restraint of trade, or
102 other similar offenses relating to the regulation of business practices not
103 involving theft or fraud; or
- 104 (B) a conviction or an adjudication under Section 80-6-701 which, in accordance
105 with the law of the jurisdiction in which the conviction or adjudication
106 occurred, has been expunged, set aside, reduced to a misdemeanor by court
107 order, pardoned or regarding which the person's civil rights have been restored
108 unless the pardon, reduction, expungement, or restoration of civil rights
109 expressly provides that the person may not ship, transport, possess, or receive
110 firearms.
- 111 (ii) As used in this section, a conviction for misdemeanor assault under Subsection
112 (1)(b)(xii), does not include a conviction which, in accordance with the law of the
113 jurisdiction in which the conviction occurred, has been expunged, set aside,
114 reduced to an infraction by court order, pardoned, or regarding which the person's
115 civil rights have been restored, unless the pardon, reduction, expungement, or
116 restoration of civil rights expressly provides that the person may not ship,
117 transport, possess, or receive firearms.
- 118 (iii) It is the burden of the defendant in a criminal case to provide evidence that a
119 conviction or an adjudication under Section 80-6-701 is subject to an exception
120 provided in this Subsection (1)(c), after which it is the burden of the state to prove
121 beyond a reasonable doubt that the conviction or the adjudication is not subject to
122 that exception.
- 123 (d) A person is not a restricted person for a conviction under Subsection (1)(b)(xii)(D) if:
- 124 (i) five years have elapsed from the later of:
- 125 (A) the day on which the conviction is entered;
- 126 (B) the day on which the person is released from incarceration following the
127 conviction; or
- 128 (C) the day on which the person's probation for the conviction is successfully
129 terminated;
- 130 (ii) the person only has a single conviction for misdemeanor assault as described in
131 Subsection (1)(b)(xii)(D); and
- 132 (iii) the person is not otherwise a restricted person under Subsection (1)(a) or (b).

- 133 (2) A Category I restricted person who intentionally or knowingly agrees, consents, offers,
134 or arranges to purchase, transfer, possess, use, or have under the person's custody or
135 control, or who intentionally or knowingly purchases, transfers, possesses, uses, or has
136 under the person's custody or control:
- 137 (a) a firearm is guilty of a second degree felony; or
 - 138 (b) a dangerous weapon other than a firearm is guilty of a third degree felony.
- 139 (3) A Category II restricted person who intentionally or knowingly purchases, transfers,
140 possesses, uses, or has under the person's custody or control:
- 141 (a) a firearm is guilty of a third degree felony; or
 - 142 (b) a dangerous weapon other than a firearm is guilty of a class A misdemeanor.
- 143 (4) A person may be subject to the restrictions of both categories at the same time.
- 144 (5) A Category I or Category II restricted person may not use an antique firearm for an
145 activity regulated under Title 23A, Wildlife Resources Act.
- 146 (6) If a higher penalty than is prescribed in this section is provided in another section for
147 one who purchases, transfers, possesses, uses, or has under this custody or control a
148 dangerous weapon, the penalties of that section control.
- 149 (7) It is an affirmative defense to a charge based on the definition in Subsection (1)(b)(v)
150 that the person was:
- 151 (a) in possession of a controlled substance pursuant to a lawful order of a practitioner for
152 use of a member of the person's household or for administration to an animal owned
153 by the person or a member of the person's household; or
 - 154 (b) otherwise authorized by law to possess the substance.
- 155 (8)(a) It is an affirmative defense to transferring a firearm or other dangerous weapon by
156 a person restricted under Subsection (2) or (3) that the firearm or dangerous weapon:
- 157 (i) was possessed by the person or was under the person's custody or control before
158 the person became a restricted person;
 - 159 (ii) was not used in or possessed during the commission of a crime or subject to
160 disposition under Section Title 77, Chapter 11a, Part 4, Disposal of Seized
161 Property and Contraband;
 - 162 (iii) is not being held as evidence by a court or law enforcement agency;
 - 163 (iv) was transferred to a person not legally prohibited from possessing the weapon;
164 and
 - 165 (v) unless a different time is ordered by the court, was transferred within 10 days of
166 the person becoming a restricted person.

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

169 (9)(a) A person may not sell, transfer, or otherwise dispose of a firearm or dangerous
170 weapon to a person, knowing that the recipient is a person described in Subsection
171 (1)(a) or (b).

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

173 (i) a person described in Subsection (1)(a) and the transaction involves a firearm, is
174 guilty of a second degree felony;

175 (ii) a person described in Subsection (1)(a) and the transaction involves a dangerous
176 weapon other than a firearm, and the transferor has knowledge that the recipient
177 intends to use the weapon for any unlawful purpose, is guilty of a third degree
178 felony;

179 (iii) a person described in Subsection (1)(b) and the transaction involves a firearm, is
180 guilty of a third degree felony; or

181 (iv) a person described in Subsection (1)(b) and the transaction involves a dangerous
182 weapon other than a firearm, and the transferor has knowledge that the recipient
183 intends to use the weapon for an unlawful purpose, is guilty of a class A
184 misdemeanor.

185 (10)(a) A person may not knowingly solicit, persuade, encourage or entice a dealer or
186 other person to sell, transfer or otherwise dispose of a firearm or dangerous weapon
187 under circumstances which the person knows would be a violation of the law.

188 (b) A person may not provide to a dealer or other person information that the person
189 knows to be materially false information with intent to deceive the dealer or other
190 person about the legality of a sale, transfer or other disposition of a firearm or
191 dangerous weapon.

192 (c) "Materially false information" means information that portrays an illegal transaction
193 as legal or a legal transaction as illegal.

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

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

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

198 Section 2. **Effective Date.**

199 This bill takes effect on May 7, 2025.

200 Section 3. **Coordinating H.B. 227 with H.B. 133.**

201 If H.B. 227, Restricted Person Amendments, and H.B. 133, Dangerous Weapons
202 Amendments, both pass and become law, the Legislature intends that, on May 7, 2025:
203 (1) Subsection 76-11-303(7), enacted in H.B. 133, be amended to read:
204 "(7) being found not guilty by reason of insanity for a criminal offense;" and
205 (2) Subsection 76-11-303(8), enacted in H.B. 133, be amended to read:
206 "(8) being found mentally incompetent to stand trial for a criminal offense;".