

# HB0485S01 compared with HB0485

~~deleted text~~ shows text that was in HB0485 but was deleted in HB0485S01.

inserted text shows text that was not in HB0485 but was inserted into HB0485S01.

**DISCLAIMER:** This document is provided to assist you in your comparison of the two bills. Sometimes this automated comparison will NOT be completely accurate. Therefore, you need to read the actual bills. This automatically generated document could contain inaccuracies caused by: limitations of the compare program; bad input data; or other causes.

Representative Andrew Stoddard proposes the following substitute bill:

## RESTRICTED PERSONS AMENDMENTS

2023 GENERAL SESSION

STATE OF UTAH

**Chief Sponsor: Andrew Stoddard**

Senate Sponsor: \_\_\_\_\_

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### LONG TITLE

#### General Description:

This bill concerns notification procedures for an individual who becomes a restricted person.

#### Highlighted Provisions:

This bill:

- ▶ defines terms;
- ▶ amends provisions relating to firearm notifications for an individual who becomes a restricted person as a result of certain types of protective orders; and
- ▶ makes technical and conforming changes.

#### Money Appropriated in this Bill:

None

#### Other Special Clauses:

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None

### Utah Code Sections Affected:

AMENDS:

**76-10-503.1**, as enacted by Laws of Utah 2021, Chapter 107

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

Section 1. Section **76-10-503.1** is amended to read:

**76-10-503.1. Firearm restriction notification requirement.**

(1) As used in this section:

(a) "Peace officer" means an officer described Section 53-13-102.

(b) "Possess" or "possession" means actual physical possession, actual or purported ownership, or exercising control of an item.

(b)c "Restricted person" means an individual who is restricted from possessing, purchasing, transferring, or owning a firearm under Section 76-10-503.

~~[(b) "Possess" or "possession" means actual physical possession, actual or purported ownership, or exercising control of an item.]~~

(2) A defendant intending to plead guilty or no contest to a criminal charge that will, upon conviction, cause the defendant to become a restricted person shall, before entering a plea before a court, sign an acknowledgment that states:

(a) the defendant's attorney or the prosecuting attorney has informed the defendant:

(i) that conviction of the charge will classify the defendant as a restricted person;

(ii) that a restricted person may not possess a firearm; and

(iii) of the criminal penalties associated with possession of a firearm by a restricted person of the same category the defendant will become upon entering a plea for the criminal charge; and

(b) the defendant acknowledges and understands that, by pleading guilty or no contest to the criminal charge, the defendant:

(i) will be a restricted person;

(ii) upon conviction, shall forfeit possession of each firearm currently possessed by the defendant; and

(iii) will be in violation of federal and state law if the defendant possesses a firearm.

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(3) The prosecuting attorney or the defendant's attorney shall provide the acknowledgment described in Subsection (2) to the court before the defendant's entry of a plea, if the defendant pleads guilty or no contest.

(4) A defendant who is convicted by trial of a criminal charge resulting in the defendant becoming a restricted person shall, at the time of sentencing:

(a) be verbally informed by the court, prosecuting attorney, or defendant's attorney:

(i) that the defendant is a restricted person;

(ii) that, as a restricted person, the defendant may not possess a firearm; and

(iii) of the criminal penalties associated with possession of a firearm by a restricted person of the defendant's category; and

(b) sign an acknowledgment in the presence of the court attesting that the defendant acknowledges and understands that the defendant:

(i) is a restricted person;

(ii) shall forfeit possession of each firearm; and

(iii) will be in violation of federal and state law if the defendant possesses a firearm.

(5) The prosecuting attorney and the defendant's attorney shall inform the court at the preliminary hearing if a charge filed against the defendant would qualify the defendant as a restricted person if the defendant is convicted of the charge.

(6) The failure to inform or obtain a signed acknowledgment from the defendant may not render the plea invalid, form the basis for withdrawal of the plea, or create a basis to challenge a conviction or sentence.

(7) An individual who becomes a restricted person as a result of being served with a pretrial protective order in accordance with Section 78B-7-803, a sentencing protective order in accordance with Section 77-36-5, or a continuous protective order in accordance with Section 77-36-5, shall, at the time of service of the protective order:

(a) be verbally informed by the court, prosecuting attorney, defendant's attorney, or ~~the individual~~, if a peace officer is serving the protective order, the peace officer:

(i) that the individual is a restricted person;

(ii) that, as a restricted person, the individual may not possess a firearm; and

(iii) of the criminal penalties associated with possession of a firearm by a restricted person of the individual's category; and

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(b) sign, in the presence of the court or ~~{ the individual serving }~~, ~~if a peace officer serves~~ the protective order, ~~in the presence of the peace officer,~~ an acknowledgment contained within the protective order document attesting that the individual acknowledges and understands that the individual:

(i) is a restricted person;

(ii) ~~{shall}~~ ~~is required to~~ relinquish possession of each firearm; ~~{ and }~~

(iii) will be in violation of federal and state law if the individual ~~{possess}~~ ~~possesses~~ a firearm ~~{,}; and~~

(iv) may be eligible for an affirmative defense to a state-law prosecution for possession of a firearm under Section 76-10-503 if the individual lawfully transfers the individual's firearms within 10 days of becoming a restricted person.