

# HOUSE BILL REPORT

## HB 1122

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### As Reported by House Committee On: Judiciary

**Title:** An act relating to protecting public safety through responsible storage of firearms.

**Brief Description:** Protecting public safety through responsible storage of firearms.

**Sponsors:** Representatives Kagi, Jinkins, Cody, Robinson, Gregerson, Ryu, Ortiz-Self, Fitzgibbon, Farrell, Tharinger, Doglio, Dolan, Frame, Tarleton, Appleton, Springer, Lytton, Chapman, Stanford, Peterson, Ormsby, McBride, Fey, Kloba, Senn, Sells, Kilduff, Santos, Riccelli, Bergquist and Goodman.

#### **Brief History:**

##### **Committee Activity:**

Judiciary: 2/2/17, 2/16/17 [DPS], 1/18/18 [DP2S].

#### **Brief Summary of Second Substitute Bill**

- Provides that, under certain circumstances, a person is guilty of Reckless Endangerment for leaving or storing a firearm in a location where a child is likely to access the firearm and does access and use the firearm.
- Requires firearms dealers to offer to sell or give purchasers a locked box, lock, or device that prevents a firearm from discharging, and provide warnings regarding potential criminal liability for unsafe storage of firearms.

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### HOUSE COMMITTEE ON JUDICIARY

**Majority Report:** The second substitute bill be substituted therefor and the second substitute bill do pass. Signed by 7 members: Representatives Jinkins, Chair; Kilduff, Vice Chair; Goodman, Hansen, Kirby, Orwall and Valdez.

**Minority Report:** Do not pass. Signed by 5 members: Representatives Rodne, Ranking Minority Member; Haler, Klippert, Muri and Shea.

**Minority Report:** Without recommendation. Signed by 1 member: Representative Graves, Assistant Ranking Minority Member.

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*This analysis was prepared by non-partisan legislative staff for the use of legislative members in their deliberations. This analysis is not a part of the legislation nor does it constitute a statement of legislative intent.*

**Staff:** Edie Adams (786-7180).

**Background:**

Certain persons are prohibited from possessing firearms under federal and state law. Under state law, a person is prohibited from owning or possessing a firearm when the person:

- has a felony conviction or finding of not guilty by reason of insanity;
- has a conviction or finding of not guilty by reason of insanity for certain domestic violence offenses;
- is subject to a qualifying protection order, no-contact order, or restraining order that meets certain criteria;
- has previously been committed for involuntary mental health treatment for 14 days or after being found criminally insane or incompetent to stand trial;
- is free on bond or personal recognizance for a serious offense;
- is an offender under Department of Corrections supervision;
- is a non-citizen, unless the person has an alien firearms license; or
- is under age 18 (with exceptions), or with respect to possession of pistols, is under age 21 (with exceptions).

Circumstances where a minor is permitted to possess a firearm include: hunting or trapping under a valid license; attending a hunter or firearms safety course; shooting at an established shooting range; engaging in an organized firearms competition; or acting with permission of a parent or guardian at home or on other property controlled by the parent or guardian.

State firearms laws make it unlawful for a person to deliver a firearm to anyone whom the person has reasonable cause to believe is ineligible under state law to possess a firearm. There are no laws specifically addressing criminal or civil liability for storing or leaving a firearm where a minor can obtain access to the firearm.

A person commits the crime of Reckless Endangerment if the person recklessly engages in conduct that creates a substantial risk of death or serious physical injury to another person. A person acts recklessly when he or she knows of and disregards a substantial risk that a wrongful act may occur, and the disregard of that risk is a gross deviation from conduct that a reasonable person would exercise in the same situation. Reckless Endangerment is a gross misdemeanor offense.

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**Summary of Second Substitute Bill:**

A person is guilty of Reckless Endangerment if the person stores or leaves a firearm in a location where the person knows, or reasonably should know, that a child is likely to gain access, and the child obtains access and possession of the firearm and either:

- causes personal injury or death with the firearm, in which case the offense is an unranked class C felony; or
- causes the firearm to discharge, exhibits the firearm in a public place or in an angry, threatening, or careless manner, or uses the firearm in a crime, in which case the offense is a gross misdemeanor.

The crime does not apply if the firearm was secured in a locked box, gun safe, or other secure locked storage space, or secured with a lock or device that prevents the firearm from discharging. In addition, the crime does not apply if:

- the child's access to the firearm was with the permission of a parent or guardian and supervised by an adult, or is in accordance with laws governing permissible possession of firearms by minors;
- the child's access was obtained as the result of an unlawful entry; or
- the child obtains, or obtains and discharges, the firearm in a lawful act of self-defense.

"Child" means a person under the age of 18.

A prosecuting attorney may decline to prosecute an alleged violation that results in a death or serious injury, such as in the case of a parent who loses a child to suicide by means of a firearm, if prosecution of the violation would serve no public purpose, defeat the purpose of the law, or result in decreased respect for the law.

A firearms dealer must offer to sell or give to a purchaser of any firearm a locked box, a lock, or a device that prevents the discharge of the firearm. In addition, firearms dealers must prominently post a sign on the premises, and deliver written materials to firearms purchasers, that provide a warning indicating that it is a crime to leave an unsecured firearm where a child can and does gain possession. A firearms dealer who violates these requirements is guilty of a class 3 civil infraction and subject to a fine of up to \$50.

Nothing in the act is intended to mandate how or where a firearm must be stored.

### **Second Substitute Bill Compared to Original Bill:**

The new criminal provisions relating to unsafe storage of a firearm are placed under the Reckless Endangerment statute, rather than constituting a new crime of Community Endangerment Due to Unsafe Storage of a Firearm. The criminal offense is limited to instances where a child gains access to a firearm, rather than any prohibited person. The crime does not apply if the child's access to the firearm was obtained as a result of an unlawful entry. Language referencing the loss of a child to suicide by means of a firearm is included in the provision addressing prosecutorial discretion to decline to prosecute a violation in cases where a death or serious injury results.

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**Appropriation:** None.

**Fiscal Note:** Available.

**Effective Date of Second Substitute Bill:** The bill takes effect 90 days after adjournment of the session in which the bill is passed.

**Staff Summary of Public Testimony:**

See House Bill Report in the 2017 Legislative Session.

**Persons Testifying:**

See House Bill Report in the 2017 Legislative Session.

**Persons Signed In To Testify But Not Testifying:**

See House Bill Report in the 2017 Legislative Session.