

SENATE BILL 646

E4, E1

0lr1524
CF HB 636

By: **Senators Smith, Augustine, Beidle, Benson, Elfreth, Feldman, Guzzone, Kelley, King, Lam, Lee, Peters, Pinsky, Rosapepe, Waldstreicher, Washington, Young, Hettleman, and Zucker**

Introduced and read first time: February 3, 2020

Assigned to: Judicial Proceedings

Committee Report: Favorable with amendments

Senate action: Adopted

Read second time: March 12, 2020

CHAPTER _____

1 AN ACT concerning

2 **Public Safety – Access to Firearms – Storage Requirements**
3 **(Jaelynn’s Law)**

4 FOR the purpose of altering a certain prohibition to prohibit a person from storing or
5 leaving a ~~loaded or unloaded~~ firearm in a location where a minor could gain access
6 to the firearm; ~~repealing~~ altering a certain exception to the prohibition; establishing
7 certain exceptions to the prohibition; prohibiting a person from storing or leaving a
8 ~~loaded or unloaded~~ firearm in a location where an unsupervised minor could gain
9 access to the firearm and an unsupervised minor does gain access to the firearm;
10 prohibiting a person from storing or leaving a ~~loaded or unloaded~~ firearm in a
11 location where a minor could gain access to the firearm, an unsupervised minor does
12 gain access to the firearm, and the firearm causes harm to the minor or another
13 person; establishing penalties for a violation of this Act; repealing a certain defined
14 term; declaring the intent of the General Assembly; providing for the construction of
15 a certain provision of this Act; and generally relating to storage of firearms.

16 BY repealing and reenacting, with amendments,
17 Article – Criminal Law
18 Section 4–104
19 Annotated Code of Maryland
20 (2012 Replacement Volume and 2019 Supplement)

EXPLANATION: CAPITALS INDICATE MATTER ADDED TO EXISTING LAW.

[Brackets] indicate matter deleted from existing law.

Underlining indicates amendments to bill.

~~Strike out~~ indicates matter stricken from the bill by amendment or deleted from the law by amendment.



SECTION 1. BE IT ENACTED BY THE GENERAL ASSEMBLY OF MARYLAND,
That the Laws of Maryland read as follows:

Article – Criminal Law

4–104.

(a) (1) In this section the following words have the meanings indicated.

(2) “Ammunition” means a cartridge, shell, or other device containing explosive or incendiary material designed and intended for use in a firearm.

(3) [“Child” means an individual under the age of 16 years.

(4) (i) “Firearm” means a handgun, rifle, shotgun, short-barreled rifle, or short-barreled shotgun, as those terms are defined in § 4–201 of this title, or any other firearm.

(ii) “Firearm” does not include an antique firearm as defined in § 4–201 of this title.

(b) This section does not apply if:

(1) the [child’s] **MINOR’S** access to a firearm is supervised by an individual at least 18 years old;

(2) the [child’s] **MINOR’S** access to a firearm was obtained as a result of an unlawful entry; ~~OR~~

(3) the firearm is in the possession or control of a law enforcement officer while the officer is engaged in official duties; ~~OR~~

(4) **FOR A RIFLE OR SHOTGUN:**

(I) the ~~child~~ MINOR:

1. has a certificate of firearm and hunter safety issued under § 10–301.1 of the Natural Resources Article; **AND**

2. HAS BEEN GIVEN EXPRESS PERMISSION BY THE MINOR’S PARENT OR GUARDIAN TO ACCESS THE RIFLE OR SHOTGUN FOR THE PURPOSE OF ENGAGING IN A LAWFUL ACTIVITY; AND

(II) THE PERSON WHO STORES OR LEAVES THE RIFLE OR SHOTGUN HAS NO REASON TO BELIEVE THAT A MINOR WILL ACCESS THE RIFLE OR

1 SHOTGUN FOR A PURPOSE OTHER THAN THE PURPOSE FOR WHICH THE MINOR HAS
 2 BEEN GIVEN PERMISSION TO ACCESS THE RIFLE OR SHOTGUN;

3 (5) THE FIREARM IS LEFT OR STORED UNLOADED AND HAS BEEN
 4 RENDERED INOPERABLE TO ANYONE OTHER THAN AN ADULT; OR

5 (6) THE PERSON WHO STORES OR LEAVES THE FIREARM STORES OR
 6 LEAVES:

7 (I) THE FIREARM UNLOADED; AND

8 (II) ANY AMMUNITION THAT THE PERSON OWNS OR CONTROLS
 9 THAT IS SUITABLE FOR USE IN THE FIREARM IN A SECURE LOCATION WHERE A
 10 MINOR COULD NOT REASONABLY GAIN ACCESS TO THE AMMUNITION.

11 (c) (1) A person may not store or leave a ~~loaded OR UNLOADED~~ firearm in a
 12 location where the person knew or should have known that an unsupervised [child would]
 13 **MINOR COULD** gain access to the firearm.

14 (2) A PERSON MAY NOT STORE OR LEAVE A ~~LOADED OR UNLOADED~~
 15 FIREARM IN A LOCATION WHERE:

16 (I) THE PERSON KNEW OR SHOULD HAVE KNOWN THAT AN
 17 UNSUPERVISED MINOR COULD GAIN ACCESS TO THE FIREARM; AND

18 (II) AN UNSUPERVISED MINOR DOES GAIN ACCESS TO THE
 19 FIREARM.

20 (3) A PERSON MAY NOT STORE OR LEAVE A ~~LOADED OR UNLOADED~~
 21 FIREARM IN A LOCATION WHERE:

22 (I) THE PERSON KNEW OR SHOULD HAVE KNOWN THAT AN
 23 UNSUPERVISED MINOR COULD GAIN ACCESS TO THE FIREARM;

24 (II) AN UNSUPERVISED MINOR DOES GAIN ACCESS TO THE
 25 FIREARM; AND

26 (III) THE FIREARM CAUSES HARM TO THE MINOR OR TO
 27 ANOTHER PERSON.

28 (d) (1) A person who violates **SUBSECTION (C)(1)** OF this section is guilty of
 29 a misdemeanor and on conviction is subject to ~~IMPRISONMENT NOT EXCEEDING 90 DAYS~~
 30 ~~OR~~ a fine not exceeding \$1,000 ~~OR BOTH~~.

1 **(2) A PERSON WHO VIOLATES SUBSECTION (C)(2) OF THIS SECTION IS**
 2 **GUILTY OF A MISDEMEANOR AND ON CONVICTION IS SUBJECT TO IMPRISONMENT**
 3 **NOT EXCEEDING ~~2 YEARS~~ 1 YEAR OR A FINE NOT EXCEEDING \$2,500 OR BOTH.**

4 **(3) A PERSON WHO VIOLATES SUBSECTION (C)(3) OF THIS SECTION IS**
 5 **GUILTY OF A MISDEMEANOR AND ON CONVICTION IS SUBJECT TO IMPRISONMENT**
 6 **NOT EXCEEDING ~~5 YEARS~~ 3 YEARS OR A FINE NOT EXCEEDING \$5,000 OR BOTH.**

7 (e) (1) A violation of this section may not:

8 (i) be considered evidence of negligence;

9 (ii) be considered evidence of contributory negligence;

10 (iii) limit liability of a party or an insurer; or

11 (iv) diminish recovery for damages arising out of the ownership,
 12 maintenance, or operation of a firearm or ammunition.

13 (2) A party, witness, or lawyer may not refer to a violation of this section
 14 during a trial of a civil action that involves property damage, personal injury, or death.

15 **(F) (1) SUBJECT TO PARAGRAPH (2) OF THIS SUBSECTION, IT IS THE**
 16 **INTENT OF THE GENERAL ASSEMBLY:**

17 **(I) THAT A PARENT OR GUARDIAN OF A CHILD WHO IS HARMED**
 18 **OR WHO DIES AS THE RESULT OF AN ACCIDENTAL SHOOTING BE PROSECUTED ONLY**
 19 **IN THOSE INSTANCES IN WHICH THE PARENT OR GUARDIAN BEHAVED IN A GROSSLY**
 20 **NEGLIGENT MANNER OR WHERE EGREGIOUS CIRCUMSTANCES EXIST; AND**

21 **(II) IF A CHILD IS HARMED OR DIES AS THE RESULT OF AN**
 22 **ACCIDENTAL SHOOTING INVOLVING THE CHILD'S PARENT OR GUARDIAN VIOLATING**
 23 **THIS SECTION, THE STATE'S ATTORNEY SHALL CONSIDER THE IMPACT OF THE**
 24 **HARM OR DEATH ON THE PARENT OR GUARDIAN IN DETERMINING WHETHER TO**
 25 **PROSECUTE THE PARENT OR GUARDIAN UNDER THIS SECTION.**

26 **(2) PARAGRAPH (1) OF THIS SUBSECTION MAY NOT BE CONSTRUED**
 27 **TO LIMIT OR OTHERWISE RESTRICT A STATE'S ATTORNEY'S ABILITY TO PROSECUTE**
 28 **A VIOLATION OF THIS SECTION.**

29 SECTION 2. AND BE IT FURTHER ENACTED, That this Act shall take effect
 30 October 1, 2020.