

# HOUSE BILL REPORT

## HB 1424

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### As Reported By House Committee On:

Criminal Justice & Corrections

**Title:** An act relating to safe storage of firearms.

**Brief Description:** Encouraging safe storage of firearms.

**Sponsors:** Representatives Ballasiotes, O'Brien, Lovick, Dickerson, Ogden, Tokuda, Mitchell, Hankins, Miloscia, Romero, Radcliff, Lantz, Constantine, Kenney, Wood, Veloria, Conway, Cody, Santos, Kagi, Regala, Edmonds, Keiser, Scott, Poulsen and McIntire.

### Brief History:

#### Committee Activity:

Criminal Justice & Corrections: 2/9/99, 2/17/99 [DP].

#### Brief Summary of Bill

- Provides that, under certain circumstances, a person is guilty of the crime of reckless endangerment for leaving or storing a loaded firearm in a location where a child is likely to and does gain access to it.
- Requires firearms dealers to offer to sell or give purchasers a locked box, lock, or device that prevents a firearm from firing, and to post a warning sign regarding safe storage of firearms.

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### HOUSE COMMITTEE ON CRIMINAL JUSTICE & CORRECTIONS

**Majority Report:** Do pass. Signed by 5 members: Representatives Ballasiotes, Republican Co-Chair; O'Brien, Democratic Co-Chair; Lovick, Democratic Vice Chair; Constantine and Kagi.

**Minority Report:** Do not pass. Signed by 3 members: Representatives Cairnes, Republican Vice Chair; B. Chandler and Koster.

**Staff:** Jean Ann Quinn (786-7310).

**Background:**

A person is guilty of reckless endangerment if the person recklessly engages in conduct (not amounting to drive-by shooting) that creates a substantial risk of death or serious physical injury to another person. Reckless endangerment is a gross misdemeanor, punishable by not more than one year of confinement in the county jail, a fine of not more than \$5,000, or both.

It is generally a class C felony for a minor to possess a firearm. However, numerous exceptions to this general rule exist. Under the state's firearms law, minors may possess a firearm:

- When attending a hunter's safety or firearms safety course;
- When shooting at an established range;
- When engaged in or practicing for an organized competition or performance;
- When hunting or trapping under a valid license;
- In an area where shooting a firearm is permitted if the minor: is under parental supervision; or is at least 14 years old, possesses a hunter safety certificate, and is using a firearm other than a pistol;
- When traveling to or from any of the above with an unloaded firearm;
- With parental permission when at home or on other property controlled by his or her parent; or
- When on duty as a member of the armed forces, national guard, or organized reserves.

Some states have also made it a crime to fail to keep a firearm safely stored.

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**Summary of Bill:**

A person is guilty of the crime of reckless endangerment, a gross misdemeanor, if the person stores or leaves a loaded firearm in a location where the person knows, or reasonably should know, that a child under the age of 16 is likely to gain access, and the child obtains possession of the loaded firearm. However, the crime does not apply if the firearm is secured in a locked box, gun safe, other secure locked storage space, or secured with a lock or other device that prevents the firearm from discharging. It also does not apply if the child's access to the firearm is supervised by an adult, was obtained as a result of an unlawful entry, or is authorized by the state's firearms law.

If an alleged violation of this provision leads to serious injury or death, the prosecuting attorney may decline to prosecute in situations where prosecution would serve no public purpose, would defeat the purpose of the law, or would result in decreased respect for the law.

Every firearms dealer is required to offer to sell or give purchasers a locked box, a lock, or a device that prevents the firearm from discharging. Registered firearms dealers are required to conspicuously post a sign warning that it is unlawful to store or leave an unsecured, loaded firearm where a child can and does obtain possession. A violation of this section is a class 3 civil infraction subject to a fine of up to \$50.

It is stated that nothing in the legislation mandates how or where a firearm must be stored.

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**Appropriation:** None.

**Fiscal Note:** Available.

**Effective Date:** Ninety days after adjournment of session in which bill is passed.

**Testimony For:** The bill is the result of a broad-based coalition of parties concerned about the issue, including police and sheriffs, prosecutors, and gun rights activists. All parties have things they would like to see different in the legislation, but all agree that it is important, urgent, and will save lives. It clarifies existing law and gives prosecutors a tool for dealing with irresponsible conduct. It addresses behavior that is criminally negligent and sends a powerful message to the public. The goal of the legislation is to protect children and to deter negligent gun storage, not to put grief stricken parents in jail. Safe storage of firearms is a public health issue. There are conclusive studies that show that this type of legislation reduces deaths and injuries caused by firearms. It is a reasonable, practical step to promote responsible gun ownership.

The bill makes sense for gun owners because gun owners can protect themselves from prosecution by complying with the statute. It does not mandate how or where a gun must be stored, or otherwise change the requirements under current law. It does not infringe on the right to bear arms, and it provides protection against liability for gun owners and gun dealers. It also provides education to the public.

Trigger locks should not be required because they provide a false sense of security.

**Testimony Against:** It is wrong and inappropriate to single out firearms. If the intention is to protect children, then the bill should cover failure to properly store all objects that could be dangerous to children, such as poisons and power tools. The legislation is ignoring the will of the people and it is unnecessary since there are existing criminal and civil remedies that cover this. The risk of civil liability already provides more incentive for safe storage than this criminal penalty. The statistics supplied in favor of the bill are inaccurate and presented recklessly. Very few people would be prosecuted because, under this legislation, prosecutors will choose not to pile on the grief

that already exists. But it is dangerous to allow prosecutors the ability to negotiate whether they will or will not prosecute.

**Testified:** (In support) Norm Maleng, King County Prosecutor; John Laderberg; Randy Graves, parent; Kim Graves, parent; Pam Eakes, Mothers Against Violence in America; Jean Marshall, Washington Academy of Family Physicians; Bill Hanson, Washington State Patrol Troopers Association; Tom Wales, Washington Cease Fire; Mike Patrick, Washington Council of Police and Sheriffs; Chris Eaton, Thurston County Sheriffs Office; Alan Gottlieb, Citizens Committee for the Right to Keep and Bear Arms; Rick Bart, Snohomish County Sheriff; and Tony Gomez, City of Seattle.

(Opposed) Brian Judy, National Rifle Association; John Hubbard, Washington State Rifle and Pistol Association; Allan Woodbridge, Western Fish and Wildlife Federation; Dennis Cook; and Merton Cooper.