

HOUSE BILL 9

**56TH LEGISLATURE - STATE OF NEW MEXICO - FIRST SESSION, 2023**

INTRODUCED BY

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This document may incorporate amendments proposed by a committee, but not yet adopted, as well as amendments that have been adopted during the current legislative session. The document is a tool to show amendments in context and cannot be used for the purpose of adding amendments to legislation.

AN ACT

RELATING TO CRIME; CREATING THE CRIMES OF NEGLIGENTLY MAKING A FIREARM ACCESSIBLE TO A MINOR AND NEGLIGENTLY MAKING A FIREARM ACCESSIBLE TO A MINOR RESULTING IN GREAT BODILY HARM OR DEATH; PROVIDING PENALTIES; PROVIDING EXCEPTIONS.

BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF NEW MEXICO:

**SECTION 1.** A new section of the Criminal Code is enacted to read:

.223544.2AIC March 5, 2023 (1:15pm)

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"[NEW MATERIAL] NEGLIGENTLY MAKING A FIREARM ACCESSIBLE TO A MINOR--NEGLIGENTLY MAKING A FIREARM ACCESSIBLE TO A MINOR RESULTING IN GREAT BODILY HARM OR DEATH--PENALTIES.--

A. A person commits the crime of negligently making a firearm accessible to a minor if:

(1) the person keeps or stores a firearm in a manner that negligently disregards a minor's ability to access the firearm; and

(2) a minor accesses the firearm and displays or brandishes the firearm in a threatening manner or causes injury to the minor or another person not resulting in great bodily harm or death.

Whoever commits negligently making a firearm accessible to a minor is guilty of a misdemeanor.

B. A person commits the crime of negligently making a firearm accessible to a minor resulting in great bodily harm or death if:

(1) the person keeps or stores a firearm in a manner that negligently disregards a minor's ability to access the firearm; and

(2) a minor accesses the firearm and uses it in a manner that causes great bodily harm to or death of the minor or another person.

Whoever commits negligently making a firearm accessible to a minor resulting in great bodily harm or death is guilty of a

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fourth degree felony.

C. A person does not violate Subsection A or B of this section if a minor obtains a firearm:

(1) that was SJC→either←SJC kept in a locked container and was SJC→either←SJC securely stored or kept in a location that a reasonable person would believe to be secure when obtained by a minor;

(2) that was carried on the person or within Hf11→close proximity of the person←Hf11 Hf11→the person's immediate control←Hf11 ;

(3) that was locked with a firearm safety device that rendered the firearm inoperable;

(4) in the course of self-defense or defense of another person; Sf11→or←Sf11

(5) by illegal entry to the person's property Sf11→.←Sf11 Sf11→; or←Sf11

Sf11→(6) with the authorization of the minor's parent or guardian for lawful hunting, lawful recreational use or any other lawful purpose.←Sf11

~~SJC→D. Evidence that a person attended a firearm safety training course prior to an alleged or proven violation of this section shall be considered a mitigating factor in any action, proceeding, trial or sentencing commenced pursuant to this section.~~

~~SJC→Hf11→E. Nothing in this section shall be~~

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~~construed to preclude a claim pursuant to any other section of law or any civil action for damages.~~←Hfll

Hfll→E. ~~The penalties in this section are not exclusive of other applicable criminal charges or civil claims.~~←Hfll←SJC

SJC→E. ~~Nothing in this section shall be construed to preclude a claim pursuant to any other section of law or any civil action for damages.~~←SJC←SJC

SJC→F.←SJC SJC→D.←SJC As used in this section:

SJC→(1) "brandish" means to display or make a firearm known to another person while the firearm is present on the person of the minor with intent to intimidate or injure a person;←SJC

SJC→(1)←SJC SJC→(2)←SJC "firearm" means a weapon that will or is designed to or may readily be converted to expel a projectile by the action of an explosion SJC→~~or the frame of any such weapon~~←SJC ;

SJC→(2)←SJC SJC→(3)←SJC "firearm safety device" means a gun safe or a device that prevents a firearm from being discharged or from being used to expel a projectile by the action of an explosion or a device other than a gun safe that locks a firearm and is designed to prevent children and unauthorized users from firing a firearm, which device may be installed on a firearm, be incorporated into the design of the firearm or prevent access to the firearm; and

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SJC→(3)←SJC SJC→(4)←SJC "minor" means  
SJC→an unemancipated←SJC SJC→a←SJC person under eighteen  
years of age."