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FISCAL IMPACT REPORT

SPONSOR: Knauer DATE TYPED: 03/06/01 HB 240/aHJC
 SHORT TITLE: Child Access Prevention Act SB _____
 ANALYST: Rael

APPROPRIATION

Appropriation Contained		Estimated Additional Impact		Recurring or Non-Rec	Fund Affected
FY01	FY02	FY01	FY02		
		Minimal			

(Parenthesis () Indicate Expenditure Decreases)

Duplicates Senate Bill 132
 Relates to House Bill 242, Senate Bill 131

SOURCES OF INFORMATION

Department of Public Safety (DPS)
 Children, Youth and Families Department (CYFD)
 Administrative Office of the District Attorneys (AODA)
 Administrative Office of the Courts (AOC)

SUMMARY

Synopsis of HJC Amendment

The House Judiciary Committee amendment clarifies that each conviction must be based on the state of mind of the defendant: that the defendant “knows or reasonably should know that a child is likely to gain access to the handgun”.

This is a technical clean-up since criminal convictions already generally require a *mens rea* (culpable mind) element.

Synopsis of Original Bill

The Child Access Prevention Act establishes three new crimes when a child obtains access to a handgun through the failure to safeguard the handgun by the parent or guardian. A misdemeanor is provided when the child displays the handgun in a public place; a fourth degree felony when a child gains possession of the handgun and causes injury to himself or another; a third degree felony when the child gains possession of the handgun and causes death.

Exemptions to the penalties of the Act do not apply if the child is the child of the handgun owner and injures himself, the child gains access to the handgun through some fraudulent or illegal activity or by removing the safety device, or if the child is engaged in an approved activity or traveling to or from an approved activity.

Significant Issues

Current criminal laws (abuse of a child, contributing to the delinquency of a minor, etc.) do not directly or specifically address the issues raised in this legislation, although possession of a handgun by a person under the age of 19 is prohibited by Section 30-7-2.2.

FISCAL IMPLICATIONS

The Administrative Office of the Courts reports that it will cost the judicial information system \$400 for statewide update, distribution and documentation of statutory changes.

ADMINISTRATIVE IMPLICATIONS

Any additional fiscal impact on the judiciary would be proportional to the enforcement of this law and commenced prosecutions. New laws, amendments to existing laws, and new hearings have the potential to increase caseloads in the courts, thus requiring additional resources to handle the increase.

OTHER SUBSTANTIVE ISSUES

Many issues for discussion are raised by the legislation. Among these are the rationale for confining the law to handguns, instead of including rifles; the exception provided for a child intentionally or unintentionally removing a safety lock from the handgun; and the broad exception provided when a child gains possession of a handgun as a result of “fraudulent or unlawful activity” committed by the child or another person. This latter exception is very vague and susceptible to very broad interpretation.

FAR/njw:ar