

HOUSE JUDICIARY COMMITTEE SUBSTITUTE FOR
HOUSE BILL 9

55TH LEGISLATURE - STATE OF NEW MEXICO - SECOND SESSION, 2022

AN ACT

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

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:

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

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

(1) the person keeps or stores any firearm in

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1 a manner that is in reckless disregard of a minor's ability to
2 access the firearm; and

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

6 Whoever commits recklessly making a firearm accessible to
7 a minor resulting in great bodily harm or death is guilty of a
8 fourth degree felony.

9 B. A person commits the crime of recklessly making
10 a firearm accessible to a minor if:

11 (1) the person keeps or stores any firearm in
12 a manner that is in reckless disregard of a minor's ability to
13 access the firearm; and

14 (2) a minor obtains access to the firearm and
15 brandishes, displays or shows the firearm in a threatening
16 manner or causes injury to the minor or to another person not
17 resulting in great bodily harm or death.

18 Whoever commits recklessly making a firearm accessible to
19 a minor is guilty of a misdemeanor.

20 C. The provisions of Subsections A and B of this
21 section do not apply if:

22 (1) a minor obtains the firearm as a result of
23 an illegal entry to the premises;

24 (2) the firearm is kept in a locked container
25 and is securely stored or in a location that a reasonable

1 person would believe to be secure when obtained by a minor;

2 (3) the firearm is carried on the person or
3 within close proximity of the person so that the person can
4 readily retrieve and use the firearm as if carried on the
5 person;

6 (4) the firearm is locked with a firearm
7 safety device that has rendered the firearm inoperable when
8 obtained by a minor;

9 (5) the person is a peace officer or member of
10 the armed forces of the United States or the national guard,
11 and a minor obtains the firearm during the performance of the
12 person's duties; or

13 (6) a minor obtains, or obtains and
14 discharges, the firearm in a lawful act of self-defense or
15 defense of another person.

16 D. Evidence that a person attended a firearm safety
17 training course prior to an alleged or proven violation of this
18 section shall be admissible in any action, proceeding, trial or
19 sentencing commenced pursuant to this section.

20 E. Nothing in this section shall be construed to
21 preclude any claim or claims pursuant to any other section of
22 law or any civil action for damages.

23 F. As used in this section:

24 (1) "firearm" means a weapon that will or is
25 designed to or may readily be converted to expel a projectile

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1 by the action of an explosion or the frame of any such weapon;

2 (2) "firearm safety device" means a device
3 other than a gun safe that locks and is designed to prevent
4 children and unauthorized users from firing a firearm, which
5 device may be installed on a firearm, be incorporated into the
6 design of the firearm or prevent access to the firearm; and

7 (3) "minor" means an unemancipated person
8 under eighteen years of age."

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