

House Bill 366

By: Representatives Scott of the 76th and Davis of the 87th

A BILL TO BE ENTITLED
AN ACT

1 To amend Code Section 15-5-24, Article 4 of Chapter 11 of Title 16, and Article 1 of
2 Chapter 2 of Title 35 of the Official Code of Georgia Annotated, relating to the duties of the
3 Administrative Office of the Courts, dangerous instrumentalities and practices, and the
4 Department of Public Safety, respectively, so as to provide for the offenses of failure to store
5 a firearm in a secure manner; to provide for definitions; to provide for penalties; to provide
6 for exceptions; to require that a gun lock be furnished to the buyer in all retail firearm sales
7 made by firearm dealers; to provide for penalties; to provide for affirmative defenses; to
8 provide for reporting of convictions; to provide for submission of a report to the General
9 Assembly; to provide for the posting of information relating to certain firearm related
10 offenses on the Department of Public Safety website; to authorize an education campaign
11 relating to firearm safety; to provide for related matters; to provide for an effective date and
12 applicability; to repeal conflicting laws; and for other purposes.

13 BE IT ENACTED BY THE GENERAL ASSEMBLY OF GEORGIA:

14 **SECTION 1.**

15 Code Section 15-5-24 of the Official Code of Georgia Annotated, relating to the duties of the
16 Administrative Office of the Courts, is amended by deleting "and" at the end of

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17 paragraph (8), by replacing the period with "; and" at the end of paragraph (9), and by adding
18 a new paragraph to read as follows:

19 "(10) On or before July 1, 2024, and on or before each July 1 thereafter, submit a report
20 to the General Assembly that includes the number of convictions in each judicial district
21 for violations of Code Sections 16-11-132.1 and 16-11-172.1 in the prior state fiscal
22 year."

23 **SECTION 2.**

24 Article 4 of Chapter 11 of Title 16 of the Official Code of Georgia Annotated, relating to
25 dangerous instrumentalities and practices, is amended by adding a new Code section to read
26 as follows:

27 "16-11-132.1.

28 (a) As used in this Code section, the term:

29 (1) 'Child' means a person younger than 18 years of age.

30 (2) 'Locking device' means a device which prohibits the operation or discharge of a
31 firearm and can be disabled only with the use of a key, combination, or biometric data.

32 (3) 'Personalized firearm' means a firearm that has, as part of its original manufacture,
33 incorporated design technology that allows the firearm to be fired only by the authorized
34 user and prevents any of the safety characteristics of the firearm from being readily
35 deactivated by anyone other than the authorized user.

36 (4) 'Unauthorized user' means a resident of the premises who is ineligible to possess a
37 firearm pursuant to state or federal law.

38 (b) Firearms shall be stored in a secure manner when not in use to prevent access by an
39 unsupervised child and other unauthorized users. A firearm is stored in a secure manner
40 when:

41 (1) A person carries the firearm on his or her person or within such close proximity
42 thereto that the person can readily retrieve and use the firearm as if the person carried the
43 firearm on his or her person;

44 (2) The firearm is kept in a locked gun safe or other secure container or in a manner that
45 a reasonable person would believe to be secure and a child or unauthorized user does not
46 have access to the key, combination, or other unlocking mechanism necessary to open the
47 safe or container;

48 (3) The person properly installs a locking device on the firearm and a child or
49 unauthorized user does not have access to the key, combination, or other unlocking
50 mechanism necessary to remove the locking device; or

51 (4) The firearm is a personalized firearm and the safety characteristics of the firearm are
52 activated.

53 (c) Any person who fails to store a firearm in a secure manner as set forth in subsection
54 (b) of this Code section upon any premises he or she owns or controls and knows or
55 reasonably should know that an unauthorized user or child can gain access to the firearm
56 without the permission of the child's parent or guardian shall be guilty of the offense of
57 failure to secure a firearm. Any person convicted of a violation of this Code section shall
58 be guilty of a misdemeanor.

59 (d) It shall be an affirmative defense to prosecution under this Code section that the child's
60 access to the firearm:

61 (1) Was supervised by a person older than 18 years of age and was for hunting, sporting,
62 or other lawful purposes;

63 (2) Consisted of lawful defense by the child of people or property;

64 (3) Was gained by entering property in violation of the law; or

65 (4) Occurred during a time when the person accused of violating this Code section and
66 such child were engaged in an agricultural enterprise.

67 (e) The provisions of this Code section shall not apply to:

68 (1) Any firearm, including any handgun with a matchlock, flintlock, percussion cap, or
69 similar type of ignition system, manufactured in or before 1898;

70 (2) Any replica of any firearm described in paragraph (1) of this subsection if such
71 replica is not designed or redesigned to use rimfire or conventional center-fire fixed
72 ammunition or uses rimfire or conventional center-fire fixed ammunition which is no
73 longer manufactured in the United States and which is not readily available in the
74 ordinary channels of commercial trade; and

75 (3) Any firearm which is a curio or relic as defined by 27 C.F.R. 178.11.

76 (f) The clerk of a court in which a person is convicted of a violation of this Code section
77 shall report to the Administrative Office of the Courts the total number of convictions of
78 this Code section for the previous calendar year. Each clerk shall make such report by
79 March 15 of each year for the previous calendar year. The individual reports made to the
80 Administrative Office of the Courts shall be held confidential and not subject to disclosure
81 under Article 4 of Chapter 18 of Title 50, relating to open records. The Administrative
82 Office of the Courts shall provide aggregated statistics only in accordance with Code
83 Section 15-5-24. Such individual reports shall be destroyed six months after submission
84 to the Administrative Office of the Courts."

85

SECTION 3.

86 Said article is further amended by adding a new Code section to read as follows:

87 "16-11-172.1.

88 (a) A dealer, as such term is defined in Code Section 16-11-171, shall provide with each
89 firearm sold or otherwise transferred a locking device, as such term is defined in Code
90 Section 16-11-132.1.

91 (b) Subsection (a) of this Code section shall not apply to:

92 (1) Any firearm, including any handgun with a matchlock, flintlock, percussion cap, or
93 similar type of ignition system, manufactured in or before 1898;

94 (2) Any replica of any firearm described in paragraph (1) of this subsection if such
95 replica is not designed or redesigned to use rimfire or conventional center-fire fixed
96 ammunition or uses rimfire or conventional center-fire fixed ammunition which is no
97 longer manufactured in the United States and which is not readily available in the
98 ordinary channels of commercial trade; and

99 (3) Any firearm which is a curio or relic as defined by 27 C.F.R. Section 178.11.

100 (c) A dealer shall post in a conspicuous position on the premises where the dealer conducts
101 business a sign that contains the following warning in block letters not less than one inch
102 in height:

103 'IT IS UNLAWFUL TO STORE, TRANSPORT, OR ABANDON AN UNSECURED
104 FIREARM IN A PLACE WHERE CHILDREN ARE LIKELY TO BE AND CAN
105 OBTAIN ACCESS TO THE FIREARM.'

106 (d) A violation of this Code section shall be a misdemeanor punishable by a fine of not
107 more than \$500.00.

108 (e) The clerk of a court in which a person is convicted of a violation of this Code section
109 shall report to the Administrative Office of the Courts the total number of convictions of
110 this Code section for the previous calendar year. Each clerk shall make such report by
111 March 15 of each year for the previous calendar year. The individual reports made to the
112 Administrative Office of the Courts shall be held confidential and not subject to disclosure
113 under Article 4 of Chapter 18 of Title 50, relating to open records. The Administrative
114 Office of the Courts shall provide aggregated statistics only in accordance with Code
115 Section 15-5-24. Such individual reports shall be destroyed six months after submission
116 to the Administrative Office of the Courts."

117 **SECTION 4.**

118 Article 1 of Chapter 2 of Title 35 of the Official Code of Georgia Annotated, relating to
119 general provisions relative to the Department of Public Safety, is amended by adding a new
120 Code section to read as follows:

121 "35-2-17.

122 (a) The department shall include on a public page of the department's website information
123 relating to:

124 (1) The offense of failure to store a firearm in secure manner set forth in Code
125 Section 16-11-132.1;

126 (2) The penalties for an offense related to furnishing a firearm to a child or allowing a
127 child to possess a firearm in violation of Code Section 16-11-101.1 or 16-11-132; and

128 (3) The requirement that a licensed gun dealer provide a locking device with each
129 firearm transferred, as set forth in Code Section 16-11-172.1.

130 (b) Any information described in subsection (a) of this Code section shall be posted on the
131 department's website in both English and Spanish.

132 (c) The department shall include references to the offenses listed in subsection (a) of this
133 Code section and direction to the department's website for more information about those
134 offenses in materials provided to:

135 (1) Licensed gun dealers, shooting ranges, and safety instructors; and

136 (2) Healthcare providers.

137 (d)(1) Subject to appropriations, the department shall develop and implement a firearms
138 safe storage education campaign to educate firearms owners, firearms purchasers,
139 licensed gun dealers, shooting ranges, and safety instructors about safe storage of
140 firearms and state requirements related to firearms safety and storage.

141 (2) As part of such education campaign, the department may:

142 (A) Develop and provide materials to local law enforcement agencies to assist in
143 educating the public about safe storage of firearms and state requirements related to
144 firearms safety and storage;

145 (B) Develop and provide materials to healthcare providers to assist in educating the
146 public about safe storage of firearms and state requirements related to firearms safety
147 and storage; and

148 (C) Provide information about programs that assist firearms owners with the cost of
149 purchasing firearms locking devices, gun safes, or other secure firearms storage
150 containers, including programs that provide free or reduced-price locking devices.

151 (3) As part of such education campaign, the department shall provide information on its
152 website about community programs that allow firearms owners to voluntarily and
153 temporarily store a firearm at a secure location outside of the home, including a firearms
154 retailer, gun range, or law enforcement agency.

155 (4) In furtherance of the goals of the education campaign, the department may use
156 television messaging, radio broadcasts, print media, digital strategies, or any other form
157 of messaging deemed appropriate by the department."

158 **SECTION 5.**

159 This Act shall become effective on July 1, 2023, and shall apply to offenses committed on
160 or after that date.

161 **SECTION 6.**

162 All laws and parts of laws in conflict with this Act are repealed.