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HOUSE BILL 9

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

INTRODUCED BY

Pamelya Herndon

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:

"[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

1 the firearm; and

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

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

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

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

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

17 Whoever commits negligently making a firearm accessible to
18 a minor resulting in great bodily harm or death is guilty of a
19 fourth degree felony.

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

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

1 (2) that was carried on the person or within
2 close proximity of the person;

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

5 (4) in the course of self-defense or defense
6 of another person; or

7 (5) by illegal entry to the person's property.

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

13 E. Nothing in this section shall be construed to
14 preclude a claim pursuant to any other section of law or any
15 civil action for damages.

16 F. As used in this section:

17 (1) "firearm" means a weapon that will or is
18 designed to or may readily be converted to expel a projectile
19 by the action of an explosion or the frame of any such weapon;

20 (2) "firearm safety device" means a gun safe
21 or a device that prevents a firearm from being discharged or
22 from being used to expel a projectile by the action of an
23 explosion or a device other than a gun safe that locks a
24 firearm and is designed to prevent children and unauthorized
25 users from firing a firearm, which device may be installed on a

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1 firearm, be incorporated into the design of the firearm or
2 prevent access to the firearm; and

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

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