SENATE BILL 858

By: Senator Smith
Introduced and read first time: February 6, 2023
Assigned to: Judicial Proceedings

A BILL ENTITLED

AN ACT concerning

Firearm Safety – Storage Requirements and Youth Suicide Prevention
(Jaelynn’s Law)

FOR the purpose of altering a certain provision relating to the storage of firearms and ammunition in a location that can be accessed by an unsupervised child; prohibiting the storage of firearms and ammunition in a manner that allows access by a certain person who is prohibited from possessing a firearm; repealing a certain provision relating to negligence; requiring the Deputy Secretary for Public Health Services to develop a youth suicide prevention and firearm safe storage guide, with recommendations from a stakeholder committee; and generally relating to the storage of firearms and youth suicide prevention.

BY repealing and reenacting, with amendments,

Article – Criminal Law
Section 4–104
Annotated Code of Maryland
(2021 Replacement Volume and 2022 Supplement)

BY adding to

Article – Health – General
Section 13–39A–01 to be under the new subtitle “Subtitle 39A. Youth Suicide Prevention and Firearm Safe Storage”
Annotated Code of Maryland
(2019 Replacement Volume and 2022 Supplement)

SECTION 1. BE IT ENACTED BY THE GENERAL ASSEMBLY OF MARYLAND, That the Laws of Maryland read as follows:

Article – Criminal Law

4–104.
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(a) (1) In this section the following words have the meanings indicated.

(2) “Ammunition” means a cartridge, shell, or other device containing explosive or incendiary material designed and intended for use in a firearm.

(3) “Child” means an individual under the age of 16 years.

(4) (i) “Firearm” means a handgun, rifle, shotgun, short–barreled rifle, or short–barreled shotgun, as those terms are defined in § 4–201 of this title, or any other firearm.

(ii) “Firearm” does not include an antique firearm as defined in § 4–201 of this title.

(4) “PROHIBITED PERSON” means an individual who is prohibited from possessing a firearm under:

(I) § 5–133 of the Public Safety Article;

(II) § 5–205 of the Public Safety Article; or

(III) any other federal, state, or local law.

(b) This section does not apply if:

(1) the [child’s] MINOR’S access to a firearm is supervised by an individual at least 18 years old;

(2) the [child’s] PROHIBITED PERSON’S OR MINOR’S access to a firearm was obtained as a result of an unlawful entry;

(3) the firearm is in the possession or control of a law enforcement officer while the officer is engaged in official duties; [or]

(4) THE PERSON WHO STORES OR LEAVES THE FIREARM STORES OR LEAVES:

(I) THE FIREARM UNLOADED;

(II) ANY AMMUNITION THAT THE PERSON OWNS OR CONTROLS THAT IS SUITABLE FOR USE IN THE FIREARM IN A SECURE LOCATION WHERE A PROHIBITED PERSON OR MINOR IS NOT LIKELY TO GAIN ACCESS TO THE AMMUNITION; AND
(III) THE FIREARM:

1. SECURED IN A LOCKED CONTAINER THAT IS EQUIPPED WITH A TAMPER–RESISTANT LOCK; OR

2. RENDERED INOPERABLE TO ANYONE OTHER THAN AN AUTHORIZED ADULT; OR

(5) FOR A RIFLE OR SHOTGUN, the [child] MINOR:

(I) has a certificate of firearm and hunter safety issued under § 10–301.1 of the Natural Resources Article; AND

(II) HAS BEEN GIVEN EXPRESS PERMISSION BY THE MINOR’S PARENT OR GUARDIAN TO ACCESS THE RIFLE OR SHOTGUN FOR THE PURPOSE OF ENGAGING IN A LAWFUL ACTIVITY.

(c) (1) A person may not store or leave a [loaded] firearm in a location where the person knew or REASONABLY should have known that A PROHIBITED PERSON OR an unsupervised [child would] MINOR IS LIKELY TO gain access to the firearm.

(2) A PERSON MAY NOT STORE OR LEAVE A FIREARM IN A LOCATION WHERE:

(I) THE PERSON KNEW OR REASONABLY SHOULD HAVE KNOWN THAT A PROHIBITED PERSON OR AN UNSUPERVISED MINOR IS LIKELY TO GAIN ACCESS TO THE FIREARM; AND

(II) A PROHIBITED PERSON OR AN UNSUPERVISED MINOR DOES GAIN ACCESS TO THE FIREARM.

(3) A PERSON MAY NOT STORE OR LEAVE A FIREARM IN A LOCATION WHERE:

(I) THE PERSON KNEW OR REASONABLY SHOULD HAVE KNOWN THAT A PROHIBITED PERSON OR AN UNSUPERVISED MINOR IS LIKELY TO GAIN ACCESS TO THE FIREARM;

(II) A PROHIBITED PERSON OR AN UNSUPERVISED MINOR DOES GAIN ACCESS TO THE FIREARM; AND

(III) THE PROHIBITED PERSON’S OR MINOR’S ACCESS TO THE FIREARM RESULTS IN HARM TO THE PROHIBITED PERSON, THE MINOR, OR ANOTHER PERSON.
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A person who violates SUBSECTION (C)(1) OF this section is guilty of a misdemeanor and on conviction is subject to IMPRISONMENT NOT EXCEEDING 90 DAYS OR a fine not exceeding $1,000 OR BOTH.

A person who violates SUBSECTION (C)(2) OF THIS SECTION IS GUILTY OF A MISDEMEANOR AND ON CONVICTION IS SUBJECT TO IMPRISONMENT NOT EXCEEDING 2 YEARS OR A FINE NOT EXCEEDING $2,500 OR BOTH.

A person who violates SUBSECTION (C)(3) OF THIS SECTION IS GUILTY OF A MISDEMEANOR AND ON CONVICTION IS SUBJECT TO IMPRISONMENT NOT EXCEEDING 3 YEARS OR A FINE NOT EXCEEDING $5,000 OR BOTH.

A violation of this section may not:

(i) be considered evidence of negligence;

(ii) be considered evidence of contributory negligence;

(iii) limit liability of a party or an insurer; or

(iv) diminish recovery for damages arising out of the ownership, maintenance, or operation of a firearm or ammunition.

A party, witness, or lawyer may not refer to a violation of this section during a trial of a civil action that involves property damage, personal injury, or death.

Article – Health – General

SUBTITLE 39A. YOUTH SUICIDE PREVENTION AND FIREARM SAFE STORAGE.

13–39A–01.

(A) IN THIS SECTION, “GUIDE” MEANS THE YOUTH SUICIDE PREVENTION AND FIREARM SAFE STORAGE GUIDE DEVELOPED UNDER SUBSECTION (B) OF THIS SECTION.

(B) ON OR BEFORE JANUARY 1, 2024, THE DEPUTY SECRETARY FOR PUBLIC HEALTH SERVICES SHALL DEVELOP A YOUTH SUICIDE PREVENTION AND FIREARM SAFE STORAGE GUIDE.

(C) THE GUIDE DEVELOPED UNDER SUBSECTION (B) OF THIS SECTION SHALL:

(1) PROVIDE A DESCRIPTION OF THE FIREARM AND AMMUNITION
REQUIREMENTS ESTABLISHED UNDER § 4–104(B)(4) AND (5) OF THE CRIMINAL LAW ARTICLE;

(2) IDENTIFY THE RISKS ASSOCIATED WITH UNSAFE FIREARM STORAGE FOR MINORS, INCLUDING:

   (i) SUICIDE;

   (ii) DEATH OR SERIOUS BODILY INJURY FROM ACCIDENTAL DISCHARGE; AND

   (iii) SHOOTING INCIDENTS INVOLVING MINORS; AND

(3) INCORPORATE BEST PRACTICES FOR FIREARM AND AMMUNITION SAFE STORAGE.

(D) THE DEPARTMENT SHALL:

(1) POST THE GUIDE ON ITS WEBSITE;

(2) MAKE AN ELECTRONIC VERSION OF THE GUIDE AVAILABLE TO FAMILIES, HEALTH AND SOCIAL SERVICES PROVIDERS, AND ANY OTHER ENTITIES THAT HAVE AN INTEREST IN YOUTH SUICIDE PREVENTION OR FIREARMS STORAGE, INCLUDING:

   (i) BEHAVIORAL HEALTH PROGRAMS;

   (ii) THE DEPARTMENT OF JUVENILE SERVICES;

   (iii) FIREARMS DEALERS LICENSED BY THE FEDERAL GOVERNMENT;

   (iv) LOCAL HEALTH DEPARTMENTS;

   (v) LOCAL SCHOOL SYSTEMS;

   (vi) THE MARYLAND ASSOCIATION OF NONPUBLIC SPECIAL EDUCATION FACILITIES;

   (vii) THE MARYLAND ASSOCIATION OF YOUTH SERVICE BUREAUS;

   (viii) STATE AND LOCAL LAW ENFORCEMENT AGENCIES; AND
(IX) THE STATE DEPARTMENT OF EDUCATION; AND

(3) PROVIDE GRANTS TO LOCAL SCHOOL SYSTEMS, LOCAL HEALTH DEPARTMENTS, AND NONPROFIT AGENCIES TO SUPPORT THE EDUCATION OF FAMILIES ON THE SAFE STORAGE PRACTICES RECOMMENDED IN THE GUIDE.

(E) FOR FISCAL YEAR 2025 AND EACH FISCAL YEAR THEREAFTER, THE GOVERNOR SHALL INCLUDE IN THE ANNUAL BUDGET BILL AN APPROPRIATION OF $1,000,000 TO THE DEPARTMENT FOR:

(1) THE DEVELOPMENT OF THE GUIDE REQUIRED UNDER SUBSECTION (B) OF THIS SECTION; AND

(2) THE FUNDING OF GRANTS REQUIRED UNDER SUBSECTION (D) OF THIS SECTION.

SECTION 2. AND BE IT FURTHER ENACTED, That:

(a) The Deputy Secretary for Public Health Services shall establish a stakeholder advisory committee to make recommendations regarding the development of the youth suicide prevention and firearm safe storage guide under § 13–39A–01 of the Health – General Article, as enacted by Section 1 of this Act.

(b) The stakeholder advisory committee established under subsection (a) of this section shall include:

(1) behavioral health practitioners;

(2) experts on best practices for firearm and ammunition storage;

(3) families impacted by the risk of suicide by minors;

(4) health care professionals; and

(5) youth advocates.

SECTION 3. AND BE IT FURTHER ENACTED, That, on or before December 31, 2024, December 31, 2025, and December 31, 2026, the Deputy Secretary for Public Health Services shall report to the General Assembly, in accordance with § 2–1257 of the State Government Article, on the implementation of this Act, including how State and local agencies have distributed the youth suicide prevention and firearm safe storage guide developed under § 13–39A–01 of the Health – General Article, as enacted by Section 1 of this Act.

SECTION 4. AND BE IT FURTHER ENACTED, That this Act shall take effect
October 1, 2023.