

**Department of Legislative Services**  
Maryland General Assembly  
2023 Session

**FISCAL AND POLICY NOTE**  
**First Reader**

Senate Bill 656

(Senator Carter)

Judicial Proceedings

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**Criminal Law - Failure to Properly Store Firearm - Death of Another**

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This bill modifies and expands an existing prohibition related to a child’s access to firearms. Specifically, the bill prohibits a person from storing or leaving a loaded firearm in a location where the person knew or should have known that (1) a ward for whom the person has been appointed guardian would gain access to the firearm or (2) an unsupervised child or a ward for whom the person has been appointed guardian would gain access to the firearm resulting in the child or ward using the firearm and causing the death of another. “Ward” means an adult who is prohibited from possessing a firearm and is the subject of a legal guardianship. The circumstances under which the new and existing prohibitions do not apply are expanded to include when a ward’s access to a firearm was obtained as a result of unlawful entry. A person who fails to properly store a firearm under the bill’s provisions is guilty of a misdemeanor and on conviction is subject to the existing penalty of a maximum fine of \$1,000. If a person’s failure to properly store a firearm results in a child or ward using the firearm and causing the death of another, the person is guilty of a felony and subject to a penalty of imprisonment for up to 10 years and/or a \$10,000 maximum fine.

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**Fiscal Summary**

**State Effect:** Potential minimal increase in general fund revenues and expenditures due to the bill’s penalty provisions.

**Local Effect:** Potential minimal increase in revenues due to the bill’s monetary penalty. Expenditures are not materially affected.

**Small Business Effect:** None.

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## Analysis

### Current Law:

#### *Access to a Firearm*

A person may not store or leave a loaded firearm in a location where the person knew or should have known that an unsupervised child (defined as an individual younger than age 16) would gain access to the firearm. A violator is guilty of a misdemeanor and subject to a maximum fine of \$1,000.

The prohibition does not apply if:

- the child's access to a firearm is supervised by an individual at least age 18;
- the child's access to a firearm was obtained as a result of an unlawful entry;
- the firearm is in the possession or control of a law enforcement officer while the officer is engaged in official duties; or
- the child has a certificate of firearm and hunter safety issued under applicable provisions of the Natural Resources Article.

A violation may not (1) be considered evidence of negligence; (2) be considered evidence of contributory negligence; (3) limit liability of a party or an insurer; or (4) 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 during a trial of a civil action that involves property damage, personal injury, or death.

#### *Prohibitions on Possession*

Generally, a person is prohibited from possessing regulated firearms, rifles, and shotguns if the person:

- has been convicted of a disqualifying crime;
- has been convicted of a violation classified as a common law crime and received a term of imprisonment of more than two years;
- is a fugitive from justice;
- is a habitual drunkard;
- is addicted to a controlled dangerous substance or is a habitual user;
- suffers from a mental disorder and has a history of violent behavior against the person or another;
- has been found incompetent to stand trial;

- has been found not criminally responsible;
- has been voluntarily admitted for more than 30 consecutive days to a facility that provides treatment or other services for mental disorders;
- has been involuntarily committed to a facility that provides treatment or other services for mental disorders;
- is under the protection of a guardian of the person or property of a disabled person appointed by a court, except for cases in which the appointment of a guardian is solely a result of a physical disability;
- is a respondent against whom a current non *ex parte* civil protective order has been entered in this State or an order for protection has been issued by a court of another state or a Native American tribe and is in effect; or
- if younger than age 30 at the time of possession, has been adjudicated delinquent by a juvenile court for an act that would be a disqualifying crime if committed by an adult.

In addition, a person is prohibited from possessing a regulated firearm if the person was previously convicted of (1) a crime of violence; (2) a violation of specified controlled dangerous substances laws; or (3) an offense under the laws of another state or the United States that would constitute one of these crimes if committed in this State.

Generally, prohibited possession of a regulated firearm is a misdemeanor and subject to a penalty of imprisonment for up to five years and/or a \$10,000 maximum fine. However, prohibited possession of a rifle or shotgun is a misdemeanor punishable by imprisonment for up to three years and/or a \$1,000 maximum fine.

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### **Additional Information**

**Prior Introductions:** Similar legislation has not been introduced within the last three years.

**Designated Cross File:** None.

**Information Source(s):** Baltimore City; Montgomery County; Maryland State Commission on Criminal Sentencing Policy; Judiciary (Administrative Office of the Courts); Maryland State’s Attorneys’ Association; Department of Public Safety and Correctional Services; Department of Legislative Services

**Fiscal Note History:** First Reader - February 19, 2023  
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