



2A Maryland

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House Bill 200

Public Safety – Access to Firearms – Storage Requirements (Jaelynn’s Law)

UNFAVORABLE

House Bill 200 changes the scope of the law addressing the storage of firearms on multiple levels. It is punitive in nature because it places additional unnecessary burdens on the lawful ownership of firearms which do not enhance public safety. The point missed by most legislative bodies is simple: It is not possible to legislate safety. Only training can enhance safety.

Bill Provisions:

HB 200 expands the scope of the existing Criminal Law Article §4-104 in various and quite significant ways:

The definition of the term “child” as a person under 16 years of age (Page 2, Lines 2-3) is deleted and replaced with the term “minor,” which is defined under Criminal Law Article §1–101 (g) as “an individual under the age of 18 years.” (Page 2, Lines 9, 11 & 16)

The term “adult” appears only a single time, and then in the nebulous language “rendered inoperable to anyone other than an adult.” The term “adult” is critical, yet this term is not defined in this bill, nor by reference to the term in another statute as is normally the case. (Page 2, Lines 28-29)

The phrase “rendered inoperable to anyone other than an adult,” is excessively vague and subjective. Who will determine exactly what constitutes “inoperable” for any given firearm? Where is the technological difference in what an 18 year old can do, that the same 18 year old could do the week before his or her 18th birthday?

By removing the term “loaded” (Page 3, Line 1) the application of §4-104 is expanded from addressing loaded firearms to include all firearms whether loaded or unloaded.

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Bill Provisions: (continued)

The potential for criminal liability is exponentially increased by the replacement of the existing term “child would” with “minor could.” (Page 3, Lines 2, 7, & 13)

The term “would” connotes a reasonable probability while the all-inclusive term “could” extends to the realm of that which is possible without limits. This language prohibits the storage of a firearm where a possibility, no matter how remote, exists that an unauthorized person could gain access to the firearm.

§4-104 (c) (3) (iii) makes it an offense if “the **firearm causes** harm to the minor or to another person.” (Page 3, Lines 16-17) Several issues are raised by the language in this provision:

1. Should the minor who gained access and/or stole the firearm then give, sell, trade or otherwise transfer the firearm; the rightful owner is now subject to additional penalties based upon the actions taken by the firearm.
2. The language reflects the ridiculous myopic concept that the firearm, which is an inanimate object, is somehow capable of autonomous actions and the person who holds it bears no responsibility. This belief is at the core of why gun control laws have no impact on public safety or criminal activity.

Bill Penalties:

4-104 (d) (1) The penalty for a simple failure to secure a firearm has been increased from a fine not to exceed \$1,000, to imprisonment not exceeding 90 days and/or a fine not exceeding \$1,000. § (Page 3, Lines 18-20)

4-104 (d) (2) The penalty for a failure to secure a firearm coupled with a minor gaining access is imprisonment for a period not exceeding 2 years and/or a fine of \$2,500. (Page 3, Lines 21-23)

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Bill Penalties: (continued)

4-104 (d) (3) The penalty for a failure to secure a firearm coupled with a minor gaining access with resultant injury inflicted by anyone at any time with no limitations is imprisonment for up to 3 years and/or a fine of up to \$5,000. (Page 3, Lines 24-26)

Note:

Criminal Law Article Section §4-104 (e) (1) states “A violation of this section may not:

- (i) be considered evidence of negligence;
- (II) be considered evidence of contributory negligence”

However, the multi-tiered penalties noted above certainly appear to attribute some level of responsibility for the subsequent actions of others as a result of gaining access to a firearm. (Page 3, Lines 10-17)

Impact on Maryland citizens in general:

As written, HB 200 makes it impossible for law-abiding Maryland citizens to legally own or possess a firearm in Maryland unless they constantly stand guard over it. Even then it is not possible to comply with the provisions of this bill because the owner might suddenly become incapacitated and unable to preclude the possibility that a minor could gain access to the firearm. It effectively negates the citizens’ means to viable self-defense within the home, much less anywhere else.

In short, HB 200 is a total ban on the legal possession and ownership of firearms in Maryland.

Impact on Existing Handgun Qualification License holders:

The Firearms Safety Act of 2013 mandated safety training as a prerequisite to applying to purchase a handgun. Since 2013, approximately 1,900 instructors have trained over 199,300 citizens. Part of that training included Maryland gun laws. If HB 200 becomes law, nearly 200,000 citizens will now be in possession of obsolete information and will likely

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Impact on Existing Handgun Qualification License holders: (continued)

become instant criminals. Creating hundreds of thousands of criminals does nothing to enhance firearm safety.

Impact on Handgun Qualification License (HQL) Training:

In 2020, 66,526 citizens received training from citizens who are Maryland State Police qualified instructors. At the current rate (2,790 in the first 2 weeks of January), the number for 2021 will exceed the 2020 figure. Many of the students are first time purchasers who are taking the class in order to apply to purchase a handgun. The HQL course requires the use of working firearms and live fire. Most instructors generously allow the use of their personal firearms for use by those students who do not yet have a firearm or who do not own a specific type of firearm needed to complete the course. HB 200 makes it impossible for instructors to possess firearms. HQL Training will become impossible.

Impact on Club Training Programs and Competition:

Many gun clubs and organizations such as 4H maintain an inventory of various firearms to facilitate training, practice and competition. The extreme requirement of HB 200 will make it impossible for these activities to continue. For example:

The Mount Washington Rod & Gun Club currently owns 23 rifles and 1 shotgun. When not on loan to a member, they are stored in locked cases in a reasonably secure limited access public storage facility. To enhance security, the club could purchase top of the line gun safes which provide the greatest level of protection currently available. However, two issues make this impractical:

1. The cost of purchasing the safes exceeds the total balance in the Club treasury.
2. The safes will not comply with the unrealistic requirements under HB 200.

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Impact on Maryland's Hunter Safety Program:

The Maryland Hunter Safety Course requires live fire as a requirement for the successful completion of the course and thus qualify to purchase a hunting license. For many of the reasons noted above Clubs also own the firearms because many future hunters do not yet own a firearm and thus rely on a sponsoring club or the volunteer instructor to provide a firearm. The Maryland Department of Natural Resources (DNR) is already having problems recruiting enough volunteers to serve as instructors. The provisions of HB 200 will only exacerbate the DNR's recruitment problem and could devastate the Hunter Safety Program as a whole.

Impact on Law Enforcement:

While a partial exemption exists for firearms in the possession or control of a law enforcement officer engaged in official duties (§4-104 (b)(3) Page 3, Lines 13-14), the standard operating procedures of law enforcement agencies do not necessarily comply with the limitations imposed by this bill. (§4-104 (b)(4) (II) & (b)(5) Page 3, Lines 22-29)

Law enforcement officers often have a rifle or shotgun in the patrol vehicle, when the officer exits the vehicle and leaves the immediate proximity of that vehicle the firearm stored in the vehicle is no longer in the possession of, or under the control of the officer. For example, when an officer leaves the vehicle and enters a shopping mall to investigate a shoplifting report leaving the rifle or shotgun in the vehicle.

Impact on Project ChildSafe:

Under the *Project ChildSafe* Program developed and funded by the National Shooting Sports Foundation (NSSF), law enforcement agencies throughout the state have been distributing firearm cable locks upon request and free of charge for many years. Because these cable locks have been distributed by law enforcement agencies, citizens will erroneously believe they comply with the law. Under the provisions of HB 200, they do not.

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Summary

HB 200 is not about public safety. It is about escalating restrictions on the lawful ownership of firearms. It is a statement of unfounded and blind faith in the false promise of gun control as the ultimate solution for the social ills that plague our society.

HB 200 serves only to divert attention from the real problem by pretending to do something. In fact, it is all a deception. When this type of bill passes, the sponsors are quick to praise it, while at the same time laying the groundwork for next year's bill by saying "it is a good first step, but more needs to be done." That more is always more gun control.

To put this issue in a parallel context, according to the Centers for Disease Control (CDC), the death rate due to drug overdoses in Maryland is 37.2 per capita. This figure is 1.77 times the **combined** death rate attributed by the CDC to firearms and homicides. (See Attachment #1)

Do those deaths not matter because they cannot be exploited to further a gun control agenda?

HB 200 would save far more lives if instead of focusing on the storage of firearms, it focused on the safe storage of controlled prescription drugs. (See Attachment #2 for information on the magnitude of the problem caused by unsecured prescription drugs.)

We respectfully request an unfavorable report on House Bill 200.

John H. Josselyn
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March 01, 2021

National Center for Health Statistics

Maryland



Key Health Indicators

key health indicators

Fertility Rate	59.9 (births per 1,000 women 15-44 years of age)
Teen Birth Rate	14.1 (births per 1,000 females 15-19 years of age)
Infant Mortality Rate	6.8 (infant deaths per 1,000 live births)
Marriage Rate	5.9 (marriages per 1,000)
Divorce Rate	2.4 (divorces per 1,000)
Leading Cause of Death	Heart Disease
Drug Overdose Death Rate	37.2 (per 100,000)
Firearm Death Rate	11.7 (per 100,000)
Homicide Rate	9.3 (per 100,000)

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Attachment #2 – Page 1 of 2

Johns Hopkins Medicine

“What’s in your medicine cabinet?”

A common way that people get opioids illicitly is by taking them out of other people’s medicine cabinets. Opioid medicines should be stored in a locked location.”

Source: <https://www.hopkinsmedicine.org/opioids/how-you-can-help.html>

Department of Justice

“HOW DID THIS OPIOID PROBLEM GET TO MY COMMUNITY?”

Opioids, particularly diverted prescription drugs, often enter the community through the family medicine cabinet, theft and robbery of local pharmacies, and through fraudulent prescriptions.”

Source: <https://www.justice.gov/opioidawareness/opioid-facts>

CDC

According to the CDC, the death rate due to drug overdoses in Maryland is 37.2. This figure is 1.77 times the *combined* death rate attributed to firearms and homicides.

Source: <https://www.cdc.gov/nchs/pressroom/states/maryland/md.htm>

Yale School of Medicine

“The widespread illicit use of opioid painkillers begins more in bathroom medicine cabinets than back alleys, according to new Yale research published in the *Archives of Internal Medicine*.”

Source: <https://medicine.yale.edu/news/medicineatyale/opioid-abusers-have-supplies-close-to-home/>

American Society of Regional Anesthesia and Pain Medicine

“Opioids should be stored in their original packaging inside a locked cabinet, a lockbox, or other secure locations.” Unfortunately, anyone you know may seek out drugs like opioids for illegal use. Don’t keep opioids in obvious places like bathroom cabinets or on kitchen counters where others might find them.”

Source: <https://www.asra.com/page/2725/safe-opioid-storage-tapering-and-disposal>

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National Center for Biotechnology Information, U.S. National Library of Medicine

“Pharmaceutical opioid prescribing, opioid use disorders, and related poisonings have increased substantially in the last decade. Pharmaceutical opioid deaths among youth have markedly increased. One area that has received relatively little attention is the role of home safety, given that parents are an important source of opioids for youth. Parents may intentionally share opioids with youth, due to low perceived risks or limited knowledge, and youth may divert opioids from parents’ medicine cabinets. Safe medication storage has long been mandated by treatment programs that provide pharmacologically supported treatment of opioid use disorders, but it is not generally encouraged or required for pharmaceutical opioids prescribed for pain. Greater attention is needed on the development, evaluation and implementation of three preventive strategies. These three strategies can be delivered in or supported by adult medical practices: 1) fully informing adults prescribed opioids about the risks of opioids to family members and others; 2) providing locked medication safe storage devices; and 3) educating parents on safe disposal options. However, a critical evidence base is still lacking for these opioid safety interventions.”

Source: <https://www.ncbi.nlm.nih.gov/pmc/articles/PMC4470841/>