

Testimony of Senator Emerita Jill P. Carter

RE: SB362 – Entitled: Criminal Law – Child’s Access to Firearms – Penalty (Ny’ Kayla Strawder Act)

INFORMATIONAL AND UNFAVORABLE

Dear Chairman Smith, Vice-Chair Waldstreicher, and Distinguished Members of The Judicial Proceedings Committee:

Factual Background and Legislative History

As the original sponsor of the Ny’Kayla Strawder Memorial Act, I thought it important to weigh in on this proposed legislation. I have deep substantive and emotional concerns about this bill. As you may recall, I have a long and significant history of advocacy for legislation that honors Ny’Kayla’s life and offers her family some measure of solace in knowing their loss helped shape better state law. We (the family and I) believe there are better versions of the proposed legislation. The bill before you, SB362, uses her name but fails to reflect the intent and policy approach long supported by her family.

In the wake of tragedy, it is natural for people of good will to want to ‘do something’. As a lawmaker, my instinct was to respond through legislation. In August 2022, Ny’Kayla was shot and killed by a 9-year-old with a gun in the district I represented, I reached out to Ny’Kayla’s family to both express condolences and to better understand the circumstances and appropriate policy response. After several discussions, I proposed legislation in Ny’Kayla’s name and with their support.

The original legislation sought to do two things:

- 1) mandate CINS for the child who gained possession of the firearm; and
- 2) enhance the potential penalty for an adult responsible for safekeeping the firearm at issue as well as the child.

In 2023, this legislation was SB15 and SB656. SB15 (Mandatory CINS) passed the Senate unanimously. SB656 (Penalties) did not.

In this committee, specifically:

Senator West repeatedly expressed concern that that the reckless endangerment statute was likely sufficient to encompass this issue and suggested amending that statute to possibly have a tiered penalty for an act that results in death. He expressed concern that the bill could create ‘redundancy’ but that was refuted by Steve Kroll. (see hearing SB656, 2/21/23)

Senators Folden and Dulaney James were stumped by the bill’s attempt to include adults with intellectual disabilities that are under the care of legal guardians (termed ‘wards’ under the bill), under the same umbrella as children. Senator James questioned whether the legal

definition of ‘ward’ necessitated that said person was incompetent to possess a firearm and whether the legal guardianship proceeding provided knowledge to the guardian that the ‘ward’ was prohibited by law from possessing a firearm. This issue was ancillary, or rather, beside the point. (see hearing SB656, 2/21/23)

Chairman Smith was passionate about Jaelynn’s Law which could have enhanced penalties for failures of safe storage but didn’t. So, even though SB656 was substantially more precise and reasonable than SB362, SB656 did not reach a vote in 2023.

SB15, the counterpart to SB656, received unanimous support in the Senate. Despite that, and the family’s advocacy, Chair Clippinger did not advance the bill in the House Judiciary Committee.

There was such a strong political appetite for the CINS proposal, that it was inserted into (HB 814) the leadership juvenile reform roll back bill during the 2024 legislative session. We (the family and I) had to push to have Ny’Kayla’s law extracted from that omnibus bill. Thankfully, we were able to again present it as a stand-alone bill (SB2). For the second time, it passed the Senate unanimously and eventually made it through the House with amendments. Because the House Judiciary Committee again sat on it until *sine die*, it once again failed to reach final approval before midnight of the 2024 legislative session which was my last.

In deference to Chairman Smith, and his prioritization of Jaelynn’s law, I reluctantly abandoned the penalties provisions for Ny’Kayla’s law because I wanted to prevent any competition between sponsors or victims. This was not the will of the family.

For the last several years, I’ve witnessed the family members’ disappointment. It has pained me immensely that their grief, and their humanity, has largely been disregarded by this body, and our legislation has been tossed about like a political football rather than stewarded with the care it deserved.

Here we are in 2026 – a new senator and a new bill. Notably, Senator Attar did not consult the family, nor did she advise them of this substantially revised approach. *Late in the 2025 session, Senator Attar introduced this version of the bill as SB1031. The family appeared in the committee room for that hearing. They did not know the substance of the bill, only that it bore the title Ny’Kayla Strawder. * As an elected representative of the district, then, Delegate Attar, never expressed any interest in cross-filing my bill or championing any legislation related to it in any way whatsoever. By contrast, my efforts were rooted in longstanding engagement with the family and a considered commitment to crafting policy that respected their loss and responsibly improved state law. SB 362 is not that.

Analysis

SB362 wholly abandons the original Ny’Kayla Strawder Act and entirely replaces the targeted intervention through CINS with an overly broad criminalization scheme that could punish a lawful owner even where a child does not actually access a firearm.

The April Gaskins Case

For the record, April Gaskins, the grandmother of the 9-year-old shooter of Ny'Kayla, was prosecuted, convicted, and sentenced, under the reckless endangerment statute which carries a maximum potential penalty of 5 years' incarceration.

Although SB362 invokes Ny'Kayla Strawder's name, the proposed increased penalty would not have changed the outcome of April Gaskins' case in any way whatsoever. She was convicted under Criminal Law § 3-204 (reckless endangerment), which already carries a maximum penalty of five years' incarceration, and Baltimore City Code Art. 19, § 59-12, which carries up to one year.

While April Gaskins was also charged under Criminal Law § 4-104 (access to firearms by minors), she was found **not guilty** of that offense. Thus, any increase in penalties under § 4-104 would have had no impact on her prosecution, conviction, or sentence.

Presenting this legislation in Ny'Kayla Strawder's name, while knowing it would have no bearing on the outcome of the very case used to justify it, raises concerns about legislative integrity. It would do a disservice to her legacy and to the careful lawmaking her family has consistently supported.

Ms. Gaskins received a sentence of four (4) years' incarceration. Some members of the Strawder family have expressed to me that they do not feel that is sufficient. She has already been released and has a pending modification of sentence to request a back end PBJ with a hearing set for April 2026. Should she receive a PBJ, she will be eligible in the future to legally possess firearms.

The Eashan John Stefanski Case

Recently, in the news we learned that a 7-year-old took a Glock 27 to Freetown Elementary school and 'accidentally' shot himself. The firearm belonged to his mother's live-in boyfriend, Eashan Stefanski. When police searched the home, they found an unloaded firearm that was not stored and an empty storage box for the Glock 27. The locking device was present, but the Glock was not. Police ascertained that Mr. Stefanski violated 4-104 and he has been charged accordingly.

Maryland has no universal storage law and 4-104 applies to improper storage of a loaded firearm. I suspect that, as in Ms. Gaskins's case, prosecutors may have difficulty proving beyond a reasonable doubt that the Glock 27 was loaded prior to removal, or that the child did not secretly unlock the lock or break the code. If that's the case, increased penalties would be of no consequence here.

Also, Mr. Stefanski was not charged with reckless endangerment or any other statute that might carry a more severe penalty. That was a prosecutorial choice.

With respect to the child, we should seek to ensure that children receive the kind of trauma treatment and behavior modification services offered under CINS. That is, or frankly, should be, our primary concern here.

SB362 is a BAD BILL

SB362 collapses the legal distinction between negligence and recklessness. It allows for prosecution and incarceration absent harm, absent discharge, and absent demonstrable

danger. It criminalizes failure to *perfectly* manage risk which could extend to all manner of household accidents. I'm deeply concerned about its ramifications and unintended harmful and negative consequences.

It's a slippery slope to criminalize momentary lapses or failure to secure everyday household hazards. For example, bleach or pesticides, if a child could possibly gain access.

Prior to increasing penalties under this statute, this committee should:

- 1) Examine charging practices (i.e. April Gaskins charged in Baltimore City with reckless endangerment, but Eashan Stefanski only charged with access to a firearm by a minor in Anne Arundel County).
- 2) Examine evidentiary barriers under 4-104 and consider language modification (i.e. April Gaskins was found Not Guilty under 4-104 because prosecutors could not prove her gun was loaded prior to getting into the hands of the child. I suspect the same might prove true in Eashan Stefanski's case and numerous others).
- 3) Examine the use of the reckless endangerment statute (3-204) in these cases and consider amendments for firearm specific offenses and tiered penalties.

The families of Ny'Kayla Strawder, the family of the 7-year-old Freetown Elementary student, and all other similarly situated families deserve better than this bill. They deserve thoughtful, meaningful policy.

The Strawder family has consistently supported two policies:

- 1) meaningful intervention for the child involved who will live with the consequences of his actions for the duration of his life, and
- 2) accountability for adults when existing law proves inadequate.

That is why the legislation I sponsored mandating CINS services for the child after a firearm-related death and to allow for enhanced penalties based on actual harm or death should be passed in place of SB362.

Conclusion and Recommendations

If we are serious about firearm safety, we should pass targeted, thoughtful reforms, narrowly tailored to specific circumstances, such as:

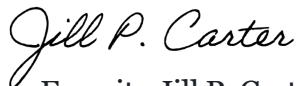
- 1) tiered penalties tied to culpability, actual access or actual harm.
- 2) investment in safe-storage education.
- 3) the tax credit bill for safe storage I previously proposed.
- 4) and any other accountability measures that preserve the legal distinction between negligence and criminal recklessness.

We should further prioritize the healing and well-being of the traumatized child. These approaches will improve both public safety and the integrity of criminal law.

SB362 is not only abhorrent political opportunism, but also structurally unsound and unlikely to produce desirable public safety outcomes.

For all these reasons, I urge an unfavorable report on SB362.

Thank you for your consideration.

A handwritten signature in black ink that reads "Jill P. Carter". The signature is written in a cursive style with a large, looping initial "J".

Senator Emerita Jill P. Carter