

AMENDED IN SENATE APRIL 1, 2013

SENATE BILL

No. 363

Introduced by Senator Wright

February 20, 2013

An act to ~~add Chapter 4 (commencing with Section 25240) to Division 4 of Title 4 of Part 6~~ *amend Section 25100* of the Penal Code, relating to firearms.

LEGISLATIVE COUNSEL'S DIGEST

SB 363, as amended, Wright. Firearms: ~~storage: prohibited persons: criminal storage.~~

Existing law provides that specified classes of persons are prohibited from owning or possessing firearms. Existing law establishes the offense of criminal storage of a firearm, where a person stores a loaded firearm in the person's premises and knows or should know that a child is likely to gain access to the firearm, a child gains access to the firearm, and causes death, great bodily injury, or injury to the child or another person, as specified.

~~This bill would require every person who owns or possesses any firearms and resides with an individual who he or she knows, or has reason to know, is prohibited from owning or possessing a firearm, as specified, to secure the firearms within a locked container, or with a locking device, or within a gun safe, as specified, and to store the firearms so that the individual may not gain access to the firearms. The bill would provide that a violation of these provisions is a misdemeanor punishable by imprisonment in a county jail not exceeding one year, or a fine not exceeding \$1,000, or by both that fine and imprisonment.~~

Existing law, subject to exceptions, provides that the offense of criminal storage of a firearm is committed when a person who keeps

any loaded firearm within any premises that are under the person’s custody or control knows or reasonably should know that a child is likely to gain access to the firearm without the permission of the child’s parent or legal guardian, and the child obtains access to the firearm and thereby causes death or injury to the child or any other person, as specified, or carries the firearm to a public place, or unlawfully displays or uses the firearm, as specified.

This bill would expand these provisions to include the circumstance of when the person who keeps the firearm knows or reasonably should know that a person prohibited from owning or possessing a firearm or deadly weapon, as specified, is likely to gain access to the firearm, and that person gains access to the firearm and thereby causes death or injury to himself or herself or any other person, as specified, or carries the firearm to a public place, or unlawfully displays or uses the firearm, as specified.

By ~~creating a new~~ *expanding the scope of an existing* crime, this bill would impose a state-mandated local program.

The California Constitution requires the state to reimburse local agencies and school districts for certain costs mandated by the state. Statutory provisions establish procedures for making that reimbursement.

This bill would provide that no reimbursement is required by this act for a specified reason.

Vote: majority. Appropriation: no. Fiscal committee: yes. State-mandated local program: yes.

The people of the State of California do enact as follows:

1 ~~SECTION 1. Chapter 4 (commencing with Section 25240) is~~
 2 ~~added to Division 4 of Title 4 of Part 6 of the Penal Code, to read:~~
 3
 4 ~~CHAPTER 4. FIREARM STORAGE AND PROHIBITED PERSONS~~
 5
 6 ~~25240. (a) Every person who owns or possesses any firearms~~
 7 ~~and resides with an individual who he or she knows, or has reason~~
 8 ~~to know, is prohibited from owning or possessing a firearm~~
 9 ~~pursuant to Section 8100 or 8103 of the Welfare and Institutions~~
 10 ~~Code shall secure the firearms within a locked container as~~
 11 ~~described in Section 16850, or with a locking device as described~~
 12 ~~in Section 16860, or within a gun safe as described in Section~~

1 ~~16870, and store the firearms so that the individual may not gain~~
2 ~~access to the firearms.~~

3 ~~(b) A violation of this section is a misdemeanor punishable by~~
4 ~~imprisonment in a county jail not exceeding one year, or a fine not~~
5 ~~exceeding \$1,000, or by both that fine and imprisonment.~~

6 *SECTION 1. Section 25100 of the Penal Code is amended to*
7 *read:*

8 25100. (a) Except as provided in Section 25105, a person
9 commits the crime of “criminal storage of a firearm of the first
10 degree” if all of the following conditions are satisfied:

11 (1) The person keeps any loaded firearm within any premises
12 that are under the person’s custody or control.

13 (2) The person knows or reasonably should know that a child
14 is likely to gain access to the firearm without the permission of
15 the child’s parent or legal guardian, *or that a person prohibited*
16 *from possessing a firearm or deadly weapon pursuant to Section*
17 *8100 or 8103 of the Welfare and Institutions Code is likely to gain*
18 *access to the firearm.*

19 (3) The child obtains access to the firearm and thereby causes
20 death or great bodily injury to the child or any other person, *or the*
21 *person prohibited from possessing a firearm or deadly weapon*
22 *pursuant to Section 8100 or 8103 of the Welfare and Institutions*
23 *Code obtains access to the firearm and thereby causes death or*
24 *great bodily injury to himself or herself or any other person.*

25 (b) Except as provided in Section 25105, a person commits the
26 crime of “criminal storage of a firearm of the second degree” if
27 all of the following conditions are satisfied:

28 (1) The person keeps any loaded firearm within any premises
29 that are under the person’s custody or control.

30 (2) The person knows or reasonably should know that a child
31 is likely to gain access to the firearm without the permission of
32 the child’s parent or legal guardian, *or that a person prohibited*
33 *from possessing a firearm or deadly weapon pursuant to Section*
34 *8100 or 8103 of the Welfare and Institutions Code is likely to gain*
35 *access to the firearm.*

36 (3) The child obtains access to the firearm and thereby causes
37 injury, other than great bodily injury, to the child or any other
38 person, or carries the firearm either to a public place or in violation
39 of Section 417, *or the person prohibited from possessing a firearm*
40 *or deadly weapon pursuant to Section 8100 or 8103 of the Welfare*

1 *and Institutions Code obtains access to the firearm and thereby*
2 *causes injury, other than great bodily injury, to himself or herself*
3 *or any other person, or carries the firearm either to a public place*
4 *or in violation of Section 417.*

5 SEC. 2. No reimbursement is required by this act pursuant to
6 Section 6 of Article XIII B of the California Constitution because
7 the only costs that may be incurred by a local agency or school
8 district will be incurred because this act creates a new crime or
9 infraction, eliminates a crime or infraction, or changes the penalty
10 for a crime or infraction, within the meaning of Section 17556 of
11 the Government Code, or changes the definition of a crime within
12 the meaning of Section 6 of Article XIII B of the California
13 Constitution.