

HB414 INTRODUCED



1 HB414
2 YIZT226-1
3 By Representatives Drummond, Warren, Forte, Clarke, Rafferty,
4 Gray, Tillman
5 RFD: Judiciary
6 First Read: 04-Apr-24



SYNOPSIS:

Under existing law, a person may not knowingly carry or possess a deadly weapon on the premises of a public school with the intent to do bodily harm.

This bill would provide a criminal penalty for a parent or legal guardian that does not reasonably secure their firearm which results in their minor unlawfully possessing the firearm on the premises of a public school.

This bill would also make nonsubstantive, technical revisions to update the existing code language to current style.

Section 111.05 of the Constitution of Alabama of 2022, prohibits a general law whose purpose or effect would be to require a new or increased expenditure of local funds from becoming effective with regard to a local governmental entity without enactment by a 2/3 vote unless: it comes within one of a number of specified exceptions; it is approved by the affected entity; or the Legislature appropriates funds, or provides a local source of revenue, to the entity for the purpose.

The purpose or effect of this bill would be to require a new or increased expenditure of local funds within the meaning of the section. However, the bill



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does not require approval of a local governmental entity or enactment by a 2/3 vote to become effective because it comes within one of the specified exceptions contained in the section.

A BILL
TO BE ENTITLED
AN ACT

Relating to firearms; to amend Section 13A-11-72, Code of Alabama 1975, as last amended by Act 2023-487, 2023 Regular Session, to provide a criminal penalty for a parent or legal guardian who fails to reasonably secure his or her firearm resulting in his or her minor possessing the firearm on the premises of a public school; to make nonsubstantive, technical revisions to update the existing code language to current style; and in connection therewith would have as its purpose or effect the requirement of a new or increased expenditure of local funds within the meaning of Section 111.05 of the Constitution of Alabama of 2022.

BE IT ENACTED BY THE LEGISLATURE OF ALABAMA:

Section 1. Section 13A-11-72, Code of Alabama 1975, as last amended by Act 2023-487, 2023 Regular Session, is amended to read as follows:

"§13A-11-72

(a) (1) No person who has been convicted in this state



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or elsewhere of committing or attempting to commit a crime of violence, misdemeanor offense of domestic violence, violent offense as listed in Section 12-25-32(15), anyone who is subject to a valid protection order for domestic abuse, or anyone of unsound mind shall own a firearm or have one in his or her possession or under his or her control.

(2) A violation of this subsection is a Class C felony.

(b)(1) No person who is a minor, except under the circumstances provided in ~~this section~~ subsections (g) and (h), an habitual drunkard, or who has a drug addiction shall own a pistol or have one in his or her possession or under his or her control.

(2) A violation of this subsection is a Class A misdemeanor.

(c)(1) No person who is an alien and is illegally or unlawfully in the United States or has been admitted to the United States under a nonimmigrant visa as defined in 8 U.S.C § 1101(a)(26), provided no exception to this subsection as listed in 18 U.S.C § 922(y)(2) applies, shall own a pistol or other firearm or have one in his or her possession or under his or her control.

(2) A violation of this subsection is a Class C felony.

(d)(1) Subject to the exceptions provided by Section 13A-11-74, no person shall knowingly with intent to do bodily harm carry or possess a deadly weapon on the premises of a public school.

(2) A violation of this subsection is a Class C felony.

(e) School security personnel and school resource



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officers qualified under Section 16-1-44.1(a), employed by a local board of education, and authorized by the employing local board of education to carry a deadly weapon while on duty are exempt from subsection (d). Law enforcement officers are exempt from this section, and persons with permits issued pursuant to Section 13A-11-75, are exempt from subsection (d).

(f) (1) A parent or legal guardian of a minor shall store a firearm in his or her possession or under his or her control in a manner that reasonably secures the firearm from unauthorized or unlawful access by a minor.

(2) Except as authorized under subsection (g) or (h), if a parent or legal guardian fails to reasonably secure a firearm as required under subdivision (1), and his or her minor gains access to the firearm and unlawfully possesses the firearm on the premises of a public school, the parent or legal guardian is guilty of a Class A misdemeanor.

(3) For the purposes of this subsection, "reasonably secure" includes, but is not limited to, storing a firearm using a trigger lock or in a locked box or gun safe that requires a key, numerical or alphanumeric combination, or fingerprint to open.

~~(f)~~ (g) A person shall not be in violation of Section 13A-11-57 or 13A-11-76 and a minor shall not be in violation of this section if the minor has permission to possess a pistol from a parent or legal guardian who is not prohibited from possessing a firearm under state or federal law, and any of the following are satisfied:

(1) The minor is attending a hunter education course or



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113 a firearms safety course under the supervision of an adult who
114 is not prohibited from possessing a firearm under state or
115 federal law.

116 (2) The minor is engaging in practice in the use of a
117 firearm or target shooting at an established range under the
118 supervision of an adult who is not prohibited from possessing
119 a firearm under state or federal law.

120 (3) The minor is engaging in an organized competition
121 involving the use of a firearm or participating in or
122 practicing for a performance by an organized group under 26
123 U.S.C. § 501(c)(3) which uses firearms as part of the
124 performance.

125 (4) The minor is hunting or fishing pursuant to a valid
126 license, if required, and the person has the license in his or
127 her possession; has written permission of the owner or legal
128 possessor of the land on which the activities are being
129 conducted; and the pistol, when loaded, is carried only in a
130 manner discernible by ordinary observation.

131 (5) The minor is on real property under the control of
132 the minor's parent, legal guardian, or grandparent.

133 (6) The minor is a member of the armed services or
134 National Guard and the minor is acting in the line of duty.

135 (7) The minor is traveling by motor vehicle to any of
136 the locations or activities listed in subdivisions (1) through
137 (6), has written permission to possess the pistol or firearm
138 by his or her parent or legal guardian, and the pistol or
139 firearm is unloaded, locked in a compartment or container that
140 is in or affixed securely to the motor vehicle, and is out of



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reach of the driver and any passenger in the motor vehicle.

~~(g)~~ (h) This section does not apply to a minor who uses a pistol or other firearm while acting in self-defense of himself, herself, or other persons against an intruder into the residence of the minor or a residence in which the minor is an invited guest.

~~(h)~~ (i) For the purposes of this section, the following terms have the following meanings:

(1) CONVICTED. a. Means a person was represented by counsel in the case, or knowingly and intelligently waived the right to counsel in the case if required by law, and either the case was tried before a judge, tried by a jury, or the person knowingly and intelligently waived the right to have the case tried, by guilty plea or otherwise.

b. A person is not considered to have been convicted for the purposes of this section if the person is not considered to have been convicted in the jurisdiction in which the proceedings were held or the conviction has been expunged, set aside, or is of an offense for which the person has been pardoned or has had his or her civil rights restored, unless the pardon, expungement, or restoration of civil rights expressly provides that the person may not ship, transport, possess, or receive firearms.

(2) DEADLY WEAPON. A firearm or anything manifestly designed, made, or adapted for the purposes of inflicting death or serious physical injury, ~~and the~~ The term includes, but is not limited to, a bazooka, hand grenade, missile, or explosive or incendiary device; a pistol, rifle, or shotgun;



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169 ~~or~~ a switch-blade knife, gravity knife, stiletto, sword, or
170 dagger; or any club, baton, billy, black-jack, bludgeon, or
171 metal knuckles.

172 (3) MISDEMEANOR OFFENSE OF DOMESTIC VIOLENCE. A
173 misdemeanor offense that has, as its elements, the use or
174 attempted use of physical force or the threatened use of a
175 dangerous instrument or deadly weapon, and the victim is a
176 current or former spouse, parent, child, person with whom the
177 defendant has a child in common, or a present or former
178 household member.

179 (4) PUBLIC SCHOOL. A school composed of grades K-12
180 and shall include a school bus used for grades K-12.

181 (5) QUALIFIED INDIVIDUAL. A spouse or former spouse of
182 the person, an individual who is a parent of a child of the
183 person, or an individual who cohabitates or has cohabited with
184 the person.

185 (6) SCHOOL RESOURCE OFFICER. An Alabama Peace
186 Officers' Standards and Training Commissioner-certified law
187 enforcement officer employed by a law enforcement agency who
188 is specifically selected and specially trained for the school
189 setting.

190 (7) UNSOUND MIND. Includes any person who is subject
191 to any of the findings listed below, and who has not had his
192 or her rights to possess a firearm reinstated by operation of
193 law or legal process:

194 a. Found by a court, board, commission, or other lawful
195 authority that, as a result of marked subnormal intelligence,
196 mental illness, incompetency, condition, or disease, is a



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197 danger to himself, herself, or others or lacks the mental
198 capacity to contract or manage his or her own affairs.

199 b. Found to be insane, not guilty by reason of mental
200 disease or defect, found mentally incompetent to stand trial,
201 or found not guilty by a reason of lack of mental
202 responsibility by a court in a criminal case, to include
203 state, federal, and military courts.

204 c. Involuntarily committed for a final commitment for
205 inpatient treatment to the Department of Mental Health or a
206 Veterans' Administration hospital by a court after a hearing.

207 (8) VALID PROTECTION ORDER. An order issued after a
208 hearing of which the person received actual notice, and at
209 which the person had an opportunity to participate, that does
210 either of the following:

211 a. Restrains the person from harassing, stalking, or
212 threatening a qualified individual or child of the qualified
213 individual or person or engaging in other conduct that would
214 place a qualified individual in reasonable fear of bodily
215 injury to the individual or child and that includes a finding
216 that the person represents a credible threat to the physical
217 safety of the qualified individual or child.

218 b. By its terms, explicitly prohibits the use,
219 attempted use, or threatened use of physical force against the
220 qualified individual or child that would reasonably be
221 expected to cause bodily injury.

222 Section 2. Although this bill would have as its purpose
223 or effect the requirement of a new or increased expenditure of
224 local funds, the bill is excluded from further requirements



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225 and application under Section 111.05 of the Constitution of
226 Alabama of 2022, because the bill defines a new crime or
227 amends the definition of an existing crime.

228 Section 3. This act shall become effective on October
229 1, 2024.