

An Act To Amend the Child Endangerment Laws To Include Certain Unauthorized Access to a Loaded Firearm

Be it enacted by the People of the State of Maine as follows:

Sec. 1. 17-A MRSA §554, sub-§1, ¶B-3, as amended by PL 2015, c. 358, §3, is further amended to read:

B-3. Being the parent, foster parent, guardian or other person having the care and custody of a child, knowingly deprives the child of necessary health care, with a result that the child is placed in danger of serious harm. Violation of this paragraph is a Class D crime; or

Sec. 2. 17-A MRSA §554, sub-§1, ¶B-4 is enacted to read:

B-4. Stores or leaves on the premises that are under the person's control a loaded firearm when that person knows or reasonably should know that a child is likely to gain access to the loaded firearm without the permission of the child's parent, foster parent or guardian and the child in fact gains access to the loaded firearm and:

- (1) Uses the loaded firearm in a reckless or threatening manner;
- (2) Uses the loaded firearm during the commission of a crime; or
- (3) Recklessly or negligently discharges the loaded firearm.

Violation of this paragraph is a Class D crime; or

Sec. 3. 17-A MRSA §554, sub-§4 is enacted to read:

4. It is an affirmative defense to prosecution under subsection 1, paragraph B-4 that:

A. The loaded firearm is:

- (1) Stored in a locked box, locked gun safe or other secure, locked space;
- (2) Stored or left in a location that a reasonable person would believe to be secure; or
- (3) Secured with a trigger lock or similar device that prevents the firearm from discharging;

B. The loaded firearm is carried on the person or within such close proximity to the person that the person can readily retrieve and use the firearm as if the firearm were carried on the person;

C. A child who in fact gains access to the loaded firearm gains access in order to defend the child or a 3rd person under the circumstances enumerated in section 108, subsection 2, paragraph A or B;

D. The person has no reasonable expectation, based on objective facts and circumstances, that a child is likely to be present on the premises where the person stores or leaves the loaded firearm;

E. A child in fact gains access to the loaded firearm as the result of a criminal trespass by any person on the premises where the firearm is stored or left; or

F. A child in fact gains access to the loaded firearm as the result of a theft of the firearm by any person from the premises where the firearm is stored or left.

SUMMARY

This bill amends the Maine Criminal Code to specify that storing or leaving a loaded firearm on premises under a person's control when the person knows or reasonably should know that a child is likely to gain access to that firearm, and the child in fact gains access to the loaded firearm and uses it, is considered endangering the welfare of a child and is a Class D crime. The bill provides a number of affirmative defenses to the crime, including that the firearm is stored in a locked box or locked gun safe, the

130th Maine Legislature

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child uses the firearm in self-defense or defense of others, the person has no reasonable expectation that a child will be on the premises and the firearm is obtained by the child as the result of a crime.