

HOUSE BILL NO. 485
IN THE LEGISLATURE OF THE STATE OF ALASKA
EIGHTEENTH LEGISLATURE - SECOND SESSION

BY REPRESENTATIVE DAVIES

Introduced: 2/14/94

Referred: State Affairs, Judiciary, Finance

A BILL

FOR AN ACT ENTITLED

1 **"An Act relating to the storage of loaded firearms."**

2 **BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF ALASKA:**

3 *** Section 1. AS 11.61 is amended by adding new sections to read:**

4 **Sec. 11.61.260. CRIMINALLY NEGLIGENT STORAGE OF A FIREARM IN**
5 **THE FIRST DEGREE. (a) A person commits the crime of criminally negligent**
6 **storage of a firearm in the first degree if the person with criminal negligence keeps a**
7 **loaded firearm within premises under the person's custody or control and the person**
8 **knows or reasonably should know that a minor under the age of 16 is likely to gain**
9 **access to the firearm without the permission of the minor's parent or legal guardian,**
10 **a minor obtains the firearm, and death or serious physical injury to the minor or to**
11 **another person results from the minor's having obtained the firearm.**

12 **(b) For the purposes of this section, a firearm is loaded if the firing chamber,**
13 **magazine, clip, or cylinder of the firearm contains a cartridge.**

14 **(c) Criminally negligent storage of a firearm is a class A misdemeanor.**

1 **Sec. 11.61.270. CRIMINALLY NEGLIGENT STORAGE OF A FIREARM IN**
2 **THE SECOND DEGREE.** (a) A person commits the crime of criminally negligent
3 storage of a firearm in the second degree if the person with criminal negligence keeps
4 a loaded firearm within premises under the person's custody or control and the person
5 knows or reasonably should know that a minor under the age of 16 is likely to gain
6 access to the firearm without the permission of the minor's parent or legal guardian,
7 a minor obtains the firearm, and

8 (1) the minor exhibits the firearm in a public place;

9 (2) the minor violates AS 11.41.220(a)(1) or AS 11.61.220(a)(4) as a
10 result of obtaining the firearm; or

11 (3) physical injury to the minor or to another person results from the
12 minor's having obtained the firearm.

13 (b) For purposes of this section, a firearm is loaded if the firing chamber,
14 magazine, clip, or cylinder of the firearm contains a cartridge.

15 (c) Criminally negligent storage of a firearm in the second degree is a class
16 B misdemeanor.

17 **Sec. 11.61.280. DEFENSES TO CRIMINALLY NEGLIGENT STORAGE OF**
18 **A FIREARM; PROSECUTORIAL CONSIDERATION.** (a) In a prosecution under
19 AS 11.61.260 or 11.61.270, it is a defense that

20 (1) the minor obtained the firearm as a result of an illegal entry to any
21 premises by the minor or another person;

22 (2) the firearm is kept in a locked container or in a location that a
23 reasonable person would believe to be secure;

24 (3) the firearm was equipped with a trigger lock, gun lock, or other
25 locking device that was engaged so that the firearm could not be fired;

26 (4) the firearm is carried on the person or within such close proximity
27 that the person can readily retrieve and use the firearm as if carried on the person;

28 (5) the minor obtains the firearm in a lawful act of self-defense or
29 defense of another person; or

30 (6) the physical injury, serious physical injury, or death resulted from
31 an accident that was incident to lawful target shooting, sport shooting, or hunting.

1 (b) The provisions of AS 11.61.260 or 11.61.270 do not apply to a peace
2 officer or member of the armed forces acting within the scope and authority of the
3 officer's or member's employment.

4 (c) In deciding whether to prosecute a person for violation of AS 11.61.260
5 or 11.61.270, the district attorney shall consider the effect the minor's injury or death
6 has on the person.

7 * Sec. 2. AS 12.25 is amended by adding a new section to read:

8 Sec. 12.25.015. ARREST OF PERSONS FOR CRIMINALLY NEGLIGENT
9 STORAGE OF FIREARMS. Notwithstanding any other provision of law,

10 (1) a peace officer may not arrest, nor may a court order the arrest of,
11 a person for violating AS 11.61.260 or 11.61.270 if the person is the parent or legal
12 guardian of a minor who is injured or killed after obtaining a firearm, until at least
13 seven days have elapsed from the date of the incident resulting in injury or death;

14 (2) before arresting a person for violating AS 11.61.260 or 11.61.270,
15 if the person is the parent or legal guardian of a minor that has suffered serious
16 physical injury, the peace officer shall consider the condition of the minor and the
17 need for the parent or legal guardian to be with the minor while the minor is on life-
18 support equipment or is in a similarly critical medical condition.