

Survey of Selected Secure Gun Storage Statutes – February 2, 2023

	A	B	C	D	E	F	G	H	I	J	K	L	M	N	O	P	Q	R
	<p><i>Current as of 02/01/2023</i> Submitted for informational and public policymaking purposes during consideration of HB 9; View, expand or Download high res color PDF at NMHB9.org</p>	References	Secure Firearms Storage Law Enacted?	Criminal Penalty for unlawful storage of firearm?	Criminal Penalty for unlawful storage if minor is or could be involved? (a.k.a Child Access Prevention or "CAP" laws)	CAP statute's Legal Duty of Care (criminal law standard)	Protection from violations of storage requirement if gun owner secures gun?	Exceptions for Self-Defense or defense of another by a minor?	Exceptions for Hunting and sports shooting by minor?	Separate Storage of Ammo Required?	Disabled, Unloaded when stored required?	Addresses adults not authorized to possess firearms?	Requires dealers to include safety devices?	Exceptions for carrying on person or in close Proximity?	Is attending Gun Owner Safety Training a mitigating factor?	Age of majority specified?	Exception if minor accesses firearm by illegal entry?	Exception for antique/curio/relic firearms?
1																		
2	Federal	27 CFR 478.104 Secure gun storage or safety device. (recent ATF regulation, effective 12/23/2021) safety devices will be available at any place where firearms are sold.	No	No	No	n/a	n/a	n/a	n/a	No	No	No	Yes	n/a	n/a	18/21	n/a	n/a
3	California (1992)	Cal. Penal Code §§ 25000-25225; Cal. Civ. Code § 1714.3. Cal. Penal Code § 25100(a), (b), Cal. Penal Code § 23620, 25605, 25610, 23635.	Yes	Yes	Yes	Negligence - Child Uses	Yes	Yes	Yes	sometimes	sometimes	Yes	Yes	Yes	Yes	18	Yes	?
4	Colorado (2000)	Colo. Rev. Stat. §§ 18-12-114 (negligence-based); 18-12-108.7 (knowing, intentional, reckless standard). Colo. Rev. Stat. § 18-12-114(1). Juvenile definition is 18 and below. Colo. Rev. Stat. § 18-12-108.5. Colo. Rev. Stat. § 18-12-405.	Yes	Yes	Yes	Negligence-Child Could Access	No	Yes	Yes	No	No	Yes	Yes	Yes	No	18	No	Yes
5	Connecticut (1990)	Conn. Gen. Stat. §§ 29-371, 52-571g, 53a-217a. Conn. Gen. Stat. § 29-371. Prior to October 2019, prohibition only of LOADED guns involving minors under 16. Connecticut subsequently raised to age 18, extending the prohibition to both loaded and unloaded firearms (PL 19-5, Ethan's Law. Conn. Gen. Stat. § 52-571g. Conn. Gen. Stat. § 53a-217a(a). This prohibition does not apply if the minor gains access to the firearm via illegal entry of any premises where the gun is located by any person. Conn. Gen. Stat. § 53a-217a(b). Conn. Gen. Stat. § 52-571g, Conn. Gen. Stat. § 18-1-704.5, § 26-38, § 29-33.	Yes	Yes	Yes	Negligence - Child Uses	No	?	Yes	No	No	Yes	Yes	Yes	No	18	Yes	Yes
6	Delaware (1994)	Del. Code Ann. tit. 11, §§ 603, 1456. Covers parents, guardians, or other individuals caring for a child under 18. Del. Code Ann. § 464. Justification - Use of force in self-protection, § 1448, § 603. Reckless endangering in the second degree, § 701. Age of majority.	Yes	Yes	Yes	Negligence - Child Uses?	Yes	No	Yes	No	No	Yes	No	Yes	No	18	Yes	Yes
7	District of Columbia	D.C. Code Ann. § 7-2507.02(b)-(d); A presumably earlier, but identically numbered, version of § 7-2507.02 was cited by Justice Scalia in <i>D.C. v Heller</i> , 554 U.S. 570, 128 S. Ct. 2783 (2008). In <i>Heller</i> , among other things, the US Supreme Court struck down the portion of the Regulations Act that requires all firearms including rifles and shotguns be kept "unloaded and disassembled or bound by a trigger lock." Post- <i>Heller</i> , the D.C. City Council reported that it revised its Code to comply with the <i>Heller</i> ruling. D.C. Code Ann. § 22-4513. Exceptions.	Yes	No	Yes	Negligence-Child Could Access	No	No	Yes	Yes	Yes	?	No	Yes	No	18	Yes	?
8	Florida (1989)	Fla. Stat. Ann. § 790.174, § 790.173, § 790.25, § 784.05. Culpable negligence, § 790.115(2)(C)2,	Yes	No	Yes	Negligence - Child Uses	Yes	?	Yes	No	No	No	?	Yes	No	16	Yes	No
9	Georgia (1994)	Ga. Code Ann. §§ 16-11-101.1(a)(1), (c), Ga. Code Ann. §§ 16-11-101.1(c)(1), Ga. Code Ann. § 16-11-132(c), Ga. Code Ann. § 16-11-101.1(c)(2), Ga. Code Ann. § 16-11-101.1(c)(3). Georgia has no CAP statute and no secure storage requirement, but imposes severe criminal penalties for intentionally, knowingly or recklessly furnishing a HANDGUN to a minor, with the usual exceptions for hunting, sports shooting, etc.	No	No	No	Recklessness	n/a	n/a	n/a	n/a	n/a	n/a	n/a	n/a	n/a	18	n/a	n/a
10	Hawaii (1992)	Haw. Rev. Stat. Ann. §§ 134-10.5, 134-10.5. Haw. Rev. Stat. § 134-10.5 appears to criminalize negligent storage when a child is likely to gain access to a firearm, however, Haw. Rev. Stat. § 707-714.5 only provides penalties if the child gains access to a firearm. § 134-5. Possession by licensed hunters and minors; target shooting; game hunting, § 134-6. Carrying or use of firearm in the commission of a separate felony; place to keep firearms; loaded firearms; penalty,	Yes	No	Yes. (also applies to unloaded firearms)	Negligence - Child Accesses	No	No	No	No	No	No	No	Yes	No	18	Yes	No

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11	Illinois (2000)	430 Ill. Comp. Stat. 65/4(c); 720 Ill. Comp. Stat. 5/24-9(a)	Yes	No	Yes	Negligence - Child Uses	Yes	Yes	No	No	No	No	No	?	No	14	Yes	No
12	Iowa (1990)	Iowa Code § 724.22(7)	Yes	No	Yes	Negligence - Child Uses	No	No	No	No	No	No	No	No	No	14/18/21	Yes	No
13	Maine	Me. Stat., 17-A § 554(1)(B-4)	Yes	No	Yes	Negligence - Child Uses	Yes	Yes	?	No	No	?	No	Yes	No	16	Yes	No
14	Maryland (1991)	Md. Code Ann., Crim. Law § 4-104, § 4-101. Dangerous weapons, § 4-203. Wearing, carrying, or transporting handgun, COMAR 29.03.01.14. Sales to Minors (Code of Maryland Regulations, 2023 Edition),	Yes	No	Yes	Negligence-Child Could Access	?	?	Yes	No	No	No	No	No	No	16	Yes	Yes
15	Massachusetts (1998)	Mandatory secure storage for all firearms not under a gun owner's immediate control. Mass. Gen. Laws ch. 140, § 131L. Mass. Gen. Laws ch. 140, § 131L, § 140:130 1/2, § 140:131K. When lawful to furnish weapon to minors for hunting, recreation, instruction, etc., § 140:121. sales; definitions; antique firearm; application of law; exceptions	Yes	Yes	Yes	Negligence-Child Could Access	No?	No?	Yes	No	No	No	Yes	Yes	No	18/21	Yes	Yes
16	Minnesota (1993)	Minn. Stat. § 609.666, § 97B.045. TRANSPORTING FIREARMS Subdivision 1. Restrictions, Exceptions; hunting and shooting ranges, § 624.713. CERTAIN PERSONS NOT TO POSSESS FIREARMS, § 97B.021. POSSESSION OF FIREARMS BY PERSONS UNDER AGE 16, § 624.715. EXEMPTIONS; ANTIQUES AND ORNAMENTS.	Yes	No	Yes	Negligence-Child Could Access	Yes	No	?	No	No	No	No	No	No	18	Yes	Yes
17	Nevada (1995)	Nev. Rev. Stat. Ann. §§ 41.472, 202.300(1) – (3)	Yes	No	Yes	Negligence-Child Could Access	Yes	?	Yes	No	No	No	No	?	?	18	Yes	No
18	New Hampshire (2000)	N.H. Rev. Stat. Ann. § 650-C:1., § 207:2-a. Minors Hunting, § 159:12. Sale to Minors,	Yes	No	Yes	Negligence - Child Uses	Yes	Yes	Yes	No	No	No	No	Yes	No	16	Yes	No
19	New Jersey (1992)	N.J. Stat. Ann. § 2C:58-15, 2C:58-6.1. Possession of firearms by minors; exceptions, 2C:58-16. Retailer's written warnings; wholesaler's warning; violation, penalty, 2C:58-17. "KeepSafe" program established,	Yes	No	Yes	Negligence - Child Accesses	Yes	No	Yes	No	No	No	No	No	No	16	Yes	No
20	New Mexico		No	No	No	Recklessness	n/a	n/a	n/a	n/a	n/a	n/a	No	n/a	n/a	18	n/a	n/a
21	New Mexico HB 9 (2023)	Bennie's Bill, HB 9, 56th Legislature, First Session 2023 (Herdon, et al.)	Yes	No	Yes	Negligence - Child Uses	Yes	Yes	Yes	No	No	No	No	Yes	Yes	18	Yes	No
22	New York	The criminal penalty for FAILURE TO SAFELY STORE FIREARMS IN THE FIRST DEGREE is a class A misdemeanor. The penalty applies whether or not a prohibited person, including a person less than eighteen, has an opportunity to, or actually gains access to a firearm. The penalty for FAILURE TO SAFELY STORE FIREARMS IN THE SECOND DEGREE is a presumably non-criminal, small fine of "not more than \$200." The fine applies only if the person "knew, or had reason to know," that a person less than sixteen was likely to gain access, thereby creating a CAP "negligence-child could access" duty of care.N.Y. Penal Law §§ 265.45. New York Penal Law § 265.45(1).§ 265.20. § 265.50. Exemptions, Pending 2023 legislation, §1192b, § 895. Definitions.	Yes	Yes	Yes	Negligence-Child Could Access	No	No	Yes	Yes, in vehicles	No	Yes	No	Yes	No	18	No	Yes

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23	North Carolina (1993)	N.C. Gen. Stat. § 14-315.1. North Carolina's statute only applies to the negligent storage of firearms by persons who <i>reside with a minor</i> . Liability imposed if the firearm is stored or left "in a condition that the firearm can be discharged," G.S. 14-269.2(b); [on "educational" property], North Carolina State Constitution: Article I, Sec. 38. Right to hunt, fish, and harvest wildlife.	Yes	No	?	Negligence - Child Accesses	No	No	Yes	No	No	No	No	Yes	No	18	Yes	No
24	Oregon	Or. Rev. Stat. § 166.395. ORS 161.515(1) and (2), Class A and B "Violations" may have been removed from the definition of "crimes" because of a provision expressly prohibiting incarceration. 153.008. Violations described, Enrolled 2021 Oregon Senate Bill 554 (SB 554-B) expanding secure storage law.	Yes	No	No - fines only	Negligence - Child Accesses	No	Yes	Yes	No	No	Yes	Yes	Yes	No	18	Yes	No
25	Texas (1995)	Tex. Penal Code Ann. § 46.13, § 46.05. Prohibited Weapons.	Yes	No	Yes	Negligence - Child Accesses	Yes	Yes	Yes	No	No	No	No	?	No	17	Yes	?
26	Virginia (1991)	Va. Code Ann. § 18.2-56.2	No	No	Yes - only if child under 14 involved	Recklessness	No	No	No	No	No	No	No	No	No	18	No	No
27	Washington	Wash Rev Code 9A.41.360 a/k/a "Washington Initiative 1639 of 2019." Applies to all people prohibited from possessing firearms, not just children	Yes	Yes	Yes	Negligence - Child Uses	Yes	Yes	No?	No	No	Yes	No	No	No	18	Yes	No
28	Wisconsin (1992)	Wis. Stat. § 948.55 (Wisconsin Jury Instruction "JI-2185. RECKLESSLY STORING A FIREARM - SECTION 948.55(2)."; "JI-2185 Recklessly Storing a Firearm - Section 948.55(2) (Wisconsin Jury Instructions - Criminal (2022 Edition)); definition of "criminal recklessness" provided in §939.24(1)	Yes	Yes	Yes	Negligence - Child Uses	Yes	Yes	Yes	No	No	No	No	Yes	No	14	Yes	Yes?
29	N = 7 Could Access (CO, DC, MD, MA, MN, NV, NY)	RED text denotes new or changed interior cell data made since the 01/27/2023 version was submitted by author to NMHouse Judiciary Committee on 01/30/2023; four interpretive changes were made after further research and analysis; a new column covering three general clusters of legal duties of care found in most CAP statutes* was added and states are identified by three corresponding color codes. Reserachers and journalists use confusingly different terms to describe legal duties of care in CAP statutes. The most commonly used terms I encountered were those named in a 2020 JAMA Pediatric study of relationships between CAP laws and firearm fatalities among children; the study reviewed data from 1991-2016 & concluded that negligence laws were associated with relative reductions in firearm fatality rates in children aged 0 to 14 years. Further, that the most stringent negligence laws were associated with the largest reductions in unintentional firearm fatalities. Recklessness laws were not associated with reduced firearm fatality rates, according to the study. *The JAMA Pediatrics study used the following to describe three clusters of CAP legal duties of care, presumably in a criminal negligence context: 1) Child Uses; 2) Child Accesses; and 3) Child Could Access. The study's authors recommend CAP laws in cluster three. Author expresses no opinion on the JAMA study's findings; however, they may be found at https://jamanetwork.com/journals/jamapediatrics/fullarticle/2761305 .																
30	N = 5 Accesses (HI, NJ, NC, OR, TX)																	
31	N = 11 Uses (CA, CT, DE, FL, IL, IA, ME, NH, NMHB9, WA, WI)	O INFORMATION CURRENT AS OF 02/11/2023. FIND UPDATES THROUGHOUT THE 2023 NEW MEXICO LEGISLATIVE SESSION AT NMHB9.ORG ; SUBMITTED FOR INFORMATIONAL AND PUBLIC POLICYMAKING PURPOSES ONLY. NOTHING HEREIN CONSTITUTES LEGAL ADVICE. ALWAYS CONSULT A LICENSED LOCAL ATTORNEY FOR AN ACCURATE INTERPRETATION OF ANY PARTICULAR SITUATION OR LOCAL LAW. 2023 NO RIGHTS RESERVED, EDWARD J. LOPEZ, JR.																
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