

By Representative Betancourt

1 A bill to be entitled
2 An act relating to culpable negligence;
3 amending s. 784.05, F.S.; defining the offense
4 of storing or leaving a loaded firearm within
5 reach or easy access of a minor, which firearm
6 is obtained and taken to a public or private
7 elementary or secondary school by the minor;
8 providing penalties; providing exceptions;
9 amending s. 921.0012, F.S., relating to the
10 sentencing guidelines offense levels;
11 conforming a cross reference; providing an
12 effective date.

13
14 Be It Enacted by the Legislature of the State of Florida:

15
16 Section 1. Section 784.05, Florida Statutes, is
17 amended to read:

18 784.05 Culpable negligence.--

19 (1) Whoever, through culpable negligence, exposes
20 another person to personal injury commits a misdemeanor of the
21 second degree, punishable as provided in s. 775.082 or s.
22 775.083.

23 (2) Whoever, through culpable negligence, inflicts
24 actual personal injury on another commits a misdemeanor of the
25 first degree, punishable as provided in s. 775.082 or s.
26 775.083.

27 (3) A person who stores or leaves a loaded firearm
28 within the reach or easy access of a minor commits, through
29 culpable negligence, if the minor obtains the firearm and
30 takes the firearm to a public or private elementary or
31 secondary school, a misdemeanor of the first degree,

1 punishable as provided in s. 775.082 or s. 775.083. However,
2 this subsection does not apply:

3 (a) If the firearm was stored or left in a securely
4 locked box or container or in a location which a reasonable
5 person would have believed to be secure, or was securely
6 locked with a trigger lock.

7 (b) If the minor obtains the firearm as a result of an
8 unlawful entry by any person.

9 (c) To members of the Armed Forces, National Guard, or
10 State Militia, or to police or other law enforcement officers,
11 with respect to firearm possession by a minor which occurs
12 during or incidental to the performance of their official
13 duties.

14 (4)(3) Whoever violates subsection (1) by storing or
15 leaving a loaded firearm within the reach or easy access of a
16 minor commits, if the minor obtains the firearm and uses it to
17 inflict injury or death upon himself or any other person, a
18 felony of the third degree, punishable as provided in s.
19 775.082, s. 775.083, or s. 775.084. However, this subsection
20 does not apply:

21 (a) If the firearm was stored or left in a securely
22 locked box or container or in a location which a reasonable
23 person would have believed to be secure, or was securely
24 locked with a trigger lock;

25 (b) If the minor obtains the firearm as a result of an
26 unlawful entry by any person;

27 (c) To injuries resulting from target or sport
28 shooting accidents or hunting accidents; or

29 (d) To members of the Armed Forces, National Guard, or
30 State Militia, or to police or other law enforcement officers,
31 with respect to firearm possession by a minor which occurs

1 during or incidental to the performance of their official
2 duties.

3
4 When any minor child is accidentally shot by another family
5 member, no arrest shall be made pursuant to this subsection
6 prior to 7 days after the date of the shooting. With respect
7 to any parent or guardian of any deceased minor, the
8 investigating officers shall file all findings and evidence
9 with the state attorney's office with respect to violations of
10 this subsection. The state attorney shall evaluate such
11 evidence and shall take such action as he or she deems
12 appropriate under the circumstances and may file an
13 information against the appropriate parties.

14 (5)~~(4)~~ As used in this act, the term "minor" means any
15 person under the age of 16.

16 Section 2. Paragraph (b) of subsection (3) of section
17 921.0012, Florida Statutes, 1996 Supplement, is amended to
18 read:

19 921.0012 Sentencing guidelines offense levels; offense
20 severity ranking chart.--

21 (3) OFFENSE SEVERITY RANKING CHART

| 22 Florida Statute | Felony Degree | Description |
|--------------------|---------------|-----------------------------------|
| 23 | | |
| 24 | | |
| 25 | | |
| 26 | | (b) LEVEL 2 |
| 27 403.413(5)(c) | 3rd | Dumps waste litter exceeding 500 |
| 28 | | lbs. in weight or 100 cubic feet |
| 29 | | in volume or any quantity for |
| 30 | | commercial purposes, or hazardous |
| 31 | | waste. |

| | | | |
|----|----------------------------------|-----|-----------------------------------|
| 1 | 517.07 | 3rd | Registration of securities and |
| 2 | | | furnishing of prospectus |
| 3 | | | required. |
| 4 | 590.28(1) | 3rd | Willful, malicious, or |
| 5 | | | intentional burning. |
| 6 | 784.05 <u>(4)</u> (3) | 3rd | Storing or leaving a loaded |
| 7 | | | firearm within reach of minor who |
| 8 | | | uses it to inflict injury or |
| 9 | | | death. |
| 10 | 787.04(1) | 3rd | In violation of court order, |
| 11 | | | take, entice, etc., minor beyond |
| 12 | | | state limits. |
| 13 | 806.13(1)(b)3. | 3rd | Criminal mischief; damage \$1,000 |
| 14 | | | or more to public communication |
| 15 | | | or any other public service. |
| 16 | 810.09(2)(e) | 3rd | Trespassing on posted commerical |
| 17 | | | horticulture property. |
| 18 | 812.014(2)(c)1. | 3rd | Grand theft, 3rd degree; \$300 or |
| 19 | | | more but less than \$5,000. |
| 20 | 812.014(2)(d) | 3rd | Grand theft, 3rd degree; \$100 or |
| 21 | | | more but less than \$300, taken |
| 22 | | | from unenclosed curtilage of |
| 23 | | | dwelling. |
| 24 | 817.234(1)(a)2. | 3rd | False statement in support of |
| 25 | | | insurance claim. |
| 26 | 817.481(3)(a) | 3rd | Obtain credit or purchase with |
| 27 | | | false, expired, counterfeit, |
| 28 | | | etc., credit card, value over |
| 29 | | | \$300. |
| 30 | 817.52(3) | 3rd | Failure to redeliver hired |
| 31 | | | vehicle. |

| | | | |
|----|----------------|-----|-----------------------------------|
| 1 | 817.54 | 3rd | With intent to defraud, obtain |
| 2 | | | mortgage note, etc., by false |
| 3 | | | representation. |
| 4 | 817.60(5) | 3rd | Dealing in credit cards of |
| 5 | | | another. |
| 6 | 817.60(6)(a) | 3rd | Forgery; purchase goods, services |
| 7 | | | with false card. |
| 8 | 817.61 | 3rd | Fraudulent use of credit cards |
| 9 | | | over \$100 or more within 6 |
| 10 | | | months. |
| 11 | 826.04 | 3rd | Knowingly marries or has sexual |
| 12 | | | intercourse with person to whom |
| 13 | | | related. |
| 14 | 831.01 | 3rd | Forgery. |
| 15 | 831.02 | 3rd | Uttering forged instrument; |
| 16 | | | utters or publishes alteration |
| 17 | | | with intent to defraud. |
| 18 | 831.07 | 3rd | Forging bank bills or promissory |
| 19 | | | note. |
| 20 | 831.08 | 3rd | Possession of 10 or more forged |
| 21 | | | notes. |
| 22 | 831.09 | 3rd | Uttering forged bills; passes as |
| 23 | | | bank bill or promissory note. |
| 24 | 832.05(3)(a) | 3rd | Cashing or depositing item with |
| 25 | | | intent to defraud. |
| 26 | 843.08 | 3rd | Falsely impersonating an officer. |
| 27 | 893.13(2)(a)2. | 3rd | Purchase of any s. 893.03(1)(c), |
| 28 | | | (2)(c), (3), or (4) drugs other |
| 29 | | | than cannabis. |
| 30 | 893.147(2) | 3rd | Manufacture or delivery of drug |
| 31 | | | paraphernalia. |

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Section 3. This act shall take effect October 1, 1997.

HOUSE SUMMARY

Defines the offense of storing or leaving a loaded
firearm within the reach or easy access of a minor, which
firearm is obtained and taken to school by the minor.
Provides first-degree misdemeanor penalties for the
offense. Provides exceptions.