



State of Wisconsin
2021 - 2022 LEGISLATURE

LRB-1097/1
CMH:amn

2021 ASSEMBLY BILL 861

January 18, 2022 - Introduced by Representatives SUBECK, SHELTON, ANDERSON, ANDRACA, BILLINGS, BROSTOFF, CONLEY, EMERSON, HEBL, NEUBAUER, SINICKI, SNODGRASS and STUBBS, cosponsored by Senators LARSON, CARPENTER and JOHNSON. Referred to Committee on Criminal Justice and Public Safety.

AUTHORS SUBJECT TO CHANGE

1 **AN ACT** *to amend* 968.02 (4) and 968.07 (3); and *to repeal and recreate* 948.55
2 of the statutes; **relating to:** storage of a firearm in residence if child is present
3 and providing a penalty.

Analysis by the Legislative Reference Bureau

This bill prohibits a person from storing or leaving a firearm at his or her residence if the person resides with a child who is under the age of 18, or knows a child who is under the age of 18 will be present in the residence, unless the firearm is in a securely locked box or container or other secure locked location or has a trigger lock engaged. A person who violates this prohibition is guilty of a Class A misdemeanor for a first offense and a Class I felony for a subsequent offense. This replaces the current law that penalizes a person who recklessly stores or leaves a loaded firearm within reach of a child who is under 14 if the child obtains it and does one of the following: 1) discharges the firearm and causes bodily harm or death (Class A misdemeanor); or 2) possesses or exhibits the firearm in a public place or endangers public safety (Class C misdemeanor).

Because this bill creates a new crime or revises a penalty for an existing crime, the Joint Review Committee on Criminal Penalties may be requested to prepare a report.

The people of the state of Wisconsin, represented in senate and assembly, do enact as follows:

ASSEMBLY BILL 861**SECTION 1**

1 **SECTION 1.** 948.55 of the statutes is repealed and recreated to read:

2 **948.55 Storage of firearm if children present. (1)** Whoever resides with
3 a child, or knows a child will be present in his or her residence, may not store or leave
4 a firearm at his or her residence unless the firearm is in a securely locked box or
5 container or in a locked location that a reasonable person would believe to be secure
6 or unless a trigger lock is engaged on the firearm. This prohibition does not apply
7 to a person who is carrying the firearm.

8 **(2)** A person who violates sub. (1) is guilty of the following:

9 (a) For a first violation, a Class A misdemeanor.

10 (b) For a 2nd or subsequent violation, a Class I felony.

11 **SECTION 2.** 968.02 (4) of the statutes is amended to read:

12 **968.02 (4)** If the alleged violator under s. 948.55 ~~(2)~~ or 948.60 (2) (c) is or was
13 the parent or guardian of a child who is injured or dies as a result of an accidental
14 shooting, the district attorney may consider, among other factors, the impact of the
15 injury or death on the alleged violator when deciding whether to issue a complaint
16 regarding the alleged violation. This subsection does not restrict the factors that a
17 district attorney may consider in deciding whether to issue a complaint regarding
18 any alleged violation.

19 **SECTION 3.** 968.07 (3) of the statutes is amended to read:

20 **968.07 (3)** If the alleged violator under s. 948.55 ~~(2)~~ or 948.60 (2) (c) is or was
21 the parent or guardian of a child who is injured or dies as a result of an accidental
22 shooting, no law enforcement officer may arrest the alleged violator until at least 7
23 days after the date of the shooting.

24

(END)