SUMMARY OF STATE CHILD ACCESS PREVENTION LAWS

States with Child Access Prevention Laws

California Colorado
Connecticut Delaware
District of Columbia Florida

Georgia Hawaii Illinois Indiana Iowa Kentucky

Maryland Massachusetts

Minnesota Mississippi
Missouri Nevada
New Hampshire New Jersey
North Carolina Oklahoma
Rhode Island Tennessee

Texas Utah

Virginia Wisconsin

State Laws Based on Negligent Storage

California Connecticut

Florida Hawaii Illinois Iowa

Maryland Massachusetts
Minnesota New Hampshire
New Jersey North Carolina

Rhode Island Texas

States Imposing Criminal Liability for Allowing a Child to Gain Access to the Firearm, Regardless of Whether the Child Uses the Firearm or Causes Injury

Hawaii Maryland
Massachusetts Minnesota
New Jersey Texas

States Imposing Criminal Liability Only if a Child Uses or Possesses the Firearm

California Connecticut

Florida Illinois

Iowa New Hampshire North Carolina Rhode Island

States Imposing Criminal Liability for Negligent Storage of Unloaded Firearms

California

Hawaii

Massachusetts

<u>State Laws Prohibiting Intentional, Knowing or Reckless Provision of Firearms to</u> Minors

Colorado Delaware
Georgia Indiana
Kentucky Mississippi
Missouri Nevada
Oklahoma Tennessee
Utah Virginia

Wisconsin

Description of State Child Access Prevention Laws

The majority of states have laws designed to prevent children from accessing firearms. The strongest laws impose criminal liability when a minor gains access to a negligently stored firearm. The weakest prohibit persons from directly providing a firearm to a minor. There is a wide range of laws that fall somewhere between these extremes, including laws that impose criminal liability for negligently stored firearms, but only where the child uses the firearm and causes death or serious injury. Weaker laws impose liability only in the event of reckless, knowing or intentional conduct by the adult. States also differ on the definition of "minor" for purposes of preventing access to firearms by children.

1. Laws Imposing Criminal Liability when a Child Gains Access as a Result of Negligent Storage of a Firearm: Fourteen states (California, Connecticut, Florida, Hawaii, Illinois, Iowa, Maryland, Massachusetts, Minnesota, New Hampshire, New Jersey, North Carolina, Rhode Island, and Texas) have laws that impose criminal liability on persons who negligently store firearms, where minors could or do gain access to the firearm. Typically, these laws apply whenever the person "knows or reasonably should know" that a child is likely to gain access to the firearm.

There are a number of variations in these types of laws, including whether the child must use the firearm, and whether the firearm must be loaded. The most significant variations are described below:

- a. States Imposing Criminal Liability for Allowing a Child to Gain Access: The broadest laws apply regardless of whether the child even gains possession of the firearm. Massachusetts and Minnesota impose liability in circumstances where a child may (Massachusetts) or is likely to (Minnesota) gain access to a firearm. In Hawaii, Maryland, New Jersey and Texas, liability exists whenever a child gains access to an improperly stored firearm. In these states, it is not necessary for the child to use the firearm or cause any injury.
- b. States Imposing Criminal Liability Only if Child Uses or Possesses the Firearm: California, Connecticut, Florida, Illinois, Iowa, New Hampshire, North Carolina and Rhode Island require that the child possess or use the firearm in some way before liability attaches. In California, Connecticut, Illinois, Iowa, and Rhode Island, the statute applies when the child uses the firearm to cause death or serious injury. California,

lowa, Florida, New Hampshire and North Carolina also impose liability when the minor takes the firearm to a public place, and/or uses the firearm in a threatening manner. The New Hampshire and North Carolina statutes also impose liability when the child uses the firearm in the commission of a crime.

- c. States Imposing Criminal Liability for Negligent Storage of Unloaded Firearms: Hawaii and Massachusetts impose liability even if the firearm is unloaded. In the case of handguns only, California imposes liability when the child carries a loaded or unloaded handgun off-premises. All other states require that the firearm be loaded for liability to attach.
- d. *Common Exceptions*: States allow several exceptions to their child access prevention laws. The most common exception applies where the firearm is stored in a locked container (California, Connecticut, Florida, Hawaii, Illinois, Iowa, Minnesota, New Hampshire, New Jersey, North Carolina, Rhode Island, Texas). Another common exception applies where the minor gains access to the firearm via illegal entry of the premises (California, Connecticut, Florida, Hawaii, Illinois, Iowa, Maryland, Minnesota, New Hampshire, New Jersey, North Carolina, Rhode Island, Texas). Other exceptions include cases where the firearm is used for hunting, sport shooting and/or agricultural purposes, where the minor uses the firearm in defense of self or others, where the firearm is used in aid of law enforcement, or where the child has completed a firearm safety course.
- 2. States Preventing Persons from Intentionally, Knowingly and/or Recklessly Providing Firearms to Minors: Several states impose a weaker standard for criminal liability when a child is allowed to access a firearm. Colorado, Delaware, Georgia, Indiana, Kentucky, Mississippi, Missouri, Nevada, Oklahoma, Tennessee, Utah, Virginia and Wisconsin prohibit persons from intentionally, knowingly, and/or recklessly providing some or all firearms to children.
- a. *All firearms*: Indiana, Missouri, Nevada, Oklahoma and Utah laws apply to all firearms.
- b. *All loaded firearms*: Delaware, Wisconsin and Virginia prohibit persons from providing loaded firearms to children.

- c. *Handguns only*: Colorado, Georgia, Kentucky, Mississippi and Tennessee laws only prohibit providing handguns to minors.
- d. Lesser standard for parents/guardians: Georgia, Indiana, Kentucky, Oklahoma, Tennessee and Utah impose a lesser standard on parents and guardians, providing that parents may be held liable for providing firearms to children only where they know of a substantial risk that the minor will use the firearm to commit a crime.
- 3. *Definition of "Minor"*: The age which triggers a state's child access prevention law varies, ranging from children under 14 to those under 18.

<u>Under 18</u>: California, Colorado, Delaware, Georgia, Indiana, Kentucky, Massachusetts, Minnesota, Mississippi, Missouri, Nevada, North Carolina, Oklahoma, Tennessee, Utah Under 17: Texas

<u>Under 16</u>: Connecticut, Florida, Hawaii, Maryland, New Hampshire, New Jersey, Rhode Island

<u>Under 14</u>: Illinois, Iowa, Virginia, Wisconsin

- 4. States Requiring that All Firearms be Stored with a Locking Device in Place: Massachusetts and the District of Columbia require that all firearms be stored with locking devices in place to prevent accidental discharge. These laws are another important means to protect children from gaining unauthorized access to firearms and causing death or injury.
- 5. States Imposing Civil Liability on Persons who Fail to Store Firearms Properly:
 California imposes civil liability on the parent/guardian of a minor for damages resulting from the minor's discharge of a firearm, where the parent/guardian permitted the minor to have the firearm or left it accessible to the minor. Connecticut imposes strict liability in civil actions on persons who fail to store firearms securely, where a minor gains access and causes injury or death. In Illinois, when a minor under the age of 21 legally acquires a firearms license by obtaining the permission of a parent/guardian, that parent/guardian becomes liable for civil claims for damages resulting from the minor's use of firearms or ammunition. In Nevada, a parent/guardian is jointly and severally liable with the minor for civil damages caused by permitting the minor to possess a firearm, where the parent/guardian knows or has reason to know that the minor has a propensity to commit violent acts, intends to use the firearm for an unlawful purpose, or has been previously adjudicated delinquent.