

MAINE STATE LEGISLATURE

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130th MAINE LEGISLATURE

FIRST REGULAR SESSION-2021

Legislative Document

No. 759

H.P. 564

House of Representatives, March 5, 2021

An Act To Amend the Child Endangerment Laws To Include Certain Unauthorized Access to a Loaded Firearm

Reference to the Committee on Criminal Justice and Public Safety suggested and ordered printed.

A handwritten signature in cursive script that reads "Robert B. Hunt".

ROBERT B. HUNT
Clerk

Presented by Representative DOUDERA of Camden.
Cosponsored by Senator BREEN of Cumberland and
Representatives: BELL of Yarmouth, Speaker FECTEAU of Biddeford, MILLETT of Cape
Elizabeth, TALBOT ROSS of Portland, WARREN of Hallowell, ZAGER of Portland, Senator:
LIBBY of Androscoggin.

1 **Be it enacted by the People of the State of Maine as follows:**

2 **Sec. 1. 17-A MRSA §554, sub-§1, ¶B-3**, as amended by PL 2015, c. 358, §3, is
3 further amended to read:

4 B-3. Being the parent, foster parent, guardian or other person having the care and
5 custody of a child, knowingly deprives the child of necessary health care, with a result
6 that the child is placed in danger of serious harm. Violation of this paragraph is a Class
7 D crime; ~~or~~

8 **Sec. 2. 17-A MRSA §554, sub-§1, ¶B-4** is enacted to read:

9 B-4. Stores or leaves on the premises that are under the person's control a loaded
10 firearm when that person knows or reasonably should know that a child is likely to gain
11 access to the loaded firearm without the permission of the child's parent, foster parent
12 or guardian and the child in fact gains access to the loaded firearm and:

- 13 (1) Uses the loaded firearm in a reckless or threatening manner;
14 (2) Uses the loaded firearm during the commission of a crime; or
15 (3) Recklessly or negligently discharges the loaded firearm.

16 Violation of this paragraph is a Class D crime; or

17 **Sec. 3. 17-A MRSA §554, sub-§4** is enacted to read:

18 4. It is an affirmative defense to prosecution under subsection 1, paragraph B-4 that:

19 A. The loaded firearm is:

- 20 (1) Stored in a locked box, locked gun safe or other secure, locked space;
21 (2) Stored or left in a location that a reasonable person would believe to be secure;
22 or
23 (3) Secured with a trigger lock or similar device that prevents the firearm from
24 discharging;

25 B. The loaded firearm is carried on the person or within such close proximity to the
26 person that the person can readily retrieve and use the firearm as if the firearm were
27 carried on the person;

28 C. A child who in fact gains access to the loaded firearm gains access in order to
29 defend the child or a 3rd person under the circumstances enumerated in section 108,
30 subsection 2, paragraph A or B;

31 D. The person has no reasonable expectation, based on objective facts and
32 circumstances, that a child is likely to be present on the premises where the person
33 stores or leaves the loaded firearm;

34 E. A child in fact gains access to the loaded firearm as the result of a criminal trespass
35 by any person on the premises where the firearm is stored or left; or

36 F. A child in fact gains access to the loaded firearm as the result of a theft of the firearm
37 by any person from the premises where the firearm is stored or left.

1

SUMMARY

2 This bill amends the Maine Criminal Code to specify that storing or leaving a loaded
3 firearm on premises under a person's control when the person knows or reasonably should
4 know that a child is likely to gain access to that firearm, and the child in fact gains access
5 to the loaded firearm and uses it, is considered endangering the welfare of a child and is a
6 Class D crime. The bill provides a number of affirmative defenses to the crime, including
7 that the firearm is stored in a locked box or locked gun safe, the child uses the firearm in
8 self-defense or defense of others, the person has no reasonable expectation that a child will
9 be on the premises and the firearm is obtained by the child as the result of a crime.