



28 Section 2. Section 78-11-6.3 is enacted to read:

29 78-11-6.3. Negligent storage of a firearm -- Definitions -- Exceptions -- Provisions for  
30 civil action.

31 (1) As used in this part:

32 (a) "Bodily injury" means any physical injury as defined in Section 76-1-601.

33 (b) "External locking device" means a device which temporarily prevents the firearm from  
34 functioning.

35 (c) "Loaded firearm" means any pistol, revolver, shotgun, sawed-off shotgun, rifle or  
36 sawed-off rifle, or any device that could be used as a dangerous weapon, as defined in Section  
37 76-10-501, from which is expelled a projectile by a force when:

38 (i) there is an unexpended cartridge, shell, or projectile in the firing position; or

39 (ii) the manual operation of any mechanism would cause the unexpended cartridge, shell,  
40 or projectile to be fired.

41 (d) "Locked container" means a secure container which is fully enclosed and locked by a  
42 padlock, key lock, combination lock, or similar locking device.

43 (e) "Minor" means a person who is 15 years of age or less.

44 (2) As provided in Section 78-11-6, when death or bodily injury is caused by the negligent  
45 storage of a loaded firearm by another person and the dead or injured person:

46 (a) is a minor, an action for the death or bodily injury of the minor may be maintained by  
47 the minor's parent or legal guardian; or

48 (b) is a person other than a minor:

49 (i) the injured person may maintain an action for his bodily injury; or

50 (ii) the heirs or the personal representative of the person may maintain an action for the  
51 death of the person.

52 (3) Except as provided in Subsection (4), a person commits the act of negligent storage  
53 of a firearm if:

54 (a) the person keeps any loaded firearm within any premise which is under the person's  
55 custody or control;

56 (b) the person knows or reasonably should know that a minor is likely to gain access to the  
57 loaded firearm without the permission of the minor's parent, legal guardian, or property owner  
58 where the loaded firearm is stored; and

59 (c) the minor obtains access to the loaded firearm and thereby causes death or bodily injury  
60 to himself or any other person.

61 (4) Subsection (3) does not apply if any of the following occur:

62 (a) the minor obtains the loaded firearm as a result of an unlawful entry to any premises  
63 by any person;

64 (b) the loaded firearm is kept in a locked container or in a location which a reasonable  
65 person would believe to be secure;

66 (c) the loaded firearm is carried on the person or within a close proximity so that the  
67 person can readily retrieve and use the firearm as if carried on the person;

68 (d) the loaded firearm is equipped with an external locking device, unless the manufacturer  
69 of the firearm recommends that a safety device not be used with the loaded firearm;

70 (e) the person is authorized to possess a weapon under Sections 53A-3-502 and 76-10-523  
71 and the minor obtains the loaded firearm during, or incidental to, the performance of the person's  
72 duties;

73 (f) the minor obtains, or obtains and discharges, the loaded firearm in a lawful act of  
74 self-defense or defense of another person; or

75 (g) the person who keeps a loaded firearm on any premise which is under the person's  
76 custody or control has no reasonable expectation, based on objective facts and circumstances, that  
77 a minor is likely to be present on the premise.

78 (5) The provisions of this section do not supersede any other cause of action.

79 (6) The total amount of damages that may be awarded to any person pursuant to a cause  
80 of action under this section that arises after July 1, 1999, is limited to \$500,000.

81 (7) An action based upon a cause of action under this chapter shall be commenced within  
82 two years after the date of the injury.

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**Legislative Review Note**  
**as of 1-28-99 10:49 AM**

A limited legal review of this legislation raises no obvious constitutional or statutory concerns.

**Office of Legislative Research and General Counsel**