

SF4312 - 1A - Safe Storage of Firearms Standards

Chief Author: **Heather Gustafson**
 Committee: **Judiciary And Public Safety**
 Date Completed: **4/1/2024 5:24:38 PM**
 Lead Agency: **Supreme Court**
 Other Agencies:
 Corrections Dept Public Defense Board
 Sentencing Guidelines
 Comm

State Fiscal Impact	Yes	No
Expenditures	X	
Fee/Departmental Earnings		X
Tax Revenue		X
Information Technology		X
Local Fiscal Impact	X	

This table shows direct impact to state government only. Local government impact, if any, is discussed in the narrative.
 Reductions shown in the parentheses.

State Cost (Savings)		Biennium			Biennium	
Dollars in Thousands		FY2023	FY2024	FY2025	FY2026	FY2027
Corrections Dept						
General Fund		-	-	10	19	19
State Total						
General Fund		-	-	10	19	19
Total		-	-	10	19	19
Biennial Total				10		38

Full Time Equivalent Positions (FTE)		Biennium			Biennium	
		FY2023	FY2024	FY2025	FY2026	FY2027
Corrections Dept						
General Fund		-	-	-	-	-
Total		-	-	-	-	-

Lead LBO Analyst's Comment

I have reviewed this fiscal note for reasonableness of content and consistency with the LBO's Uniform Standards and Procedures.

LBO Signature: Karen McKey **Date:** 4/1/2024 5:24:38 PM
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State Cost (Savings) Calculation Details

This table shows direct impact to state government only. Local government impact, if any, is discussed in the narrative. Reductions are shown in parentheses.

*Transfers In/Out and Absorbed Costs are only displayed when reported.

State Cost (Savings) = 1-2		Biennium			Biennium	
Dollars in Thousands		FY2023	FY2024	FY2025	FY2026	FY2027
Corrections Dept						
General Fund	-	-	10	19	19	
Total	-	-	10	19	19	
Biennial Total			10		38	
1 - Expenditures, Absorbed Costs*, Transfers Out*						
Corrections Dept						
General Fund	-	-	10	19	19	
Total	-	-	10	19	19	
Biennial Total			10		38	
2 - Revenues, Transfers In*						
Corrections Dept						
General Fund	-	-	-	-	-	
Total	-	-	-	-	-	
Biennial Total			-		-	

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Chief Author: **Heather Gustafson**
 Committee: **Judiciary And Public Safety**
 Date Completed: **4/1/2024 5:24:38 PM**
 Agency: **Supreme Court**

State Fiscal Impact	Yes	No
Expenditures		X
Fee/Departmental Earnings		X
Tax Revenue		X
Information Technology		X
Local Fiscal Impact		X

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State Cost (Savings)		Biennium			Biennium	
Dollars in Thousands		FY2023	FY2024	FY2025	FY2026	FY2027
Total		-	-	-	-	-
Biennial Total				-		-

Full Time Equivalent Positions (FTE)		Biennium			Biennium	
		FY2023	FY2024	FY2025	FY2026	FY2027
Total		-	-	-	-	-

LBO Analyst's Comment

I have reviewed this fiscal note for reasonableness of content and consistency with the LBO's Uniform Standards and Procedures.

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State Cost (Savings) Calculation Details

This table shows direct impact to state government only. Local government impact, if any, is discussed in the narrative. Reductions are shown in parentheses.

*Transfers In/Out and Absorbed Costs are only displayed when reported.

State Cost (Savings) = 1-2		Biennium			Biennium	
Dollars in Thousands		FY2023	FY2024	FY2025	FY2026	FY2027
	Total	-	-	-	-	-
	Biennial Total			-		-
1 - Expenditures, Absorbed Costs*, Transfers Out*						
	Total	-	-	-	-	-
	Biennial Total			-		-
2 - Revenues, Transfers In*						
	Total	-	-	-	-	-
	Biennial Total			-		-

Bill Description

The bill modifies Minn. Stat. § 609.666, which is currently entitled “Negligent Storage of Firearms” and renames it to “Safe and Secure Storage of Firearms.” The bill sets new and additional requirements for storing firearms. The bill creates several new criminal penalties for violations of the mandatory firearm storage requirements, including misdemeanor, gross misdemeanor, and felony penalties. The bill defines exceptions for the storage requirements.

The bill prohibits persons convicted of gross misdemeanor violations of Minn. Stat. § 609.666 from possessing firearms and ammunition for a period of at least three years.

Assumptions

It is assumed this bill will increase criminal case filings because it creates several new crimes. It is assumed that the increase in criminal case filings will be comparable to the number of current filings alleging violations of Minn. Stat. § 609.666.

Expenditure and/or Revenue Formula

Based on five years of judicial branch data (2019–2023), there was a total of 194 charges filed statewide under Minn. Stat. § 609.666. If each charge constituted a separate criminal case, that is an average of 39 cases filed statewide per year. Even if the number of charges filed under Minn. Stat. § 609.666 triples as a result of this bill, the increase in the number of cases filed statewide would be an average of 78 cases per year, which is less than 1 case per county per year. This bill is not anticipated to have a significant fiscal impact on the Judicial Branch.

Long-Term Fiscal Considerations

Local Fiscal Impact

References/Sources

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SF4312 - 1A - Safe Storage of Firearms Standards

Chief Author: **Heather Gustafson**
 Committee: **Judiciary And Public Safety**
 Date Completed: **4/1/2024 5:24:38 PM**
 Agency: **Corrections Dept**

State Fiscal Impact	Yes	No
Expenditures	X	
Fee/Departmental Earnings		X
Tax Revenue		X
Information Technology		X
Local Fiscal Impact	X	

This table shows direct impact to state government only. Local government impact, if any, is discussed in the narrative.
 Reductions shown in the parentheses.

State Cost (Savings)	Biennium			Biennium	
	FY2023	FY2024	FY2025	FY2026	FY2027
Dollars in Thousands					
General Fund	-	-	10	19	19
Total	-	-	10	19	19
Biennial Total			10		38

Full Time Equivalent Positions (FTE)	Biennium			Biennium	
	FY2023	FY2024	FY2025	FY2026	FY2027
General Fund	-	-	-	-	-
Total	-	-	-	-	-

LBO Analyst's Comment

I have reviewed this fiscal note for reasonableness of content and consistency with the LBO's Uniform Standards and Procedures.

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State Cost (Savings) Calculation Details

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State Cost (Savings) = 1-2		Biennium			Biennium
Dollars in Thousands	FY2023	FY2024	FY2025	FY2026	FY2027
General Fund	-	-	10	19	19
Total	-	-	10	19	19
Biennial Total			10		38
1 - Expenditures, Absorbed Costs*, Transfers Out*					
General Fund	-	-	10	19	19
Total	-	-	10	19	19
Biennial Total			10		38
2 - Revenues, Transfers In*					
General Fund	-	-	-	-	-
Total	-	-	-	-	-
Biennial Total			-		-

Bill Description

S.F. 4312-1A requires that a person either store a firearm unloaded and equipped with a locking device or stored in a firearm storage unit. The bill also establishes penalties for failure to store the firearm properly.

Assumptions

The Minnesota Sentencing Guidelines Commission (MSGC) assumes that the bill's effect on future criminal violations is unknown or similar to existing statutory requirements, and that there will be an increase in 1 prison bed annually.

The Department of Corrections assumes:

- Prison bed costs are based on a marginal cost per diem of \$42.50 for FY 2024, \$50.82 for FY 2025, \$51.95 for FY 2026 and \$53.06 for FY 2027 and each subsequent year. This includes marginal costs for all facility, private and public bed rental, health care and support costs.
- The annual cost is estimated by multiplying the number of prison beds needed by the subsequent annual per diem. Unless otherwise noted, prison beds are phased in on a quarterly basis.
- Prison bed FTE impact for the increase in the offender population assumes 80 percent of the ongoing bed impact is personnel-related and the average salary per FTE is \$72,000 per year including benefits.

Expenditure and/or Revenue Formula

Costs for Prison Beds

Fiscal Year	2024	2025	2026	2027
# of Prison Beds	0	1	1	1
Cost of Prison Beds (in 000s)	0	10	19	19
FTE	0	0	0	0

Long-Term Fiscal Considerations

Prison bed estimates will continue through the budget horizon.

Local Fiscal Impact

The commission estimates that there will be a need for about 5 local beds statewide.

References/Sources

Minnesota Sentencing Guidelines Commission (MSGC)

Department of Corrections

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SF4312 - 1A - Safe Storage of Firearms Standards

Chief Author: **Heather Gustafson**
 Committee: **Judiciary And Public Safety**
 Date Completed: **4/1/2024 5:24:38 PM**
 Agency: **Public Defense Board**

State Fiscal Impact	Yes	No
Expenditures		X
Fee/Departmental Earnings		X
Tax Revenue		X
Information Technology		X
Local Fiscal Impact		X

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State Cost (Savings)		Biennium			Biennium	
Dollars in Thousands		FY2023	FY2024	FY2025	FY2026	FY2027
Total		-	-	-	-	-
Biennial Total				-		-

Full Time Equivalent Positions (FTE)		Biennium			Biennium	
		FY2023	FY2024	FY2025	FY2026	FY2027
Total		-	-	-	-	-

LBO Analyst's Comment

I have reviewed this fiscal note for reasonableness of content and consistency with the LBO's Uniform Standards and Procedures.

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State Cost (Savings) Calculation Details

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Total		-	-	-	-	-
Biennial Total				-		-
1 - Expenditures, Absorbed Costs*, Transfers Out*						
Total		-	-	-	-	-
Biennial Total				-		-
2 - Revenues, Transfers In*						
Total		-	-	-	-	-
Biennial Total				-		-

Bill Description

The bill requires that when a firearm is not in the physical control of the person, that the firearm either be unloaded and equipped with a locking device or loaded or unloaded in a locked firearm storage unit.

A violation of the statute is a misdemeanor; a gross misdemeanor if the firearm is not secured and is loaded; a two year felony if a loaded unsecured firearm is accessed by a child or a person prohibited from possessing firearms; a five year felony if an unsecured firearm is used in a felony crime of violence or to inflict substantial or great bodily harm on, or to cause the death of someone.

The bill would make some exceptions to the storage requirements for firearms being transported, shooting events, sport shooting facilities and peace officers engaged in official duties.

Assumptions

There would be no significant change in workloads or caseloads as result of this bill.

Expenditure and/or Revenue Formula

Long-Term Fiscal Considerations

Local Fiscal Impact

References/Sources

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SF4312 - 1A - Safe Storage of Firearms Standards

Chief Author: **Heather Gustafson**
 Committee: **Judiciary And Public Safety**
 Date Completed: **4/1/2024 5:24:38 PM**
 Agency: **Sentencing Guidelines Comm**

State Fiscal Impact	Yes	No
Expenditures		X
Fee/Departmental Earnings		X
Tax Revenue		X
Information Technology		X
Local Fiscal Impact	X	

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Biennial Total				-		-

Full Time Equivalent Positions (FTE)		Biennium			Biennium	
		FY2023	FY2024	FY2025	FY2026	FY2027
Total		-	-	-	-	-

LBO Analyst's Comment

I have reviewed this fiscal note for reasonableness of content and consistency with the LBO's Uniform Standards and Procedures.

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State Cost (Savings) Calculation Details

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Dollars in Thousands		FY2023	FY2024	FY2025	FY2026	FY2027
Total		-	-	-	-	-
Biennial Total				-		-
1 - Expenditures, Absorbed Costs*, Transfers Out*						
Total		-	-	-	-	-
Biennial Total				-		-
2 - Revenues, Transfers In*						
Total		-	-	-	-	-
Biennial Total				-		-

Bill Description

In its current form, Minn. Stat. § 609.666 (Negligent Storage of Firearms) establishes a gross misdemeanor for negligently storing or leaving a loaded firearm where the person knows, or reasonably should know, that a child is likely to gain access, unless reasonable action was taken to secure the firearm against such access.

In place of this requirement, section 1 amends § 609.666 (restyled as “Safe and Secure Storage of Firearms”) to forbid storing, keeping, or leaving a firearm (unless permanently inoperable), when not in the person’s direct physical control or reach, unless the firearm is locked in a gun room, locked in a firearm storage unit (container), or unloaded and equipped with a locking device. Exceptions -- pertaining to lawful firearms transportation, high school shooting sports events, lawful shooting preserves, peace officers, and police stations -- apply.

Failure to comply with this requirement is generally a misdemeanor.

Such failure becomes a gross misdemeanor if a child is present in the area where the firearm is stored, kept, or left.

Such failure becomes a three-year/\$5,000 felony if a loaded, unsecured firearm is accessed by a child or a person prohibited from possessing a firearm under Minn. Stat. § 624.713, subd. 1.

Such failure becomes a five-year/\$10,000 felony if an unsecured firearm is used in a felony crime of violence or to inflict substantial or great bodily harm on, or to cause the death of, someone other than the firearm’s owner or authorized user.

Section 2 amends Minn. Stat. § 624.713, subdivision 1(11), to add a three-year ban on possessing firearms or ammunition following conviction of section 1’s gross misdemeanor offense. A violation of the ban is a gross misdemeanor.

The bill is effective August 1, 2024, and applies to crimes committed on or after that date.

Assumptions

It is assumed that “may be sentenced to two years in prison” and “may be sentenced to five years in prison” are intended to be statutory maximums; the phrase “not more than” before the respective prison terms is inferred.

One of the responsibilities of the Commission is to assign severity-level (SL) rankings to new felony offenses passed by the Legislature. The Commission bases its decisions, in part, on the level of harm caused and the culpability of the person. Statutory mandatory minimums and statutory maximums are also considered. It is assumed the Commission will rank the new three-year felony at SL 1 and the 5-year felony at SL 2 because these may be considered similar to existing firearms felonies in Minn. Stat. § 609.66, subdivisions 1a(b)(2) and 1c, with similar or greater statutory maximums. At these SLs, those with criminal history scores of 6 or more are recommended prison.

With respect to loaded firearm access by children, it is assumed that the bill’s three-year felony is similar to the existing Minn. Stat. § 609.666 gross misdemeanor, but with more specific storage requirements and a requirement that a child or

prohibited person actually accesses the firearm. It is therefore assumed that, with respect to children, the number of future violations of the three-year felony will be a fraction of the number of existing gross misdemeanor violations. The exact fraction is not known. Assuming that most violations of Minn. Stat. § 609.666 come to the attention of authorities because a child actually accessed a firearm stored in violation of the bill's specific storage requirements, it is plausible that 80 percent of the gross misdemeanor violations will become violations of the bill's three-year felony instead, while the remaining 20 percent will remain gross misdemeanors (or will be prosecuted under the bill's five-year felony provision). According to Minn. Judicial Branch data, from 2019 to 2023, there were 194 total convictions for negligent storage of a firearm under Minn. Stat. section 609.666, for about 39 convictions per year. It is therefore assumed that 31 cases (39 × 80%) per year sentenced under the bill's three-year felony (assuming SL 1) and the remaining eight cases will remain gross misdemeanors or be prosecuted under the bill's five-year felony provision.

It is assumed that, by creating a new misdemeanor offense that includes access by adults, the bill will increase the number of misdemeanor sentences. The extent of this increase is not known. As the bill's felony provisions are assumed to shift some gross misdemeanor cases to felonies (see above), it is assumed that the bill's increase in misdemeanor convictions will approximately be offset by the bill's decrease in gross misdemeanor convictions as a result of this shift.

With respect to loaded firearm access by prohibited persons, it is assumed that the bill's three-year felony provisions will have some relationship to the number of gross misdemeanor violations of Minn. Stat. § 624.7141, subd. 1, which applies to intentional transfers to prohibited persons. That relationship is not known. It is assumed that people will be convicted of the bill's three-year felony provisions as a result of prohibited persons accessing a loaded, unsecured firearm about half as frequently as people are now convicted of § 624.7141, subd. 1. According to Minn. Judicial Branch data, from 2019 to 2023, there were three such gross misdemeanor convictions, for about one (0.6) conviction per year. Assuming half that many violations of the bill's three-year felony provisions resulting from prohibited persons accessing loaded, unsecured firearms, there will be less than one (0.3) additional case per year.

The bill's five-year felony is similar to the existing Minn. Stat. § 609.66, subd. 1c, in that both offenses may provide criminal penalties for the use of one's firearm by a third party who uses it to commit a felony crime of violence. The bill's five-year felony is narrower in two ways: it applies only to firearms, not to dangerous weapons generally; and, when a crime of violence is an element, the firearm must actually be used to commit the crime, which the existing offense does not require (a substantial risk is sufficient). The new offense is significantly broader, however, in two important ways. First, mere negligence in firearms storage, rather than recklessness, is a sufficient state of mind. Second, in addition to criminalizing the use of one's unsecured firearm by a third party who uses it to commit a felony crime of violence, the bill also criminalizes the use of one's unsecured firearm by a third party who uses it to inflict substantial bodily harm, great bodily harm, or death on someone other than the defendant-owner. This, it is assumed, encompasses accidents and suicide. The discussion that follows will analyze the five-year felony's application to crimes of violence including crimes of violence that result in substantial bodily harm, great bodily harm, or death separately from its application to accidents and suicide.

With respect to crimes of violence, it is assumed that most of these offenses are already being prosecuted under Minn. Stat. § 609.66, subd. 1c, and that the bill's provisions will only slightly increase the number of felonies being sentenced over what are now being sentenced under Minn. Stat. § 609.66, subd. 1c. According to MSGC data, from 2012 through 2022, there were 2 cases sentenced (1 case every five years, on average) for violations of Minn. Stat. § 609.66, subd. 1c, 1 of which was a prison sentence. Assuming only a slight increase, no additional cases will be sentenced in most years under the bill's crimes-of-violence provision.

With respect to accidents and suicide, the number of deaths and incidents of substantial or great bodily harm caused by unsecured firearms owned by someone other than the decedent ("third-party-owned firearms") is not known. A 2022 study of firearms suicides found that third-party-owned firearms were used in about 23 percent of the cases where the ownership of the firearm could be ascertained. Among a smaller number of suicide cases where the firearm's storage characteristics could be ascertained, about 63 percent were stored loaded and 59 percent were stored unlocked. The study reported that odds ratios for decedent vs. non-decedent ownership of these unsecured firearms were close to 1-to-1 for firearms stored loaded (1.11) and unlocked (.90), which implies that the percentage of suicides by unsecured third-party-owned firearms is approximately as large as the overall percentage (23%) of suicides by third-party-owned firearms. It is therefore assumed that nearly all 23 percent of third-party-owned firearms used in suicide were likely stored in a manner that the bill would consider to be unsecured.

According to CDC data, from 2016 through 2020, 1,757 Minnesotans died by suicide by firearm, or 351 per year. If 23 percent of these involved suicide by an unsecured third-party-owned firearm, it is assumed that 80 firearms suicide cases per year would qualify for application of the five-year felony to the firearm's owner. The rate at which such cases will be charged, convicted, and sentenced is not known. Assuming that half of those cases are charged, convicted, and sentenced, this would result in 40 cases per year sentenced under the bill's five-year felony (assuming SL 2). This estimate ignores accidents and nonfatal inflictions of substantial and great bodily harm, on one hand, and any suicide-

reducing effects of compliance with the bill's firearms storage requirements, on the other. The extent of these offsetting effects is not known, and they are assumed approximately to cancel each other out.

It is assumed that the 71 new cases sentenced annually (31 cases at SL 1 + 40 cases at SL 2) will have the same imprisonment rate and average pronounced prison durations as accidents resulting in death (SL 2) and accidents resulting in great bodily harm (SL1) under Minn. Stat. § 169.09; and reckless discharge of a firearm (SL 1 & 2) and furnishing a firearm to a minor (SL 2) under Minn. Stat. § 609.66. From 2013 to 2022, the average imprisonment rate for these offenses was two percent with an average pronounced duration of 16 months (2/3 term of imprisonment = 11 mos.). An average 83 percent of probationers received local confinement as a condition of their probation. The average pronounced confinement time was 47 days (2/3 term of confinement = 31 days).

With respect to section 2, it is assumed that the addition of a new offense to the list of gross misdemeanors whose convictions result in a three-year firearms ban will increase the number of gross misdemeanor convictions for violations of Minn. Stat. § 624.713, subd. 11. Because current and future gross misdemeanor violations of Minn. Stat. § 609.66 are, and are assumed to be, much less common than convictions of the gross misdemeanors already on the list, the increase is assumed to be slight. According to Minn. Judicial Branch data, from 2019 to 2023, there were 13 gross misdemeanor convictions for § 624.713, subd. 11, for about three convictions per year. Assuming a slight increase, there will be less than one additional case per year.

Expenditure and/or Revenue Formula

Long-Term Fiscal Considerations

Because it is assumed there will be an additional 71 cases sentenced, and because the imprisonment rate is two percent, it is estimated that there will be a need for one additional prison bed annually. (With an expected prison rate of 2 percent, there will be an additional one prison sentence per year with an expected average duration of 16 months, assuming service of 2/3 of the pronounced sentence (11 mos.); $1.42 \text{ prison sentences} \times 11 \text{ mos. to serve} = 15.6 \div 12 \text{ mos.} = 1.30$ prison beds.)

Local Fiscal Impact

As stated in Long-Term Fiscal Considerations, it is estimated that there will be an additional 71 cases sentenced, and one case will receive prison, leaving an estimated 70 cases that will receive "stayed" probationary sentences. Because it is assumed that 83 percent of them will receive local confinement as a condition of probation, it is expected that this will result in 58 probationers receiving conditional confinement in a local jail or workhouse for an average 47 days, assuming people will serve 2/3 of the pronounced jail sentence (an average 31 days); $58 \text{ people} \times 31 \text{ days to serve} = 1,801 \div 365 \text{ days} = 4.93$ local beds resulting in the need for an additional five local beds needed statewide.

References/Sources

MSGC Monitoring Data, 2012-2022.

Agency Contact:

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