

HF396 - 0 - Firearm and Ammunition Storage Requirements

Chief Author: **Jamie Becker-Finn**
 Committee: **Public Safety Finance & Policy**
 Date Completed: **1/30/2023 11:03:16 AM**
 Lead Agency: **Sentencing Guidelines Comm**
 Other Agencies:
 Corrections Dept Public Defense Board
 Supreme Court

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	18	18	18	18
State Total						
General Fund	-	10	18	18	18	18
	Total	-	10	18	18	18
	Biennial Total			28		36

Full Time Equivalent Positions (FTE)	Biennium			Biennium	
	FY2023	FY2024	FY2025	FY2026	FY2027
Corrections Dept					
General Fund	-	.1	.2	.2	.2
	Total	-	.1	.2	.2

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:** 1/30/2023 11:03:16 AM
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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	18	18	18	18
Total	-	10	18	18	18	18
	Biennial Total		28			36
1 - Expenditures, Absorbed Costs*, Transfers Out*						
Corrections Dept						
General Fund	-	10	18	18	18	18
Total	-	10	18	18	18	18
	Biennial Total		28			36
2 - Revenues, Transfers In*						
Corrections Dept						
General Fund	-	-	-	-	-	-
Total	-	-	-	-	-	-
	Biennial Total		-			-

HF396 - 0 - Firearm and Ammunition Storage Requirements

Chief Author: **Jamie Becker-Finn**
 Committee: **Public Safety Finance & Policy**
 Date Completed: **1/30/2023 11:03:16 AM**
 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	

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
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.

LBO Signature: Karen McKey **Date:** 1/23/2023 11:29:41 AM
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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

Section 1 codifies a new crime for firearm and ammunition storage under Minn. Stat. § 624.7163, requiring safe storage of firearms and ammunition; and locking devices when firearms are transferred.

Subdivision 1 requires a firearm owner to take reasonable action to secure it -- including storing it unloaded, with a locking device, separate from its ammunition -- when not carried or under the owner’s control.

It is generally a misdemeanor (under subd. 3(a)) to violate subd. 1.

It is a gross misdemeanor (under subd. 3(b)) to violate subd. 1 by storing an unsecured firearm loaded or in the immediate area of its ammunition.

It is a felony (under subd. 3(c)), with a sentence of 18 months in prison or a fine of up to \$5,000, or both, to violate subd. 1 if the defendant’s loaded, unsecured firearm is accessed by a child or by a person prohibited from possessing firearms under Minn. Stat. § 624.713, subd. 1.

It is a felony (under subd. 3(d)), with a sentence of five years in prison or a fine of up to \$25,000, or both, to violate subd. 1 if the defendant’s 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 defendant.

Subd. 2 establishes a misdemeanor (under subd. 3(e)) for transferring a firearm to another person without an appropriate locking device unless the transferee provides proof of ownership of a locking device capable of storing the firearm in compliance with subdivision 1.

Section 2 repeals Minn. Stat. § 609.666, which establishes a gross misdemeanor for negligently storing or leaving a loaded firearm where the person knows or reasonable should know, that a child is likely to gain access, unless reasonable action was taken to secure the firearm against such access.

No effective date is specified.

Assumptions

It is assumed the bill is effective August 1, 2023, and applies to crimes committed on or after that date.

It is assumed that “may be sentenced to 18 months 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 18-month 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, cases with criminal history scores of 6 or more are recommended prison.

The bill's 18-month felony is similar to the existing Minn. Stat. § 609.666 gross misdemeanor, which the bill repeals, but with more specific storage requirements and a requirement that the child actually access the firearm. It is therefore assumed that the number of future violations of the 18-month felony will be a fraction of the number of present violations of the repealed gross misdemeanor. 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 18-month felony instead, while the remaining 20 percent will cease to be crimes (or will be prosecuted under the bill's five-year felony provision). According to Minn. Judicial Branch data, from 2017 to 2021, there were 48 total convictions for negligent storage of a firearm under Minn. Stat. section 609.666, for about 10 convictions per year. It is therefore assumed that 8 cases per year sentenced under the bill's 18-month felony (assuming SL 1) and the remaining 2 will cease to be crimes (or will be prosecuted under the bill's five-year felony provision).

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 2021, 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 48 new cases sentenced annually 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 2017 to 2021, the average imprisonment rate was 2 percent with an average pronounced duration of 16 months. An average 83 percent of probationers received local confinement as a condition of their probation. The average pronounced confinement time was 47 days.

Expenditure and/or Revenue Formula

Long-Term Fiscal Considerations

Because it is assumed there will be an additional 48 cases sentenced, and because the imprisonment rate is 2 percent, it is estimated that there will be a need for 1 additional prison bed annually. (With an expected prison rate of 2 percent, there will be an additional 1 prison sentence per year with an expected average duration of 16 months, assuming service of 2/3 of the pronounced sentence (11 mos.); 1 prison sentences x 11 mos. to serve = 11/12 mos. = 0.9 prison beds.)

Local Fiscal Impact

As stated in Long-Term Fiscal Considerations, it is estimated that there will be an additional 48 cases sentenced, and one case will receive prison, leaving an estimated 47 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 39 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); 39 people x 31 days to serve = 1,209/365 days = 3.31 local beds resulting in the need for an additional 3 local beds needed statewide.

References/Sources

MSGC Monitoring Data, 2012-2021.

Minn. Judicial Branch, 2017-2021, retrieved 1/19/2023 at <https://mncourts.gov/Help-Topics/Court-Statistics/District-Court-Criminal-Charges-Data.aspx>.

Bond, A.E., Karnick, A.T., Bandel, S.L., Capron, D.W. and Anestis, M.D., "Demographic Differences in the Type of Firearm and Location of Bodily Injury in Firearm Suicide Decedents," *Death Studies* (Nov. 2022), pp. 1-9 (<https://doi.org/10.1080/07481187.2022.2144547>).

Centers for Disease Control and Prevention, WISQARS Explore Fatal Injury Data Visualization Tool (retrieved 1/19/2023 at <https://wisqars.cdc.gov/data/explore-data/home>).

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HF396 - 0 - Firearm and Ammunition Storage Requirements

Chief Author: **Jamie Becker-Finn**
 Committee: **Public Safety Finance & Policy**
 Date Completed: **1/30/2023 11:03:16 AM**
 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		
	Dollars in Thousands	FY2023	FY2024	FY2025	FY2026	FY2027
General Fund	-	10	18	18	18	18
Total	-	10	18	18	18	18
Biennial Total			28			36

Full Time Equivalent Positions (FTE)	Biennium			Biennium	
	FY2023	FY2024	FY2025	FY2026	FY2027
General Fund	-	.1	.2	.2	.2
Total	-	.1	.2	.2	.2

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:** 1/30/2023 10:20:56 AM
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State Cost (Savings) Calculation Details

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*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
General Fund	-	10	18	18	18	18
Total		-	10	18	18	18
Biennial Total				28		36
1 - Expenditures, Absorbed Costs*, Transfers Out*						
General Fund	-	10	18	18	18	18
Total		-	10	18	18	18
Biennial Total				28		36
2 - Revenues, Transfers In*						
General Fund	-	-	-	-	-	-
Total		-	-	-	-	-
Biennial Total				-		-

Bill Description

H.F. 396 repeals the existing criminal penalty and requirements for negligently storing firearms and replaces the statute (section 609.666) with a new section that requires (1) the safe storage of firearms and ammunition, and (2) that a locking device be included in each firearm transfer.

Subdivision 3 establishes new criminal penalties (misdemeanor, gross misdemeanor, and felony) under the proposed requirements.

Assumptions

The Minnesota Sentencing Guidelines Commission assumes the following:

1. The bill's effect on future criminal violations is either unknown or similar to existing statutory requirements. Some assumptions are based on academic studies.
2. Forty-eight new cases will be sentenced annually; it is assumed that the 48 new cases will have the same imprisonment rate and average pronounced prison durations as accidents resulting in death and accidents resulting in great bodily harm under section 169.09 and reckless discharge of a firearm and furnishing a firearm to a minor under section 609.66. From 2017 to 2021, the average imprisonment rate was **2%** with an average pronounced duration of **16 months**. An average **83%** of probationers received local confinement as a condition of their probation. The average pronounced confinement time was **47 days**.

The Department of Corrections assumes the following:

1. Prison bed costs are based on a marginal cost per diem of \$42.50 for FY2024, \$48.55 for FY2025, \$50.67 for FY2026 and \$50.58 for FY2027 and each subsequent year. This includes marginal costs for all facility, private and public bed rental, health care and support costs.
2. 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.
3. 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.
4. This bill is effective August 1, 2023.

Expenditure and/or Revenue Formula

Costs for Prison Beds

Fiscal Year	2024	2025	2026	2027
# of Prison Beds	1	1	1	1
Cost of Prison Beds (000s)	10	18	18	18
FTE	0.1	0.1	0.2	0.2

Long-Term Fiscal Considerations

The commission estimates that there will be a need for 1 additional prison bed annually.

Local Fiscal Impact

The commission estimates that there will be an additional 48 cases sentenced, and one case will receive prison, leaving an estimated 47 cases that will receive stayed probationary sentences.

Because the commission assumes that 83% of the cases will receive local confinement as a condition of probation, it is expected that this will result in 39 probationers receiving conditional confinement in a local jail or workhouse for an average of 47 days, assuming people will serve 2/3 of the pronounced jail sentence (an average of 31 days); 39 people x 31 days to serve = 1,209/365 days = 3.31 local beds resulting in the need for an additional **three local beds** needed statewide.

References/Sources

Department of Corrections staff

Minnesota Sentencing Guidelines Commission

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HF396 - 0 - Firearm and Ammunition Storage Requirements

Chief Author: **Jamie Becker-Finn**
 Committee: **Public Safety Finance & Policy**
 Date Completed: **1/30/2023 11:03:16 AM**
 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

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
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.

LBO Signature: Karen McKey **Date:** 1/23/2023 12:39:44 PM
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State Cost (Savings) Calculation Details

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*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 would require that firearms be stored unloaded with a locking device and separate from ammunition. It would also require that a person not transfer a firearm to another person without a locking device.

The bill includes a misdemeanor penalty for violation of these provisions, a gross misdemeanor if a firearm is not secured and is either loaded or in the immediate area of ammunition, a felony if a loaded, unsecured firearm is accessed by a child or a person who is prohibited from possessing firearms, and a felony for an unsecured firearm used in a felony crime of violence, that inflicts great bodily harm, or causes the death of someone other than the firearm owner.

Assumptions

We do not foresee a significant increase in caseloads or workloads as a result of this bill.

Expenditure and/or Revenue Formula

Long-Term Fiscal Considerations

Local Fiscal Impact

References/Sources

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HF396 - 0 - Firearm and Ammunition Storage Requirements

Chief Author: **Jamie Becker-Finn**
 Committee: **Public Safety Finance & Policy**
 Date Completed: **1/30/2023 11:03:16 AM**
 Agency: **Supreme Court**

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
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

HF396 adds a new section 624.7163 setting firearm and ammunition storage requirements and making it a misdemeanor to fail to properly secure a firearm, a gross misdemeanor if the unsecured firearm is loaded or in the immediate area of its ammunition, and a felony if a loaded, unsecured firearm is accessed by a child or a person prohibited from possessing firearms or if an unsecured firearm is used in a crime of violence or to inflict substantial or great bodily harm or death. The bill also repeals section 609.666, Negligent storage of firearms.

Assumptions

It is assumed that the provisions of this bill could increase case filings as the new statute replaces section 609.666 and adds additional prohibitions. It is assumed for purposes of this fiscal note that filings under the new statute could be double the filings under section 609.666.

Expenditure and/or Revenue Formula

Based on 5 years of judicial branch data, an average of 37 cases are filed annually statewide under section 609.666. If case filings doubled, an additional 37 cases filed statewide per year, which is fewer than 1 per county, will not have a significant fiscal impact on the Judicial Branch.

Long-Term Fiscal Considerations

None

Local Fiscal Impact

None

References/Sources

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