

**SUBSTITUTE FOR
HOUSE BILL NO. 5745**

A bill to amend 1931 PA 328, entitled
"The Michigan penal code,"
(MCL 750.1 to 750.568) by adding section 223a.

THE PEOPLE OF THE STATE OF MICHIGAN ENACT:

1 SEC. 223A. (1) THIS SECTION DOES NOT APPLY TO A PERSON IF
2 ANY OF THE FOLLOWING CIRCUMSTANCES EXIST:

3 (A) THE PERSON EQUIPS THE FIREARM WITH A TRIGGER LOCK OR
4 OTHER LOCKING OR SAFETY DEVICE OR MECHANISM, OTHER THAN THAT
5 FIREARM'S SAFETY, THAT IS DESIGNED TO RENDER A FIREARM TEMPORAR-
6 ILY INOPERABLE OR OTHERWISE INCAPABLE OF BEING DISCHARGED.

7 (B) THE PERSON PLACES THE FIREARM IN A CONTAINER, COMPART-
8 MENT, OR LOCATION THAT A REASONABLE PERSON WOULD BELIEVE IS
9 SECURE FROM ACCESS BY THAT JUVENILE.

10 (C) THE PERSON PLACES THE FIREARM IN A LOCKED STORAGE
11 CONTAINER, COMPARTMENT, OR CASE THAT IS OPERATED BY A KEY OR

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1 COMBINATION OR IS EQUIPPED WITH A LOCKING DEVICE OR OTHER DEVICE
2 DESIGNED TO PREVENT UNAUTHORIZED ACCESS TO, OR OPERATION OF, THAT
3 FIREARM BY THAT JUVENILE.

4 (D) THE PERSON UNLOADS THE FIREARM IN CHAMBER AND MAGAZINE
5 AND STORES THE AMMUNITION FOR THAT FIREARM IN A LOCKED CONTAINER,
6 COMPARTMENT, OR CASE THAT IS OPERATED BY A KEY OR COMBINATION OR
7 IS EQUIPPED WITH A LOCKING DEVICE OR OTHER DEVICE DESIGNED TO
8 PREVENT UNAUTHORIZED ACCESS TO THAT AMMUNITION BY THAT JUVENILE.

9 (E) THE PERSON LAWFULLY CARRIES THE FIREARM ON HIS OR HER
10 PERSON, OR KEEPS THE FIREARM WITHIN SUCH CLOSE PROXIMITY THAT THE
11 FIREARM CAN BE READILY RETRIEVED BY THE INDIVIDUAL AS IF IT WAS
12 LAWFULLY CARRIED ON HIS OR HER PERSON.

13 (F) THE PERSON PERMITS OR ALLOWS ACCESS BY THAT JUVENILE TO
14 THE FIREARM TO LAWFULLY USE, POSSESS, OR TRANSPORT THE FIREARM ON
15 THE PERSON'S OWN PROPERTY OR AS OTHERWISE PROVIDED BY LAW INCLUD-
16 ING, BUT NOT LIMITED TO, ANY OF THE FOLLOWING:

17 (i) FOR LAWFUL HUNTING OR TARGET SHOOTING.

18 (ii) FOR LAWFUL SELF-DEFENSE OR THE LAWFUL DEFENSE OF
19 ANOTHER PERSON.

20 (G) ANOTHER INDIVIDUAL GAINED ACCESS TO THE FIREARM BY
21 UNLAWFUL MEANS.

22 (2) IT IS A REBUTTABLE PRESUMPTION THAT THE PERSON IS EXEMPT
23 UNDER SUBSECTION (1) IF THE PERSON PRESENTS A CERTIFICATE OF
24 INSPECTION ISSUED UNDER SECTION 9 OF 1927 PA 172, MCL 28.429, OR
25 PRESENTS PROOF OF PURCHASE OF A TRIGGER LOCK OR OTHER LOCKING OR
26 SAFETY DEVICE OR MECHANISM THAT MEETS THE REQUIREMENTS OF

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1 SUBSECTION (1)(A), OR A CONTAINER, COMPARTMENT, OR CASE THAT
2 MEETS THE REQUIREMENTS OF SUBSECTION (1)(C).

3 (3) EXCEPT AS PROVIDED IN SUBSECTION (4), A PERSON WHO
4 LEAVES A FIREARM UNATTENDED IN ANY PLACE IN WHICH THE PERSON
5 KNOWS OR RECKLESSLY DISREGARDS THAT A JUVENILE MAY BE LAWFULLY
6 PRESENT, NOT UNDER ADULT SUPERVISION, AND ABLE TO GAIN ACCESS TO
7 THE FIREARM IN VIOLATION OF THIS SECTION IS RESPONSIBLE FOR A
8 STATE CIVIL INFRACTION AND MAY BE FINED NOT MORE THAN \$100.00.
9 NOTWITHSTANDING SECTION 239, A FIREARM IS NOT SUBJECT TO FORFEI-
10 TURE FOR A VIOLATION OF THIS SUBSECTION UNLESS THE PERSON HAS
11 PREVIOUSLY BEEN FOUND RESPONSIBLE FOR VIOLATING THIS SUBSECTION
12 OR CONVICTED OF VIOLATING SUBSECTION (4).

13 (4) A PERSON WHO ENGAGES IN CONDUCT PROSCRIBED UNDER SUBSEC-
14 TION (3) IS GUILTY OF A CRIME AS FOLLOWS IF ANY OF THE FOLLOWING
15 CIRCUMSTANCES EXIST:

16 (A) THAT JUVENILE GAINS ACCESS TO AND POSSESSES THE FIREARM
17 AND THE POSSESSION OF THE FIREARM BY THE JUVENILE OR BY ANOTHER
18 PERSON WHO OBTAINED THE FIREARM FROM THE JUVENILE CREATED A SUB-
19 STANTIAL RISK THAT INJURY OR DEATH WOULD OCCUR, THE PERSON IS
20 GUILTY OF A MISDEMEANOR PUNISHABLE BY IMPRISONMENT FOR NOT MORE
21 THAN 1 YEAR OR A FINE OF NOT MORE THAN \$500.00, OR BOTH.

22 (B) THAT JUVENILE GAINS ACCESS TO AND POSSESSES THE FIREARM
23 OR ANOTHER PERSON POSSESSES THE FIREARM AFTER OBTAINING IT FROM
24 THAT JUVENILE AND THE DISCHARGE OF THAT FIREARM CAUSES INJURY TO
25 ANY INDIVIDUAL, THE PERSON IS GUILTY OF A FELONY PUNISHABLE BY
26 IMPRISONMENT FOR NOT MORE THAN 4 YEARS OR A FINE OF NOT MORE THAN
27 \$1,000.00, OR BOTH.

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1 (C) THAT JUVENILE GAINS ACCESS TO AND POSSESSES THE FIREARM
2 OR ANOTHER PERSON POSSESSES THE FIREARM AFTER OBTAINING IT FROM
3 THAT JUVENILE AND THE DISCHARGE OF THAT FIREARM KILLS OR CAUSES
4 SERIOUS PHYSICAL INJURY TO ANY INDIVIDUAL, THE PERSON IS GUILTY
5 OF A FELONY PUNISHABLE BY IMPRISONMENT FOR NOT MORE THAN 15 YEARS
6 OR A FINE OF NOT MORE THAN \$5,000.00, OR BOTH.

7 (5) THIS SECTION DOES NOT PROHIBIT THE PERSON FROM BEING
8 CHARGED WITH, CONVICTED OF, OR SENTENCED FOR ANOTHER VIOLATION OF
9 LAW ARISING OUT OF THE VIOLATION OF THIS SECTION.

10 (6) AS USED IN THIS SECTION, "JUVENILE" MEANS AN INDIVIDUAL
11 LESS THAN 18 YEARS OF AGE WHO IS NOT EMANCIPATED AS PROVIDED BY
12 LAW.

13 Enacting section 1. This amendatory act takes effect
14 September 1, 2000.