
SENATE COMMITTEE ON PUBLIC SAFETY

Senator Aisha Wahab, Chair
2023 - 2024 Regular

Bill No: SB 53 **Hearing Date:** January 9, 2024
Author: Portantino
Version: January 3, 2024
Urgency: No **Fiscal:** No
Consultant: AB

Subject: *Firearms: storage*

HISTORY

Source: Brady Campaign

Prior Legislation: SB 906 (Portantino, Ch. 144, Stats. of 2022)
SB 172 (Portantino, Ch. 840, Stats. Of 2019)
AB 276 (Friedman, original firearm contents removed, Ch. 62, Stats of 2019)
SB 299 (Mendoza, 2017), died in Senate Appropriations
SB 108 (Yee, 2013), died in Assembly Public Safety
AB 231 (Ting, Ch. 730, Stats. of 2013)
SB 363 (Wright, Ch. 758, Stats. of 2013)

Support: Everytown for Gun Safety Action Fund; Giffords Law Center to Prevent Gun Violence; Moms Demand Action for Gun Sense in America; Students Demand Action for Gun Sense in America

Opposition: Gun Owners of California, Inc.

PURPOSE

The purpose of this bill is, beginning July 1, 2025, to prohibit a person from keeping or storing a firearm in a residence owned or controlled by that person unless the firearm is stored in a DOJ-approved locked box or safe. Additionally the bill punishes a violation of this prohibition as an infraction for the first offense and a misdemeanor for a second and subsequent offense, and subjects the violator to a 1-year ban on the purchase and possession of a firearm.

Existing law requires that any firearm sold or transferred in California by a licensed firearms dealer, including a private transfer through a dealer, and any firearm manufactured in this state, shall include or be accompanied by a DOJ-approved firearm safety device (FSD), subject to exceptions. (Pen. Code § 23635.)

Existing law establishes the crime of criminal storage of a firearm in the first degree, which a person commits if all of the following conditions are satisfied:

- The person keeps any firearm within any premises that are under the person's custody or control.
- The person knows or reasonably should know that a child is likely to gain access to the firearm without the permission of the child's parent or legal guardian, or that a person prohibited from possessing a firearm or deadly weapon pursuant to state or federal law is likely to gain access to the firearm.
- The child obtains access to the firearm and thereby causes death or great bodily injury to the child or any other person, or the person prohibited from possessing a firearm or deadly weapon pursuant to state or federal law obtains access to the firearm and thereby causes death or great bodily injury to themselves or any other person. (Pen. Code § 25100(a).)

Existing law establishes the crime of criminal storage of a firearm in the second degree, which a person commits if all of the following conditions are satisfied:

- The person keeps any firearm within any premises that are under the person's custody or control.
- The person knows or reasonably should know that a child is likely to gain access to the firearm without the permission of the child's parent or legal guardian, or that a person prohibited from possessing a firearm or deadly weapon pursuant to state or federal law is likely to gain access to the firearm.
- The child obtains access to the firearm and thereby causes injury, other than great bodily injury, to the child or any other person, or carries the firearm either to a public place or in violation of specified provisions of existing law, or the person prohibited from possessing a firearm or deadly weapon pursuant to state or federal law obtains access to the firearm and thereby causes injury, other than great bodily injury, to themselves or any other person, or carries the firearm either to a public place or in violation of existing law, as specified. (Pen. Code § 25100(b).)

Existing law provides that a person commits the crime of criminal storage of a firearm in the third degree" if the person keeps any firearm within any premises that are under the person's custody or control and negligently stores or leaves a firearm in a location where the person knows, or reasonably should know, that a child is likely to gain access to the firearm without the permission of the child's parent or legal guardian, unless reasonable action is taken by the person to secure the firearm against access by the child. (Pen. Code § 25100(c).)

Existing law provides that criminal storage of a firearm in the first degree is punishable as a wobbler, and that criminal storage of a firearm in the second and third degrees are punishable as misdemeanors (Pen. Code § 25110.)

Existing law provides that the crimes above are not applicable whenever any of the following occurs:

- The child obtains the firearm as a result of an illegal entry to any premises by any person.

- The firearm is kept in a locked container or in a location that a reasonable person would believe to be secure.
- The firearm is carried on the person or within close enough proximity thereto that the individual can readily retrieve and use the firearm as if carried on the person.
- The firearm is locked with a locking device, as defined, which has rendered the firearm inoperable.
- The person is a peace officer or a member of the Armed Forces or the National Guard and the child obtains the firearm during, or incidental to, the performance of the person's duties.
- The child obtains, or obtains and discharges, the firearm in a lawful act of self-defense or defense of another person.
- The person who keeps a firearm on premises that are under the person's custody or control has no reasonable expectation, based on objective facts and circumstances, that a child is likely to be present on the premises. (Pen. Code § 25105.)

Existing law provides that a person who is 18 years of age or older, and who is the owner, lessee, renter, or other legal occupant of a residence, who owns a firearm and who knows or has reason to know that another person also residing therein is prohibited by state or federal law from possessing, receiving, owning, or purchasing a firearm shall not keep in that residence any firearm that he or she owns unless one of the following applies:

- The firearm is maintained within a locked container.
- The firearm is disabled by a firearm safety device.
- The firearm is maintained within a locked gun safe.
- The firearm is maintained within a locked trunk.
- The firearm is locked with a specified locking device which has rendered the firearm inoperable.
- The firearm is carried on the person or within close enough proximity thereto that the individual can readily retrieve and use the firearm as if carried on the person. (Pen. Code, § 25135(a).)

Existing law provides that the above violation is punishable as a misdemeanor. (Pen. Code, § 25135(a).)

Existing law establishes criminal penalties for individuals who keep a firearm within any premises that are under the person's custody or control, know that a child or prohibited person is likely to gain access to that firearm without permission, and either carries the firearm off-premises or, in the case of the more serious offense, to any public or private preschool, elementary school middle school, high school, or other school-sponsored event, as specified. (Pen. Code, § 25200)

Existing law provides that the above penalties do not apply if any one of several specified conditions are true. (Pen. Code, §25205.)

Existing law provides that persons convicted of specified serious or violent misdemeanors are prohibited from possession of firearms for a period of 10 years and that a violation of that prohibition is punishable as a misdemeanor with imprisonment up to one year or as a state prison felony. (Pen. Code, § 29805 (a).)

Existing law includes within the list of misdemeanors triggering a 10 year firearm prohibition the crimes of stalking, sexual battery, assault with a deadly weapon, battery with serious bodily injury, brandishing a firearm of deadly weapon, assault with force likely to produce great bodily injury, battery on a peace officer, corporal injury to spouse, cohabitant or fellow parent, child abuse, elder abuse, unsafe storage of a firearm, and threats of bodily injury or death, among other misdemeanors. (Penal Code, § 29805 (a).)

This bill, for the purposes of its provisions, defines firearm as including the frame or receiver of the weapon, including both a completed frame or receiver, or a firearm precursor part.

This bill strikes various exceptions to the crimes set forth in Penal Code §25100 related to safe storage and child access and instead exempts firearms stored in compliance with its provisions.

This bill strikes various conditions exempting an individual from the prohibition against possessing a firearm in a residence when they know or should know that a fellow resident is a prohibited person, and instead exempts individuals when the firearm is stored in compliance with the provisions of this bill.

This bill strikes various conditions exempting an individual from liability for crimes related to child and prohibited person access in § 25200, and instead exempts individuals who store their firearms in compliance with the provisions of this bill.

This bill provides that beginning July 1, 2025, except when carried by or under the control of the owner or other lawfully authorized user, a person shall not keep or store a firearm in any residence owned or controlled by that person, unless the firearm meets both of the following conditions:

- It is stored in a locked box or safe that is listed on the Department of Justice's list of approved safety devices.
- It is properly engaged so as to render that firearm inaccessible by any person other than the owner or other lawfully authorized user.

This bill specifies that a first violation of the above prohibition shall result in a fine of not more than \$500 (approximately \$2,000 with penalty assessments), constituting an infraction, and that a second or subsequent violation of the prohibition is a misdemeanor.

This bill specifies that the above prohibition does not apply to firearms that are permanently inoperable.

This bill states that the provisions relating to the prohibition above are cumulative and do not restrict the application of any other law, as specified.

This bill requires the Department of Justice to promptly engage in a public awareness and education campaign to inform residents about the standards of storage of firearms outlined in the bill.

This bill provides that any person who is convicted on or after July 1, 2025, of a misdemeanor violation of the prohibition established by this bill, and who, within one year of the conviction, owns, purchases, receives, or has in possession or under custody or control, any firearm, is guilty of a public offense, punishable as a wobbler, as specified.

COMMENTS

1. Need for This Bill

According to the Author:

Gun violence is a public health epidemic that requires a multifaceted approach. This bill will further strengthen California's strong system of gun regulations by creating a standard for storage of firearms in all homes in the state to prevent unintentional shootings, mass shootings, gun suicide and gun theft.

California has standards regarding access to firearms by minors and prohibited persons, and has prioritized public education and awareness of the importance of safe storage; however, there is no broad requirement for secure storage of firearms by gun owners. SB 53 builds off of existing laws. The reality is that safely storing a firearm should be as automatic as putting on a seat belt and SB 53 is an important step to making that a reality. Safe storage of firearms has a measurable impact on reducing the rate of suicide, in preventing unintentional shootings that result in injury or death, and in preventing gun theft.

2. Existing Safe Firearm Storage Requirements and Penalties

While there is no comprehensive federal law regarding the safe storage of firearms in the home, California law combines criminal penalties for negligent storage that leads to access by a child or prohibited person as well as requirements for firearm dealers regarding the inclusion of safety devices in firearm purchases. Chiefly, California law includes the crimes of criminal storage of a firearm in the first second and third degrees, for which a person is liable if 1) they keep any firearm within any premises under their custody or control, 2) they know or reasonably should know that a child or prohibited person is likely to gain access to the firearm, and 3) for a first degree offense, the child or prohibited person gains access to the firearm and causes death/great bodily injury, or for a second degree offense, causes injury or carries the firearm to a public place or exhibits the weapon in violation of existing law. A person is guilty of criminal storage of a firearm in the third degree if the person negligently stores the firearm or leaves it in a location where they know or reasonably should know that a child is likely to gain access to it, unless they take reasonable action to secure the firearm against access by the child.¹ Existing law also

¹ Penal Code § 25100, subds. (a)-(c).

contains several exceptions/defenses to these crimes, including, in relevant part, that the firearm is kept in a locked container or in a location that a reasonable person would believe to be secure, or that the firearm is locked with a specified locking device which has rendered the firearm inoperable.²

Additionally, existing law prohibits a person from keeping a firearm in a residence when they know or have reason to know that a co-resident is a prohibited person, unless the firearm is maintained within a locked container, trunk or gun safe, the firearm is disabled by a safety device, or the firearm is locked with a specified locking device, rendering it inoperable.³ Another prohibition imposes criminal liability on individuals who keep a firearm within premises under their custody or control, know that a child or prohibited person is likely to gain access to the firearm, and where the child or prohibited person ultimately obtains access to the firearm and thereafter carries it off-premises or specifically to any school location or event.⁴

Beyond the criminal penalties that apply when a firearm in the home is negligently stored or is accessed by a child or prohibited person, California law imposes various requirements on firearm dealers regarding firearm safety devices. The central operative statute within this category of provisions provides that all firearms sold or transferred in California by a licensed dealer, including transfers from unlicensed sellers processed through a licensed dealer, must include a firearms safety device (FSD) listed on a roster of approved FSDs maintained by the Department of Justice.⁵ Moreover, existing law prohibits anyone, including licensed dealers, from selling non-roster FSDs or FSDs that do not comply with standards set by DOJ.⁶ However, the sale or transfer of a firearm does not need to include a firearms safety device if the purchaser or transferee provides proof that they own or have purchased a gun safe that meets specified standards, or that they have purchased an approved FSD within 30 days of the purchase or transfer and present the dealer with the FSD and proof of that purchase when they take possession of the firearm.⁷

3. This Bill Establishes an Affirmative Duty to Safely Store a Firearm in a Locked Box or Safe

Although California has a relatively robust penalty scheme and safety device requirements to prevent firearm access by children and prohibited persons, there is no affirmative, standardized statewide requirement that firearm owners safely store their firearms in the home. That is, most existing penalties apply only after the child or prohibited person gains access to the firearm, and those that do not (third degree criminal storage and keeping an unsecured firearm in a residence with a prohibited co-resident) include varying elements and exceptions.⁸ Further, existing FSD laws primarily apply to and are enforceable against firearm dealers, not the firearm purchasers/owners themselves. Consequently, the Author seeks to establish “a broad

² Penal Code § 25105, subd. (a), (d).

³ Penal Code § 25135.

⁴ Penal Code § 25200.

⁵ Penal Code § 23635 (a).

⁶ Penal Code § 23660.

⁷ Penal Code § 23635 (b), (c).

⁸ It is worth briefly noting that several local jurisdictions have enacted more extensive safe storage laws to supplement state requirements, which, in many instances, affirmatively require gun owners to store unattended guns in locked containers or with locking devices, similar to this bill. For the full list of over 40 jurisdictions, see: [Communities on the Move: Local Gun Safety Legislation in California | Giffords](#)

requirement for secure storage of firearms by gun owners [...] that will work to prevent unintentional shootings and use, mass shootings, gun suicide, and gun theft.”

Specifically, this bill, beginning July 1, 2025, prohibits a person from keeping or storing a firearm in a residence owned or controlled by that person unless the firearm is stored in a DOJ-approved locked box or safe that is engaged so as to render the firearm inaccessible by any person other than the owner. This appears to place greater responsibility on gun owners than current law, which exempts gun owners from most criminal penalties if they lock their firearms with a locking device or FSD, or if the firearm is merely in a location that the owner believes is secure. The bill exempts permanently inoperable firearms, and makes a first violation of the prohibition punishable as an infraction, but a second or subsequent violation punishable as a misdemeanor.

Two provisions of the bill may warrant additional clarification. First, the bill exempts from its operative prohibition firearms that are carried by or under the control of the owner or “other lawfully authorized user.” Although the term “authorized user” is used in a related provision of existing law regarding FSDs and gun safes,⁹ neither that provision nor this bill provide a definition of “authorized user,” leaving it vague as to who is exempt from the prohibition in this bill. The Author has indicated to the Committee that he plans on clarifying the term “authorized user” and addressing other technical issues in a round of future amendments. Another provision of this bill requires the DOJ to “promptly engage in a public awareness and education campaign to inform residents about the standards of storage of firearms as outlined in this section.” It is not entirely clear what is meant by “standards of storage of firearms” – does it simply mean the details of the prohibition established by the bill? Moreover, the DOJ is an agency on which the Legislature places myriad new responsibilities and obligations each year – it would surely benefit from a more explicit timeline for implementing the awareness campaign mandated by this bill. The most sensible approach may be to simply insert language clarifying that the campaign be executed contemporaneously with the effective date of the prohibition. In any event, the Author may wish to add clarity and guidance regarding these issues.

4. Firearm Prohibitions for Specified Misdemeanors

Existing state and federal law contains a myriad of prohibitions on the possession and attempted purchase of firearms by certain individuals. Under both state and federal law, all felony convictions lead to a lifetime prohibition.¹⁰ California law goes further and imposes a 10-year prohibition on the possession and purchase of firearms for individuals convicted of numerous misdemeanor offenses that involve either violence or threat of violence.¹¹ Violation of the ban is itself a misdemeanor. Additionally, a person may be prohibited from possessing a firearm due to a protective order or as a condition of probation. If a person communicates to his or her psychotherapist a serious threat of physical violence against a reasonably-identifiable victim or victims, the person is prohibited from owning or purchasing a firearm for five years, starting from the date the psychotherapist reports to local law enforcement the identity of the person making the threat. If a person is admitted into a facility because that person is a danger to himself, herself, or to others, the person is prohibited from owning or purchasing a firearm for

⁹ Penal Code §23650

¹⁰ 18 U.S.C. § 922(g); Penal Code § 29800

¹¹ Penal Code §29805

five years.¹² Individuals under domestic violence restraining orders are also subject to a prohibition on firearm possession and purchase for the duration of that court order.¹³

This bill provides that any person who is convicted on or after July 1, 2025 of a misdemeanor violation of the prohibition in this bill (that is, a second or subsequent offense, as the first offense is only an infraction) is prohibited from owning, purchasing or possessing any firearm within 1 year of that conviction, a violation of which is a misdemeanor. This provision is notably different from the other misdemeanors specified in Section 29805 that come with a 10-year ban in that the ban is only one year in duration. However, under recent legislation, a violation of that 1-year ban would still subject the violator to an additional 10-year ban.¹⁴

5. Argument in Support

According to the Brady Campaign, the bill's sponsor, there is ample evidence that safe storage of firearms saves lives, and SB 53 will contribute to this effort:

SB 53 will create critical barriers to suicide, unintentional shootings, and theft, by requiring gun owners to store their firearms in a locked box or safe. Importantly, families living in states with both Child Access Protection and safe firearm storage laws were found to have the lowest rates of unsafe firearm storage. Thus, this bill will increase Californians' safety.

Nationwide, more than 4.6 million minors live in homes with unsecured guns. A study published by the American Academy of Pediatrics in 2018 found that only one third of a sample of parents who owned guns stored all household firearms locked and unloaded. Another study, released in 2023, found that 92% of guns used in accidental shooting deaths among children had been left unlocked and loaded. Additionally, a 2010 study showed that over 70 percent of children reported knowing the storage location of a household firearm, and that 1 in 5 parents who reported that their child had never handled the household firearm were contradicted by their child. As a result, 70-90 percent of firearms used in unintentional shootings, school shootings and suicides by minors are acquired from home, or from the homes of friends or relatives. Among children, 89 percent of unintentional shooting deaths occur in the home.

Studies show that keeping a gun locked is associated with a protective effect against unintentional firearm injuries in homes with children and teenagers. This finding is bolstered by research from 2018 showing that laws that require safe storage of firearms are associated with a significant reduction in unintentional pediatric firearm injuries. Another study showed that states that have safe storage laws see a 78 percent drop in unintentional shootings committed by children compared to states that do not have any safe storage laws in place.

Tragically, many school shootings are facilitated by kids or teens having access to unsecured guns at home. A 2019 U.S. Department of Homeland Security analysis of targeted school violence shows that 76 percent of attackers who used firearms to commit violence in schools obtained the firearms from their parents' home or the

¹² Welfare and Institutions Code §§ 8100, 8103.

¹³ Penal Code §29825.

¹⁴ See SB 368 (Portantino, Ch. 251, Stats. of 2023), Penal Code §29805 (e).

home of another close relative.¹⁰ In half of those cases, the evidence indicated that the firearm was either readily accessible or not secured in a meaningful way. [...]

Sadly, the rate of firearm suicides among children under the age of 18 has steadily increased over the recent past. The number of firearm suicides among minors in the United States doubled from 361 deaths in 2008 to 725 deaths in 2018. Moreover, a 2019 study found that in as many as 75 percent of youth firearm suicides for which the gun storage method could be identified, the gun was stored loaded and unlocked. There is a large body of academic research showing that strong safe storage laws are associated with significant reductions in rates of suicide and unintentional firearms deaths and injuries among children and teens. In 2004, the Journal of the American Medical Association published research finding that child access prevention law enactment is associated with a 26 percent annual reduction in self-inflicted firearm injuries among youth and an 8 percent decrease in overall suicide rates among 14-17 year olds, strongly suggesting that when firearms are inaccessible as a result of these laws, minors are not substituting firearms with other methods. Yet, safe storage does not just protect children from gun suicide, adults who stored their firearms safely were also less likely to die by firearm suicide.

6. Argument in Opposition

Gun Owners of California oppose this bill stating:

This is not a new issue; storage laws such as this have been introduced across the nation and have, in fact, been declared unconstitutional by the Supreme Court of the United States in *Heller v DC*. The California Legislature, however, continues to disregard this decision. Unfortunately, pursuing policies of this nature will only force the State to relitigate something that has already been decided, which would be a costly endeavor borne yet again by the taxpayers of California.

Please note the following quotes which have been pulled directly from the Supreme Court's landmark decisions of *Heller v Washington DC* and *McDonald v Chicago*:

- “...the requirement that any lawful firearm in the home be disassembled or bound by a trigger lock makes it impossible for citizens to use arms for the core lawful purpose of self-defense and is hence unconstitutional.” *Heller v DC*
- “In sum, we hold that the District’s ban on handgun possession in the home violates the Second Amendment, as does its prohibition against rendering any lawful firearm in the home operable for the purpose of immediate self-defense.” *Heller v DC*
- “The very enumeration of the right takes out of the hands of government—even the Third Branch of Government—the power to decide on a case-by-case basis whether the right is really worth insisting upon.” *Heller v. DC*
- “In *Heller*, we held that the Second Amendment protects the right to possess a handgun in the home for the purpose of self-defense... We therefore hold that the Due Process Clause of the Fourteenth Amendment incorporates the Second Amendment right recognized in *Heller*.” *McDonald v Chicago*.