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James M. Jeffords

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Reasons for the Existence of CAP Laws

CAP laws provide regulations that require safe storage of firearms in order to ensure the safety of youth in homes possessing firearms. According to research published in the *Journal of the American Medical Association*, storing guns securely is likely to prevent accidental injuries among young children.

² In addition, the presence of a household firearm is associated with an increased risk of suicide among adults and adolescents.³ In 2004, suicide was the third leading cause of death among children and young adults in the U.S. accounting for 4,599 deaths. Firearms are among the three most common suicide methods.⁴ Suicide is the leading cause of death by firearms in the U.S.⁵ According to the Bureau of Justice Statistics, homicides

¹ Public Health Law Research, "Child Access Prevention (CAP) Laws for Guns." http://www.publichealthlawresearch.org/public_health_topics/injury_prevention/gun_safety/evidence_brief/child_access_prevention_cap_laws_gu (accessed February 8, 2011).

² David C. Grossman, Beth A. Mueller, Christine Riedy, M. Denise Dowd, Andres Villaveces, Janice Prodzinski, Jon Nakagawara, John Howard, Norman Thiersch, and Richard Harruff, "Gun Storage Practices and Risk of Youth Suicide and Unintentional Firearm Injuries," *Journal of the American Medical Association* 293 (2005) <http://jama.ama-assn.org/content/293/6/707.full.pdf+html> (accessed February 2, 2011).

³ Grossman, et al., "Gun Storage Practices and Risk of Youth Suicide and Unintentional Firearm Injuries."

⁴ KM Lubell, SR Kegler, AE Crosby, D Karch, "Suicide Trends Among Youths and Young Adults Aged 10-24 Years United States, 1990-2004," Division of Violence Prevention, National Center for Injury Prevention and Control, <http://www.cdc.gov/mmwr/preview/mmwrhtml/mm5635a2.htm> (accessed February 2, 2011).

⁵ U.S. Centers for Disease Control and Prevention.

committed by teens are most likely to involve guns.⁶ Although youth gun crime is less common than it has been in the past, the use of guns is significantly higher than other methods of homicide.⁷

Negligent storage of firearms in the home allows children of all ages to access them. This may result in experimentation with firearms as well as the use of firearms in crime and suicides. Of the homes with children and firearms, 55% were reported to have one or more firearm in an unlocked place, and 43% contained unlocked firearms (i.e., not in a locked place and not locked with a trigger lock or other locking mechanism).⁸

“The American Academy of Pediatrics (AAP) recommends that homes with children should not have guns, and if a family has a gun, proper storage requires keeping it unloaded and locked up, with ammunition locked up separately from the firearm loaded, and stored with ammunition. A total of 1.4 million homes with 2.6 million children reported storing firearms in a manner that made them potentially accessible to children.”⁹

Summary of State Action

State legislation regarding Child Access Prevention differ both in severity of penalties, as well as in defining what consists of an offense. In some states, like Florida, California, and Connecticut, an offender can be charged with a felony. In most other states, the offense can only be considered a misdemeanor. Most state CAP laws require that a firearm be locked or have a locking mechanism to prevent child access. Certain state CAP laws apply only to loaded firearms, while others apply to both loaded and unloaded firearms. Finally, some state CAP laws require that the child use the firearm to cause death or injury in order to prosecute the owner of the gun. In other states no incident is required and the law can be applied when a child simply gains access to a firearm. In Table 1 we catalogue some of these variations in CAP laws and for U.S. state.

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Table 1: State CAP Laws

State (s)	Description of CAP Law(s)
California ¹⁰	Can be applied up to a felony if a child (<18) uses a firearm to threaten, injure or kill, or if the child takes a firearm off the premises without permission. Does not apply if the gun has a child lock, or was stored in a locked container. ⁱ Gun does not have to be loaded.
CO, ¹¹ DE, ¹² GA, ¹³ IN, ¹⁴ KY, ¹⁵ MS, ¹⁶ MO, ¹⁷ NV, ¹⁸ OK, ¹⁹ TN, ²⁰ UT, ²¹ VA, ²² WI ²³	Prohibit unlawful, unknowing or

Effectiveness of CAP Laws

One of the studies regarding the effectiveness of Child Access Prevention (CAP) Laws, published in the Journal of the American Medical Association in 1997, estimated the effect of 12 different state CAP laws, which were enacted prior to 1994.³⁸ The study concluded that the CAP laws were associated with a 23% decrease in unintentional shootings among children under 15 years old, with the

children and teenagers where guns are stored."⁴³

Vermont firearm statistics

H.83, a *law relating to negligent storage*