

1 HOUSE BILL NO. 29

2 INTRODUCED BY BOHLINGER

3
4 A BILL FOR AN ACT ENTITLED: "AN ACT MAKING IT A CRIMINAL OFFENSE FOR A PERSON TO
5 POSSESS, CARRY, OR STORE A WEAPON IN A SCHOOL BUILDING AND FOR A PARENT OR GUARDIAN
6 TO PERMIT A MINOR TO POSSESS, CARRY, OR STORE A WEAPON IN A SCHOOL BUILDING; PROVIDING
7 FOR A PENALTY; PROVIDING AN EXCEPTION FOR LAW ENFORCEMENT PERSONNEL; PERMITTING
8 TRUSTEES AUTHORITY TO GRANT PERMISSION TO POSSESS, CARRY, OR STORE A WEAPON FOR
9 CERTAIN PURPOSES; AUTHORIZING SEIZURE AND FORFEITURE OR RETURN OF THE WEAPON TO THE
10 LAWFUL OWNER; DEFINING "WEAPON"; AND PROVIDING AN IMMEDIATE EFFECTIVE DATE."

11
12 BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF MONTANA:

13
14 **NEW SECTION. Section 1. Possession or allowing possession of weapon in school building --**
15 **exceptions -- penalties -- seizure and forfeiture or return authorized -- definition.** (1) A person commits the
16 offense of possession of a weapon in a school building if the person purposely or knowingly possesses,
17 carries, or stores a weapon in a school building.

18 (2) A parent or guardian of a minor commits the offense of allowing possession of a weapon in a
19 school building if the parent or guardian purposely or knowingly permits the minor to possess, carry, or
20 store a weapon in a school building.

21 (3) (a) This section does not apply to law enforcement personnel.

22 (b) The trustees of a district may grant persons and entities advance permission to possess, carry,
23 or store a weapon in a school building for an educational purpose or for use in an educationally related
24 program or activity.

25 (4) (a) A person convicted under this section shall be fined an amount not to exceed \$500,
26 imprisoned in the county jail for a term not to exceed 6 months, or both.

27 (b) A weapon in violation of this section may be seized and, upon conviction of the person
28 possessing or permitting possession of the weapon, may be forfeited to the state or returned to the lawful
29 owner.

30 (5) As used in this section, "weapon" means any type of firearm, a knife with a blade 4 or more

1 inches in length, fireworks as defined in 50-37-101, and explosives as defined in 61-1-506.

2

3 **NEW SECTION.** **Section 2. Codification instruction.** [Section 1] is intended to be codified as an
4 integral part of Title 45, chapter 8, part 3, and the provisions of Title 45, chapter 8, part 3, apply to
5 [section 1].

6

7 **NEW SECTION.** **Section 3. Effective date.** [This act] is effective on passage and approval.

8

-END-

STATE OF MONTANA - FISCAL NOTE

Fiscal Note for HB0029, as introduced

DESCRIPTION OF PROPOSED LEGISLATION: An act making it a criminal offense for a person to possess, carry, or store a weapon in a school building and for a parent or guardian to permit a minor to possess, carry, or store a weapon in a school building; providing for a penalty; providing an exception for law enforcement personnel; permitting trustees authority to grant permission to possess, carry, or store a weapon for certain purposes; authorizing seizure and forfeiture or return of the weapon to the lawful owner; defining "weapon", and providing an immediate effective date.

ASSUMPTIONS:

1. School officials will contact law enforcement personnel when and if an unauthorized person is suspected of possessing, carrying, or storing a weapon in a school building. Law enforcement will take charge of the incident and prosecute the suspect if warranted.

FISCAL IMPACT: No impact to state expenditures for education.

EFFECT ON COUNTY OR OTHER LOCAL REVENUES OR EXPENDITURES: School officials are likely to be deposed regarding any gun-related incidents and asked to testify in a court proceeding. The district is likely to incur costs related to staff time and attorneys fees.

LONG-RANGE EFFECTS OF PROPOSED LEGISLATION:

TECHNICAL NOTES:

Dave Lewis 1-7-97
DAVE LEWIS, BUDGET DIRECTOR DATE
Office of Budget and Program Planning

John Bohlinger 1-9-97
JOHN BOHLINGER, PRIMARY SPONSOR DATE
Fiscal Note for HB0029, as introduced

HB 29

APPROVED BY COM
ON JUDICIARY

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6 GUARDIAN TO PERMIT A MINOR TO POSSESS, CARRY, OR STORE A WEAPON IN A K-12 SCHOOL
7 BUILDING; PROVIDING FOR A PENALTY; PROVIDING AN EXCEPTION FOR LAW ENFORCEMENT
8 PERSONNEL; PERMITTING TRUSTEES AUTHORITY TO GRANT PERMISSION TO POSSESS, CARRY, OR
9 STORE A WEAPON ~~FOR CERTAIN PURPOSES~~; AUTHORIZING SEIZURE AND FORFEITURE OR RETURN OF
10 THE WEAPON TO THE LAWFUL OWNER; DEFINING "WEAPON"; AND PROVIDING AN IMMEDIATE
11 EFFECTIVE DATE."

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13 BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF MONTANA:

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15 NEW SECTION. Section 1. Possession or allowing possession of weapon in K-12 school building
16 -- exceptions -- penalties -- seizure and forfeiture or return authorized -- definition. (1) A person commits
17 the offense of possession of a weapon in a K-12 school building if the person purposely or knowingly
18 possesses, carries, or stores a weapon in a K-12 school building.

19 (2) A parent or guardian of a minor commits the offense of allowing possession of a weapon in a
20 K-12 school building if the parent or guardian purposely or knowingly permits the minor to possess, carry,
21 or store a weapon in a K-12 school building.

22 (3) (a) ~~This section~~ SUBSECTION (1) does not apply to law enforcement personnel.

23 (b) The trustees of a district may grant persons and entities advance permission to possess, carry,
24 or store a weapon in a K-12 school building ~~for an educational purpose or for use in an educationally related~~
25 ~~program or activity.~~

26 (4) (a) A person convicted under this section shall be fined an amount not to exceed \$500,
27 imprisoned in the county jail for a term not to exceed 6 months, or both. THE COURT SHALL CONSIDER
28 ALTERNATIVES TO INCARCERATION THAT ARE AVAILABLE IN THE COMMUNITY.

29 (b) (i) A weapon in violation of this section may be seized and, upon conviction of the person
30 possessing or permitting possession of the weapon, may be forfeited to the state or returned to the lawful

1 owner.

2 (II) IF A WEAPON SEIZED UNDER THE PROVISIONS OF THIS SECTION IS SUBSEQUENTLY
3 DETERMINED TO HAVE BEEN STOLEN, OR OTHERWISE TAKEN FROM THE OWNER'S POSSESSION
4 WITHOUT PERMISSION, THE WEAPON MUST BE RETURNED TO THE LAWFUL OWNER.

5 (5) As used in this section, "weapon" means any type of firearm, a knife with a blade 4 or more
6 inches in length, ~~fireworks as defined in 50-37-101, and explosives as defined in 61-1-506~~ A SWORD, A
7 STRAIGHT RAZOR, A THROWING STAR, NUN-CHUCKS, OR BRASS OR OTHER METAL KNUCKLES.

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9 NEW SECTION. Section 2. Codification instruction. [Section 1] is intended to be codified as an
10 integral part of Title 45, chapter 8, part 3, and the provisions of Title 45, chapter 8, part 3, apply to
11 [section 1].

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13 BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF MONTANA:

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15 **NEW SECTION.** Section 1. **Possession or allowing possession of weapon in K-12 school building**
 16 **-- exceptions -- penalties -- seizure and forfeiture or return authorized -- definition.** (1) A person commits
 17 the offense of possession of a weapon in a K-12 school building if the person purposely ~~or~~ AND knowingly
 18 possesses, carries, or stores a weapon in a K-12 school building.

19 (2) A parent or guardian of a minor commits the offense of allowing possession of a weapon in a
 20 K-12 school building if the parent or guardian purposely ~~or~~ AND knowingly permits the minor to possess,
 21 carry, or store a weapon in a K-12 school building.

22 (3) (a) ~~This section~~ SUBSECTION (1) does not apply to law enforcement personnel.

23 (b) The trustees of a district may grant persons and entities advance permission to possess, carry,
 24 or store a weapon in a K-12 school building ~~for an educational purpose or for use in an educationally related~~
 25 ~~program or activity.~~

26 (4) (a) A person convicted under this section shall be fined an amount not to exceed \$500,
 27 imprisoned in the county jail for a term not to exceed 6 months, or both. THE COURT SHALL CONSIDER
 28 ALTERNATIVES TO INCARCERATION THAT ARE AVAILABLE IN THE COMMUNITY.

29 (b) (i) A weapon in violation of this section may be seized and, upon conviction of the person
 30 possessing or permitting possession of the weapon, may be forfeited to the state or returned to the lawful

1 owner.

2 (II) IF A WEAPON SEIZED UNDER THE PROVISIONS OF THIS SECTION IS SUBSEQUENTLY
3 DETERMINED TO HAVE BEEN STOLEN, OR OTHERWISE TAKEN FROM THE OWNER'S POSSESSION
4 WITHOUT PERMISSION, THE WEAPON MUST BE RETURNED TO THE LAWFUL OWNER.

5 (5) As used in this section, "weapon" means any type of firearm, a knife with a blade 4 or more
6 inches in length, ~~fireworks as defined in 50-37-101, and explosives as defined in 61-1-506~~ A SWORD, A
7 STRAIGHT RAZOR, A THROWING STAR, NUN-CHUCKS, OR BRASS OR OTHER METAL KNUCKLES.

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BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF MONTANA:

NEW SECTION. **Section 1. Possession or allowing possession of weapon in K-12 school building -- exceptions -- penalties -- seizure and forfeiture or return authorized -- definition.** (1) A person commits the offense of possession of a weapon in a K-12 school building if the person purposely ~~or~~ AND knowingly possesses, carries, or stores a weapon in a K-12 school building.

(2) A parent or guardian of a minor commits the offense of allowing possession of a weapon in a K-12 school building if the parent or guardian purposely ~~or~~ AND knowingly permits the minor to possess, carry, or store a weapon in a K-12 school building.

(3) (a) ~~This section~~ SUBSECTION (1) does not apply to law enforcement personnel.
(b) The trustees of a district may grant persons and entities advance permission to possess, carry, or store a weapon in a K-12 school building ~~for an educational purpose or for use in an educationally related program or activity.~~

(4) (a) A person convicted under this section shall be fined an amount not to exceed \$500, imprisoned in the county jail for a term not to exceed 6 months, or both. THE COURT SHALL CONSIDER ALTERNATIVES TO INCARCERATION THAT ARE AVAILABLE IN THE COMMUNITY.

(b) (l) A weapon in violation of this section (b) may be seized and, upon conviction of the person possessing or permitting possession of the weapon, may be forfeited to the state or returned to the lawful

1 owner.

2 (II) IF A WEAPON SEIZED UNDER THE PROVISIONS OF THIS SECTION IS SUBSEQUENTLY
3 DETERMINED TO HAVE BEEN STOLEN, OR OTHERWISE TAKEN FROM THE OWNER'S POSSESSION
4 WITHOUT PERMISSION, THE WEAPON MUST BE RETURNED TO THE LAWFUL OWNER.

5 (5) As used in this section:

6 (A) "SCHOOL BUILDING" MEANS ALL BUILDINGS OWNED OR LEASED BY A LOCAL SCHOOL
7 DISTRICT THAT ARE USED FOR INSTRUCTION OR FOR STUDENT ACTIVITIES. THE TERM DOES NOT
8 INCLUDE A HOME SCHOOL PROVIDED FOR IN 20-5-109.

9 (B) "weapon" means any type of firearm, a knife with a blade 4 or more inches in length, fireworks
10 as defined in 50-37-101, and explosives as defined in 61-1-506. A SWORD, A STRAIGHT RAZOR, A
11 THROWING STAR, NUN-CHUCKS, OR BRASS OR OTHER METAL KNUCKLES.

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