



A.563/S.4392 or Nicholas's Law¹

Child Access Prevention or Safe Weapon Storage Act

What is Nicholas's Law?

- Nicholas's Law requires the safe storage of guns not in the immediate possession or control of the gun owner, either in a safe storage depository or with a locking device, to prevent access by children and others who should not have access to them.
- Gun owners who fail to comply will be subject to criminal liability ranging from a violation to a class E felony.
 - A gun owner who fails to store a weapon safely when out of his or her immediate possession or control and the weapon is removed or the gun owner has been previously convicted of a second degree violation will be subject to a class A misdemeanor.
 - A gun owner who fails to store a weapon safely and the weapon fires causing physical injury or death will be subject to a class E felony.
 - A first-time second degree offense will not result in revocation of an owner's gun permit; however, for all other offenses the court shall revoke an existing license, order the person ineligible for a license, and order the surrender of all firearms. Any suspension order shall remain in effect for five years.

What if the gun owner is a parent or guardian of a child who dies or is injured due to unsafe storage of a weapon?

- The District Attorney will consider the impact of the injury or death on the gun owner when deciding whether to prosecute. A parent or guardian will only be prosecuted in those instances in which the parent or guardian behaved in a reckless manner.

How can a gun owner comply with the law and still use his/her gun for self-defense?

- A gun-owning adult who keeps the weapon under his/her immediate possession and control, i.e., on his/her person or within easy reach, shall not be liable. The law *will* apply to gun owners who do not keep their guns under their immediate possession or control, and who leave them unlocked or not safely stored.

Doesn't the New York SAFE Act already cover safe storage?

- NY SAFE's current safe storage requirement only applies to households where someone lives who has been convicted of a crime, involuntarily committed, subject to an order of protection, or convicted of a misdemeanor crime of domestic violence. The law does not cover any other households, such as gun-owning households where children are or may be present.

How would A.563/S.4392 enhance public safety?

- Nicholas's Law will enhance public safety by reducing the number of unintentional shootings, suicides, homicides and accidents, since gun owners who leave guns accessible to children or unauthorized persons will now be criminally liable. Also, since locked and stored guns are less likely to be stolen, Nicholas's Law will also help keep guns out of criminal hands.

¹ Named for 12-year-old Nicholas Naumkin, of Saratoga Springs, NY, who died after being unintentionally shot by a friend playing with his father's unlocked gun in December, 2010.