

By: Reynolds

H.B. No. 3435

A BILL TO BE ENTITLED

AN ACT

relating to creating the criminal offense of making a firearm accessible to a detained person.

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

SECTION 1. Chapter 46, Penal Code, is amended by adding Section 46.131 to read as follows:

Sec. 46.131. MAKING A FIREARM ACCESSIBLE TO A DETAINED PERSON. (a) In this section:

(1) "Detained person" means a person who is detained in a mental health facility or hospital after being apprehended by a peace officer under Section 573.001, Health and Safety Code.

(2) "Readily dischargeable firearm" has the meaning assigned by Section 46.13.

(3) "Secure" means to take steps that a reasonable person would take to prevent the access to a readily dischargeable firearm by a detained person, including placing a firearm in a locked container or temporarily rendering the firearm inoperable by a trigger lock or other means.

(b) A person commits an offense if a detained person gains access to a readily dischargeable firearm and the person with criminal negligence:

(1) failed to secure the firearm; or

(2) left the firearm in a place to which the person knew or should have known the detained person would gain access.

1 (c) It is an affirmative defense to prosecution under this
2 section that the detained person's access to the firearm was gained
3 by entering property in violation of this code.

4 (d) An offense under this section is a Class A misdemeanor,
5 except that the offense is:

6 (1) a state jail felony if the detained person
7 discharges the firearm;

8 (2) a felony of the third degree if the detained
9 person:

10 (A) discharges the firearm and causes bodily
11 injury to any individual, including the detained person; or

12 (B) threatens another individual with imminent
13 bodily injury while displaying the firearm; or

14 (3) a felony of the second degree if the detained
15 person discharges the firearm and causes death or serious bodily
16 injury to any individual, including the detained person.

17 SECTION 2. This Act takes effect September 1, 2023.