

Republic of the Philippines  
**HOUSE OF REPRESENTATIVES**  
Quezon City, Metro Manila

**TWENTIETH CONGRESS**  
**Second Regular Session**

**House Bill No. 10958**



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Introduced by **Hon. Janice V. Degamo**

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#### **EXPLANATORY NOTE**

The privilege of owning or possessing a firearm carries a corresponding duty to keep it secure and beyond the reach or control of unauthorized persons. A firearm that is carelessly stored, left unattended, or otherwise inadequately safeguarded may be lost, taken, accessed, or used by another person, creating a grave and preventable risk to public safety.

Republic Act No. 10591, otherwise known as the “Comprehensive Firearms and Ammunition Regulation Act,” regulates the licensing, possession, transfer, and reporting of firearms. The law, however, does not establish a clear and direct criminal offense that focuses specifically on negligent failure to safeguard a firearm before any unlawful transfer or failure to report occurs.

This measure therefore creates two separate criminal acts. First, a licensed firearm holder who, through negligence, fails to safely secure or safeguard a firearm shall be punished by imprisonment of two (2) years. Second, when the firearm negligently left unsecured or inadequately safeguarded is subsequently used in the commission of a crime, the firearm holder shall be punished by imprisonment of five (5) years.

The bill further recognizes the heightened duty borne by public officers and employees who are entrusted with government-issued firearms by reason of their office, position, or employment. Because such firearms are public property placed in their custody for an official purpose, the penalties are increased when the negligent firearm holder is a public officer or employee and the firearm involved is government-issued. Under this measure, the corresponding penalties are four (4) years for negligent failure to safeguard a government-issued firearm and ten (10) years when that firearm is subsequently used in the commission of a crime.

The proposed offenses are directed at negligent custody and safekeeping. They do not diminish the criminal liability of the person who unlawfully takes, possesses, or uses the firearm, and they do not prevent prosecution under other applicable laws where the facts independently establish another offense.

The measure likewise protects lawful defensive access to and use of a firearm during an emergency. The mere fact that a spouse, relative, household member, guest, or other person gains access to a firearm in order to defend the firearm holder, another person, or the dwelling against an actual or imminent unlawful attack shall not, by itself, establish negligent safekeeping. Nor shall a firearm used under a justifying circumstance recognized in Article 11 of the Revised Penal Code be deemed to have been used in the commission of a crime for purposes of the enhanced offense under this Act. This protection is intended to preserve the right of individuals to act lawfully in defense of life and safety while maintaining accountability for genuinely negligent firearm custody.

By establishing clear duties and proportionate penalties, this measure seeks to promote responsible firearm ownership, strengthen accountability among public officers entrusted with government firearms, and reduce the risk that negligently secured firearms will be used to endanger life, property, and public order.

Approval of this bill is earnestly sought.

A handwritten signature in black ink, appearing to read 'JD', with a stylized flourish extending to the right.

**JANICE V. DEGAMO**

*Representative, 3rd District of Negros Oriental*

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**AN ACT**  
**ESTABLISHING CRIMINAL LIABILITY FOR THE NEGLIGENT FAILURE**  
**TO SAFEGUARD FIREARMS, PROVIDING ENHANCED PENALTIES**  
**WHEN SUCH FIREARMS ARE SUBSEQUENTLY USED IN THE**  
**COMMISSION OF A CRIME OR WHEN THE FIREARM INVOLVED IS**  
**GOVERNMENT-ISSUED, AMENDING FOR THE PURPOSE REPUBLIC**  
**ACT NO. 10591, OTHERWISE KNOWN AS THE “COMPREHENSIVE**  
**FIREARMS AND AMMUNITION REGULATION ACT”**

*Be it enacted by the Senate and House of Representatives of the Philippines in Congress assembled:*

**Section 1. *Short Title.*** This Act shall be known as the "Responsible Firearm Ownership Accountability Act.”

**Section 2. *Insertion of New Sections 40-A and 40-B in Republic Act No. 10591.*** New Sections 40-A and 40-B are hereby inserted after Section 40 of Republic Act No. 10591, to read as follows:

“Section 40-A. Negligent Failure to Safeguard a Firearm. - Any licensed firearm holder who, through negligence, fails to safely keep, secure, store, retain custody of, or otherwise safeguard a firearm under his or her possession or control, thereby allowing the firearm to be lost, taken, accessed, possessed, or controlled by an unauthorized person, shall be guilty of negligent failure to safeguard a firearm and shall be punished by imprisonment of two (2) years.

For purposes of this section, negligence exists when the firearm holder fails to exercise the degree of care that a reasonably prudent firearm holder would exercise under the same or similar circumstances, taking into account the nature of the firearm, the place where it is kept, the persons who may reasonably gain access to it, and applicable firearm safekeeping requirements.

If the offender is a public officer or employee and the firearm involved is owned by the Government and was issued or entrusted to him or her by reason of office, position, employment, assignment, or official duty, the penalty shall be imprisonment of four (4) years.

For purposes of this section, the access, possession, control, or use of a firearm by a person other than the licensed firearm holder shall not, by itself, constitute evidence of negligent failure to safeguard the firearm when such access, possession, control, or use occurs under circumstances justified under Article 11 of the Revised Penal Code, including lawful self-defense, defense of a relative, defense of a stranger, avoidance of a greater evil or injury, or any other applicable justifying circumstance recognized by law.

No liability under this section shall arise solely from the fact that a spouse, relative, household member, guest, or other person accessed or used the firearm when such access or use was reasonably necessary in response to an actual or imminent unlawful aggression or other emergency recognized by law.

The absence of the licensed firearm holder's prior knowledge, express consent, or authorization shall not, by itself, render such access, possession, control, or use unauthorized where the same is otherwise lawful or legally justified."

"Section 40-B. Negligent Failure to Safeguard a Firearm Subsequently Used in the Commission of a Crime. - Any licensed firearm holder who commits the negligent act defined in Section 40-A, and, as a direct and reasonably foreseeable consequence of such negligent failure to safeguard, the firearm thereby lost, taken, accessed, possessed, or controlled by an unauthorized person is subsequently used in the commission of a felony under the Revised Penal Code or an offense punishable under a special law, other than an offense consisting solely of the unlawful possession, custody, control, carrying, or acquisition of the firearm itself, shall be guilty of negligent failure to safeguard a firearm subsequently used in the commission of a crime and shall be punished by imprisonment of five (5) years.

If the offender is a public officer or employee and the firearm involved is owned by the Government and was issued or entrusted to him or her by reason of office, position, employment, assignment, or official duty, the penalty shall be imprisonment of ten (10) years.

For purposes of this section, a firearm shall not be considered to have been used in the commission of a crime when the use thereof is justified under Article 11 of the Revised Penal Code, including lawful self-defense, defense of a relative, defense of a stranger, avoidance of a greater evil or injury, or any other applicable justifying circumstance recognized by law. The fact that a person other than the licensed firearm holder accessed or used the firearm during such justified emergency shall not, by itself, establish liability under this section.

For purposes of this section, the subsequent criminal act must be an offense separate and distinct from the mere unlawful possession, custody, control, carrying, or acquisition of the firearm. The fact that an unauthorized person unlawfully possesses or carries the firearm, without more, shall not satisfy the requirement that the firearm was subsequently used in the commission of a crime. Furthermore, when a firearm registered to or under the lawful custody or control of a licensed firearm holder is proven to have been used by an unauthorized person in the commission of a felony under the Revised Penal Code or an offense punishable under a special law, such fact shall give rise to a disputable presumption that the firearm holder negligently failed to

safely keep, secure, store, retain custody of, or otherwise safeguard the firearm. The firearm holder may rebut such presumption by presenting competent evidence that he or she exercised the degree of care required of a reasonably prudent firearm holder under the same or similar circumstances, or that the loss, taking, access, possession, or use of the firearm resulted from robbery, theft involving force or violence, force majeure, lawful emergency access, a justifying circumstance under Article 11 of the Revised Penal Code, or another circumstance beyond his or her reasonable control despite the exercise of reasonable and lawful safeguards. Nothing in this provision shall dispense with the constitutional requirement that the prosecution establish the accused's guilt beyond reasonable doubt.

Liability under this section shall be in lieu of, and not in addition to, liability under Section 40-A for the same act of negligent safekeeping. Nothing in this section shall require that the firearm holder participated in, intended, or agreed to the subsequent crime; it shall be sufficient that the prosecution proves beyond reasonable doubt the negligent failure to safeguard the firearm and its qualifying subsequent use in the commission of a separate crime as provided herein.

Moreover, any member of The Armed Forces of the Philippines, The Philippine National Police and any law enforcement agencies who is a licensed holder of a firearm owned by the national government, who, through fault or negligence appropriates, takes, misappropriates, or consents to the taking by another person of his or her issued firearm, shall, in addition to the penalties prescribed under this Act, be criminally charged with the crime of malversation of public property under Article 217 of the Revised Penal Code, as amended by Republic Act No. 1060.”

***Section 3. Circumstances Relevant to Negligent Safekeeping.*** In determining whether a firearm holder negligently failed to safeguard a firearm, the court may consider, among others, whether the firearm was:

- (a) left loaded and unsecured in a place reasonably accessible to a minor or to a person not legally authorized to possess a firearm;
- (b) left unattended in a motor vehicle, residence, workplace, public place, or other location without reasonable security measures;
- (c) stored or carried in violation of safekeeping or storage requirements prescribed by law, regulation, or lawful official policy;
- (d) left accessible to a person whom the firearm holder knew or reasonably should have known was intoxicated, under the influence of dangerous drugs, mentally incapable of safely handling a firearm, or otherwise legally disqualified from possessing one; or
- (e) otherwise kept in a manner that created an unreasonable risk of unauthorized access, possession, loss, or use.

The circumstances listed above are evidentiary considerations only. The fact that another person was able to obtain access to the firearm during an emergency for a lawful defensive purpose shall not, standing alone, constitute proof of negligence.

***Section 4. Emergency Defensive Access, Justified Use, and Other Exceptions.*** - No criminal liability under Sections 40-A or 40-B shall arise solely from the fact that a spouse, relative, household member, guest, or other person obtained access to or possession of the firearm when such access or possession was reasonably necessary to defend the firearm holder, another person, or the dwelling against an actual or imminent unlawful attack, or to respond to another emergency involving an immediate threat of death or serious physical injury. In determining liability, the court shall consider the totality of the circumstances, including whether the firearm holder intentionally, recklessly, or negligently made the firearm available for an unlawful purpose and whether reasonable safeguards were maintained before the emergency arose.

The mere emergency access to or justified defensive use of the firearm by a person other than the licensed firearm holder shall not create a presumption of negligent safekeeping. Nothing in this provision shall be construed to exempt any person from criminal liability for a use of the firearm that is not justified by law.

For purposes of Section 40-B, a use of the firearm falling within any justifying circumstance under Article 11 of the Revised Penal Code shall not constitute use of the firearm “in the commission of a crime” under this Act.

No criminal liability under Sections 40-A or 40-B shall likewise attach where the loss, taking, or access resulted from robbery, theft involving force or violence, force majeure, or another circumstance beyond the firearm holder’s reasonable control, provided that reasonable and lawful measures had been taken to safeguard the firearm before the occurrence.

***Section 5. Separate Liability of the Principal Offender.*** The liability imposed under this Act shall be separate and distinct from the criminal liability of any person who unlawfully takes, possesses, carries, transfers, or uses the firearm. The prosecution of the firearm holder under this Act shall not preclude the prosecution of any other person for an offense arising from the same incident.

***Section 6. Other Criminal, Civil, and Administrative Liability.*** Nothing in this Act shall preclude prosecution or liability under the Revised Penal Code, Republic Act No. 10591, anti-graft laws, civil service laws, military or police regulations, or other applicable laws and rules when the facts independently establish the elements of another offense or ground for civil or administrative liability. No person shall, however, be punished twice for the same offense in violation of the Constitution.

***Section 7. Implementing Rules and Regulations.*** Within ninety (90) days from the effectivity of this Act, the Philippine National Police, in coordination with the Department of Justice, shall promulgate the implementing rules and regulations.

***Section 8. Separability Clause.*** If any provision of this Act is declared unconstitutional or invalid, the remainder of this Act shall not be affected thereby.

**Section 9. *Repealing Clause.*** All laws, decrees, orders, rules and regulations or parts thereof inconsistent with the provisions of this Act are hereby repealed or modified accordingly.

**Section 10. *Effectivity.*** This Act shall take effect fifteen (15) days after its complete publication in the Official Gazette or in a newspaper of general circulation.

Approved,