

HOUSE BILL NO. 6350

August 17, 2022, Introduced by Reps. Tisdell, Sneller and Ellison and referred to the Committee on Judiciary.

A bill to amend 1927 PA 175, entitled
"The code of criminal procedure,"
(MCL 760.1 to 777.69) by adding section 21d to chapter VIII.

THE PEOPLE OF THE STATE OF MICHIGAN ENACT:

CHAPTER VIII

1
2
3
4
5
6

Sec. 21d. (1) If a defendant is charged with a crime in connection with a firearm the defendant owns, or for which the defendant is a legal authorized user, because another individual used the firearm in the commission of a crime, the defendant has a complete defense to the crime with which the defendant is charged

1 if the defendant presents evidence of all of the following
2 regarding the firearm:

3 (a) It was legally obtained.

4 (b) It was legally owned.

5 (c) It was properly stored.

6 (2) A prosecutor may overcome the defense under subsection (1)
7 if the evidence demonstrates, beyond a reasonable doubt, that the
8 firearm was not legally obtained, legally owned, or properly
9 stored.

10 (3) As used in this section:

11 (a) "Active firearm" means a firearm that is loaded with
12 ammunition.

13 (b) "Crime" includes a felony or misdemeanor violation of the
14 laws of this state or a misdemeanor violation of the laws of a
15 political subdivision of this state.

16 (c) "Legal authorized user" means an individual to whom the
17 owner of the firearm has provided unambiguous or direct permission
18 to use or possess the firearm.

19 (d) "Nonactive firearm" means a firearm that is not loaded
20 with ammunition.

21 (e) "Properly stored" means either of the following:

22 (i) With respect to an active firearm, the firearm is kept
23 inside a locked container within such close proximity of the owner
24 or other legal authorized user that the owner or legal authorized
25 user can readily retrieve and use the firearm in the same manner as
26 if the owner or legal authorized user is carrying the firearm on
27 the owner or legal authorized user's person. The owner or legal
28 authorized user must remain in immediate proximity and control of
29 an active firearm. An active firearm may also be kept inside a

1 locked container, in a locked safe, vault, or other secured
2 container designed for expedited retrieval and possible use. An
3 active firearm that is a pistol may be temporarily stored in a
4 concealed portion of a locked trunk, a locked glovebox inside a
5 locked vehicle, or a locked center console inside a locked vehicle
6 if the properly licensed owner is entering a location that is a
7 weapon free school zone as that term is defined in section 237a of
8 the Michigan penal code, 1931 PA 328, MCL 750.237a, or other gun-
9 free zone under the laws of this state, a political subdivision of
10 this state, or the United States. An owner or legal authorized user
11 does not breach the owner or legal authorized user's duty to
12 properly store an active firearm if the owner or legal authorized
13 user is the victim of any criminal intent or action to gain access
14 to the owner or legal authorized user's firearm or the subject of
15 an active and willful search by another individual resulting in the
16 unauthorized acquisition or forced surrender by the owner or other
17 legal authorized user of the firearm.

18 (ii) With respect to a nonactive firearm, the firearm is stored
19 inside a locked container, is locked with the use of a trigger
20 lock, cable lock, padlock between rear of trigger and trigger
21 guard, or other locking system that renders the firearm inoperable,
22 and is separated from ammunition. A nonactive firearm, and its
23 ammunition, must be stored in a secured or locked gun safe or
24 vault, or a locked and hardened cabinet, drawer, storage closet, or
25 room. Keys or lock combinations must also be unavailable to any
26 other individual but the owner and a legal authorized user. A
27 nonactive firearm may also be stored in a disassembled state with
28 the firearm body separated from the firing mechanism so that the
29 firearm is inoperable or will not hold or fire ammunition.