



State of Florida
Department of Children and Families

Charlie Crist
Governor

George H. Sheldon
Secretary

DATE: December 2, 2009

TO: Regional Directors

THROUGH: Pete Digre, Assistant Secretary for Operations
David L. Fairbanks, Assistant Secretary for Programs

FROM: Alan Abramowitz, State Director, Office of Family Safety

SUBJECT: New Guidance Regarding Firearms and Placement of Children
ACTION REQUIRED: Discontinue requirement that caregivers store ammunition and firearms separately and implement acknowledgement during the home study and/or relicensing process
DUE DATE: Immediately

PURPOSE: The purpose of this memorandum is to provide information about an immediate change in practice/policy regarding firearms and the home study process.

BACKGROUND: The General Counsel's Office has reviewed the existing statute and rule regarding firearms. Please see attached clarifying memo dated December 1, 2009. The following are the key provisions:

- Florida law prohibits the Department and providers from keeping lists or records of firearms and/or their owners.
- Florida law requires anyone who owns or stores a loaded firearm to keep it in a locked place secure from any minor who could gain access to it without lawful permission.
- Begin using the attached acknowledgement for all families in the home study process.
- This includes prospective relative/non-relative placements, foster and adoptive families.
- For already licensed families, use the attached acknowledgement at the next relicensure.

ACTION REQUIRED: Disseminate this guidance to Department investigations and licensing staff, Community Based Care lead agencies, and subcontractors providing out-of-home care services.

CONTACT INFORMATION: For additional information, please contact Alan Abramowitz at 850-566-5670 or email Alan_Abramowitz@dcf.state.fl.us.

Thank you.

Attachments: Clarification re forms related to firearms dated December 1, 2009
Acknowledgement of Compliance with Firearms Safety Requirements

cc: Mary Ann Stiles, Interim General Counsel
Mary Cagle, Director, Children's Legal Services

1317 Winewood Boulevard, Tallahassee, Florida 32399-0700

Mission: Protect the Vulnerable, Promote Strong and Economically Self-Sufficient Families, and Advance Personal and Family Recovery and Resiliency



State of Florida
Department of Children and Families

Charlie Crist
Governor

George H. Sheldon
Secretary

DATE: December 1, 2009

TO: Alan Abramowitz, Director
Office of Family Safety

FROM: Mary Ann Stiles, General Counsel *Mary Ann Stiles*
Mary Cagle, Director, Children's Legal Services *Mary Cagle*

SUBJECT: Clarification re forms related to firearms

This memorandum is to clarify the Department's policy and practice regarding the form to be used when ensuring children's safety related to firearms. There are two Florida Statutes applicable to this issue, Florida Statute 790.134 and Florida Statute 790.335.

Florida Statute 790.335 prohibits the Department and providers from keeping lists or records of firearms and/or their owners. It states in pertinent part:

"(2) PROHIBITIONS. No state governmental agency or local government, special district, or other political subdivision or official, agent, or employee of such state or other governmental entity or any other person, public or private, shall knowingly and willfully keep or cause to be kept any list, record, or registry of privately owned firearms or any list, record, or registry of the owners of those firearms."

"(4) PENALTIES. (a) Any person who, or entity that, violates a provision of this section commits a felony of the third degree..."

Florida Statute 790.174 requires anyone who owns or stores a loaded firearm to keep it in a locked place secure from any minor who could gain access to it without lawful permission. It states in pertinent part:

"Safe storage of firearms required.

(1) A person who stores or leaves, on a premise under his or her control, a loaded firearm, as defined in s. 790.001, and who knows or reasonably should know that a minor is likely to gain access to the firearm without the lawful permission of the minor's parent or the person having charge of the minor, or without the supervision required by law, shall keep the firearm in a securely locked box or container or in a location which a reasonable person would believe to be secure or shall secure it with a trigger lock, except when the person is carrying the firearm on his or her body

1317 Winewood Boulevard, Tallahassee, Florida 32399-0700

Mission: Protect the Vulnerable, Promote Strong and Economically Self-Sufficient Families, and Advance Personal and Family Recovery and Resiliency

Clarification re forms related to firearms

December 1, 2009

Page Two

or within such close proximity thereto that he or she can retrieve and use it as easily and quickly as if he or she carried it on his or her body.

(2) It is a misdemeanor of the second degree, punishable as provided in s. 775.082 or s. 775.083, if a person violates subsection (1) by failing to store or leave a firearm in the required manner and as a result thereof a minor gains access to the firearm, without the lawful permission of the minor's parent or the person having charge of the minor, and possesses or exhibits it, without the supervision required by law:

(a) In a public place; or

(b) In a rude, careless, angry, or threatening manner in violation of s. 790.10.

This subsection does not apply if the minor obtains the firearm as a result of an unlawful entry by any person.

(3) As used in this act, the term 'minor' means any person under the age of 16."

The statute above requires the safe storage of firearms, for the protection of minors, by all adults. The Office of the General Counsel has reviewed the current requirements that parents store the ammunition and firearm separately. No statutory authority supports this requirement. Therefore, effective immediately, that requirement is eliminated. The Department will take action to correct that part of the Florida Administrative Code (65C-13.011(14) (c) and 65C-13.030(5) (h) 6) which requires separate storage.

The attached acknowledgement form is provided to Department employees and providers to use during the home study process.

It will ensure that when we place children in appropriate homes we do not violate the rights of our caregivers by keeping records regarding firearm ownership. It will also ensure the safety of our children by requiring all caregivers to acknowledge that they understand the law related to keeping firearms in a secure location to ensure the safety of minor children.

Attachment



ACKNOWLEDGEMENT OF FIREARMS SAFETY REQUIREMENTS

Florida Statute 790.174 (Safe storage of firearms required) states:

A person who stores or leaves, on a premise under his or her control, a loaded firearm, as defined in s. 790.001, and who knows or reasonably should know that a minor is likely to gain access to the firearm without the lawful permission of the minor's parent or the person having charge of the minor, or without the supervision required by law, shall keep the firearm in a securely locked box or container or in a location which a reasonable person would believe to be secure or shall secure it with a trigger lock, except when the person is carrying the firearm on his or her body or within such close proximity thereto that he or she can retrieve and use it as easily and quickly as if he or she carried it on his or her body.

I/We _____

Acknowledge that I/we have read and understand this document.

Date

Parent Signature

Parent Signature

Note: This acknowledgement must be executed by all foster and adoptive parents during the home study.