

**SUBJECT:** State jail felony for transferring handgun to child

**COMMITTEE:** Criminal Jurisprudence — favorable, without amendment

**VOTE:** 7 ayes — Place, Talton, Dunnam, Galloway, Hinojosa, Keel, A. Reyna  
0 nays  
2 absent — Farrar, Nixon

**SENATE VOTE:** On final passage, April 29 — voice vote

**WITNESSES:** For — Troy McClain, Dallas Police Department  
Against — None

**BACKGROUND :** It is a criminal offense to unlawfully transfer certain weapons to specified persons. Intentionally or knowingly selling, renting, leasing, giving, or offering to transfer any firearm, club or illegal knife to any child younger than 18 years old is a Class A misdemeanor, with a maximum penalty of one year in jail and a \$4,000 fine.

**DIGEST:** SB 548 would make it a state jail felony, with a penalty of six months to two years in a state jail and an optional fine of up to \$10,000, to unlawfully transfer a handgun to a child. Specifically, SB 548 would apply to intentionally or knowingly selling, renting, leasing, giving or offering to sell, rent, lease or give a handgun to any child younger than 18 years old.  
  
SB 548 would take effect September 1, 1997.

**SUPPORTERS SAY:** SB 548 is necessary to adequately punish persons who transfer handguns to children and to deter further incidences of this crime. Under current law, transferring a handgun to a minor is only a misdemeanor, clearly inadequate punishment for putting a handgun in the hands of a child. A state jail felony would be a more appropriate punishment because it can carry state jail time and intense oversight if the offender was placed on probation.

Keeping weapons out of the hands of juveniles would help protect all Texans from violence committed by juveniles, especially violence committed in connection with juvenile gangs. SB 548 especially would help protect children from becoming targets of handgun violence by other children. The bill would be part of a larger crackdown on persons who arm children. Adequate punishment of this crime would go hand-in-hand with increased enforcement of gun laws to help reduce the weapons going to Texas children. In addition, SB 548 could allow law enforcement authorities to keep better track of handguns going to children.

Although the 1993 Penal Code established broad categories and general provisions, in this situation the framework is inadequate. Unlawfully transferring a handgun to a child is clearly a more serious crime than transferring a weapon to an adult, so the punishment should be stiffer. The Penal Code has other provisions dealing specifically with crimes committed against or involving children, so it would not be inappropriate to enact a stiffer penalty in this situation.

**OPPONENTS  
SAY:**

The 1993 Penal Code was carefully crafted to encompass broad language and eliminate special provisions. Offenses involving transferring a handgun to a child should be punished under the standard Penal Code provisions for unlawful transfer of weapon instead of enacting a special enhancement for offenses involving handguns and children.