

1 State of Arkansas  
2 81st General Assembly  
3 Regular Session, 1997

# A Bill

HOUSE BILL 1028

4 By: Representative Thicksten

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## For An Act To Be Entitled

8 "AN ACT TO CREATE THE CRIMINAL OFFENSE OF POSSESSION OF A  
9 FIREARM ON OR WITHIN 1,000 FEET OF THE REAL PROPERTY OF A  
10 SCHOOL OR AN INSTITUTION OF HIGHER EDUCATION; TO DECLARE  
11 AN EMERGENCY; AND FOR OTHER PURPOSES."

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## Subtitle

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20 BE IT ENACTED BY THE GENERAL ASSEMBLY OF THE STATE OF ARKANSAS:

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22 SECTION 1. Title 5, Chapter 73, Subchapter 1 of the Arkansas Code

23 Annotated is amended by adding a new section to read as follows:

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"5-73-133. Possession of a firearm in a school zone.

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(a) The General Assembly recognizes that an intentional or accidental discharge of a firearm close to school property could result in the injury or death of students and school personnel and that it is imperative for the State of Arkansas to take a strong stand against violence by enacting legislation to fill the void left when the United States Supreme Court, in *United States v. Lopez*, overturned a federal ban on the possession of firearms within one thousand feet (1,000\_) of a school and reiterated the proposition that the states possess primary authority for defining and enforcing the criminal law.

(b)(1) It shall be unlawful for any person knowingly to possess a firearm on or within one thousand feet (1,000') of the real property of a public or private school or a public or private institution of higher education.

1 (2) Firearm has the meaning specified in § 5-1-102(6).

2 (3) Violation of this subsection shall be a Class D felony.

3 (c) It is a defense to prosecution under this section that at the time  
4 of the act of possessing a firearm:

5 (1) The person is in his own dwelling or place of business or on  
6 property in which he has a possessory or proprietary interest; or

7 (2) The person is a law enforcement officer, prison guard,  
8 licensed security guard, or member of the armed forces, acting in the course  
9 and scope of his official duties; or

10 (3) The person is assisting a law enforcement officer, prison  
11 guard, licensed security guard, or member of the armed forces acting in the  
12 course and scope of his official duties; or

13 (4) The person is a certified law enforcement officer; or

14 (5) The person is licensed to carry a firearm under § 5-73-301 et  
15 seq. or § 12-15-201, et seq.; or

16 (6) The person is participating in a certified hunting safety  
17 course sponsored by the Arkansas Game and Fish Commission or a firearm safety  
18 course recognized and approved by the Arkansas Game and Fish Commission or by  
19 a state or national nonprofit organization qualified and experienced in  
20 firearm safety; or

21 (7) The person is participating in a course or sporting activity  
22 approved by the school or institution of higher education involving the use of  
23 firearms.

24 (d) Property covered by this section shall have a notice posted at the  
25 entrances to the property stating:

26 THE POSSESSION OF A FIREARM UPON OR WITHIN ONE THOUSAND FEET (1000\_) OF  
27 THIS PROPERTY IS A CLASS D FELONY UNDER THE LAWS OF ARKANSAS."

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29 SECTION 2. All provisions of this act of a general and permanent nature  
30 are amendatory to the Arkansas Code of 1987 Annotated and the Arkansas Code  
31 Revision Commission shall incorporate the same in the Code.

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33 SECTION 3. If any provision of this act or the application thereof to  
34 any person or circumstance is held invalid, such invalidity shall not affect  
35 other provisions or applications of the act which can be given effect without  
36 the invalid provision or application, and to this end the provisions of this

1 act are declared to be severable.

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3 SECTION 4. All laws and parts of laws in conflict with this act are  
4 hereby repealed.

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6 SECTION 5. EMERGENCY. It is found and determined by the Eighty First  
7 General Assembly of the State of Arkansas that it is imperative to immediately  
8 enhance the safety of students and personnel in the public and private schools  
9 and institutions of higher education in Arkansas by creating a so-called "Gun  
10 Free Zone" around the schools and institutions; that in order to fill the void  
11 left by the recent United States Supreme Court decision ruling the federal  
12 Gun-Free Zones Act of 1990 unconstitutional, an emergency is declared to exist  
13 and this act being necessary for the preservation of the public peace, health,  
14 and safety shall become effective on the date of its approval by the Governor.  
15 If the bill is neither approved nor vetoed by the Governor, it shall become  
16 effective on the expiration of the period of time during which the Governor  
17 may veto the bill. If the bill is vetoed by the Governor and the veto is  
18 overridden, it shall become effective on the date the last house overrides the  
19 veto.

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