

**COLORADO  
GUN OWNERS**

**HOW TO AVOID  
LEGAL TROUBLE WITH  
COLORADO'S  
NEW GUN LAW**





# INTRODUCTION

## TABLE OF CONTENTS

- 3** Critical Information  
Colorado Gun Owners  
Must Know About  
SB21-078
- 4** Potential Penalties  
and Other Risks
- 5** Do's and Don'ts
- 6** Frequently Asked  
Questions
- 7** Colorado Statistics  
Related to Lost or  
Stolen Firearms

In 2020, state representatives of the Colorado Legislature proposed HB20-1356, a bill that would have required firearm owners to report a lost or stolen firearm within 48 hours of making the discovery that their firearm was missing. However, the progress of that bill was derailed by the pandemic as government offices shut down across the state.

Shortly after, in June of 2020, a gunman used a stolen firearm to fatally shoot Isabella Thallas and severely injure her boyfriend in downtown Denver. This tragic event reignited the debate regarding mandatory reporting of lost or stolen firearms and, upon resuming hearings in early 2021, the Colorado Legislature wasted no time to propose a similar bill, SB21-078.

Though hotly contested through the legislative process, SB21-078, officially the Isabella Joy Thallas Act, was passed and signed into law by Governor Jared Polis on April 19, 2021 and became effective on September 7, 2021. Prior to the passage of SB21-078, there were no mandatory reporting requirements related to lost or stolen firearms under Colorado law. This new Colorado law can be found in Colorado Revised Statutes Section 18-12-113.

*"A person who owns a firearm and who has reasonable cause to believe that the firearm has been lost or stolen shall report such fact to a law enforcement agency not more than five days after discovering that the firearm has been lost or stolen..."*

**C.R.S. § 18-12-113(1)(a)(I).**



# CRITICAL INFORMATION COLORADO GUN OWNERS MUST KNOW ABOUT SB21-078

**Legal Duty to Report:** Firearm owners must report to law enforcement a lost or stolen firearm **WITHIN 5 DAYS** of discovering the firearm is missing.

**Reporting Requirements:** An accurate and detailed description of the firearm including, *to the extent known*:

1. The manufacturer of the firearm
2. The model of the firearm
3. The serial number of the firearm
4. The caliber of the firearm
5. Any other identification or distinguishing mark of the firearm



**Other Family Members or Persons Residing with the Gun Owner:**

- A person who is not the owner of the firearm but is a member of the owner's family or resides with the owner may, *but is not required to*, report the loss or theft.
- If such a person files a report, the owner is then *not* required to do so as well. However, it may be wise to report the lost or stolen firearm anyway but it is important to speak to an attorney prior to doing so.

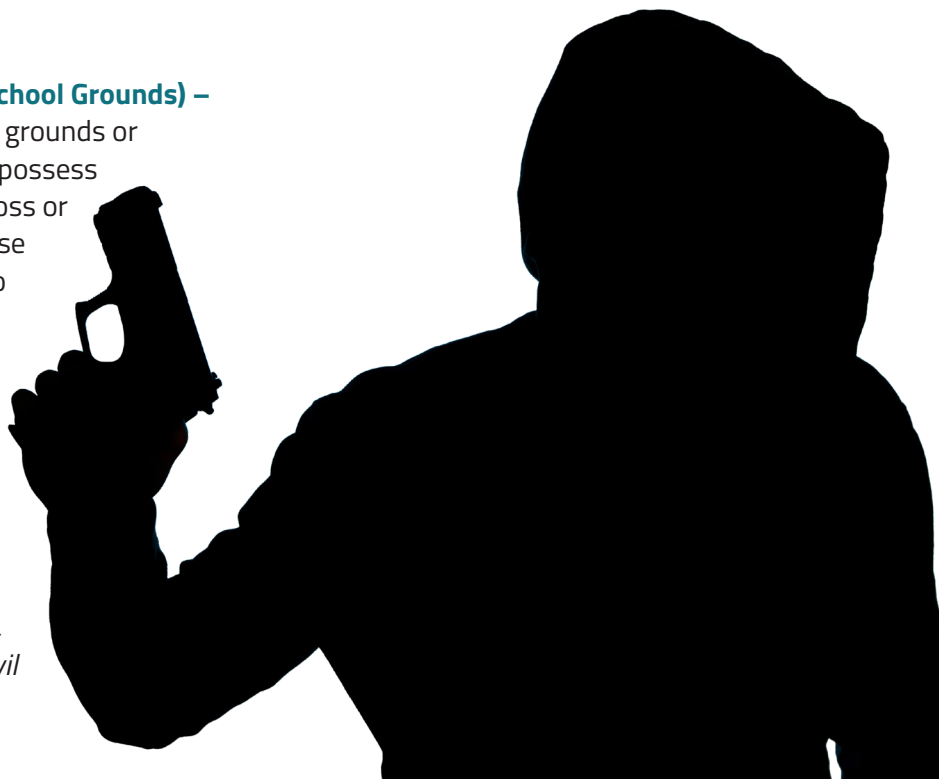
**Duty to Report if Firearm Is Later Found:** An owner (or any other person) who later finds a missing firearm that had previously been reported as lost or stolen, "shall report to the law enforcement agency that received the report that the firearm has been recovered."

**CBI Reporting Requirement:** A law enforcement agency that receives a report of a lost or stolen firearm is required to enter the descriptive information of the firearm into the Colorado Bureau of Investigation ("CBI") Crime Information Center database within five days of receiving the report.

**Limited Criminal Immunity:** Compliance with these legal duties provides immunity from criminal prosecution solely for an alleged violation of Colorado's safe storage law, which includes potential punishments of fines and/or imprisonment. Immunity *does not extend* to other alleged law violations.

# POTENTIAL PENALTIES AND OTHER RISKS

1. **C.R.S. § 18-12-113 (Failure to Report a Lost or Stolen Firearm)** – A first violation of this law is a civil infraction, punishable by a \$25 fine. A second or subsequent offense is an unclassified misdemeanor, with a potential fine of up to \$500.
2. **C.R.S. § 18-12-114 (Secure Firearm Storage Required)** – Was the firearm “responsibly and securely” stored? Failure to report a lost or stolen firearm WITHIN 5 DAYS of discovering it missing may expose the owner to criminal liability under Colorado’s safe storage law, which could result in a class 2 misdemeanor punishable by a term of imprisonment, a fine, or both.
3. **C.R.S. § 18-12-112 (Private Firearm Transfers)** – Was the firearm lost or stolen while in possession of another private party after the owner transferred the firearm to that person? Did the firearm transfer violate Colorado private party transfer laws? If so, the owner may be exposed to criminal and civil liability for unlawfully transferring a firearm.
4. **C.R.S. § 18-12-108.7 (Unlawfully Providing/Permitting a Juvenile to Possess a Handgun)** – Was the handgun taken by a juvenile? Is there an argument that the owner “recklessly” allowed the juvenile to access the firearm? If so, the owner may be exposed to criminal liability for unlawfully permitting a juvenile to possess a handgun.
5. **C.R.S. § 18-6-401 (Child Abuse)** – Was a juvenile injured or killed with the owner’s firearm? Is there an argument to be made that the owner permitted the child to be “unreasonably placed in a situation that pose[d] a threat of injury to the child’s life?” If so, the owner may be exposed to criminal liability for child abuse.
6. **C.R.S. § 18-12-105.5 (Weapons on School Grounds)** – Was the firearm lost or stolen on school grounds or within a “school zone?” Was it lawful to possess the firearm in that location prior to the loss or theft? Depending on the answers to these questions, the owner may be exposed to criminal liability under both state and federal laws related to possession of firearms on school grounds and/or within a “school zone.”
7. **Civil Liability** – To date, there has not been a case in Colorado concerning civil liability for negligently storing a firearm. *However, the passage of SB21-078 will, undoubtedly, be used as the basis for civil liability going forward.*





# DO'S AND DON'TS

## Do:

- ✓ Preserve firearm identifying information in a place separate from the firearm (e.g., phone, computer, safe, *etc.*);
- ✓ Contact an attorney prior to contacting law enforcement;
- For firearms previously reported as lost or stolen that are subsequently found, contact an attorney prior to alerting law enforcement that the firearm has been recovered;
- ✓ Ensure the firearm is truly missing prior to reporting. Thoroughly search all places the firearm may be found including, but not limited to, the area the firearm was last seen and common places/locations the firearm is routinely kept;
- ✓ Be aware of when exactly the five-day clock begins ticking – Remember, it begins when the owner discovers the firearm is missing, not when the actual loss or theft occurs.

## Don't:

- ✗ Report a lost or stolen firearm to law enforcement before speaking to an attorney;
  - Report more information than is required under the statute unless advised to do so by an attorney – Only an accurate and detailed description of the firearm is required, not the facts/circumstances of the loss or theft;
  - ✗ Speak to others about the facts/ circumstances surrounding the loss or theft;
  - ✗ Ignore the loss or theft – You now have an affirmative duty to report!\*
- \*Remember to contact an attorney first and prior to reporting...



# FREQUENTLY ASKED QUESTIONS

## 1. What should I do immediately after discovering my firearm was lost or stolen?

**Answer:** The first step is to contact an attorney to explain the circumstances surrounding the loss or theft of the firearm and receive advice on how to properly file a report with law enforcement. Before filing a report though, you should thoroughly search any place the firearm may be found. You have five days from the time you discover the firearm is missing to file a report. You should use a short portion of that time to ensure the firearm is truly missing.

## 2. What if my gun is lost or stolen and I failed to report within the statutory time period?

**Answer:** If the five-day period has passed and you have not filed a report with local law enforcement, the first step is to contact an attorney. Depending on the circumstances, it may still be wise to make a report through the assistance of an attorney.

## 3. What if my lost or stolen firearm is recovered at a crime scene?

**Answer:** If your firearm is recovered by law enforcement at the scene of a crime, you can expect to be contacted. If you are being asked questions related to the circumstances that led to the firearm being lost or stolen, you should politely explain to the officer that you would like to speak to an attorney prior to answering any questions.

## 4. What should I do if I find my firearm after having reported it lost or stolen?

**Answer:** If you later find your firearm after previously reporting it lost or stolen, you now have a legal duty to report recovery of the firearm. However, you should first contact an attorney prior to providing that information to law enforcement.

## 5. What information should I give when reporting a lost or stolen firearm?

**Answer:** It depends. Under this new law, the only reporting requirements are an accurate and detailed description of the firearm including, to the extent known, the manufacture, model, serial number, caliber, and any other identification number or distinguishing mark of the missing firearm. It may be beneficial to provide information related to how the firearm was lost or stolen, but that will depend on the circumstances of the incident. As a result, you should speak to an attorney first to determine exactly what information should be provided.

## 6. If my missing firearm is later found by police, will it be returned to me?

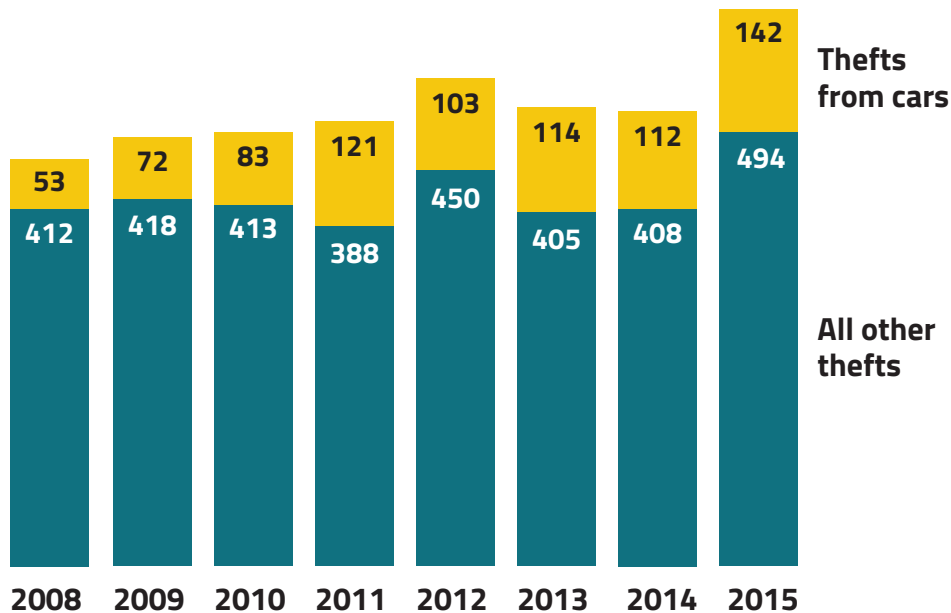
**Answer:** So long as you are not the subject of an investigation or charged with a crime related to the firearm, it will likely be returned to you as the owner. However, if the firearm was used in a crime, law enforcement will likely retain custody of the firearm as evidence during the pendency of any criminal investigation or prosecution.



# COLORADO STATISTICS RELATED TO LOST OR STOLEN FIREARMS

"...at least 800 guns were stolen out of cars in Denver from 2008 to 2015. Many were later used in more violent crimes...more than 23,000 lost and stolen guns were recovered by police from 2010 to 2016, the vast majority connected to crimes."<sup>1</sup>

## Reported Gun Thefts in Denver, 2008-15



Source: Denver Police Department<sup>2</sup>

"From January 1 through June 30, 2020, 327 guns were reported stolen in Denver, primarily during burglaries and thefts from vehicles. This represents a 26.7% increase in gun thefts compared to the three-year average."<sup>3</sup>

In December 2017, "KUSA-TV identified at least four murders committed using stolen guns in Colorado since 2012. In one case, the theft was reported just eight days before the homicide. In another, the weapon was stolen three years before the murder."<sup>4</sup>

"According to the National Crime Information Center, a branch of the FBI, at least 249,501 firearms were reported lost or stolen in 2016, an increase of more than 62 percent over 2007. All told, at least 1.9 million guns were lost or stolen during that 10-year period."<sup>5</sup>

<sup>1</sup> <https://www.9news.com/article/news/local/investigations/missing-pieces-lost-and-stolen-guns-used-in-thousands-of-crimes/73-493461938>

<sup>2</sup> <https://www.thetrace.org/2017/11/stolen-guns-violent-crime-america/>

<sup>3</sup> <https://www.denvergov.org/content/denvergov/en/police-department/news/2020/reducing-gun-violence.html>

<sup>4</sup> <https://apnews.com/article/c130604895ed40be896f1ce9ee67b413>

<sup>5</sup> <https://www.thetrace.org/2018/11/lost-and-stolen-police-guns/>

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