

2024 Second Extraordinary Session

SENATE BILL NO. 14

BY SENATOR CARTER

WEAPONS. Provides relative to persons authorized to conceal carry without a permit. (See Act) (Item #18)

1 AN ACT

2 To amend and reenact R.S. 14:95(M) and to enact Code of Criminal Procedure Art. 67 and

3 R.S. 14:95(N) and (O), relative to carrying of conceal weapons; to provide that

4 eighteen years of age and not otherwise prohibited may carry a concealed weapon

5 lawfully without a permit; to provide regarding court orders for certain persons; and

6 to provide for related matters.

7 Be it enacted by the Legislature of Louisiana:

8 Section 1. R.S. 14:95(M) is hereby amended and reenacted and R.S. 14:95(N) and

9 (O) are hereby enacted to read as follows:

10 §95. Illegal carrying of weapons

11 * * *

12 M. The provisions of Paragraph (A)(1) of this Section shall not apply to a

13 ~~resident of Louisiana if all of the following conditions are met:~~

14 ~~(1) The person is twenty-one~~ **any person who is eighteen** years of age or

15 older: **and**

16 ~~(2) The person~~ is not prohibited from possessing a firearm under R.S.

17 14:95.1, R.S. 40:1379.3(C)(5) through (17), 18 U.S.C. 922(g), or any other state or

1 federal law.

2 ~~(3)(a) The person is a reserve or active-duty member of any branch of the~~
3 ~~United States Armed Forces; a member of the Louisiana National Guard or the~~
4 ~~Louisiana Air National Guard; or a former member of any branch of the United~~
5 ~~States Armed Forces, the Louisiana National Guard, or the Louisiana Air National~~
6 ~~Guard who has been honorably discharged from service.~~

7 ~~(b) At all times that a person is in possession of a concealed handgun~~
8 ~~pursuant to R.S. 40:1379.3(B)(2), that person shall have on his person proof that he~~
9 ~~meets the qualifications of Subparagraph (a) of this Paragraph demonstrated by one~~
10 ~~of the following:~~

11 ~~(i) A valid military identification card.~~

12 ~~(ii) A valid driver's license issued by the state of Louisiana displaying the~~
13 ~~word "Veteran" pursuant to R.S. 32:412(K).~~

14 ~~(iii) A valid special identification card issued by the state of Louisiana~~
15 ~~displaying the word "Veteran" pursuant to R.S. 40:1321(K).~~

16 ~~(iv) For a member released from service who does not qualify to have the~~
17 ~~word "Veteran" displayed on a state issued driver's license or special identification~~
18 ~~card, a Department of Defense Form 214 (DD-214) indicating the character of~~
19 ~~service as "Honorable" or "Under Honorable Conditions (General)" and a valid~~
20 ~~driver's license or special identification card issued by the state of Louisiana.~~

21 **N. Any person lawfully carrying a weapon pursuant to Subsection M of**
22 **this Section shall be subject to the restrictions contained in R.S. 40:1379.3(I),**
23 **(M), (N), and (O).**

24 **O. The provisions of Subsection M of this Section shall not apply to any**
25 **person:**

26 **(1) Prohibited from lawfully purchasing a weapon.**

27 **(2) Prohibited from lawfully possessing a weapon.**

28 **(3) Subject to a court order as provided in Code of Criminal Procedure**

29 **Article 67.**

1 Section 2. Code of Criminal Procedure Article 67 is hereby enacted to read as
2 follows:

3 **Art. 67. Petition by district attorney; conceal carry prohibited**

4 **A. Upon petition to a district court by any district attorney or assistant**
5 **district attorney, the court may issue an order prohibiting any person from**
6 **carrying a concealed weapon when the petitioner has probable cause to believe**
7 **all of the following:**

8 **(1) The person poses a risk of imminent personal injury to himself or to**
9 **another person.**

10 **(2) The person owns and possesses one or more firearms.**

11 **(3) The firearm or firearms are either within or upon a specified place,**
12 **thing, or person.**

13 **B. The district attorney or assistant district attorney who seeks to**
14 **petition the court pursuant to the provisions of this Article, shall not do so**
15 **unless the district attorney or assistant district attorney has conducted an**
16 **independent investigation and has determined that the probable cause set forth**
17 **in Paragraph A of this Article exists and that there is no reasonable alternative**
18 **available to prevent the person from causing imminent personal injury to**
19 **himself or to others with such firearm.**

20 **C. The court may issue an order pursuant to the provisions of this**
21 **Article only upon the sworn affidavit of the petitioner before the court that**
22 **includes the facts establishing the grounds for the issuance of the order.**

23 **D.(1) In determining whether the grounds for the petition exist or**
24 **whether there is probable cause to believe that the grounds exist, the court shall**
25 **consider the following:**

26 **(a) Past threats or acts of violence by the person directed toward another**
27 **person or persons.**

28 **(b) Past threats or acts of violence by the person directed toward himself.**

29 **(c) Past acts of cruelty to animals, as defined by R.S. 14:102 and 102.1,**

1 committed by such person.

2 (2) In evaluating whether any recent threats or acts or violence constitute
3 probable cause to believe that the person poses a risk of imminent personal
4 injury to himself or to another person or persons, the court may consider other
5 factors including but not limited to the following:

6 (a) The reckless use, display, or brandishing of a firearm by the person.

7 (b) A history of the use, attempted use, or threatened use of physical
8 force by the person against another person or persons.

9 (c) Prior involuntary admission of the person to a treatment facility, as
10 defined in R.S. 28:2, for persons with mental illness or substance-related or
11 addictive disorders.

12 (d) The illegal use of controlled dangerous substances or abuse of alcohol
13 by the person.

14 (3) If the court is satisfied that the grounds for the petition exist or that
15 there is probable cause to believe that they exist, the court shall issue an order
16 naming and describing the person. The order shall be directed to any peace
17 officer and shall state the grounds or probable cause for its issuance. A copy of
18 the order shall be given to the person named in the order together with a notice
19 informing the person that he has the right to a hearing under this Article and
20 the right to be represented by counsel at such hearing.

21 E. The petitioner shall file a copy of the petition for the order and all
22 affidavits upon which the petition is based with the clerk of court for the district
23 court no later than the next business day following the execution of the petition.
24 Prior to the execution and return of the petition, the clerk of the court shall not
25 disclose any information pertaining to the petition on any affidavits upon which
26 the order is based.

27 F.(1) At the hearing, the state shall have the burden of proving all
28 material facts by clear and convincing evidence.

29 (2)(a) If, after the hearing, the court finds by clear and convincing

1 evidence that the person poses a risk of imminent personal injury to himself or
2 to another person or persons, the court shall order that the person may not
3 carry or possess a weapon. The court shall report the name and other
4 identifying information of the person to the Louisiana Supreme Court for
5 reporting to the National Instant Criminal Background Check System database
6 pursuant to R.S. 13:753. Upon expiration or termination of the order, the court
7 shall inform the Louisiana Supreme Court who shall cause the record to be
8 removed from the National Instant Criminal Background Check System.

9 (b) At any time prior to the expiration of the period of time the person
10 is prohibited from carrying or possessing a firearm pursuant to the provisions
11 of this Subparagraph, but no more than once annually, the person subject to the
12 order may file a motion to modify the effective period of the prohibition. Upon
13 proof, by clear and convincing evidence, that the person no longer poses a risk
14 of imminent personal injury to himself or to another person or persons the
15 court may terminate the order and, upon confirming that the person is not
16 otherwise prohibited from carrying or possessing firearms by any state or
17 federal law, such person may carry or possess only by permit.

18 (3) If the court does not find, by clear and convincing evidence, that the
19 person poses a risk of imminent personal injury to himself or to another person
20 or persons, the court shall deny the petition.

21 (4) Upon a finding that the person poses a risk of imminent personal
22 injury to himself or to another person or persons, the court may order that the
23 person be taken into protective custody and transported to a treatment facility
24 pursuant to R.S. 28:53.2 for immediate examination.

25 (5) At any time prior to thirty days before the order ends, the district
26 attorney or assistant district attorney may by motion request to extend the
27 order issued pursuant to Subparagraph (F)(2) of this Article. Upon receiving a
28 motion to extend, the court shall schedule a hearing to be held no later than
29 fourteen days after receiving the motion. A copy of the hearing notice shall be

1 given to the person named in the order together with a notice informing the
2 person that he has the right to a hearing under this Article and the right to be
3 represented by counsel at such hearing. If at the hearing the court finds by clear
4 and convincing evidence that the person continues to pose a risk of imminent
5 personal injury to himself or to another person or persons, the court shall
6 extend the order for a period not to exceed one year.

7 G.(1) No later than thirty days prior to the expiration of the order
8 prohibiting the person from carrying or possessing a firearm or the extension
9 of such order pursuant to the provisions of this Section, the district attorney or
10 assistant district attorney may petition the court to extend the order prohibiting
11 the carrying or possession of firearms by the person if the district attorney or
12 assistant district attorney has probable cause to believe that the person
13 continues to pose a risk of imminent personal injury to himself or to another
14 person.

15 (2) Taking into consideration the factors set forth in Paragraph D of this
16 Article, if the court finds that there is probable cause to believe that the grounds
17 for the petition exist, the court shall set a contradictory hearing to be held not
18 later than fourteen days of the filing of the petition.

19 (3) If, after the hearing, the court finds by clear and convincing evidence
20 that the person continues to pose a risk of imminent personal injury to himself
21 or to another person or persons, the court shall order that the order prohibiting
22 the person from carrying or possessing a firearm be extended for an additional
23 period of time not to exceed six months. The court shall report the extension of
24 the order to the Louisiana Supreme Court for reporting to the National Instant
25 Criminal Background Check System database pursuant to R.S. 13:753.

26 Section 3. This Act shall take effect and become operative if and when the Act which
27 originated as Senate Bill No. 1 of this 2024 Second Extraordinary Regular Session of the
28 Legislature is enacted and becomes effective.

The original instrument and the following digest, which constitutes no part of the legislative instrument, were prepared by Dawn Romero Watson.

DIGEST

SB 14 Original

2024 Second Extraordinary Session

Carter

Present law provides that the crime of illegal carrying of weapons includes the intentional concealment of any firearm, or other instrumentality customarily used or intended for probable use as a dangerous weapon, on one's person.

Proposed law retains present law.

Present law provides an exemption to the crime of illegal carrying of weapons to a resident of Louisiana who is:

- (1) 21 years of age or older.
- (2) Not prohibited from possessing a firearm under state or federal law.
- (3) A reserve or active-duty member of any branch of the U.S. Armed Forces, the La. National Guard or the La. Air National Guard, or a former member of any branch of the U.S. Armed Forces, the La. National Guard, or the La. Air National Guard who has been honorably discharged from service.

Proposed law makes it lawful for any person 18 years of age or older who is not prohibited from possessing a firearm under state or federal law to carry a concealed weapon without a permit. Proposed law also deletes present law relative to concealed carry by an active-duty or former member of the military in favor of the proposed law generally allowing permitless concealed carry for any person.

Present law provides that a concealed handgun permit does not allow a concealed weapon in certain places, including any building or location in which firearms are banned by state or federal law, a law enforcement building, detention facility, courthouse, polling place, municipal building or other public building utilized as the meeting place of the governing authority of a political subdivision, the state capitol, an airport, a place of worship without permission of the administration, a parade or demonstration for which a permit is issued by a governmental entity, and a school or school bus.

Proposed law applies these present law restrictions on concealed carry to the permitless concealed carry provided for by proposed law.

Present law does not limit the right of a property owner or lawful custodian to prohibit or restrict access of those persons possessing a concealed handgun pursuant to a permit issued under present law, and no individual to whom a concealed handgun permit is issued may carry a concealed handgun into the private residence of another without first receiving the consent of that person.

Proposed law retains present law and applies it to the permitless concealed carry provided for by proposed law.

Present law provides that a concealed handgun permit does not entitle a permittee to carry a concealed weapon in any facility, building, location, zone, or area in which firearms are banned by state or federal law.

Proposed law applies present law to persons lawfully carrying a concealed weapon without a permit pursuant to proposed law.

Proposed law provides that the exception to illegal caring of weapons provided in proposed law shall not apply to any person:

- (1) Prohibited from lawfully purchasing a weapon.
- (2) Prohibited from lawfully possessing a weapon.
- (3) Subject to a court order as provided in proposed law.

Proposed law provides a procedure for a district attorney or assistant district attorney to petition a court for an order prohibiting a person from carrying a concealed weapon when the petitioner has probable cause to believe all of the following:

- (1) The person poses a risk of imminent personal injury to himself or to another person.
- (2) The person owns and possesses one or more firearms.
- (3) The firearm or firearms are either within or upon a specified place, thing, or person.

Proposed law requires the district attorney or assistant district attorney to first conduct an independent investigation and has determined that the probable cause exists and that there is no reasonable alternative available to prevent the person from causing imminent personal injury to himself or to others with such firearm.

Proposed law provides a procedure and criteria for the court to use in making its determination on the order. Requires the order to state the grounds or probable cause for its issuance. A copy of the order shall be given to the person named in the order together with a notice informing the person that he has the right to a hearing under this Article and the right to be represented by counsel at such hearing. Authorizes the district attorney to request an extension of the order. Provides that if the court grants the order, it shall report the name and other identifying information of the person to the Louisiana Supreme Court for reporting to the National Instant Criminal Background Check System database. Provides that upon expiration or termination of the order, the court shall inform the Louisiana Supreme Court who shall cause the record to be removed from the National Instant Criminal Background Check System. Authorizes person to carry or possess by permit once court terminates its order.

Effective if and when SB 1 of the 2024 2nd Extraordinary Session is enacted and becomes effective.

(Amends R.S. 14:95(M); adds C.Cr.P. Art. 67 and R.S. 14:95(N) and (O))