

2024 Regular Session

SENATE BILL NO. 256

BY SENATOR CARTER

WEAPONS. Provides relative to persons authorized to carry a concealed handgun without a permit. (7/4/24)

1 AN ACT

2 To enact Code of Criminal Procedure Art. 67 and R.S. 14:95(O), relative to carrying of  
3 concealed weapons; to provide exceptions to exemptions from concealed carry of a  
4 weapon lawfully without a permit; to provide regarding court orders restricting  
5 certain persons from concealed carry; and to provide for related matters.

6 Be it enacted by the Legislature of Louisiana:

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

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

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

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

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

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

1           B. The district attorney or assistant district attorney who seeks to  
2           petition the court pursuant to the provisions of this Article, shall not do so  
3           unless the district attorney or assistant district attorney has conducted an  
4           independent investigation and has determined that the probable cause set forth  
5           in Paragraph A of this Article exists and that there is no reasonable alternative  
6           available to prevent the person from causing imminent personal injury to  
7           himself or to others with a firearm.

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

11          D.(1) In determining whether the grounds for the petition exist or  
12          whether there is probable cause to believe that the grounds exist, the court shall  
13          consider the following:

14                (a) Past threats or acts of violence by the person directed toward another  
15                person or persons.

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

17                (c) Past acts of cruelty to animals, as defined by R.S. 14:102 and 102.1,  
18                committed by such person.

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

23                    (a) The reckless use, display, or brandishing of a weapon by the person.

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

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

29                    (d) The illegal use of controlled dangerous substances or abuse of alcohol

1 by the person.

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

9 E. The petitioner shall file a copy of the petition for the order and all  
10 affidavits upon which the petition is based with the clerk of court for the district  
11 court no later than the next business day following the execution of the petition.  
12 Prior to the execution and return of the petition, the clerk of the court shall not  
13 disclose any information pertaining to the petition on any affidavits upon which  
14 the order is based.

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

17 (2)(a) If, after the hearing, the court finds by clear and convincing  
18 evidence that the person poses a risk of imminent personal injury to himself or  
19 to another person or persons, the court shall order that the person may not  
20 carry or possess a weapon for a specified period of time. The court shall report  
21 the name and other identifying information of the person to the Louisiana  
22 Supreme Court for reporting to the National Instant Criminal Background  
23 Check System database pursuant to R.S. 13:753. Upon expiration or  
24 termination of the order, the court shall inform the Louisiana Supreme Court  
25 who shall cause the record to be removed from the National Instant Criminal  
26 Background Check System.

27 (b) At any time prior to the expiration of the period of time the person  
28 is prohibited from carrying or possessing a weapon pursuant to the provisions  
29 of this Subparagraph, but no more than once annually, the person subject to the

1 order may file a motion to modify the effective period of the prohibition. Upon  
2 proof, by clear and convincing evidence, that the person no longer poses a risk  
3 of imminent personal injury to himself or to another person or persons the  
4 court may terminate the order and, upon confirming that the person is not  
5 otherwise prohibited from carrying or possessing firearms by any state or  
6 federal law, such person may carry or possess only by permit.

7 (3) If the court does not find, by clear and convincing evidence, that the  
8 person poses a risk of imminent personal injury to himself or to another person  
9 or persons, the court shall deny the state's petition.

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

14 (5) At any time prior to thirty days before the order ends, the district  
15 attorney or assistant district attorney may by motion request to extend the  
16 order issued pursuant to Subparagraph (F)(2) of this Article. Upon receiving a  
17 motion to extend, the court shall schedule a hearing to be held no later than  
18 fourteen days after receiving the motion. A copy of the hearing notice shall be  
19 given to the person named in the order together with a notice informing the  
20 person that he has the right to a hearing under this Article and the right to be  
21 represented by counsel at such hearing. If at the hearing the court finds by clear  
22 and convincing evidence that the person continues to pose a risk of imminent  
23 personal injury to himself or to another person or persons, the court shall  
24 extend the order for a period not to exceed one year.

25 G.(1) No later than thirty days prior to the expiration of the order  
26 prohibiting the person from carrying or possessing a firearm or the extension  
27 of such order pursuant to the provisions of this Article, the district attorney or  
28 assistant district attorney may petition the court to extend the order prohibiting  
29 the carrying or possession of firearms by the person if the district attorney or

1 assistant district attorney has probable cause to believe that the person  
2 continues to pose a risk of imminent personal injury to himself or to another  
3 person.

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

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

15 Section 2. R.S. 14:95(O) is hereby enacted to read as follows:

16 §95. Illegal carrying of weapons

17 \* \* \*

18 O. The provisions of Subsection M of this Section shall not apply to any  
19 person:

20 (1) Prohibited from lawfully purchasing a weapon.

21 (2) Prohibited from lawfully possessing a weapon.

22 (3) Subject to a court order as provided in Code of Criminal Procedure  
23 Article 67.

24 Section 3. This Act shall become effective on July 4, 2024; if vetoed by the governor  
25 and subsequently approved by the legislature, this Act shall become effective on the day  
26 following such approval by the legislature or July 4, 2024, whichever is later.

