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## Churches And Concealed Handguns

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During the 2017 legislative session, the Arkansas General Assembly and Governor Asa Hutchinson enacted several new laws concerning public places and concealed handguns, including laws permitting a person to carry a concealed handgun on college campuses upon acquiring a newly-created enhanced permit from the Arkansas State Police. These new laws concerning concealed handguns also have an impact on churches. Specifically, Act 562 (which was House Bill 1249) and Act 859 (which was Senate Bill 724) go into effect on September 1, 2017, and will modify current Arkansas law by requiring churches to take affirmative steps if they wish to continue to prohibit concealed handguns on church property.

### I. CURRENT LAW

Arkansas law currently provides that concealed handguns may not be brought onto church property unless a church takes action to allow concealed handguns. Specifically, Arkansas Code Annotated § 5-73-306 provides:

No license to carry a concealed handgun issued pursuant to this subchapter authorizes any person to carry a concealed handgun into:

...

- (15) (A) Any church or other place of worship.
- (B) However, this subchapter does not preclude a church or other place of worship from determining who may carry a concealed handgun into the church or other place of worship. . . .

In other words, concealed handguns are not permitted onto church property unless a church takes steps to determine “who may carry a concealed handgun into the church” and then permits concealed handguns on church property. However, this law will change on September 1, 2017.

## II. NEW LAWS

- A. **The new laws provide that concealed handguns may be brought onto church property by a person holding an enhanced license unless a church provides notice otherwise.**

Effective September 1, 2017, Act 562 and Act 859 together amend Arkansas Code Annotated § 5-73-306 to read as follows (new language is in **bold print**, repealed language is ~~stricken~~):

**Except as permitted under § 5-73-322(g), a license to carry a concealed handgun issued pursuant to under this subchapter authorizes any does not authorize a person to carry a concealed handgun into:**

...

- (15) (A) Any church or other place of worship.
- (B) However, this subchapter does not preclude a church or other place of worship from determining who may carry a concealed handgun into the church or other place of worship.
- (C) **A person with a concealed carry endorsement under § 5-73-322(g) and who is carrying a concealed handgun may not enter a church or other place of worship under this section if the church or other place of worship either places a written notice as permitted under subdivision (18) of this section or provides notice under subdivision (19) of this section prohibiting a person with a license to possess a concealed handgun at the physical location.**

Act 562 also created the new Arkansas Code Annotated § 5-73-322(g), which is referenced in the quoted language above. This is the new law creating the so-called enhanced-license training course from the Arkansas State Police. The Arkansas State Police has until 120 days after Act 562’s effective date of September 1, 2017, “to promulgate rules to design a training program” for the enhanced license. December 30, 2017, is 120 days after September 1, 2017.

So in summary, under the new law:

- (1) Persons without the enhanced license are still barred from bringing concealed handguns onto church property, unless the church provides otherwise;

- (2) A church can still prohibit persons with the enhanced license from bringing a concealed handgun onto church property by providing the notice under either Arkansas Code Annotated § 5-73-306(18) or Arkansas Code Annotated § 5-73-306(19); and
- (3) The new enhanced license will be available no later than December 30, 2017.

## **B. Notice Provisions**

There are two notice provisions that will allow churches to prevent persons with the new enhanced license from bringing a concealed handgun onto church property. The first notice provision is found in Arkansas Code Annotated § 5-73-306(18). Current law provides that a “person or entity exercising control over the physical location of the place” may prohibit concealed handguns from the place “by placing at each entrance to the place a written notice clearly readable at a distance of not less than ten feet (10’) that ‘carrying a handgun is prohibited.’” This law includes other requirements:

- “If the place does not have a roadway entrance, there shall be a written notice placed anywhere upon the premises of the place.”
- “[T]here shall be at least one (1) written notice posted within every three (3) acres of a place with no roadway entrance.”

These provisions of Arkansas Code Annotated § 5-73-306(18) are not changed by either of the two new acts.

The second notice provision is a new law created by Act 859. Act 859 creates Arkansas Code Annotated § 5-73-306(19), which provides that a “place owned or operated by a private entity that chooses not to post a written notice as described under subdivision 18(A) of this section may provide written or verbal notification to a licensee who is carrying a concealed handgun at the place owned or operated by a private entity that carrying of a concealed handgun is prohibited.” The new law makes clear that a “church or other place of worship” constitutes a “place owned or operated by a private entity.” The new law also provides that a “licensee who receives written or verbal notification . . . is deemed to have violated this subdivision (19) if the licensee while carrying a concealed handgun either remains at or returns to the place owned or operated by the private entity.”

The upshot of this is that a church does not necessarily have to post a sign under Arkansas Code Annotated § 5-73-306(18) to prohibit concealed handguns. A church may provide a different type of “written or verbal notification” under Arkansas Code Annotated § 5-73-306(19) in order to effectuate a prohibition on concealed handguns.

## **III. LIABILITY CONSIDERATIONS**

Under the new law, a church also appears able to insulate itself from certain kinds of liability if it permits persons with an enhanced license to bring concealed handguns onto church

property. Act 562 and Act 859 both amend Arkansas Code Annotated § 5-73-306(18) to provide the following new language.

The person or entity exercising control over the physical location of a place that does not use his, her, or its authority under this subdivision (18) to prohibit a person from possessing a concealed handgun is immune from a claim for monetary damages arising from or related to the decision not to place at each entrance to the place a written notice under this subdivision (18).

It seems then, that under the new law, a church cannot be held liable for money damages for deciding to allow persons with the enhanced license carry concealed handguns into church. Of course, there are other immunities that may apply to a church whether or not they ban concealed handguns, such as the Arkansas charitable-immunity doctrine, which provides certain immunities to charitable entities.

### **CONCLUSION**

The primary change for churches caused by the new acts is that churches will now be required to take affirmative steps if they wish to bar concealed handguns from church property. Please contact Brandon B. Cate (479-444-5205 or [BCATE@QGT LAW.COM](mailto:BCATE@QGT LAW.COM)) and Lindsey C. Pesek (479-444-5211 or [LPESEK@QGT LAW.COM](mailto:LPESEK@QGT LAW.COM)) for additional information on these issues.