



September 12<sup>th</sup>, 2023

## “HB 912 - Prohibiting Firearms in Court Buildings”

### What impact will banning lawful carry of firearms to the courts have?

### *Support the Bill of Rights and the 2<sup>nd</sup> Amendment*

**Jim Stoker**  
President

**Klint Macro**  
Vice-President

**Dale Brackin**  
Secretary/Treasurer

**Board of Directors**  
Ed Bogats  
Stephen LaSpina  
Lisha Mihalko

**FOAC-ILLEA**  
P.O. Box 308 Morgan,  
PA 15064

**Phone**  
412.260.4675

**E-Mail**  
[info@foac-illea.org](mailto:info@foac-illea.org)

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HB 912 has been put forth as “Prohibiting firearms in court buildings”. Our response is, what an odd way to excuse the courts for violating the law. Let me explain.

In 1995, an amendment was made to Title 18, Section 913, “Possession of firearm or other dangerous weapon in court facility”. That amendment, subsection (e), required “Each county **shall** make available at or within the building containing a court facility by July 1<sup>st</sup>, 2002, lockers or similar facilities at no charge or cost for the temporary checking of firearms by persons carrying firearms under section 6106(b) or 6109 or for the checking of other dangerous weapons that are not otherwise prohibited by law.

Has anyone seen this in effect in any district court in Pennsylvania? I personally know of one that has a facility in the same building but that is more by coincidence than design. Have the courts fallen into compliance with this statutory requirement? When I was taught the Pennsylvania Crimes Code, I was taught that the word “SHALL” made it an enforceable statute. Do we go and arrest every district justice that does not have this available to the citizens of this Commonwealth? Why has this not been done? The courts have just ignored the requirement by legislature to do this. How does one sue the courts?

Now let’s try to look at this bill and understand why it’s being proposed. There have been evil men and women in this world, no doubt. One such evil man brought a firearm to a local district court in Fayette County and opened fire. The man had a target in mind and wounded four people, including the victim of his previous crimes, and two police officers. A man with a long history of assaults and violence, brought a gun to the court and started shooting. That evil man was killed by police in the lobby of the courtroom, and rightly so. A rare occurrence and fortunately all the victims would survive. This bill doesn’t mention making it tougher to be out of jail pending aggravated assault and strangulation charges. This bill doesn’t talk about the numerous cases against the shooter prior to this incident and why none of those resulted in a lengthy prison sentence.

The proposed bill hopes to address the issue by making it illegal to carry a firearm into the lobby of the court. Does anybody else recognize the disconnect here? A man who intended to murder a woman in a courtroom full of armed police was suddenly not going to commit this heinous act because it would be a misdemeanor of the first degree to do so?

Common sense says the bad guy doesn’t care about a misdemeanor if they don’t care about the first-degree felony. Common sense says an evil man or woman intending to kill and going to a room full of armed police to do so is not being swayed by the consequences of being put in jail when he or she clearly doesn’t care they are most likely to die because of their actions. Common sense says a bill like this will do nothing to stop the evil person while doing everything to make the law-abiding citizen of this Commonwealth more vulnerable to these exact kinds of predators.

Once again, we see a bill proposed that does nothing to inhibit the criminal whilst doing everything to criminalize the law-abiding citizen. The victims of crime will not be permitted to exercise their Constitutional right to self-defense coming or going from the courtrooms where they are going to face the very person that victimized them in the first place. They will

be forced to decide to go unarmed or worse yet, leave the firearm in their vehicles outside where they can be stolen by some of the people who frequent the courtrooms and whom we certainly don't want to arm. And in a world where thefts from cars make up over half of all stolen firearms?

One of the biggest fears the victims of most crimes have is facing the person who victimized them in the first place. It is the reason many court cases don't go to trial and many evil people avoid prison sentences. I've seen victims of crime suffer breakdowns or have embarrassing physical responses to being in the same room as the person who victimized them, no matter how many armed police officers are standing by to protect them and keep them safe. No matter what assurances district attorneys have to offer or promises of safety from the courts. And now we have a bill that would see them victimized more by stripping them of their right to protect themselves as they go to and from the very courtrooms in which they must face these fears.

And why? Because an evil person can do evil things regardless of what the law says. Common sense says this is not acceptable. Common sense says we should protect the innocent from the evil, not leave the innocent helpless in the face of their attacker.

And what of the Constitutional arguments? In 2008, the Supreme Court ruled in *District of Columbia v. Heller*, "the individual right to possess and carry weapons in the case of confrontation"<sup>21</sup> is protected by the 2<sup>nd</sup> Amendment. It's a centuries old affirmed stance that we each have a right to self-defense. However, *Heller's* primary focus is keeping the gun in the home, so though relevant in the self-defense perspective, let's move on...

After the *Heller* decision, we then have a case called *McDonald v. City of Chicago*. The importance of this case is its primary holding was that "The due process of the Fourteenth Amendment extends the Second Amendment's right to keep and bear arms to the states, at least for traditional, lawful purposes such as self-defense"<sup>22</sup>. That ruling found that state and local governments are subject to the Second Amendment, therefore it applies here in the Commonwealth of Pennsylvania.

Now we face the constitutional argument brought about by *New York State Rifle and Pistol Association v. Bruen*. In this case, the Supreme Court ruled that citizens have the right to carry a gun outside of the home for self-defense purposes. The court ruled that the right to bear arms doesn't stop at your door. The most significant thing from the *Bruen* decision comes from the requirement that the lower courts use a new test to pass muster in the eyes of the 2<sup>nd</sup> Amendment. A two-tiered test is to be applied when questioning 2<sup>nd</sup> Amendment protections, much like prior rulings have determined in questioning 1<sup>st</sup> Amendment protections. The first tier is does the plain text of the 2<sup>nd</sup> Amendment cover an individual's conduct? And the second tier is to apply some form of "means-end" scrutiny. What are the government interests or purposes in the case? Does the law serve those ends reasonably?

The court's decision can be summed up with: "When the Second Amendment's plain text covers an individual's conduct, the Constitution presumptively protects that conduct. The government must then justify its regulation by demonstrating that it is consistent with the Nation's historic tradition of firearm regulation."<sup>23</sup> The government now must ensure any laws passed have a basis in historical tradition or they are unconstitutional.

You will not find a historical law in the origins of these United States that prohibits a citizen from travelling to and from the courts, polls, or schools under arms. Our Founding Fathers were smarter than that. Thanks to the *Bruen* case, the tight restrictions in certain states that prohibited issuance of licenses to carry concealed firearms without some bureaucrat deciding on a whim whether a citizen had a sufficient need to defend themselves are at an end. House bill 912, if passed into law, would be in direct conflict with the *Bruen* decision, and when challenged, shall certainly fall.

"False is the idea of utility that sacrifices a thousand real advantages for one imaginary or trifling inconvenience; that would take fire from men because it burns, and water because one may drown in it; that it has no remedy for evils, except destruction. The laws that forbid the carrying of arms are of such a nature. Such laws make things worse for the assaulted and better for the assailants; they serve rather to encourage than to prevent homicides, for an unarmed man may be attacked with greater confidence than an armed man." — Cesare Beccaria

Would this bill, should it become law, not strip the citizens of this Commonwealth of the right to self-defense? In a nation where ninety-one percent of law enforcement officers in national surveys support concealed carry laws, it shocks me to hear Commonwealth judges are petitioning for this bill to pass. These people, in the heart of the justice system, of all people, should know the criminals aren't listening to some petty summary or even misdemeanor offense, as they already largely ignore felony charges. Re-victimizing the victims is not the solution to violent offenders' disregard for the courts.

In summary, our opposition to HB912 is based upon:

- Clear violation of the 2<sup>nd</sup> Amendment / Article I, Section 21.
- The failure of the courts to abide by current statute requiring safe storage is not an excuse to eliminate a citizen's right to self-defense.
- The need for the judicial system to protect the victims of crime, not putting them at greater risk.
- Every attempt to legislate to stop violence has failed as violent offenders clearly hold no regard for the law.
- The right to self-defense predates all laws of this nation.
- Foundations of law set by the District of Columbia v. Heller decision.
- Foundations of law reinforced by the McDonald v. City of Chicago decision.
- Foundations of law further expanded by both the ruling and the two-step challenge set forth by the New York State Rifle and Pistol Association v. Bruen decision.

For the reasons above and more, House Bill 912 "Prohibiting Firearms in Court Buildings" is an overwhelming violation of the Constitution of the Commonwealth of Pennsylvania. This proposed law is an unnecessary infringement of the rights of the citizens of this land and weakens the ability of the law-abiding citizen to defend themselves against the modern violent criminal while doing nothing to hamper that same criminal in his acts.

**“The right of the citizens to bear arms in defense of themselves and the State shall not be questioned.”**

If you should have any further questions or need clarification on the legality of the issues raised in this ILLEA White Paper, please feel free to e-mail us at [info@foac-illea.org](mailto:info@foac-illea.org).

FOAC-ILLEA, P.O. BOX 308, Morgan, Pa. 15064

[www.foac-illea.org](http://www.foac-illea.org)

Respectfully,



J.R. Stoker Jr., President  
[jstoker@foac-illea.org](mailto:jstoker@foac-illea.org)

## Endnotes

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<sup>i</sup> <https://www.law.cornell.edu/supct/pdf/07-290P.ZO>

<sup>ii</sup>

[https://supreme.justia.com/cases/federal/us/561/742/#:~:text=City%20of%20Chicago%2C%20561%20U.S.%20742%20\(2010\)&text=The%20Due%20Process%20Clause%20of,purposes%20such%20as%20self%2Ddefense.](https://supreme.justia.com/cases/federal/us/561/742/#:~:text=City%20of%20Chicago%2C%20561%20U.S.%20742%20(2010)&text=The%20Due%20Process%20Clause%20of,purposes%20such%20as%20self%2Ddefense.)

<sup>iii</sup> [https://www.supremecourt.gov/opinions/21pdf/20-843\\_7i80.pdf](https://www.supremecourt.gov/opinions/21pdf/20-843_7i80.pdf)