

The Mississippi Association of Supervisor  
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# OPEN CARRY AND COUNTY PROPERTY

How To Protect County Employees and Property

**Presented By:**  
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# Mississippi Constitution 1890, Section 12

- **Right to Bear Arms**

- The right of every citizen to keep and bear arms in defense of his home, person, or property, or in aid of the civil power when thereto legally summoned, shall not be called into question, but the Legislature may regulate or forbid carrying concealed weapons

# MS Code Annotated

- Miss. Code Ann. Section 45-9-101 (1972)
  - *Licensing of Weapons*
- Miss. Code Ann. Section 97-37-7 (1972)
  - *Permits – Enhanced Weapons Carry*
- Miss. Code Ann. Section 97-37-1 (1972)
  - *Penalty for Unlawful Concealed Carry*
- Miss. Code Ann. Section 97-37-17 (1972)
  - *Unlawful to Carry Weapons on Educational Property*

# Mississippi Attorney General Opinion, June 14, 2012

- Citing Pre-HB 2 Section 45-9-101, AG opined no authority to carry weapons with permit unless totally concealed.
- Opined no open carry allowed by law—either with standard permit or enhanced permit.

# House Bill 2 (2013 Regular Session)

## Mississippi Legislature

- Amends 97-37-1 to add definition of “concealed” and provides that weapons carried that are wholly or partially visible and NOT “concealed.”
- Amends 45-9-101 to provide that a person carrying a weapon that is NOT “concealed” per above amendment does not have to be licensed to carry the weapon.

# Mississippi Attorney General Opinion, June 13, 2013

- Post-HR 2
- AG opines under HB 2, a person may carry firearm without permit so long as not “concealed.”
- Acknowledges 97-37-1 and affirms prohibition against carrying weapons on educational property remains in effect.
- Opines law does not force person carrying a non-concealed weapon to stop and answer questions of law enforcement without other grounds for stop.

# Mississippi Attorney General Opinion, June 13, 2013, Cont'd

- HB2 allows open carrying of long guns/rifles as well as handguns
- HB2 allows carrying of weapons in waistband/pockets so long as not “concealed.”
- HB2 not change authority of private property owners to prohibit non-criminal conduct on their property

# Mississippi Attorney General Opinion, June 13, 2013, Cont'd

- Question 7: Authority of custodians/owners of public property to prohibit non-criminal conduct on public property requires case-by-case analysis.
  - Sheriff – MS statutes give sheriff authority over courthouse.
  - Citing US Supreme Court case (Heller), AG – suggests “sensitive places” doctrine allows regulation/curtailment of 2<sup>nd</sup> Amendment rights. Concludes County Courthouse and other government buildings qualify as “sensitive places.”



# Hinds County Circuit Court Order for Injunctive Relief and Mississippi Supreme Court Opinion

- July 12, 2013, Circuit Court issues injunction halting enforcement of HB 2 finding it unconstitutionally vague.
- August 29, 2013, Mississippi Supreme Court issues Order vacating the Circuit Court order holding HB 2 was not vague and could be commonly understood. .



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