

SUBJECT: Allow concealed handgun licensees to carry weapons on college campuses

COMMITTEE: Public Safety — committee substitute recommended

VOTE: 5 ayes — Merritt, Frost, Driver, P. King, Lewis

3 nays — Burnam, Mallory Caraway, Rodriguez

1 absent — Vo

WITNESSES: For — Jacqueline Acker; Melissa Angelo; Daniel Basile; Mike Battles, Zachariah Bingaman, Adam Brock; Dallas Chambliss; Daniel Crocker, Michael Guzman, Katie Kasprzak, Students for Concealed Carry on Campus; Tim Gottleber; Henry Henze; Jeremy Hodes; Tara Mica, Lucy Wendt, National Rifle Association; Ryan Morris; Edward Oden, Adam Rosen, Young Conservatives of Texas; Noe Perez; Tyler Rosen, Young Americans, Libertarian Longhorns; Jordan Schmittou; Jeremy Schwab; Derek Trimm; (*Registered, but did not testify*: Timothy Bradberry, Central Texas Republican Assembly; MerryLynn Gerstenschlager, Texas Eagle Forum; Lance Kennedy, Texas College Republicans; Justin May, College Republicans at Texas; Joshua Perry, Young Conservatives of Texas - UT Chapter; Alice Tripp, Texas State Rifle Association, and 20 others)

Against — Hector Benitez; Jan Crockett; Amanda Domaschk; Susan Estrada; Alex Ferraro, Keshav Rajagopalan, Student Government of UT Austin; Katherine Haenschen, Graduate Student Assembly, University of Texas; Kenneth Todd Hensley; Merily Keller, Texas Suicide Prevention Council; Dale Lunsford, LeTourneau University; Marsha McCartney, Brady Campaign to Prevent Gun Violence; Carol McDonald, Independent Colleges and Universities of Texas; Don Mills, TCU; Carol Morter, Virginia Tech Alumni-Austin Chapter; Jake Schrum, Southwestern University; William Taylor Texas Association of College and University Police Administrators; John Woods, UT Student Government UT Grad Student Assembly; (Raif Calvert, Independent Colleges and Universities of Texas; Bradley Carpenter, Graduate Student Assembly; Christine Gendron, Texas Network of Youth Services; Dwight Harris, Texas AFT; Andy Jones, Jimmy Talarico, University Democrats-University of Texas; Victoria Lauterbach, Texas College Democrats; Gyl Wadge, Mental Health of Texas; and 17 others)

On — Steve Moninger, Department of Public Safety Concealed Handgun Licensing Bureau; Raymond Paredes, Texas Higher Education Coordinating Board

**BACKGROUND:** Penal Code, sec. 46.03. prohibits a person from intentionally, knowingly, or recklessly possessing a firearm, illegal knife, club, or other prohibited weapon at public or private schools or educational institutions, including any school activity or bus. The school can permit exceptions through written regulations or authorizations. Violation of Penal Code, sec. 46.03 is a third-degree felony (two to 10 years in prison and an optional fine of up to \$10,000).

Government Code, ch. 411 permits Texans to obtain concealed handgun licenses upon successfully completing an application through the Department of Public Safety (DPS), including a criminal background check, and completing a firearms proficiency course.

Penal Code, sec. 46.035 prohibits a concealed handgun license holder to carry a weapon where a high school, collegiate, or professional sporting event or interscholastic event is taking place, unless the license holder is a participant in the event and a handgun is used in the event.

**DIGEST:** CSHB 1893 would amend Penal Code, sec. 46.03 to create an exception to the prohibition against carrying a weapon at a public or private university or college if the person held a concealed handgun license issued under Government Code, ch. 411.

The bill also would amend Penal Code, sec. 46.035 to provide that a prohibition against a concealed handgun license holder carrying a weapon at a collegiate sporting event would not apply unless the stadium provided signs posted in conspicuous places as required by Penal Code, sec. 30.06.

CSHB 1893 would amend Government Code, ch. 411 to add sec. 411.2031 that would allow a concealed handgun license holder to carry a weapon while on the campus of a public or private institution of higher education. The bill also would prohibit the college or university from adopting rules against concealed handgun license holders carrying their weapons, with two exceptions:

- public and private colleges and universities would be able to establish rules on the storage of handguns in dormitories or other residential buildings owned or operated by the institutions and located on their campuses; or
- a private college or university would be allowed to prohibit carrying of weapons by concealed handgun license holders after consulting with students, staff, and faculty.

The bill also would also amend Government Code, 411.208 to provide immunity to public and private colleges and universities and their officers and employees for actions of a concealed handgun license holder.

The bill would take effect on September 1, 2009.

**SUPPORTERS  
SAY:**

CSHB 1893 would end an arbitrary and imaginary line around college campuses where law-abiding Texas concealed handgun license holders cannot carry their weapons for their own personal safety. College campuses should not be treated any differently than other public places such as office buildings, movie theaters, grocery stores, shopping malls, and restaurants where concealed handgun can be carried legally. Violent criminals are not deterred by those restrictions. Simply removing a geographic barrier would not cause concealed handgun license holders to act less responsibly or become less law-abiding.

The bill would affect only adult students, faculty, staff, and parent visitors and would not arm large numbers of undergraduates. Concealed handgun license holders must be at least 21, pass background checks, and complete 10 to 15 hours of training. According to DPS records, only 4,175 — about 5.7 percent — of the 73,090 concealed handgun licenses issued in fiscal 2008 were granted to those 25 years of age or younger. Generally, less than 5 percent of about 400,000 concealed handgun holders are in this age group.

CSHB 1893 could reduce the vulnerability of students and faculty should the unthinkable and low-probability tragic event occur. All the world knows about the massacre on the Virginia Tech campus on April 1, 2007, when a gunman killed 32 people and injured 21 people. That became the deadliest campus shooting spree since the University of Texas tower shootings that left 14 people dead on August 1, 1966.

The bill also would help provide security and a sense of well-being in less dramatic situations than campus shootings. Concealed handgun license holders might want to have their weapons for personal protection when they leave campus at night and while they are traveling home.

CSHB 1893 would not interfere with the ability of colleges and universities to establish reasonable restrictions on storing handguns in dormitories and other residential housing owned by the schools. The bill also would grant immunity to colleges and universities for acts by concealed handgun license holders. It would allow flexibility for private colleges and universities, many of them with religious affiliation, to develop their own rules after consultation with their students, faculty, and administrations. The bill also would offer a balance between preserving Second Amendment rights to bear arms and protecting public safety by requiring notices to prohibit carrying weapons at football games and other athletic events.

Enactment of CSHB 1893 would not be precedent-setting. Twenty-three states with concealed carry laws do not prohibit their license holders to possess their weapons on college campuses. Twelve U.S. colleges and universities currently allow concealed carry on campus and have not seen an increase in gun violence, gun accidents, or gun thefts during a period of hundreds of semester. Also, the federal Gun-Free School Zones Act, which prohibits possession of firearms within 1,000 feet of a school, exempts those with state concealed-handgun licenses from the ban.

Concealed handguns would no more distract college students from learning than they currently distract moviegoers from enjoying movies or office workers from doing their jobs. The key is that the weapons would be required to be concealed, and concealed handgun license holders face losing their permits and criminal penalties for violations. Professors should not be more afraid of classroom confrontation or issuing bad grades to students who want to carry guns legally when some students might already be carrying weapons illegally. Several members of the Texas Legislature hold concealed handgun licenses and carry their weapons on the floor. Both the House and Senate engage in sometimes heated debate without gunfights breaking out on the floor.

Contrary to popular myth, most psychiatric professionals agree that the notion of a previously sane, well-adjusted person simply “snapping” and

becoming violent is not supported by case evidence. A Secret Service study into school shootings concluded that school shooters do not simply snap and that a person's downward spiral toward violence is typically accompanied by numerous warning signs.

Nobody is suggesting that concealed handgun license holders be responsible for protecting campuses, and CSHB 1893 would not replace campus police with armed vigilantes. Concealed handgun license holders carry their concealed handguns as a means of getting themselves out of harm's way, not as an excuse to chase after criminals. Compared with the media depictions of pursuits down dark alleys and armed standoffs with assailants barricaded inside buildings, most civilian shootings happen at pointblank range. In the Luby's Cafeteria massacre, the Columbine High School massacre, and the Virginia Tech massacre, the assailants moved slowly and methodically, shooting their victims from very close range. A person does not have to be a deadeye shot to defend himself or herself against an assailant standing only a few feet away.

Despite some concerns from law enforcement officers, there would be little danger from a concealed weapon holder or a first responder engaging in "friendly fire." Most real-world shootouts are typically localized and over very quickly. It is not realistic to expect police to encounter an ongoing shootout between assailants and armed civilians. Also, police as first responders are trained to expect both armed bad guys and armed good guys—from off-duty or undercover police officers to armed civilians—in tactical scenarios. Concealed handgun license holders are trained to use their firearms for self-defense. They are not trained to run through buildings looking for criminals. The biggest distinction between the armed assailants and the armed civilians is that the armed civilians would be hiding with the crowd, and the armed assailants would be shooting at the crowd.

Prevention of violence and preparedness are not mutually exclusive. In a perfect system, the two approaches to safety compliment each other. Preventive measures could include teaching students and faculty to watch for the warning signs of mental illness and providing counseling to disturbed students. Those efforts could complement preparative measures, such as developing campus alert systems, providing additional training to campus police, and allowing trained, licensed adults who legally carry concealed handguns to possess them on campus.

Both the U.S. and Texas constitutions protect the right to bear arms. The Legislature should uphold these basic rights and not allow public universities and colleges to circumvent the state concealed handgun license laws by imposing administrative bans and sanctions on concealed handgun license holders on campus.

OPPONENTS  
SAY:

CSHB 1893 would not make college campuses any safer and could increase the risk of more violence. The bill would solve a phantom problem. Statistically, campuses are much safer than their surrounding cities. According to a U.S. Department of Justice study, 93 percent of crimes committed against college students from 1995 to 2002 occurred off campus. In fact, there may be a counterintuitive relationship between personal safety and carrying a weapon. A Harvard School of Public Health study on guns and gun threats at college concludes that “predictors for being threatened with a gun while at college include personally having a gun for protection.”

Allowing concealed weapons on campus could inhibit the free exchange of ideas required for the life of the mind and undermine the basic educational mission of universities and colleges. Unfortunately, conflict can arise in classes, and professors may be afraid to challenge students or give out failing grades if they fear that members of the class might be armed. Angry words in dormitories or in student centers could escalate into deadly encounters.

Current restrictions would not necessarily keep potential campus killers from obtaining firearms or even qualifying for concealed handgun licenses. Both Seung-Hui Cho, the Virginia Tech mass killer, and Charles Whitman, the UT tower gunman, were older than 21 years, and bought their weapons legally. Dangerous people can slip through the system.

Concealed handgun advocates overstate the law-abiding nature of those with concealed handgun license holders. While DPS records show concealed handgun license holders commit a statistically insignificant portion of all crimes in the state, some are convicted of serious offenses. The DPS reports are delayed to include final convictions, but the report for 2007 showed that four concealed handgun license holders were convicted for murder, including two for capital murder.

Campus shootings remain extremely rare, albeit extremely tragic, events. The chance of their occurring at any given college or university is almost

infinitesimal. Even CSHB 1893 advocates concede that the bill would apply to an extremely limited subset of Texas residents and college students. It would be almost impossible to calculate the chances of a concealed handgun license holder being in the position to stop a campus gunman. While the massacres at Luby's Cafeteria in Killeen and at Virginia Tech raise the imponderable question of whether someone with a handgun could have stopped the killings or at least minimized the number of victims, enacting legislation based on such circumscribed circumstances would be bad public policy.

Universities make extra efforts to protect the safety of students, faculty and staff members so they would not have to rely on carrying weapons for their own safety. Campus police frequently patrol the campus. The areas are well lighted and provided with emergency call boxes. Those leaving libraries, classrooms, or laboratories late at night can call the campus police and request an escort to their dorm rooms or to their vehicle in the parking lot.

CSHB 1893 would create a tension between First Amendment rights for free expression and practice of religious rights and the Second Amendment right to bear arms. Most independent colleges and universities in Texas have religious affiliations, and many of their buildings are comparable to churches. Crucifixes and other religious symbols hang in classrooms, and student centers host prayer meetings and other religious services. The Legislature should respect their current policies to exclude all guns from their campuses and classrooms, rather than go through the unclear and unwieldy process provided in CSHB 1893 to reinstate those policies.

Legislators also should be respectful of the wishes of public university and college regents and administrators. Even more than four decades later, both physical and emotion scars remain on the University of Texas at Austin campus after the tower shooting. It would be unclear how a measure such as CSHB 1893 would have prevented or stopped that situation.

After the Columbine massacre, first responders have been trained to act aggressively against any gunmen in a crowded and confined space. Police could be as likely to shoot any would-be concealed handgun hero as the assailant. A crossfire among the concealed handgun holder and assailant could be dangerous to others in the room as well. Recent experiences in

Oakland and in Pennsylvania demonstrate that a determined, if not suicidal, gunman can easily kill and wound well-armed and highly trained law enforcement officers wearing bulletproof vests. It would be better to leave law enforcement to trained professionals.

Statistically, handguns are more likely to be used for suicides, rather than homicides. Suicide rates already are high among teenagers and young adults, and the college years can be stressful. Having more guns available on campus could exacerbate this problem.

CSHB 1893 could inadvertently open a loophole in restrictions on concealed handgun license holders carrying their weapons into collegiate sporting events. Already this session, the House has passed legislation that would allow concealed handgun license holders arrested for entering a bar with their weapon to raise a defense to prosecution that there were no warning sign posted. Athletic events may have several entrances and it could be expensive and difficult to mark and maintain warning signs at all of them.

**NOTES:**

On May 11, the Senate State Affairs considered the companion bill, SB 1164 by Wentworth, in a public hearing and left it pending.