

# Virginia State Crime Commission

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## Reorganization of the Concealed Weapons Statute

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2012

# Reorganization of the Concealed Weapons Statute

## Executive Summary

During the 2012 Regular Session of the Virginia General Assembly, House Bill 923 (HB 923) was introduced by Delegate Scott Lingamfelter. The purpose of the bill was to reorganize the concealed weapons statute, Va. Code § 18.2-308, by separating it into 17 distinct code sections. A preamble in the bill specifically stated that “nothing in this reorganization is intended to change the substantive law related to carrying concealed weapons or obtaining a concealed handgun permit.”

House Bill 923 was referred to the House Courts of Justice Committee, and after consideration, was continued to 2013. A letter was sent to the Crime Commission, asking for the language of the bill to be examined, to ensure that no substantive changes were made to Virginia law.

After a review of the bill, the Crime Commission verified that no substantive changes to Virginia’s laws dealing with concealed weapons would occur if the bill were to be enacted. However, other changes were made to Va. Code § 18.2-308 during the 2012 Regular Session; these would need to be incorporated into HB 923, or a new bill introduced in 2013, to ensure that the reorganization bill did not affect any of the recently passed modifications to Virginia’s concealed weapons laws.

The Crime Commission voted to endorse the concept of reorganizing Va. Code § 18.2-308 into smaller, distinct sections, in the manner of HB 923, provided that no substantive changes would be made. Delegate Scott Lingamfelter introduced the Crime Commission’s recommended legislation during the 2013 Regular Session of the Virginia General Assembly, as House Bill 1833. The bill was passed by both the House of Delegates and the Senate, and was signed into law by the Governor.

## Background

Virginia Code § 18.2-308 contains Virginia’s statutory provisions related to concealed weapons. At the time of Virginia’s recodification of Title 18.1 into Title 18.2 in 1975, Va. Code § 18.2-308 consisted of three short paragraphs.<sup>1</sup> The statute was not divided into subsections, as it currently is. Each paragraph dealt with a distinct topic: the first paragraph prohibited the carrying of concealed weapons, in language similar to the existing subsection A of the statute; the second paragraph exempted law enforcement and any person in his own place of abode from the statute; and the third paragraph allowed a circuit court to grant an applicant permission to carry concealed weapons for a period of one year. This third paragraph was the forerunner of the current concealed handgun permit process in Virginia.

Since 1975, Va. Code § 18.2-308 has been modified practically every year by the General Assembly. In the 37 years between 1975 and 2012, the concealed weapons statute has been modified in 34 separate Regular Sessions, sometimes with multiple changes occurring during the same Session. The statute now contains over 50 paragraphs, is divided into 27 distinct subsections, and is 11 pages long in the Michie's edition of the Code of Virginia.<sup>2</sup>

The statute now addresses multiple topics that are related to concealed weapons and concealed handgun permits:

- Criminalizes the carrying of concealed weapons;
- General exemptions from this prohibition;
- Exemptions for law enforcement;
- Exemptions for retired law enforcement;
- Process for applying for a concealed handgun permit;
- Persons ineligible from obtaining a permit;
- Criminalizes making a false statement on a permit application;
- Acceptable methods for an applicant to demonstrate to the circuit court that he has demonstrated competence with a handgun;
- What information a concealed weapons permit shall contain;
- The civil penalty if an individual fails to display his permit upon demand by law enforcement;
- Applications for new permits upon expiration of an existing permit;
- The forfeit of a permit after conviction for a disqualifying criminal offense;
- Criminalizing the carrying of a concealed handgun while under the influence of alcohol or illegal drugs;
- Permits a court to suspend the permit of a person who is charged with a felony;
- Criminalizes the carrying of a concealed handgun while consuming alcohol in a restaurant or club;
- The revocation of a permit if the holder is adjudicated legally incompetent or mentally incapacitated, or is civilly committed or ordered to outpatient treatment;
- The fees paid by an application for a permit;
- Replacement of permits;
- Petition for review to the Va. Ct. of Appeals if an application for a permit is denied;
- Validity of other states' permits in Virginia; and,
- Application for permits by non-residents.

House Bill 923 logically breaks Va. Code § 18.2-308 into 17 smaller statutes. Each statute deals with a distinct topic; no substantive changes are present in the bill. All cross-references to Va. Code § 18.2-308 throughout the Code of Virginia have been appropriately modified to reflect the new section number. All of the other amendments to Va. Code § 18.2-308 that were made during the 2012 Regular Session by other bills would not interfere with the basic reorganizational scheme proposed by HB 923.<sup>3</sup>

## Conclusion

The Crime Commission voted to endorse the basic reorganization scheme proposed by HB 923, with the condition that any such reorganization not contain any substantive changes to Virginia's concealed weapons laws. Delegate Scott Lingamfelter introduced the Crime Commission's recommended legislation during the 2013 Regular Session of the Virginia General Assembly, as House Bill 1833. This bill incorporated the changes that had been made to Va. Code § 18.2-308 during the 2012 Regular Session of the General Assembly. House Bill 1833 was passed by both the House of Delegates and the Senate, and was signed into law by the Governor.

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<sup>1</sup> 1975 Va. Acts chs. 14, 15.

<sup>2</sup> VA. CODE ANN § 18.2-308 (2012).

<sup>3</sup> 2012 Va. Acts chs. 132, 175, 291, 557, 776.