

# DEFENDING SELF-DEFENSE: WHY FLORIDA SHOULD FOLLOW THE ELEVEN STATES THAT ALREADY ALLOW FOR CAMPUS CARRY

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## I. INTRODUCTION

“‘Gun-free zones’ have a double effect: On one hand, they embolden criminals to strike where they know resistance will be weakest. And on the other hand, they take away good people’s only way to fight back.”<sup>1</sup>

The supreme law of the land states: “. . .the right of the people to keep and bear arms shall not be infringed.”<sup>2</sup> The Supreme Court has found that the right to bear arms for self-defense is protected by the Constitution.<sup>3</sup> Most states have expanded on this right and allow individuals to carry concealed weapons as long as they become licensed by the state.<sup>4</sup> However, this right to carry concealed weapons is surely subject to limitations.<sup>5</sup> In the state of Florida, concealed weapon permit holders are

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1. Marshall Lewin, *Let’s End The Charade Of Gun-Free Zones*, AMERICA’S 1<sup>ST</sup> FREEDOM (Sep. 25, 2015), <https://www.americas1stfreedom.org/articles/2015/9/25/lets-end-the-charade-of-gun-free-zones/>.

2. U.S. CONST. amend. II; U.S. CONST. art. VI, cl. 2 (establishing that the Constitution and any federal laws made pursuant to it, are the supreme law of the land).

3. See *D.C. v. Heller*, 544 U.S. 570, 628–30 (2008) (establishing that “handguns are the most popular weapon chosen by Americans for self-defense in the home, and a complete prohibition of their use is invalid”); see also *McDonald v. City of Chicago*, 561 U.S. 742, 778 (2010) (“In sum, it is clear that the Framers and ratifiers of the Fourteenth Amendment counted the right to keep and bear arms among those fundamental rights necessary to our system of ordered liberty.”).

4. See Mark Hardy, *States That Allow Concealed Carry*, AMERICAN CONCEALED (Aug. 11, 2016), <https://americanconcealed.com/articles/second-amendment/states-that-allow-concealed-carry/>; see also Anna Swartz, *Which States Allow Concealed Carry?*, MIC (Dec. 9, 2015) <https://mic.com/articles/130029/which-states-allow-concealed-carry-this-map-shows-who-can-legally-carry-a-gun-and-where#.4PCNrrXbe>. Every state in the country allows some type of concealed weapon carrying. Hardy, *supra*. Forty-two of these states require a permit from the state and the remaining eight require no permit at all. *Id.*

5. See Swartz, *supra* note 4 (“The nine states with the most restrictive rules regarding carrying a concealed weapon are California, Connecticut, Delaware, Hawaii, Maryland, Massachusetts, New Jersey, New York and Rhode Island.”); *Concealed Carry*, GIFFORDS LAW

prohibited from carrying on college or university campuses.<sup>6</sup> This restriction is not beneficial to campus security and is not fair to law-abiding citizens, who cannot protect themselves against violent attacks.<sup>7</sup> Opponents of “campus carry”<sup>8</sup> take the position that allowing concealed carry on campus will increase violence and do little to protect people against possible attackers.<sup>9</sup> However, this is simply inaccurate.<sup>10</sup> Allowing students, faculty members and staff individuals who are licensed to carry concealed weapons to do so on college and university campuses, does not necessarily have a negative impact on campus security.<sup>11</sup> In this Comment

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CENTER TO PREVENT GUN VIOLENCE (May 1, 2007), <http://smartgunlaws.org/gun-laws/policy-areas/guns-in-public/concealed-carry/> (stating that Connecticut, Hawaii, and Massachusetts only issue permits to “suitable persons” and California, Delaware, Georgia, and New York require that the applicant show that he is of “good moral character and behavior”).

6. See FLA. STAT. § 790.06(12)(a)(13) (2018) (prohibiting a person holding a concealed weapons permit from carrying a concealed weapon into university or college campuses “unless the licensee is a registered student, employee, or faculty member of such college or university and the weapon is a stun gun or nonlethal electric weapon or device designed solely for defensive purposes and the weapon does not fire a dart or projectile”); see also *Laws Concerning Carrying Concealed Firearms On Campus in Florida*, ARMED CAMPUSES, <http://www.armedcampuses.org/florida/> (last visited June 27, 2018).

7. See Brandon Morse, *Over 98% of Mass Shootings Occurred on Gun-free Zones, Research Shows*, THE BLAZE (Jan. 9, 2017, 8:39 PM), <http://www.theblaze.com/news/2017/01/09/over-98-of-mass-shootings-occurred-on-gun-free-zones-research-shows/> (“According to the Crime Prevention Research Center, from the 1950’s through July 10th of 2016, 98.4 percent of mass shootings have occurred on gun-free zones, with just 1.6 percent occurring where citizens are allowed to have firearms with them.”); see also Patrick Tyrell, *Mass Shooters Prefer Gun-Free Zones*, THE DAILY SIGNAL (Feb. 10, 2016), <http://dailysignal.com/2016/02/10/mass-shooters-prefer-gun-free-zones/> (stating that of roughly fifty-four incidents of mass shootings since 2002, the shooter chose gun-free areas in thirty-seven of them).

8. See Ben Wofford, *Inside the Fight Over Guns on Campus*, ROLLING STONE (Mar. 30, 2017), <http://www.rollingstone.com/politics/features/inside-the-fight-over-guns-on-campus-w473960>; see also Claire Zillman, *In 2015, U.S. States Pushed to Allow More Guns on College Campuses*, FORTUNE (Oct. 3, 2015), <http://fortune.com/2015/10/03/oregon-shooting-guns-campus/>.

9. See Tim Goral, *Guns on Campus: Five Years After Virginia Tech Tragedy*, UNIVERSITY BUSINESS (Mar. 28, 2012), <https://www.universitybusiness.com/article/guns-campus-five-years-after-virginia-tech-tragedy> (“Campuses are very safe environments. Introducing guns has the potential to make them unsafe environments.”); see also Wofford, *supra* note 8 (explaining that in the event of an actual threat, rapid heartbeat, shaky hands, loss of peripheral vision, among other symptoms, may cause a student to shoot another student by mistake).

10. See Goral, *supra* note 9 (explaining that by merely looking at the numbers we can see that gun control does not deter gun violence); see also B. Gil Horman, *8 Arguments for Concealed Carry on Campus*, GUNS AND AMMO (Mar. 29, 2012), <http://www.gunsandammo.com/galleries/8-reasons-for-concealed-carry-on-campus/> (“More guns does not equal more crime.”).

11. See Molly Hennessy-Fiske, *Gun Rights Advocates’ Push for Campus-Carry Measures Like Texas’ is Slow Going*, LOS ANGELES TIMES (June 10, 2015, 5:00 AM), <http://www.latimes.com/nation/la-na-guns-campus-20150610-story.html> (explaining that the

I will explore the advantages and disadvantages of the college campus exception and argue why Florida should remove such exception.<sup>12</sup>

## II. BACKGROUND AND CURRENT LEGAL SETTING

Decades ago it was normal for students to bring guns to schools, have firearms in their lockers, or keep them in their cars.<sup>13</sup> Even former Supreme Court Justice Scalia used to take a rifle to school, as he was a member of the school's rifle team.<sup>14</sup> However, in the more recent decades, there has been an increasing trend towards regulating guns in schools.<sup>15</sup> Along with laws that banned guns in schools, came laws that allowed individuals to carry weapons for their own protection.<sup>16</sup> The first state to

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argument that students' tempers would flare and having a gun when it happens would lead to violence has been disproved by the lack of student gun related violence in states that already allow students to carry on campus like Idaho and Colorado); *see also* Horman, *supra* note 10 ("[A]llowing student and staff members to carry is unlikely to increase campus violence.").

12. *See infra* Part III.

13. *See* David B. Kopel, *Pretend "Gun-Free" School Zones: A Deadly Legal Fiction*, 42 CONN. L. REV. 515, 518 (2009); *see also* John Lane, *Permit Guns in School to Stop Massacres*, CHARLOTTE OBSERVER (Jan. 22, 2008), <http://web.archive.org/web/20080127100554/http://www.charlotte.com/171/story/456971.html>. The author explains that he grew up in the 1940's and 1950's and that despite him and his friends having shotguns in their cars while in high school, there were no school shootings back then.

14. *See* Kopel, *supra* note 13, at 518; *see also* Kim Barker, *In Queens, Antonin Scalia Took Pride in Melting Pot and Confrontation*, THE NEW YORK TIMES (Feb. 14, 2016), <https://www.nytimes.com/2016/02/15/nyregion/in-queens-antonin-scalia-took-pride-in-melting-pot-and-confrontation.html?mcubz=3>.

15. *See generally* Gun Free School Zone Act of 1990, 18 U.S.C. § 922 (2018); *see also* Kopel, *supra* note 13, at 518 ("However, in recent decades, many legislatures and school administrators have banned the possession of firearms on school property.").

16. *See* Clayton E. Cramer & David B. Kopel, "Shall Issue": *The New Wave of Concealed Handgun Permit Laws*, 62 TENN. L. REV. 679, 685 (1995) ("Since 1987, states have increasingly adopted a new breed of concealed handgun permit laws that make easier the process for many adults to get a permit to carry a concealed handgun."); *see also* Kopel, *supra* note 13, at 519 ("Along with gun bans at schools, another type of gun law was enacted in many states in the 1980s and 1990s: objective standards for the issuance of permits to carry handguns for lawful protection.").

implement such a law was Washington,<sup>17</sup> with Florida following suit two decades later.<sup>18</sup> Thereafter, most of the nation followed.<sup>19</sup>

Today, forty states have “Shall Issue” laws.<sup>20</sup> In these states, permits cannot be denied just because the issuing official may think that the applicant should not be allowed to have a permit.<sup>21</sup> In eight other states, the issuing body has broad discretion when issuing permits.<sup>22</sup> In Wisconsin and Illinois, weapons are permitted at home for self-protection, and although no permit is issued for concealed carry, carrying a weapon is permitted when individuals are engaged in certain activities like hunting.<sup>23</sup>

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17. See WASH. REV. CODE § 9.41.070(1) (2018).

The chief of police of a municipality or the sheriff of a county shall within thirty days after the filing of an application of any person, issue a license to such person to carry a pistol concealed on his or her person within this state for five years from date of issue, for the purposes of protection or while engaged in business, sport, or while traveling.

*Id.*; see also Kopel, *supra* note 13, at 519 (stating that the first state to enact a concealed carry licensing law was Washington in 1961 followed by Florida in 1988).

18. See FLA. STAT. § 790.06(1); see also Kopel, *supra* note 13, at 519 (stating that Florida started concealed carry laws in 1988).

19. See Cramer & Kopel, *supra* note 16, at 685 (“Since 1987, states have increasingly adopted a new breed of concealed handgun permit laws that make easier the process for many adults to get a permit to carry a concealed handgun.”); see also Kopel, *supra* note 13, at 519 (“[t]he trend became national after Florida adopted a similar law in 1988”).

20. See Kopel, *supra* note 13, at 520 (explaining that forty states in the U.S. have “shall issue” laws); see also Hardy, *supra* note 4 (stating that Alabama, Arkansas, Colorado, Florida, Georgia, Illinois, Indiana, Iowa, Kentucky, Louisiana, Michigan, Minnesota, Mississippi, Missouri, Montana, Nebraska, Nevada, New Hampshire, New Mexico, North Carolina, North Dakota, Ohio, Oklahoma, Oregon, Pennsylvania, South Carolina, South Dakota, Tennessee, Texas, Utah, Virginia, Washington, and Wisconsin have “shall issue” laws).

21. See Kopel, *supra* note 13, at 519–20 (explaining that in the “shall issue” states “a permit cannot be denied simply because the official in charge of issuing the permits does not think that people should be allowed to carry guns for lawful self-defense”); see also Hardy, *supra* note 4 (explaining that in these “shall issue” states the issuing authority is required to grant most CCW permit requests).

22. See Kopel, *supra* note 13, at 520 (“In contrast to the forty ‘Shall Issue’ states with objective standards for license issuance, there are eight states where the issuing authorities have unlimited discretion.”); see also Hardy, *supra* note 4 (stating that the issuing authority in these states are granted “wide discretion to deny a CCW permit to an applicant if, for example, the authority believes the applicant lacks good character or lacks a good reason for carrying a weapon in public”).

23. See Kopel, *supra* note 13, at 520 (“In Illinois and Wisconsin, there are no permits issued for gun carrying; carrying is lawful without a permit when engaged in certain activities (e.g., hunting), in certain places (e.g., in one’s domicile), or for persons of a certain legal status (e.g., security guards, detectives).”); see also Hardy, *supra* note 4 (listing Illinois and Wisconsin as states that have “shall issue” laws).

Florida is among the “Shall Issue” states.<sup>24</sup> In Florida, an individual over twenty-one years of age, “who passes a fingerprint-based background check and . . . a safety class can obtain a permit to carry a handgun for lawful protection.”<sup>25</sup> The permit allows individuals to carry a concealed weapon almost everywhere, subject to a few exceptions.<sup>26</sup> One of these exceptions is a college or university campus.<sup>27</sup>

#### A. THE CONSTITUTION AND THE RIGHT TO BEAR ARMS

It was not until 2008, that the Supreme Court clarified that people have a right to own handguns for self-defense;<sup>28</sup> and until 2010, that it established that the individual states could not infringe upon that right.<sup>29</sup> If this is the case, why are licensees not allowed to carry a concealed weapon in school?<sup>30</sup> Certainly not because it makes law abiding citizens safer; if that was the case, society should not have to face any incidents of school shootings.<sup>31</sup> Forbidding licensed, law abiding individuals from carrying

24. See Kopel, *supra* note 13, at 519 (explaining that Florida adopted a “shall issue” law in 1988); see also Hardy, *supra* note 4 (listing Florida as a “shall issue” state).

25. See FLA. STAT. § 790.06(2) (2018) (outlining the requirements for obtaining a concealed weapon license); Kopel, *supra* note 13, at 519 (explaining that “an adult who passes a fingerprint-based background check and, in most states, a safety class can obtain a permit to carry a handgun for lawful protection”).

26. See FLA. STAT. § 790.06(12)(a) (outlining the restrictions of the concealed carry weapon permit); see also Kopel, *supra* note 13, at 520 (“Most states list at least a few places, such as courthouses, where the permits are not valid.”).

27. See FLA. STAT. § 790.06(12)(a)(13) (stating concealed weapon permit holders cannot carry in schools and universities); see also Kopel, *supra* note 13, at 520–21 (“In some states, K–12 schools are specifically excluded from the right to carry, and some states also exclude colleges and universities.”).

28. See *Heller*, 544 U.S. at 629 (establishing that the Second Amendment allowed individuals the right to bear arms for self-defense and that handguns qualify as “arms” under the Second Amendment); see also Kopel, *supra* note 13, at 521 (“In 2008, the Supreme Court ruled that the District of Columbia’s handgun ban violated the Second Amendment.”).

29. See *McDonald*, 561 U.S. at 778 (establishing that the Second Amendment applies not only to the federal government, but also to state and local governments); see also *Understanding McDonald v. Chicago*, GIFFORDS LAW CENTER TO PREVENT GUN VIOLENCE, <http://smartgunlaws.org/gun-laws/the-second-amendment/the-supreme-court-the-second-amendment/mcdonald-v-chicago/> (last visited June 27, 2018) (“In *McDonald v. City of Chicago*, the United States Supreme Court held in a 5–4 ruling that the Second Amendment applies to state and local governments in addition to the federal government”).

30. See FLA. STAT. § 790.06(12)(a)(13) (stating that carrying on colleges or universities is illegal); see also Mark Hardy, *10 Reasons Concealed Weapons Should be Allowed on Campuses*, AMERICAN CONCEALED (Nov. 14, 2016), <https://americanconcealed.com/articles/second-amendment/10-reasons-concealed-weapons-should-be-allowed-on-campuses/> (“Adults are able to defend themselves at home with a firearm, but students living in a dormitory cannot.”).

31. See Nancy Coleman & Sergio Hernandez, *Even Under the Narrowest Definition, There’s Been at Least 1 Mass Shooting Every Month This Year*, CNN (June 15, 2017),

their weapons on campus only leaves those individuals vulnerable to acts of violence by law breakers who decide to carry a weapon despite what the law states.<sup>32</sup>

Despite assertions to the contrary, individuals who lawfully own weapons, and who are licensed to carry by the state, do not commit most crimes of gun violence.<sup>33</sup> Additionally, if Florida's law-abiding citizens are allowed to lawfully have a handgun at home for self-defense, why should they not be able to have one in a dormitory if they live on campus?<sup>34</sup> A student's dorm on campus is their place of residence; why are these students not afforded their constitutional right to bear arms?<sup>35</sup> Florida individuals who are licensed to carry should be allowed to carry on college and university campuses, if not for the protection of others, for their own protection.<sup>36</sup>

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<http://www.cnn.com/2017/06/15/health/mass-shootings-in-2017-trnd/index.html> (stating that the most narrow definition of "mass shooting" comes from the Congressional Research Service and it defines "mass shooting" as "a shooting in which a gunman . . . kills four or more people . . . indiscriminately . . . in a public place"); see also Tyrell, *supra* note 7 ("The definition of a mass shooting for the Stanford database is three or more shooting victims injured or killed, not including the shooter.").

32. See Lewin, *supra* note 1 ("'[G]un-free zones' take away both the fire extinguisher and the fire-insurance policy you need to protect yourself and your family."); see also Tyrell, *supra* note 7 (stating that of roughly 54 incidents of mass shootings since 2002, the shooter chose gun-free areas in 37 of them).

33. See Awr Hawkins, *Gun Lobby Doesn't Mention .0002266% of Concealed Permit Holders Accused of 'Mass Shootings,'* BREITBART (Oct. 26, 2015), <http://www.breitbart.com/big-journalism/2015/10/26/wapo-gun-lobby-doesnt-mention-0002266-concealed-permit-holders-allegedly-carried-mass-shootings/> ("Since there are currently 12.8 million concealed carry permit holders in America, Ingraham's argument rests on the claim that .0002266 percent of permit holders were tied to mass shootings."); see also Christopher Ingraham, *People With Concealed Carry Permits Have Committed at Least 29 Mass Shootings Since 2007*, THE WASH. POST (Oct. 26, 2015), [https://www.washingtonpost.com/news/wonk/wp/2015/10/26/people-with-concealed-carry-permits-have-committed-at-least-29-mass-shootings-since-2007/?utm\\_term=.09629f958608](https://www.washingtonpost.com/news/wonk/wp/2015/10/26/people-with-concealed-carry-permits-have-committed-at-least-29-mass-shootings-since-2007/?utm_term=.09629f958608) ("Violence Policy Center has documented 29 mass shootings of three or more people since 2007 where the perpetrator was himself a concealed carry permit holder.").

34. See FLA. CONST. art. I, § 8 (providing that the people shall have a right to bear arms for self-defense); see also FLA. STAT. § 776.013(1)(b) (2017) (stating that a person has no duty to retreat in his or her home and that if necessary, they can use deadly force to defend themselves); see also FLA. STAT. § 790.06(12)(a) (2017) (prohibiting a person from carrying a concealed weapon on campus).

35. See FLA. STAT. § 790.06(12)(a) (2017) (prohibiting a person from carrying a concealed weapon on campus); see also Maura Ewing, *Campus Carry: The Movement to Allow Guns on College Grounds, Explained*, THE TRACE (Apr. 5, 2017), <https://www.thetrace.org/2017/04/campus-carry-movement-to-allow-guns-on-college-grounds-explained/> ("Most states prohibit firearms in campus living quarters — with the exception of Utah.").

36. See G. Halek, *Here Are 5 Times Concealed Carriers Have Stopped Mass Shootings*, CONCEALED NATION (Oct. 18, 2015), <http://concealednation.org/2015/10/here-are-5-times-concealed-carriers-have-stopped-mass-shootings/> (outlining incidents in which concealed weapon

## B. THE CAMPUS CARRY RIGHTS MOMENTUM IN THE UNITED STATES

In early 2016, the Florida House of Representatives passed a bill that would allow for campus carry in state colleges and universities by concealed weapon license holders.<sup>37</sup> In the House, the bill passed with an 80-37 vote.<sup>38</sup> However, the bill did not fare well in the Senate where it died in the Criminal Justice Subcommittee.<sup>39</sup>

Utah was the first state in the nation to pass legislation allowing the right to carry on campuses specifically by statute.<sup>40</sup> Currently, out of the fifty states, eleven allow concealed carry in public campuses;<sup>41</sup> sixteen ban concealed carry on campuses;<sup>42</sup> and twenty-three give discretion to the

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holders have helped save others); *see also* *11 Times a Good Guy With a Gun Stopped a Bad Guy, Saving Lives*, THE WASH. TIMES, <http://www.washingtontimes.com/multimedia/collection/good-guy-gun-stopped-bad-guy-gun/?page=6> (last visited June 18, 2018) (“A 71-year-old man saved the lives of many at an internet cafe in Florida in 2012. When robbers entered the cafe with weapons, Samuel Williams pulled out his gun and scared off the suspects.”).

37. *See* Kristen M. Clark, *Gun Bills Pass Florida House, but Face Slim Chances in Senate*, MIAMI HERALD (Jan. 28, 2016, 8:32 PM), <http://www.miamiherald.com/news/politics-government/state-politics/article58311048.html> (“Efforts to change how and where more than 1.5 million people with concealed weapons licenses in Florida can carry handguns easily passed the state House on Wednesday.”); *see also* Brendan Farrington, *Fla. House Passes Bills to Allow Open Carry, Campus Carry*, POLICEONE.COM (Feb. 4, 2016), <https://www.policeone.com/gun-control/articles/72089006-Fla-House-passes-bills-to-allow-open-carry-campus-carry/> (“The Florida House passed bills Wednesday that would let people with concealed weapons permits openly carry their guns and bring them onto state college campuses . . .”).

38. *See* Clark, *supra* note 37 (“The guns-on-campus bill . . . passed, 80-37 . . .”); *see also* Farrington, *supra* note 37 (“The bill . . . to allow guns on state college campuses passed on a 80-37 vote . . .”).

39. *See* CS/CS/CS/HB 163 - *Weapons and Firearms*, FLA. H.R., <http://www.myfloridahouse.gov/Sections/Bills/billsdetail.aspx?BillId=55017> (last visited June 18, 2018) (stating that the bill died on the Criminal Justice Subcommittee on March 11, 2016); *see also* CS/CS/CS/HB 163: *Weapons and Firearms*, THE FLA. S., <https://www.flsenate.gov/Session/Bill/2016/0163> (last visited June 27, 2018) (“Last Action: 3/11/2016 Senate - Died in Criminal Justice.”).

40. *See* UTAH CODE ANN. § 76-10-500 (1999); *see also* *Guns on Campus: Overview*, NAT’L CONF. OF ST. LEG. (May 5, 2017), <http://www.ncsl.org/research/education/guns-on-campus-overview.aspx> (“Utah remains the only state to have statute specifically naming public colleges and universities as public entities that do not have the authority to ban concealed carry, and thus, all 10 public institutions in Utah allow concealed weapons on their property.”); *see also* Abby Jackson & Skye Gould, *10 States Allow Guns on College Campuses and 16 More are Considering it*, BUS. INSIDER (Apr. 27, 2017, 5:36 PM), <http://www.businessinsider.com/states-that-allow-guns-on-college-campuses-2017-4>.

41. *See* *Guns on Campus: Overview*, *supra* note 40 (stating that 11 states allow campus carry); *see also* Awr Hawkins, *Campus Carry: 11 States with No Mass Shootings, No Campus Crimes by Concealed Carriers*, BREIBART (Sept. 14, 2017), <http://www.breitbart.com/big-government/2017/09/14/campus-carry-states-mass-shootings-no-campus-crimes-concealed-carriers/> (giving the eleven states that allow for campus carry as an example).

42. *See* *Guns on Campus: Overview*, *supra* note 40 (“Currently, there are 16 states that ban carrying a concealed weapon on a college campus: California, Florida, Illinois, Louisiana,

university or college regarding the matter.<sup>43</sup> This is a recent trend however; “[i]n the year 2000, no states had laws on their books that allowed guns on college campuses. Today, 10 states have signed such laws . . . Georgia, passed such legislation in March and it’s awaiting the governor’s signature.”<sup>44</sup>

The states that presently allow concealed carry on college campuses are Arkansas, Colorado, Georgia, Idaho, Kansas, Mississippi, Oregon, Texas, Utah, and Wisconsin.<sup>45</sup> Tennessee and Minnesota also allow some type of concealed carry on campuses.<sup>46</sup> In Tennessee, for example, only licensed faculty members are allowed to carry on campus, students and visitors remain without being able to carry.<sup>47</sup> In Minnesota, although the institutions cannot prohibit the general public from carrying on campus, students or staff members are not allowed to do so.<sup>48</sup> In some of the other states, although students are allowed to carry concealed firearms on campus, those firearms are not allowed in classrooms or in the

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Massachusetts, Michigan, Missouri, Nebraska, Nevada, New Jersey, New Mexico, New York, North Carolina, North Dakota, South Carolina and Wyoming.”); *see also* Zach Winn, *A List of States that Allow Concealed Guns on Campus*, CAMPUS SAFETY (Aug. 30, 2017), <https://www.campus safetymagazine.com/university/list-of-states-that-allow-concealed-carry-guns-on-campus/>

(listing the states that ban concealed weapons on campuses).

43. *See Guns on Campus: Overview*, *supra* note 40 (stating that in Alabama, Alaska, Arizona, Connecticut, Delaware, Hawaii, Indiana, Iowa, Kentucky, Maine, Maryland, Minnesota, Montana, New Hampshire, Ohio, Oklahoma, Pennsylvania, Rhode Island, South Dakota, Vermont, Virginia, Washington and West Virginia, the decision of whether or not to allow guns on campus is left to the institution); *see also* Winn, *supra* note 42 (listing the states that leave the campus concealed carry policies to individual colleges and universities).

44. Jackson & Gould, *supra* note 40; *see also* Ewing, *supra* note 35 (“Georgia could be next: a campus-carry bill is also on Governor Nathan Deal’s desk.”)

45. *See Guns on Campus: Overview*, *supra* note 40 (stating which states allow for campus carry); *see also* *Guns on Campus’ Laws for Public Colleges and Universities*, ARMED CAMPUSES, <http://www.armedcampuses.org> (last visited June 27, 2018) (“[S]chools in Arkansas, Colorado, Idaho, Kansas, Mississippi, Oregon, Utah, Tennessee, Texas and Wisconsin have now been forced in different ways to allow the carrying of firearms on their premises.”).

46. *See* Ewing, *supra* note 35 (“Minnesota has a narrow version of campus carry that allows visitors to carry guns, but not students or faculty.”); *see also* *Guns on Campus: Overview*, *supra* note 40 (“Tennessee allows faculty members with licenses to carry weapons on campus but the law does not extend to students or the general public.”).

47. *See Guns on Campus: Overview*, *supra* note 40 (“Tennessee allows faculty members with licenses to carry weapons on campus but the law does not extend to students or the general public.”); *see also* *Laws Concerning Carrying Concealed Firearms on Campus in Tennessee*, ARMED CAMPUSES, <http://www.armedcampuses.org/tennessee/> (last visited June 27, 2018).

48. *See* MINN. STAT. § 624.714(18)(b-c) (2017); *see also* *Laws Concerning Carrying Concealed Firearms on Campus in Minnesota*, ARMED CAMPUSES, <http://www.armedcampuses.org/minnesota/> (last visited June 27, 2018) (stating that although the institution can prohibit the students from carrying on campus, the institutions cannot prohibit the general public to carry on campus).



dormitories.<sup>49</sup> However, a few states are taking steps to allow students to exercise their right to bear arms in their dormitories, as their place of residence.<sup>50</sup> For example, Utah and Kansas already allow firearms in the dormitories<sup>51</sup> and in Colorado, a student can request to be transferred to a graduate dorm that allows firearms, since undergraduate dormitories are gun-free.<sup>52</sup> Other states are taking measures to even the playing field between law abiding citizens and law breakers by requiring that campus buildings where firearms are prohibited have other “adequate security measures,” such as metal detectors or firearm storage.<sup>53</sup>

## 1. Utah

In Utah, anyone with a concealed weapons permit has been allowed to carry on school grounds and in college campuses since 1995.<sup>54</sup> Despite this law, the University of Utah prohibited carrying concealed weapons on campus for years.<sup>55</sup> This prohibition ended in 2004 when the state’s

49. See Ewing, *supra* note 35 (explaining that most states prohibit firearms in the student’s living quarters); see also Matthew Watkins, *Guns are Okay in Classrooms, Not in Dorms; University of Texas President Says*, THE WASH. POST (Feb. 17, 2016), [https://www.washingtonpost.com/news/grade-point/wp/2016/02/17/guns-are-okay-in-classrooms-not-in-dorms-university-of-texas-president-says/?utm\\_term=.ee9773fe7399](https://www.washingtonpost.com/news/grade-point/wp/2016/02/17/guns-are-okay-in-classrooms-not-in-dorms-university-of-texas-president-says/?utm_term=.ee9773fe7399) (explaining that students in Texas are allowed to carry concealed weapons on campus, but not in their dormitories).

50. See Ewing, *supra* note 35 (stating that Utah already allows for guns in dormitories); see also Ellen Cagle, *Kansas Universities, Students Express Preparedness for Guns on Campus Starting Saturday*, THE KAN. CITY STAR (June 30, 2017, 7:56 PM), <http://www.kansascity.com/news/politics-government/article159193599.html> (“Students can have guns in their dorms.”).

51. See Cagle, *supra* note 50 (“Students can have guns in their dorms.”); see also Ewing, *supra* note 35 (stating that Utah already allows for guns in dormitories).

52. See Ewing, *supra* note 35 (stating that in Colorado, firearms are not allowed in undergraduate dormitories, but they are allowed in graduate housing); see also Ryan Parker, *CU to Segregate Dorms for Students With Concealed Carry Permits*, THE DENVER POST (June 23, 2016, 4:31 AM), <http://www.denverpost.com/2012/08/16/cu-to-segregate-dorms-for-students-with-concealed-carry-permits/> (explaining that college campuses will have separate residences for students over 21 with permits to carry since guns are banned in all other dormitories).

53. See Cagle, *supra* note 50 (“Students can carry a concealed gun in campus buildings except those with ‘adequate security measures’ such as metal detectors and armed security guards.”); see also Ewing, *supra* note 35 (explaining that there is a law in Kansas that requires safety measures if there are no firearms allowed in a building).

54. See UTAH CODE ANN. § 76-10-505.5(4) (exempting duly licensed concealed weapon holders from the firearms prohibition in school zones); see also Kopel, *supra* note 13, at 527–28 (“[U]nder Utah law, since 1995, any person with a concealed carry permit has been able to carry a handgun in Utah K–12 public schools.”).

55. See Kopel, *supra* note 13, at 528–29 (stating that the University of Utah prohibited campus carry until 2004); *Utah Only State to Allow Guns at College*, NBCNEWS.COM (Apr. 28, 2007, 9:02 AM), [http://www.nbcnews.com/id/18355953/ns/us\\_news-life/t/utah-only-state-allow-guns-college/#.WdRGW0yZOCQ](http://www.nbcnews.com/id/18355953/ns/us_news-life/t/utah-only-state-allow-guns-college/#.WdRGW0yZOCQ) (“For decades, the University of Utah banned concealed

legislature passed a law making it clear that the university could not prohibit licensed individuals from carrying on campus.<sup>56</sup>

Today, licensed students and faculty members in Utah are allowed to carry concealed firearms on campus and even in their dormitories.<sup>57</sup> Utah is also the only state in the nation with a statute specifically stating that public colleges and universities are not allowed to ban concealed carry; all of the public institutions in Utah allow concealed weapons on campus.<sup>58</sup>

## 2. Colorado

Colorado enacted its “Concealed Carry Act” over fourteen years ago.<sup>59</sup> Although the right to carry concealed weapons in the state was subject to some limitations, college and university campuses were not one of them.<sup>60</sup> Still, like in Utah, the law faced resistance from certain institutions; specifically, the University of Colorado banned all weapons on campus for nearly ten years after the enactment of the Act.<sup>61</sup> In 2009, an

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weapons.”).

56. See Kopel, *supra* note 13, at 528 (explaining that in 2004 the Utah legislation passed a law specifically allowing for campus carry); see also *Utah*, *supra* note 55 (“[I]n 2004 the Legislature passed a law expressly saying the university is covered by a state law that allows concealed weapons on state property.”).

57. See Kopel, *supra* note 13, at 529–30 (explaining that students and faculty can carry in Utah campuses, even in dormitories); see also *Utah*, *supra* note 55.

58. See UTAH CODE ANN. § 76-10-505.5; see also *Guns on Campus: Overview*, NAT’L CONF. OF ST. LEG. (May 5, 2017), <http://www.ncsl.org/research/education/guns-on-campus-overview.aspx> (explaining that Utah is the only state with an express campus carry statute).

59. See Awr Hawkins, *Colorado Campus Carry: 12 Years, No Mass Shootings, No Crimes by Permit Holders*, BREITBART (Apr. 20, 2015), <http://www.breitbart.com/big-government/2015/04/20/colorado-campus-carry-12-years-no-mass-shootings-no-crimes-by-permit-holders/> (explaining that permit holders have not been responsible for mass shootings in the twelve years that concealed weapons have been allowed on campus); see also David Kopel, *Guns on University Campuses: The Colorado Experience*, THE WASH. POST (Apr. 20, 2015), [https://www.washingtonpost.com/news/volokh-conspiracy/wp/2015/04/20/guns-on-university-campuses-the-colorado-experience/?utm\\_term=.867473cf8061](https://www.washingtonpost.com/news/volokh-conspiracy/wp/2015/04/20/guns-on-university-campuses-the-colorado-experience/?utm_term=.867473cf8061) (“In 2003, the Colorado legislature enacted the Concealed Carry Act.”).

60. See *Colorado’s Current Concealed Carry Law*, SAFE CAMPUS COLO., <http://www.safecampuscolorado.org/colorados-current-concealed-carry-law.html> (last visited June 27, 2018) (outlining where concealed weapons are prohibited); see also Kopel, *supra* note 59 (“The bill has no special exemption for public institutions of higher education.”).

61. See Kopel, *supra* note 59 (explaining that the University of Colorado CU enforced its gun prohibition due to guns being “offensive to the University’s values”); see also Monte Whaley, *Colorado Supreme Court Affirms that CU Students with Permits can Carry Concealed Guns on Campus*, THE DENVER POST (Mar. 5, 2012), <http://www.denverpost.com/2012/03/05/colorado-supreme-court-affirms-that-cu-students-with-permits-can-carry-concealed-guns-on-campus/> (“CU regents, however, said they have the authority to ban concealed weapons on campuses, leased buildings and any area under control of university police.”).

organization called “Students for Concealed Carry on Campus” brought a lawsuit against the institution alleging that its policy violated the Concealed Carry Act.<sup>62</sup> The lawsuit eventually reached the Colorado Supreme Court where, in 2012, the Court struck down the university’s no-gun policy in a 7 to 0 ruling.<sup>63</sup>

### 3. Idaho

Idaho’s legislation concerning campus carry went into effect on July 1, 2014.<sup>64</sup> The state’s law allows former law enforcement officers and individuals who hold an enhanced permit to carry concealed weapons in all of Idaho’s public colleges and universities.<sup>65</sup> In order to obtain this enhanced permit, an individual must complete a sanctioned training course and live fire a certain amount of bullets.<sup>66</sup> Although these qualified individuals may now carry concealed weapons on campus, the weapons are still prohibited inside campus’ dormitories or buildings that house more than 1,000 individuals, such as sporting arenas.<sup>67</sup>

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62. See Kopel, *supra* note 59 (“Students for Concealed Carry on Campus brought a lawsuit a few years later[.]”); see also Whaley, *supra* note 61 (“[I]n 2009, three students in El Paso County filed a lawsuit. The students — Students for Concealed Carry on Campus — argued the ban violated the Concealed Carry Act and the Colorado Constitution.”).

63. See Kopel, *supra* note 59 (“In 2012 the Colorado Supreme Court ruled 7-0 that the University of Colorado must obey the Concealed Carry Act.”); see also Whaley, *supra* note 61 (explaining that the Colorado Supreme Court’s decision was unanimous).

64. See Scott Graf, *Your Guide To Idaho’s Guns On Campus Debate*, BOISE ST. PUB. RADIO, <http://boisestatepublicradio.org/topic/your-guide-idahos-guns-campus-debate#stream/0> (last visited June 27, 2018) (“The law went into effect July 1, 2014.”); see also *Laws Concerning Carrying Concealed Firearms on Campus in Idaho*, ARMED CAMPUSES, <http://www.armedcampuses.org/idaho/> (last visited June 27, 2018) (stating that the legislation is effective as of July 1, 2014).

65. See *Laws Concerning Carrying Concealed Firearms on Campus in Idaho*, *supra* note 64 (stating that individuals who possess the enhanced permit will be permitted to carry on campuses of public colleges and universities); see also *Weapons on Campus: Frequently Asked Questions*, IDAHO STATE UNIVERSITY, Questions 1–2, [http://www2.isu.edu/pubsafe/policies/Concealed WeaponsFAQ.pdf](http://www2.isu.edu/pubsafe/policies/ConcealedWeaponsFAQ.pdf) (last visited June 27, 2018) (explaining that concealed weapons are illegal on campus unless the individual holds one of two special permits).

66. See *Laws Concerning Carrying Concealed Firearms on Campus in Idaho*, *supra* note 64 (setting forth how individuals obtain the enhanced permit); see also *Weapons on Campus*, *supra* note 65, at Question 2 (stating that the enhanced permit has that name because the holder needs to pass through special training to obtain it).

67. See *Laws Concerning Carrying Concealed Firearms on Campus in Idaho*, *supra* note 64 (explaining that weapons are banned in residences and buildings that house over 1,000 people); see also *Weapons on Campus*, *supra* note 65, at Question 2 (“Under the new law, weapons are not allowed in residence halls and auditoriums seating more than 1,000 people”).

#### 4. Arkansas

Arkansas' newly enacted "Act 562" admits the state into the group of those states that allow for campus carry.<sup>68</sup> Pursuant to the new law, individuals who are licensed to carry a concealed weapon and who successfully complete a State Police training course will be allowed to carry on campus and the institution will not be able to prohibit it.<sup>69</sup> Although there has been a law allowing faculty and staff to carry on campus since 2013, the institutions needed to opt in and none of them had.<sup>70</sup> Arkansas' new law allows concealed weapons in all parts of campus, even dormitories.<sup>71</sup>

However, the Arkansas law does allow institutions to ban weapons in certain buildings, like stadiums and hospitals, as long as the institutions make up for it with the implementation of measures to truly ensure the building will be weapon free such as metal detectors; and if the institution provides the State Police with plans on how the institution will ensure the building's safety, and the plans are approved.<sup>72</sup>

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68. See Zach Winn, *Inside the Arkansas Campus Carry Law*, CAMPUS SAFETY (July 25, 2017), <http://www.campus-safety-magazine.com/university/inside-the-arkansas-campus-carry-law/> ("A law passed in March will allow concealed carry permit holders to bring guns on public college campuses in Arkansas"); see also Louisa Oreskes, *The Law No One Asked For*, VICE NEWS (Mar. 24, 2017), <https://news.vice.com/story/students-can-now-carry-concealed-guns-on-campus-in-arkansas> ("Arkansas legislators approved a measure this week to allow people to carry concealed weapons on college campuses.").

69. See Winn, *supra* note 68 ("Under the law, individuals with concealed handgun permits can bring their guns on campus if they've completed an Arkansas State Police 'enhanced certification-training course' of up to eight hours."); see also Andrew DeMillo, *Arkansas Governor Expands Where Concealed Guns Allowed*, U.S. NEWS (Mar. 22, 2017, 6:42 PM), <https://www.usnews.com/news/best-states/arkansas/articles/2017-03-22/arkansas-bill-signed-expanding-where-concealed-guns-allowed> (explaining that individuals can carry in places otherwise banned, if they complete added training).

70. See Oreskes, *supra* note 68 ("In fact, faculty and staff have been permitted to carry concealed guns at public colleges and universities in Arkansas under a 2013 law that required schools to opt in. None have."); see also DeMillo, *supra* note 69 (explaining that faculty and staff have been able to carry on campus since 2013 but only if the schools allowed it, and none did).

71. See Winn, *supra* note 68 ("Handguns are permitted in all other areas of campus including dormitories."); see also Neal H. Hutchens and Kerry B. Melear, *More States are Allowing Guns on College Campuses*, SALON (Aug. 27, 2017, 5:58 AM), [https://www.salon.com/2017/08/27/more-states-are-allowing-guns-on-college-campuses\\_partner/?fb\\_comment\\_id=1159382554162841\\_1159471397487290](https://www.salon.com/2017/08/27/more-states-are-allowing-guns-on-college-campuses_partner/?fb_comment_id=1159382554162841_1159471397487290) (stating that "[p]ublic colleges and universities in . . . Arkansas must allow any individual with an appropriate permit to carry a concealed gun on campus, including inside campus buildings.").

72. See Winn, *supra* note 68 (explaining that the law "exempts certain locations, including athletic events and the University of Arkansas for Medical Sciences (UAMS) building, from campus carry if school officials' security plans for the venues are approved by State Police."); see also Maura Ewing, *Arkansas Revises Campus Carry Bill to Allow Stadiums to Ban Guns — If They Install Costly Security Measures*, THE TRACE (Mar. 31, 2017),

## 5. Kansas

Under the Personal and Family Protection Act, Kansas's citizens who are over 21 years of age can carry a firearm without even needing a permit.<sup>73</sup> The act was passed in 2012, at that time, colleges and universities were given a four year extension and had not been required to allow individuals to carry firearms on campus up until earlier this year.<sup>74</sup> Although the institutions have to allow concealed firearms on campus and even in dormitories, they can still prohibit them in certain buildings as long as the institution makes the building gun-safe in a different way.<sup>75</sup>

## 6. Georgia

The State of Georgia was the tenth state to sign into effect a campus carry law.<sup>76</sup> The new law allows individuals who are duly licensed to carry concealed weapons to class and into certain campus buildings of state

<https://www.thetrace.org/2017/03/arkansas-campus-carry-stadiums-guns-security-measures/> (explaining that the law “would require universities that wish to prohibit guns at sporting events to declare stadiums and other venues ‘firearms sensitive;’ install measures like metal detectors and barricades to prevent attacks on the student population; and submit a security plan to the Arkansas State Police for approval.”).

73. See *Concealed Carry to be Lawful on Kansas College Campuses*, FOX NEWS (June 26, 2017), <http://www.foxnews.com/us/2017/06/26/concealed-carry-to-be-lawful-on-kansas-college-campuses.html> (explaining that the Personal and Family Protection Act allowed citizens to carry concealed weapons without a permit); see also Mike Spies, *Kansas Will Be First Campus-Carry State Where Students Won't Need Permits to Tote Guns*, THE TRACE (March 31, 2017), <https://www.thetrace.org/2017/03/campus-carry-kansas-no-permits-guns/> (“Starting this summer, anybody 21 or over will be allowed to carry a concealed weapon on state college campuses — without a permit or any training.”).

74. See *Concealed Carry to be Lawful on Kansas*, *supra* note 73 (explaining that the Personal and Family Protection Act was passed in 2012 and that colleges and universities were given an extension, which is over this year); see also Spies, *supra* note 73 (“Four years ago, the state legislature passed a law allowing concealed weapons in all public buildings. College campuses were given a lengthy extension to comply, but that clock runs out on July 1.”).

75. See Spies, *supra* note 73 (stating that institutions “can still prohibit guns from buildings if they install metal detectors and security guards at entrances”); see also Cagle, *supra* note 50 (“Students can carry a concealed gun in campus buildings except those with adequate security measures such as metal detectors and armed security guards.”).

76. See Ramsey Touchberry, *What Georgia's New Concealed Campus Carry Law Means for Students and Faculty*, USA TODAY COLLEGE (July 12, 2017, 9:01 a.m.), <http://college.usatoday.com/2017/07/12/what-georgias-new-concealed-campus-carry-law-means-for-students-and-faculty/> (“House Bill 280, also known as a ‘campus carry’ law, made Georgia the 10th U.S. state to enact such a law when it went into effect July 1.”); see also Eric Stirgus & Kristina Torres, *Saturday it's official: Guns legal on Georgia college campuses*, POLITICALLY GEORGIA (June 29, 2017, 2:08 PM), <http://www.myajc.com/news/state—regional-govt—politics/saturday-official-guns-legal-georgia-college-campuses/xRDUMtbd3QSWvzA1HFNVmI/> (stating that “the ‘campus carry’ legislation is the most high-profile of a slew of laws that become effective July 1” in Georgia).

colleges and universities.<sup>77</sup> Like most of the states that allow for campus carry, weapons are banned from sporting events and stadiums.<sup>78</sup> Weapons are also prohibited in dormitories.<sup>79</sup> Most of the concern regarding this new law stems from the fact that there will be no signs advising where on campus the weapons are prohibited.<sup>80</sup> There is also an issue regarding where students who reside on campus can store their weapons, since the weapons are not allowed in residences and the campuses will not offer storage units.<sup>81</sup>

### III. DISCUSSION

#### A. WHY CAMPUS CARRY SHOULD BE ALLOWED

##### 1. Deterrence and Defense

Studies have shown that allowing individuals to carry concealed weapons actually deters criminals.<sup>82</sup> “Criminals try to pick the easiest

77. See Touchberry, *supra* note 76 (explaining that individuals that are 21 years of age, or older, and have a license, can now carry on campus); see also Stirgus & Torres, *supra* note 76 (“Under the law, anyone with a concealed-weapon permit will be allowed [to] carry firearms on all public college and university campuses.”).

78. See Touchberry, *supra* note 76 (explaining that guns are prohibited in sporting facilities); see also Stirgus & Torres, *supra* note 76 (stating that the exceptions to the campus carry law “include dormitories, fraternity and sorority houses, and buildings used for athletic events”).

79. See Touchberry, *supra* note 76 (explaining that guns are prohibited in residences, which includes dormitories and fraternity and sorority housing); see also Stirgus & Torres, *supra* note 76 (stating that the exceptions to the campus carry law “include dormitories, fraternity and sorority houses, and buildings used for athletic events”).

80. See Touchberry, *supra* note 76 (explaining that under the law, students are expected to know where they can and cannot carry; there will not be signs posted); see also Stirgus & Torres, *supra* note 76 (“No signs will be posted on campus identifying which areas are off-limits.”).

81. See Stirgus & Torres, *supra* note 76 (stating that no campus in the state will provide storage facilities); see also Touchberry, *supra* note 76 (explaining that guns are prohibited in residences, which includes dormitories and fraternity and sorority housing).

82. See John Lott, *PhD Biography*, PROCON.ORG, <https://concealedguns.procon.org/view.source.php?sourceID=010276> (last visited June 27, 2018).

It is a fact that in communities where citizens have been granted licenses to carry concealed weapons and are not restricted from keeping loaded guns in their homes, crime rates drop. Such conditions have proven to be a deterrent to crimes such as home invasions, burglaries, muggings and car-jackings because criminals will not risk being confronted by a victim's firearm.

*Id.*; see also *Should Adults Have the Right to Carry a Concealed Handgun?*, PROCON.ORG, <https://concealedguns.procon.org> (last visited June 27, 2018) (stating that “[s]tates that implemented ‘shall-issue’ concealed carry laws reduced murders by 8.5%, rapes by 5%,

places for them to commit crimes.”<sup>83</sup> Since they want to maximize their number of victims, killers choose targets where they know no one will be armed.<sup>84</sup> “Gun-free” school campuses fit the definition of this type of desired target.<sup>85</sup> So it follows that if gunmen knew that they could potentially face a threat of resistance, they would not likely pick schools as their targets.<sup>86</sup>

Allowing individuals to carry their concealed weapons on campus does more than deter crime; being able to rightfully carry on campus can help students defend themselves, and others, against any type of attack.<sup>87</sup> Individuals who are going to commit a crime will do it regardless of its illegality; it is unlikely that an armed shooter will leave a campus because he sees signs prohibiting weapons.<sup>88</sup> Experience shows that as soon as an

aggravated assaults by 7%, and robbery by 3%, according to a 2000 analysis of FBI crime data”).

83. *Interview with America's 1st Freedom: "Gun-Free Zones Are Targets,"* CRIME PREVENTION RESEARCH CENTER (Mar. 24, 2017), <https://crimeresearch.org/2017/03/interview-americas-1st-freedom-gun-free-zones-targets/>; see also John R. Lott, *Gun-free Zones an Easy Target for Killers*, FOX NEWS (June 18, 2015), <http://www.foxnews.com/opinion/2015/06/18/gun-free-zones-easy-target-for-killers.html> (“Time after time, we see that these killers tell us they pick soft targets. With just two exceptions, from at least 1950, all the mass public shootings have occurred in these gun-free zones.”).

84. See *Interview with America's 1st Freedom*, *supra* note 83 (“They want to kill as many people as possible. Killers consistently pick defenseless targets where they know no one will have a gun.”); see also Lott, *supra* note 83 (“Indeed, the circumstantial evidence is strong that these killers don’t attack randomly; they keep picking the few gun-free zones to do virtually all their attacks.”).

85. See John Lott, Jr., *Criminals Target Gun-free Zones*, THE DETROIT NEWS (Oct. 15, 2015, 11:32 PM), <http://www.detroitnews.com/story/opinion/2015/10/15/lott-gun-free-zones/74023454/> (“Gun-free zones are a magnet for murderers.”); see also Lott, *supra* note 83 (“Time after time, we see that these killers tell us they pick soft targets.”).

86. See *Interview with America's 1st Freedom*, *supra* note 83 (explaining that earlier this year the FBI caught a man who was planning a shooting on tape explaining that he had picked the location because “a lot of people” go there and because “people are not allowed to carry guns” there); see also *Gun-free Zones an Easy*, *supra* note 83 (“From last summer’s mass public killers in Santa Barbara and Canada, to the Aurora movie theater shooter, these killers made it abundantly clear in their diaries or on Facebook how they avoided targets where people with guns could stop them.”).

87. See Erik Gilbert, *Campus Carry Is Not About Preventing Mass Shootings*, INSIDE HIGHER ED (June 12, 2017, 3:00 AM), <https://www.insidehighered.com/views/2017/06/12/campus-carry-about-right-individual-self-defense-not-preventing-mass-shootings> (stating that the main focus of campus carry is for self-defense); see also Kopel, *supra* note 13, at 539 (“There is also extensive evidence of particular cases in which licensees have used their permitted handguns to save their own lives, or the lives of other people, or to thwart other serious violent crimes.”).

88. See generally David Kopel, *Make Schools Safe for Children, not Criminals*, VOLOKH.COM, (Oct. 6, 2006, 2:36 AM), <http://www.volokh.com/posts/1160116581.shtml> (“The absurdity of the gun free school zones is best exemplified by the sign under the ‘guns prohibited’ sign at a local high school . . . it says ‘criminal activity prohibited’ oh . . . well . . . [I] am sure that since criminal activity is PROHIBITED, that sign will solve the problem.”).

attacker of this kind faces resistance from the police, they often kill themselves.<sup>89</sup> The same is likely to happen when faced with a threat from another armed shooter.<sup>90</sup> Allowing students and faculty to carry concealed weapons is better than allowing them to become victims of violence.<sup>91</sup> “Universities have been the settings for horrific shooting sprees in recent years, like the massacre at Virginia Tech in 2007 and the Umpqua Community College killings in 2015.”<sup>92</sup>

In 1966, in the University of Texas, a student took about six guns to the top of a tower on campus and started shooting at students who were just walking around campus.<sup>93</sup> He went unstopped for over an hour and a half.<sup>94</sup> When the shooting started, some students went to their cars, retrieved their own weapons, and opened fire towards the top of the tower where the gunman was located.<sup>95</sup> Although none of the students actually hit the gunman, witnesses of the incident gave these students credit for preventing further casualties, as their fire forced the gunman to take cover

89. See Kopel, *supra* note 13, at 536 (noting that “mass killers who attack schools tend to kill themselves as soon as they face armed resistance . . .”); see also EVERYTOWN FOR GUN SAFETY, MASS SHOOTINGS IN THE UNITED STATES: 2009-2016 (2017), <https://everytownresearch.org/reports/mass-shootings-analysis/> (stating that in the majority of armed shootings that have occurred, the perpetrator has killed himself).

90. See Kopel, *supra* note 13, at 536–37 (stating that these armed shooters are cowardly and once they face resistance they will commit suicide); see also Eugene Volokh, *Do Citizens (Not Police Officers) With Guns Ever Stop Mass Shootings?*, THE WASH. POST, (Oct. 3, 2015), [https://www.washingtonpost.com/news/volokh-conspiracy/wp/2015/10/03/do-civilians-with-guns-ever-stop-mass-shootings/?utm\\_term=.55445d268c8a](https://www.washingtonpost.com/news/volokh-conspiracy/wp/2015/10/03/do-civilians-with-guns-ever-stop-mass-shootings/?utm_term=.55445d268c8a) (giving an example of a mass killer in Colorado who shot himself once he encountered resistance from an armed citizen).

91. See Kopel, *supra* note 13, at 539 (stating that if an armed citizen can save even one life or thwart even one attack, that is better than none); see generally Gilbert, *supra* note 87 (giving example of when a gun would become handy to a student faced with potential threats).

92. Allen Rostron, *The Second Amendment on Campus*, 14 GEO. J.L. & PUB. POL’Y 245, 266–67 (2016).

93. See Rostron, *supra* note 92, at 266.

In 1966, an engineering student took a half-dozen guns to the top of a tower at the University of Texas and “introduced the nation to the idea of mass murder in a public space” and “the notion that any group of people, anywhere—even walking around a university campus on a summer day—could be killed at random by a stranger.”

*Id.*; see also Pamela Colloff, *96 Minutes*, TEXAS MONTHLY (Aug. 2006), <https://www.texasmonthly.com/articles/96-minutes/> (“On August 1, 1966, Charles Whitman climbed to the top of the University of Texas Tower and started firing false”).

94. See Rostron, *supra* note 92, at 266 (“The shooting spree went on for over an hour and a half.”); see also Colloff, *supra* note 93 (describing the incident as a “96-minute killing spree”).

95. See Rostron, *supra* note 92, at 266 (“[M]any students retrieved hunting rifles from their homes or vehicles and began firing up at the sniper in the tower.”); see also Colloff, *supra* note 93 (“It seemed like every other guy had a rifle. There was a sort of cowboy atmosphere, this ‘Let’s get him’ spirit.”).



and stop shooting down at the crowd.<sup>96</sup> Incidents like this present prime examples of how armed individuals on campus can make a difference.<sup>97</sup> Even if no one is able to shoot the gunman down, every bit helps, whether it is delaying the shooter's actions or hindering the shooter's progress.<sup>98</sup> Besides having armed guards in every place we expect an active shooter, concealed weapon holders are the best next option for safety.<sup>99</sup>

The police force is overwhelmingly in favor of allowing citizens to be armed.<sup>100</sup> In a comprehensive study of all its members, PoliceOne, the largest organization of active and retired law enforcement officers, polled its members in 2013 regarding concealed carry.<sup>101</sup> In response to the question "[w]hat would help most in preventing large scale shootings in public?," the number one response was "[m]ore permissive concealed carry policies for civilians."<sup>102</sup> In addition, 80% of the officers polled stated that

96. See Rostron, *supra* note 92, at 266 ("Although none of the students hit their target, witnesses credited the students with reducing the number of victims hit by the sniper, who was forced to stay down behind cover and had fewer opportunities to shoot."); see also Colloff, *supra* note 93 (explaining that once the shooter could not lean over the edge to fire, he could do less damage).

97. See Rostron, *supra* note 92, at 266 (showing that due to the University of Texas students firing back, the attacker did less damage); see also Colloff, *supra* note 93 (showing that the students' response led to a better outcome than had they not intervened).

98. See Rostron, *supra* note 92, at 266 (noting that because the sniper had to duck down below the ledge to avoid getting shot by a student, the sniper was delayed); Colloff, *supra* note 93 (demonstrating that the students' fire contained the sniper, who was killing citizens up to 700 yards away, resulting in most of the deaths occurring in the first twenty minutes).

99. See Ron Avery, *The Value of CCW "First Responders" in Active Shooter Situations*, POLICEONE.COM (July 11, 2016), <https://www.policeone.com/active-shooter/articles/196999006-The-value-of-CCW-first-responders-in-active-shooter-situations/> ("In my opinion, short of having armed guards or law enforcement in every possible place where a terrorist might show up, CCW remains the only viable option we have to protect our space.").

100. See Doug Wyllie, *PoliceOne's Gun Control Survey: 11 Key Lessons From Officers' Perspectives*, POLICEONE.COM (Apr. 8, 2013), <https://www.policeone.com/Gun-Legislation-Law-Enforcement/articles/6183787-PoliceOnes-Gun-Control-Survey-11-key-lessons-from-officers-perspectives/> ("Contrary to what the mainstream media and certain politicians would have us believe, police overwhelmingly favor an armed citizenry, would like to see more guns in the hands of responsible people . . .").

101. See Wyllie, *supra* note 100 ("In March, PoliceOne conducted the most comprehensive survey ever of American law enforcement officers' opinions on the topic gripping the nation's attention in recent weeks: gun control."); see also *Pro-con: Should College Campuses Restrict Concealed Weapons?*, THE DALLAS MORNING NEWS (Oct. 2015), <https://www.dallasnews.com/opinion/commentary/2015/10/23/pro-con-should-college-campuses-restrict-concealed-weapons/> ("PoliceOne, the largest organization of active and retired law enforcement officers, polled its 450,000 members two years ago . . .").

102. See Wyllie, *supra* note 100 ("More than 28 percent of officers say having more permissive concealed carry policies for civilians would help most in preventing large scale shootings in public . . ."); see also *Pro-con*, *supra* note 101 (asking "What would help most in preventing large scale shootings in public?" with the top answer being "More permissive concealed carry policies for civilians.").

they believed that there would be fewer casualties if there were armed citizens present when an active shooter starts shooting<sup>103</sup> and 75% stated that they “support arming school teachers and administrators who willingly volunteer to train with firearms and carry one in the course of the job.”<sup>104</sup> More importantly, some individuals acknowledge that concealed weapon license holders should be treated with respect since they are law-abiding citizens who are willing to help others if the need arises.<sup>105</sup>

## 2. Unfounded Objections to Campus Carry

Opponents of campus carry cite several reasons as to why campus carry is unnecessary and not beneficial to students.<sup>106</sup> The most common objections are that schools are already safe enough, that armed students who try to intervene will cause more harm than good and will likely confuse police, and that allowing guns in school will lead the armed individuals to commit violent crimes on campus.<sup>107</sup> However, even if

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103. See Wyllie, *supra* note 100 (stating that 80% of officers responded that “[c]asualties would likely have been reduced” to the following question, “[c]onsidering the particulars of recent tragedies like Newton and Aurora, what level of impact do you think a legally armed citizen could have made?”); see also *PoliceOne.com Releases Survey of 15,000 Law Enforcement Professionals About U.S. Gun Control Policies*, POLICEONE.COM (Apr. 8, 2013), <https://www.policeone.com/police-products/press-releases/6188461-policeone-com-releases-survey-of-15-000-law-enforcement-professionals-about-u-s-gun-control-policies/> (“Likewise, 80 percent feel that legally-armed citizens would likely have reduced the number of casualties in recent mass shooting incidents.”).

104. See Wyllie, *supra* note 100 (reporting that over 75% of respondents support teacher or administrator arming with the requirement that they be vetted, trained, and qualified).

105. See Avery, *supra* note 99 (“Treat them with respect. They are volunteers who are willing to risk their lives to protect others. You don’t boss them around and you don’t treat them like crap.”); see also Aaron Bandler, *Report: Concealed Carry Permit Holders Are The Most Law-Abiding People In The Country*, THE DAILY WIRE (Aug. 10, 2016), <http://www.dailywire.com/news/8255/report-concealed-carry-permit-holders-are-most-law-aaron-bandler> (“The main takeaway from the report: concealed carry permit holders are the most law-abiding group in the country and are a deterrent to crime.”).

106. See *Common Arguments Against Campus Carry*, STUDENTS FOR CONCEALED CARRY, <http://concealedcampus.org/common-arguments/> (last visited June 27, 2018) (listing and rebutting several arguments in opposition to campus carry, including increased risk of suicide, negligent discharge, or gun incidents due to the undeveloped, adolescent mind until the age of twenty-five); Javier Auyero, *Guns on Campus Make Colleges Less Safe*, THE NEW YORK TIMES (May 31, 2016, 3:21 AM), <https://www.nytimes.com/roomfordebate/2016/05/31/should-guns-be-permitted-on-college-campuses/guns-on-campus-make-colleges-less-safe> (claiming campus carry would inhibit classroom debate because professors and students are opposed to both campus carry and the concept of the norm of vigilantes carrying handguns into classrooms).

107. See Kopel, *supra* note 13, at 546 (declaring the following four objections to campus carry: 1) that campus carry is unnecessary because campuses are already safe or because more effective solutions exist; 2) that campus carry would cause chaos on the scene due to students who lack marksmanship or complicate police’s gun battle; 3) that even if campus carry was effective, it would cause more harm than good due to increasing campus gun crimes; and 4) that

opponents of campus carry do not think that campus carry has a positive impact, they have no proof to indicate that it has a negative one.<sup>108</sup>

As an example, since 2003, when concealed carry was allowed on campuses all over Colorado, and since 2012, when concealed carry was allowed on The University of Colorado's campus, it has been demonstrated that licensed individuals do not engage in violence.<sup>109</sup> Similarly, after all these years, Utah has no reported incidents of licensed individuals mishandling firearms, in schools or anywhere.<sup>110</sup> Unfailingly over the years, no problems have occurred in schools that allow campus carry and none of the schools have reported crimes committed by the permit holders allowed to carry on campus.<sup>111</sup>

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campus carry would threaten classroom debate); *see also Common Arguments Against Campus Carry*, *supra* note 106 (listing and rebutting several arguments against campus carry, including: 1) that dorms are vulnerable to theft of unattended firearms; 2) that colleges are places of too much emotional volatility for handguns; 3) that self-defense or defense spray is as effective as a handgun against an armed assailant; and 4) that concealed campus carriers would need as much training as police officers).

108. *See* John R. Lott & Jr., *Look at Facts in the Campus Firearm Debate*, KANSAS CITY STAR (Sept. 12, 2017, 8:30 PM), <http://www.kansascity.com/opinion/readers-opinion/guest-commentary/article172867106.html> ("But at school after school, no problems have occurred."); *see also* Hawkins, *supra* note 41 ("Therefore, the 11 states that allow campus carry stand out as yet another example of why law-abiding citizens with guns are a good thing.").

109. *See* Kopel, *supra* note 59 (explaining how there have not been incidents of violence by permit holders in schools); *see also* Hawkins, *supra* note 59 (noting that Colorado has not had any of the expected problems after allowing students to carry on campus).

110. *See* Kopel, *supra* note 13, at 530 (explaining that the data from Utah campuses reveal "zero instances of the slightest evidence of any harm to academic freedom, let alone any case of misuse of a firearm by a licensed permit holder"); *see also* Dustin Hurst, *Concealed Carry Has Not Caused Much of a Problem on Utah Campuses*, IDAHO FREEDOM FOUNDATION (Feb. 27, 2014), <http://idahofreedom.org/concealed-carry-caused-much-problem-utah-campus/>.

Officials at several universities, including the University of Utah, Utah Valley University, Dixie State College and Utah State University told IdahoReporter.com that though carrying guns on campus has been legal for nearly a decade, they haven't seen evidence that their schools are less safe. "We haven't had much problem with it," said Steven Mecham, head of the Utah State University Department of Public Safety. "It's just not been an issue."

*Id.*

111. *See* Lott, Jr., *supra* note 108.

But at school after school, no problems have occurred. Over the decades, not a single permit holder who was allowed to carry on university property has committed a crime, with his gun. No permit holder has ever gotten angry over a grade and started shooting. As far as we know, no permit holder has ever used his gun to threaten anyone on campus.

*Id.*; *see also* Kopel, *supra* note 59 (explaining that the eleven states that already allow campus carry are examples of why it works).

A real “gun-free” zone is fine. A pretend “gun-free” zone is a deadly legal fiction. The pretend zone—that is, a zone which exists by administrative declaration but is not enforced by metal detectors with armed guards—is simply a zone where the people who follow the rules are made into easy victims for mass killers.<sup>112</sup>

As it has been established, just because there are signs prohibiting individuals from carrying weapons on campus, it does not mean that weapons are not being brought in regardless.<sup>113</sup> Unless the campus is equipped with strict security measures like metal detectors, there is no way to ensure that guns and other weapons are not being carried around campus.<sup>114</sup> Likewise, the outlook that self-defense will fail and end up wreaking more havoc is unfounded.<sup>115</sup> Concealed carry permit holders have proved to be very law abiding.<sup>116</sup>

Most importantly, the right to carry is a personal choice, based on an individual’s constitutional right to bear arms.<sup>117</sup> The only valid argument against allowing an individual to exercise this right, would be that it poses

112. Kopel, *supra* note 13, at 552.

113. See Eric M. Johnson, *Weapons common on Oregon college campus despite ‘gun-free zone,’* REUTERS (Oct. 5, 2015), <https://www.reuters.com/article/us-usa-oregon-shooting-campus/weapons-common-on-oregon-college-campus-despite-gun-free-zone-idUSKCN0RZ1D820151005> (“But about a dozen students and others connected to Umpqua Community College in Roseburg said many students carried guns despite the campus ban and that this was common knowledge.”); see also Goral, *supra* note 9 (pointing out how signs on doors are not effective like metal detectors in guaranteeing that handguns are not carried into buildings).

114. See Goral, *supra* note 9 (explaining that the reason that airports and courthouses can function as gun-free zones is because the safety feature is accomplished with secure measures, such as armed guards and metal detectors); see also Lewin, *supra* note 1 (detailing events which signs designating gun-free zones have failed to deter).

115. See *Common Arguments Against Campus Carry*, *supra* note 106 (claiming concealed carriers during campus shootings will not be an issue for police because shootings usually end quickly and do not involve shootouts; police are trained for scenarios with both armed assailants and concealed carriers; and concealed carriers are distinguishable from armed assailants because they use their weapons for self-defense); see also Halek, *supra* note 36 (detailing instances where concealed weapon holders helped the police).

116. See Bandler, *supra* note 105 (“The report, written by Crime Prevention Research Center president John Lott, notes that it is very rare for permit holders to violate the law . . . .”); see also Awr Hawkins, *Study: Concealed Permit Holders Among the Most Law-Abiding of Law-Abiding Citizens*, BREITBART (July 24, 2017), <http://www.breitbart.com/big-government/2017/07/24/study-concealed-permit-holders-law-abiding-law-abiding/> (“A Crime Prevention Research Center (CPRC) study shows that concealed carry permit holders are among the most law-abiding of law-abiding citizens in the country.”).

117. See Gilbert, *supra* note 87 (explaining that concealed carry is “primarily about the individual right to self-defense and self-determination” – not about the ability of concealed carriers to protect others from mass shootings); see also Kopel, *supra* note 59 (claiming that law-abiding firearms carriers should be allowed to exercise their right to self-defense on college campuses, referring to the example of a 2013 rape victim in Colorado).

a danger to others.<sup>118</sup> However, there is no proof that this is the case.<sup>119</sup> So, if an individual feels safer carrying a gun while walking on a dark campus late at night, who are we to prevent them from doing so?<sup>120</sup> “What’s more, they are going to do it whether local, state, federal government or LE want them to or not. The right of self protection cannot be ignored or slighted.”<sup>121</sup>

#### IV. SOLUTION

Florida should amend its concealed carry statute to allow for concealed carry on state colleges and university campuses.<sup>122</sup> Colleges and universities should, of course, have some type of control over how the weapons are carried and the training that the students or staff members receive.<sup>123</sup> Institutions can adopt the measure of having students or staff members who wish to carry register with the school before they start carrying on campus, they can require students or staff complete additional periodic training and undergo psychological examinations.<sup>124</sup> Schools can also implement a course where the students or staff members train with the campus security officials in exchange for being allowed to carry concealed

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118. See Gilbert, *supra* note 87 (“The only valid objection to legally carried guns on campus would be if the presence of those guns posed a significant danger to people other than those who carry them.”).

119. See *id.* (“Given that the expansion of concealed-carry rights over the last 20 years has coincided with . . . a declining murder rate and a reduced incidence of gun accidents, it’s hard to make the case that concealed carry poses a significant threat to others.”).

120. See *id.* (“So if legally permitted faculty members or students want to carry a gun to school because they think, rightly or wrongly, that it makes them safer, it’s hard to see why anyone else has a legitimate interest in preventing them from doing so.”).

121. Avery, *supra* note 99.

122. See FLA. STAT. § 790.06(12)(a) (prohibiting a person holding a concealed weapons permit from carrying a concealed weapon into university or college campuses); see also *Laws Concerning Carrying Concealed Firearms On Campus in Florida*, ARMED CAMPUSES, <http://www.armedcampuses.org/florida/> (last visited June 27, 2018).

123. See Spies, *supra* note 73 (explaining that, though Kansas mandated campus carry, Kansas allows schools to prohibit guns in buildings as long as the schools have security guards or metal detectors ensuring that the buildings are gun-free); see also *Laws Concerning Carrying Concealed Firearms on Campus in Idaho*, *supra* note 64 (explaining Idaho passed campus carry for its universities but banned weapons in dormitories or buildings that house more than 1,000 individuals).

124. See *supra* Part II (stating how different schools have implemented different methods to have some control over the way the concealed carry permit holders are allowed to carry on the campuses).

weapons on campus.<sup>125</sup> The school could also even issue a certificate to these students and staff members as auxiliary security personnel.<sup>126</sup>

## V. CONCLUSION

Florida should follow the campus carry approach of Texas, Utah, Colorado, and all other nine states that allow for campus carry.<sup>127</sup> As demonstrated by the lack of violent incidents in college and university campuses of those states, campus carry does not have a negative impact on students' security.<sup>128</sup>

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125. See DeMillo, *supra* note 69 (explaining that in Arkansas, individuals can carry in places otherwise banned, if they complete added training); see also Winn, *supra* note 68 (explaining that guns are banned from colleges in Arkansas but that individuals with concealed handgun permits can carry their concealed weapons on campus if they have completed an eight-hour enhanced training with the state police).

126. See *Student Auxiliary Officers*, PENNSTATE, <https://police.psu.edu/student-auxiliary-officers-0> (last visited June 27, 2018) (explaining that Pennsylvania State University hires certain students as auxiliary officers on campus); see also *Student Auxiliary Safety Patrol*, Ithaca College, <https://www.ithaca.edu/sacl/safety/sasp/> (last visited June 27, 2018) (explaining that in Ithaca College, there is a group of students designated as auxiliary officers who provide support to the college's public safety department by providing an additional level of safety for the college community).

127. See *supra* Part II (stating which states allow for campus carry).

128. See Kopel, *supra* note 13, at 530 (stating that in Utah there have been no reports of misuse of a weapon by a permit holder on campuses); see also Hurst, *supra* note 110 (stating that there is no evidence that schools in Utah are less safe despite campus carry being allowed for years).