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# Montana Association of Counties

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## LOCAL GOVERNMENTS AND WEAPONS IN PUBLIC BUILDINGS

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### PURPOSE

To give county elected officials general guidance on their authority to regulate weapons in public buildings after the passage of LR-130 (SB357 2019) and House Bill 102.

SB 357 in 2019 directed LR130 be placed on the ballot. LR 130, which became effective on January 1, 2021, in essence, limited local government's ability to prevent or suppress (regulate) unpermitted concealed weapons to only an occupied building under its jurisdiction.

HB 102, passed in the 2021 session and fully effective as of June 1, 2021, further limited local governments' ability to restrict both concealed and permitted concealed weapons. The legislation generally extended (allows) permitless concealed carry to any person who is eligible to possess a firearm under state or federal law anywhere in the state, restricted local governments authority over permitted concealed weapons carriers, and provided limited exceptions to both.

**Permitless exception:** While the changes in law took away a local government's power to regulate the carrying of permitted concealed weapons except in certain portions of the building, counties still retain authority to regulate/restrict permitless carrying of weapons in portions of a building under its jurisdiction used for local government offices including related areas in the building.

**Permitted exception:** With regard to those individuals with permitted concealed firearms, regulation is limited to detention facilities, secure areas of a law enforcement facility, or within a courtroom or an area of a courthouse in use by court personnel pursuant to an order of a justice of the peace or judge.

### STATUTORY LANGUAGE

LR-130 reads: **"A county, city, town, consolidated local government, or other local government unit has power to prevent and suppress the carrying of unpermitted concealed weapons or the carrying of unconcealed weapons to a publicly owned and occupied building under its jurisdiction."**

HB 102 (language relevant to counties):

Section 4. Where concealed weapon may be carried -- exceptions. A person **with a current and valid permit** issued pursuant to 45-8-321 or recognized pursuant to 45-8-329 may not be prohibited or restricted from exercising that permit anywhere in the state, except: **(2) in a detention facility or secure area of a law enforcement facility owned and operated by a city or county;**

"45-8-316. Carrying concealed firearms -- exemption. (1) A person who carries or bears concealed upon the individual's person a firearm shall be punished by a fine not exceeding \$500 or by imprisonment in the county jail for a period not exceeding 6 months, or both. **(3) This section does not apply to a person eligible to possess a firearm under state or federal law.**"

"45-8-328. Carrying concealed weapon in prohibited place -- penalty. (1) Except for a person issued a permit pursuant to 45-8-321 or a person recognized pursuant to 45-8-329 a person commits the offense of carrying a concealed weapon in a prohibited place if the person purposely or knowingly carries a concealed weapon in: **portions of a building used for state or local government offices and related areas in the building that have been restricted.**