



# FLAGLER COUNTY SHERIFF'S OFFICE

## LEGAL BULLETIN

<b>Effective Date:</b> September 18, 2025	<input type="checkbox"/> New <input type="checkbox"/> Rescinds: <input checked="" type="checkbox"/> Amends: LB-015	<b>Number:</b> LB 25 – 017
<b>Subject:</b> Open Carry Update #2		
<b>Distribution:</b> All LE Sworn	<b>FCSO GO:</b> <b>CFA Standards:</b>	

**I. Scope & Purpose:** The purpose of this Legal Bulletin is to update sworn law enforcement on a recent decision from the First District Court of Appeal, in McDaniels v. State (1D2023-0533) regarding the constitutionality of §790.053, Fla. Stat.

### II. Discussion:

A. The First District Court of Appeal, in McDaniels v. State (1D2023-0533), struck down Florida's general ban on the open carrying of firearms under §790.053, Fla. Stat. The court applied the United States Supreme Court's decision in New York State Rifle & Pistol Association, Inc. v. Bruen, 597 U.S. 1 (2022), and held the Second Amendment protects the right to openly carry firearms in public. The blanket prohibition was found unconstitutional as it lacked any historical tradition to support it. As a result, deputies may no longer enforce §790.053.

B. The Attorney General provided a guidance memorandum on September 15, 2025, which is attached for your review. Consistent with the AG opinion the decision in the McDaniels case the AG opines:

1. Nothing in the decision prevent law enforcement from continuing to police those who "exhibit [firearms] in a rude, careless, angry, or threatening manner" in public. §790.10, Fla. Stat.
2. Nothing in the decision permits individuals to menace others with firearms in public
3. Nothing in the decision undermines the State's authority to prohibit felons from possessing firearms.
4. Private property owners, who maintain the long-standing legal prerogative to compel individuals carrying firearms to leave their premises. Any person carrying a firearm who violates the private property owner's warning to depart will be committing armed trespass, a third-degree felony. See § 810.08(2)(c), Fla. Stat.

### III. Operational Impact:

- A. The McDaniels decision is not as far reaching as some may think. While the decision does permit open-carry in public, where and when a person may legally carry can be conditioned not only by government entities but also by private businesses and landholders.
- B. Individuals may feel empowered to challenge law enforcement; efforts to deescalate tension and handle each contact professionally must be exercised. As a general approach, deputies should gather and assess the fact of each contact. Time should be taken to document the contact. In acting absent a clear violation of law may look to resolve the issue by means of trespass.
- C. Although law enforcement may not enforce the general open-carry ban, private property owners still control their own premises. Owners, businesses, and government entities may set rules prohibiting firearms on their property which may be enforced by trespass. A person who refuses to leave after being told to leave may be subject to removal and prosecution for trespass under Florida law. Deputies should treat such cases as a property-rights/trespass issue rather than a firearm law violation. Consistent with the AG opinion any person carrying a firearm who violates the private property owner's warning to depart will be committing armed trespass, a third-degree felony. See § 810.08(2)(c), Fla. Stat.
- D. Further, McDaniels only affects the enforcement of §790.053. Other statutory restrictions on the general possession of firearms remain fully effective and enforceable. For example:
1. Deputies should continue to enforce:§790.115, F.S., relating to firearms on school property and at school-sponsored events.
  2. Firearms are considered contraband in/on County Jail Property. §951.22, F.S.
  3. FL Courthouses. A Chief Judge has broad authority to adopt rules and procedures. §43.26 F.S. The Chief Judge of the Seventh Judicial Circuit in Administrative Order G-2022-008-SC, *Uniform Security Screening Procedures in Court Facilities*, **prohibits** the introduction<sup>1</sup> of:
    - a. Firearms
    - b. Ammunition
    - c. Explosives of any type
    - d. Taser or stun guns
    - e. Other weapons described in §790.001 F.S.
- E. While neither AG, nor the McDaniels case, specifically addresses the exceptions to carry detailed in §790.06(12)(a) F.S. It is reasonable to assert one cannot carry a firearm openly where and individual is prohibited from carrying one concealed. The exceptions in §790.06(12)(a) include:
1. Any place of nuisance as defined in s. 823.05;
  2. Any police, sheriff, or highway patrol station;
  3. Any detention facility, prison, or jail;
  4. Any courthouse;

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<sup>1</sup> Law enforcement possession of firearms and weapons is permitted and controlled by G-2022-012-SC.

5. Any courtroom, except that nothing in this section precludes a judge from carrying a concealed weapon or concealed firearm or determining who will carry a concealed weapon or concealed firearm in his or her courtroom;
  6. Any polling place;
  7. Any meeting of the governing body of a county, public school district, municipality, or special district;
  8. Any meeting of the Legislature or a committee thereof;
  9. Any school, college, or professional athletic event not related to firearms;
  10. Any elementary or secondary school facility or administration building;
  11. Any career center;
  12. Any portion of an establishment licensed to dispense alcoholic beverages for consumption on the premises, which portion of the establishment is primarily devoted to such purpose;
  13. Any college or university facility 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;
  14. The inside of the passenger terminal and sterile area of any airport, provided that no person shall be prohibited from carrying any legal firearm into the terminal, which firearm is encased for shipment for purposes of checking such firearm as baggage to be lawfully transported on any aircraft; or
  15. Any place where the carrying of firearms is prohibited by federal law.
- F. The type of weapon and/or firearm which is permitted as open carry has not been resolved by either the courts or legislature. Unless there is a specific statutory restriction it will not be a consideration in our application of the law.

Effective: September 10, 2025.

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**RICK STALY**  
Sheriff