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* *This analysis was prepared before the report of the Senate Judiciary on Criminal Justice Committee appeared in the Senate Journal. Note that the list of co-sponsors and the legislative history may be incomplete.*

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CONTENT AND OPERATION

Overview

The bill enacts a comprehensive mechanism that permits a person in specified circumstances to obtain a license to carry a concealed handgun and that establishes rules that govern the carrying of a concealed handgun, and makes other changes to the Firearms Laws.

Definition of "handgun"

Existing law

Currently, as used in the Weapons Control Law set forth in R.C. 2923.11 to 2923.24, "handgun" means any firearm designed to be fired while being held in one hand. Significant to this definition, "firearm" means any deadly weapon capable of expelling or propelling one or more projectiles by the action of an

explosive or combustible propellant, including an unloaded firearm and any firearm that is inoperable but that can readily be rendered operable. When determining whether a firearm is capable of expelling or propelling a projectile by the action of an explosive or combustible propellant, the trier of fact may rely on circumstantial evidence, including, but not limited to, the representations and actions of the individual exercising control over the firearm. (R.C. 2923.11(B) and (C).)

Operation of the bill

The bill modifies the definition of "handgun" that applies throughout the Weapons Control Law. Under the bill, "handgun" means any of the following: (1) any firearm that has a short stock and is designed to be held and fired by the use of a single hand, or (2) any combination of parts from which a firearm of a type described in clause (1) can be assembled. (R.C. 2923.11(C).)

Obtaining and renewing a license to carry a concealed handgun

Making the application

Under the bill, upon the request of a person who wishes to obtain a license to carry a concealed "handgun" or to renew a license of that nature, a sheriff must provide to the person free of charge an application form prescribed by the Ohio Peace Officer Training Commission (OPOTC) and a copy of the pamphlet prepared by the OPOTC, in consultation with the Attorney General (the AG), relating to Ohio's firearms laws, dispute resolution matters, and use of deadly force matters (see "***Duties of the Ohio Peace Officer Training Commission***," below). The bill requires OPOTC to prescribe and make available to sheriffs an application for such a license and to prepare and make available to sheriffs, and to persons or entities that operate or teach a firearms safety, training, or requalification or firearms safety instructor course, class, or program who make a request, the pamphlet. (R.C. 109.731(A)(1) and (B), 2923.125(A), and 2923.124(A)). The applicant must submit the completed application form and all of the following to the sheriff of the county in which the applicant resides or to the sheriff of any county adjacent to the county in which the applicant resides (R.C. 2923.125(B)):

(1) A nonrefundable license fee in the amount prescribed by the OPOTC in consultation with the AG (see "***Duties of the Ohio Peace Officer Training Commission***," below), except that the sheriff must waive the payment of the license fee in connection with an initial or renewal application for a license to carry a concealed handgun that is submitted by an applicant who is a retired peace officer, a retired staff officer, retired park officer, forest officer, preserve officer, wildlife officer, or state watercraft officer of the Department of Natural Resources (hereafter, "DNR officers"), or a retired federal law enforcement officer who, prior

to retirement, was authorized under federal law to carry a firearm in the course of duty, unless the retired peace officer, DNR officer, or federal law enforcement officer retired as the result of a mental disability;

(2) A color photograph of the applicant that was taken within 30 days prior to the date of the application;

(3) One or more of the following competency certifications, each of which must reflect that, regarding a certification described in (3)(a), (b), (c), (e), or (f), below, within the three years immediately preceding the application the applicant has performed that to which the competency certification relates or that, regarding a certification described in (3)(d), below, either the applicant is an active or reserve member of the armed forces of the United States or within the six years immediately preceding the application, the honorable discharge or retirement to which the certification relates occurred:

(a) An original or photocopy of a certificate of completion of a firearms safety, training, or requalification or firearms safety instructor course, class, or program that was offered by or under the auspices of the National Rifle Association and that complies with the requirements described below in "***Course requirements***";

(b) An original or photocopy of a certificate of completion of a firearms safety, training, or requalification or firearms safety instructor course, class, or program that satisfies all of the following: (i) it was open to members of the general public, (ii) it utilized qualified instructors who were certified by the National Rifle Association, the Executive Director of OPOTC, or a governmental official or entity of another state, (iii) it was offered by or under the auspices of a law enforcement agency of Ohio, another state, or the United States, a public or private college, university, or other similar postsecondary educational institution located in Ohio or another state, a firearms training school located in Ohio or another state, or another type of public or private entity or organization located in Ohio or another state, and (iv) it complies with the requirements described below in "***Course requirements***";

(c) An original or photocopy of a certificate of completion of a state, county, municipal, or Department of Natural Resources peace officer training school approved by the Executive Director of OPOTC and that complies with the requirements described below in "***Course requirements***," or the applicant has satisfactorily completed and been issued a certificate of completion of a basic firearms training program, a firearms requalification training program, or another basic training program described in R.C. 109.78 or 109.801 that complies with those requirements;

(d) A document that evidences both of the following: (i) that the applicant is an active or reserve member of the armed forces of the United States, was honorably discharged from military service in the active or reserve armed forces of the United States, or is a retired trooper of the State Highway Patrol, a retired peace officer, a retired DNR officer, or a retired federal law enforcement officer who, prior to retirement, was authorized under federal law to carry a firearm in the course of duty (provided that the retired peace officer, DNR officer, or federal law enforcement officer must not have retired as a result of a mental disability) and (ii) that, through participation in that military service or through that former employment, the applicant acquired experience with handling handguns or other firearms, and the experience so acquired was equivalent to training that the applicant could have acquired in a course, class, or program described above in paragraph (3)(a), (b), or (c);

(e) A certificate or another similar document that evidences satisfactory completion of a firearms training, safety, or requalification or firearms safety instructor course, class, or program that is not otherwise described above in paragraph (3)(a), (b), (c), or (d), that was conducted by an instructor who was certified by an official or entity of the government of Ohio, another state, or the United States or by the National Rifle Association, and that complies with the requirements described below in "***Course requirements***";

(f) An affidavit that attests to the applicant's satisfactory completion of a course, class, or program described above in paragraph (3)(a), (b), (c), or (e) and that is subscribed by the applicant's instructor or an authorized representative of the entity that offered the course, class, or program or under whose auspices the course, class, or program was offered.

(4) A certification by the applicant that the applicant has read the pamphlet prepared by the OPOTC, in consultation with the AG, that reviews firearms, dispute resolution, and use of deadly force matters (see "***Duties of the Ohio Peace Officer Training Commission***," below);

(5) A set of fingerprints of the applicants provided as described below in "***Criminal records check and incompetency records check***" through the use of an electronic fingerprint reading device or, if the sheriff to whom the application is submitted does not possess and does not have ready access to the use of such a reading device, on a standard fingerprint impression sheet prescribed by the AG pursuant to existing R.C. 109.572(C)(2), which is not in the bill.

Course requirements

Each course, class, or program described above in paragraphs (3)(a), (b), (c), or (e) must provide to each person who takes the course, class, or program a

copy of the pamphlet prepared by the OPOTC, in consultation with the AG, that reviews firearms, dispute resolution, and use of deadly force matters (see "***Duties of the Ohio Peace Officer Training Commission***," below). Each such course, class, or program must include at least 12 hours of training in the safe handling and use of a firearm that must include all of the following: (1) at least ten hours of training on the following matters: the ability to name, explain, and demonstrate the rules for safe handling of a handgun, and proper storage practices for handguns and ammunition; the ability to demonstrate and explain how to handle ammunition in a safe manner; the ability to demonstrate the knowledge, skills, and attitude necessary to shoot a handgun in a safe manner; and gun handling training, and (2) at least two hours of training that consists of range time and live-fire training.

To satisfactorily complete the course, class, or program, the applicant must pass a competency examination that must include both a written section and a physical demonstration section. The written section must be on the applicant's ability to name and explain the rules for the safe handling of a handgun and proper storage practices for handguns and ammunition. The physical demonstration section must be a physical demonstration of competence in the use of a handgun and in the rules for safe handling and storage of a handgun and a physical demonstration of the aptitude necessary to shoot a handgun in a safe manner.

The competency certification described above in paragraphs (3)(a), (b), (c), or (e) must be dated and attest that the course, class, or program the applicant successfully completed met the above requirements and that the applicant passed the above competency examination. (R.C. 2923.125(G).)

Criminal records check and incompetency records check

Generally. Upon receipt of an applicant's completed application form, supporting documentation, and, if not waived, license fee, a sheriff must conduct or cause to be conducted a criminal records check and an incompetency records check of the applicant in the following manner (R.C. 311.41(A) and 2923.125(C)):

(1) The sheriff must conduct the criminal records check and the incompetency records check of the applicant to determine whether the applicant fails to meet any of the bill's licensing eligibility criteria. The sheriff must conduct the criminal records check and the incompetency records check required by this division through use of an electronic fingerprint reading device or, if the sheriff does not possess and does not have ready access to the use of an electronic reading device, by requesting BCII to conduct the checks. In order to conduct the criminal records check and the incompetency records check, the sheriff must obtain the fingerprints of not more than four fingers of the applicant by using an electronic fingerprint reading device for the purpose of conducting the records checks or, if the sheriff does not possess and does not have ready access to the use of such a

reading device, must obtain from the applicant a completed standard fingerprint impression sheet prescribed by the AG pursuant to existing R.C. 109.572(C)(2), which is not in the bill. The fingerprints so obtained, along with the applicant's social security number, must be used to conduct the records checks. The sheriff cannot retain the applicant's fingerprints as part of the application. If the sheriff does not use an electronic fingerprint reading device to obtain the fingerprints and conduct the records checks, the sheriff must submit the completed standard fingerprint impression sheet of the applicant, along with the applicant's social security number, to the Superintendent of BCII and must request BCII to conduct the criminal records check and the incompetency records check of the applicant and, if necessary, must request the Superintendent to obtain information from the FBI as part of the criminal records check for the applicant. If it is not possible to use an electronic fingerprint reading device to conduct an incompetency records check, the sheriff must submit the completed standard fingerprint impression sheet of the applicant, along with the applicant's social security number, to the Superintendent and request BCII to conduct the incompetency records check.

(2) If at any time the applicant decides not to continue with the application process, except as described in the next sentence, the sheriff immediately must cease any investigation that is being conducted as described in paragraph (1), above. However, the sheriff must not cease that investigation if, at the time of the applicant's decision not to continue with the application process, the sheriff had determined from any of the sheriff's investigations that the applicant then was engaged in activity of a criminal nature.

Destruction of records. If the criminal records check and the incompetency records check conducted by the sheriff do not indicate that the applicant fails to meet the bill's licensing eligibility criteria, except as otherwise described in this paragraph, the sheriff must destroy or cause a designated employee to destroy all records other than the application that were made in connection with the criminal records check within 20 days after conducting the criminal records check and the incompetency records check. If an applicant appeals a denial of an application under the bill's appeal provisions, as described below, or challenges the results of a criminal records check under the bill's provisions, as described below in "***Challenge of the results of a criminal records check***," records of fingerprints of the applicant cannot be destroyed during the pendency of the appeal or the challenge and review. When an applicant appeals a denial under the bill, the 20-day period described in this paragraph commences regarding the fingerprints upon the determination of the appeal. When required as a result of a challenge and review or the results of a criminal records check, the source the sheriff used in conducting the criminal records check must destroy or the chief operating officer of the source must cause an employee of the source to destroy all records other than the application that were made in connection with

the criminal records check within 20 days after completion of that challenge and review. (R.C. 311.41(B).)

With respect to a particular criminal records check or incompetency records check to which the preceding paragraph applies, the bill prohibits a sheriff, the employee of a sheriff designated by the sheriff to destroy records, the source the sheriff used in conducting the criminal records check, or the employee designated by the chief operating officer of the source to destroy records from failing to destroy or cause to be destroyed within the applicable 20-day period all records other than the application for the issuance or renewal of a license to carry a concealed handgun made in connection with the particular criminal records check or incompetency records check. A person who violates this prohibition is guilty of "failure to destroy records," a misdemeanor of the second degree. (R.C. 311.41(C) and (D).)

License renewals. A sheriff also must conduct a criminal records check and an incompetency records check in accordance with these provisions upon receipt of an application to renew a license, a new color photograph, a new competency certification and pamphlet-reading certification, and, if not waived, a license renewal fee, as described below in "***License renewal***" (R.C. 311.41 and 2923.125(F)).

When license must be issued

Except as specified below in "***Suspension of the application process***," "***Postponement of issuance of license***," and "***Denial of application***," within 45 days after receipt of an applicant's completed application form, the supporting documentation, and, if not waived, a license fee, a sheriff must issue to the applicant a license to carry a concealed handgun that expires four years after the date of issuance if all of the following apply (R.C. 2923.125(D)(1)):

(1) The applicant has been a resident of Ohio for at least 45 days and a resident of the county in which the person seeks the license or a county adjacent to the county in which the person seeks the license for at least 30 days.

(2) The applicant is at least 21 years of age.

(3) The applicant is not a fugitive from justice.

(4) The applicant is not under indictment for or otherwise charged with a felony; an offense under the Drug Offense Law, Controlled Substances Law, or Pharmacists/Dangerous Drugs Law that involves the illegal possession, use, sale, administration, or distribution of or trafficking in a drug of abuse; a misdemeanor offense of violence; or the offense of negligent assault, the new offense of

falsification of a concealed handgun license, or the new offense of possessing a revoked or suspended concealed handgun license (see "***Offenses with respect to licenses***," below).[1]

(5) The applicant has not been convicted of or pleaded guilty to a felony or an offense under the Drug Offense Law, Controlled Substances Law, or Pharmacists/Dangerous Drugs Law that involves the illegal possession, use, sale, administration, or distribution of or trafficking in a drug of abuse; has not been adjudicated a delinquent child for committing an act that if committed by an adult would be a felony or an offense of a type described in the preceding clause; and has not been convicted of, pleaded guilty to, or adjudicated a delinquent child for committing the offense of assault when the victim of the assault is a peace officer,

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[1] *"Offense of violence," as defined in existing law (R.C. 2901.01(A)(9)--not in the bill), means any of the following offenses:*

(a) Aggravated murder, murder, voluntary manslaughter, involuntary manslaughter, felonious assault, aggravated assault, assault (a misdemeanor unless certain conditions are met), permitting child abuse, aggravated menacing (misdemeanor), menacing by stalking (a misdemeanor unless the offender previously was convicted of menacing by stalking the same victim or one of eight other conditions apply), menacing (misdemeanor), kidnapping, abduction, extortion, rape, sexual battery, gross sexual imposition, aggravated arson, arson (a misdemeanor under certain circumstances), aggravated robbery, robbery, aggravated burglary, burglary under certain circumstances, inciting to violence, aggravated riot, riot (misdemeanor), inducing panic (a misdemeanor except when the violation results in physical harm to a person or any one of several other conditions apply), domestic violence (a misdemeanor unless the offender previously was convicted of domestic violence or certain assault or stalking offenses involving a household member), intimidation, intimidation of crime victim or witness (a misdemeanor under certain circumstances), escape (a misdemeanor under certain circumstances), and improperly discharging a firearm at or into a habitation or in a school safety zone, endangering children under certain circumstances (a misdemeanor under certain circumstances), and the former offense of felonious sexual penetration;

(b) A violation of an existing or former municipal ordinance or law of Ohio, any other state, or the United States, substantially equivalent to any offense listed in (a);

(c) An offense, other than a traffic offense, under an existing or former municipal ordinance or law of Ohio, any other state, or the United States, committed purposely or knowingly, and involving physical harm to persons or a risk of serious physical harm to persons;

(d) A conspiracy or attempt to commit, or complicity in committing, any offense described in (a), (b), or (c).

regardless of whether the applicant was sentenced under the special sentencing provisions relating to assaults upon peace officers.

(6) The applicant, within three years of the date of the application, has not been convicted of or pleaded guilty to a misdemeanor offense of violence (other than the offense of resisting arrest when it is a misdemeanor or the offense of assault when the victim of the violation is a peace officer), or the new misdemeanor offense of possessing a revoked or suspended concealed handgun license (see "***Offenses with respect to licenses--Possessing a revoked or suspended concealed handgun license***," below); and has not been adjudicated a delinquent child for committing an act that if committed by an adult would be such a misdemeanor offense of violence or that is the new misdemeanor offense of possessing a revoked or suspended concealed handgun license.

(7) Except as otherwise provided in paragraph (5), above, the applicant, within five years of the date of the application, has not been convicted of, pleaded guilty to, or been adjudicated a delinquent child for committing two or more offenses of assault or negligent assault.

(8) The applicant, within ten years of the date of the application, has not been convicted of, pleaded guilty to, or been adjudicated a delinquent child for the offense of resisting arrest.

(9) The applicant has not been adjudicated as a mental defective and has not been committed to any mental institution, is not under adjudication of mental incompetence, has not been found by a court to be a mentally ill person subject to hospitalization by court order, and is not an involuntary patient other than one who is a patient only for purposes of observation.

(10) The applicant is not currently subject to a civil protection order, a temporary protection order, or a protection order issued by a court of another state (see **COMMENT** 1).

(11) The applicant certifies that the applicant desires a legal means to carry a concealed handgun for defense of the applicant or a member of the applicant's family while engaged in lawful activity.

(12) The applicant submits a competency certification of the type described above under paragraph (3) of "***Making the application***," and submits a certification of the type described above in paragraph (4) under that part regarding the applicant's reading of the pamphlet prepared by the OPOTC that reviews firearms, dispute resolution, and use of deadly force matters.

Suspension of the application process

If the sheriff with whom an application for a license to carry a concealed handgun was filed becomes aware that the applicant has been arrested for or otherwise charged with an offense that would disqualify the applicant from holding the license, the sheriff must suspend the processing of the application until the disposition of the case arising from the arrest or charge (R.C. 2923.125(D)(3)).

Postponement of issuance of license

If the sheriff determines that the applicant is a resident of the county in which the applicant seeks the license or of an adjacent county but does not yet meet the residency requirements for the issuance of a license, the sheriff must not deny the license because of the residency requirements but cannot issue the license until the applicant meets those requirements (R.C. 2923.125(D)(4)).

Identifying letters and numbers to be placed on an issued license

If the sheriff with whom an application for a license to carry a concealed handgun has been filed issues the license, the sheriff must place on the license a unique combination of letters and numbers identifying the license in accordance with the procedure prescribed by OPOTC under the bill, as described below in "***Duties of the Ohio Peace Officer Training Commission***" (R.C. 2923.125(D)(2)(a)).

Denial of application

General appeal of denial. If a sheriff denies an application because the applicant does not satisfy the criteria described above in "***When license must be issued***," the sheriff must specify the grounds for the denial in a written notice to the applicant. The applicant may appeal the denial pursuant to the Administrative Procedure Act appeal provisions set forth in existing R.C. 119.12 (not in the bill). If the denial was a result of the criminal records check conducted under the bill and if, pursuant to the bill's provisions described below in "***Challenge of the results of a criminal records check***," the applicant challenges the criminal records check results using the appropriate challenge and review procedure, the time for filing the appeal pursuant to R.C. 119.12 is tolled during the pendency of the request or complaint challenge and review. If the court enters a judgment sustaining the sheriff's refusal to grant the applicant a license to carry a concealed handgun, the applicant may file a new application beginning one year after the judgment is entered. If the court enters a judgment in favor of the applicant, the judgment does not restrict the authority of a sheriff to suspend or revoke the license pursuant to the bill's suspension or revocation provisions, as described below, or to refuse to renew the license for any proper cause that may occur after

the date the judgment is entered. In the appeal, the court has full powers to dispose of all costs. (R.C. 2923.125(D)(2)(b)).

Challenge of the results of a criminal records check. If a sheriff denies an application for a license to carry a concealed handgun as a result of the criminal records check conducted under the bill's provisions and if the applicant believes the denial was based on incorrect information reported by the source the sheriff used in conducting the criminal records check, the applicant may challenge the criminal records check results using whichever of the following is applicable: (1) if BCII performed the criminal records check, by using BCII's existing challenge and review procedures, or (2) otherwise, by using the sheriff's existing challenge and review procedures or, if the sheriff does not have a challenge and review procedure, using the challenge and review procedure prescribed by BCII under the bill. On this matter, the bill requires BCII to prescribe a challenge and review procedure for applicants to use to challenge criminal records checks in counties in which the sheriff with whom the application was filed does not have an existing challenge and review procedure. (R.C. 2923.127.)

License renewals. These provisions also apply regarding a denial of the renewal of a license to carry a concealed handgun as a result of the criminal records check (R.C. 2923.127); see "***License renewal***," below).

Replacement of lost or destroyed license

If a license to carry a concealed handgun issued under the bill is lost or is destroyed, the "licensee" (defined for purposes of the bill as a person to whom a license to carry a concealed handgun has been issued under the bill--R.C. 2923.124(D)) may obtain from the sheriff who issued that license a duplicate license upon the payment of $15 and the submission of an affidavit attesting to the loss or destruction of the license. The sheriff, in accordance with the procedures that apply regarding the issuance of an original license as described above in "***Identifying letters and numbers to be placed on an issued license***," must place on the replacement license a combination of identifying numbers different from the combination on the license that is being replaced. (R.C. 2923.125(E).)

License renewal

A licensee who wishes to renew a license to carry a concealed handgun must do so within 30 days after the expiration date of the license (which is four years after the date of issuance) by filing with the sheriff of the county in which the applicant resides or with the sheriff of an adjacent county an application for renewal of the license (obtained from the sheriff), a new color photograph of the licensee that was taken within 30 days prior to the date of the renewal application, a certification by the applicant that, subsequent to the issuance of the license, the

applicant has reread the pamphlet prepared by the OPOTC that reviews firearms, dispute resolution, and use of deadly force matters (see "***Duties of the Ohio Peace Officer Training Commission***," below), a new set of fingerprints provided in accordance with the bill's provisions regarding initial applications for a license to carry a concealed handgun, and a nonrefundable license renewal fee in the amount prescribed by the OPOTC unless the fee is waived. The licensee also must submit a new competency certification of the type described above regarding initial applications that is not older than six years or a renewed competency certification of the type described below in "***Renewed competency certifications***" that is not older than six years.

Upon receipt of a completed renewal application, color photograph, certification of rereading of the pamphlet, a new set of fingerprints, and competency certification or renewed competency certification and license renewal fee unless the fee is waived, a sheriff must conduct or cause to be conducted a criminal records check as described in "***Criminal records check and incompetency records check***," above. The sheriff must renew the license if the sheriff determines that the applicant continues to satisfy the licensing eligibility requirements, except that the applicant is required to submit a renewed competency certification only in the circumstances described below in "***Renewed competency certifications***." A renewed license is valid for four years from the date of issuance and is subject to the provisions described in "***Replacement of lost or destroyed license***," above, and "***Privileges and duties of a licensee***," below, and to the suspension and revocation provisions. When the circumstances described in "***Denial of application***," "***Suspension of the application process***," and "***Postponement of issuance of license***," above, apply to a requested license renewal, the sheriff must comply with the requirements specified in those circumstances. (R.C. 2923.125(F).)

Renewed competency certifications

A person who has received a competency certification as required regarding initial applications for a license to carry a concealed handgun, or who previously has received a renewed competency certification as described in this paragraph, may obtain a renewed competency certification as described in this paragraph. If a person has received a competency certification within the preceding six years, or previously has received a renewed competency certification as described in this paragraph within the preceding six years, the person may obtain a renewed competency certification from an entity that offers a course, class, or program described in paragraph (3)(a), (b), (c), or (e) under the provisions relating to the making of an initial application for a license to carry a concealed handgun (see "***Making the application***," above) by passing a competency examination of the type described under those provisions relating to the making of an initial

application. In these circumstances, the person is not required to attend the course, class, or program in order to be eligible to take the competency examination for the renewed competency certification. If more than six years has elapsed since the person last received a competency certification or a renewed competency certification, in order for the person to obtain a renewed competency certification, the person must both satisfactorily complete a course, class, or program described in paragraph (3)(a), (b), (c), or (e) under the provisions relating to the making of an initial application for a license to carry a concealed handgun (see "***Making the application***," above) and pass a competency examination of the type described under those provisions relating to the making of an initial application. A renewed competency certification issued under this provision must be dated and attest that the applicant passed the competency examination and, if applicable, that the person successfully completed a course, class, or program that met the requirements specified by the bill for such courses, classes, or programs relating to the making of an initial application for a license. (R.C. 2923.125(G)(4).)

License issuance, replacement, or renewal--sheriff must make information available through LEADS; use of the information

Upon issuing a license, issuing a replacement license, or renewing a license to carry a concealed handgun under the bill, the sheriff must make available through LEADS all information contained on the license (see "***Application and license forms***" under "***Duties of the Ohio Peace Officer Training Commission***," below, for a description of the required content of a license). If the license subsequently is suspended or revoked under the bill's provisions described below in "***Suspension and revocation of license***" or it is lost or destroyed, the sheriff also must make available through LEADS a notation of that fact. The bill requires the Superintendent of the State Highway Patrol to ensure that LEADS is so configured as to permit the transmission through it of the information specified in this paragraph.

Law enforcement agencies may use the information a sheriff makes available through the use of LEADS pursuant to the provisions described in the preceding paragraph for law enforcement purposes only. The information is confidential and is not a public record. The bill prohibits any person from releasing or otherwise disseminating this information obtained through LEADS in a manner not described in this paragraph unless a court order requires the person to do so. A person who violates this prohibition is guilty of illegal release of confidential handgun license records, a felony of the fifth degree. In addition to any penalties imposed for the violation under the Criminal Sentencing Law, if the offender is a sheriff, an employee of a sheriff, or any other public officer or employee, and if the violation was willful and deliberate, the offender must be suspended and is subject to a civil fine of $1,000. Any person who is harmed by

the violation has a private cause of action against the offender for any injury, death, or loss to person or property that is a proximate result of the violation and may recover court costs and attorney's fees related to the action. (R.C. 2923.125(H) and 2923.129(D) and (E).)

Privileges and duties of a licensee

Generally

A license to carry a concealed handgun issued under the bill expires four years from the date of issuance. A licensee must be granted a 30-day grace period after the license expires during which the license remains valid. Except in the places and circumstances specified below in "***Places and circumstances not covered by license***," the licensee may carry a concealed handgun anywhere in Ohio if the licensee also carries a valid license and valid identification when the licensee is in actual possession of a concealed handgun. The licensee must give notice of any change in the licensee's residence address to the sheriff who issued the license within 45 days after that change. If a law enforcement officer approaches a vehicle that has been stopped as the result of a traffic stop or a stop for another law enforcement purpose, if a licensee is the driver or an occupant of that vehicle, and if the licensee possesses or has a loaded handgun at the time the officer approaches the vehicle, the licensee must promptly inform the officer that the licensee has been issued a license to carry a concealed handgun and that the licensee currently possesses or has a loaded handgun. If a law enforcement officer otherwise approaches a person who has been stopped for a law enforcement purpose, if the person is a licensee, and if the licensee is carrying a concealed handgun at the time the officer approaches, the licensee must promptly inform the officer that the licensee has been issued a license to carry a concealed handgun and that the licensee currently is carrying a concealed handgun. (R.C. 2923.126(A).)

Places and circumstances not covered by license

A valid license to carry a concealed handgun does not authorize the licensee to carry a concealed handgun in any manner prohibited under the portion of the offense of "carrying concealed weapons" that applies regarding the carrying of handguns by a licensee (see "***Carrying a concealed weapon***," below), in any manner prohibited under the portion of the offense of "improper handling of firearms in a motor vehicle" (see "***Improperly handling firearms in a motor vehicle***," below), or into any of the following places[2] (R.C. 2923.126(B)):

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[2] *"Valid license" means a license to carry a concealed handgun that has been issued under the bill's provisions, that is currently valid, that is not under suspension, and that has not been revoked (R.C. 2923.124(H)).*

(1) A police station, sheriff's office, or state highway patrol station, premises controlled by BCII, a "state correctional institution," jail, workhouse, or other "detention facility," an airport passenger terminal, or a state institution for the care, treatment, and training of mentally ill or mentally retarded persons (as used in this provision, "state correctional institution" includes any institution or facility operated by the Department of Rehabilitation and Correction that is used for the custody, care, or treatment of criminal, delinquent, or psychologically or psychiatrically disturbed offenders, and "detention facility" means any public or private place used for the confinement of a person charged with or convicted of any crime in Ohio or another state or under the laws of the United States or alleged or found to be a delinquent child or unruly child in Ohio or another state or under the laws of the United States--R.C. 2923.124, by reference to existing R.C. 2921.01 and 2967.01, not in the bill);

(2) A "school safety zone," in violation of the prohibition against illegal conveyance or possession of a deadly weapon or dangerous ordnance in a school safety zone, as described below in "***Illegal conveyance or possession of a deadly weapon or dangerous ordnance in a school safety zone***";

(3) A courthouse or another building or structure in which a courtroom is located, in violation of the prohibition against illegal conveyance of a deadly weapon or dangerous ordnance into a courthouse or illegal possession or control of a deadly weapon or dangerous ordnance in a courthouse, as described below in "***Illegal conveyance of a deadly weapon or dangerous ordnance into a courthouse***";

(4) Any room or open air arena in which liquor is being dispensed in premises for which a D permit has been issued under the Liquor Permit Law, in violation of the prohibition against illegal possession of a firearm in liquor permit premises, as described below in "***Illegal possession of a firearm in liquor permit premises***";

(5) Any premises owned or leased by any public or private college, university, or other institution of higher education, unless the handgun is in a locked motor vehicle or the licensee is in the immediate process of placing the handgun in a locked motor vehicle;

(6) Any church, synagogue, mosque, or other place of worship, unless the church, synagogue, mosque, or other place of worship posts or permits otherwise;

(7) A child day-care center, a type A family day-care home, a type B family day-care home, or a type C family day-care home, except that this restriction does not prohibit a licensee who resides in a type A family day-care home, a type B family day-care home, or a type C family day-care home from

carrying a concealed handgun at any time in any part of the home that is not dedicated or used for day-care purposes, or from carrying a concealed handgun in a part of the home that is dedicated or used for day-care purposes at any time during which no children, other than children of that licensee, are in the home (as used in this provision: (a) "child day-care center" means any place in which child day-care or publicly funded child day-care is provided for 13 or more children at one time or any place that is not the permanent residence of the licensee or administrator in which child day-care or publicly funded child day-care is provided for seven to 12 children at one time, provided that the term does not include a place located in and operated by a hospital in specified circumstances, a child day camp, a place that provides child day-care, but not publicly funded child day-care, in specified circumstances, (b) "type A family day-care home" means a permanent residence of the administrator in which child day-care or publicly funded child day-care is provided for seven to 12 children at one time or a permanent residence of the administrator in which child day-care is provided for four to 12 children at one time if four or more children at one time are under two years of age, provided that the term does not include a residence in which the needs of children are administered to, if all of the children whose needs are being administered to are siblings of the same immediate family and the residence is the home of the siblings, and does not include a child day camp, (c) "type B family day-care home" means a permanent residence of the provider in which child day-care is provided for one to six children at one time and in which no more than three children are under two years of age at one time, provided that the term does not include a residence in which the needs of children are administered to, if all of the children whose needs are being administered to are siblings of the same immediate family and the residence is the home of the siblings and does not include a child day camp, and (d) "type C family day-care home" means a family day-care home authorized to provide child day-care by Sub. H.B. 62 of the 121st General Assembly, as amended by Am. Sub. S.B. 160 of the 121st General Assembly and Sub. H.B. 407 of the 123rd General Assembly--R.C. 2923.124(L), by reference to existing R.C. 5104.01, not in the bill, and R.C. 2923.124(M)).

(8) An aircraft that is in, or intended for operation in, foreign air transportation, interstate air transportation, intrastate air transportation, or the transportation of mail by aircraft (as used in this provision: (a) "foreign air transportation" means the transportation of passengers or property by aircraft as a common carrier for compensation, or the transportation of mail by aircraft, between a place in the United States and a place outside of the United States when any part of the transportation is by aircraft, (b) "interstate air transportation" means the transportation of passengers or property by aircraft as a common carrier for compensation, or the transportation of mail by aircraft, between a place in a state, territory, or possession of the United States and a place in the District of Columbia or another state, territory, or possession of the United States, Hawaii and another

place in Hawaii through the airspace over a place outside Hawaii, the District of Columbia and another place in the District, or a territory or possession of the United States and another place in the same territory or possession, and when any part of the transportation is by aircraft, and (c) "intrastate air transportation" means the transportation by a common carrier of passengers or property for compensation, entirely in the same state, by turbojet-powered aircraft capable of carrying at least 30 passengers--R.C. 2923.124, by reference to 49 U.S.C. 40102, as now or hereafter amended, not in the bill).

(9) Any building that is owned by Ohio or any political subdivision of Ohio, and all portions of any building that is not owned by any such governmental entity but that is leased by such a governmental entity.

(10) A place in which federal law prohibits the carrying of handguns.

The bill provides that nothing in the bill negates or restricts a rule, policy, or practice of a *private employer* (*that is not* a private college, university, or other institution of higher education) concerning or prohibiting the presence of firearms on the private employer's premises or property, including motor vehicles owned by the private employer. Nothing in the bill requires a private employer of that nature to adopt a rule, policy, or practice concerning or prohibiting the presence of firearms on the private employer's premises or property, including motor vehicles owned by the private employer. (R.C. 2923.126(C)(1).)

A *private employer* (*including* a private college, university, or other institution of higher education) is immune from liability in a civil action for any injury, death, or loss to person or property that allegedly was caused by or related to a licensee bringing a handgun onto the premises or property of the private employer, including motor vehicles owned by the private employer, unless the private employer acted with malicious purpose. A private employer of that type is immune from liability in a civil action for any injury, death, or loss to person or property that allegedly was caused by or related to the private employer's decision to permit a licensee to bring, or prohibit a licensee from bringing, a handgun onto the premises or property of the private employer. (R.C. 2923.126(C)(2)(a).)

A *political subdivision* is immune from liability in a civil action, to the extent and in the manner provided in the existing Political Subdivision Sovereign Immunity Law (R.C. Chapter 2744.--not in the bill), for any injury, death, or loss to person or property that allegedly was caused by or related to a licensee brining a handgun onto any premises owned, leased, or otherwise under the control of the political subdivision. As used in this provision, "political subdivision" means a municipal corporation, township, county, school district, or other body corporate and politic responsible for governmental activities in a geographic area smaller than that of the state, including, but not limited to, a county hospital commission

appointed under R.C. 339.14, regional planning commission created pursuant to R.C. 713.21, county planning commission created pursuant to R.C. 713.22, joint planning council created pursuant to R.C. 713.231, interstate regional planning commission created pursuant to R.C. 713.30, port authority created pursuant to R.C. 4582.02 or 4582.26 or in existence on December 16, 1964, regional council established by political subdivisions pursuant to R.C. Chapter 167., emergency planning district and joint emergency planning district designated under R.C. 3750.03, joint emergency medical services district created pursuant to R.C. 307.052, fire and ambulance district created pursuant to R.C. 505.375, joint interstate emergency planning district established by an agreement entered into under that section, county solid waste management district and joint solid waste management district established under R.C. 343.01 or 343.012, and community school established under R.C. Chapter 3314. (R.C. 2923.126(C)(2)(b), by reference to existing R.C. 2744.01--not in the bill).

The owner or person in control of private land or premises, and a private person or entity leasing land or premises owned by the state, the United States, or a political subdivision of the state or the United States, may post a sign in a conspicuous location on that land or on those premises prohibiting persons from carrying firearms or concealed firearms on or onto that land or those premises. A person who knowingly violates a posted prohibition of that nature is guilty of the offense of criminal trespass and is guilty of a misdemeanor of the fourth degree. (See "***Miscellaneous offenses with respect to licenses--Criminal trespass***," below.) (R.C. 2911.21(A) and (D) and 2923.126(C)(3).)

License issued by another state

The bill provides that a person who holds a license to carry a concealed handgun that was issued pursuant to the law of another state that is recognized by the AG pursuant to a reciprocity agreement entered into by the AG under the bill (see "***Duties of the Attorney General and the Bureau of Criminal Identification and Investigation***," below) has the same right to carry a concealed handgun in Ohio as a person who was issued a license to carry a concealed handgun under the bill and is subject to the same restrictions that apply to a person who carries a license issued under the bill (R.C. 2923.126(D)).

Peace officer--right to carry concealed handgun and considered to be licensee

The bill specifies that a peace officer has the same right to carry a concealed handgun in Ohio as a person who was issued a license to carry a concealed handgun under the bill. For purposes of reciprocity with other states, a peace officer is to be considered a licensee in Ohio. (R.C. 2923.126(D).)

Suspension and revocation of license

Suspension of a license

If a licensee holding a valid license is arrested for or otherwise charged with an offense of a type described in paragraph (4) of "***When license must be issued***," above, or the offense of using weapons while intoxicated, or becomes subject to a temporary protection order or a protection order issued by a court of another state that is substantially equivalent to a temporary protection order (see **COMMENT** 1), the sheriff who issued the license must suspend it and comply with the provisions described in the following paragraph upon becoming aware of the arrest, charge, or temporary protection order.

Upon becoming aware of an arrest, charge, or temporary protection order as described in the preceding paragraph, the sheriff who issued the license must notify the licensee, by certified mail, return receipt requested, at the licensee's last known residence address that the license has been suspended and that the licensee must surrender the license at the sheriff's office within ten days of the date on which the notice was mailed.

A suspension under these provisions is to be considered as beginning on the date that the licensee is arrested for or otherwise charged with one of the specified offenses or on the date the appropriate court issued the specified protection order, irrespective of when the sheriff notifies the licensee of the suspension. The suspension ends on the date on which the charges are dismissed or the licensee is found not guilty of the offense or, subject to the provisions requiring the revocation of the license as described below, on the date the appropriate court terminates the protection order. If the suspension so ends, the sheriff must return the license to the licensee. (R.C. 2923.128(A).)

Revocation of a license

A sheriff who issues a license to carry a concealed handgun must revoke the license under the procedures described below upon becoming aware that the licensee satisfies any of the following (R.C. 2923.128(B)(1)):

(1) The licensee is under 21 years of age.

(2) At the time of the issuance of the license, the licensee did not satisfy the eligibility requirements described in paragraph (3), (4), (5), (6), (7), or (8) in "***When license must be issued***," above.

(3) On or after the date on which the license was issued, the licensee is convicted of or pleads guilty to the offense of using weapons while intoxicated or

an offense described in paragraph (5), (6), (7), or (8) in "***When license must be issued***," above.

(4) On or after the date on which the license was issued, the licensee becomes subject to a civil protection order or to a protection order issued by a court of another state that is substantially equivalent to a civil protection order (see **COMMENT** 1).

(5) The licensee knowingly carries a concealed handgun into a place that the licensee knows is an unauthorized place specified above in "***Places and circumstances not covered by license***" under "***Privileges and duties of a licensee***."

(6) On or after the date on which the license was issued, the licensee is adjudicated as a mental defective or is committed to a mental institution.

(7) At the time of the issuance of the license, the licensee did not meet the residency requirements for the issuance of a license to carry a concealed handgun and currently does not meet those residency requirements.

(8) The competency certificate the licensee submitted was forged or otherwise was fraudulent.

Upon becoming aware of any of the eight circumstances listed above that applies to a particular licensee, the sheriff who issued the license must notify the licensee, by certified mail, return receipt requested, at the licensee's last known residence address that the license is subject to revocation and that the licensee may come to the sheriff's office and contest the sheriff's proposed revocation within 14 days of the date on which the notice was mailed. After the 14-day period and after consideration of any information that the licensee provides during that period, if the sheriff determines on the basis of the information of which the sheriff is aware that any of the above eight circumstances apply to the licensee and that the licensee no longer meets the requirements for holding a license to carry a concealed handgun, the sheriff must revoke the license, notify the licensee of that fact, and require the licensee to surrender the license. (R.C. 2923.128(B)(2).)

Possessing a revoked or suspended concealed handgun license

The bill prohibits a person, except in the performance of official duties, from possessing a concealed handgun license that was issued and that has been revoked or suspended pursuant to the bill's provisions. A person who violates this prohibition is guilty of possessing a revoked or suspended concealed handgun license, a misdemeanor of the third degree. (R.C. 2923.1211(B) and (C).)

Civil immunity

If a sheriff, the Superintendent or the employees of BCII, or the OPOTC or its employees make a good faith effort in performing the duties imposed upon them by the bill, in addition to the personal immunity of state and political subdivision officers and employees and the immunity for political subdivisions provided by existing R.C. 9.86 and the Political Subdivision Sovereign Immunity Law and in addition to any other immunity possessed by BCII, OPOTC, and their employees, the sheriff, the sheriff's office, the county in which the sheriff has jurisdiction, BCII, the Superintendent and employees of BCII, OPOTC, and the employees of OPOTC are immune from liability in a civil action for injury, death, or loss to person or property that allegedly was caused by or related to any of the following: (1) the issuance, renewal, suspension, or revocation of a license to carry a concealed handgun, (2) the failure to issue, renew, suspend, or revoke a license, or (3) any action or misconduct with a handgun committed by a licensee. The bill further provides that any action of a sheriff relating to the issuance, renewal, suspension, or revocation of a license to carry a concealed handgun is to be considered a governmental function for purposes of the Political Subdivision Sovereign Immunity Law. (R.C. 2923.129(A)(1) and (2).)

An entity that or instructor who provides a competency certification under the bill is immune from civil liability that might otherwise be incurred or imposed for any death or any injury or loss to person or property that is caused by or related to a person to whom the entity or instructor has issued the competency certificate if all of the following apply (R.C. 2923.129(A)(3)): (1) the alleged liability of the entity or instructor relates to the training provided in the course, class, or program covered by the competency certificate, (2) the entity or instructor makes a good faith effort in determining whether the person has satisfactorily completed the course, class, or program and makes a good faith effort in assessing the person in the competency examination conducted under the course, class, or program, and (3) the entity or instructor did not issue the competency certificate with malicious purpose, in bad faith, or in a wanton or reckless manner.

An entity that or instructor who provides a renewed competency certification under the bill is immune from civil liability that might otherwise be incurred or imposed for any death or any injury or loss to person or property that is caused by or related to a person to whom the entity or instructor has issued the renewed competency certificate if all of the following apply (R.C. 2923.129(A)(4)): (1) the entity or instructor makes a good faith effort in assessing the person in the competency examination conducted regarding the renewed certification, and (2) the entity or instructor did not issue the renewed competency certificate with malicious purpose, in bad faith, or in a wanton or reckless manner.

Under the bill, a law enforcement agency that employs a peace officer is immune from liability in a civil action to recover damages for injury, death, or loss to person or property allegedly caused by any act of that peace officer if the act occurred while the peace officer carried a concealed handgun and was off duty and if the act allegedly involved the peace officer's use of the concealed handgun. Existing R.C. 9.86 and 9.87 (which are not in the bill, and provide for the qualified civil immunity of state governmental officers and employees and the circumstances under which it indemnifies such officers and employees) and the existing Political Subdivision Sovereign Immunity Law (R.C. Chapter 2744.--not in the bill) apply to any civil action involving a peace officer's use of a concealed handgun in the performance of the peace officer's official duties while the peace officer is off duty. (R.C. 2923.129(A)(4).)

Miscellaneous provisions relating to sheriff; related offenses

Sheriff's licensure records are not public records; offense

The records that a sheriff keeps relative to the issuance, renewal, suspension, or revocation of a license to carry a concealed handgun, including, but not limited to, completed applications for the issuance or renewal of a license, reports of criminal records checks and incompetency checks, and applicants' Social Security numbers and fingerprints, are confidential and are not public records, notwithstanding the existing Public Records Law. The bill prohibits any person from releasing or otherwise disseminating records that are confidential as described in this paragraph unless required to do so pursuant to a court order. A person who violates this prohibition is guilty of the offense of illegal release of confidential concealed handgun license records, a felony of the fifth degree. In addition to any penalties imposed for the violation under the Criminal Sentencing Law, if the offense is a sheriff, an employee of a sheriff, or any other public officer or employee, and if the violation was willful and deliberate, the offender is subject to a civil fine of $1,000. Any person who is harmed by the violation has a private cause of action against the offender for any injury, death, or loss to person or property that is a proximate result of the violation and may recover court costs and attorney's fees related to the action. (R.C. 2923.129(B) and (E).)

Reports to Ohio Peace Officer Training Commission

Under the bill, each sheriff must report to the OPOTC the number of licenses to carry a concealed handgun that the sheriff issued, renewed, suspended, revoked, or denied during the previous quarter of the calendar year and the number of applications for those licenses for which processing was suspended as provided in the bill during the previous quarter of the calendar year. The sheriff must not include in the report the applicant's or licensee's name or other identifying information. The sheriff must report that information in a manner that permits

OPOTC to maintain the statistics and to timely prepare the statistical report described below in "***Duties of the Ohio Peace Officer Training Commission***." This information is a public record kept by the AG for purposes of the existing Public Records Law. (R.C. 2923.129(C).)

Sheriff's concealed handgun license issuance expense fund

The bill requires each county to establish in the county treasury a sheriff's concealed handgun license issuance expense fund, and requires the sheriff of that county to deposit into that fund all fees paid by applicants for the issuance or renewal of a license or a duplicate license to carry a concealed handgun. The county must distribute the fees deposited into the fund in accordance with the specifications prescribed by the OPOTC as described below in "***Duties of the Ohio Peace Officer Training Commission***."

The sheriff, with the approval of the board of county commissioners, may expend any county portion of the fees deposited into the sheriff's concealed handgun license issuance expense fund for any costs incurred by the sheriff in connection with performing any administrative functions related to the issuance of concealed handgun licenses, including, but not limited to, personnel expenses and the costs of any handgun safety education program that the sheriff chooses to fund (R.C. 311.42).

Miscellaneous offenses with respect to licenses

Falsification of a concealed handgun license

The bill prohibits a person from altering a license to carry a concealed handgun that was issued pursuant to its provisions and prohibits a person from creating a fictitious document that purports to be a license of that nature. A person who violates either prohibition is guilty of the offense of falsification of a concealed handgun license, a felony of the fifth degree. (R.C. 2923.1211(A) and (C).)

Falsification to obtain a concealed handgun license

Existing law--prohibitions and penalties. Existing law prohibits a person from knowingly making a false statement, or knowingly swearing or affirming the truth of a false statement previously made, in certain circumstances or in relation to certain types of documents, particularly official documents. Generally, a person who violates these prohibitions is guilty of the offense of falsification, a misdemeanor of the first degree. If the statement is made in connection with the purchase of a firearm and in conjunction with the furnishing to the seller of the firearm of a fictitious or altered driver's or commercial driver's license or permit, a

fictitious or altered identification card, or any other document that contains false information about the purchaser's identity, the person is guilty of falsification to purchase a firearm, a felony of the fifth degree.

Existing law also prohibits a person, in connection with the purchase of a firearm, from knowingly furnishing to the seller of the firearm a fictitious or altered driver's or commercial driver's license or permit, a fictitious or altered identification card, or any other document that contains false information about the purchaser's identity. A person who violates this prohibition is guilty of the offense of falsification to purchase a firearm, a felony of the fifth degree. (R.C. 2921.13(A)(12), (B), and (E)(3).)

Existing law--civil liability. Under existing law, a person who violates any of the falsification prohibitions is liable in a civil action to any person harmed by the violation for injury, death, or loss to person or property incurred as a result of the commission of the offense and for reasonable attorney's fees, court costs, and other expenses incurred as a result of prosecuting the civil action. The provision states that the civil action so authorized is not the exclusive remedy of a person who incurs injury, death, or loss to person or property as a result of a violation of a prohibition against falsification. (R.C. 2921.13(F).)

Operation of the bill. The bill adds two new prohibitions to the offense of falsification. First, it prohibits a person from knowingly making a false statement, or knowingly swearing or affirming the truth of a false statement previously made, when the statement is made in an application filed with a county sheriff under the bill in order to obtain or renew a license to carry a concealed handgun. Second, it prohibits a person, in an attempt to obtain a license to carry a concealed handgun under the bill, from knowingly presenting to a sheriff a fictitious or altered document that purports to be a certification of the person's competence in handling a handgun as described in paragraph (3) of "***Making the application***," above. A person who violates either prohibition is guilty of falsification to obtain a concealed handgun license, a felony of the fourth degree. The existing provision regarding liability in a civil action also applies to the new falsification prohibitions. (R.C. 2921.13(A)(14), (C), (F)(4), and (G).)

Criminal trespass

Existing law. Existing law prohibits a person, without privilege to do so, from doing any of the following: (1) knowingly entering or remaining on the land or premises of another,[3] (2) knowingly entering or remaining on the land or

[3] *"Land or premises" includes any land, building, structure, or place belonging to, controlled by, or in custody of another, and any separate enclosure or room, or portion thereof (R.C. 2911.21).*

premises of another, the use of which is lawfully restricted to certain persons, purposes, modes, or hours, when the offender knows the offender is in violation of any such restriction or is reckless in that regard, (3) recklessly entering or remaining on the land or premises of another, as to which notice against unauthorized access or presence is given by actual communication to the offender, or in a manner prescribed by law, or by posting in a manner reasonably calculated to come to the attention of potential intruders, or by fencing or other enclosure manifestly designed to restrict access, or (4) being on the land or premises of another, negligently failing or refusing to leave upon being notified to do so by the owner or occupant, or the agent or servant of either. A person who violates any of these prohibitions is guilty of the offense of criminal trespass, a misdemeanor of the fourth degree.

Under existing law, it is no defense to a charge of criminal trespass that the land or premises involved was owned, controlled, or in custody of a public agency or that the offender was authorized to enter or remain on the land or premises involved, when such authorization was secured by deception. (R.C. 2911.21.)

Operation of the bill. The bill revises the fourth prohibition included in the offense of criminal trespass to prohibit a person, without privilege to do so and being on the land or premises of another, from negligently failing or refusing to leave upon being notified *by signage posted in a conspicuous place or otherwise being notified* to do so by the owner or occupant, or the agent or servant of either. The penalty remains a misdemeanor of the fourth degree. (R.C. 2911.21(A)(4) and (D) and 2923.126(C)(3).)

Posting of signs in specified areas

The bill requires specified persons, boards, and entities or their designees to post a sign that contains a statement in substantially the following form: "Unless otherwise authorized by law, pursuant to the Ohio Revised Code, no person shall knowingly possess, have under the person's control, convey, or attempt to convey a deadly weapon or dangerous ordnance onto these premises." For each of the specified types of premises, the sign must be posted in a conspicuous location on the premises (the specified premises generally are within the list of premises in which a license does not authorize the licensee to carry a concealed handgun, as described above in "***Places and circumstances not covered by license***"; however, not all of the premises within that list are specified under this provision as being places at which a sign must be posted). The following table describes the places where the sign must be posted and the individual or entity responsible for putting up the sign (R.C. 2923.1212(A)):

Place	Individual or entity responsible for putting up sign
Police stations, municipal jails, and municipal courthouses and courtrooms	The Director of Public Safety or the person or board charged with the erection, maintenance, or repair of the premises
Sheriff's offices	The sheriff or the sheriff's designee who has charge of the sheriff's office
State highway patrol stations	The Superintendent of the State Highway Patrol or the Superintendent's designee
County, multicounty, municipal, municipal-county, or multicounty-municipal jails and workhouses, community-based correctional facilities, halfway houses, alternative residential facilities, and other state or local correctional institutions or detention facilities within Ohio	The sheriff, chief of police, or person in charge of the facility or a designee of any of those persons
Airport facilities	The board of trustees of the regional airport authority, chief administrative officer of the airport facility, or other person in charge of the airport facility
Courthouses and the buildings and structures in which courtrooms are located	The officer or the officer's designee who has charge of the courthouse, building, or structure
Premises controlled by BCII	The Superintendent of BCII or the Superintendent's designee
Child day-care centers, type A family day-care homes, type B family day-care homes, and type C family day-care homes	The owner, administrator, or operator of the center or home
The officer, or the officer's designee, who has charge of the building	A building that is owned by Ohio or a political subdivision of Ohio
The officer, or the officer's designee, who has charge of that portion of the building	The portion of a building that is leased, not owned, by Ohio or a political subdivision

The bill further requires the following boards, bodies, and persons, or designees, to post in the following locations a sign that contains a statement in substantially the following form: "Unless otherwise authorized by law, pursuant to Ohio Revised Code section 2923.122, no person shall knowingly possess, have

under the person's control, convey, or attempt to convey a deadly weapon or dangerous ordnance into a school safety zone"[4] (R.C. 2923.1212(B)):

(1) A board of education of a city, local, exempted village, or joint vocational school district or that board's designee in a conspicuous location in each building and on each parcel of real property owned or controlled by the board;

(2) A governing body of a school for which the State Board of Education prescribes minimum standards under R.C. 3301.07 or that body's designee in a conspicuous location in each building and on each parcel of real property owned or controlled by the school;

(3) The principal or chief administrative officer of a nonpublic school in a conspicuous location on property owned or controlled by that nonpublic school.

Duties of the Ohio Peace Officer Training Commission

Application and license forms

The bill requires OPOTC to prescribe, and to make available to sheriffs, both of the following (R.C. 109.731(A)):

(1) An application form to be used by a person who applies under the bill for a license to carry a concealed handgun or for the renewal of a license of that nature and that conforms substantially to the form prescribed in the bill (the form is prescribed in the bill's R.C. 2923.1210, not reproduced in this analysis);

(2) A form for the license to carry a concealed handgun that is to be issued by sheriffs to persons who qualify for the license under the bill and that conforms to the following requirements:

(a) It has space for the licensee's full name, residence address, and date of birth and for a color photograph of the licensee.

(b) It has space for the date of issuance of the license, its expiration date, its county of issuance, the name of the sheriff who issues the license, and the unique combination of letters and numbers that identify the county of issuance and the license given to the licensee by the sheriff in accordance with the provisions described below in "***Duties of the Attorney General, the Ohio Peace Officer Training Commission, and the Bureau of Criminal Identification and Investigation***."

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[4] *"School safety zone" consists of a school, school building, school premises, school activity, and school bus (R.C. 2901.01(C)(1)--not in the bill).*

(c) It has space for the signature of the licensee and the signature or a facsimile signature of the sheriff who issues the license.

(d) It does not require the licensee to include serial numbers of handguns, other identification related to handguns, or similar data that is not pertinent or relevant to obtaining the license and that could be used as a de facto means of registration of handguns owned by the licensee.

Firearms laws dispute resolution, and use of deadly force pamphlet

The bill further requires OPOTC, in consultation with the AG, to prepare a pamphlet that does all of the following, in everyday language: (1) explains the Ohio Firearms Laws, (2) instructs the reader in dispute resolution and explains the laws of Ohio relative to that matter, and (3) provides information to the reader regarding all aspects of the use of deadly force with a firearm, including, but not limited to, the steps that should be taken before contemplating the use of, or using, deadly force with a firearm, possible alternatives to using deadly force with a firearm, and the law governing the use of deadly force with a firearm. The bill requires the OPOTC to make copies of the pamphlet available to any person, public entity, or private entity that operates or teaches a training course, class, or program of a type described in the bill regarding competency certifications and requests copies for distribution to persons who take the course, class, or program, and to sheriffs for distribution to applicants under the bill for a license to carry a concealed handgun and applicants under the bill for the renewal of such a license (R.C. 109.731(B)).

License application and renewal fee

OPOTC, in consultation with the AG, must prescribe a fee to be paid by an applicant under the bill for a license to carry a concealed handgun or for the renewal of a license of that nature as follows: (1) for an applicant who has been a resident of Ohio for five or more years, an amount that does not exceed the lesser of the actual cost of issuing the license, including, but not limited to, the cost of conducting the criminal records check, or $45, and (2) for an applicant who has been a resident of Ohio for less than five years, an amount that consists of the actual cost of having a criminal background check performed by the FBI, if one is so performed, plus the lesser of the actual cost of issuing the license, including, but not limited to, the cost of conducting the criminal records check, or $45. OPOTC, in consultation with the AG, must specify the portion of the fee that will be used to pay each particular cost of the issuance of the license. The sheriff must deposit all fees paid by an applicant under the bill for the issuance or renewal of a license into the Sheriff's Concealed Handgun License Issuance Expense Fund established by the bill. (R.C. 109.731(C).)

County codes and identification number procedures

The bill requires the Ohio Peace Officer Training Commission to prescribe, and make available to sheriffs, a series of three-letter county codes that identify each Ohio county, and a procedure by which a sheriff is to give each license, replacement license, or renewal license to carry a concealed handgun the sheriff issues under the bill a unique combination of letters and numbers that identifies the county in which the license was issued and that uses the county code and a unique number for each license the sheriff of that county issues (R.C. 109.69(A)).

Timeframe for adopting rules and making forms and pamphlets available

Within 30 days after the effective date of the bill, OPOTC must submit to the Joint Committee on Agency Rule Review the rules required by the bill. Within 30 days after those rules take effect, OPOTC must prepare and make available to Ohio sheriffs the application and license forms and the pamphlet it is required to prepare under the bill and must prescribe the license fee. (Section 8.)

Statistics and reports

The bill requires OPOTC to maintain statistics with respect to the issuance, renewal, suspension, revocation, and denial of licenses to carry a concealed handgun and the suspension of processing of applications for those licenses as reported by sheriffs as described in "***Reports to Ohio Peace Officer Training Commission***," above. No later than the first day of March in each year, OPOTC must submit a statistical report to the Governor, the President of the Senate, and the Speaker of the House of Representatives indicating the number of those licenses that were issued, renewed, suspended, revoked, and denied in the previous calendar year and the number of applications for those licenses for which processing was suspended in the previous calendar year. Nothing in the statistics or the statistical report can identify, or enable the identification of, any individual who was issued or denied a license, for whom a license was renewed, whose license was suspended or revoked, or for whom application processing was suspended. The statistics and the statistical report are public records for the purpose of the existing Public Records Law. OPOTC must submit its first annual statistical report no later than 15 months after the effective date of the bill. (R.C. 109.731(D) and Section 8.)

Duties of the Attorney General and the Bureau of Criminal Identification and Investigation

The bill imposes the following duties upon the AG, the Ohio Peace Officer Training Commission, and BCII:

(1) It requires the AG to negotiate and enter into a reciprocity agreement with any other license-issuing state under which a license to carry a concealed handgun that is issued by the other state is recognized in Ohio if the AG determines both of the following: (a) the eligibility requirements imposed by that license-issuing state are substantially comparable to the eligibility requirements for a license to carry a concealed handgun in Ohio issued under the bill, and (b) that license-issuing state recognizes a license to carry a concealed handgun issued in Ohio under the bill. The bill prohibits the AG from negotiating any agreement with any other license-issuing state under which a license to carry a concealed handgun that is issued by the other state is recognized in Ohio other than as provided in the provision described in this paragraph. As used in these provisions, "license-issuing state" means a state other than Ohio that, pursuant to law, provides for the issuance of a license to carry a concealed handgun. (R.C. 109.69(B) and (C)(2).)

(2) It requires the AG to consult with and assist the OPOTC in the preparation of the pamphlet regarding firearms laws, dispute resolution, and use of deadly force matters that the bill requires the OPOTC to prepare (R.C. 109.731(B)).

(3) It provides that the OPOTC, in prescribing application fees and specifying the portion of the fees to be used for payment of particular costs, is to consult with the AG (R.C. 109.73(C)).

(4) It requires BCII to prescribe a challenge and review procedure for applicants to use to challenge criminal records checks in counties in which the sheriff with whom an application for a license or renewal was filed does not have an existing challenge and review procedure (R.C. 2923.127(B)).

(5) It requires the AG, by rule adopted under the Administrative Procedure Act, to prescribe and make available to all probate judges and all chief clinical officers a form to be used for the purpose of making notifications regarding information to be used in incompetency records checks (see "***Notifications regarding information to be used in incompetency records checks***," below), and requires BCII to compile and maintain the notices it receives from the judges and officers regarding those notifications and use them for specified purposes (R.C. 5122.311(B) and (C)).

Duties of the Office of Criminal Justice Services

The bill requires the Office of Criminal Justice Services (OCJS) to prepare a poster and a brochure that describe safe firearms practices. The poster and brochure must contain typeface that is at least one-quarter inch tall. OCJS must furnish copies of the poster and brochure free of charge to each federally licensed

firearms dealer in Ohio. As used in this provision, "federally licensed firearms dealer" means an importer, manufacturer, or dealer having a license to deal in destructive devices or their ammunition, issued and in effect pursuant to the federal "Gun Control Act of 1968," 82 Stat. 1213, 18 U.S.C. 923 et seq, and any amendments or additions to that act or reenactments of that act. (R.C. 181.251.)

The act imposes duties on federally licensed firearms dealers, with respect to their use of the posters and brochures (see "***Duties imposed on federally licensed firearms dealers***," below).

Notifications from probate courts and chief clinical officers--information to be used in incompetency records checks

The bill provides that, notwithstanding any Revised Code provision to the contrary, if, on or after the bill's effective date, an individual is found by a court to be a mentally retarded person subject to hospitalization by court order or becomes an involuntary patient other than one who is a patient only for purposes of observation, the probate judge who made the adjudication or the chief clinical officer of the hospital, agency, or facility in which the person is an involuntary patient must notify BCII, on a form the AG must prescribe (see below), of the individual's identity. The notification must be transmitted by the judge or chief clinical officer not later than seven days after the adjudication of commitment.

Related to this, the bill requires the AG, by rule adopted under the Administrative Procedure Act, to prescribe and make available to all probate judges and all chief clinical officers the form to be used for making the notifications, and requires BCII to compile and maintain the notices it receives from the judges and officers regarding those notifications and use the notice for the purpose of conducting incompetency records checks under the bill (see "***Criminal records checks and incompetency records checks***," above). The notices and the information they contain are confidential, except as described in this paragraph, and are not public records. (R.C. 5122.311.)

Duties imposed on federally licensed firearms dealers

The bill requires each federally licensed firearms dealer who sells any firearm, at the time of the sale of the firearm, to offer for sale to the purchaser of the firearm a trigger lock, gun lock, or gun locking devices that is appropriate for that firearm. It also requires each federally licensed firearms dealer to post in a conspicuous location in the dealer's place of business the poster furnished to the dealer by the OCJS and to make available to all purchasers of firearms from the dealer the brochure furnished to the dealer by that Office (see "***Duties of the Office of Criminal Justice Services***," above). The definition of the term

"federally licensed firearms dealer" that is set forth above in "***Duties of the Office of Criminal Justice Services***" also applies to these provisions. (R.C. 2923.25.)

Carrying a concealed weapon

Existing law

Prohibition. Existing law prohibits a person from knowingly carrying or having, concealed on the person's person or concealed ready at hand, any deadly weapon or dangerous ordnance (R.C. 2923.12(A)--see **COMMENT** 2).

Penalty. A person who violates the prohibition is guilty of the offense of carrying concealed weapons, which generally is a misdemeanor of the first degree. But if the offender previously has been convicted of a violation of carrying concealed weapons or of any offense of violence, if the weapon involved is a firearm that is either loaded or for which the offender has ammunition ready at hand, or if the weapon involved is dangerous ordnance, carrying concealed weapons is a felony of the fourth degree. Also, if the weapon involved is a firearm and the violation is committed at premises for which a D permit has been issued under the Liquor Control Law or if the offense is committed aboard an aircraft, or with purpose to carry a concealed weapon aboard an aircraft, regardless of the weapon involved, carrying concealed weapons is a felony of the third degree. (R.C. 2923.12(D).)

Exception. The prohibition does not apply to officers, agents, or employees of Ohio or any other state or the United States, or to law enforcement officers, authorized to carry concealed weapons or dangerous ordnance and acting within the scope of their duties (R.C. 2923.12(B)).

Affirmative defense. It is an affirmative defense to a charge under the prohibition of carrying or having control of *a weapon other than dangerous ordnance* that the actor was not otherwise prohibited by law from having the weapon and that any of the following applies (R.C. 2923.12(C)):

(1) The weapon was carried or kept ready at hand by the actor for defensive purposes while the actor was engaged in or was going to or from the actor's lawful business or occupation, which business or occupation was of a character or was necessarily carried on in a manner or at a time or place as to render the actor particularly susceptible to criminal attack, such as would justify a prudent person in going armed.

(2) The weapon was carried or kept ready at hand by the actor for defensive purposes while the actor was engaged in a lawful activity and had

reasonable cause to fear a criminal attack upon the actor, a member of the actor's family, or the actor's home, such as would justify a prudent person in going armed.

(3) The weapon was carried or kept ready at hand by the actor for any lawful purpose and while in the actor's own home.

(4) The weapon was being transported in a motor vehicle for any lawful purpose, was not on the actor's person, and, if the weapon was a firearm, was carried in compliance with the applicable requirements described in (3) in "***Improperly handling firearms in a motor vehicle***," below.

Operation of the bill

The bill modifies the existing prohibition, the penalties for it, and the exceptions to it. It also enacts a new prohibition that applies only to persons who have been issued a license to carry a concealed handgun.

Prohibitions. The bill restructures the existing prohibition against carrying a concealed deadly weapon or dangerous ordnance (see **COMMENT** 2). Under the bill, this prohibition as restructured (hereafter, referred to in this part of the analysis as the "general concealed carry prohibition") prohibits a person from knowingly carrying or having, concealed on the person's person or concealed ready at hand, any of the following (R.C. 2923.12(A)): (1) a deadly weapon other than a handgun, (2) a handgun other than a dangerous ordnance, or (3) a dangerous ordnance.

The new prohibition the bill enacts prohibits a person who has been issued a license to carry a concealed handgun under the bill or a license from a reciprocity state, who is stopped for law enforcement purposes, and who is carrying a concealed handgun from failing to promptly inform any law enforcement officer who approaches the person after the person has been stopped that the person has been issued a license to carry a concealed handgun and that the person then is carrying a concealed handgun (hereafter, in this part of the analysis this prohibition is referred to as the "new concealed carry prohibition") (R.C. 2923.12(B)).

Penalties for the general concealed carry prohibition. The bill generally retains the existing penalties for a violation of the *general concealed carry prohibition*, but provides for a reduced penalty for violations of that prohibition for a person who either has a license to carry a concealed handgun but does not possess it at the time of the violation, or met all of the criteria for possessing a license other than residency and obtaining a competency certificate. If a person being arrested for possessing a concealed handgun in violation of the *general concealed carry prohibition* promptly produces a valid license issued under the

bill or a license to carry a concealed handgun that was issued pursuant to the law of a reciprocity state, and if at the time of the violation the person was not knowingly in an unauthorized place specified in "***Privileges and duties of a licensee***," above, at the time of the offense, the officer may not arrest the person for the violation. If the person is not able to promptly produce such a license and if the person is not in such an unauthorized place, the officer may arrest the person for the violation, and the offender must be punished as follows:

(1) The offender is guilty of a minor misdemeanor if, within ten days after the arrest, the offender presents such a license that was valid at the time of the arrest to the law enforcement agency that employs the arresting officer and, at the time of the arrest the offender was not knowingly in a place that is specified, as described in "***Privileges and duties of a licensee***," above, as a place in which a licensee is not authorized to carry a concealed handgun.

(2) The offender is guilty of a misdemeanor and must be fined $500 if all of the following apply: (a) the offender had previously been licensed to carry a license to carry a concealed handgun or a license to carry a concealed handgun that was issued pursuant to the law of a reciprocity state, and that license had expired within the two years immediately preceding the arrest, (b) within 45 days after the arrest, the offender presents either type of license to the law enforcement agency that employs the arresting officer and the offender waives in writing the offender's right to a speedy trial on the charge of the violation that is provided in existing R.C. 2945.71 (not in the bill), and (c) at the time of the commission of the offense, the offender was not knowingly in a place that is specified, as described in "***Privileges and duties of a licensee***," above, as a place in which a licensee is not authorized to carry a concealed handgun.

(3) If neither paragraph (1) nor paragraph (2) apply, the offender is punished as under existing law.

Penalties for the new concealed carry prohibition. The bill provides that a violation of the *new concealed carry prohibition* also is the offense of "carrying concealed weapons" and is a misdemeanor of the fourth degree (R.C. 2923.12(F)(3)).

Exception. The bill retains the existing exception to the general prohibition against carrying a concealed deadly weapon or dangerous ordnance, and that exception also applies to the new concealed carry prohibition. The bill enacts a new exception that specifies that the general concealed carry prohibition as rewritten by the bill *against carrying a handgun other than a dangerous ordnance* ((2), above, in the first paragraph under "***Prohibitions***") does not apply to any of the following (R.C. 2923.12(C)):

(1) An officer, agent, or employee of Ohio, another state, or the United States, or a law enforcement officer, who is authorized to carry a handgun and acting within the scope of his or her duties;

(2) A person who, at the time of the alleged carrying or possession of a handgun, is carrying a valid license to carry a concealed handgun issued under the bill's provisions or a license to carry a concealed handgun that was issued by another state with which the AG has entered into a reciprocity agreement, unless the person knowingly is in a place that is specified, as described above in "***Places and circumstances not covered by a license***" under "***Privileges and duties of a licensee***" as a place in which a licensee is not authorized to carry a concealed handgun.

The new exception does not apply to any of the other prohibitions in the offense.

Affirmative defense. The bill retains the existing affirmative defenses to a charge of carrying concealed weapons and provides that they apply to a charge in violation of the general concealed carry prohibition; however, the affirmative defenses do not apply to a charge in violation of the new concealed carry prohibition. (R.C. 2923.12(D).)

Prosecution. The bill prohibits requiring a person who is charged with carrying concealed weapons in violation of either the general concealed carry prohibition or the new concealed carry prohibition to obtain a license to carry a concealed handgun as a condition for the dismissal of the charge. (R.C. 2923.12(E).)

Illegal possession of a firearm in a liquor permit premises

Existing law

Prohibition and penalty. Existing law prohibits a person from possessing a firearm in any room in which liquor is being dispensed on premises for which a D permit has been issued under the Ohio Liquor Law. A violation of the prohibition is the offense of illegal possession of a firearm in liquor permit premises, a felony of the fifth degree. (R.C. 2923.121(A) and (D).)

Exceptions. The prohibition does not apply to officers, agents, or employees of Ohio or another state or the United States, or to law enforcement officers, when authorized to carry firearms, and *acting within the scope of their duties*. The prohibition does not apply to hotel accommodations. Additionally, the prohibition does not prohibit members of veteran's organizations from possessing unloaded rifles in any room in any premises under the control of the

veteran's organization as long as the person is not otherwise prohibited by law from having the rifle. Finally, the prohibition does not apply to any person possessing or displaying firearms in any room used to exhibit unloaded firearms for sale or trade in a soldiers' memorial, in a convention center, or in any other public meeting place, if the person is an exhibitor, trader, purchaser, or seller of firearms and is not otherwise prohibited by law from possessing, trading, purchasing, or selling the firearms. (R.C. 2923.121(B).)

Affirmative defense. It is an affirmative defense to a charge of illegal possession of a firearm in a liquor permit premises that the actor was not otherwise prohibited by law from having the firearm, and that either of the following apply: (1) the firearm was carried or kept ready at hand by the actor for defensive purposes, while the actor was engaged in or was going to or from the actor's lawful business or occupation, which business or occupation was of such character or was necessarily carried on in such manner or at such a time or place as to render the actor particularly susceptible to criminal attack, such as would justify a prudent person in going armed, or (2) the firearm was carried or kept ready at hand by the actor for defensive purposes, while the actor was engaged in a lawful activity, and had reasonable cause to fear a criminal attack upon the actor or a member of the actor's family, or upon the actor's home, such as would justify a prudent person in going armed. (R.C. 2923.121(C).)

Operation of the bill

Prohibition. The bill expands the offense to additionally prohibit a person from possessing a firearm in an open air arena for which a D permit has been issued under the Liquor Control Law. The penalty for violating this new prohibition is the same as for violating the prohibition under existing law, a felony of the fifth degree (R.C. 2923.121(A) and (D)).

Prosecution. The bill prohibits requiring a person who is charged with illegal possession of a firearm in liquor permit premises to obtain a license to carry a concealed handgun as a condition for the dismissal of the charge. (R.C. 2923.121(D).)

Illegal conveyance or possession of a deadly weapon or dangerous ordnance in a school safety zone

Existing law

Prohibitions. Existing law prohibits a person from knowingly conveying, or attempting to convey, a deadly weapon or dangerous ordnance into a school safety zone and from knowingly possessing a deadly weapon or dangerous ordnance in a school safety zone (R.C. 2923.122(A) and (B)).

Penalties. A person who violates either prohibition is guilty of the offense of illegal conveyance or possession of a deadly weapon or dangerous ordnance in a school safety zone. Generally, the violation is a felony of the fifth degree. If the offender previously has been convicted of a violation of illegal conveyance or possession of a deadly weapon or dangerous ordnance in a school safety zone or illegal possession of an object indistinguishable from a firearm in a school safety zone, the violation is a felony of the fourth degree.

If the offender has not attained 19 years of age, regardless of whether the offender is attending or is enrolled in a school, the court generally also must impose upon the offender whichever of the following penalties applies:

(1) If the offender has been issued a probationary driver's license, restricted license, driver's license, or probationary commercial driver's license that then is in effect, the court must suspend for a period of not less than 12 months and not more than 36 months that license of the offender.

(2) If the offender has been issued a temporary instruction permit that then is in effect, the court must revoke it and deny the offender the issuance of another temporary instruction permit, and the period of denial must be for not less than 12 months and not more than 36 months.

(3) If the offender has been issued a commercial driver's license temporary instruction permit that then is in effect, the court must suspend the offender's driver's license, revoke the commercial driver's license temporary instruction permit, and deny the offender the issuance of another commercial driver's license temporary instruction permit, and the period of suspension plus the period of denial must total not less than 12 months and not more than 36 months.

(4) If, on the date the court imposes sentence upon the offender for the violation, the offender has not been issued any type of license that then is in effect to operate a motor vehicle in Ohio or a temporary instruction permit that then is in effect, the court must deny the offender the issuance of a temporary instruction permit for a period of not less than 12 months and not more than 36 months.

(5) If the offender is not an Ohio resident, the court must suspend for a period of not less than 12 months and not more than 36 months the nonresident operating privilege of the offender.

But, if the offender shows good cause why the court should not suspend or revoke one of these types of licenses, permits, or privileges or deny the issuance of a temporary instruction permit, the court in its discretion may choose not to impose the suspension, revocation, or denial generally required. (R.C. 2923.122(E)(1) and (F).)

Exception. The prohibitions do not apply to officers, agents, or employees of Ohio or any other state or the United States, or to law enforcement officers, authorized to carry deadly weapons or dangerous ordnance and acting within the scope of their duties, to any security officer employed by a board of education or governing body of a school during the time that the security officer is on duty pursuant to that contract of employment, or to any other person who has written authorization from the board of education or governing body of a school to convey deadly weapons or dangerous ordnance into a school safety zone or to possess a deadly weapon or dangerous ordnance in a school safety zone and who conveys or possesses the deadly weapon or dangerous ordnance in accordance with that authorization (R.C. 2923.122(D)).

Operation of the bill

Exception. The bill enacts an additional exception. Under the new exception, the prohibitions do not apply to a person who conveys or attempts to convey a handgun into, or possesses a handgun in, a school safety zone if, at the time of that conveyance, attempted conveyance, or possession, all of the following apply: (1) the person does not enter into a "school building" or onto "school premises" and is not at a "school activity" (see below), (2) the person is carrying a valid license to carry a concealed handgun issued to the person under the bill or a license to carry a concealed handgun that was issued by another state with which the AG has entered into a reciprocity agreement, (3) the person is in the school safety zone in accordance with 18 U.S.C. 922(q)(2)(B), as described below, and (4) the person is not knowingly in a place in which a licensee is not authorized to carry a concealed handgun (see "***Privileges and duties of a licensee***," above) (R.C. 2923.122(D)).

Relevant definitions and federal law. As used in the additional exception: (1) "school building" means any building in which any of the instruction, extracurricular activities, or training provided by a school is conducted, whether or not any instruction, extracurricular activities, or training provided by the school is being conducted in the school building at the time a criminal offense is committed, (2) "school premises" means either of the following: (a) the parcel of real property on which any school is situated, whether or not any instruction, extracurricular activities, or training provided by the school is being conducted on the premises at the time a criminal offense is committed, or (b) any other parcel of real property that is owned or leased by a board of education of a school, the governing authority of a community school established under existing R.C. Chapter 3314., or the governing body of a nonpublic school for which the State Board of Education prescribes minimum standards under existing R.C. 3301.07 and on which some of the instruction, extracurricular activities, or training of the school is conducted, whether or not any instruction, extracurricular activities, or training provided by

the school is being conducted on the parcel of real property at the time a criminal offense is committed, and (3) "school activity" means any activity held under the auspices of a board of education of a city, local, exempted village, joint vocational, or cooperative education school district, a governing authority of a community school established under existing R.C. Chapter 3314., a governing board of an educational service center, or the governing body of a nonpublic school for which the State Board of Education prescribes minimum standards under existing R.C. 2201.07 (existing R.C. 2901.01 and 2925.01--not in the bill).

Relevant to the additional exception, 18 U.S.C. 922(q)(2)(A) prohibits an individual from knowingly possessing a firearm that has moved in or that otherwise affects interstate or foreign commerce at a place that the individual knows, or has reasonable cause to believe, is a school zone. 18 U.S.C. 922(q)(2)(B) provides as follows:

> (B) Subparagraph (A) does not apply to the possession of a firearm--
>
> (i) on private property not part of school grounds;
>
> (ii) if the individual possessing the firearm is licensed to do so by the State in which the school zone is located or a political subdivision of the State, and the law of the State or political subdivision requires that, before an individual obtains such a license, the law enforcement authorities of the State or political subdivision verify that the individual is qualified under law to receive the license;
>
> (iii) that is--
>
> (I) not loaded; and
>
> (II) in a locked container, or a locked firearms rack that is on a motor vehicle;
>
> (iv) by an individual for use in a program approved by a school in the school zone;
>
> (v) by an individual in accordance with a contract entered into between a school in the school zone and the individual or an employer of the individual;

(vi) by a law enforcement officer acting in his or her official capacity; or

(vii) that is unloaded and is possessed by an individual while traversing school premises for the purpose of gaining access to public or private lands open to hunting, if the entry on school premises is authorized by school authorities.

Illegal conveyance or possession of a deadly weapon or dangerous ordnance into a courthouse

Existing law

Prohibition and penalty. Existing law prohibits a person from knowingly conveying or attempting to convey a deadly weapon or dangerous ordnance into a courthouse or into another building or structure where a courtroom is located (hereafter "courthouse"). A person who violates this prohibition is guilty of illegal conveyance of a deadly weapon or dangerous ordnance into a courthouse, which generally is a felony of the fifth degree. If the offender previously has been convicted of this offense or a violation of the prohibition described in the next paragraph, this offense is a felony of the fourth degree. (R.C. 2923.123(A) and (D)(1).)

Separate from the prohibition described above, existing law also prohibits a person from knowingly possessing or having under the person's control a deadly weapon or dangerous ordnance in a courthouse or in another building or structure in which a courtroom is located. A violation of this prohibition is the offense of illegal possession or control of a deadly ordnance in a courthouse. Generally, the offense is a felony of the fifth degree, but if the offender previously has been convicted of that offense or of a violation of the prohibition described in the preceding paragraph, it is a felony of the fourth degree. (R.C. 2923.123(B) and (D)(2).)

Exception. The prohibitions described above do not apply to any of the following (R.C. 2923.123(C)):

(1) A judge of an Ohio court of record or a magistrate, unless a Supreme Court or local court rule prohibits all persons from conveying or attempting to convey a deadly weapon or dangerous ordnance into a courthouse or from possessing or having under one's control a deadly weapon or dangerous ordnance in a courthouse;

(2) A peace officer, or an officer of a law enforcement agency of another state, a political subdivision of another state, or the United States, who is authorized to carry a deadly weapon or dangerous ordnance, who possesses or has under that individual's control a deadly weapon or dangerous ordnance as a requirement of that individual's duties, and who is acting within the scope of that individual's duties at the time of that possession or control;

(3) A person who conveys, attempts to convey, possesses, or has under the person's control a deadly weapon or dangerous ordnance that is to be used as evidence in a pending criminal or civil action or proceeding;

(4) A bailiff or deputy bailiff of an Ohio court of record who is authorized to carry a firearm, who possesses or has under that individual's control a firearm as a requirement of that individual's duties, and who is acting within the scope of that individual's duties at the time of that possession or control;

(5) A prosecutor, or a secret service officer appointed by a county prosecuting attorney, who is authorized to carry a deadly weapon or dangerous ordnance in the performance of the individual's duties, who possesses or has under that individual's control a deadly weapon or dangerous ordnance as a requirement of that individual's duties, and who is acting within the scope of that individual's duties at the time of that possession or control.

The exceptions in (2), (4), and (5), above, do not apply if a Supreme Court or local court rule prohibits all persons from conveying or attempting to convey a deadly weapon or dangerous ordnance into a courthouse or from possessing or having under one's control a deadly weapon or dangerous ordnance in a courthouse.

Operation of the bill

The bill expands the existing exceptions by enacting a new exception to the prohibitions. Under the bill, in addition to the above specified individuals, the section containing the prohibitions does not apply to a person who conveys or attempts to convey a handgun into a courthouse or into another building or structure in which a courtroom is located (hereafter, collectively referred to as a "courthouse"), who, at the time of the conveyance or attempt, is carrying a valid license to carry a concealed handgun issued pursuant to this bill or a license to carry a concealed handgun issued by another state with which the AG has entered into a reciprocity agreement, and who transfers possession of the handgun to the officer or officer's designee who has charge of the courthouse or building. The officer must secure the handgun until the licensee is prepared to leave the premises. This exemption applies only if the officer who has charge of the courthouse provides services of the nature described in the exemption. An officer

who has charge of a courthouse is not required to offer services of that nature. This exemption does not apply if a Supreme Court or local court rule prohibits all persons from conveying or attempting to convey a deadly weapon or dangerous ordnance into a courthouse or from possessing or having under one's control a deadly weapon or dangerous ordnance in a courthouse. (R.C. 2923.123(C)(6).)

Improperly handling firearms in a motor vehicle

Existing law

Prohibition. Existing law prohibits a person from knowingly doing any of the following (R.C. 2923.16(A), (B), and (C)):

(1) Discharging a firearm while in or on a motor vehicle;

(2) Transporting or having a loaded firearm in a motor vehicle in a manner that the firearm is accessible to the operator or any passenger without leaving the vehicle;

(3) Transporting or having a firearm in a motor vehicle, unless it is unloaded and is carried in one of the following ways: (a) in a closed package, box, or case, (b) in a compartment that can be reached only by leaving the vehicle, (c) in plain sight and secured in a rack or holder made for the purpose, or (d) in plain sight with the action open or the weapon stripped, or, if the firearm is of a type on which the action will not stay open or which cannot easily be stripped, in plain sight.

Penalty. A person who violates any of the prohibitions is guilty of the offense of improperly handling firearms in a motor vehicle. A violation of the first or second prohibition is a misdemeanor of the first degree, and a violation of the third prohibition is a misdemeanor of the fourth degree. (R.C. 2923.16(F).)

Exceptions. The prohibitions do not apply to officers, agents, or employees of Ohio or any other state or the United States, or to law enforcement officers, when authorized to carry or have loaded or accessible firearms in motor vehicles and acting within the scope of their duties.

The prohibition against knowingly discharging a firearm while in or on a motor vehicle does not apply to a person in specified circumstances related to shooting coyotes and groundhogs.

The prohibitions against transporting firearms in specified manners do not apply to a person if all of the following apply: (1) the person is the operator or a passenger in a motor vehicle, (2) the motor vehicle is on real property that is located in an unincorporated area of a township that is zoned or used for

agriculture, (3) the person owns the property or is the spouse, child, tenant, or spouse or child of a tenant of the owner of the real property, and (4) the person did not transport or possess the firearm in an illegal manner prior to arriving on the real property. (R.C. 2923.16(D).)

Affirmative defenses. The first and second affirmative defenses authorized under existing law for persons who are charged with carrying a concealed weapon (see "***Carrying a concealed weapon***," above) are affirmative defenses to a charge under the second or third prohibition (R.C. 2923.16(E)).

Operation of the bill

Prohibitions. The bill modifies the existing prohibitions by changing the culpable mental state for each of the prohibitions from "knowingly" to "recklessly." Thus, for example, the first existing prohibition as modified now prohibits a person from *recklessly* (instead of *knowingly*) discharging a firearm while in or on a motor vehicle. (R.C. 2923.16(A) to (C).)

The bill also enacts three new prohibitions. In the first new prohibition, the bill prohibits any person from recklessly transporting or having a loaded handgun in a motor vehicle if, at the time of that transportation or possession, the person is under the influence of alcohol, a drug of abuse, or a combination of them or the person's whole blood, blood serum or plasma, breath, or urine contains a concentration of alcohol prohibited for persons operating a vehicle, as specified in the existing offense of state OMVI under existing R.C. 4511.19(A), regardless of whether the person at the time of the transportation or possession as described in this paragraph is the operator of or a passenger in a motor vehicle (R.C. 2923.16(D)).

In the second and third new prohibitions, the bill prohibits a licensee from doing either of the following:

(1) If the person is the driver or an occupant of a vehicle that is stopped as a result of a traffic stop or a stop for another law enforcement purpose and if the person is transporting or has a loaded handgun in the motor vehicle, failing to promptly inform any law enforcement officer who approaches the vehicle while stopped that the person has been issued a license to carry a concealed handgun and that the person then possesses or has a loaded handgun in the motor vehicle;

(2) If the person is the driver or an occupant of a vehicle that is stopped as a result of a traffic stop or a stop for another law enforcement purpose, if the person is transporting or has a loaded handgun in the motor vehicle, and if the person is approached by any law enforcement officer while stopped, recklessly carrying, possessing on the person's person, having contact with, or making

contact with a loaded handgun in the motor vehicle at any time after the law enforcement officer begins approaching and before the officer leaves, unless the person possesses or has or makes contact with the loaded handgun pursuant to and in accordance with explicit instructions given by the law enforcement officer.

Penalty. The bill increases the penalty for a violation of the first existing prohibition to a felony of the fourth degree. The bill increases the penalty for a violation of the second existing prohibition to a felony of the fourth degree if the offender, at the time of the offense, was not carrying a valid concealed handgun license, was carrying a valid concealed handgun license but was in an unauthorized place, or if the offender previously has been convicted of or pleaded guilty to a violation of the second existing prohibition. It retains the existing penalty (i.e., a misdemeanor of the fourth degree) for a violation of the third existing prohibition.

The bill provides that a violation of any of the new prohibitions it enacts also is the offense of "improperly handling firearms in a motor vehicle." A violation of the first new prohibition is a felony of the fifth degree. A violation of the second new prohibition is a misdemeanor of the fourth degree. A violation of the third new prohibition is a misdemeanor of the first degree or, if the offender previously has been convicted of or pleaded guilty to a violation of that prohibition, a felony of the fifth degree. (R.C. 2923.16(G).)

Exception. The bill retains the existing exceptions to the prohibitions and enacts a new exception to the second and third existing prohibitions. None of the exceptions apply to the new prohibitions the bill enacts. It states that the second and third existing prohibitions in the offense of improperly handling firearms in a motor vehicle (i.e., the "transport or possession" prohibitions) do not apply to a person who transports or possesses a handgun in a motor vehicle if at the time of that transportation or possession, all of the following apply (R.C. 2923.16(D)(4) and (5)):

(1) The person is carrying a valid license to carry a concealed handgun issued under the bill's provisions or by a reciprocity state;

(2) The person is not recklessly in a place in which a licensee is not authorized to carry a concealed handgun (see "***Places and circumstances not covered by a license***" under "***Privileges and duties of a licensee***," above);

(3) One of the following applies: (a) no person under 18 years of age is in the motor vehicle, and either the handgun is in a holster and in plain sight or the handgun is securely encased by being stored in a closed, locked glove compartment or in a gun case that is in plain sight and that is locked, or (b) one or more persons under 18 years of age is in the motor vehicle, the handgun is not on

the person of the person transporting or possessing the handgun, and the handgun is securely encased by being stored either in a closed, locked, glove compartment, or in a gun case that is in plain sight and that is locked.

Affirmative defenses. The bill repeals all the existing affirmative defenses that currently are provided for the offense (repeal of existing R.C. 2923.16(E)).

Prosecution. The bill prohibits requiring a person who is charged with improperly handling firearms in a motor vehicle to obtain a license to carry a concealed handgun as a condition for the dismissal of the charge (R.C. 2923.16(F)).

Improper use or handling of firearms in a vessel

Existing law

Prohibitions. Existing law contains three prohibitions with respect to the use or handling of firearms in a vessel (R.C. 1547.69(B), (C), and (D)):

(1) It prohibits a person from knowingly discharging a firearm while in or on a vessel.

(2) It prohibits a person from knowingly transporting or having a loaded firearm in a vessel in a manner that the firearm is accessible to the operator or any passenger.

(3) It prohibits a person from knowingly transporting or having a firearm in a vessel, unless it is unloaded and is carried in one of the following ways: (a) in a closed package, box, or case, or (b) in plain sight with the action opened or the weapon stripped, or, if the firearm is of a type on which the action will not stay open or which cannot easily be stripped, in plain sight.

R.C. 1547.69 also prohibits any person from operating or permitting to be operated any vessel on Ohio waters in violation of the above prohibitions (R.C. 1547.69(G)).

Penalty. A person who violates any of the prohibitions is guilty of a misdemeanor of the fourth degree. (R.C. 1547.99(F), not in the bill.)

Exceptions. The prohibitions do not apply to officers, agents, or employees of Ohio or any other state or of the United States or to law enforcement officers when authorized to carry or have loaded or accessible firearms in a vessel and acting within the scope of their duties, and the prohibitions do not apply to persons legally engaged in hunting.

The prohibitions do not apply to the possession or discharge of a U.S. Coast Guard approved signaling device required to be carried aboard a vessel when the signaling device is possessed or used for the purpose of giving a visual distress signal. The section also prohibits any person from knowingly transporting or possessing such a signaling device in or on a vessel in a loaded condition except as so authorized. (R.C. 1547.69(F) and (H).)

Affirmative defenses. The first two affirmative defenses authorized for persons charged with the offense of carrying a concealed weapon (see "***Carrying a concealed weapon***," above) are affirmative defenses to a charge under the second or third prohibition related to firearms in a vessel (R.C. 1547.69(E)).

Operation of the bill

Exception. The bill retains the existing exceptions to the prohibitions, and enacts a new exception that states that the second and third prohibitions, relating to the transport or possession of firearms in a vessel, do not apply to a person who transports or possesses a handgun in a vessel and who, at the time of that transportation or possession, is carrying a valid license to carry a concealed handgun issued under the bill's provisions or by a reciprocity state, unless the person knowingly is in a place on the vessel that is specified, as described in "***Places and circumstances not covered by a license***" under "***Privileges and duties of a licensee***," above, as a place in which a licensee is not authorized to carry a concealed handgun (R.C. 1547.69(H)).

Prosecution. The bill prohibits requiring a person who is charged with a violation of the second or third prohibition related to transporting or possessing firearms in a vessel to obtain a license to carry a concealed handgun as a condition for the dismissal of the charge (R.C. 1547.69(E)(2)).

The bill does not otherwise modify the prohibitions relating to firearms in a vessel (R.C. 1547.69).

Having weapons while under disability

Existing law

Existing law prohibits a person, unless the person is relieved from the disability under another provision of existing law, from knowingly acquiring, having, carrying, or using any firearm or dangerous ordnance, if any of the following apply:

(1) The person is a fugitive from justice.

(2) The person is under indictment for or has been convicted of any felony offense of violence or has been adjudicated a delinquent child for the commission of an offense that, if committed by an adult, would have been a felony offense of violence.

(3) The person is under indictment for or has been convicted of any offense involving the illegal possession, use, sale, administration, distribution, or trafficking in any drug of abuse or has been adjudicated a delinquent child for the commission of an offense that, if committed by an adult, would have been an offense involving the illegal possession, use, sale, administration, distribution, or trafficking in any drug of abuse.

(4) The person is drug dependent, in danger of drug dependence, or a chronic alcoholic.

(5) The person is under adjudication of mental incompetence.

Existing law also prohibits a person who has been convicted of a felony of the first or second degree from violating the preceding prohibition within five years of the date of the person's release from imprisonment or from post-release control that is imposed for the commission of a felony of the first or second degree.

A person who violates either prohibition is guilty of having weapons while under disability. A violation of the first prohibition is a felony of the fifth degree. A violation of the second prohibition is a felony of the third degree. (R.C. 2923.13.)

Operation of the bill

The bill expands the circumstance specified in (5), above, to additionally prohibit a person, unless relieved from the disability, from knowingly acquiring, having, carrying, or using any firearm or dangerous ordnance if the person has been adjudicated as a mental defective, has been committed to a mental institution, has been found by a court to be a mentally ill person subject to hospitalization by court order, or is an involuntary patient other than one who is a patient only for purposes of observation.

The bill increases the penalty for a violation of the first prohibition to a felony of the third degree and repeals the second prohibition. (R.C. 2923.13(A)(5), (B), and (C)).

Access to sealed criminal conviction records

Existing law

Existing law specifies a procedure by which a "first offender" (defined in existing R.C. 2953.31--not in the bill) may apply to a court for the sealing of the record of the offender's criminal conviction record. Records that are so sealed may be inspected only by specified law enforcement officers and agencies, prosecutors, and parole or probation officers for specified purposes, by persons authorized by the person who is the subject of the records, and by BCII or an authorized BCII employee for the purpose of providing information to certain boards or persons with respect to persons who apply for employment to work with children or to provide direct care to an older adult. (R.C. 2953.32(A) and (D).)

Operation of the bill

The bill expands the circumstances in which sealed criminal conviction records may be inspected to also authorize BCII, an authorized employee of BCII, a sheriff, or an authorized employee of the sheriff to inspect sealed criminal conviction records of first offenders in connection with a criminal records check conducted under the bill, as described in "***Criminal records check and incompetency records check***," above (R.C. 2953.32(D)(10)).

Private investigators and security providers

Existing law

Existing law specifies the licensing requirements for persons to engage in the business of private investigation, the business of security services, or both. It also specifies the requirements for these licensees or registered employees of licensees (private investigators and security guard providers) to carry a firearm. These requirements include certification of satisfactory completion of firearms training, or other evidence of approval of firearms training, by the Executive Director of OPOTC, registration as a licensee or employee who may carry a firearm, issuance of an identification card indicating that the licensee or employee is a firearm-bearer, and satisfactory requalification in firearms use on a periodic basis. (R.C. 4749.10.)

Operation of the bill

The bill provides that nothing in the provisions in existing law prohibits a private investigator or a security guard provider from carrying a concealed handgun if the private investigator or security guard provider complies with the bill's provisions governing licenses to carry a concealed handgun (R.C. 4749.10(C)).

Theft of a firearm or dangerous ordnance

Existing law

Existing law prohibits a person, with purpose to deprive the owner of property or services, from knowingly obtaining or exerting control over either the property or services in any of the following ways (R.C. 2913.02(A)):

(1) Without the consent of the owner or person authorized to give consent;

(2) Beyond the scope of the express or implied consent of the owner or person authorized to give consent;

(3) By deception;

(4) By threat;

(5) By intimidation.

A person who violates this prohibition is guilty of theft. The precise name of the offense and the penalty for the offense depend on the type of the property or the value of the property or services involved in the offense. If the property stolen is a firearm or dangerous ordnance, the violation is grand theft, a felony of the fourth degree. (R.C. 2913.02(B)(1) and (4).)

Operation of the bill

The bill increases the penalty for theft when the property stolen is a firearm or a dangerous ordnance to a felony of the third degree. The violation continues to be grand theft. The bill creates a presumption in favor of the court imposing a prison term for the offense. The offender must serve the prison term consecutively to any other prison term or mandatory prison term previously or subsequently imposed upon the offender. Under the existing Felony Sentencing Law, when consecutive prison terms are imposed pursuant to that Law, the term to be served is the aggregate of all of the terms so imposed. (R.C. 2913.02(B)(4) and 2929.14(E)(3) and (5).)

Licensing scheme is law of general nature

The bill states that the General Assembly finds that licenses to carry concealed handguns are a matter of statewide concern and wishes to ensure uniformity throughout the state regarding the qualifications for a person to hold a license to carry a concealed handgun and the authority granted to a person holding a license of that nature. The bill states that it is the intent of the General Assembly, in amending and enacting the sections of the Revised Code in the bill

that relate to licenses to carry a concealed handgun and, generally, to the firearms offenses, to enact laws of a general nature and, by enacting those laws of a general nature, the state occupies and preempts the field of issuing licenses to carry a concealed handgun and the validity of licenses of that nature. The bill states that no municipal corporation may adopt or continue in existence any ordinance, and no township may adopt or continue in existence any resolution, that is in conflict with those sections, including, but not limited to, any ordinance or resolution that attempts to restrict the places where a person possessing a valid license to carry a concealed handgun may carry a handgun concealed. (Section 9.)

Statement of legislative intent

The bill states that, in amending and enacting the sections of the Revised Code in the bill that relate to licenses to carry a concealed handgun and, generally, to the firearms offenses, the General Assembly declares its intent to recognize both of the following (Section 6):

(1) The inalienable and fundamental right of an individual to defend the individual's person and the members of the individual's family;

(2) The fact that the right described in (1) predates the adoption of the United States Constitution, the adoption of the Ohio Constitution, and the enactment of all statutory laws by the General Assembly and may not be infringed by any enactment of the General Assembly.

The bill further states that, in enacting and amending the sections of the Revised Code in the bill relative to licenses to carry a concealed handgun and, generally, to the firearms offenses, the General Assembly declares that it is not its intent to declare or otherwise give the impression that, prior to the bill's effective date, an individual did not have an inalienable and fundamental right, or a right under the Ohio Constitution or the United States Constitution, to carry a concealed handgun or other firearm for the defense of the individual's person or a member of the individual's family while engaged in lawful activity. The bill further declares that it is not the General Assembly's intent to invalidate any prior convictions for violating any section of the Revised Code or a municipal ordinance prior to the effective date of the bill or to prevent the prosecution of any violation committed prior to that effective date. (Section 7.)

Severability clause

The bill provides that if any provision of any of the listed sections of the Revised Code amended by the bill, any provision of any of the listed sections of the Revised Code enacted by the bill, or the application of any provision of those sections to any person or circumstance is held invalid, the invalidity does not

affect other provisions or applications of the particular section or related sections that can be given effect without the invalid provision or application, and to this end the provisions of the particular section are severable (Section 10).

COMMENT

1. The bill specifies that, as used in its provisions relating to licenses to carry a concealed handgun (R.C. 2923.124(I) to (K), and, by reference, existing R.C. 2919.27--not in the bill):

(a) "Civil protection order" means a protection order issued, or a consent agreement approved, under existing R.C. 2903.214 (civil protection orders issued based on a person's commission of menacing by stalking) or 3113.31 (civil protection orders issued based on a person's commission of domestic violence);

(b) "Temporary protection order" means a protection order issued under R.C. 2903.213 (temporary protection orders issued after the filing of criminal charges against a person alleging the commission of the offense of menacing by stalking or certain assault-related or menacing-related offenses not involving a family or household member) or 2919.26 (temporary protection orders issued after the filing of criminal charges against a person alleging the commission of the offense of domestic violence or certain assault-related or menacing-related offenses involving a family or household member);

(c) "Protection order issued by a court of another state" means an injunction or another order issued by a criminal court of a state other than Ohio for the purpose of preventing violent or threatening acts or harassment against, contact or communication with, or physical proximity to another person, including a temporary order, and means an injunction or order of that nature issued by a civil court of a state other than Ohio, including a temporary order and a final order issued in an independent action or as a *pendente lite* order in a proceeding for other relief, if the court issued it in response to a complaint, petition, or motion filed by or on behalf of a person seeking protection. "Protection order issued by a court of another state" does not include an order for support or for custody of a child issued pursuant to the divorce and child custody laws of another state, except to the extent that the order for support or for custody of a child is entitled to full faith and credit under the laws of the United States.

2. The question of the constitutionality of the offense of carrying concealed weapons contained in R.C. 2923.12 currently is pending before the Ohio Supreme Court as the result of the case of *Klein v. Leis* (1st App. District, 2002), 146 Ohio App. 3d 526 (*appeal granted* 96 Ohio St.3d 1488). The First District Court of Appeals in *Klein* concluded that *Arnold v. Cleveland* (1993), 67 Ohio St.3d 35,

required the Court of Appeals to determine whether the statute was fair, proper, moderate, suitable under the circumstances, and not excessive.[5] The Court of Appeals then concluded that R.C. 2923.12 was unreasonable: if a person carries a handgun concealed, the person commits the offense of carrying concealed weapons and, if the person carries the handgun openly, the person will be arrested for inducing panic or disorderly conduct. The result is an unconstitutional total prohibition on the carrying of firearms. The Court of Appeals found the affirmative defenses to be problematic because they are ignored at the point of initial police contact, exposing the person to arrest, indictment, and prosecution for what later could be determined to have been the legal exercise of a fundamental right. The Court of Appeals also found the affirmative defenses to be unconstitutionally vague: they cannot be understood by a citizen of reasonable intelligence, they are subject to arbitrary enforcement, and they do not provide clear warning of the conduct that they seek to exempt from criminal liability.

HISTORY

ACTION	DATE	JOURNAL ENTRY	
Introduced	01-28-03	pp.	75-76
Reported, H. Criminal Justice	03-06-03	p.	215
Passed House (69-28)	03-12-03	pp.	229-244
Reported, S. Judiciary on Criminal Justice	---		---

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[5] *Noting that the right to bear arms is a constitutional right, the Court of Appeals believed that R.C. 2923.12 should be subjected to strict scrutiny: the subject statute is constitutional only if it is narrowly tailored to accomplish a compelling governmental interest. But the court of appeals concluded that Ohio Supreme Court precedent required the use of the* Arnold *standard.*