



Dennis M. Papp

Bill Analysis
Legislative Service Commission

Am. H.B. 450
127th General Assembly
(As Passed by the House)

Reps. Goodwin, Wachtmann, Barrett, Peterson, J. McGregor, Brinkman, Fessler, Gibbs, Combs, Evans, Huffman, Adams, Stebelton, Letson, Core, Carmichael, Uecker, Blessing, Dyer, S. Williams, Aslanides, Bacon, Batchelder, Bolon, Book, Coley, Collier, DeBose, Dodd, Domenick, Fende, Flowers, Gardner, Gerberry, Goyal, J. Hagan, Heydinger, Hite, Hottinger, Hughes, Jones, Mallory, Mandel, Mecklenborg, Oelslager, Okey, J. Otterman, Patton, Sayre, Schindel, Schlichter, Schneider, Sears, Setzer, J. Stewart, Webster, Zehringer

BILL SUMMARY

- Exempts from the prohibition against underage purchase of a handgun a member of the armed services of the United States or the Ohio National Guard who is between the ages of 18 and 21 to purchase a handgun if the person has received firearms training.
- Regarding the eligibility criterion for the issuance of a license or temporary emergency license to carry a concealed handgun that requires that the applicant must be legally living in the United States, must have been an Ohio resident for at least 45 days, and must have been a resident of the county in which the person seeks the license or an adjacent county for at least 30 days, specifies that: (1) if a person is absent from the United States, from Ohio, or from a particular Ohio county in compliance with military or naval orders as an active or reserve member of the United States armed forces and if prior to leaving Ohio in compliance with those orders the person was legally living in the United States and was an Ohio resident, the person, solely by reason of that absence, cannot be considered to have lost the person's status as living in the United States or the person's residence in Ohio or in the county in which the person was a resident prior to leaving Ohio in compliance with those orders, cannot be considered to have acquired a residence in any other state, and cannot be considered to have become a resident of any other state, and (2) if a person is present in Ohio in compliance with military or

naval orders as an active or reserve member of the United States armed forces for at least 45 days, the person must be considered to have been an Ohio resident for that period of at least 45 days, and, if a person is present in an Ohio county in compliance with military or naval orders as an active or reserve member of the armed forces of the United States for at least 30 days, the person must be considered to have been a resident of that county for that period of at least 30 days.

CONTENT AND OPERATION

Underage purchase of a handgun

Current law with one exception prohibits a person under age 21 from purchasing or attempting to purchase a "handgun" (see **COMMENT 1** for definition). However, current law permits a person age 18 or older and under age 21 to purchase or attempt to purchase a handgun if the person is a law enforcement officer who is properly appointed or employed as a law enforcement officer and has received firearms training approved by the Ohio Peace Officer Training Council or equivalent firearms training. Whoever violates this prohibition is guilty of "underage purchase of a handgun," a misdemeanor of the second degree.

Under the bill, a person who is age 18 or older and under age 21 is also exempted from the prohibition described in the preceding paragraph if the person is an active or reserve member of the armed services of the United States or the Ohio National Guard who has received firearms training from the armed services or the National Guard or equivalent firearms training. The bill does not change the penalty for the offense. (R.C. 2923.211(B).)

Current law also prohibits a person under age 18 from purchasing or attempting to purchase a "firearm" (see **COMMENT 1** for definition). The bill does not affect this prohibition. (R.C. 2923.211(A).)

Residency criterion for issuance of a concealed carry license or temporary emergency concealed carry license

Background

Current law sets forth procedures pursuant to which a person who satisfies specified criteria may apply for and receive a license to carry a concealed handgun or a temporary emergency license to carry a concealed handgun. A person who obtains either type of license generally may carry a concealed handgun anywhere in the state, subject to a list of prohibited premises, if the person also carries his or her valid license and valid identification when the person is in actual possession of

a concealed handgun. The list of prohibited premises identifies certain types of places and locales at which or in which a person who has obtained either type of license may not carry a concealed handgun. (R.C. 2923.124 to 2923.1213, not in the bill except for R.C. 2923.125.)

Concealed carry license

Existing law. Under current law, a person who wishes to obtain a license to carry a concealed handgun (hereafter, a "regular concealed carry license") must submit 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 a completed application form, a nonrefundable license fee (the fee is waived for certain categories of applicants), a color photograph of the applicant that was taken within the preceding 30 days, one or more "competency certifications" of a specified nature that show the applicant's competency with firearms, a certification by the applicant that the applicant has read a pamphlet prepared by the Ohio Peace Officer Training Commission that reviews firearms, dispute resolution, and use of deadly force matters, and a set of fingerprints of the applicant provided in a specified manner. 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 the incompetency records check as described in R.C. 311.41. (R.C. 2923.125(A) to (C).)

Subject to a few exceptions (described below), within 45 days after a sheriff's receipt of the items listed above, the sheriff must issue to the applicant a regular concealed carry license (licenses issued on or after March 14, 2007, are good for five years) if the applicant satisfies a series of specified eligibility criteria. One of the eligibility criteria is that *the applicant is legally living in the United States, has been an Ohio resident for at least 45 days, and has been 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.* If the sheriff determines that the applicant is legally living in the United States and 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 described in this paragraph, the sheriff cannot deny the license because of the residency requirements but cannot issue the license until the applicant meets those residency requirements. The other eligibility criteria that an applicant must satisfy to be issued a regular concealed carry license are set forth in **COMMENT 2.** (R.C. 2923.125(D).)

The version of R.C. 2923.125 that appears in the bill does not include amendments made to the section by Sub. S.B. 184 of the 127th General Assembly, effective September 9, 2008. Those changes did not involve the provisions described in the preceding paragraphs.

Operation of the bill. The bill adds language to the existing residency criterion described in the preceding paragraph that specifies the manner in which the criterion is to apply to persons serving in the armed forces. The bill specifies that, for purposes of the residency criterion (R.C. 2923.125(D)(1)(a)):

(1) If a person is absent from the United States, from Ohio, or from a particular county in Ohio in compliance with military or naval orders as an active or reserve member of the armed forces of the United States and if prior to leaving Ohio in compliance with those orders the person was legally living in the United States and was an Ohio resident, the person, solely by reason of that absence, cannot be considered to have lost the person's status as living in the United States or the person's residence in Ohio or in the county in which the person was a resident prior to leaving Ohio in compliance with those orders, without regard to whether or not the person intends to return to Ohio or to that county, cannot be considered to have acquired a residence in any other state, and cannot be considered to have become a resident of any other state.

(2) If a person is present in Ohio in compliance with military or naval orders as an active or reserve member of the armed forces of the United States for at least 45 days, the person must be considered to have been an Ohio resident for that period of at least 45 days, and, if a person is present in an Ohio county in compliance with military or naval orders as an active or reserve member of the armed forces of the United States for at least 30 days, the person must be considered to have been a resident of that county for that period of at least 30 days.

Temporary emergency concealed carry license

Existing law. Under existing law, a person seeking a temporary emergency license to carry a concealed handgun (hereafter, a "temporary emergency concealed carry license") must submit to the sheriff of the county in which the person resides "evidence of imminent danger" (a defined term) to the person or a member of the person's family, a temporary emergency license fee, a set of fingerprints of the applicant provided in a specified manner, and a sworn affidavit that contains all of the information required to be on the license and attesting that the person: is legally living in the United States; is at least 21 years of age; is not a fugitive from justice; is not under indictment for or otherwise charged with an offense identified in R.C. 2923.125(D)(1)(d); has not been convicted of, pleaded guilty to, or adjudicated a delinquent child for committing an offense identified in R.C. 2923.125(D)(1)(e), which conviction, plea, or adjudication has not been sealed or expunged; within three years of the date of the submission, has not been convicted of, pleaded guilty to, or been adjudicated a delinquent child for committing an offense identified in R.C. 2923.125(D)(1)(f), which conviction, plea, or adjudication has not been sealed or expunged; within five years of the date

of the submission, has not been convicted of, pleaded guilty, or adjudicated a delinquent child for committing two or more violations identified in R.C. 2923.125(D)(1)(g); within ten years of the date of the submission, has not been convicted of, pleaded guilty, or adjudicated a delinquent child for committing a violation identified in R.C. 2923.125(D)(1)(h), which conviction, plea, or adjudication has not been sealed or expunged; has not been adjudicated as a mental defective or 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 observation, as described in R.C. 2923.125(D)(1)(i); is not currently subject to a civil protection order, a temporary protection order, or a protection order issued by a court of another state, as described in R.C. 2923.125(D)(1)(j); and is not currently subject to a suspension imposed under R.C. 2923.128(A)(2) of a regular concealed carry license, or a temporary emergency license to carry a concealed handgun, that previously was issued to the person. (R.C. 2923.1213(B)(1) and (3), not in the bill.)

Upon receipt of the evidence of imminent danger, the sworn affidavit, the fee, and the set of fingerprints, the sheriff immediately must conduct or cause to be conducted the criminal records check and the incompetency records check described in R.C. 311.41. Immediately upon receipt of the results of the records checks, the sheriff must determine whether the criteria that must be satisfied for the issuance of a regular concealed carry license that are described above in "Concealed carry license" and in **COMMENT 2**, other than the criterion requiring the applicant to certify 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 and other than the competency certification criterion, apply regarding the person. If the sheriff determines that all of those criteria, other than the two exceptions identified in the preceding sentence, apply regarding the person, the sheriff immediately must issue to the person a temporary emergency concealed carry license. A temporary emergency concealed carry license is valid for 90 days and may not be renewed. (R.C. 2923.1213(B)(2), not in the bill.)

Under the provisions described in the preceding paragraph, one of the criteria that a sheriff must determine applies to an applicant for a temporary emergency concealed carry license before the sheriff may issue the license is the criterion that requires that *the applicant is legally living in the United States, has been an Ohio resident for at least 45 days, and has been 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.*

Operation of the bill. The bill does not amend the existing section that provides the criteria for the issuance of a temporary emergency concealed carry license. However, because the residency criterion that must be satisfied before a person may be issued a regular concealed carry license is one of the criteria that must be satisfied before a person may be issued a temporary emergency concealed carry license, and because the bill adds language to that residency criterion, as described above in "**Concealed carry license,**" the bill's changes to that residency criterion also apply regarding the issuance of a temporary emergency concealed carry license. (R.C. 2923.1213(B)(2), not in the bill, by reference to R.C. 2923.125(D)(1)(a)).

COMMENT

1. As used in R.C. Chapter 2923.:

(a) "Firearm" means any deadly weapon capable of expelling or propelling one or more projectiles by the action of an explosive or combustible propellant. "Firearm" includes an unloaded firearm, and any firearm that is inoperable but that can readily be rendered operable. (R.C. 2923.11(B)(1).)

(b) "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, (2) any combination of parts from which a firearm of a type described in (1) can be assembled (R.C. 2923.11(C)).

2. The other eligibility criteria, in addition to the residency criterion described in "**Residency criterion for issuance of a concealed carry license or temporary emergency concealed carry license**" under the **CONTENT AND OPERATION** portion of this analysis that an applicant must satisfy to be issued a regular concealed carry license are (R.C. 2923.125(D)(1)(b) to (m)):

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

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

(c) The applicant is not under indictment for or otherwise charged with a felony; an offense under R.C. Chapter 2925., 3719., or 4729. that involves the illegal possession, use, sale, administration, or distribution of or trafficking in a drug of abuse; a misdemeanor offense of violence; or a violation of R.C. 2903.14 or 2923.1211.

(d) The applicant has not been convicted of or pleaded guilty to, or been adjudicated a delinquent child for committing an act that if committed by an adult would be, a felony or an offense under R.C. Chapter 2925., 3719., or 4729. that

involves the illegal possession, use, sale, administration, or distribution of or trafficking in a drug of abuse; and has not been convicted of, pleaded guilty to, or adjudicated a delinquent child for committing a violation of R.C. 2903.13 when the victim of the violation is a peace officer (Sub. S.B. 184 amended this provision to indicate that a conviction, plea, or adjudication that has been sealed or expunged is not to be considered in determining whether an applicant satisfies this criterion; also see R.C. 2923.125(D)(5), enacted in Sub. S.B. 184 and not in the bill).

(e) The applicant, within three years of the date of the application, has not been convicted of or pleaded guilty to, or been adjudicated a delinquent child for committing an act that if committed by an adult would be, a misdemeanor offense of violence other than a misdemeanor violation of R.C. 2921.33 or a violation of R.C. 2903.13 when the victim of the violation is a peace officer, or a misdemeanor violation of R.C. 2923.1211 (Sub. S.B. 184 amended this provision to indicate that a conviction, plea, or adjudication that has been sealed or expunged is not to be considered in determining whether an applicant satisfies this criterion; also see R.C. 2923.125(D)(5), enacted in Sub. S.B. 184 and not in the bill).

(f) Except as otherwise provided in paragraph (d), above, the applicant, within five years of the date of the application, has not been convicted of, pleaded guilty to, or adjudicated a delinquent child for committing two or more violations of R.C. 2903.13 or 2903.14.

(g) The applicant, within ten years of the date of the application, has not been convicted of, pleaded guilty to, or adjudicated a delinquent child for committing a violation of R.C. 2921.33 (Sub. S.B. 184 amended this provision to indicate that a conviction, plea, or adjudication that has been sealed or expunged is not to be considered in determining whether an applicant satisfies this criterion; also see R.C. 2923.125(D)(5), enacted in Sub. S.B. 184 and not in the bill).

(h) The applicant has not been adjudicated as a mental defective, 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 (as used in this provision, "mentally ill person subject to hospitalization by court order" and "patient" have the same meanings as in R.C. 5122.01).

(i) 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.

(j) 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.

(k) The applicant submits a competency certification of a required type and submits a certification regarding the applicant's reading of the pamphlet prepared by the Ohio Peace Officer Training Commission that reviews firearms, dispute resolution, and use of deadly force matters.

(l) The applicant currently is not subject to a suspension imposed under R.C. 2923.128(A)(2) of a license to carry a concealed handgun, or a temporary emergency license to carry a concealed handgun, that previously was issued to the applicant under Ohio law.

HISTORY

ACTION	DATE
Introduced	01-24-08
Reported, H. Criminal Justice	04-29-08
Passed House (94-3)	05-22-08

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