



**Sub. H.B. 450\***

127th General Assembly

(As Reported by S. Judiciary - Criminal Justice)

**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**

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**BILL SUMMARY**

- Exempts from the prohibition against underage purchase of a handgun a person who is between the ages of 18 and 21, who is a member of or has been honorably discharged from the armed services of the United States or the Ohio National Guard, and who 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

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

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.

- Requires the Chancellor of the Ohio Board of Regents to grant a veteran and the veteran's spouse and dependents immediate eligibility for in-state tuition rates at state institutions of higher education upon relocation to Ohio, provided the veteran served at least one year on active duty and was honorably discharged or received a medical discharge related to that duty.
- Provides, upon the request of a veteran who has been honorably discharged from the armed forces of the United States and the presentation of the veteran's DD-214, for the inclusion of a symbol indicating the honorable discharge upon the veteran's driver's license, commercial driver's license, or state identification card.
- Modifies the fee for a license to carry a concealed handgun.
- Provides that a person who has been issued a license to carry a concealed handgun and who wishes to renew the license may provide, as proof that the licensee at one time had a competency certification, any previously issued license that has not been revoked.
- Specifies, regarding a \$500,000 amount appropriated in fiscal year 2008 under section 260.20.13 of Am. Sub. H.B. 119 of the 127th General Assembly for the rebuilding and revitalization of downtown Wauseon following a 2007 fire in that community and that is to be used for grants to supplement investments of owners or successors who are rebuilding in the downtown location of the fire, that any unspent portion of that amount that is encumbered for subsequent fiscal years may be used for related off-site infrastructure improvements, including, but not limited to, the installation of utility lines and the acquisition and demolition of adjoining property for the purposes of site improvements and capital

improvements related to the implementation of R.C. 2923.125 and 2923.211.

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## TABLE OF CONTENTS

Underage purchase of a handgun .....	3
Residency criterion for issuance of a concealed carry license or temporary emergency concealed carry license .....	4
Background.....	4
Concealed carry license .....	4
Temporary emergency concealed carry license .....	5
Eligibility of veterans for in-state tuition rates.....	7
Background--current residency rule .....	7
The bill.....	8
Honorable discharge symbol upon a driver's license, commercial driver's license, or state identification card .....	9
Fee for license or temporary emergency license to carry a concealed handgun .....	9
Renewal of license to carry a concealed handgun.....	10
Ohio Main Street Program--City of Wauseon earmark.....	10

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## 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, or was honorably discharged from military service in the active or reserve armed services of the United States or the Ohio National Guard, and the person 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)).

#### **Eligibility of veterans for in-state tuition rates**

(R.C. 3333.31)

#### **Background--current residency rule**

Continuing law requires the Chancellor of the Ohio Board of Regents to adopt a rule defining "residency" for the purpose of eligibility for in-state tuition rates at state institutions of higher education. The rule must have the objective of excluding from treatment as Ohio residents persons who are in the state primarily for the purpose of attending a state institution of higher education. Generally, to be considered a resident under the Chancellor's rule, a person must have lived in Ohio for at least 12 consecutive months immediately prior to enrolling in a state institution of higher education, be qualified to vote in Ohio, and may be subject to the state income tax.<sup>1</sup>

However, the Chancellor recently amended the rule (effective October 20, 2008) to make an exception for certain veterans and their immediate family

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<sup>1</sup> Ohio Administrative Code (O.A.C.) 3333-1-10(B)(1) and (C)(2).

members.<sup>2</sup> This exception grants residency status to a veteran, and to the veteran's spouse and dependents, if the veteran (1) was honorably discharged or released from service, (2) relocates to Ohio and establishes domicile in the state as of the first day of a term of enrollment at a state institution of higher education, (3) qualifies for veterans' education benefits under federal law (the G.I. Bill or similar legislation), and (4) accepts a community service position approved by the Chancellor or participates in an internship or cooperative education program established by the Chancellor or the higher education institution in which the veteran is enrolled. An approved community service position is a position volunteering or working for an elected or appointed public official or for VISTA, Americorps, City Year, the Peace Corps, or a similar program.<sup>3</sup>

### **The bill**

The bill establishes criteria for granting residency status to veterans and their spouses and dependents under the Chancellor's rule. These criteria are similar to some of those in the existing rule, but they exclude the requirements described in (3) and (4) above that the veteran qualify for veterans' education benefits under federal law and perform community service or participate in an internship or cooperative education program. In effect, the bill overrides these provisions of the current rule, thereby eliminating those requirements for veterans and their dependents as a condition of attaining residency status.

Under the bill, the Chancellor's rule must grant residency status to a veteran and the veteran's spouse and dependents, if both of the following conditions are met:

(1) The veteran either (a) served one or more years on active military duty and was honorably discharged or received a medical discharge that was related to the military service or (b) was killed while serving on active military duty or has been declared to be missing in action or a prisoner of war; and

(2) The veteran has established domicile in Ohio as of the first day of a term of enrollment in a state institution of higher education, or if it is the veteran's

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<sup>2</sup> The amendment followed an executive order issued by the Governor on July 8, 2008, that suspended the normal rule-making procedures and authorized the Chancellor to adopt an emergency rule to this end. Since emergency rules are only valid for 90 days, the executive order further directed the Chancellor to pursue a permanent amendment to the existing rule, which is the amendment that took effect October 20, 2008. (See Executive Order 2008-17S, "Immediate Adoption of Rule to Honor Veterans' Service and Attract Them to Ohio's Workforce.")

<sup>3</sup> O.A.C. 3333-1-10(B)(7) and (E)(9).

spouse or dependent who seeks residency status for tuition purposes, both the veteran and the spouse or dependent have established domicile in Ohio as of the first day of a term of enrollment. However, if the veteran was killed while on active duty or has been declared to be missing in action or a prisoner of war, only the spouse or dependent who seeks residency status must establish domicile in Ohio as of the first day of a term of enrollment.

**Honorable discharge symbol upon a driver's license, commercial driver's license, or state identification card**

The bill requires that the application for a driver's license, commercial driver's license, or state identification card include, in addition to the other information currently required to be on the application, information as to whether the applicant is an honorably discharged veteran of the armed forces of the United States and, if the applicant is such an honorably discharged veteran, whether the applicant wishes the license issued to indicate that the applicant is an honorably discharged veteran of the armed forces of the United States. The form must inform applicants that, to qualify to have the license or duplicate indicate that the applicant is an honorably discharged veteran of the armed forces of the United States based on a request made pursuant to this provision, the applicant must present a copy of the applicant's DD-214 or an equivalent document.

If a person to be issued a driver's license, commercial driver's license, or state identification card has specified that the licensee or cardholder wishes the license or card to indicate that the licensee or cardholder is an honorably discharged veteran of the armed forces of the United States and has presented a copy of the cardholder's DD-214 form or an equivalent document, the license or card also must display any symbol chosen by the Registrar to indicate that the cardholder is an honorably discharged veteran of the armed forces of the United States. (R.C. 4506.07, 4506.11, 4507.06, 4507.13, 4507.51, and 4507.52.)

**Fee for license or temporary emergency license to carry a concealed handgun**

The bill revises the provisions that govern the charging of a fee for a license to carry a concealed handgun, the renewal of such a license, and a temporary emergency license to carry a concealed handgun. Under the bill, the fee is divided into a fee of \$40, plus the actual cost of having a background check (the amount will vary depending upon whether the applicant has, or has not, been an Ohio resident for five or more years), and an administrative fee. The bill also makes changes regarding the manner in which the fees paid by an applicant are to be deposited. (R.C. 109.731(C), 311.42(A), 2923.125(B), and 2923.1213(B)(1)(c) and (4).)

### **Renewal of license to carry a concealed handgun**

Under existing law, if a person who has been issued a license to carry a concealed handgun wishes to renew the license, the person must file with a specified sheriff an application for renewal of the license, a certification that the applicant has read the state's handgun safety pamphlet, a license renewal fee unless waived, and, if the person previously has not renewed a license, proof that the person previously has not renewed a concealed handgun license, proof that the person at one time had a competency certification. A valid license is prima-facie evidence that the person at one time had a competency certification. The bill specifies that, in addition to a valid license, any other previously issued license that has not been revoked is prima-facie evidence that the person at one time had a competency certification. (R.C. 2923.125(F)(1)(a).)

### **Ohio Main Street Program--City of Wauseon earmark**

The bill specifies, regarding a \$500,000 amount appropriated in fiscal year 2008 under section 260.20.13 of Am. Sub. H.B. 119 of the 127th General Assembly for the rebuilding and revitalization of downtown Wauseon following a 2007 fire in that community and that is to be used for grants to supplement investments of owners or successors who are rebuilding in the downtown location of the fire, that any unspent portion of that amount that is encumbered for subsequent fiscal years may be used for related off-site infrastructure improvements, including, but not limited to, the installation of utility lines and the acquisition and demolition of adjoining property for the purposes of site improvements and capital improvements related to the implementation of R.C. 2923.125 and 2923.211. (Section 3.)

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## **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.

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## HISTORY

ACTION	DATE
Introduced	01-24-08
Reported, H. Criminal Justice	04-29-08
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