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S.B. 215
134th General Assembly

Fiscal Note & Local Impact Statement

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Version: As Passed by the Senate

Primary Sponsor: Sen. Johnson

Local Impact Statement Procedure Required: No

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Highlights

- There will be a decrease in concealed carry license fees retained by a county sheriff for deposit in the Sheriff's Concealed Handgun License Issuance Expense Fund that could average around \$5.7 million annually statewide. There will likely be a commensurate expenditure decrease in the sheriff's administrative and enforcement functions.
- A reduction in the number of offenders sent to prison for concealed carry violations will create a potential savings effect on GRF-funded incarceration costs estimated at up to \$5.4 million per year.
- There will be a loss in concealed carry license fees deposited in the General Reimbursement Fund (Fund 1060) that could average approximately \$3.3 million annually. There will likely be a commensurate expenditure decrease in the related background check work performed by the state's Bureau of Criminal Investigation.
- The state will lose, at most, a minimal amount of court cost revenue annually that might otherwise have been collected from certain concealed carry and duty to notify violators pursuant to the order of the sentencing court. State court cost revenues are credited to the Indigent Defense Support Fund (Fund 5DY0) and the Victims of Crime/Reparations Fund (Fund 4020).
- County and municipal criminal justice systems may realize an annual savings effect, as there will likely be some reduction in the prosecution and sanctioning of individuals for concealed carry and duty to notify violations. There is also likely to be an associated revenue loss in terms of court costs, fees, and fines that might otherwise have been collected. Court savings will be offset likely minimally by an increase in workload and related expenses to process an additional number of expungement applications.

Detailed Analysis

The bill eliminates the current requirements for a person to obtain a concealed weapons license, and modifies the requirement to notify a law enforcement officer of a concealed weapon.

Concealed carry violations

Because of the bill, there will be fewer concealed carry violations that, under current law, may lead to arrest, prosecution, and sanctioning, including a possible prison term. Depending upon the circumstances of the violation, the conduct can be classified as either a misdemeanor or a felony. It is also possible that there will be a significant reduction in new and renewed concealed carry licenses issued, as individuals will no longer be required to obtain a concealed carry license.

Department of Rehabilitation and Correction

The state may realize some savings in GRF-funded incarceration costs, because of a reduction in offenders sentenced to prison for felony concealed carry violations. According to commitment data from the Department of Rehabilitation and Correction (DRC), over the ten-year period between calendar years (CYs) 2011 through 2020, on average, about 152 persons per year were incarcerated for carrying a concealed weapon as their primary committing offense. The Department's most recent time-served data (for CY 2016) also indicates that these offenders served, on average, approximately one year. The annual cost savings of not incarcerating those offenders is estimated at up to \$5.4 million (152 x \$35,405 average cost per inmate FY 2021). For context, DRC reported \$1.8 billion in GRF expenditures for FY 2021.

As DRC's prison system houses approximately 43,000 offenders and operates at around 110% of its total designed bed capacity, any savings will likely be reallocated to finance ongoing institutional programming, security, and maintenance needs.

County and municipal criminal justice systems

There will be a savings effect created for county and municipal criminal justice systems because of having fewer persons to arrest, prosecute, and sanction for concealed carry violations. There will also be a related loss in court costs, fees, and fines that might otherwise have been collected from persons convicted of a concealed carry violation. The amount of the expenditure savings and related revenue loss for any given local jurisdiction is not readily quantifiable, but it is probably safe to say that the expenditure savings will be considerably larger than the revenue loss.

State court cost revenue

The state will lose, at most, a minimal amount of court cost revenue annually that might otherwise have been collected from certain concealed carry violators pursuant to the order of the sentencing court. These court cost revenues, if collected, are then forwarded for deposit in the state treasury to the credit of the Indigent Defense Support Fund (Fund 5DY0) and the Victims of Crime/Reparations Fund (Fund 4020).¹

¹ The court is generally required to impose state court costs totaling \$29 for a misdemeanor and \$60 for a felony. The \$29 misdemeanor amount is divided as follows: \$20 to Fund 5DY0 and \$9 to Fund 4020. The \$60 felony amount is divided as follows: \$30 to Fund 5DY0 and \$30 to Fund 4020.

Concealed weapons license

The bill permits any adult over the age of 21 who is not legally prohibited from possessing a firearm to carry a concealed handgun (1) without a license and (2) anywhere in which a person who has been issued a license may carry a concealed handgun. As a result, there will be a reduction, potentially significant, in the number of persons applying for a new or a renewal of a concealed carry license, as the enactment of the bill practically means that there is no requirement that a person obtain such a license.

Under current law, the cost of a concealed carry license is as follows: new (\$67/\$91) and renewal (\$50/\$74).² A license is valid for five years. The county sheriff collects the fees as part of their duties and responsibilities to administer and enforce the state's concealed carry laws. The sheriff retains a portion of the fee for crediting to the Sheriff's Concealed Handgun License Issuance Expense Fund.^{3, 4} The remainder is credited to the General Reimbursement Fund (Fund 1060), which the Attorney General uses, in part, to fund the cost of background checks performed by the Bureau of Criminal Investigation (BCI), as well as any checks requested from the FBI.

Between CYs 2016 and 2020, on average, about 83,185 new and 68,855 renewal licenses were issued each year. Over this same period, the total amount of new and renewal license fees collected annually statewide was at least \$9.0 million, plus additional revenue collected from applicants that have resided in Ohio for less than five years. From this amount, county sheriffs statewide retained on average around \$5.7 million annually. The remainder, approximately \$3.3 million annually, was credited to Fund 1060. How much of this annual revenue stream will be lost as a result of the bill is uncertain. Although not required under the bill, obtaining a concealed weapons license may still be a preference for some for purposes of reciprocity with other states. It is also likely that any revenue loss will be largely offset by an expenditure reduction, as county sheriffs and BCI will have fewer concealed carry-related tasks to perform.

Duty to notify

The bill modifies the requirement that a concealed handgun licensee or qualified military member has a duty to inform promptly any law enforcement officer who approaches the person after the person has been stopped that the person has been issued a concealed handgun license and that the person is then carrying a concealed handgun by:

- Requiring the licensee to notify the law enforcement officer before or at the time the officer asks if the person is carrying a concealed handgun rather than requiring the licensee to promptly notify as under current law;

² Applicants residing in Ohio for five years or more pay a fee of \$67 for a new license or \$50 for a renewal license. Applicants residing in Ohio for less than five years pay an additional \$24 for a new or renewal license for the cost of the required FBI background check (R.C. 2923.125).

³ The sheriff retains \$40 of a new license fee and \$35 of the renewal license fee for crediting to the Sheriff's Concealed Handgun License Issuance Expense Fund.

⁴ Current law allows the sheriff to expend the fees for any costs incurred by the sheriff in connection with performing administrative duties related to the issuance of concealed handgun licenses, ammunition and firearms to be used by the sheriff and the sheriff's employees, and any costs incurred in constructing, maintaining, or renovating a shooting range to be used by the sheriff or the sheriff's employees.

- Specifying that failure to notify is not a violation if the person fails to disclose a handgun to a law enforcement officer during a stop in which the person already has notified another officer during the same stop; and
- Making a violation of the notification requirement a second degree misdemeanor.

Under current law, a violation of this requirement to notify is generally a first degree misdemeanor – punishable by not more than 180 days in jail, a fine of up to \$1,000, or both – and the appropriate county sheriff is required to suspend the person’s concealed handgun license for one year. Under the bill, a violation is a second degree misdemeanor punishable by not more than 90 days in jail, a fine of up to \$750, or both, and the offender is not subject to license suspension.

From CYs 2015 through 2019, an average of 19 charges for failure to notify a law enforcement officer were filed annually with the Franklin County Municipal Court. This suggests that a corresponding statewide average would likely be fewer than 200 charges annually under current law – a number likely to decline under the bill. The number of incidents of violations of failure to notify a law enforcement officer as reported by law enforcement agencies to the Ohio Incident-Based Reporting System (OIBRS) was 97 in CY 2019 and 39 in CY 2020, further suggesting a relatively low number of offenses generally.⁵

The modification of the requirement to notify is likely to create a savings effect for county and municipal criminal justice systems because of having fewer persons to arrest, prosecute, and sanction (including license suspension) for concealed carry violations. There will also be a related loss or reduction in court costs, fees, and fines that might otherwise have been collected from persons convicted of a first degree misdemeanor offense of a concealed carry violation. The net annual fiscal effect of the expenditure savings and related revenue loss for any given local jurisdiction is likely to be minimal.

The state will lose, at most, a minimal amount of court cost revenue annually that might otherwise have been collected from certain concealed carry violators pursuant to the order of the sentencing court. These court cost revenues, if collected, are then forwarded for deposit in the state treasury to the credit of the Indigent Defense Support Fund (Fund 5DY0) and the Victims of Crime/Reparations Fund (Fund 4020).

Expungement

A person convicted of a violation of the duty to inform a law enforcement officer as it stood prior to the effective date of the bill may apply to the sentencing court for the expungement of the record of conviction. The Attorney General is required to develop a public media advisory within 30 days of the bill’s effective date. Based on the numbers cited above for annual charges filed, the impact on court and clerk of courts operations is likely to be minimal relative to the number of cases heard annually.

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⁵ These statistics are based upon information voluntarily reported to OIBRS by participating law enforcement agencies as of March 2, 2021, and may not reflect all violations statewide, since not all Ohio law enforcement agencies’ data are available through OIBRS.