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135<sup>th</sup> General Assembly

## Bill Analysis

**Version:** As Introduced

**Primary Sponsor:** Sen. Craig

Ashley Dean, Attorney

### SUMMARY

#### Do Not Possess Firearms Registry

- Creates the Do Not Possess Firearms Registry.
- Requires the Attorney General to develop and distribute a form for enrollment in the Registry, and a form for removal from the Registry, which must include specified information.
- Directs the Attorney General to develop an online platform by which a person may register.
- Requires the Attorney General, and the courts and agencies to which the forms are distributed, to prominently display the forms on the Attorney General's, court's, or agency's website.
- Prohibits a person enrolled in the Registry from knowingly purchasing, possessing, or transporting a firearm.
- Requires a person registering to turn over any firearms in the person's possession to a law enforcement agency within 48 hours of registration.
- Requires law enforcement officials to confiscate any firearm unlawfully possessed, transported, or received by a person enrolled in the Registry, until the person is removed from the Registry.
- Specifies the procedures for submitting an application or enrollment in or removal from the registry and what information must be included.
- Prohibits the Attorney General from removing a person enrolled in the Registry until 21 days after receiving the person's application for removal, absent a court order.
- Permits a person to petition the common pleas court in the person's county of residence for removal prior to the expiration of the 21-day waiting period.

- Requires the common pleas court to determine by a preponderance of the evidence that a person petitioning for early removal is not likely to act in a manner dangerous to public safety or to the person's self before granting the petition.
- Permits any public official or interested party to present evidence during proceedings related to a petition for early removal.
- Requires the court to make the determination not later than two court days following the proceeding, and to immediately transmit notice of that determination to the Attorney General.
- Requires the Attorney General to remove a person from the Registry no later than 24 hours after receipt of notice to do so from a common pleas court.
- Requires the Attorney General to continuously update the National Instant Criminal Background Check System, and states with analogous lists or registries, with enrollment and removal information for the Registry.
- Requires the Attorney General to notify people enrolling in, or being removed from, the Registry, of that status change by mail.
- Requires the destruction of all records related to the enrollment and removal of a person from the Registry upon that person's removal from the Registry.

### **Related Prohibitions**

- Prohibits knowing inquiry into a person's status on the Registry, other than to determine that person's eligibility to purchase, possess, or transport a firearm.
- Prohibits knowingly giving false information or making a false statement with the purpose to enroll a person in or remove a person from the Registry.
- Prohibits knowing discrimination based on a person's present or former status on the Registry with regard to the person's receipt of health care services, employment, education, housing, insurance, governmental benefits, or contracting.
- Prohibits knowingly, or negligently due to failure to conduct a required background check, transferring a firearm to a person enrolled in the Registry.
- Specifies that violations of the above listed prohibitions are punishable by fine only.

### **Concealed handgun licenses**

- Specifies that enrollment in the Do Not Possess Firearms Registry is a disqualification when applying for a concealed handgun license.
- Establishes procedures for the suspension of a concealed handgun license upon a licensee's enrollment in the Registry.

## Public records

- Exempts enrollment or removal records of the Do Not Possess Firearms Registry from the Public Records Law.

## Public information

- Requires the State Medical Board and the Department of Mental Health and Addiction Services to adopt rules encouraging licensees to inform the public about the Registry.
- Requires the Attorney General to implement and manage a public awareness campaign regarding the Registry.

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## DETAILED ANALYSIS

### Do Not Possess Firearms Registry

The bill is named the Suicide Self-Defense Act.<sup>1</sup>

Within six months after the effective date of the bill, the Attorney General must establish a Do Not Possess Firearms Registry to prohibit the possession, sale, or transportation of a firearm to any person who voluntarily registers the person's self to be enrolled in the Registry. The Attorney General is responsible for the maintenance of the Registry, and promulgation of rules for the implementation of the Registry.<sup>2</sup>

Additionally, the Attorney General must develop and distribute a form to every clerk of a court of record, the Department of Health, the Department of Mental Health and Addiction Services, and the State Medical Board to allow individuals to register on the Registry, and a form by which an individual may request removal. The Attorney General, and the courts and agencies to which the form is distributed, must prominently display the form on the Attorney General's, court's, or agency's website.<sup>3</sup>

At a minimum, the form must contain the following information:<sup>4</sup>

- Information on the 30-day waiting period after initial registration onto the Registry, as well as information on the 21-day waiting period after a request for removal is received by the Attorney General.
- The legal ramifications of registration, including that registration may subject a person to laws of other states with analogous do not sell or do not possess lists or registries.

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<sup>1</sup> Section 4.

<sup>2</sup> R.C. 2923.22(B)(1).

<sup>3</sup> R.C. 2923.22(B)(2).

<sup>4</sup> R.C. 2923.22(B)(2).

- The requirement that a person registering on the Do Not Possess Firearms Registry turn over any firearms in the person's possession to a law enforcement agency within 48 hours of registration and how to do so.

Within six months after the effective date of the bill, the Attorney General must also develop an online platform, accessible through the Attorney General's website, by which a person may register on the Registry that does all of the following:<sup>5</sup>

- Verifies the identity of any person who registers or attempts to register;
- Prevents unauthorized disclosure of the identity or any personally identifying information of any registering person;
- Informs a person registering of the effects of registration;
- Provides an option for the person registering to receive a hard copy of the completed registration form in writing by mail or electronic mail;
- Provides an option to receive notification by mail or electronic mail of removal from the Registry;
- Provides information on how to relinquish a firearm to a law enforcement agency.

A person may apply in writing to the Attorney General to request voluntary enrollment in the Do Not Possess Firearms Registry and, after being enrolled in the Registry, may apply in writing to the Attorney General to request removal from the Registry.<sup>6</sup> An application for enrollment in or removal from the Registry may be submitted by mail, via the online portal on the Attorney General's website, or in person to the office of the Attorney General.<sup>7</sup> An application for enrollment or removal must include a photocopy or an electronic image of a valid form of photo identification.<sup>8</sup>

"Photo identification" is a document that meets each of the following requirements:<sup>9</sup>

- It shows the name of the individual to whom it was issued;
- It shows the current address of the individual to whom it was issued;
- It shows a photograph of the individual to whom it was issued;
- It includes an expiration date that has not passed;
- It was issued by the government of the United States or Ohio.

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<sup>5</sup> R.C. 2923.22(B)(3).

<sup>6</sup> R.C. 2923.22(C)(1).

<sup>7</sup> R.C. 2923.22(C)(3).

<sup>8</sup> R.C. 2923.22(C)(4).

<sup>9</sup> R.C. 2923.22(A).

The Attorney General cannot remove a person enrolled in the Registry until 21 days after the Attorney General receives the person's application for removal.<sup>10</sup> A person who has enrolled in the Registry may petition the common pleas court of the county in which the person resides for removal prior to 21 days after the Attorney General receives the person's application for removal from the Registry. The person petitioning for removal must show, by a preponderance of the evidence, that the person is not likely to act in a manner dangerous to public safety, or to the person's self. Any public official or interested party may also present evidence during the proceedings.<sup>11</sup>

The common pleas court of the county in which the person resides must determine whether or not the person is likely to act in a manner dangerous to public safety, or to the person's self not later than two court days following a proceeding regarding removal. The court is required to immediately transmit notice of that determination to the Attorney General. The Attorney General must then remove a person from the Registry, if directed to do so by the court, not later than 24 hours after receipt of that notice.<sup>12</sup>

A person enrolled in the Registry is prohibited from knowingly purchasing, possessing, or transporting a firearm. A violation of this prohibition is "illegally possessing, purchasing, or transporting a firearm while enrolled in the Do Not Possess Firearms Registry," a first degree misdemeanor.<sup>13</sup> If a person who has enrolled in the Do Not Possess Firearms Registry is found to possess, transport, or receive a firearm while enrolled in the Registry, law enforcement officials must confiscate the firearm until the person is removed or unenrolled from the Registry.<sup>14</sup>

The bill includes within the offense of "unlawful transactions in weapons" knowingly selling, lending, giving, or furnishing any firearm to a person who is enrolled in the Registry, if the offender knows the person is enrolled in the Registry. A violation of that prohibition is a first degree misdemeanor.<sup>15</sup>

On enrolling a person in the Registry, the Attorney General must forward the person's eligibility to purchase, possess, or transport a firearm to the National Instant Criminal Background Check System and notify the person by mail or electronic mail that the person is enrolled in the Registry. The Attorney General is required to continuously forward Registry information to both the National Instant Criminal Background Check System, and to any other state that adopted an analogous do not sell or do not possess list or registry. Upon notice from another state that has implemented an analogous list or registry that a person has been

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<sup>10</sup> R.C. 2923.22(C)(2) and (E).

<sup>11</sup> R.C. 2923.22(C)(5)(a).

<sup>12</sup> R.C. 2923.22(C)(5)(b).

<sup>13</sup> R.C. 2923.133.

<sup>14</sup> R.C. 2923.22(D)(2).

<sup>15</sup> R.C. 2923.20(A)(8) and (C).

enrolled in or removed from that state's list or registry, the Attorney General must update the Do Not Possess Firearms Registry within one business day.<sup>16</sup> On removal of a person from the Registry, the Attorney General must update that person's eligibility to purchase, possess, or transport a firearm to the National Instant Criminal Background Check System and destroy all records related to the enrollment in and removal of the person from the Registry.<sup>17</sup>

Upon a person's removal from the Registry, the Attorney General, courts, and any other law enforcement agency or office with a record of that person's registration is required to destroy the records of that person's registration.<sup>18</sup>

## **Related prohibitions**

The bill also includes the following prohibitions related to the Do Not Possess Firearms Registry:

- A person is prohibited from knowingly inquiring as to whether another person is enrolled in the Do Not Possess Firearms Registry for any other purpose other than to determine that person's eligibility to purchase, possess, or transport a firearm. A violation of this prohibition is "improper inquiry regarding the Do Not Possess Firearms Registry," a third degree misdemeanor.<sup>19</sup>
- A person is prohibited from knowingly giving false information or making a false statement with the purpose to enroll a person in or remove a person from the Registry. A violation of this prohibition is "false statement to enroll or remove from the Do Not Possess Firearms Registry," a second degree misdemeanor.<sup>20</sup>
- A person is prohibited from knowingly discriminating against another person with regard to the person's receipt of health care services, employment, education, housing, insurance, governmental benefits, or contracting due to that person not being enrolled in the Registry, being enrolled in the Registry, or previously being enrolled in the Registry. A violation of this prohibition is "improper use of the Do Not Possess Firearms Registry," a first degree misdemeanor.<sup>21</sup>
- A person or entity is prohibited from knowingly, or negligently due to failure to perform a required background check, transferring a firearm to a person enrolled in the Do Not

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<sup>16</sup> R.C. 2923.22(D)(1).

<sup>17</sup> R.C. 2923.22(E).

<sup>18</sup> R.C. 2923.22(F).

<sup>19</sup> R.C. 2923.221(A) and (E)(2).

<sup>20</sup> R.C. 2923.221(B) and (E)(3).

<sup>21</sup> R.C. 2923.221(C) and (E)(4).

Possess Firearms Registry. A violation of this prohibition is “improper transfer to a person on the Do Not Possess Firearms Registry,” a first degree misdemeanor.<sup>22</sup>

An individual or organization that violates one of the above mentioned prohibitions is subject to a fine, but not imprisonment. If the entity that commits improper transfer to a person on the Do Not Possess Firearms Registry is an organization, the court may impose a fine of not more than \$5,000.<sup>23</sup>

## **Concealed handgun licenses**

Under the bill, a person’s enrollment in the Do Not Possess Firearms Registry is a disqualification when applying for a concealed handgun license.<sup>24</sup>

If a person enrolled in the Registry holds a concealed handgun license, the sheriff who issued the license must suspend it and provide the licensee with notice of the suspension by certified mail, return receipt requested, at the licensee’s last known address. The sheriff must also make notification of the suspension available through the Law Enforcement Automated Data System. The suspension begins on the date that the licensee is first enrolled in the Registry, irrespective of when the sheriff notifies the licensee, and ends on the date the licensee is removed from the Registry. Upon the end of the suspension, the sheriff will return the license or temporary emergency license to the licensee.<sup>25</sup>

## **Public records**

Under the bill, an application to be enrolled in or removed from the Do Not Possess Firearms Registry, and any other personal identifying information contained in or related to the Registry, is not a public record.<sup>26</sup>

## **Public information**

The bill requires the State Medical Board and the Department of Mental Health and Addiction Services to adopt rules to encourage licensees to inform the public about the Do Not Possess Firearms Registry.<sup>27</sup>

The Attorney General must implement and manage a public awareness campaign regarding the Registry, which may include online materials, printed materials, and public service announcements. At a minimum, the campaign must include information about the

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<sup>22</sup> R.C. 2923.221(D) and (E)(5).

<sup>23</sup> R.C. 2923.221(E)(1) and (5).

<sup>24</sup> R.C. 2923.125(D)(1)(t).

<sup>25</sup> R.C. 2923.128(A)(3), 2923.11(O), and 2923.125(H).

<sup>26</sup> R.C. 149.43(A)(1)(tt).

<sup>27</sup> R.C. 4731.058.

Do Not Possess Firearms Registry, how a person may register, and contact information for a person to obtain additional information about the Registry.<sup>28</sup>

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## HISTORY

Action	Date
Introduced	10-03-23

ANSB0164IN-135/sb

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<sup>28</sup> Section 3.