



# OHIO LEGISLATIVE SERVICE COMMISSION

Joseph Rogers

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## Fiscal Note & Local Impact Statement

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**Bill:** S.B. 199 of the 131st G.A.

**Date:** December 8, 2016

**Status:** As Enacted

**Sponsor:** Sens. Uecker and Gardner

**Local Impact Statement Procedure Required:** No

**Contents:** Concealed Handgun Law

### State and Local Fiscal Highlights

- **Licenses.** There will be a negligible fiscal effect on state and local revenues and expenditures, as the bill's changes to the Concealed Handgun Law may result in a slight reduction in licenses issued.
- **Violations.** As a result of a potentially small reduction in concealed carry arrests and convictions statewide, there may be minimal annual decreases in: (1) county and municipal criminal case processing and sanctioning costs, and (2) state incarceration costs. There may also be: (1) a minimal annual loss of fine, fee, and court cost revenues retained by counties and municipalities, and (2) a negligible annual loss of court cost revenues forwarded for deposit in the state treasury.
- **County sheriff.** The bill's broadening of the permissible uses of the Sheriff's Concealed Handgun License Issuance Expense Fund may increase expenditures in certain counties.

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### Detailed Fiscal Analysis

#### Active duty armed forces member with firearms training

The bill specifies that active duty members of the U.S. armed forces do not need a concealed handgun license to carry a concealed handgun if they are carrying a valid military identification and documentation of successful completion of specified firearms training.

#### Concealed carry licenses

The license exemption may result in a very slight reduction in the number of new and renewed concealed handgun licenses issued, as active duty military members will no longer be required to obtain a concealed handgun license. The number of active duty

military personnel that are issued a new or renewed concealed handgun license in any given year is unclear.

We do know that, in 2015, counties statewide issued 116,140 new and renewed concealed handgun licenses. This constitutes about 1% of the population of Ohio, which totals approximately 11.6 million. According to the Defense Manpower Data Center, there were 7,218 active duty military members in Ohio as of August 2013. If 1% of the general Ohio population is issued a new or renewed concealed handgun license each year, and we assume that a similar 1% would reasonably represent the active duty military in Ohio, then we estimate that around 72 persons on active military duty are issued a new or renewed license each year. This suggests that, as a result of the bill, an estimated 72 active military duty members would no longer be required to secure a license each year.

Under current law, the cost of a concealed carry license is as follows: new (\$67/\$91) and renewal (\$50/\$74).<sup>1</sup> A license is valid for five years. The fees are collected by the county sheriff as part of their duties and responsibilities to administer and enforce the state's Concealed Handgun Law. The sheriff retains a portion of the fee (\$40 of a new license and \$35 of the renewal license) for deposit into the Sheriff's Concealed Handgun License Issuance Expense Fund, which is used solely to pay for related administrative and enforcement costs. The remainder is forwarded for deposit into the state treasury to the credit of 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.

If, under the bill, around 72 active duty military members are exempted from the requirement to obtain a concealed handgun license, the estimated amount of license fee revenue lost statewide could run between \$5,000 and \$6,500 per year. The annual revenue loss to Fund 1060 and the Sheriff's Concealed Handgun License Issuance Expense Fund across the state will be minimal at most. It is also likely that any revenue loss would to some extent be offset by expenditure reductions, as county sheriffs and BCI will have fewer concealed carry-related tasks to perform.

### **Concealed carry violations**

As a result of the license exemption, there may be slightly fewer arrests for concealed carry violations, and a corresponding reduction in the number of prosecutions, and sanctioning, which could include the possibility of jail or prison.

The number of active duty military members incarcerated for this type of offense is likely to be extremely small because all active duty military members are subject to the Uniform Code of Military Justice (UCMJ). Most crimes in civilian criminal codes are

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<sup>1</sup> 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).

also included in the UCMJ, which has jurisdiction over active military personnel. If a crime committed by a person on active duty violates both the UCMJ and civilian law, that offense could be tried in both systems; however, the two systems typically coordinate how the case will be adjudicated.

To the extent that county and municipal criminal justice systems defer to the jurisdiction of the military, the few cases that might occur under current law could become even fewer. There will be a very small savings effect for those local systems, as a result of having fewer persons to arrest, prosecute, and sanction for concealed carry violations. This may also entail a related negligible loss in court costs, fees, and fines that might otherwise have been collected from persons on active military duty convicted of a concealed carry violation. This potential revenue loss may be offset to some extent by a provision in the bill creating a civil penalty of up to \$500 if a member of the military is stopped by law enforcement and they are not carrying the required identification and documentation. Estimating the revenue is difficult because the civil penalty must be waived if the offender produces their military identification and training documentation within ten days of receiving the citation. Little civil penalty revenue is likely to be collected.

The annual fiscal effect on the state may be a minimal reduction in state incarceration costs and a negligible loss in locally collected state court costs.

### **Prohibited places**

The bill expands the scope of where and how a properly licensed individual can lawfully carry a concealed handgun to include certain additional places.<sup>2</sup> The practical effect is that there could be fewer violations of certain restrictions that, under current law, may lead to criminal prosecutions, and the suspension and/or revocation of a concealed carry license by the county sheriff that issued the license. Given the fact that the overall rate of suspensions and revocations for all violations of the Concealed Carry Law is very small, between 1% and 2% statewide, it seems reasonable to conclude that the potential reduction in the number of violations statewide, and subsequent number of persons prosecuted and sanctioned for such violations would also be very small.<sup>3</sup>

There may occur, at most, a minimal annual savings for the state and certain local governments. More specifically, county and municipal criminal justice systems may realize some expenditure savings as a result of having slightly fewer persons to prosecute and sanction for certain concealed carry violations. The state may also realize some savings in GRF-funded incarceration costs, as a result of a reduction in offenders sentenced to prison for felony concealed carry violations.

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<sup>2</sup> These additional places include: day-care facilities, certain government facilities, certain commercial aircraft, institutions of higher education, public areas of airport terminals, and school safety zones.

<sup>3</sup> Depending upon the circumstances of the violation, the conduct can be classified as either a misdemeanor or a felony.

The state and certain local governments may lose insignificant amounts of annual revenue that otherwise might have been collected from certain concealed carry violators pursuant to the order of the sentencing court. The state's potential loss will be a negligible amount in court costs that, 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).<sup>4</sup> Counties and municipalities may lose a minimal amount of fine, fee, and court cost revenue that such a violator would have been required to pay.

### **Immunity for institutions of higher education**

The bill provides institutions of higher learning with immunity from civil liability under certain circumstances. This provision will potentially eliminate future civil lawsuits, although the likely number would be extremely small. Such an outcome presumably creates some savings effect relative to: (1) litigation and settlement costs such an institution otherwise might have incurred, and (2) case processing costs for a court of common pleas having jurisdiction over such matters.

### **Sheriff's Concealed Handgun License Issuance Expense Fund**

Under current law, the county sheriff, with the approval of the board of county commissioners, may spend any county portion of the fees deposited into the Sheriff's Concealed Handgun License Issuance Expense Fund to cover costs incurred by the sheriff in connection with performing any functions related to the issuance of concealed handgun licenses. The bill permits money in the fund to be used for costs of firearms and ammunition to be used by the sheriff and the sheriff's employees. As a result, expenditures from the fund may increase to some degree in certain counties.

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<sup>4</sup> For a nonmoving traffic violation, 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.