



www.lsc.ohio.gov

OHIO LEGISLATIVE SERVICE COMMISSION

Office of Research
and Drafting

Legislative Budget
Office

H.B. 99
134th General Assembly

Bill Analysis

Version: As Introduced

Primary Sponsor: Rep. Hall

Sarah A. Maki, Attorney

SUMMARY

- Expressly exempts a “person authorized to go armed within a school safety zone” from satisfactorily completing an approved basic peace officer training program.
- Requires a “person authorized to go armed within a school safety zone” to successfully complete firearms training that meets or exceeds the training requirements for a concealed handgun licensee.

DETAILED ANALYSIS

Existing law

Firearms in a school safety zone; exception for certain school personnel

Prohibitions and penalty

Existing law prohibits a person from: (1) knowingly conveying, or attempting to convey, a deadly weapon or dangerous ordnance into a school safety zone, (2) knowingly possessing a deadly weapon or dangerous ordnance in a school safety zone, or (3) knowingly possessing an object in a school safety zone if the object is indistinguishable from a firearm, whether or not the object is capable of being fired, and the person indicates that the person possesses the object and that it is a firearm, or the person knowingly displays or brandishes the object and indicates that it is a firearm.¹

A violation of the prohibition described in clause (1) or (2) is the offense of “illegal conveyance or possession of a deadly weapon or dangerous ordnance in a school safety zone,” a fourth or fifth degree felony, depending on the circumstances of the offense. A violation of

¹ R.C. 2923.122(A) to (C).

the prohibition described in clause (3) is the offense of “illegal possession of an object indistinguishable from a firearm in a school safety zone,” a first degree misdemeanor or fifth degree felony, depending on the circumstances of the offense.²

Exceptions for certain school personnel

The law provides several exceptions from the prohibitions, including exceptions, relevant to the bill, stating that they do not apply to: (1) a security officer employed by a board of education or governing body of a school during the time that the security officer is on duty pursuant to that contract of employment, or (2) any other person who has written authorization from the board of education or governing body of a school to convey deadly weapons or dangerous ordnance into a school safety zone or to possess a deadly weapon or dangerous ordnance in a school safety zone and who conveys or possesses the deadly weapon or dangerous ordnance in accordance with that authorization.³

School safety zone definition

As used in these provisions, a “school safety zone” consists of a school, school building, school premises, school activity, and school bus.⁴

OPOTC training requirement

Revised Code training provision

Existing law specifies that no public or private educational institution or Superintendent of the State Highway Patrol may employ a person as a special police officer, security guard, or for a similar law enforcement or security position in which such person goes armed while on duty, who has not received a certificate of having satisfactorily completed an approved basic peace officer training program, unless the person has completed 20 years of active duty as a peace officer.⁵ Peace officer basic training is provided by the Ohio Peace Officer Training Commission (OPOTC).

Appellate court decision

A decision of the 12th District Court of Appeals considered the interaction of the Revised Code provision described in the preceding paragraph and the exceptions from the offenses pertaining to firearms in school safety zones that are provided for certain school personnel, described above in “**Exceptions for certain school personnel.**”

Under the facts in the case, a school district, the Madison Local School District, passed a resolution that allowed it to authorize several District employees to carry concealed firearms into the District’s school safety zones. The District claimed authority for this resolution under the statutory provisions described above in “**Exceptions for certain school**

² R.C. 2923.122(E).

³ R.C. 2923.122(D)(1).

⁴ R.C. 2901.01(C), not in the bill.

⁵ R.C. 109.78(D).

personnel” that exclude certain specified school personnel from the offense of possessing a deadly weapon in a school safety zone. The persons the District authorized to carry concealed firearms under its resolution were specified as being approved volunteers employed by the District who were licensed to carry a concealed firearm in Ohio, who had undergone 24 hours of active shooter/killer training, and who had completed and passed a criminal background check, a drug screen, and a mental health evaluation. Erin Gabbard, and several other parents, challenged the legality of the District’s resolution, and asked that the District be barred from implementing the resolution unless the employees completed an approved basic peace officer training program in accordance with the requirement described above in **“Revised Code training provision.”**

In its decision, the Court held that the school board-related exceptions in the statutory provisions described above in **“Exceptions for certain school personnel”** do not provide the District with authority to enact a resolution above the clear and unambiguous dictates of the requirement described above in **“Revised Code training provision,”** that the two sets of statutory provisions do not conflict, and that, as a result, it was required to apply the provisions as written. In doing that, the Court held that:⁶

The plain and unambiguous language found in R.C. 109.78(D) makes clear that the Madison Local is prohibited from employing a person as a “special police officer, security guard, or other position in which such person goes armed while on duty” unless that person has either completed an approved basic peace officer training program or has 20 years of active duty as a peace officer.

...

Though the school board may provide written authorization so that an individual is not subject to prosecution under R.C. 2923.122, the school board is still subject to the training requirements mandated by the General Assembly in R.C. 109.78(D) when employing a person as a “special police officer, security guard, or other position in which such person goes armed while on duty.” The express language of the statute does not suggest an intention to allow teachers or staff to carry a firearm while on duty with less training than that indicated in the statute. Rather, the plain language of the statute reveals that a board of education may only employ such persons if they have received significant training or have more than 20 years of experience Should the legislature want to reduce the amount

⁶ *Gabbard v. Madison Local School Dist. Bd. of Educ.*, 12th Dist. Butler No. CA2019-03-051, 2020-Ohio-1180.

of training or experience for teachers and staff, it is their legislative prerogative to create such an exception.

...

We are likewise unpersuaded by the designation that the persons authorized to carry concealed firearms under the resolution were “approved volunteers.” The “approved volunteer” designation does not alter the inevitable conclusion that the Madison Local employees are “armed while on duty.” The resulting application is clear. As the teachers and staff members are employed by Madison Local in a position in which they go into school “armed while on duty,” Madison Local was obligated to follow the dictates of R.C. 109.78(D), which mandates the training requirements.

Operation of the bill

The bill exempts a “person authorized to go armed within a school safety zone” from satisfactorily completing an approved basic peace officer training program, but requires a “person authorized to go armed within a school safety zone” to successfully complete firearms training that meets or exceeds the training requirements for a concealed handgun licensee.

Nonapplication of OPOTC training requirement

The bill specifies that the Revised Code provision described above under “**OPOTC training requirement**” does not apply with respect to the employment of a person by a board of education or governing body of a school in a position in which the person has been authorized by a school board to voluntarily go armed within a school safety zone within which the board or governing body has authority, if both of the following apply with respect to the employment and person:⁷

1. The person is a “person authorized to go armed within a school safety zone.”
2. The person is not being employed as a special police officer or security officer.

Application of CHL training requirement

The bill modifies the Revised Code provision described above in clause (2) under “**Exceptions for school personnel**” in two ways. First, in addition to current requirements, it requires that the person described must successfully complete firearms training that meets or exceeds the training requirements for a concealed handgun licensee. Second, it names the person described a “person authorized to carry firearms within a school safety zone.”⁸

⁷ R.C. 109.78(D).

⁸ R.C. 2923.122(D)(1) and (G)(2).

Declaration of legislative intent

The General Assembly declares in the bill that its purpose is to expressly overrule the decision of the Twelfth District Court of Appeals in *Gabbard, supra*, which is described above.⁹

HISTORY

Action	Date
Introduced	02-09-21

H0099-I-134/ks

⁹ R.C. 109.78(E).