



# OHIO LEGISLATIVE SERVICE COMMISSION

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## Bill Analysis

Nicholas A. Keller

### **Sub. H.B. 233\***

132nd General Assembly

(As Reported by H. Federalism and Interstate Relations)

**Reps.** Becker, Antani, Arndt, Blessing, Brenner, Brinkman, Butler, Carfagna, Dean, Dever, Duffey, Faber, Gavarone, Ginter, Goodman, Greenspan, Hagan, Hambley, Henne, Hill, Hood, Householder, Huffman, Keller, Kick, Koehler, Landis, LaTourette, Lipps, McColley, Merrin, Patton, Pelanda, Perales, Rezabek, Riedel, Roegner, Romanchuk, Rosenberger, Schaffer, Scherer, Schuring, Seitz, Slaby, R. Smith, Sprague, Stein, Thompson, Vitale, Wiggam, Young, Zeltwanger

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## **BILL SUMMARY**

- Provides that when a concealed handgun licensee or qualified military member is discovered carrying a deadly weapon in a prohibited place or in a prohibited manner, the person is subject to removal, but not guilty of violating the prohibition.
- Creates the offense of criminal trespass with a deadly weapon, a fourth degree misdemeanor.
- Permits law enforcement or security officers to record a person's appearance with a deadly weapon on a property where deadly weapons are prohibited or restricted in order to track recurrent violations of the deadly weapons prohibition.
- Prohibits law enforcement from seizing a deadly weapon, ammunition, or accessories when a person is discovered carrying a deadly weapon in a prohibited place or in a prohibited manner, except for the duration of an investigatory stop or upon charge or arrest.
- Allows the governing body with authority over a government facility to permit all or certain specific concealed handgun licensees to carry a concealed handgun into the building or any portion of the building.

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\* This analysis was prepared before the report of the House Federalism and Interstate Relations Committee appeared in the House Journal. Note that the list of co-sponsors and the legislative history may be incomplete.

- Removes daycares from the list of places that must post a sign prohibiting weapons and modifies the sign posting requirements for airports and government buildings.

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## CONTENT AND OPERATION

### Overview

Under the bill, if a concealed handgun licensee or qualified military member is discovered carrying a deadly weapon in a place where carrying a deadly weapon is prohibited or restricted, the person is subject to removal from the property, but is not guilty of violating the carried weapon prohibition. The bill prohibits law enforcement from seizing a concealed handgun licensee's or qualified military member's deadly weapon, ammunition, or accessories except for the duration of an investigative stop, presuming the person is not guilty of any other offense. If the person fails to leave upon request or returns with a deadly weapon within 30 days in violation of the prohibition, the person is guilty of criminal trespass with a deadly weapon, a fourth degree misdemeanor.

Continuing law provides for the issuance of concealed handgun licenses and temporary emergency concealed handgun licenses to persons who apply for the license and satisfy certain eligibility criteria. A person who is issued a concealed handgun license is authorized to carry a concealed handgun in most places; however, the law specifically states that carrying in certain places is prohibited and there are restrictions on the manner of carrying a concealed handgun.<sup>1</sup> An active duty member of the U.S. armed forces who is carrying a valid military identification card and documentation of successful completion of firearms training that meets or exceeds the firearms training requirements for concealed handgun licensees has the same right to carry a concealed handgun as a licensee and is subject to the same restrictions.<sup>2</sup> The bill creates the defined term "qualified military member" to refer to such persons.<sup>3</sup>

### Exemptions from certain criminal offenses involving carrying deadly weapons

The bill expands exemptions in certain criminal offenses that apply to a concealed handgun licensee or qualified military member. Under the bill, a licensee or qualified military member is subject to removal but is not guilty of any of the following

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<sup>1</sup> R.C. 2923.12 to 2923.25.

<sup>2</sup> R.C. 2923.126(E)(2).

<sup>3</sup> R.C. 2923.11(S).



offenses by virtue of being discovered carrying a deadly weapon (or, in the case of (2), below, a firearm) into a prohibited place or in a prohibited manner:<sup>4</sup>

- (1) Carrying concealed weapons;
- (2) Illegal possession of a firearm in a liquor permit premises;
- (3) Illegal conveyance or possession of a deadly weapon or dangerous ordnance in a school safety zone;
- (4) Illegal conveyance of a deadly weapon or dangerous ordnance into a courthouse;
- (5) Criminal trespass in violation of a sign prohibiting weapons posted on private property or aggravated trespass in violation of a sign posted on the premises of a day-care center.

Additionally, under the bill, a concealed handgun licensee or qualified military member who is discovered carrying a deadly weapon onto land or premises in violation of a posted sign as described in (5) above is not subject to a civil cause of action for trespass based on the violation.<sup>5</sup>

### **No seizure of deadly weapon, ammunition, or accessories**

If a concealed handgun licensee or qualified military member carries a deadly weapon in a prohibited place or in a prohibited manner but qualifies for one of the exemptions described above, the bill prohibits a law enforcement officer from seizing or authorizing the seizure of the person's deadly weapon, ammunition, or accessories based on that conduct, except for the duration of an investigative stop or upon arresting or charging the person for a violation.<sup>6</sup> Under continuing law, if a law enforcement officer stops a person to question the person for carrying concealed weapons, for a traffic stop, or for any other law enforcement purpose, if the person surrenders a firearm to the officer, and if the officer does not charge or arrest the person for any offense, the person is not otherwise prohibited by law from possessing the firearm, and the firearm is not contraband, the officer must return the firearm once the stop ends.<sup>7</sup>

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<sup>4</sup> R.C. 2923.12(F)(4), 2923.121(E)(2), 2923.122(E)(1)(b), 2923.123(D)(3), and 2923.126(C)(3).

<sup>5</sup> R.C. 2923.126(C)(3)(c).

<sup>6</sup> R.C. 2923.1214(D).

<sup>7</sup> R.C. 2923.12(G).



## **Criminal trespass with a deadly weapon**

Under the bill, a concealed handgun licensee or qualified military member is guilty of criminal trespass with a deadly weapon if the person is discovered carrying a deadly weapon in a place where deadly weapons are prohibited or in a prohibited manner if the person does either of the following:<sup>8</sup>

(1) Refuses or fails to leave the land or premises upon being requested to do so by the owner, lessee, or person in control of the land or premises or by the individual's agent or employee;

(2) Returns within 30 days to the same premises while knowingly in possession of a deadly weapon without privilege to do so.

The bill permits a law enforcement officer or security officer to record any violation of the prohibition described above to determine whether the person has entered the same land or premises more than once within 30 days while knowingly in possession of a deadly weapon.<sup>9</sup>

Criminal trespass with a deadly weapon is a fourth degree misdemeanor, punishable by up to 30 days in jail and a fine of \$250 or less.<sup>10</sup>

## **Concealed handguns permitted in specified portions of government facilities**

Under continuing law, a concealed handgun license does not authorize a licensee to carry a concealed handgun into a building that is a government facility of this state or a political subdivision of this state and that is not a building that is used primarily as a shelter, restroom, parking facility for motor vehicles, or rest facility and is not a courthouse or other building or structure in which a courtroom is located unless the governing body with authority over the building has enacted a statute, ordinance, or policy that permits a licensee to carry a concealed handgun into the building. The bill allows the governing body to enact a statute, ordinance, or policy to permit *all or certain specific licensees* to carry a concealed handgun into the building *or any portion of the building*.<sup>11</sup>

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<sup>8</sup> R.C. 2923.1214(A) and (B).

<sup>9</sup> R.C. 2923.1214(C).

<sup>10</sup> R.C. 2923.1214(B).

<sup>11</sup> R.C. 2923.126(B)(7).



## Places required to post signage prohibiting weapons

The bill modifies the list of persons who must post a sign prohibiting weapons on the premises to reflect changes in the Concealed Handgun Law made by Am. Sub. S.B. 199 of the 131st General Assembly. More specifically, the bill removes from the list an owner, administrator, or operator of a child day care center, a type A family day care home, or a type B family day care home. Also, instead of requiring signs to be posted at each airport facility, the bill requires signs to be posted in a conspicuous location at each airport passenger or screening checkpoint and wherever access is restricted through security measures by the airport authority or a public agency. Finally, government facilities are exempted from the posting requirement if the governing body with authority over the building has enacted a statute, ordinance, or policy that permits all or certain specific licensees to carry a concealed handgun into the building or any portion of the building.<sup>12</sup>

## DEFEND Act

The bill states that the act is to be known as the "Decriminalization Effort For Ending Notorious Deaths (DEFEND)."<sup>13</sup>

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## HISTORY

ACTION	DATE
Introduced	05-18-17
Reported, H. Federalism & Interstate Relations	---

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<sup>12</sup> R.C. 2923.1212(A).

<sup>13</sup> Section 3.

