



OHIO LEGISLATIVE SERVICE COMMISSION

Joseph Rogers

Fiscal Note & Local Impact Statement

Bill: H.B. 585 of the 132nd G.A.

Status: As Introduced

Sponsor: Rep. Henne

Local Impact Statement Procedure Required: Yes

Subject: Weapons control offenses and extreme risk protection orders

State Fiscal Highlights

- There may be some small increase in the number of persons convicted of certain felony weapons control offenses, which may yield some marginal increase in the size of the state prison population and a corresponding annual increase in GRF incarceration-related expenditures.
- As a result of the potential increase in certain criminal convictions in relation to the bill's weapons control offense provisions, there could also be a corresponding increase in state court cost revenues credited to the Reparations Fund (Fund 4020) and the Indigent Defense Support Fund (Fund 5DY0). If, as expected, the bill affects a relatively small number of such cases annually statewide, then any potential annual gain in court cost revenues collected and forwarded to the state treasury will likely be minimal.
- Law enforcement agencies are permitted to transfer deadly weapons and firearms surrendered or seized to the Ohio State Highway Patrol. Any costs generated for the Patrol will be a function of the frequency and number of such items transferred by law enforcement agencies.

Local Fiscal Highlights

- The most likely local effect of the bill's various criminal offense provisions may be a small increase in the number of certain cases, which could create a corresponding increase in county and municipal criminal case processing and sanctioning costs, as well as a related gain in local court costs, fees, and fines. These potential increases in the magnitude of annual revenues and expenditures appear unlikely to exceed minimal for any given county or municipality.
- The common pleas courts are required to schedule hearings regarding the issuance of extreme risk protection orders (ERPO). Although this will create additional work and related costs, the data suggests the number of such hearings in any given jurisdiction will likely be small. Any additional expenditure by the courts will likely be absorbed into their daily cost of doing business.

- When an ERPO is issued, the court is required to order the respondent to surrender their deadly weapons and firearms to the local law enforcement agency. The law enforcement agencies across the state will need to develop policies and procedures regarding acceptance, storage, possible insurance, and the return or possible sale of deadly weapons and firearms that have been surrendered or seized. For some agencies, these additional costs may exceed the minimal threshold of \$5,000 per county especially if storage upgrades are required or additional support staff must be hired. These costs may be minimized by the degree to which a law enforcement agency transfers such items to the Ohio State Highway Patrol.

Detailed Fiscal Analysis

Firearm-related offenses

The bill:

- Expands the definitions of "dangerous ordnance" to include the federal definition of armor-piercing ammunition, and "automatic firearm" to include any device within the federal definition of machine gun.
- Expands the offense of "having weapons while under disability" to include: (1) persons subject to certain criminal and civil protection orders, (2) persons dishonorably discharged from the armed forces, (3) persons who are aliens (noncitizens) in the U.S. unlawfully or who have been admitted under a nonimmigrant visa, and (4) persons who have renounced their U.S. citizenship.
- Modifies existing conditions under which a person may not possess a firearm or dangerous ordnance to include all felonies and domestic violence-related offenses.
- Expands the offense of "unlawful transactions in weapons" to prohibit a person from knowingly buying, purchasing, obtaining, or furnishing a firearm on behalf of a third party if the person knows the firearm is not a bona fide gift.

These expansions and modifications will generally have the effect of potentially increasing the number of arrests, prosecutions, and sanctioning of offenders for certain weapons control-related offenses (primarily felonies), and pertaining to the possession of a dangerous ordnance, the possession of weapons under specified disabilities, and the unlawful transaction of weapons. It is likely that this prohibited conduct generally will often be related to other criminal acts for which a person can already be charged, successfully prosecuted, and sentenced to a term of incarceration. This suggests that the number of new felony cases generated for county criminal justice systems to process will be relatively small and the associated costs will not be significant. The costs will be offset to some degree by the collection of court costs, fees, and fines from offenders. There may be a few additional offenders sentenced to a prison term, the costs of which

the Department of Rehabilitation and Correction will be able to absorb with existing staffing levels and appropriated funds.

The bill also eliminates the process in current law by which a person subject to the prohibition against "having a weapon under disability" may seek relief through the courts from the weapons disability. The elimination of the process for the restoration of firearm rights will reduce the number of petitions for relief filed in the courts of common pleas across the state. This will reduce court-related expenditures to handle these petitions.

Extreme risk protection orders

The bill creates a mechanism for the issuance of an extreme risk protection order (ERPO). The mechanism allows for a spouse, family or household member, or law enforcement officer to petition a court of common pleas requesting the court to issue an ERPO which would allow for the temporary removal of deadly weapons and firearms from the possession of the respondent.

Several other states have recently enacted similar provisions. In 2016, the state of California issued 86 gun violence restraining orders. Between 1999 and 2013, the state of Connecticut issued a total of 54 similar protection orders. Indiana reports the issuance of 46 similar protection orders in 2017, which was concentrated in Marion County (Indianapolis); statistics are not available for the entire state of Indiana.

Common pleas courts

A family member, household member, or law enforcement officer or agency may apply for an ERPO in a court of common pleas when it is alleged that the respondent poses a significant danger of causing personal injury to themselves or others by controlling, purchasing, possessing, or receiving a deadly weapon or firearm. If the petitioner is a law enforcement officer or agency, a good faith effort to notify any party at risk of violence must be made. The court is required to hold a hearing within three days, issue a notice of the hearing to the respondent, provide a copy of the notice to a local law enforcement agency for service on the respondent, and may issue an ex parte ERPO.

During the hearing, the court is required to consider the appropriateness of a mental health evaluation and a chemical dependency evaluation and is permitted to order such an evaluation. If the court finds that the respondent poses a significant danger, the court is required to issue an ERPO for the period of no longer than 180 days. A petitioner may petition to have an ERPO extended for an additional 180 days; a hearing on the petition is required. The additional hearings that the courts must schedule will create additional work and related costs, however the data suggests the number of such hearings in any given jurisdiction will likely be small. Any additional expenditure by the courts will likely be absorbed into the daily cost of doing business.

Law enforcement agencies

When an ERPO is issued, the court is required to order the respondent to surrender any deadly weapons and firearms to the local law enforcement agency. The respondent has 24 hours to do so. If a local law enforcement officer serves notice as required including an ex parte order, the officer must request that the respondent surrender their deadly weapons and firearms at that time. When surrendered or seized, a receipt must be provided. At termination of the ERPO, local law enforcement must return the items and notify the respondent's family or household members (if requested).

All law enforcement agencies will need to develop policies and procedures regarding acceptance, storage, possible insurance, and the return or possible sale of deadly weapons and firearms that have been surrendered or seized. These additional costs may exceed the minimal threshold of \$5,000 in some counties especially if storage upgrades are required or additional support staff must be hired.

A law enforcement agency with possession of a respondent's deadly weapons and firearms pursuant to an ERPO is permitted to transfer the items to the Ohio State Highway Patrol for the duration of the order. The Patrol is required: (1) to issue the law enforcement agency a proof of transfer containing certain specified information, and (2) to notify the court, the petitioner, and the respondent that the Patrol is in possession of the items. Any costs generated for the Patrol will be a function of the frequency and number of such items transferred by law enforcement agencies.

The bill also establishes a procedure for the sale of deadly weapons or firearms being held by law enforcement, upon the request of the respondent. From the proceeds of the sale, the law enforcement agency may retain not more than 3% of the sale price to cover costs related to the sale. The remainder must be returned to the respondent.