

HB227
Testimony against HB227
Senate Veterans and Public Safety Committee
Submitted by Douglas Rogers on October 11, 2021

Chair Wilkin, Vice Chair White and Ranking Member Sweeney, thank you for this opportunity to testify against HB227. I graduated from Yale Law School in 1971 and was a Captain in the Military Police. As a partner in the Vorys law firm in Ohio, I represented the Fraternal Order of Police in federal court in Ohio and Oklahoma. HB227 is anti-police and anti-public safety.

1. HB227 would allow the carrying of concealed weapons by persons convicted of misdemeanor assault on a police officer, even though now such individuals cannot legally carry a concealed handgun (p. 2, of Ohio Legislative Service Commission analysis of companion HB227 @ <https://www.legislature.ohio.gov/download?key=16289&format=pdf>).

Ohio Association of Chiefs of Police criticized such legislation last term, saying “the categories of people who would be able to carry concealed ... includes people with convictions for crimes of violence ... directed toward law enforcement” (<https://www.legislature.ohio.gov/legislation/legislation-committee-documents?id=GA133-HB-178>, on HB178).

Fraternal Order of Police of Ohio said this would “open the door to ... convicted criminals to carry a concealed weapon...” (<https://www.legislature.ohio.gov/legislation/legislation-committee-documents?id=GA133-HB-178>, on HB178).

Why would you give a convicted “bad guy” the right to approach and endanger police officers with a concealed, loaded firearm?

2. By eliminating the requirement for a concealed carry license, HB227 would effectively make it impossible for police to enforce the law:

Ohio Prosecuting Attorneys Association explained that without a concealed carry permit requirement, a law enforcement officer will have no way of determining whether that person is carrying a concealed weapon legally or illegally. (<https://www.legislature.ohio.gov/legislation/legislation-committee-documents?id=GA133-HB-178>, on HB178)

3. Proposed 2923.111(B) in HB227 would shackle police by preventing them from stopping suspicious individuals for carrying a gun “no matter how temporary in duration” the stop was – (lines 1036 - 1045 of proposed HB227). [Yet in *Terry v. Ohio*, 392 U.S. 1, 24 (1968), the U.S. Supreme Court upheld such stops]:

Ohio Prosecuting Attorneys Association said such provision would place the safety of law enforcement at greater risk (<https://www.legislature.ohio.gov/legislation/legislation-committee-documents?id=GA133-HB-178>, on HB178).

Toledo Police Patrolman’s Association: With the passage of this bill a person could feasibl[y] have a car load of ... AK-47’s and AR-15’s, and the officer initiating a traffic stop would not be able to question ... what they were looking at (<https://www.legislature.ohio.gov/legislation/legislation-committee-documents?id=GA133-HB-178>, on HB178).

City Solicitor for Columbus said the provision is highly unworkable (<https://www.legislature.ohio.gov/legislation/legislation-committee-documents?id=GA133-HB-178>, on HB178).

[Fraternal Order of Police of Ohio: The bill does not allow a peace officer an opportunity to protect themselves using a Terry pat-down, which the U.S. Supreme Court has approved. (<https://www.legislature.ohio.gov/legislation/legislation-committee-documents?id=GA133-HB-178>, on HB178)]

Recently the Texas Senate “stripped a House amendment that would have banned peace officers from making a stop ‘solely because the person is carrying a partially or wholly visible handgun in a holster.’” <https://www.statesman.com/story/news/politics/state/2021/06/23/heres-what-know-permitless-carry-texas/7770098002/> . **In other words, HB227 is a more extreme, more anti-police version of permitless carry than Texas.**

4. HB227 would also endanger Ohioans, because it would permit Ohioans to carry concealed weapons throughout Ohio without any training in the use of firearms or any background check. Law enforcement has said:

“We don’t let our 16-year old children behind a wheel without a minimum amount of training involved, so why would we allow someone to carry a gun without the same due diligence?” (<https://www.legislature.ohio.gov/legislation/legislation-committee-documents?id=GA133-HB-178>) [Toledo Police Patrolman’s Association].

“There must be a minimum training requirement for someone ... with the awesome right of carrying a weapon that can deprive another person of their life.” (<https://www.legislature.ohio.gov/legislation/legislation-committee-documents?id=GA133-HB-178>) [Ohio Patrolmen’s Benevolent Association].

“We believe training and background checks have been an important part of the Concealed Handgun License process, and ask that they remain in place.” (<https://www.legislature.ohio.gov/legislation/legislation-committee-documents?id=GA133-HB-178>) [Sheriff of Van Wert County]

“Allowing an untrained person with no background checks to carry a deadly weapon is asking for tragedy to occur whether by accident or by bad decisions.” (<https://www.legislature.ohio.gov/legislation/legislation-committee-documents?id=GA133-HB-178>) [Chief of Orange Village Police Department].

[Buckeye State Sheriff's Association said: "The CCW permit process also requires carriers to attend and complete training, including the proper handling, storage and firing of firearms. This training, however short It may be, does give certified firearms instructors the opportunity to teach basic gun safety to permit holders " (<https://www.legislature.ohio.gov/legislation/legislation-committee-documents?id=GA133-HB-178>, on HB178)].

5. Conclusion

There "is no constitutional right to bear concealed weapons," *Klein v. Leis*, 99 Ohio St.3d 537, 2003-Ohio-4779 (¶1 of syllabus). Government has been lawfully regulating the carrying of concealed weapons to protect the lives of its citizens for hundreds of years.

Indeed, Attorney General Yost this year praised Ohio's current concealed handgun law: "By any measure, Ohio's concealed carry licensing system has succeeded in combining safeguards that protect the public and provisions that uphold Americans' right to bear arms and protect themselves" ([https://www.ohioattorneygeneral.gov/Files/Reports/Concealed-Carry-Annual-Reports-\(PDF\)/2020-CCW-Annual-Report](https://www.ohioattorneygeneral.gov/Files/Reports/Concealed-Carry-Annual-Reports-(PDF)/2020-CCW-Annual-Report)).

Yet the gun lobby is asking that Ohio remove crucial restrictions to concealed carry that are less severe than those that have been in place for hundreds of years in this country. A sponsor of HB227 seemed to send a message at an earlier hearing that if you are worried about guns, stay away from guns. But how can we stay away from guns when we do not know who is carrying them? That is why historically the concealed carry of firearms has been highly regulated and upheld by the courts. See: Adam Winkler, *Gunfight, The Battle over the Right to Bear Arms in America* at p. 165; and *Heller v. District of Columbia*, 554 U.S. 570, 626 (2008).

Everytown for Gun Safety, moreover, has found after extensive research, "Emerging data shows that states that have passed permitless carry legislation are experiencing a substantial increase in gun violence." See <https://everytownresearch.org/report/permitless-carry-carrying-a-concealed-gun-in-public-with-no-permit-and-no-training/>.

If the **General Assembly** affirmatively allows persons - without any training in the use of firearms or passing any background check - to carry concealed weapons throughout Ohio, it **will be violating the "Government's first duty ... to protect the people ..."** as recognized by President Reagan. <https://www.reaganfoundation.org/ronald-reagan/reagan-quotes-speeches/remarks-at-the-national-conference-of-the-building-and-construction-trades-afl-cio/>.

Please listen to law enforcement officers and prosecuting attorneys, protect Ohioans, and vote NO on the anti-police, anti-public safety HB227.

Thank you.

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It is not clear if the Government Oversight Committee has amended HB227 to eliminate the current removal in HB227 of the duty of a civilian to notify a police officer who stops that citizen that the citizen is carrying a concealed firearm. I have seen a proposed amendment removing the duty to notify in HB227, but no notice of a vote, and no reporting of a substitute HB227, appear on the Ohio Legislature website. <https://ohiohouse.gov/legislation/134/hb227> . Removal of the duty to promptly notify a police officer would further endanger police.

[Fraternal Order of Police of Ohio: eliminating the duty to notify and prohibiting police from taking into account whether a citizen was carrying a firearm “is a recipe putting officers unnecessarily in harm’s way.” (https://www.legislature.ohio.gov/legislation/legislation-committee-documents?id=GA133-HB-178, on HB1780)];

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[Ohio Association of Chiefs of Police: “To remove the duty to notify is setting us all up for confrontation and potentially tragic failure” (https://www.legislature.ohio.gov/legislation/legislation-committee-documents?id=GA133-HB-178, on HB178)];

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[Ohio Prosecuting Attorneys Association: removal of the duty to notify police “will make encounters between law enforcement and members of the public more tense and more dangerous for both the officer and stopped person” (https://www.legislature.ohio.gov/legislation/legislation-committee-documents?id=GA133-HB-178, on HB178)];

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[Buckeye State Sheriffs Association: “To officers, regulating that people have a duty to report is very important” (https://www.legislature.ohio.gov/legislation/legislation-committee-documents?id=GA133-HB-178, *Exhibit E*, p. 2 on HB178)].