



# Ohio Prosecuting Attorneys Association

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House Bill 178  
Opponent Testimony  
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Chairman Becker, Vice-Chair Stoltzfus, Ranking Member Miller and members of the House Federalism Committee, thank you for the opportunity to offer opponent testimony on House Bill 178. We are opposed to several provisions of this bill that we feel place the safety of our law enforcement officers at greater risk and reduce punishments for individuals carrying deadly weapons during the commission of a crime. We are here today to ask you to support your law enforcement community and help us promote public safety by making three changes to this legislation.

First, the duty to notify law enforcement that a person is carrying a concealed weapon should be maintained even if licensure is no longer required. Overall, the bill will make encounters between law enforcement and members of the public more tense and more dangerous for both the officer and the stopped person. Without a concealed carry permit requirement, a law enforcement officer who stops someone will have no way of determining whether that person is carrying a concealed weapon legally or illegally. As you might imagine, this will lead to some tense moments before the officer can gain a sense of the situation and of who the individual is who they have stopped. The knowledge that a person is licensed to carry a weapon naturally deescalates these already tense situations. Law enforcement is more likely to trust someone who they know is licensed. This problem is exacerbated by the bill's proposed repeal of the requirement that a stopped person inform any law enforcement officer who approaches the person that the person is then carrying a concealed handgun. This is a small responsibility to place on law-abiding gun owners in the name of officer safety and public safety. Whether a person is required to have a concealed carry license or not, this duty to notify law enforcement of possession of a weapon should be maintained.

Second, the bill provides that the carrying or possession of a deadly weapon "does not constitute grounds for any law enforcement officer or any agent of the state, a county, a municipal corporation, or a township to conduct any search, seizure, or detention, no matter how temporary in duration, of an otherwise law-abiding person." Situations may arise where there is no way for law enforcement to confirm that a person is not an otherwise law-abiding person without some temporary detention or search. The Supreme Court of the United States has held that a brief detention is constitutional when law enforcement has a reasonable suspicion that a person has committed, is committing, or is about to commit a crime and that the person

may be armed and presently dangerous. *Terry v. Ohio*, 392 U.S. 1 (1968). The Court stated that “When an officer is justified in believing that the individual whose suspicious behavior he is investigating at close range is armed and presently dangerous to the officer or to others, it would appear to be clearly unreasonable to deny the officer the power to take necessary measures to determine whether the person is, in fact, carrying a weapon and to neutralize the threat of physical harm.” “A perfectly reasonable apprehension of danger may arise long before the officer is possessed of adequate information to justify taking a person into custody.” There “must be a narrowly drawn authority to permit a reasonable search for weapons for the protection of the police officer, where he has reason to believe that he is dealing with an armed and dangerous individual, regardless of whether he has probable cause to arrest the individual for a crime.”

The benefits of the policy proposed in this bill that could prohibit such a detention are greatly outweighed by the costs to law enforcement and public safety. It may also present issues of constitutionality under *Terry*. Prohibiting the temporary detention, under certain circumstances, of those who might not be otherwise law-abiding will hinder investigations and enable those who are not law-abiding to remain free. It places the safety of law enforcement at greater risk. We urge you to remove this provision from the bill.

Third, the bill should be amended to clarify that a person shall not be deemed to have been issued a concealed carry license and shall not be authorized to carry a concealed weapon with or without a concealed carry license during the commission of any misdemeanor or felony offense. Such an amendment is necessary if prosecutors are to continue to enforce R.C. 2941.141, that provides for a one year gun specification for offenders who are in possession of a firearm during the commission of a felony. If the goal of the legislation is to protect the rights of the law-abiding, then we should continue to deter and punish those who would commit crimes while in possession of a deadly weapon. We urge you to make this clarification.

Thank you again for the opportunity to testify. We urge you to make these three changes to the bill in the name of officer safety and public safety. Barring these changes, we encourage your opposition to this legislation. I would be happy to answer any questions.