

As Introduced

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H. B. No. 328

Representative Uecker

Cosponsors: Representatives Boose, Beck, Adams, J., Dovilla, Maag

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A B I L L

To amend section 2923.129 of the Revised Code to 1
modify the journalist exception to the provision 2
that makes concealed handgun license records 3
confidential. 4

BE IT ENACTED BY THE GENERAL ASSEMBLY OF THE STATE OF OHIO:

Section 1. That section 2923.129 of the Revised Code be 5
amended to read as follows: 6

Sec. 2923.129. (A)(1) If a sheriff, the superintendent of the 7
bureau of criminal identification and investigation, the employees 8
of the bureau, the Ohio peace officer training commission, or the 9
employees of the commission make a good faith effort in performing 10
the duties imposed upon the sheriff, the superintendent, the 11
bureau's employees, the commission, or the commission's employees 12
by sections 109.731, 311.41, and 2923.124 to 2923.1213 of the 13
Revised Code, in addition to the personal immunity provided by 14
section 9.86 of the Revised Code or division (A)(6) of section 15
2744.03 of the Revised Code and the governmental immunity of 16
sections 2744.02 and 2744.03 of the Revised Code and in addition 17
to any other immunity possessed by the bureau, the commission, and 18
their employees, the sheriff, the sheriff's office, the county in 19

which the sheriff has jurisdiction, the bureau, the superintendent 20
of the bureau, the bureau's employees, the commission, and the 21
commission's employees are immune from liability in a civil action 22
for injury, death, or loss to person or property that allegedly 23
was caused by or related to any of the following: 24

(a) The issuance, renewal, suspension, or revocation of a 25
license to carry a concealed handgun or the issuance, suspension, 26
or revocation of a temporary emergency license to carry a 27
concealed handgun; 28

(b) The failure to issue, renew, suspend, or revoke a license 29
to carry a concealed handgun or the failure to issue, suspend, or 30
revoke a temporary emergency license to carry a concealed handgun; 31

(c) Any action or misconduct with a handgun committed by a 32
licensee. 33

(2) Any action of a sheriff relating to the issuance, 34
renewal, suspension, or revocation of a license to carry a 35
concealed handgun or the issuance, suspension, or revocation of a 36
temporary emergency license to carry a concealed handgun shall be 37
considered to be a governmental function for purposes of Chapter 38
2744. of the Revised Code. 39

(3) An entity that or instructor who provides a competency 40
certification of a type described in division (B)(3) of section 41
2923.125 of the Revised Code is immune from civil liability that 42
might otherwise be incurred or imposed for any death or any injury 43
or loss to person or property that is caused by or related to a 44
person to whom the entity or instructor has issued the competency 45
certificate if all of the following apply: 46

(a) The alleged liability of the entity or instructor relates 47
to the training provided in the course, class, or program covered 48
by the competency certificate. 49

(b) The entity or instructor makes a good faith effort in 50

determining whether the person has satisfactorily completed the 51
course, class, or program and makes a good faith effort in 52
assessing the person in the competency examination conducted 53
pursuant to division (G)(2) of section 2923.125 of the Revised 54
Code. 55

(c) The entity or instructor did not issue the competency 56
certificate with malicious purpose, in bad faith, or in a wanton 57
or reckless manner. 58

(4) An entity that or instructor who provides a renewed 59
competency certification of a type described in division (G)(4) of 60
section 2923.125 of the Revised Code is immune from civil 61
liability that might otherwise be incurred or imposed for any 62
death or any injury or loss to person or property that is caused 63
by or related to a person to whom the entity or instructor has 64
issued the renewed competency certificate if all of the following 65
apply: 66

(a) The entity or instructor makes a good faith effort in 67
assessing the person in the physical demonstrations or the 68
competency examination conducted pursuant to division (G)(4) of 69
section 2923.125 of the Revised Code. 70

(b) The entity or instructor did not issue the renewed 71
competency certificate with malicious purpose, in bad faith, or in 72
a wanton or reckless manner. 73

(5) A law enforcement agency that employs a peace officer is 74
immune from liability in a civil action to recover damages for 75
injury, death, or loss to person or property allegedly caused by 76
any act of that peace officer if the act occurred while the peace 77
officer carried a concealed handgun and was off duty and if the 78
act allegedly involved the peace officer's use of the concealed 79
handgun. Sections 9.86 and 9.87, and Chapter 2744., of the Revised 80
Code apply to any civil action involving a peace officer's use of 81

a concealed handgun in the performance of the peace officer's 82
official duties while the peace officer is off duty. 83

(B)(1) Notwithstanding section 149.43 of the Revised Code, 84
except as provided in division (B)(2) of this section, the records 85
that a sheriff keeps relative to the issuance, renewal, 86
suspension, or revocation of a license to carry a concealed 87
handgun or the issuance, suspension, or revocation of a temporary 88
emergency license to carry a concealed handgun, including, but not 89
limited to, completed applications for the issuance or renewal of 90
a license, completed affidavits submitted regarding an application 91
for a temporary emergency license, reports of criminal records 92
checks and incompetency records checks under section 311.41 of the 93
Revised Code, and applicants' social security numbers and 94
fingerprints that are obtained under division (A) of section 95
311.41 of the Revised Code, are confidential and are not public 96
records. Except as provided in division (B)(2) of this section, no 97
person shall release or otherwise disseminate records that are 98
confidential under this division unless required to do so pursuant 99
to a court order. 100

(2)(a) ~~A On or after the effective date of this amendment, a~~ 101
~~journalist, on or after April 8, 2004, may submit to a sheriff a~~ 102
~~signed, written request to view the file a complaint in a court of~~ 103
~~common pleas requesting the issuance of an order authorizing the~~ 104
~~journalist to view either or both of the following:~~ 105

(i) The name, county of residence, and date of birth of each 106
person to whom the sheriff of the county served by the court has 107
issued a license or replacement license to carry a concealed 108
handgun, renewed a license to carry a concealed handgun, or issued 109
a temporary emergency license or replacement temporary emergency 110
license to carry a concealed handgun under section 2923.125 or 111
2923.1213 of the Revised Code, ~~or a signed, written request to~~ 112
~~view the;~~ 113

(ii) The name, county of residence, and date of birth of each 114
person for whom the sheriff of the county served by the court has 115
suspended or revoked a license to carry a concealed handgun or a 116
temporary emergency license to carry a concealed handgun under 117
section 2923.128 of the Revised Code. ~~The request~~ 118

(b) A complaint filed under division (B)(2)(a) of this 119
section shall include the journalist's name and title, shall 120
include the name and address of the journalist's employer, and 121
shall state that disclosure of the information sought would be in 122
the public interest. ~~If a journalist submits a signed, written~~ 123
~~request to the sheriff to view the information described in this~~ 124
~~division, the sheriff shall grant the journalist's request. The~~ 125
~~Upon the filing of a complaint under division (B)(2)(a) of this~~ 126
~~section, the court shall schedule a hearing. The hearing shall be~~ 127
~~held at the earliest possible time but not later than the~~ 128
~~fourteenth business day after the complaint is filed. Upon~~ 129
~~scheduling the hearing, the court shall notify the journalist of~~ 130
~~the date, time, and place of the hearing and shall cause notice of~~ 131
~~the hearing to be made by publication in accordance with this~~ 132
~~division. The notice by publication shall be made by publication~~ 133
~~in a newspaper of general circulation in the county served by the~~ 134
~~court. If no newspaper of general circulation is published in that~~ 135
~~county, the publication shall be in a newspaper published in an~~ 136
~~adjoining county. The publication shall contain the name and~~ 137
~~address of the court, the case number, the name of the journalist~~ 138
~~who filed the complaint, and the date, time, place, and purpose of~~ 139
~~the hearing. The publication also shall specify that the court may~~ 140
~~permit any interested person or organization to present testimony~~ 141
~~or evidence in opposition to the requested release of the~~ 142
~~information in question. The publication shall be published at~~ 143
~~least three times before the date of the hearing. The journalist~~ 144
~~who filed the complaint shall pay all costs of the notice by~~ 145
~~publication.~~ 146

At a hearing scheduled and held under this division, the 147
journalist who filed the complaint may present testimony or 148
evidence in support of the requested release of the information in 149
question. The court may permit any interested person or 150
organization to present testimony or evidence in opposition to the 151
requested release of the information in question. The court shall 152
keep a record of all testimony and other oral proceedings and of 153
all evidence presented in the case. The court shall enter judgment 154
on the complaint not later than the seventh business day after the 155
day on which the hearing is held. 156

(c) If a court that holds a hearing under division (B)(2)(b) 157
of this section determines that the release of the information 158
identified in the complaint is in the public interest, the court 159
shall enter judgment and an order authorizing the journalist to 160
view that information. The order shall direct the sheriff to 161
permit the journalist to view the information, subject to the 162
restriction specified in this division. Upon presentation of the 163
order to the sheriff, the sheriff shall permit the journalist to 164
view the information specified in the order, but the journalist 165
shall not copy the name, county of residence, or date of birth of 166
each person to or for whom the sheriff has issued, suspended, or 167
revoked a license described in ~~this~~ division (B)(2)(a)(i) or (ii) 168
of this section. 169

If a court that holds a hearing under division (B)(2)(b) of 170
this section does not determine that the release of the 171
information identified in the complaint is in the public interest, 172
the court shall enter judgment denying the request of the 173
journalist to view that information. The journalist may appeal the 174
judgment, as a matter of right, to the court of appeals. The court 175
that enters the judgment shall inform the journalist of the right 176
to appeal. 177

~~(b)~~(d) As used in division (B)(2) of this section, 178

"journalist" means a person engaged in, connected with, or employed by any news medium, including a newspaper, magazine, press association, news agency, or wire service, a radio or television station, or a similar medium, for the purpose of gathering, processing, transmitting, compiling, editing, or disseminating information for the general public.

(C) Each sheriff shall report to the Ohio peace officer training commission the number of licenses to carry a concealed handgun that the sheriff issued, renewed, suspended, revoked, or denied during the previous quarter of the calendar year, the number of applications for those licenses for which processing was suspended in accordance with division (D)(3) of section 2923.125 of the Revised Code during the previous quarter of the calendar year, and the number of temporary emergency licenses to carry a concealed handgun that the sheriff issued, suspended, revoked, or denied during the previous quarter of the calendar year. The sheriff shall not include in the report the name or any other identifying information of an applicant or licensee. The sheriff shall report that information in a manner that permits the commission to maintain the statistics described in division (D) of section 109.731 of the Revised Code and to timely prepare the statistical report described in that division. The information that is received by the commission under this division is a public record kept by the commission for the purposes of section 149.43 of the Revised Code.

(D) Law enforcement agencies may use the information a sheriff makes available through the use of the law enforcement automated data system pursuant to division (H) of section 2923.125 or division (B)(2) or (D) of section 2923.1213 of the Revised Code for law enforcement purposes only. The information is confidential and is not a public record. A person who releases or otherwise disseminates this information obtained through the law enforcement

automated data system in a manner not described in this division 211
is guilty of a violation of section 2913.04 of the Revised Code. 212

(E) Whoever violates division (B) of this section is guilty 213
of illegal release of confidential concealed handgun license 214
records, a felony of the fifth degree. In addition to any 215
penalties imposed under Chapter 2929. of the Revised Code for a 216
violation of division (B) of this section or a violation of 217
section 2913.04 of the Revised Code described in division (D) of 218
this section, if the offender is a sheriff, an employee of a 219
sheriff, or any other public officer or employee, and if the 220
violation was willful and deliberate, the offender shall be 221
subject to a civil fine of one thousand dollars. Any person who is 222
harmed by a violation of division (B) or (C) of this section or a 223
violation of section 2913.04 of the Revised Code described in 224
division (D) of this section has a private cause of action against 225
the offender for any injury, death, or loss to person or property 226
that is a proximate result of the violation and may recover court 227
costs and attorney's fees related to the action. 228

Section 2. That existing section 2923.129 of the Revised Code 229
is hereby repealed. 230