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FISCAL IMPACT STATEMENT

LS 7277

BILL NUMBER: HB 1369

NOTE PREPARED: Mar 15, 2021

BILL AMENDED: Feb 15, 2021

SUBJECT: Firearms Matters.

FIRST AUTHOR: Rep. Smaltz

FIRST SPONSOR: Sen. Houchin

BILL STATUS: As Passed House

FUNDS AFFECTED: **GENERAL**
 DEDICATED
 FEDERAL

IMPACT: State & Local

Summary of Legislation: *Repeal of Handgun Carry License*—The bill repeals the law that requires a person to obtain a license to carry a handgun in Indiana. The bill specifies that certain persons who are not otherwise prohibited from carrying or possessing a handgun are not required to obtain or possess a license or permit from the state to carry a handgun in Indiana.

Criminal Penalties— The bill prohibits certain individuals from knowingly or intentionally carrying a handgun. The bill creates the crime of "unlawful carrying of a handgun". The bill provides that a prohibited person who knowingly or intentionally carries a handgun commits a Class A misdemeanor. The bill specifies that the unlawful carrying of a handgun is a Level 5 felony if a person: (A) is less than 23 years of age; and (B) has an adjudication as a delinquent child for an act described by IC 35-47-4-5 (unlawful possession of a firearm by a serious violent felon).

Reciprocity— The bill allows a resident of Indiana who wishes to carry a firearm in another state under a reciprocity agreement entered into by Indiana and the other state to obtain from the Superintendent of the State Police Department a reciprocity license. The bill requires law enforcement agencies to make use of certain data bases when issuing reciprocity licenses.

Reciprocity License Fees— The bill specifies the following fees for reciprocity licenses: (A) \$0 for five year reciprocity licenses, and (B) \$75 for lifetime reciprocity licenses.

Criminal Penalties— The bill provides that a person who knowingly or intentionally exerts unauthorized control over a firearm of another person with the intent to deprive the person of any part of its value or use commits theft, a Level 5 felony.

Additional Fixed Term of Imprisonment– The bill allows for the imposition of an additional fixed term of imprisonment when a person knowingly or intentionally: (A) points; or (B) discharges; a firearm at someone the person knew, or reasonably should have known, was a first responder.

Firearms Possession Check Process– The bill provides that the following must develop a process that allows law enforcement officers the ability to quickly access information about whether a person is a prohibited person who may not knowingly or intentionally carry a handgun: (A) The State Police Department; (B) The Bureau of Motor Vehicles; (C) Local law enforcement agencies; and (D) Any other state entity with access to information related to persons who may not knowingly or intentionally carry a handgun. The bill provides that the information made available to law enforcement officers must meet all state and federal statutory, constitutional, and regulatory requirements. The bill allows state entities to enter into a memorandum of understanding to ensure that all legal requirements are met.

Miscellaneous Provisions– The bill defines certain terms. The bill makes conforming amendments.

Effective Date: July 1, 2021; March 30, 2022.

Explanation of State Expenditures: *Repeal of Handgun Carry License, Indiana State Police (ISP)*- Elimination of the handgun license would relieve the ISP from reviewing and maintaining handgun license applications and records. However, the ISP would be involved in the processing of reciprocity licenses. The ISP has civilian record keepers who handle the administration of handgun licensing as part of the ISP’s Records Division. The total annual salary and benefits for these ISP employees are estimated at \$281,000 in FY 2023. The ISP could terminate these positions or reassign them to other duties. Any personnel savings that the bill could generate would depend on future administrative actions, and the resources required to administer reciprocity license applications.

Excess Handgun License Fee Fund– When annual revenues from handgun licensing exceed \$1.1 M, the remaining revenue is transferred from the state General Fund into the Excess Handgun License Fee Fund (Excess Fund). Proceeds in the Excess Fund, subject to appropriation and allotment, are used to finance the operational costs of the ISP’s Records Division. In order to maintain the operation of their Records Division, the ISP may have to reallocate existing funding from other sources or seek new funding. [The ISP’s Records Division maintains data on criminal history records, fingerprint identification, firearms licensing, and vehicle crash records. The Excess Fund had expenditures of \$4.2 M during FY 2020.]

HEA 1001-2019 terminated appropriations to the Excess Fund on July 1, 2019. Any remaining Excess Fund balance from excess handgun license fees will be transferred to the state General Fund on June 30, 2021.

Reciprocity Licenses– The ISP may require their firearms licensing processing system to be modified slightly to change the printing on handgun licenses to show “Reciprocity” on the license. Expenditures needed to make these changes would likely not be significant.

Criminal Penalties– The bill would introduce three new criminal penalties: a Class A misdemeanor for unlawful carrying of a handgun, which could be increased to a Level 5 felony under certain conditions, and another Level 5 felony for theft of a firearm. A Level 5 felony is punishable by a prison term ranging from 1 to 6 years, with an advisory sentence of 3 years. Sentence length also depends on mitigating and aggravating circumstances. Assuming offenders can be housed in existing facilities with no additional staff, the marginal cost for medical care, food, and clothing is approximately \$3,524 annually, or \$9.66 daily, per prisoner. However, any additional expenditures are likely to be small.

Additional Fixed Term of Imprisonment– This provision could increase the Department of Correction (DOC) population if more persons are convicted of pointing or discharging a firearm at a first responder and receive an enhanced sentence. Under IC 35-47-4-3, it is a Level 6 felony to point a *loaded* firearm at another person who is not a police officer and a Class A misdemeanor to point an *unloaded* firearm at another person who is not a police officer.

Under the bill, if the other person was a first responder (just police officer under current law), then the court may sentence the person pointing or discharging a firearm to an additional prison term of between 5 and 20 years. A jury or court would have to find that the person knowingly or intentionally pointed or discharged a firearm at a first responder while committing a felony or misdemeanor.

(Revised) *Firearms Possession Check Process*– The bill requires the ISP, the Bureau of Motor Vehicles (BMV), local law enforcement agencies, and any other state entity with access to pertinent information to develop a process that allows law enforcement officers to quickly access information about whether a person is a prohibited person who may not knowingly or intentionally carry a handgun. The bill allows state entities to enter into a memorandum of understanding (MOU). Any impact to state expenditures is indeterminable. It would depend on inter-agency cooperation, administrative decisions, and costs pertaining to security protocols, transmission, and storage of the data.

(Revised) *Additional Information*– The ISP does receive updates from the State Courts Administration Odyssey felony charges and convictions data, however not via a direct link to the Odyssey database. The following agencies have provided information on their available data:

- The BMV reports that they do not possess the information needed to provide to state or local law enforcement.
- The Office of Judicial Administration (OJA) has access to National Instant Criminal Background Check System (NICS) data, but OJA currently does not transmit NICS data to any law enforcement agency.

Explanation of State Revenues: Summary- The estimated revenue loss from the elimination of the handgun license is \$5.3 M in FY 2023. Handgun license revenue is deposited into the state General Fund. In addition, the revenues from producing duplicate reciprocity licenses are indeterminable, but would likely be minimal.

Reciprocity Licenses- The ISP would be able to charge a \$20 fee per duplicate license produced in case of a lost or damaged duplicate license. Duplicate license revenue would be placed in the state General Fund.

Reciprocity License Fees- Under the bill, there would be no state fees associated with a 5-year reciprocity license, and a \$75 fee for a lifetime reciprocity license. The annual revenues this provision could produce are indeterminable but likely minor.

Criminal Penalties- A Class A misdemeanor would be repealed as a result of the bill. However, the bill adds a Class A misdemeanor. The maximum fine for a Class A misdemeanor is \$5,000. The bill adds two Level 5 felonies. The maximum fine for a Level 5 felony is \$10,000. The net impact to the Common School Fund (from criminal fines) and the state General Fund (from court fees) of several penalties being added and repealed and added is indeterminable, but likely minimal.

Explanation of Local Expenditures: Criminal Penalties- Given that the bill both adds and eliminates criminal penalties, and that many handgun license offenses are secondary offenses, the net change in the number of persons held in county jails awaiting trial is likely indeterminable, but probably small. A Class

A misdemeanor is punishable by up to one year in jail.

Explanation of Local Revenues: *Handgun Licenses* -When a person applies for a handgun license, local fees are assessed along with the state fees. It is estimated that local law enforcement agencies would lose an estimated \$2.6 M in CY 2022, and \$3.5 M in CY 2023 from the elimination of the handgun license. The local share of handgun license fees is placed into the law enforcement agency's firearms training fund or a similarly appropriate fund.

Reciprocity Licenses- Counties would be able to charge the same local fees for the current handgun license for reciprocity licenses. The amount of revenue that reciprocity licenses that could occur is indeterminable, but likely to be considerably less than the current handgun license.

There are several states with reciprocity agreements to accept valid Indiana handgun licenses. Many of these states do not track Indiana residents or check their handgun licenses when visiting, unless there would be legal reason to do so. Therefore, it is not possible to determine an estimated universe of persons that might apply for the proposed reciprocity license.

Criminal Penalties- Any change in revenue from court fees is indeterminable, but likely to be minimal. There were 396 misdemeanor cases disposed by courts for a violation of the handgun licensing statute as the primary offense during FY 2019.

State Agencies Affected: Indiana State Police; Department of Correction; Bureau of Motor Vehicles.

Local Agencies Affected: Trial courts, local law enforcement agencies.

Information Sources: Indiana State Police: Handgun License Applications and Denials Data; Misdemeanor Abstracts of Judgment; State Staffing Reports; Matthew Organ, Executive Director of Public Policy and Legislation, Bureau of Motor Vehicles; Justin Forkner, Office of Judicial Administration.

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