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Fiscal Note & Local Impact Statement

Version: As Introduced

Primary Sponsor: Reps. Robinson and A. Miller

Local Impact Statement Procedure Required: No

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Highlights

- The bill's fiscal effect on a state or local law enforcement agency depends on its agreement to assist with firearm transfers and the frequency of persons seeking such assistance from the law enforcement agency rather than a federally licensed firearms dealer. Fees collected for providing such assistance may defray an agency's costs.
- The Attorney General's Office will experience an increase in requests to conduct incompetency records checks, with any additional administrative work and related operating costs being a function of the number of such requests.
- The number of persons charged with a reckless violation of the bill's prohibitions, prosecuted, and then convicted will determine the magnitude of any increase in the annual operating costs (investigation, prosecution, adjudication, and sanctioning) of a county or municipal criminal justice system.

Detailed Analysis

The bill prohibits:

- A federally licensed firearms dealer (FLFD) from transferring a firearm to any person unless the dealer complies with the relevant requirements under federal law; and
- Any transfer of a firearm from a person who is not an FLFD to a person who is not an FLFD unless the firearm is transferred through an FLFD, or through a state or local law enforcement agency.

In Ohio, a person currently can purchase a firearm through one of three means: (1) an FLFD, (2) private purchases, and (3) gun shows. The bill essentially focuses on private sales, including those taking place at gun shows. As there appears to be no reliable data on these

firearm transactions in Ohio, the number of these sales affected by the bill's requirements and prohibitions is unknown.

Assisted transfer of a firearm

The bill permits FLFDs and law enforcement agencies to assist in the transfer of a firearm between parties and requires that, when a firearm is transferred, the dealer or agency comply with the relevant requirements under federal and state law. This includes a background check through the National Instant Criminal Background Check System (NICS) managed by the Federal Bureau of Investigation (FBI) and incompetency records checks through the Attorney General. The bill permits an FLFD or law enforcement agency to assess a fee of no more than \$10 for assistance in a firearm transfer.

The fiscal effect of this provision on a state and local law enforcement agency will depend on its agreement to assist with firearm transfers and the frequency of persons seeking such assistance from the law enforcement agency rather than a federally licensed firearms dealer. Fees collected for providing such assistance may defray an agency's costs.

Incompetency records checks

Under current law, a probate judge that adjudicates an individual a mentally ill person or a chief clinical officer of a hospital, community mental health services provider, or facility that commits an individual as an involuntary patient is required to transmit notification of the individual's identity to the Attorney General within seven days of the adjudication or commitment. The Attorney General is required to compile and maintain the notices for the purpose of conducting incompetency records checks.

The bill requires the Attorney General to conduct and provide the results of an incompetency check to an FLFD or law enforcement agency immediately upon receipt of the request. The effect on the Attorney General's workload and related annual operating costs will depend on the number of requests generated by the bill.

Illegal transfer of a firearm

A "reckless"¹ violation of the bill's prohibitions constitutes the offense of "illegal transfer of a firearm," which generally is a fourth degree misdemeanor, punishable by a mandatory \$250 fine on the first offense. The penalty increases to a second degree misdemeanor for an offender with previous convictions for the same offense, and to a first degree misdemeanor for an offender with two or more previous convictions for the same offense. The increased penalties are punishable by mandatory fines of up to \$750 and up to \$1,000, respectively.

The number of persons charged with a reckless violation of the bill's prohibitions, prosecuted, and then convicted will determine the magnitude of any increase in the annual

¹ R.C. 2901.22(C), not in the bill. Under Ohio law, a person acts recklessly when, with heedless indifference to the consequences, the person disregards a substantial and unjustifiable risk that the person's conduct is likely to cause a certain result or is likely to be of a certain nature. A person is reckless with respect to circumstances when, with heedless indifference to the consequences, the person disregards a substantial and unjustifiable risk that such circumstances are likely to exist.

operating costs (investigation, prosecution, adjudication, and sanctioning) of a county or municipal criminal justice system.