

# **Ohio's Concealed Carry Law**

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Dear fellow Ohioan:

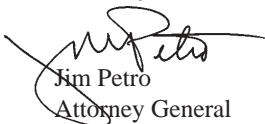
Carrying a concealed handgun is a privilege in Ohio, and with this privilege comes a responsibility to be aware, not only of the common sense rules of safe firearm handling, but the laws that affect how, when and where you can carry your firearm, and how to properly use the handgun to defend yourself or another person.

This publication is required by Ohio law and broadly discusses several aspects of firearms law. It provides an overview of the concealed handgun licensing process, a basic primer on the appropriate use of a firearm to defend yourself, and a summary of dispute resolution programs.

My office is committed to having an efficient and reliable concealed handgun licensing process that allows applicants to receive licenses from their county sheriff quickly, and incorporates adequate safeguards to protect citizens.

Our goal remains a safe and efficient licensing process for Ohioans.

Sincerely,



Jim Petro  
Attorney General

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# Firearms Laws In Everyday Language

## Introduction

As required by Ohio law, this publication broadly discusses several different areas of firearms law. This publication is neither a formal nor informal opinion of Attorney General Jim Petro; rather, it is a summary of prevailing firearms and self-defense laws and may be updated without notice. It is not intended to be a substitute for the advice of a lawyer or for common sense. For the most recent edition, consult the Attorney General's web site at:

**[www.ag.state.oh.us](http://www.ag.state.oh.us)**

There are many areas of Ohio law that impact your decision to be a concealed carry licensee and you should consult an attorney for specific information. The Ohio Attorney General cannot provide legal advice to anyone other than state agencies and officers.

In this publication, sections of the Ohio Revised Code — the laws passed by the General Assembly — are referenced with the abbreviation “R.C.” followed by the relevant code number. In addition, certain court cases are also cited. Many cases and the Revised Code are available online and may also be found at law libraries and some public libraries. Citizens are encouraged to read the law for themselves using this book as a guide for their reading.



# **Training and Educational Requirements**

## ***Training and Competency Certification***

Before you obtain a license to carry a concealed handgun, you will need proof of your competency certification. Competency can be established by any of the following:

- 1) A certificate of completion of a firearms safety course that was offered by or under the auspices of the National Rifle Association (NRA) containing certain minimum educational requirements (See the section of this publication titled, “Minimum Educational Requirements,” page 4, for additional information about the specific areas that must be covered in training.); **or**
- 2) A certificate of completion of a class that was open to the public that used instructors approved by the National Rifle Association or Ohio Peace Officer Training Commission (OPOTC), or approved instructors of another state **and** was offered under the authority of a law enforcement agency of Ohio or another state, a college, or firearms training school that contains the minimum educational requirements; **or**
- 3) A certificate of completion of a state, county, municipal or Ohio Department of Natural Resources (ODNR) peace officer training school that is approved by the executive director of OPOTC which complies with the law’s training requirements and contains the minimum educational requirements; **or**
- 4) A document that shows the applicant is an active or reserve member of the armed forces, or was honorably discharged, or is a retired highway patrol trooper, or is a retired peace officer or federal law enforcement officer and who, through the position, acquired experience with handguns or other firearms that was equivalent to the minimum educational requirements; **or**
- 5) A certificate of completion of a class not otherwise described in this publication that was conducted by an instructor who

was certified by an official or entity of Ohio, another state, the United States government, or the NRA that complies with the minimum educational requirements; **or**

- 6) An affidavit from a qualified instructor that attests to the applicant's completion of a course that satisfied the minimum educational requirements.

***Statutory Reference(s):*** The types of competency certifications are described in R.C. 2923.125(B)(3)(a)-(f).

### ***Temporary Emergency License***

The law allows for the issuance of an emergency license under extraordinary circumstances. The law states that upon receipt of (1) evidence of imminent danger; (2) a sworn affidavit; (3) an application fee of not more than \$30; and (4) a set of applicant fingerprints, the sheriff must immediately conduct a criminal records check. The sheriff must determine if the applicant is not prohibited from having a license, and then immediately issue the license without a lengthy waiting period.

- (1) Evidence of imminent danger may take two forms:

- A sworn statement by the applicant that states the person has reasonable cause to fear a criminal attack upon himself or a member of his family such as would justify a prudent person in going armed; or
- A written document from a government entity or public official (such as a prosecutor) describing the facts that give the person reasonable cause to fear such a criminal attack. Such documents may include, but are not limited to, temporary protection orders, civil protection orders, a protection order of another state, a court order and any report filed with or made by a law enforcement agency or prosecutor.

- (2) The sworn affidavit must attest that the applicant is at least 21 years of age, not a fugitive from justice, is not under indictment or charged with a crime, and has not been convicted of disqualifying crimes listed in R.C. 2923.125 and discussed under the "Application Process" section on page 6.

The temporary emergency license lasts for 90 days and may be renewed only once every four years. If you wish to have your license last longer, you must apply for the license through the normal process within the 90 days.

***Statutory Reference(s):*** R.C. 2923.1213 allows sheriffs to issue emergency licenses when there is evidence of imminent danger to the applicant.

### ***Minimum Educational Requirements***

The Attorney General does not endorse any particular form of training or instructor. However, a list of Ohio Peace Officer Training Commission-certified instructors who wish to teach classes to the general public is available from the Attorney General's web site at **[www.ag.state.oh.us](http://www.ag.state.oh.us)**. County sheriffs may also have a list of certified instructors who have provided contact information to the sheriff.

The law sets out minimum educational requirements that are a component of the various forms of competency certification as set forth on page 2. The total time required for training is 12 hours: 10 hours of instruction and another two hours of experience shooting a handgun.

The law requires at least 10 hours of certified training in the following matters:

- The ability to name, explain and demonstrate the rules for safe handling of a handgun and proper storage practices for handguns and ammunition;
- The ability to demonstrate and explain how to handle ammunition in a safe manner;
- The ability to demonstrate the knowledge, skills and attitude necessary to shoot a handgun in a safe manner;
- Gun-handling training.

Additionally, you must have two hours of practical training including range time and live-fire experience. The applicant must also complete an examination that tests his or her competency. The test, at a minimum, includes a written section on the ability to name and explain the rules for the safe handling of a handgun, and proper storage practices for handguns and ammunition. Additionally, the exam must include a physical demonstration of competency on handgun usage and rules for safe handling and storage of a handgun, and an examination requiring the physical demonstration of the attitude necessary to shoot a handgun in a safe manner.

As part of the training, the applicant must also receive and review a copy of this “Ohio’s Concealed Carry” publication.

As an advisory to consumers, the Attorney General recommends anyone contemplating private handgun training to take the following minimum steps before paying for any form of training:

- Verify the person teaching the class is qualified to teach.
- Confirm the instructor knows the requirements of the law.
- Be certain the instructor will provide you with this publication.
- Verify whether a refund or additional training may be available if a county sheriff determines the course was incomplete when you apply.

***Statutory Reference(s):*** R.C. 2923.125(G)(1) requires that all applicants be given a copy of this publication by their trainer.

R.C. 2923.125(G)(1)(A) sets out the minimum educational requirements necessary to receive competency certification.

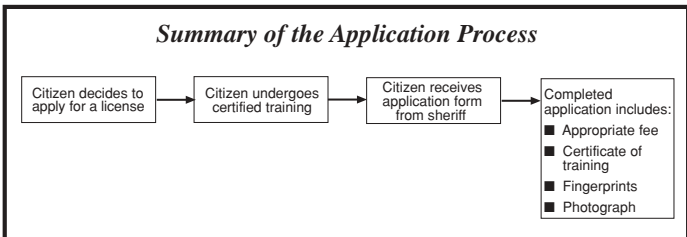
R.C. 2923.125(G)(1)(B) describes the minimum amount of range and live-fire experience required to receive competency certification.

R.C. 2923.125(G)(2) requires that applicants take and pass a written examination.

# The Application Process

To begin the application process, you must apply to the sheriff in the county where you reside or an adjoining county. Before you apply with your local sheriff, call ahead and verify the times that applications are accepted and confirm what documentation may be necessary.

The sheriff must provide you with an application form and make this publication available at no charge. You must pay a fee which will vary depending on the background check that the sheriff must conduct. The law requires that a color photo (front view, head and shoulders, substantially similar to a 2-inch-by-2-inch passport photo) taken within 30 days of the application date accompany the completed application. Before providing your own photo, verify whether the sheriff will take photos for you. You must provide evidence of your competency certification as described above, and certify that you have read this publication. Applicants must also submit their fingerprints necessary to conduct the background check.



**Statutory Reference(s):** Under R.C. 2923.125(A), the sheriff must provide you with an application and make this publication available at no charge.

R.C. 2923.125(B)(4) requires that applicants certify that they have read this publication.

R.C. 2923.125(B)(1) states that applicants must pay an application fee that will vary based on the type of background check required.

R.C. 2923.125(B)(2) requires applicants to provide a color photograph taken within 30 days of the application date. However, some sheriffs' offices may take these photographs themselves.

R.C. 2923.125(B)(3) requires that applicants submit proof of competency at the time of the application.

R.C. 2923.125(B)(5) requires applicants submit to fingerprinting necessary to conduct a background check.

## ***Sheriff's Criteria for Issuing the License***

### **Residency**

You must be an Ohio resident for 45 days before you apply and a resident of the county (or adjoining county) where you apply for at least 30 days. You must also be at least 21 years old and not a fugitive from justice.

### **Criminal Record**

There are many criminal offenses that bar you from obtaining your license. There are many laws and conditions that prohibit you from owning a handgun. Consult an attorney for specifics. The law states that you must not be under indictment, charged or convicted of a felony that involves the trafficking in drugs or similarly charged with a misdemeanor offense of violence or negligent assault. You may not obtain your license if you have been charged or indicted with falsification of a concealed handgun license.

In addition, you must not have been convicted, pleaded guilty, or been adjudicated as delinquent in connection with a crime that involves the illegal use, sale, possession, administration, distribution or trafficking of a drug of abuse. You cannot have been convicted, pleaded guilty or been adjudicated delinquent for assaulting a peace officer. You must not, within three years of your application, have been convicted, pleaded guilty or been adjudicated delinquent in connection with a misdemeanor offense of violence. You must not have committed a misdemeanor offense of violence against a peace officer.

You must not have been convicted, pleaded guilty or been adjudicated delinquent in connection with two or more assaults or negligent assaults within five years of your application. You must not have been

convicted, pleaded guilty or adjudicated as delinquent in connection with resisting arrest within 10 years of your application. If you are charged with an offense during the application process, the sheriff can suspend your application until your case is resolved.

### **Mental Competency**

The law states that you must not have been adjudicated as a mental defective, been committed to any mental institution, be under a current adjudication of incompetence, have been found by a court to be mentally ill subject to hospitalization by court order, and not be an involuntary patient other than one who is a patient only for purposes of observation.

### **Protection Orders**

You must not be subject to a civil protection order or temporary protection order of an Ohio court or a similar protection order issued by another state. For additional information on civil and temporary protection orders contact a private attorney.

As long as you meet the criteria listed in the law, the sheriff must issue you a concealed handgun license within 45 days of receiving your properly completed application. The license lasts for four years.

***Statutory Reference(s):*** The criminal offenses that bar a citizen from receiving a concealed carry license are listed in R.C. 2923.125 (D)(1)(a)-(h).

R.C. 2923.125(D)(3) allows a sheriff to suspend the processing of an application if a pending criminal case is outstanding against an applicant.

R.C. 2923.125(D)(1)(i)-(j) lists the mental competency and protection order issues that can cause the denial of an application.

R.C. 2923.13 lists disabilities that prohibit you from having a firearm.

### ***License Denials and Appeals***

If the sheriff denies your license, he must inform you of the grounds for denial in writing. If the denial was the result of a criminal records check and you wish to appeal the decision, you

may appeal the denial through an in-house procedure with the sheriff or the Ohio Bureau of Criminal Identification and Investigation to resolve the problem. The sheriff's denial of a temporary emergency license must also be in writing and can be appealed.

**Statutory Reference(s):** If your application is denied, the sheriff must inform you of the grounds for denial in writing under R.C. 2923.125(D)(2)(b).

R.C. 2923.127 requires sheriffs to set up an appeals process for applicants who wish to contest the denial.

## **Privileges and Duties: Locations Where Concealed Handguns are Forbidden**

**DO NOT TAKE YOUR HANDGUN WITH YOU  
WHEN YOU APPLY FOR YOUR LICENSE AT YOUR  
LOCAL SHERIFF'S OFFICE.**

Carrying a concealed handgun is a privilege, not a right. Your privilege has certain restrictions and imposes certain duties, many of which are regulated by state and federal laws, as well as local ordinances. The explanations of laws regulating carrying a handgun in this publication are not an exhaustive list, and a private attorney should be able to provide advice in this regard.

### ***Identification Required***

You must carry another piece of valid government identification in addition to the handgun license.

### ***Forbidden Carry Zones***

The law sets forth several places where your license does not allow you to carry a handgun. Under the law, you may not carry a concealed handgun into the following places:

- Police stations.
- Sheriffs' offices.

- Highway Patrol posts.
- Premises controlled by the Ohio Bureau of Criminal Identification and Investigation.
- Correctional institutions or other detention facilities.
- Airport terminals or commercial airplanes.
- Institutions for the care of mentally ill persons.
- Courthouses or buildings in which a courtroom is located.
- Universities, unless locked in a motor vehicle or in the process of being locked in a motor vehicle.
- Places of worship, unless the place of worship permits otherwise.
- Child day-care centers.
- Premises that dispense liquor. Concealed firearms are also banned in a room or arena in which liquor is dispensed for which a class D permit has been issued. A class D permit is generally issued to an establishment that sells alcohol for consumption on the premises. Be certain of the type of permit before you enter. Note also that a liquor permit extends to beverages that contain alcohol, not simply hard liquor. Beer, wine, mixers and the like are covered.
- Buildings owned by the state or any political subdivision. Buildings under the control of the state or any of its political subdivisions, such as counties, cities and the like also prohibit concealed firearms. This prohibition also extends to all portions of any building that is leased by the state government. For example, it would extend to the floor of a private building that is leased by the government. Additionally, libraries, which are often funded through a consortium of governmental bodies, are covered by the statute.
- School safety zones. Concealed handgun license holders must be especially cautious when entering school safety zones. A school safety zone consists of a school, school building, school premises, school activity and school bus. For the purposes of this statute, a school includes everything up to the property boundary. Under the law, an offense is within the

vicinity of a school if it is committed within the property boundary or within 1,000 feet of the boundaries of any school premises.

The law generally forbids the carrying of a handgun in a school safety zone unless **all** of the following apply:

- You do not enter a school building, premises or activity;
- You have a valid concealed carry license;
- You are not otherwise in one of the forbidden places listed above and detailed in R.C. 2923.126(B);
- You are acting in accordance with federal law regarding transport of firearms in school zones.

The federal law, 18 United States Code Section 922(q)(2)(B), provides in summary that the prohibition against firearms in a school safety zone does not apply:

- to private property not part of school grounds;
- if the individual possessing the firearm is licensed to do so by the state in which the school zone is located, and the law of the state requires that, before an individual obtains such a license, law enforcement authorities of the state verify that the individual is qualified under law to receive the license;
- if the handgun is not loaded and in a locked container, or a locked firearms rack that is on a motor vehicle;
- to an individual for use in a program approved by a school in the school zone;
- to an individual in accordance with a contract entered into between a school in the school zone and the individual or an employer of the individual;
- to a law enforcement officer acting in his or her official capacity;
- if the handgun is unloaded and possessed by an individual while traversing school premises for the purpose of gaining access to public or private lands open to hunting if the entry on school premises is authorized by school authorities.

- Federal law prohibitions. Under federal law, 18 United States Code Section 930, it is illegal to have a firearm in a building or part of a building owned or leased by the federal government where federal employees are regularly present for performing their duties. There may be other places where firearms are prohibited. Make yourself aware of specific prohibitions before you arrive carrying a concealed handgun.

Persons, boards and agencies that control these premises are generally required to post a sign in a conspicuous place informing you that handguns are prohibited. Be aware, however, that absence of a sign IS NOT an indication that a concealed handgun is permitted on the premises. A good rule of thumb is to notice the presence of metal detectors and/or security guards who can advise you of the property's policy.

**Statutory Reference(s):** R.C. 2923.126(A) establishes the privilege of carrying a concealed handgun. With this privilege comes certain restrictions and license holders are required to perform certain duties while exercising this privilege.

R.C. 2923.126(B) lists the places where concealed handguns are not allowed.

R.C. 2925.01(P) establishes that an offense is committed within the vicinity of a school if it occurs within 1,000 feet of the property boundary of a school facility.

R.C. 2923.1212 allows the posting of signs to alert license holders that concealed firearms are prohibited in that location.

R.C. 2923.122(D)(3) provides for carrying a concealed handgun within school safety zones in *extremely limited* circumstances.

## Transporting in Motor Vehicles

The transportation of loaded, concealed handguns in motor vehicles is permitted, but strict obligations are imposed by the law to protect yourself and law enforcement. These obligations apply to drivers and occupants. These obligations do not apply if you are not transporting a loaded, concealed handgun inside the vehicle.

You may not have a loaded handgun in the vehicle if you are under the influence of drugs or alcohol. You may not transport a loaded, concealed handgun in a vehicle unless it is carried in one of the three following ways:

- In a holster on your person that is in plain sight. So far, the Ohio Supreme Court has not defined the term “plain sight” precisely in the context of carrying a concealed handgun. However, in other contexts, courts have generally held that the term “plain sight” is a common sense term that means clearly visible or unobstructed.
- In a closed, locked glove compartment; or
- In a case that is in plain sight and that is locked.

### *Traffic Stops*

If you are stopped by law enforcement, you must comply with all lawful orders given to you by an officer. You must remain in the vehicle, and you must keep your hands in plain sight when the officer approaches unless you are told to do otherwise by the officer. You may not have contact or attempt to have contact with the handgun unless told to do so by the officer. **Merely having, or attempting to have, contact with the handgun is a felony.**

The failure to follow each and every one of these conditions will make you subject to arrest. When stopped, you should consider immediately rolling down your window, placing and leaving your hands in plain sight and promptly informing the approaching officer that you are a concealed handgun license holder and that you are carrying the handgun.

Ask the officer if he or she has any particular instructions. Do not get out of your car unless you are told to do so by the officer. Be aware that under the law, the officer has the authority to take the handgun from you during the traffic stop.

## **WARNING:**

### **If you are planning on carrying a concealed handgun while driving:**

- Have your concealed carry license in your possession.
- Make sure the handgun is either:
  - In a holster on your person in plain sight,
  - Locked in your glove compartment, or
  - Locked in a transport box in plain sight.

### **If you are pulled over and you are carrying a concealed handgun:**

- Before the officer approaches, roll down your window, then place your hands in plain view on the steering wheel.
- Calmly alert the officer that you have a license to carry a concealed handgun and that you have your handgun with you. Ask if the officer has particular instructions concerning the handgun.
- Do not touch or attempt to touch your handgun unless specifically told to by the officer.
- Do not exit your vehicle unless specifically told to by the officer.
- Comply with all lawful orders given by the officer.

In addition to the concealed carry prohibitions detailed above, Ohio has strict laws concerning firearms in a vehicle. If you **DO NOT** have a concealed handgun license, you may not transport a loaded handgun in any manner where the firearm is accessible to anyone inside the vehicle without leaving the vehicle. If you **DO NOT** have a license, you may not transport a firearm in a vehicle unless it is unloaded and carried in one of the following ways:

- In a closed package, box or case;
- In a compartment that can be reached only by leaving the vehicle;
- In plain sight and secured in a rack or holder made for that purpose;

- In plain sight with the action open or the handgun stripped, or, if the firearm is of a type in which the action will not stay open or cannot easily be stripped, in plain sight.

*Statutory Reference(s):* Under R.C. 2923.16(E), you may not transport a concealed, loaded handgun inside a vehicle unless it is carried in plain sight and in a holster on your person, or in a closed, locked glove compartment, or in a case in plain sight that is locked.

R.C. 2923.16(B)-(C) governs how firearms must be otherwise transported in a motor vehicle.

## **Encounters with Law Enforcement While Not in a Vehicle**

Not every encounter a citizen has with law enforcement occurs in connection with a traffic stop or even when in a vehicle. If you are carrying a concealed handgun and are stopped for any law enforcement purpose, you must announce to the officer that you are a concealed handgun license holder and are carrying your handgun.

The law concerning investigative detention is complex, but generally, law enforcement officers have the authority to detain individuals under certain circumstances as well as ascertain and establish safe conditions for detentions and/or investigations. This means that if an officer has a reasonable and articulable suspicion that a violation of a law has or may have been committed, they may briefly detain a person to determine whether their suspicion is correct. Under these circumstances, the officer must safely secure the scene as well as individuals. Further, if an officer has reason to believe an individual is carrying a concealed handgun, they may stop the person to determine if they are complying with the concealed carry law.

As with a stop that occurs in a vehicle, the officer has the authority to take possession of your handgun for the duration of the stop.

For additional information about police investigative detentions consult a private attorney.

**Statutory Reference(s):** R.C. 2923.126 requires license holders who are stopped for any law enforcement purpose to advise the officer if they are carrying a concealed handgun.

## **Private Property and the Workplace**

Under the law, private employers may, but are not required to, prohibit the presence of firearms on their property or motor vehicles owned by the employer. You should make yourself aware of your employer's policies before you go to work with a handgun. In addition, the owner or person in control of private land or premises or person leasing land or premises from the government may post a sign in a conspicuous location that prohibits persons from carrying firearms or concealed handguns. Violating this law is a fourth-degree misdemeanor.

### ***Signage***

The law does not say precisely what language must be on the sign. At a minimum, signs must be conspicuous and inform people that firearms and/or concealed handguns are prohibited. However, the law suggests that the prohibited locations post a sign that substantially says the following:

***Unless otherwise authorized by law, pursuant to the Ohio Revised Code, no person shall knowingly possess, have under the person's control, convey, or attempt to convey a deadly handgun or dangerous ordnance onto these premises.***

On page 17 is an example of a standard warning sign approved for use on state buildings. If you see this sign, it means that you cannot bring your concealed handgun inside. Businesses and persons wishing to post such signs are strongly advised to consult their legal counsel for language, style, format and placement.

The sign on page 17 is downloadable from the Attorney General's web site at [www.ag.state.oh.us](http://www.ag.state.oh.us) at no charge.

*Example of a Standard Warning Sign*



**Statutory Reference(s):** R.C. 2923.126(C) allows private employers to prohibit the presence of firearms on their property or in motor vehicles owned by the employer.

R.C. 2923.126(C)(3) allows the owner or person in control of private land to post a sign in a conspicuous place that prohibits persons from carrying concealed firearms on that property.

# Law Regarding Deadly Force

## Introduction

Ohio law specifically sets forth that a handgun is a deadly weapon capable of causing death. The privilege to carry a concealed handgun comes with the responsibility of being familiar with the law regarding use of deadly force. This publication is designed to provide general information only. It is not to be used as authority on legal issues, or as advice to address specific situations.

In Ohio, deadly force can be used only to prevent serious bodily harm or death. It can never be used to protect property only. Depending on the specific facts and circumstances of the situation, use of deadly force may lead to criminal charges and/or civil liability.

## Criminal Issues

If law enforcement and prosecutors determine that a person's use of deadly force is not justified, an array of criminal charges may be pursued. In a situation where the victim is injured by the conduct of a person using a firearm, the licensee can be charged with assault crimes including, but not limited to, felonious assault, aggravated assault, or attempted murder. Where the victim is killed as a result of a person's use of a firearm, he or she can be charged with homicide crimes, such as reckless homicide, voluntary manslaughter, murder or aggravated murder. (This list does not include all crimes that may apply.)

If the accused person is convicted, he or she will be sentenced to a term of incarceration by a judge, according to the law.

**Statutory Reference(s):** Chapter 29 of the Ohio Revised Code defines the crimes that may be charged when deadly force occurs.

## *Self-Defense*

Depending on the specific facts of the situation, an accused person may claim that use of deadly force was justified to excuse his or her actions, which would otherwise be a crime. Self-defense or the defense of another is an affirmative defense that an accused may assert against a criminal charge for an assault or homicide offense. The term “affirmative defense” means the accused, not the prosecutor, must prove by a preponderance of the evidence that he acted in self-defense or in defense of another. In other words, the defendant must prove that it is more probable than not that his use of deadly force was necessary due to the circumstances of the situation.

Whether this affirmative defense applies to the situation or whether it will likely succeed against criminal charges depends heavily on the specific facts and circumstances of each situation. The Ohio Supreme Court has explained that a defendant must prove three conditions to establish that he acted in defense of himself or another.

### **Condition 1: Defendant Is Not At Fault**

First, the defendant must prove that he was not at fault for creating the situation. The defendant cannot be the first aggressor or initiator. However, in proving the victim’s fault, a defendant cannot point to other unrelated situations where the victim was the aggressor. Remember, the focus is on the specific facts of the situation at hand.

If you escalate a confrontation by throwing the first punch, attacking, or drawing your handgun, you are the aggressor. Most likely in this situation, you cannot legitimately claim self-defense nor would you likely succeed in proving your case.

If you have no means to escape the other person’s attack and you reasonably, honestly believe that you are about to be killed or receive serious bodily harm, you may be able to use deadly force if that is the only way for you to escape that danger.

## Condition 2: Reasonable and Honest Belief of Danger

Second, the defendant must prove that, at the time, he had a real belief that he was in immediate danger of death or great bodily harm and that his use of deadly force was the only way to escape that danger. Bear in mind that **deadly force may only be used to protect against serious bodily harm or death**. The key word is *serious*.

In deciding whether the bodily harm was serious, the judge or jury can consider how the victim attacked the defendant, any weapon the victim had, and how he used it against the defendant. Minor bruises or bumps from a scuffle do not meet the legal definition of serious. In court cases, rape has been determined to be serious bodily harm, as has being attacked with scissors. Serious bodily harm may also result from being struck with an object that can cause damage, such as a baseball bat or a wooden club.

Important is the defendant's belief that he is in immediate danger. The circumstances and conditions of the situation or confrontation must cause the defendant to ***reasonably and honestly*** believe that he is about to be killed or receive great bodily harm. In deciding if the belief was reasonable and honest, the judge or jury will envision themselves in the defendant's "shoes" and consider his physical characteristics, emotional state, mental status, and knowledge as well as the victim's actions and words. The victim must have acted in a threatening manner. Words alone, regardless of how abusive or provoking, or threats of future harm ("I'm going to kill you *tomorrow*") do not justify the use of deadly force. If the person can escape danger by means such as leaving or using less than deadly force, he must use those means.

Whether the defendant or the victim was under the influence of drugs or alcohol will also be considered.

## Condition 3: Duty to Retreat

A defendant must show that he did not have a duty to retreat or avoid the danger. A person must retreat or avoid danger by leaving or voicing his intention to leave and ending his participation in the confrontation. If the person retreats and the other continues to

fight, the person who left the confrontation may be later justified in using deadly force when he can prove all three conditions of self-defense existed, and even if he was honestly mistaken about the existence of immediate danger.

In Ohio, there is no duty to retreat from one's own home. There is no duty to retreat if there is no manner by which you can retreat safely. **However, being in one's own home is not a license to use deadly force against an attacker.** The person who is attacked in his own home, without fault of his own, may stand his ground and use deadly force only if he reasonably and honestly believed that deadly force was necessary to prevent serious bodily harm or death. If the person does not have this belief or he created the confrontation, he cannot use deadly force and must leave the situation, even if he is in his own home.

### *Defense of Others*

A person may defend another only if the protected person would have had the right to use self-defense. Under Ohio law, a person may defend family members, friends or strangers. However, just as if he were protecting himself, a person cannot use any more force than is reasonable and necessary to prevent the harm threatened.

A defendant, who claims he used deadly force to protect another, has to prove that he reasonably and honestly believed that the person he protected was in immediate danger of serious bodily harm or death and that deadly force was the only way to protect the person from that danger. Furthermore, the defendant must also show that the protected person was not at fault for creating the situation and did not have a duty to leave or avoid the situation.

### **WARNING:**

The law specifically discourages citizens from taking matters into their own hands and acting as law enforcement agents. This is true even if the person thinks he is performing a good deed by protecting someone or helping law enforcement. The Ohio Supreme Court has ruled that a person risks criminal charges if he interferes in a struggle and protects the person who

was at fault, even if he mistakenly believed that person did not create the situation.

In other words, if you misinterpret a situation and interfere, you may face criminal charges because your use of deadly force is not justified. If you do not know all the facts and interfere, you will not be justified to use force. It does not matter that you mistakenly believed another was in danger and not at fault.

Of greater concern than risking criminal charges is the fact that you may be putting yourself and others in danger. If you use your handgun to interfere in a situation, and an officer arrives on the scene, the officer will not be able to tell if you are the criminal or if you are the Good Samaritan.

Ohio law does not encourage vigilantism. A license to carry a concealed handgun does not deputize you as a law enforcement agent. Officers are trained to protect members of the community, handle all types of situations and enforce the law. Do not allow the privilege to carry a concealed handgun give you a false sense of security or empowerment. Let law enforcement officers do their job. If you want to be a Good Samaritan, call the police.

### ***Conclusion: Self-Defense Issues***

If the defendant fails to prove any one of the three conditions for self-defense or defense of another, he fails to justify his use of deadly force. If convicted, an individual will be sentenced accordingly.

### ***Defense of Property***

There must be immediate threat of serious bodily harm or death in order to use deadly force. Protecting property alone does not allow for the use of deadly force. Therefore, a property owner may use reasonable, but not deadly, force when he honestly believes that the force will protect his property from harm.

If a person's property is being attacked or threatened, he may not use deadly force **unless** he reasonably believes it was the only way to protect himself or another from being killed or receiving serious bodily harm.

Deadly force can **never** be used to protect property only. Deadly force can never be used solely to protect property no matter where the threat to the property occurs.

## **Civil Liability**

Even if the situation does not lead to criminal charges or result in a criminal conviction, the accused may still face civil liability. The victim or his survivors could sue the accused for the harm from his use of deadly force. A "wrongful death" lawsuit is a common legal action for money damages brought by the survivors of a victim who was killed. The victim or his survivors must prove that it is more probable than not that the defendant's use of force was inappropriate or excessive and it caused the victim's injuries or death. If this is proven, the victim or his survivors may be entitled to recover money from the defendant as punishment and/or compensation, even if the victim was breaking the law at the time force was used against him.

The law requires that the force used must be reasonable and necessary to prevent the danger. So even if the victim was wrong and caused the situation, if the force was inappropriate or excessive in a particular situation, the defendant risks criminal and/or civil punishment.

Self-defense is an affirmative defense that a defendant may assert against civil liability. The defendant must prove that he reasonably believed that he or another was in immediate danger of serious bodily harm or death, and he could only prevent the harm by deadly force.

## **Conclusion**

Carrying a concealed handgun is a privilege that does not bring with it the right to use deadly force. The appropriateness of using *any* force depends on the specific facts of each and every situation.

# **Conflict Avoidance and Alternative Dispute Resolution**

## **Introduction**

Because of the serious consequences in the use of deadly force, it should always be a last option for resolving a problem. If you have a problem, you should consider other ways of resolving the problem first. Ohioans have many different options for settling disputes outside the traditional judicial arena in a quick, equitable, and most importantly, legal manner, that do not require force.

Broadly termed “alternative dispute resolution” (ADR), these methods recognize that for many people, the judicial process is time consuming and cumbersome, possibly expensive, and often confusing. Instead of giving citizens the choice of taking a matter to court or into their own hands for satisfaction, alternative dispute resolution offers a third way that has been overwhelmingly shown to be successful in ending disputes of all types. These choices include mediation, arbitration, conciliation and negotiation.

## **Basic Forms of Dispute Resolution**

Alternative dispute resolution spans a spectrum of methods, each more formalized and binding than the last.

The most obvious form of alternative dispute resolution is avoidance. This “like it or lump it” response to a dispute is often the hardest to accept as it means surrendering one’s own choice in favor of someone else’s. Depending on the issue, avoidance is either possible or not.

If one cannot avoid a conflict, discussion is often the next best way to solve a dispute. Direct talks often result in an acceptable solution that ends in conciliation and defused tension. Sometimes, however, the best way to solve a conflict using discussion is to have negotiation through agents. In simple conflicts, these agents can be friends, relatives, a counselor or religious advisor. Other times, agents can include formal, recognized officials such as labor or management representatives, or attorneys.

Formal alternative dispute resolution often involves a neutral third party whose advice and decision may have binding effect on the participants. The least binding form of third-party intervention is involvement of an ombudsman.

An ombudsman is most frequently found within a company or large organization and may be empowered to facilitate consumer complaints or employee disputes. While compensated by the organization, the ombudsman is normally answerable only to the most upper-level management or to the board of directors and is engaged to be as neutral and fair as possible. An ombudsman is generally empowered to talk to anyone, uncover facts, and make a recommendation to senior management within an organization. Some large American companies who employ ombudsmen for employee disputes include FedEx, IBM and McDonald's Corporation.

Another, more involved, form of negotiated settlement is mediation. This method of ADR is appropriate when the various sides wish to preserve a relationship or terminate it with the least amount of acrimony. Mediation involves negotiation, where a neutral mediator guides the process. Mediation does not force compromise, and a party is expected to reach an agreement only if it is convinced such an agreement is reasonable.

When negotiation fails, the parties can opt to try arbitration, where a neutral arbitrator is given authority by the parties to impose a settlement after each side presents its "case." The arbitrator renders a decision which can be binding or non-binding upon the parties. Non-binding decisions may provide a guide for the parties to reach a settlement or to give insight into the possible outcome of more traditional litigation. Many contracts require signers to choose arbitration as a prerequisite to a lawsuit.

Should arbitration not be an option, or if the non-binding result does not lead to a settlement, the parties can still engage in alternatives to the traditional courtroom trial, although the judicial system is involved. These alternatives almost always require legal counsel and are more complex than the extra-judicial remedies listed here.

## **Advantages of Alternative Dispute Resolution**

Besides the faster timeline and usually lower cost, alternative dispute resolution has a number of strengths that may make it a better choice in some disagreements. ADR allows for a much broader range of equitable solutions, provides for more direct participation by the parties in the settlement of their disputes, increases the likelihood of uncovering the underlying problems that led to the disagreement, and has a greater chance of creating agreements that both sides will adhere to. By reaching a settlement through consensus rather than by judicial decision, participants in ADR have told researchers that they feel more empowered, their emotional concerns as well as their legal or financial positions had been acknowledged and their belief in the legal system had improved.

## **The Ohio Commission on Dispute Resolution and Conflict Management**

The state of Ohio has recognized that ADR has an important role to play in conflict resolution, and has created the Ohio Commission on Dispute Resolution and Conflict Management to promote and strengthen the state's ADR policy. Established in 1989, the Commission provides Ohioans with forums, processes and techniques for resolving disputes. The Commission provides dispute resolution and conflict management training, consultation and technical assistance in designing dispute resolution programs, and facilitation and mediation services.

The information contained in this section should not be construed as legal advice. It is not an endorsement of alternative

dispute resolution over traditional forms of legal remedies, and readers are cautioned that any questions about their rights should be discussed with an attorney prior to engaging in legal action of any type.

## **For More Information on Alternative Dispute Resolution, Contact...**

### **Ohio Commission on Dispute Resolution and Conflict Management**

Riffe Center,  
77 S. High St., 24th Fl.  
Columbus, OH 43215-6108

Phone: (614) 752-9595

Fax: (614) 752-9682

<http://disputeresolution.ohio.gov/>

## **Conclusion**

This pamphlet is intended to provide you with information regarding Ohio's concealed carry law (H.B. 12). The Office of the Attorney General will continue to work closely with law enforcement with a common goal of helping to ensure a safe, efficient licensing process for Ohioans.



ATTORNEY GENERAL JIM PETRO



OHIO PEACE OFFICER  
TRAINING COMMISSION



JIM PETRO  
ATTORNEY GENERAL  

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STATE OF OHIO

*[www.ag.state.oh.us](http://www.ag.state.oh.us)*