



Ohio Revised Code

Section 311.41 Criminal records check and incompetency check of applicant.

Effective: March 23, 2015

Legislation: House Bill 234 - 130th General Assembly

(A)(1) Upon receipt of an application for a concealed handgun license under division (C) of section 2923.125 of the Revised Code, an application to renew a concealed handgun license under division (F) of that section, or an application for a concealed handgun license on a temporary emergency basis under section 2923.1213 of the Revised Code, the sheriff shall conduct a criminal records check and an incompetency check of the applicant to determine whether the applicant fails to meet the criteria described in division (D)(1) of section 2923.125 of the Revised Code. As part of any such criminal records check, the sheriff shall contact the national instant criminal background check system to verify that the applicant is eligible lawfully to receive or possess a firearm in the United States. The sheriff shall conduct the criminal records check and the incompetency records check required by this division through use of an electronic fingerprint reading device or, if the sheriff does not possess and does not have ready access to the use of an electronic fingerprint reading device, by requesting the bureau of criminal identification and investigation to conduct the checks as described in this division.

In order to conduct the criminal records check and the incompetency records check, the sheriff shall obtain the fingerprints of at least four fingers of the applicant by using an electronic fingerprint reading device for the purpose of conducting the criminal records check and the incompetency records check or, if the sheriff does not possess and does not have ready access to the use of an electronic fingerprint reading device, shall obtain from the applicant a completed standard fingerprint impression sheet prescribed pursuant to division (C)(2) of section 109.572 of the Revised Code. The fingerprints so obtained, along with the applicant's social security number, shall be used to conduct the criminal records check and the incompetency records check. If the sheriff does not use an electronic fingerprint reading device to obtain the fingerprints and conduct the records checks, the sheriff shall submit the completed standard fingerprint impression sheet of the applicant, along with the applicant's social security number, to the superintendent of the bureau of criminal identification and investigation and shall request the bureau to conduct the criminal records check and the incompetency records check of the applicant and, if necessary, shall request the superintendent of the bureau to obtain information from the federal bureau of investigation as part of the criminal records



check for the applicant. If it is not possible to use an electronic fingerprint reading device to conduct an incompetency records check, the sheriff shall submit the completed standard fingerprint impression sheet of the applicant, along with the applicant's social security number, to the superintendent of the bureau of criminal identification and investigation and shall request the bureau to conduct the incompetency records check. The sheriff shall not retain the applicant's fingerprints as part of the application.

(2) Except as otherwise provided in this division, if at any time the applicant decides not to continue with the application process, the sheriff immediately shall cease any investigation that is being conducted under division (A)(1) of this section. The sheriff shall not cease that investigation if, at the time of the applicant's decision not to continue with the application process, the sheriff had determined from any of the sheriff's investigations that the applicant then was engaged in activity of a criminal nature.

(B) If a criminal records check and an incompetency records check conducted under division (A) of this section do not indicate that the applicant fails to meet the criteria described in division (D)(1) of section 2923.125 of the Revised Code, except as otherwise provided in this division, the sheriff shall destroy or cause a designated employee to destroy all records other than the application for a concealed handgun license, the application to renew a concealed handgun license, or the affidavit submitted regarding an application for a concealed handgun license on a temporary emergency basis that were made in connection with the criminal records check and incompetency records check within twenty days after conducting the criminal records check and incompetency records check. If an applicant appeals a denial of an application as described in division (D)(2) of section 2923.125 of the Revised Code or challenges the results of a criminal records check pursuant to section 2923.127 of the Revised Code, records of fingerprints of the applicant shall not be destroyed during the pendency of the appeal or the challenge and review. When an applicant appeals a denial as described in that division, the twenty-day period described in this division commences regarding the fingerprints upon the determination of the appeal. When required as a result of a challenge and review performed pursuant to section 2923.127 of the Revised Code, the source the sheriff used in conducting the criminal records check shall destroy or the chief operating officer of the source shall cause an employee of the source designated by the chief to destroy all records other than the application for a concealed handgun license, the application to renew a concealed handgun license, or the affidavit submitted regarding an application for a concealed handgun license on a temporary



emergency basis that were made in connection with the criminal records check within twenty days after completion of that challenge and review.

(C) If division (B) of this section applies to a particular criminal records check or incompetency records check, no sheriff, employee of a sheriff designated by the sheriff to destroy records under that division, source the sheriff used in conducting the criminal records check or incompetency records check, or employee of the source designated by the chief operating officer of the source to destroy records under that division shall fail to destroy or cause to be destroyed within the applicable twenty-day period specified in that division all records other than the application for a concealed handgun license, the application to renew a concealed handgun license, or the affidavit submitted regarding an application for a concealed handgun license on a temporary emergency basis made in connection with the particular criminal records check or incompetency records check.

(D) Whoever violates division (C) of this section is guilty of failure to destroy records, a misdemeanor of the second degree.

(E) As used in this section:

(1) "Concealed handgun license" and "handgun" have the same meanings as in section 2923.11 of the Revised Code.

(2) "National instant criminal background check system" means the system established by the United States attorney general pursuant to section 103 of the "Brady Handgun Violence Prevention Act," Pub. L. No. 103-159.