

SHORT TITLE: County officers; providing for district attorney to carry firearm upon leaving office; emergency.

STATE OF OKLAHOMA

2nd Session of the 45th Legislature (1996)

SENATE BILL NO. 1089

By: Dickerson

AS INTRODUCED

An Act relating to county officers; amending 19 O.S. 1991, Sections 215.29, 215.35A, as last amended by Section 2, Chapter 240, O.S.L. 1995 (19 O.S. Supp. 1995, Section 215.35A), 553, 554 and 555 and 47 O.S. 1991, Section 2-313, as last amended by Section 1, Chapter 16, O.S.L. 1995 (47 O.S. Supp. 1995, Section 2-313), which relate to district attorney authority to carry a firearm, power of investigators, retiring sheriff's status, authority for retired sheriff to carry a firearm, emergency requests to serve the county and retired officers of the Department of Public Safety; modifying language; deleting language; providing authority for district attorney to carry firearms upon leaving office; exempting certain fee; construing certain authority; providing authority for retired sheriff to carry a concealed firearm; specifying exceptions for recall to service; and declaring an emergency.

BE IT ENACTED BY THE PEOPLE OF THE STATE OF OKLAHOMA:

SECTION 1. AMENDATORY 19 O.S. 1991, Section 215.29, is amended to read as follows:

Section 215.29 A district attorney who is certified as a peace officer by the Council on Law Enforcement Education and Training may carry a concealed firearm on his or her person ~~to use only for personal protection if he has successfully completed an approved course of firearm training conducted by a state certified firearms instructor which meets the minimum requirements for firearms training as set forth by the Council on Law Enforcement Education and Training.~~ Any district attorney who is not certified as a peace officer or who leaves the office of the district attorney may carry a concealed firearm pursuant to the Oklahoma Self-Defense Act,

Sections 1290.1 through 1290.25 of Title 21 of the Oklahoma Statutes. Any application fee for a concealed handgun license pursuant to the Oklahoma Self-Defense Act shall be waived for a district attorney.

SECTION 2. AMENDATORY 19 O.S. 1991, Section 215.35A, as last amended by Section 2, Chapter 240, O.S.L. 1995 (19 O.S. Supp. 1995, Section 215.35A), is amended to read as follows:

Section 215.35A A. District attorney investigators serve under the direction of the district attorney, and shall perform such services as are necessary in the investigation of criminal activity or preparation of civil litigation within the district.

B. If the district attorney's investigator is certified as a peace officer by the Council on Law Enforcement Education and Training the investigator shall be considered a peace officer and shall have the powers now or hereafter vested by law in peace officers, including the right to carry a firearm. Nothing contained in any provision of this section shall be construed to prohibit any investigator from carrying a concealed firearm pursuant to the provisions of the Oklahoma Self-Defense Act, Sections 1290.1 through 1290.25 of Title 21 of the Oklahoma Statutes.

C. While in the performance of official duties as an investigator for the district attorney, an investigator who has been certified as a peace officer by the Council on Law Enforcement Education and Training shall have jurisdiction in any portion of the state.

SECTION 3. AMENDATORY 19 O.S. 1991, Section 553, is amended to read as follows:

Section 553. Sheriffs and their deputies, retiring under the provisions of Sections 951 et seq. of ~~Title 19 of the Oklahoma Statutes~~ this title, or Sections 901 et seq. of Title 74 of the

Oklahoma Statutes, may retain their status as peace officers of the State of Oklahoma, retired, and as such may retain the right to keep their county issued firearm and badge, and bear firearms as provided by Sections 554 and 555 of this title.

SECTION 4. AMENDATORY 19 O.S. 1991, Section 554, is amended to read as follows:

~~Section 554. The retiring officer shall request in writing to the board of county commissioners in the county of his retirement for permission to keep and bear arms. The board of county commissioners may grant said request and the sheriff of the county may issue a commission except in the following cases:~~

- ~~1. When the retiring officer has been convicted of a felony involving moral turpitude;~~
- ~~2. Where the officer is mentally or physically incapacitated and could not perform duties if recalled; and~~
- ~~3. When good cause is shown that granting approval of the request would be detrimental to the public health, safety and welfare~~ sheriff or deputy may carry a firearm as provided in Section 1289.8 of Title 21 of the Oklahoma Statutes.

SECTION 5. AMENDATORY 19 O.S. 1991, Section 555, is amended to read as follows:

Section 555. A retired sheriff or deputy may in times of great emergency or danger serve the county at the request of the Governor or the board of county commissioners of the county in which the officer retired, except in the following cases:

1. When the retiring officer has been convicted of a felony involving moral turpitude;
2. Where the officer is mentally or physically incapacitated and could not perform duties if recalled; and

3. When good cause is shown that it would be detrimental to the public health, safety and welfare.

SECTION 6. AMENDATORY 47 O.S. 1991, Section 2-313, as last amended by Section 1, Chapter 16, O.S.L. 1995 (47 O.S. Supp. 1995, Section 2-313), is amended to read as follows:

Section 2-313. A. A retired member of the Oklahoma Highway Patrol Division, the Capitol Patrol Division or the Lake Patrol Division of the Department of Public Safety shall be entitled to receive upon retirement, by reason of length of service, the ~~continued custody and possession of the~~ sidearm and badge carried by such member immediately prior to retirement and shall be entitled to carry such sidearm as provided by Section 1289.8 of Title 21 of the Oklahoma Statutes.

B. In the event a member retires by reason of disability, such member shall be entitled to receive the ~~continued custody and possession of the~~ sidearm upon written approval of the Commissioner of the Department of Public Safety and may be entitled to carry such sidearm pursuant to the Oklahoma Self-Defense Act, Sections 1290.1 through 1290.25 of Title 21 of the Oklahoma Statutes.

C. A retired member of the Oklahoma Highway Patrol Division, the Capitol Patrol Division or the Lake Patrol Division of the Department of Public Safety shall be entitled to receive the ~~continued custody and possession of the~~ official license plate issued for the vehicle that was assigned to the member, provided the license plate shall not be placed on any motor vehicle. The provisions of this subsection shall apply to any member retiring on or after April 1, 1993, if the official license plate is available.

D. ~~Custody and possession of the~~ The sidearm, badge and official license plate of a member killed in the line of duty may be awarded by the Commissioner to the spouse or next-of-kin of the

deceased member, provided the license plate shall not be placed on any motor vehicle. The authority of the Commissioner to award the license plate to the spouse or next-of-kin shall apply if the deceased member was killed on or after April 1, 1993.

SECTION 7. It being immediately necessary for the preservation of the public peace, health and safety, an emergency is hereby declared to exist, by reason whereof this act shall take effect and be in full force from and after its passage and approval.

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