STATE OF OKLAHOMA

1st Session of the 46th Legislature (1997)

CONFERENCE COMMITTEE SUBSTITUTE
FOR ENGROSSED
SENATE BILL NO. 628 By: Shurden of the Senate

and

Stanley of the House

CONFERENCE COMMITTEE SUBSTITUTE

An Act relating to the Oklahoma Self-Defense Act; amending 21 O.S. 1991, Section 1283, as last amended by Section 36, Chapter 272, O.S.L. 1995 (21 O.S. Supp. 1996, Section 1283), which relates to convicted felons; deleting certain exemptions; restoring certain rights to pardoned felons; authorizing certain possession of certain weapons; amending Section 10, Chapter 272, O.S.L. 1995, as amended by Section 12, Chapter 191, O.S.L. 1996 (21 O.S. Supp. 1996, Section 1290.10), which relates to certain mandatory preclusions; making certain exception; defining period for suicide preclusion; amending Section 11, Chapter 272, O.S.L. 1995, as amended by Section 13, Chapter 191, O.S.L. 1996 (21 O.S. Supp. 1996, Section 1290.11), which relates to other preclusions; providing for certain persons on medication; clarifying provisions for victim protection orders; amending Section 17, Chapter 272, O.S.L. 1995, as amended by Section 18, Chapter 191, O.S.L. 1996 (21 O.S. Supp. 1996, Section 1290.17), which relates to suspension of license; authorizing suspension for failure to pay administrative fine; providing for application for reinstatement of suspended license; prohibiting any fee for an application for reinstatement; making provision if suspended license expires before application for reinstatement; and declaring an emergency.

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

SECTION 1. AMENDATORY 21 O.S. 1991, Section 1283, as last amended by Section 36, Chapter 272, O.S.L. 1995 (21 O.S. Supp. 1996, Section 1283), is amended to read as follows:

Section 1283.

CONVICTED FELONS AND DELINQUENTS

A. ~~It~~ Except as provided in subsection B of this section, it shall be unlawful for any person convicted of any felony in any court of this state or of another state or of the United States to have in his or her possession or under his or her immediate control, or in any vehicle which the person is operating, or in which the person is riding as a passenger, or at the residence where the convicted person resides, any pistol, imitation or homemade pistol, machine gun, sawed-off shotgun or rifle, or any other dangerous or deadly firearm which could be easily concealed on the person, in personal effects or in an automobile.

B. Any person ~~elected or appointed as a peace officer~~ who has previously been convicted of any felony in any court of ~~a~~ this state or of another state or of the United States, and who has received a full and complete pardon from the proper authority and has ~~been subsequently certified by the Oklahoma Council on Law Enforcement Education and Training, pursuant to Section 3311 of Title 70 of the Oklahoma Statutes, and is actively employed as a full-time peace officer on May 8, 1989,~~ not been convicted of any other felony offense which has not been pardoned, shall ~~be permitted to possess a weapon specified in this section for the sole purpose of performing duties of a peace officer~~ have restored the right to possess any firearm or other weapon prohibited by subsection A of this section, the right to apply for and carry a concealed handgun pursuant to the Oklahoma Self-Defense Act, Section 1290.1 et seq. of this title, and the right to perform the duties of a peace officer, gunsmith, or for firearms repair.

C. ~~Any person who has previously been convicted of a nonviolent felony in any court in the State of Oklahoma, and who has received a full and complete pardon from the proper authority shall be permitted to possess a weapon specified in this section to the extent necessary for the pursuit of gunsmithing or firearm repair, provided such person has graduated from a gunsmithing school conducted by an institution whose accreditation is recognized by the Oklahoma State Regents for Higher Education and who is engaged in the occupation of gunsmithing or firearm repair on September 1, 1992.~~

~~D. In addition to the prohibitions of subsection A of this section, it~~ It shall be unlawful for any person supervised by the Department of Corrections or any division thereof to have in his or her possession or under his or her immediate control, or at his or her residence, or in any passenger vehicle which the supervised person is operating or is riding as a passenger, any pistol, shotgun or rifle, including any imitation or homemade pistol, shotgun or rifle, while such person is subject to supervision, probation, parole or inmate status.

E. It shall be unlawful for any person previously adjudicated as a delinquent child for the commission of an offense, which would have constituted a felony offense if committed by an adult, to have in said person's possession or under the person's immediate control, or have in any vehicle which he or she is driving or in which said person is riding as a passenger, or at the person's residence, any pistol, imitation or homemade pistol, machine gun, sawed-off shotgun or rifle, or any other dangerous or deadly firearm which could be easily concealed on the person, in personal effects or in an automobile, within ten (10) years after such adjudication.

F. Any person having been issued a concealed handgun license pursuant to the provisions of the Oklahoma Self-Defense Act, ~~Sections 1 through 25~~ Section 1290.1 et seq. of this ~~act~~ title, and who thereafter knowingly or intentionally allows a convicted felon or adjudicated delinquent as prohibited by the provisions of subsections A, C, or E of this section to possess or have control of any pistol authorized by the Oklahoma Self-Defense Act shall, upon conviction, be guilty of a felony punishable by a fine not to exceed Five Thousand Dollars ($5,000.00). In addition, the person shall have the handgun license revoked by the Oklahoma State Bureau of Investigation after a hearing and determination that the person has violated the provisions of this section.

G. Any convicted or adjudicated person violating the provisions of this section shall, upon conviction, be guilty of a felony punishable as provided in Section 1284 of this title.

H. For purposes of this section, "sawed-off shotgun or rifle" shall mean any shotgun or rifle which has been shortened to any length.

SECTION 2. AMENDATORY Section 10, Chapter 272, O.S.L. 1995, as amended by Section 12, Chapter 191, O.S.L. 1996 (21 O.S. Supp. 1996, Section 1290.10), is amended to read as follows:

Section 1290.10

MANDATORY PRECLUSIONS

In addition to the requirements stated in Section 1290.9 of this title, the conditions stated in this section shall preclude a person from eligibility for a handgun license pursuant to the provisions of the Oklahoma Self-Defense Act, Section 1290.1 et seq. of this title. The occurrence of any one of the following conditions shall deny the person the right to have a handgun license pursuant to the provisions of the Oklahoma Self-Defense Act. Prohibited conditions are:

1. Ineligible to possess a pistol due to any felony conviction or adjudication as a delinquent as provided by Section 1283 of this title<u>, except as provided in subsection B of Section 1283 of this title</u>;

2. Any felony conviction pursuant to any law of another state, a felony conviction pursuant to any provision of the United States Code, or any conviction pursuant to the laws of any foreign country, provided such foreign conviction would constitute a felony offense in this state if the offense had been committed in this state<u>, except as provided in subsection B of Section 1283 of this title</u>;

3. Adjudication as an incompetent person pursuant to the provisions of the Oklahoma Mental Health Law, Section 1-101 et seq. of Title 43A of the Oklahoma Statutes or an adjudication of incompetency entered in another state pursuant to any provision of law of that state;

4. Any false or misleading statement on the application for a handgun license as provided by paragraph 5 of Section 1290.12 of this title;

5. Conviction of any one of the following misdemeanor offenses in this state or in any other state:

a. any assault and battery which caused serious physical injury to the victim, or any second or subsequent assault and battery conviction,

b. any aggravated assault and battery,

c. any stalking pursuant to Section 1173 of this title, or a similar law of another state,

d. a violation relating to the Protection from Domestic Abuse Act, Section 60 et seq. of Title 22 of the Oklahoma Statutes, or any violation of a victim protection order of another state, or

e. any conviction relating to illegal drug use or possession;

6. An attempted suicide or other condition relating to or indicating mental instability or an unsound mind <u>which occurred within the preceding ten-year period from the date of the application for a license to carry a concealed firearm</u>;

7. Currently undergoing treatment for a mental illness, condition, or disorder. For purposes of this paragraph, "currently undergoing treatment for a mental illness, condition, or disorder" means the person has been diagnosed by a licensed physician as being afflicted with a substantial disorder of thought, mood, perception, psychological orientation, or memory that significantly impairs judgment, behavior, capacity to recognize reality, or ability to meet the ordinary demands of life;

8. Significant character defects of the applicant as evidenced by a misdemeanor criminal record indicating habitual criminal activity; or

9. Ineligible to possess a pistol due to any provision of law of this state or the United States Code<u>, except as provided in subsection B of Section 1283 of this title</u>.

SECTION 3. AMENDATORY Section 11, Chapter 272, O.S.L. 1995, as amended by Section 13, Chapter 191, O.S.L. 1996 (21 O.S. Supp. 1996, Section 1290.11), is amended to read as follows:

Section 1290.11

OTHER PRECLUSIONS

A. The following conditions shall preclude a person from being eligible for a concealed handgun license pursuant to the provisions of the Oklahoma Self-Defense Act, Section 1290.1 et seq. of this title, for a period of time as prescribed in each of the following paragraphs:

1. An arrest for an alleged commission of a felony offense or a felony charge pending in this state, another state or pursuant to the United States Code. The preclusive period shall be three (3) years and shall begin upon the final determination of the matter;

2. The person is subject to the provisions of a deferred sentence or deferred prosecution in this state or another state or pursuant to federal authority for the commission of a felony offense. The preclusive period shall be three (3) years and shall begin upon the final determination of the matter;

3. Any involuntary commitment for a mental illness, condition, or disorder pursuant to the provisions of Section 5-401 of Title 43A of the Oklahoma Statutes or any involuntary commitment in another state pursuant to any provisions of law of that state. The preclusive period shall be three (3) years from the last date of treatment or discharge from commitment, whichever is longer, or upon presentation of a certified statement from a licensed physician stating that the person is no longer disabled by any mental or psychiatric illness, condition, or disorder;

4. The person has previously undergone treatment for a mental illness, condition, or disorder which required medication or supervision as defined by paragraph 7 of Section 1290.10 of this title. The preclusive period shall be three (3) years from the last date of treatment or upon presentation of a certified statement from a licensed physician stating that the person is <u>either</u> no longer disabled by any mental or psychiatric illness, condition, or disorder <u>or that the person has been stabilized on medication for three (3) years or more</u>;

5. Inpatient treatment for substance abuse. The preclusive period shall be three (3) years from the last date of treatment or upon presentation of a certified statement from a licensed physician stating that the person has been free from substance use for twelve (12) months or more preceding the filing of an application for a handgun license;

6. Two or more convictions of public intoxication pursuant to Section 8 of Title 37 of the Oklahoma Statutes, or a similar law of another state. The preclusive period shall be three (3) years from the date of the completion of the last sentence;

7. Two or more misdemeanor convictions relating to intoxication or driving under the influence of an intoxicating substance or alcohol. The preclusive period shall be three (3) years from the date of the completion of the last sentence and shall require a certified statement from a licensed physician stating that the person is not in need of substance abuse treatment;

8. A court order for a final Victim Protection Order against the applicant, as authorized by Section 60 et seq. of Title 22 of the Oklahoma Statutes, or any court order granting a final victim protection order against the applicant from another state. The preclusive period shall be ~~five (5)~~ three (3) years from the date of the entry of the final court order, if the order does not have an expiration date, or ~~three (3) years~~ one (1) year from the expiration date of the order, or one (1) year from the date an order was dropped, dismissed or withdrawn;

9. An adjudicated delinquent or convicted felon residing in the residence of the applicant which may be a violation of Section 1283 of this title. The preclusive period shall be thirty (30) days from the date the person no longer resides in the same residence as the applicant; or

10. An arrest for an alleged commission of, a charge pending for, or the person is subject to the provisions of a deferred sentence or a deferred prosecution for any one or more of the following misdemeanor offenses in this state or another state:

a. any assault and battery which caused serious physical injury to the victim or any second or subsequent assault and battery,

b. any aggravated assault and battery,

c. any stalking pursuant to Section 1173 of this title, or a similar law of another state,

d. any violation of the Protection from Domestic Abuse Act, Section 60 et seq. of Title 22 of the Oklahoma Statutes, or any violation of a victim protection order of another state, or

e. any violation relating to illegal drug use or possession.

The preclusive period for this paragraph shall be three (3) years and shall begin upon the final determination of the matter.

B. Nothing in this section shall be construed to require a full investigation of the applicant by the Oklahoma State Bureau of Investigation.

SECTION 4. AMENDATORY Section 17, Chapter 272, O.S.L. 1995, as amended by Section 18, Chapter 191, O.S.L. 1996 (21 O.S. Supp. 1996, Section 1290.17), is amended to read as follows:

Section 1290.17

SUSPENSION AND REVOCATION OF LICENSE

A. The Oklahoma State Bureau of Investigation shall have authority pursuant to the provisions of the Oklahoma Self-Defense Act, Section 1290.1 et seq. of this title, and any other provision of law to suspend or revoke any concealed handgun license issued pursuant to the provisions of the Oklahoma Self-Defense Act. After a concealed handgun license has been issued, the discovery of or the occurrence of any condition which directly affects a person's eligibility for a handgun license as provided by the provisions of Section 1290.9 or 1290.10 of this title shall require a revocation of the license by the Bureau. The discovery of or the occurrence of any condition pursuant to Section 1290.11 of this title, after a license has been issued, shall cause a suspension of the handgun license for a period of time as prescribed for the condition. Any provision of law that requires

a revocation of a concealed handgun license upon a conviction shall cause the Bureau to suspend the concealed handgun license upon the discovery of the arrest of the person for such offense until a determination of the criminal case at which time the Bureau shall proceed with the appropriate administrative action.

B. Any concealed handgun license which is subsequently suspended or revoked shall be immediately returned to the Oklahoma State Bureau of Investigation upon notification. Any person refusing or failing to return a license after notification of its suspension or revocation shall, upon conviction, be guilty of a misdemeanor punishable by a fine of not exceeding Five Hundred Dollars ($500.00), by imprisonment in the county jail for not exceeding six (6) months, or by both such fine and imprisonment. In addition, the person shall be subject to an administrative fine of Five Hundred Dollars ($500.00), upon a hearing and determination by the Bureau that the person is in violation of the provisions of this subsection.

C. Any law enforcement officer of this state shall confiscate a concealed handgun license in the possession of any person and return it to the Oklahoma State Bureau of Investigation for appropriate administrative proceedings against the licensee when the license is no longer needed as evidence in any criminal proceeding, as follows:

1. Upon the arrest of the person for any felony offense;

2. Upon the arrest of the person for any misdemeanor offense enumerated as a preclusion to a handgun license;

3. For any violation of the provisions of the Oklahoma Self-Defense Act;

4. When the officer has been called to assist or is investigating any situation which would be a preclusion to having a handgun license; or

5. As provided in subsection D of Section 1290.8 of this title.

D. Any administrative fine assessed in accordance with the provisions of the Oklahoma Self-Defense Act shall be paid in full within thirty (30) days of assessment. The Oklahoma State Bureau

of Investigation shall, without a hearing, suspend the concealed carry license of any person who fails to pay in full any administrative fine assessed against the person in accordance with the provisions of this subsection. The suspension of any concealed carry license shall be automatic and shall begin thirty (30) days from the date of the assessment of the administrative fine. The suspension shall be removed and the concealed carry license returned to its prior standing upon payment of the administrative fine being paid in full to the Bureau.

E. Whenever a concealed carry license has been suspended in accordance with the provisions of this act or the administrative rules of the Bureau promulgated for purposes of this act, the license shall remain under suspension and shall not be reinstated until:

1. The person whose license has been suspended applies for reinstatement in accordance with the administrative rules of the Bureau. The Bureau shall not charge any fee in conjunction with an application for a license reinstatement. The person whose license has been suspended must demonstrate that the condition or preclusion which was the basis for the suspension has lapsed and is no longer in effect; and

2. Any and all administrative fines assessed against the person have been paid in full.

In the event a concealed carry license expires during the term of the suspension, the person shall be required to apply for renewal of the license in accordance with Section 1290.5 of this title.

SECTION 5. 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.

46-1-1521 NP