

STATE OF OKLAHOMA

1st Session of the 46th Legislature (1997)

HOUSE BILL NO. 1934

By: Morgan

AS INTRODUCED

An Act relating to crimes and punishments; providing for confiscation and forfeiture of firearms possessed by certain persons; providing exception; establishing disposal methods; providing for codification; and providing an effective date.

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

SECTION 1. NEW LAW A new section of law to be codified in the Oklahoma Statutes as Section 1283.1 of Title 21, unless there is created a duplication in numbering, reads as follows:

A. Whenever any person is detained or arrested by a law enforcement officer for being in violation of Section 1283 of Title 21 of the Oklahoma Statutes, the firearm or firearms may be confiscated and forfeited to the State of Oklahoma by the law enforcement authority. Such confiscation and forfeiture shall not require that criminal charges be filed against the person.

B. When a firearm confiscated pursuant to the provisions of this section has been taken without the permission of the owner, the firearm shall be returned to the owner pursuant to the procedures provided in Section 1321 of Title 22 of the Oklahoma Statutes, provided the possession of the firearm by the owner is not otherwise prohibited by law.

C. Any firearm confiscated and forfeited by any law enforcement authority, when no longer needed as evidence in the criminal proceeding, may be sold at public auction, or the confiscating authority may lease any firearm confiscated and forfeited by law pursuant to this section to any law enforcement agency for a period of one (1) year. Such lease may be renewed each year thereafter at the discretion of such authority to assist in the enforcement of the laws of this state or its political subdivisions. Any firearm deemed by the confiscating authority to be inappropriate for lease or sale shall be destroyed.

SECTION 2. NEW LAW A new section of law to be codified in the Oklahoma Statutes as Section 1283.2 of Title 21, unless there is created a duplication in numbering, reads as follows:

A. Each peace officer of this state shall seize any weapon or instrument when such officer has probable cause to believe such weapon or instrument is subject to being used by a person with a mental illness or chemical dependency and who as a result of that mental illness or chemical dependency can be expected within the immediate future to seriously and physically injure self or another person and who has engaged in a recent overt act or acts that reasonably support that expectation.

B. After any such seizure, the District Attorney shall file a forfeiture action within ten (10) days of such seizure, or any weapon or instrument seized pursuant to this section shall be returned to the owner.

C. The seizure and forfeiture provisions of Section 991a-11 of Title 22 of the Oklahoma Statutes shall be followed for any seizure and forfeiture of property pursuant to this section. No weapon or instrument seized pursuant to this section or monies from the sale of any such seized weapon or instrument shall be turned over to the person from whom such property was seized if a forfeiture action has been filed within the time required by subsection B of this section,

unless authorized by this section. At the forfeiture hearing, the state shall prove by clear and convincing evidence that there is reason to believe that serious physical injury will result from the return of the weapon or instrument. Otherwise, the seized property shall be returned to the owner.

D. Any firearm confiscated and forfeited by any law enforcement authority, when no longer needed as evidence in the criminal proceeding, may be sold at public auction, or the confiscating authority may lease any firearm confiscated and forfeited by law pursuant to this section to any law enforcement agency for a period of one (1) year. Such lease may be renewed each year thereafter at the discretion of such authority to assist in the enforcement of the laws of this state or its political subdivisions. Any firearm deemed by the confiscating authority to be inappropriate for lease or sale shall be destroyed.

SECTION 3. This act shall become effective November 1, 1997.

46-1-6170

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