

SHORT TITLE: Discharging firearms; prohibiting intentional discharge of firearms into dwelling; setting penalties; emergency.

STATE OF OKLAHOMA

1st Session of the 46th Legislature (1997)

SENATE BILL NO. 545

By: Kerr

AS INTRODUCED

An Act relating to discharging firearms; amending 21 O.S. 1991, Sections 652, as amended by Section 1, Chapter 192, O.S.L. 1992, 701.7, as amended by Section 1, Chapter 161, O.S.L. 1996 and 1289.16, as amended by Section 53, Chapter 272, O.S.L. 1995 (21 O.S. Supp. 1996, Sections 652, 701.7, and 1289.16), which relate to shooting with intent to kill, murder in the first degree, and felony pointing a firearm; modifying language; amending definition of felony murder to include the intentional discharge of firearm into an occupied structure; prohibiting intentional discharge of firearm into a dwelling, building or other place; setting penalties; and declaring an emergency.

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

SECTION 1. AMENDATORY 21 O.S. 1991, Section 652, as amended by Section 1, Chapter 192, O.S.L. 1992 (21 O.S. Supp. 1996, Section 652), is amended to read as follows:

Section 652. A. Every person who intentionally and wrongfully shoots another with or discharges any kind of firearm, with intent to kill any person, shall, upon conviction, be punished by imprisonment in the ~~State Penitentiary~~ custody of the Department of Corrections for a term not exceeding life.

B. Every person who uses any vehicle to facilitate the intentional discharge of any kind of firearm, crossbow or other weapon in conscious disregard for the safety of any other person or persons shall, upon conviction, be punished by imprisonment in the ~~State Penitentiary~~ custody of the Department of Corrections for a term of not less than two (2) years nor more than twenty (20) years.

C. Every person who intentionally and wrongfully shoots or discharges any firearm, crossbow, or other weapon at or into any occupied structure or dwelling with intent to kill any person shall, upon conviction, be punished by imprisonment in the custody of the Department of Corrections for a term of not less than two (2) years nor more than twenty (20) years.

D. Any person who commits any assault and battery upon another by means of any deadly weapon, or by ~~such~~ other means or force ~~as~~ which is likely to produce death, or in any manner attempts to kill another, or in resisting the execution of any legal process, shall, upon conviction, be punished by imprisonment in the ~~State Penitentiary~~ custody of the Department of Corrections for a term of not exceeding twenty (20) years.

SECTION 2. AMENDATORY 21 O.S. 1991, Section 701.7, as amended by Section 1, Chapter 161, O.S.L. 1996 (21 O.S. Supp. 1996, Section 701.7), is amended to read as follows:

Section 701.7 A. A person commits murder in the first degree when that person unlawfully and with malice aforethought causes the death of another human being. Malice is that deliberate intention unlawfully to take away the life of a human being, which is manifested by external circumstances capable of proof.

B. A person also commits the crime of murder in the first degree, regardless of malice, when that person or any other person takes the life of a human being during, or if the death of a human being results from, the commission or attempted commission of murder of another person, shooting or discharge of a firearm or crossbow

with intent to kill, intentional discharge of a firearm, crossbow, or other weapon into an occupied structure or dwelling, forcible rape, robbery with a dangerous weapon, kidnapping, escape from lawful custody, first degree burglary, first degree arson, unlawful distributing or dispensing of controlled dangerous substances, or trafficking in illegal drugs.

C. A person commits murder in the first degree when the death of a child results from the willful or malicious injuring, torturing, maiming or using of unreasonable force by said person or who shall willfully cause, procure or permit any of said acts to be done upon the child pursuant to Section ~~843~~ 7115 of ~~this title~~ Title 10 of the Oklahoma Statutes.

D. A person commits murder in the first degree when that person unlawfully and with malice aforethought solicits another person or persons to cause the death of a human being in furtherance of unlawfully manufacturing, distributing or dispensing controlled dangerous substances, as defined in the Uniform Controlled Dangerous Substances Act, unlawfully possessing with intent to distribute or dispense controlled dangerous substances, or trafficking in illegal drugs.

SECTION 3. AMENDATORY 21 O.S. 1991, Section 1289.16, as amended by Section 53, Chapter 272, O.S.L. 1995 (21 O.S. Supp. 1996, Section 1289.16), is amended to read as follows:

Section 1289.16

FELONY POINTING FIREARMS

A. It shall be unlawful for any person to willfully or without lawful cause point a shotgun, rifle, or pistol, or any deadly weapon, whether loaded or not, at any person or persons for the purpose of threatening or with the intention of discharging the firearm or with any malice or for any purpose of injuring, either through physical injury or mental or emotional intimidation or for purposes of whimsy, humor or prank, or in anger or otherwise, but

not to include the pointing of shotguns, rifles, or pistols by law enforcement authorities in the performance of their duties, members of the state military forces in the performance of their duties, members of the federal military reserve and active military components in the performance of their duties, or any federal government law enforcement officer in the performance of any duty, or in the performance of a play on stage, rodeo, television or on film, or in defense of any person, or of one's home or property. Any person convicted of a violation of the provisions of this section shall be punished as provided in Section 1289.17 of this title.

B. It shall be unlawful for any person to willfully or without lawful cause discharge any firearm, crossbow, or other weapon at or into any dwelling or structure, whether occupied or not, or at or into any other place where persons may be endangered or where there is a substantial likelihood for injury to any person or with a conscious disregard for the safety of any person for the purpose of threatening or with any malice or for any purpose of injuring, either through physical injury or mental or emotional intimidation or for purposes of whimsy, humor, prank or vandalism, or in anger or otherwise, but not to include the discharge of weapons by law enforcement authorities in the performance of their duties, members of the state military forces in the performance of their duties, members of the federal military reserve and active military components in the performance of their duties, or any federal government law enforcement officer in the performance of any duty, or in the performance of a play on stage, rodeo, television or on film, or in defense of any person. Any person convicted of a violation of the provisions of this section shall be punished as provided in Section 1289.17 of this title.

Any person convicted of a violation of the provisions of this section after having been issued a concealed handgun license

pursuant to the Oklahoma Self-Defense Act, ~~Sections 1 through 25~~
Section 1290.1 et seq. of this ~~act~~ title, shall have the license
revoked and shall be subject to an administrative fine of One
Thousand Dollars (\$1,000.00), upon a hearing and determination by
the Oklahoma State Bureau of Investigation that the person is in
violation of the provisions of this section.

SECTION 4. 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.

46-1-0967

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