

By: Shurden of the Senate
and
Stanley of the House

An Act relating to the Oklahoma Self-Defense Act; mandating prosecution of certain persons for firearm-related acts of certain minor children; defining terms; providing exceptions; providing for civil liability; amending Section 14, Chapter 272, O.S.L. 1995, as last amended by Section 5, Chapter 286, O.S.L. 1998 (21 O.S. Supp. 1999, Section 1290.14), which relates to firearms instructors; providing for extended CLEET approval; amending 21 O.S. 1991, Section 1277, as last amended by Section 4, Chapter 191, O.S.L. 1996 (21 O.S. Supp. 1999, Section 1277), which relates to places of unlawful carry; limiting exemption for certain peace officers and persons allowed to carry weapon in course of employment; amending 21 O.S. 1991, Section 1289.23, as last amended by Section 8, Chapter 191, O.S.L. 1996 (21 O.S. Supp. 1999, Section 1289.23), which relates to off-duty peace officers; construing certain authority to carry concealed handgun; providing option for off-duty peace officer to carry concealed handgun under the Self-Defense Act; amending 21 O.S. 1991, Section 10, Chapter 272, O.S.L. 1995, as last amended by Section 2, Chapter 358, O.S.L. 1997, Section 11, Chapter 272, O.S.L. 1995, as last amended by Section 2, Chapter 415, O.S.L. 1999, Section 12, Chapter 272, O.S.L. 1995, as last amended by Section 3, Chapter 415, O.S.L. 1999, and Section 25, Chapter 272, O.S.L. 1995 (21 O.S. Supp. 1999, Sections 1290.10, 1290.11, 1290.12 and 1290.25), which relate to mandatory preclusions, other preclusions, procedure for application, and legislative intent; making domestic abuse grounds for license preclusion; providing additional preclusions; making involuntary commitment a permanent preclusion; modifying certain preclusive period; clarifying certain term; expanding legislative intent; amending 22 O.S. 1991, Section 18, as last amended by Section 1, Chapter 397, O.S.L. 1997 (22 O.S. Supp. 1999, Section 18), which relates to expungement of criminal records; providing additional class of persons authorized to file motion for expungement; providing for codification; providing an effective date; and declaring an emergency.

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 1273.1 of Title 21, unless there is created a duplication in numbering, reads as follows:

A. Any person eighteen (18) years of age or older who knowingly is in possession of a stolen firearm while in any premises occupied by a minor child or any convicted felon who resides in any premises occupied by a minor child where firearms are kept shall be prosecuted for the firearm-related criminal acts of said minor child as if the offense had been committed by himself or herself, when the minor child gains access to a firearm from the premises and uses the firearm to cause injury or death to any person.

B. For purposes of this section:

1. "Readily dischargeable firearm" means a firearm that is loaded with ammunition, whether or not ammunition is in the chamber;
2. "Child" means a person under eighteen (18) years of age; and
3. "Premises occupied by a minor child" means any place where the child resides, including the place where the child resides during court-ordered periods of visitation.

C. The criminal provisions of this section shall not apply:

1. When a child gains access to a readily dischargeable firearm and uses it in act of lawful self-defense or in the defense of another person or property; or
2. When a child gains access to a firearm as a result of an unlawful entry into the premises by another person.

D. In addition to any criminal penalty, the person shall be liable for civil damages for any injury or death to any person and for damage to property resulting from any discharge of the firearm or use of the weapon.

SECTION 2. AMENDATORY Section 14, Chapter 272, O.S.L. 1995, as last amended by Section 5, Chapter 286, O.S.L. 1998 (21 O.S. Supp. 1999, Section 1290.14), is amended to read as follows:

Section 1290.14

SAFETY AND TRAINING COURSE

A. Each applicant for a license to carry a concealed handgun pursuant to the Oklahoma Self-Defense Act, Section 1290.1 et seq. of this title, must successfully complete a firearms safety and training course in this state conducted by a registered and approved firearms instructor as provided by the provisions of this section. The applicant must further demonstrate competence and qualification with an authorized pistol of the type or types that the applicant desires to carry as a concealed handgun pursuant to the provisions of the Oklahoma Self-Defense Act, except certain persons may be exempt from such training requirement as provided by the provisions of Section 1290.15 of this title.

B. The Council on Law Enforcement Education and Training (CLEET) shall establish criteria for approving firearms instructors for purposes of training and qualifying individuals for a concealed handgun license pursuant to the provisions of the Oklahoma Self-Defense Act. All firearms instructors shall be required to meet the eligibility requirements for a concealed handgun license as provided in Sections 1290.9, 1290.10, and 1290.11 of this title, and each instructor shall have their application processed as provided for applicants in Section 1290.12 of this title, including the state and national criminal history records search and fingerprint search. A firearms instructor shall be required to pay a fee of One Hundred Dollars (\$100.00) to the Council on Law Enforcement Education and Training (CLEET) each time the person makes application for CLEET approval as a firearms instructor pursuant to the provisions of the Oklahoma Self-Defense Act. The fee shall be retained by CLEET and shall be deposited into the Firearms Instructors Revolving Fund. CLEET shall promulgate the rules, forms and procedures necessary to implement the approval of firearms instructors as authorized by the provisions of this subsection. CLEET shall periodically review each approved instructor during a training and qualification course to

assure compliance with the rules and course contents. Any violation of the rules may result in the revocation or suspension of CLEET and Oklahoma State Bureau of Investigation approval. Unless the approval has been revoked or suspended, a firearm instructor's CLEET approval shall be for a term of ~~one (1) year~~ four (4) years. Beginning July 1, 2000, any firearms instructor who has been issued a one-year CLEET approval shall not be eligible for the four-year approval until the expiration of the approval previously issued. CLEET shall be responsible for notifying all approved firearms instructors with the statutory and policy changes of the Oklahoma Self-Defense Act.

C. All firearms instructors approved by CLEET to train and qualify individuals for a concealed handgun license shall be required to apply for registration with the Oklahoma State Bureau of Investigation within thirty (30) days after receiving CLEET approval. All firearms instructors teaching the approved course for a concealed handgun license must display their registration certificate during each training and qualification course. Each approved firearms instructor shall complete a registration form provided by the Bureau and shall pay a registration fee of One Hundred Dollars (\$100.00) to the Bureau at the time of each application for registration. Registration certificates issued by the Bureau shall be valid for four (4) years from the date of issuance. The Bureau shall issue a four-year handgun license to an approved firearms instructor at the time of issuance of a registration certificate and no additional fee shall be required or charged. The Bureau shall maintain a current listing of all registered firearms instructors in this state. Nothing in this subsection shall be construed to eliminate the requirement for registration and training with CLEET as provided in subsection B of this section. Failure to register or be trained as required shall

result in a revocation or suspension of the instructor certificate by the Bureau.

D. The Oklahoma State Bureau of Investigation shall approve registration for a firearms instructor applicant who is in full compliance with CLEET rules regarding firearms instructors and the provisions of subsection B of this section, if completion of the federal fingerprint search is the only reason for delay of registration of that firearms instructor applicant. Upon receipt of the federal fingerprint search information, if the Bureau receives information which precludes the person from having a concealed handgun license, the Bureau shall revoke both the registration and the concealed handgun license previously issued to the firearms instructor. Beginning May 16, 1996, any firearms instructor who has been issued a one-year concealed handgun license shall not be eligible for the four-year license until the expiration of the license previously issued.

E. The required firearms safety and training course and the actual demonstration of competency and qualification required of the applicant shall be designed and conducted in such a manner that the course can be reasonably completed by the applicant within an eight-hour period. CLEET shall establish the course content and promulgate rules, procedures and forms necessary to implement the provisions of this subsection. For the training and qualification course, an applicant may be charged a fee not to exceed Sixty Dollars (\$60.00). The instructor to student ratio shall not exceed ten students to any one instructor. CLEET may establish criteria for assistant instructors, maximum class size and any other requirements deemed necessary to conduct a safe and effective training and qualification course. The course content shall include a safety inspection of the firearm to be used by the applicant in the training course; instruction on pistol handling, safety and storage; dynamics of ammunition and firing; methods or positions for

firing a pistol; information about the criminal provisions of the Oklahoma law relating to firearms; the requirements of the Oklahoma Self-Defense Act as it relates to the applicant; self-defense and the use of appropriate force; a practice shooting session; and a familiarization course. The firearms instructor shall refuse to train or qualify any person when the pistol to be used or carried by the person is either deemed unsafe or unfit for firing or is a weapon not authorized by the Oklahoma Self-Defense Act. The course shall provide an opportunity for the applicant to qualify himself or herself on either a derringer, a revolver, a semiautomatic pistol or any combination of a derringer, a revolver and a semiautomatic pistol, provided no pistol shall be capable of firing larger than .45 caliber ammunition. Any applicant who successfully trains and qualifies himself or herself with a semiautomatic pistol may be approved by the firearms instructor on the training certificate for a semiautomatic pistol, a revolver and a derringer upon request of the applicant. Any person who qualifies on a derringer or revolver shall not be eligible for a semiautomatic rating until the person has demonstrated competence and qualifications on a semiautomatic pistol. Upon successful completion of the training and qualification course, a certificate shall be issued to each applicant who successfully completes the course. The certificate of training shall comply with the form established by CLEET and shall be submitted with an application for a concealed handgun license pursuant to the provisions of paragraph 2 of Section 1290.12 of this title.

F. There is hereby created a revolving fund for the Council on Law Enforcement Education and Training (CLEET), to be designated the "Firearms Instructors Revolving Fund". The fund shall be a continuing fund, not subject to fiscal year limitations, and shall consist of all funds received for approval of firearms instructors for purposes of the Oklahoma Self-Defense Act. All funds received

shall be deposited to the fund. All monies accruing to the credit of said fund are hereby appropriated and may be budgeted and expended by the Council on Law Enforcement Education and Training, for implementation of the training and qualification course contents, approval of firearms instructors and any other CLEET requirement pursuant to the provisions of the Oklahoma Self-Defense Act or as may otherwise be deemed appropriate by CLEET.

Expenditures from said fund shall be made upon warrants issued by the State Treasurer against claims filed as prescribed by law with the Director of State Finance for approval and payment.

SECTION 3. AMENDATORY 21 O.S. 1991, Section 1277, as last amended by Section 4, Chapter 191, O.S.L. 1996 (21 O.S. Supp. 1999, Section 1277), is amended to read as follows:

Section 1277.

UNLAWFUL CARRY IN CERTAIN PLACES

A. It shall be unlawful for any person in possession of a valid concealed handgun license issued pursuant to the provisions of the Oklahoma Self-Defense Act, Section 1290.1 et seq. of this title, to carry any concealed handgun into any of the following places:

1. Any structure, building, or office space which is owned or leased by a city, town, county, state, or federal governmental authority for the purpose of conducting business with the public;
2. Any meeting of any city, town, county, state or federal officials, school board members, legislative members, or any other elected or appointed officials;
3. Any prison, jail, detention facility or any facility used to process, hold, or house arrested persons, prisoners or persons alleged delinquent or adjudicated delinquent;
4. Any elementary, secondary, or vocational-technical school property;
5. Any sports arena during a professional sporting event;

6. Any place where pari-mutuel wagering is authorized by law;
and

7. Any other place specifically prohibited by law.

B. For purposes of paragraphs 1, 2, 3, 5 and 6 of subsection A of this section, the prohibited place does not include and specifically excludes the following property:

- a. any property set aside for the use of any vehicle, whether attended or unattended, by a city, town, county, state, or federal governmental authority,
- b. any property set aside for the use of any vehicle, whether attended or unattended, by any entity offering any professional sporting event which is open to the public for admission, or by any entity engaged in pari-mutuel wagering authorized by law,
- c. any property adjacent to a structure, building, or office space in which concealed weapons are prohibited by the provisions of this section,
- d. any property designated by a city, town, county, or state, governmental authority as a park, recreational area, or fairgrounds; provided nothing in this subparagraph shall be construed to authorize any entry by a person in possession of a concealed handgun into any structure, building, or office space which is specifically prohibited by the provisions of subsection A of this section.

C. Any person violating the provisions of subsection A of this section shall, upon conviction, be guilty of a misdemeanor punishable by a fine not to exceed Two Hundred Fifty Dollars (\$250.00). Any person convicted of violating the provisions of this section may be liable for an administrative fine of Two Hundred Fifty Dollars (\$250.00) upon a hearing and determination by the

Oklahoma State Bureau of Investigation that the person is in violation of the provisions of this section.

D. No person in possession of any concealed handgun pursuant to the Oklahoma Self-Defense Act shall be authorized to carry the handgun into or upon any college or university property, except as provided in this subsection. For purposes of this subsection, the following property shall not be prohibited for persons having a valid concealed handgun license:

1. Any property set aside for the use of any vehicle, whether attended or unattended, provided the handgun is carried or stored as required by law and the handgun is not removed from the vehicle without the prior consent of the college or university president while the vehicle is on any college or university property;

2. Any property authorized for possession or use of handguns by college or university policy;

3. Any property authorized by the written consent of the college or university president, provided the written consent is carried with the handgun and the valid concealed handgun license while on college or university property.

The college or university may notify the Oklahoma State Bureau of Investigation within ten (10) days of a violation of any provision of this subsection by a licensee. Upon receipt of a written notification of violation, the Bureau shall give a reasonable notice to the licensee and hold a hearing. At the hearing upon a determination that the licensee has violated any provision of this subsection, the licensee may be subject to an administrative fine of Two Hundred Fifty Dollars (\$250.00) and may have the concealed handgun license suspended for three (3) months.

Nothing contained in any provision of this subsection shall be construed to limit the authority of any college or university in this state from taking administrative action against any student for any violation of any provision of this subsection.

E. The provisions of ~~subsection A~~ of this section shall not apply to any ~~law enforcement~~ on-duty peace officer or to any person on-duty and authorized by law to carry a pistol in the course of their employment. Except for paragraph 3 of subsection A of this section, the provisions of this section shall not apply to any off-duty peace officer in compliance with the provisions of Section 1289.23 of this title.

SECTION 4. AMENDATORY 21 O.S. 1991, Section 1289.23, as last amended by Section 8, Chapter 191, O.S.L. 1996 (21 O.S. Supp. 1999, Section 1289.23), is amended to read as follows:

Section 1289.23

CONCEALED FIREARM FOR OFF-DUTY POLICE OFFICER

A. A full-time duly appointed peace officer who is certified by the Council on Law Enforcement Education and Training (CLEET), pursuant to the provisions of Section 3311 of Title 70 of the Oklahoma Statutes, is hereby authorized to carry a weapon certified and approved by the employing agency during periods when the officer is not on active duty as provided by the provisions of subsection B of this section.

B. When an off-duty officer carries a certified weapon, the officer shall be wearing the law enforcement uniform prescribed by the employing agency or when not wearing the prescribed law enforcement uniform, the officer shall be required:

1. To have the official peace officers badge, Commission Card and CLEET Certification Card on his or her person at all times when carrying a weapon certified and approved by the employing agency; and

2. To keep the authorized weapon concealed from view at all times, except when the weapon is used within the guidelines established by the employing agency.

C. Nothing in this section shall be construed to alter or amend the provisions of Section 1272.1 of this title or expand the duties, authority or jurisdiction of any peace officer.

D. A reserve peace officer who has satisfactorily completed a basic police course of not less than one hundred twenty (120) hours of accredited instruction for reserve police officers and reserve deputies from the Council on Law Enforcement Education and Training or a course of study approved by CLEET may carry a certified weapon when such officer is off duty as provided by subsection E of this section, provided:

1. The officer has been granted written authorization signed by the director of the employing agency; and

2. The employing agency shall maintain a current list of any officers authorized to carry a certified weapon while said officers are off duty, and shall provide a copy of such list to the Council on Law Enforcement Education and Training. Any change to the list shall be made in writing and mailed to the Council on Law Enforcement Education and Training within five (5) days.

E. When an off-duty reserve peace officer carries a certified weapon, the officer shall be wearing the law enforcement uniform prescribed by the employing agency or when not wearing the prescribed law enforcement uniform, the officer shall be required:

1. To have his or her official peace officer's badge, Commission Card, CLEET Certification Card and written authorization on his or her person at all times when carrying a weapon certified and approved by the employing agency; and

2. To keep the authorized weapon concealed from view at all times, except when the weapon is used within the guidelines established by the employing agency.

F. Nothing in subsection D of this section shall be construed to alter or amend the provisions of Section 1750.2 of Title 59 of

the Oklahoma Statutes or expand the duties, jurisdiction or authority of any reserve peace officer.

G. ~~Any law enforcement officer authorized by the provisions of this section to carry a concealed weapon when off duty may carry a concealed handgun as provided by the provisions of the Oklahoma Self-Defense Act, Section 1290.1 et seq. of this title, notwithstanding the provisions of this section~~ Nothing in this section shall be construed to limit or restrict any peace officer or reserve peace officer from carrying a concealed handgun as allowed by the Oklahoma Self-Defense Act after issuance of a valid license pursuant to the provisions of the act. When an off-duty officer elects to carry a concealed handgun under the authority of the Oklahoma Self-Defense Act, the person shall comply with all provisions of said act.

H. Any off-duty peace officer who carries any weapon in violation of the provisions of this section shall be deemed to be in violation of Section 1272 of this title and may be prosecuted as provided by law for a violation of that section.

SECTION 5. AMENDATORY Section 10, Chapter 272, O.S.L. 1995, as last amended by Section 2, Chapter 358, O.S.L. 1997 (21 O.S. Supp. 1999, 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, except as provided in subsection B of Section 1283 of this title;

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, except as provided in subsection B of Section 1283 of this title;

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. an act of domestic abuse prohibited by Section 644 of this title, a violation ~~relating~~ of a final protective order pursuant to the Protection from Domestic Abuse Act, Section 60 et seq. of Title 22 of the Oklahoma Statutes, or any comparative violation of a victim protection order ~~under the laws~~ 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 which occurred within the preceding ten-year period from the date of the application for a license to carry a concealed firearm or that occurs during the period of licensure;

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, except as provided in subsection B of Section 1283 of this title;

10. Failure to pay an assessed fine or surrender the handgun license as required by a decision by the administrative hearing examiner pursuant to authority of the Oklahoma Self-Defense Act;

11. Being subject to an outstanding felony warrant issued in this state or another state or the United States; or

12. Adjudication as a delinquent as provided by Section 1283 of this title, except as provided in subsection B of Section 1283 of this title.

SECTION 6. AMENDATORY Section 11, Chapter 272, O.S.L. 1995, as last amended by Section 2, Chapter 415, O.S.L. 1999 (21 O.S. Supp. 1999, Section 1290.11), is amended to read as follows:

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 until the final determination of the matter. If a conviction is imposed, the person shall be permanently precluded from a handgun license;

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~~ 5-410 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~~ preclusive period shall be permanent as provided by Title 18 of the United States Code Section 922(g) (4);

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 either no longer disabled by any mental or psychiatric illness, condition, or disorder or that the person has been stabilized on medication for ten (10) years or more;

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~~ or 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 three (3) years from the date of the entry of the final court order, or sixty (60) days from the date an order was vacated, cancelled 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. an act of domestic abuse prohibited by Section 644 of this title, any violation of a final protective order pursuant to the Protection from Domestic Abuse Act, Section 60 et seq. of Title 22 of the Oklahoma Statutes, or any comparative violation of a victim protection order under the laws 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 7. AMENDATORY Section 12, Chapter 272, O.S.L. 1995, as last amended by Section 3, Chapter 415, O.S.L. 1999 (21 O.S. Supp. 1999, Section 1290.12), is amended to read as follows:

Section 1290.12

PROCEDURE FOR APPLICATION

A. The procedure for applying for a concealed handgun license and processing the application shall be as follows:

1. An eligible person may request an application packet for a concealed handgun license from the Oklahoma State Bureau of Investigation or the county sheriff's office either in person or by mail. The Bureau may provide application packets to each sheriff not exceeding two hundred packets per request. The Bureau shall provide the following information in the application packet:

- a. an application form,
- b. procedures to follow to process the application form,
and
- c. a copy of the Oklahoma Self-Defense Act with any
modifications thereto;

2. The person shall be required to successfully complete a firearms safety and training course from a firearms instructor who is approved and registered in this state as provided in Section 1290.14 of this title, and the person shall be required to demonstrate competency and qualification with a pistol authorized for concealed carry by the Oklahoma Self-Defense Act. The original certificate of training shall be submitted with the application for a handgun license. No duplicate, copy, facsimile or other reproduction of the certificate of training or exemption from training shall be acceptable as proof of training as required by the provisions of the Oklahoma Self-Defense Act. A person exempt from the training requirements as provided in Section 1290.15 of this title must show the required proof of such exemption to the firearms instructor to receive an exemption certificate. The original exemption certificate must be submitted with the application for a handgun license when the person claims an exemption from training and qualification;

3. The application form shall be completed and delivered by the applicant, in person, to the sheriff of the county wherein the applicant resides;

4. The person shall deliver to the sheriff at the time of delivery of the completed application form a fee of One Hundred Dollars (\$100.00) for processing the application through the Oklahoma State Bureau of Investigation and processing the required fingerprints through the Federal Bureau of Investigation. The processing fee shall be in the form of:

- a. a money order or a cashier's check made payable to the Oklahoma State Bureau of Investigation, or
- b. by a nationally recognized credit card issued to the applicant. For purposes of this paragraph, "nationally recognized credit card" means any instrument or device, whether known as a credit card, credit plate, charge plate, or by any other name, issued with or without fee by the issuer for the use of the cardholder in obtaining goods, services, or anything else of value on credit which is accepted by over one thousand merchants in the state. The Oklahoma State Bureau of Investigation shall determine which nationally recognized credit cards will be accepted by the Bureau.

The processing fee shall not be refundable in the event of a denial of a handgun license or any suspension or revocation subsequent to the issuance of a license. Persons making application for a firearms instructor shall not be required to pay the application fee as provided in this section, but shall be required to pay the costs provided in paragraphs 6 and 8 of this subsection;

5. The completed application form shall be signed by the applicant in person before the sheriff. The signature shall be given voluntarily upon a sworn oath that the person knows the contents of the application and that the information contained in the application is true and correct. Any person making any false or misleading statement on an application for a handgun license shall,

upon conviction, be guilty of perjury as defined by Section 491 of this title. Any conviction shall be punished as provided in Section 500 of this title. In addition to a criminal conviction, the person shall be denied the right to have a concealed handgun license pursuant to the provisions of Section 1290.10 of this title and the Oklahoma State Bureau of Investigation shall revoke the handgun license, if issued;

6. Two passport size photographs of the applicant shall be submitted with the completed application. The cost of the photographs shall be the responsibility of the applicant. The sheriff is authorized to take the applicant's photograph for purposes of the Oklahoma Self-Defense Act and, if such photographs are taken by the sheriff the cost of the photographs shall not exceed Ten Dollars (\$10.00) for the two photos. All money received by the sheriff from photographing applicants pursuant to the provisions of this paragraph shall be retained by the sheriff and deposited into the Sheriff's Service Fee Account;

7. The sheriff shall witness the signature of the applicant and review or take the photographs of the applicant and shall verify that the person making application for a handgun license is the same person in the photographs submitted and the same person who signed the application form. Proof of a valid Oklahoma driver license with a photograph of the applicant or an Oklahoma State photo identification for the applicant shall be required to be presented by the applicant to the sheriff for verification of the person's identity;

8. Upon verification of the identity of the applicant, the sheriff shall take two complete sets of fingerprints of the applicant. Both sets of fingerprints shall be submitted by the sheriff with the completed application, certificate of training or an exemption certificate, photographs and processing fee to the Oklahoma State Bureau of Investigation within fourteen (14) days of

taking the fingerprints. The cost of the fingerprints shall be paid by the applicant and shall not exceed Twenty-five Dollars (\$25.00) for the two sets. All fees collected by the sheriff from taking fingerprints pursuant to the provisions of this paragraph shall be retained by the sheriff and deposited into the Sheriff's Service Fee Account;

9. The sheriff shall submit to the Oklahoma State Bureau of Investigation within the fourteen-day period, together with the completed application, certificate of training or exemption certificate, photographs, processing fee and fingerprints, a report of information deemed pertinent to an investigation of the applicant for a handgun license. The sheriff shall make a preliminary investigation of pertinent information about the applicant and the court clerk shall assist the sheriff in locating pertinent information in court records for this purpose. If no pertinent information is found to exist either for or against the applicant, the sheriff shall so indicate in the report;

10. The Oklahoma State Bureau of Investigation, upon receipt of the application and required information from the sheriff, shall forward one full set of fingerprints of the applicant to the Federal Bureau of Investigation for a national criminal history records search. The cost of processing the fingerprints nationally shall be paid from the processing fee collected by the Oklahoma State Bureau of Investigation;

11. The Oklahoma State Bureau of Investigation shall make a reasonable effort to investigate the information submitted by the applicant and the sheriff, to ascertain whether or not the issuance of a handgun license would be in violation of the provisions of the Oklahoma Self-Defense Act. The Bureau's investigation of an applicant shall include, but shall not be limited to: a statewide criminal history records search, a national criminal history records search, a Federal Bureau of Investigation fingerprint search, and if

applicable, an investigation of medical records or other records or information deemed by the Bureau to be relevant to the application.

- a. In the course of the Bureau's investigation, it shall present the name of the applicant along with any known aliases, the address of the applicant and the social security number of the applicant to the Department of Mental Health and Substance Abuse Services. The Department of Mental Health and Substance Abuse Services shall respond within ten (10) days of receiving such information to the Bureau as follows:
 - (1) with a "Yes" answer, if the Department's records indicate that the person was involuntarily committed to a mental institution in Oklahoma, or
 - (2) with a "No" answer, if there are no records indicating the name of the person as a person involuntarily committed to a mental institution in Oklahoma, or
 - (3) with an "Inconclusive" answer if the Department's records suggest the applicant may be a formerly committed person. In the case of an inconclusive answer, the Bureau shall ask the applicant whether he or she was involuntarily committed. If the applicant states under penalty of perjury that he or she has not been involuntarily committed, the Bureau shall continue processing the application for a license.
- b. In the course of the Bureau's investigation, it shall check the name of any applicant who is twenty-eight (28) years of age or younger along with any known aliases, the address of the applicant and the social security number of the applicant against the records in the Juvenile Online Tracking (JOLTS) System of the

Office of Juvenile Affairs. The Office of Juvenile Affairs shall provide the Bureau direct access to check the applicant against the records available on the JOLTS System.

- (1) If the Bureau finds a record on the JOLTS System that indicates the person was adjudicated a delinquent for an offense that would constitute a felony offense if committed by an adult within the last ten (10) years the Bureau shall deny the license.
- (2) If the Bureau finds no record on the JOLTS System indicating the named person was adjudicated delinquent for an offense that would constitute a felony offense if committed by an adult within the last ten (10) years, or
- (3) If the records suggest the applicant may have been adjudicated delinquent for an offense that would constitute a felony offense if committed by an adult but such record is inconclusive, the Bureau shall ask the applicant whether he or she was adjudicated a delinquent for an offense that would constitute a felony offense if committed by an adult within the last ten (10) years. If the applicant states under penalty of perjury that he or she was not adjudicated a delinquent within ten (10) years, the Bureau shall continue processing the application for a license;

12. The Oklahoma State Bureau of Investigation shall either issue a concealed handgun license or deny the application within ninety (90) days of the date of receipt of the required information from the sheriff. The Bureau shall approve an applicant who appears to be in full compliance with the provisions of the Oklahoma Self-

Defense Act, if completion of the federal fingerprint search is the only reason for delay of the issuance of the handgun license to that applicant. Upon receipt of the federal fingerprint search information, if the Bureau receives information which precludes the person from having a concealed handgun license, the Bureau shall revoke the concealed handgun license previously issued to the applicant. The Bureau shall deny a license when the applicant fails to properly complete the application form or application process or is determined not to be eligible as specified by the provisions of Section 1290.9, 1290.10 or 1290.11 of this title. The Bureau shall approve an application in all other cases. If an application is denied, the Bureau shall notify the applicant in writing of its decision. The notification shall state the grounds for the denial and inform the applicant of the right to an appeal as may be provided by the provisions of the Administrative Procedures Act. Any administrative hearing on a denial which may be provided shall be conducted by a hearing examiner appointed by the Bureau. The hearing examiner's decision shall be a final decision appealable to a district court in accordance with the Administrative Procedures Act. When an application is approved, the Bureau shall issue the license and mail it to the sheriff of the county wherein the applicant resides. The applicant may pick up the concealed handgun license from the sheriff's office.

B. Nothing contained in any provision of the Oklahoma Self-Defense Act shall be construed to require or authorize the registration, documentation or providing of serial numbers with regard to any firearm. For purposes of the Oklahoma Self-Defense Act, the sheriff may designate a person to receive, fingerprint, photograph or otherwise process applications for concealed handgun licenses.

SECTION 8. AMENDATORY Section 25, Chapter 272, O.S.L. 1995 (21 O.S. Supp. 1999, Section 1290.25), is amended to read as follows:

Section 1290.25

LEGISLATIVE INTENT

The Legislature finds as a matter of public policy and fact that it is necessary to provide statewide uniform standards for issuing licenses to carry concealed handguns for lawful self-defense and self-protection, and further finds it necessary to occupy the field of regulation of the bearing of concealed handguns to ensure that no honest, law-abiding citizen who qualifies pursuant to the provisions of the Oklahoma Self-Defense Act, ~~Sections 1 through 25~~ Section 1290.1 et seq. of this ~~act~~ title, is subjectively or arbitrarily denied their rights. The Legislature does not delegate to the Oklahoma State Bureau of Investigation any authority to regulate or restrict the issuing of licenses except as provided by the provisions of this act. Subjective or arbitrary actions or rules which encumber the issuing process by placing burdens on the applicant beyond those requirements detailed in the provisions of the Oklahoma Self-Defense Act or which create restrictions beyond those specified in this act are deemed to be in conflict with the intent of this act and are hereby prohibited. The Oklahoma Self-Defense Act shall be liberally construed to carry out the constitutional right to bear arms for self-defense and self-protection. The provisions of the Oklahoma Self-Defense Act are cumulative to existing rights to bear arms and nothing in ~~Sections 1 through 25~~ Section 1290.1 et seq. of this ~~act~~ title shall impair or diminish those rights.

However, the conditions that mandate the administrative actions of license denial, suspension, revocation or an administrative fine are intended to protect the health, safety and public welfare of the citizens of this state. The restricting conditions specified in the

Oklahoma Self-Defense Act generally involve the criminal history, mental state, alcohol or substance abuse of the applicant or licensee, a hazard of domestic violence, a danger to police officers, or the ability of the Oklahoma State Bureau of Investigation to properly administer the Act. The restricting conditions that establish a risk of injury or harm to the public are tailored to reduce the risks to the benefit of the citizens of this state.

SECTION 9. AMENDATORY 22 O.S. 1991, Section 18, as last amended by Section 1, Chapter 397, O.S.L. 1997 (22 O.S. Supp. 1999, Section 18), is amended to read as follows:

Section 18. Persons authorized to file a motion for expungement, as provided herein, must be within one of the following categories:

1. The person has been acquitted;
2. The conviction was reversed with instructions to dismiss by an appellate court of competent jurisdiction, or an appellate court of competent jurisdiction reversed the conviction and the district attorney subsequently dismissed the charge;
3. The person was arrested and no charges are filed or charges are dismissed within one (1) year of the arrest;
4. The statute of limitations on the offense had expired and no charges were filed; ~~or~~
5. The person was under eighteen (18) years of age at the time the offense was committed and the person has received a full pardon for the offense; or
6. The offense was a misdemeanor, the person has not been convicted of any other misdemeanor or felony, no felony or misdemeanor charges are pending against the person, and at least ten (10) years have passed since the judgment was entered.

For purposes of this act, "expungement" shall mean the sealing of criminal records.

SECTION 10. This act shall become effective July 1, 2000.

SECTION 11. 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.

Passed the Senate the 15th day of March, 2000.

President of the Senate

Passed the House of Representatives the ____ day of _____,
2000.

Speaker of the House of
Representatives