

CS for SB 601

THE STATE SENATE
Tuesday, February 23, 1999

Committee Substitute for
Senate Bill No. 601

COMMITTEE SUBSTITUTE FOR SENATE BILL NO. 601 - By: SHURDEN of the Senate and STANLEY of the House.

[Oklahoma Self-Defense Act - handgun license and renewal - requiring a firearm-related offense for arrest preclusion - allowing payment for a gun license by credit card - requiring records check - effective date - emergency]

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

SECTION 1. AMENDATORY Section 5, Chapter 272, O.S.L. 1995 (21 O.S. Supp. 1998, Section 1290.5), is amended to read as follows:

Section 1290.5

TERM OF LICENSE AND RENEWAL

A. A concealed handgun license when issued shall authorize the person to whom the license is issued to carry a loaded or unloaded concealed handgun as authorized by the provisions of the Oklahoma Self-Defense Act, ~~Sections 1 through 25 of this act,~~ and any future modifications thereto. The license shall be valid in this state for a period of four (4) years, unless subsequently surrendered, suspended or revoked as provided by law. The person shall have no authority to continue to carry a concealed handgun in this state

1 pursuant to the Oklahoma Self-Defense Act when a license is expired
2 or when a license has been voluntarily surrendered or suspended or
3 revoked for any reason.

4 B. A license may be renewed ~~in the same manner provided for~~
5 ~~issuing an original license, except the training requirements of~~
6 ~~Section 14 of this act shall not apply to a renewal. The person~~
7 ~~shall have no authority to continue to carry a concealed handgun in~~
8 ~~this state pursuant to the Oklahoma Self-Defense Act when a license~~
9 ~~is allowed to expire or when a license has been suspended or revoked~~
10 ~~for any reason~~ any time within ninety (90) days of the expiration
11 date as provided in this subsection.

12 1. To renew a handgun license, the licensee must first obtain
13 a renewal form from the Oklahoma State Bureau of Investigation
14 before the license has expired. The Bureau shall not send a renewal
15 form to any person who does not have a valid handgun license or who
16 has any prohibition pursuant to any provision of the Oklahoma Self-
17 Defense Act.

18 2. The applicant must complete the renewal form, attach two
19 current passport size photographs of the applicant, and submit a
20 renewal fee in the amount of Seventy-five Dollars (\$75.00) in the
21 form of check or money order made payable to the Oklahoma State
22 Bureau of Investigation.

1 offense. The preclusive period shall be three (3) years and shall
2 begin upon the final determination of the matter;

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

12 4. The person has previously undergone treatment for a mental
13 illness, condition, or disorder which required medication or
14 supervision as defined by paragraph 7 of Section 1290.10 of this
15 title. The preclusive period shall be three (3) years from the last
16 date of treatment or upon presentation of a certified statement from
17 a licensed physician stating that the person is either no longer
18 disabled by any mental or psychiatric illness, condition, or
19 disorder or that the person has been stabilized on medication for
20 ten (10) years or more;

21 5. Inpatient treatment for substance abuse. The preclusive
22 period shall be three (3) years from the last date of treatment or
23 upon presentation of a certified statement from a licensed physician

1 stating that the person has been free from substance use for twelve
2 (12) months or more preceding the filing of an application for a
3 handgun license;

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

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

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

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

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

- 10 a. any assault and battery which caused serious physical
11 injury to the victim or any second or subsequent
12 assault and battery,
13 b. any aggravated assault and battery,
14 c. any stalking pursuant to Section 1173 of this title,
15 or a similar law of another state,
16 d. any violation of the Protection from Domestic Abuse
17 Act, Section 60 et seq. of Title 22 of the Oklahoma
18 Statutes, or any violation of a victim protection
19 order of another state, or
20 e. any violation relating to illegal drug use or
21 possession.

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

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

4 SECTION 3. AMENDATORY Section 12, Chapter 272, O.S.L.
5 1995, as last amended by Section 4, Chapter 286, O.S.L. 1998 (21
6 O.S. Supp. 1998, Section 1290.12), is amended to read as follows:

7 Section 1290.12

8 PROCEDURE FOR APPLICATION

9 A. The procedure for applying for ~~or renewing~~ a concealed
10 handgun license and processing the application shall be as follows:

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

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

22 2. The person shall be required to successfully complete a
23 firearms safety and training course from a firearms instructor who

1 is approved and registered in this state as provided in Section
2 1290.14 of this title, and the person shall be required to
3 demonstrate competency and qualification with a pistol authorized
4 for concealed carry by the Oklahoma Self-Defense Act. The original
5 certificate of training shall be submitted with the application for
6 a handgun license. No duplicate, copy, facsimile or other
7 reproduction of the certificate of training or exemption from
8 training shall be acceptable as proof of training as required by the
9 provisions of the Oklahoma Self-Defense Act. A person exempt from
10 the training requirements as provided in Section 1290.15 of this
11 title must show the required proof of such exemption to the firearms
12 instructor to receive an exemption certificate. The original
13 exemption certificate must be submitted with the application for a
14 handgun license when the person claims an exemption from training
15 and qualification;

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

19 4. The person shall deliver to the sheriff at the time of
20 delivery of the completed application form a fee of One Hundred
21 Dollars (\$100.00) for processing the application through the
22 Oklahoma State Bureau of Investigation and processing the required

1 fingerprints through the Federal Bureau of Investigation. The
2 processing fee shall be in the form of:

- 3 a. a money order or a cashier's check made payable to the
4 Oklahoma State Bureau of Investigation, or
5 b. by a nationally recognized credit card issued to the
6 applicant. The Oklahoma State Bureau of Investigation
7 may add an amount equal to the amount of the service
8 charge incurred, not to exceed four percent (4%) of
9 the amount of such payment as a service charge for the
10 acceptance of such credit card. For purposes of this
11 paragraph, "nationally recognized credit card" means
12 any instrument or device, whether known as a credit
13 card, credit plate, charge plate, or by any other
14 name, issued with or without fee by the issuer for the
15 use of the cardholder in obtaining goods, services, or
16 anything else of value on credit which is accepted by
17 over one thousand (1,000) merchants in the state. The
18 Oklahoma State Bureau of Investigation shall determine
19 which nationally recognized credit cards will be
20 accepted by the Bureau as payment in arrears;
21 provided, however, the Bureau ensures that no loss of
22 state revenue will occur by the use of such card.

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

7 5. The completed application form shall be signed by the
8 applicant in person before the sheriff. The signature shall be
9 given voluntarily upon a sworn oath that the person knows the
10 contents of the application and that the information contained in
11 the application is true and correct. Any person making any false or
12 misleading statement on an application for a handgun license shall,
13 upon conviction, be guilty of perjury as defined by Section 491 of
14 this title. Any conviction shall be punished as provided in Section
15 500 of this title. In addition to a criminal conviction, the person
16 shall be denied the right to have a concealed handgun license
17 pursuant to the provisions of Section 1290.10 of this title and the
18 Oklahoma State Bureau of Investigation shall revoke the handgun
19 license, if issued;

20 6. Two passport size photographs of the applicant shall be
21 submitted with the completed application. The cost of the
22 photographs shall be the responsibility of the applicant. The
23 sheriff is authorized to take the applicant's photograph for

1 purposes of the Oklahoma Self-Defense Act and, if such photographs
2 are taken by the sheriff the cost of the photographs shall not
3 exceed Ten Dollars (\$10.00) for the two photos. All money received
4 by the sheriff from photographing applicants pursuant to the
5 provisions of this paragraph shall be retained by the sheriff and
6 deposited into the Sheriff's Service Fee Account;

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

16 8. Upon verification of the identity of the applicant, the
17 sheriff shall take two complete sets of fingerprints of the
18 applicant. Both sets of fingerprints shall be submitted by the
19 sheriff with the completed application, certificate of training or
20 an exemption certificate, photographs and processing fee to the
21 Oklahoma State Bureau of Investigation within fourteen (14) days of
22 taking the fingerprints. The cost of the fingerprints shall be paid
23 by the applicant and shall not exceed Twenty-five Dollars (\$25.00)

1 for the two sets. All fees collected by the sheriff from taking
2 fingerprints pursuant to the provisions of this paragraph shall be
3 retained by the sheriff and deposited into the Sheriff's Service Fee
4 Account;

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

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

1 11. The Oklahoma State Bureau of Investigation shall make a
2 reasonable effort to investigate the information submitted by the
3 applicant and the sheriff, to ascertain whether or not the issuance
4 of a handgun license would be in violation of the provisions of the
5 Oklahoma Self-Defense Act. The Bureau's investigation of an
6 applicant shall include, but shall not be limited to: a statewide
7 criminal history records search, a national criminal history records
8 search, a Federal Bureau of Investigation fingerprint search, and if
9 applicable, an investigation of medical records or other records or
10 information deemed by the Bureau to be relevant to the application.

11 a. In the course of the Bureau's investigation, it shall
12 present the name of the applicant along with any known
13 aliases, the address of the applicant and the social
14 security number of the applicant to the Department of
15 Mental Health and Substance Abuse Services. The
16 Department of Mental Health and Substance Abuse
17 Services shall respond within ten (10) days of
18 receiving such information to the Bureau as follows:
19 (1) with a "Yes" answer, if the Department's records
20 indicate that the person was involuntarily
21 committed to a mental institution in Oklahoma, or
22 (2) with a "No" answer, if there are no records
23 indicating the name of the person as a person

1 involuntarily committed to a mental institution
2 in Oklahoma, or

3 (3) with an "Inconclusive" answer if the Department's
4 records suggest the applicant may be a formerly
5 committed person. In the case of an inconclusive
6 answer, the Bureau shall ask the applicant
7 whether he or she was involuntarily committed.
8 The Bureau shall cease processing the license
9 application if the applicant states that he or
10 she has been involuntarily committed. If the
11 applicant states under penalty of perjury that he
12 or she has not been involuntarily committed, the
13 Bureau shall continue processing the application
14 for a license.

15 b. In the course of the Bureau's investigation, it shall
16 present the name of any applicant who is twenty-eight
17 (28) years of age or younger along with any known
18 aliases, the address of the applicant and the social
19 security number of the applicant to the Office of
20 Juvenile Affairs. The Office of Juvenile Affairs
21 shall respond within ten (10) days of receiving such
22 information to the Bureau as follows:

1 (1) with a "Yes" answer, if the Department records
2 indicate that the person was adjudicated a
3 delinquent for an offense that would constitute a
4 felony offense if committed by an adult within
5 the last ten (10) years, or

6 (2) with a "No" answer, if there are no records
7 indicating the named person was adjudicated
8 delinquent for an offense that would constitute a
9 felony offense if committed by an adult within
10 the last ten (10) years, or

11 (3) with an "Inconclusive" answer if the Department
12 records suggest the applicant may have been
13 adjudicated delinquent for an offense that would
14 constitute a felony offense if committed by an
15 adult. In the case of an inconclusive answer,
16 the Bureau shall ask the applicant whether he or
17 she was adjudicated a delinquent for an offense
18 that would constitute a felony offense if
19 committed by an adult within the last ten (10)
20 years. The Bureau shall cease processing the
21 application if the applicant states he or she was
22 adjudicated a delinquent for an offense that
23 would constitute a felony offense if committed by

1 an adult within the last ten (10) years. If the
2 applicant states under penalty of perjury that he
3 or she was not adjudicated a delinquent within
4 ten (10) years, the Bureau shall continue
5 processing the application for a license;

6 12. The Oklahoma State Bureau of Investigation shall either
7 issue a concealed handgun license or deny the application within
8 ninety (90) days of the date of receipt of the required information
9 from the sheriff. The Bureau shall approve an applicant who appears
10 to be in full compliance with the provisions of the Oklahoma Self-
11 Defense Act, if completion of the federal fingerprint search is the
12 only reason for delay of the issuance of the handgun license to that
13 applicant. Upon receipt of the federal fingerprint search
14 information, if the Bureau receives information which precludes the
15 person from having a concealed handgun license, the Bureau shall
16 revoke the concealed handgun license previously issued to the
17 applicant. The Bureau shall deny a license when the applicant fails
18 to properly complete the application form or application process or
19 is determined not to be eligible as specified by the provisions of
20 Section 1290.9, 1290.10 or 1290.11 of this title. The Bureau shall
21 approve an application in all other cases. If an application is
22 denied, the Bureau shall notify the applicant in writing of its
23 decision. The notification shall state the grounds for the denial

1 and inform the applicant of the right to an appeal as may be
2 provided by the provisions of the Administrative Procedures Act.
3 Any administrative hearing on a denial which may be provided shall
4 be conducted by a hearing examiner appointed by the Bureau. The
5 hearing examiner's decision shall be a final decision appealable to
6 a district court in accordance with the Administrative Procedures
7 Act. When an application is approved, the Bureau shall issue the
8 license and mail it to the sheriff of the county wherein the
9 applicant resides. The applicant may pick up the concealed handgun
10 license from the sheriff's office.

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

18 SECTION 4. AMENDATORY Section 17, Chapter 272, O.S.L.
19 1995, as last amended by Section 6, Chapter 286, O.S.L. 1998 (21
20 O.S. Supp. 1998, Section 1290.17), is amended to read as follows:

21 Section 1290.17

22 SUSPENSION AND REVOCATION OF LICENSE

1 A. The Oklahoma State Bureau of Investigation shall have
2 authority pursuant to the provisions of the Oklahoma Self-Defense
3 Act and any other provision of law to suspend or revoke any
4 concealed handgun license issued pursuant to the provisions of the
5 Oklahoma Self-Defense Act. A person whose license has been
6 suspended or revoked or against whom a fine has been assessed shall
7 be entitled to an appeal through a hearing in accordance with the
8 Administrative Procedures Act. Any administrative hearing on
9 suspensions, revocations or fines shall be conducted by a hearing
10 examiner appointed by the Bureau. The hearing examiner's decision
11 shall be a final decision appealable to a district court in
12 accordance with the Administrative Procedures Act. After a
13 concealed handgun license has been issued, the discovery of or the
14 occurrence of any condition which directly affects a person's
15 eligibility for a handgun license as provided by the provisions of
16 Section 1290.9 or 1290.10 of this title shall require a revocation
17 of the license by the Bureau. The discovery of or the occurrence of
18 any condition pursuant to Section 1290.11 of this title, after a
19 license has been issued, shall cause a suspension of the handgun
20 license for a period of time as prescribed for the condition. Any
21 provision of law that requires a revocation of a concealed handgun
22 license upon a conviction shall cause the Bureau to suspend the
23 concealed handgun license upon the discovery of the arrest of the

1 person for such offense until a determination of the criminal case
2 at which time the Bureau shall proceed with the appropriate
3 administrative action. A licensee may voluntarily surrender a
4 license to the Oklahoma State Bureau of Investigation at any time.
5 Such surrender of a handgun license will render the license invalid.
6 Nothing in this section may be interpreted to prevent a subsequent
7 new application for a license. The licensee shall be informed and
8 acknowledge in writing as follows:

9 1. The licensee understands that the voluntary surrender of the
10 license will not be deemed a suspension or revocation by the Bureau;

11 2. A voluntary surrender of a license will not be reviewable by
12 a hearing examiner or subject to judicial review under the
13 Administrative Procedures Act; and

14 3. By surrendering the license, the licensee shall forfeit all
15 fees paid to date.

16 B. Any concealed handgun license which is subsequently
17 suspended or revoked shall be immediately returned to the Oklahoma
18 State Bureau of Investigation upon notification. Any person
19 refusing or failing to return a license after notification of its
20 suspension or revocation shall, upon conviction, be guilty of a
21 misdemeanor punishable by a fine of not exceeding Five Hundred
22 Dollars (\$500.00), by imprisonment in the county jail for not
23 exceeding six (6) months, or by both such fine and imprisonment. In

1 addition, the person shall be subject to an administrative fine of
2 Five Hundred Dollars (\$500.00), upon a hearing and determination by
3 the Bureau that the person is in violation of the provisions of this
4 subsection.

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

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

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

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

15 SECTION 5. AMENDATORY Section 24, Chapter 272, O.S.L.
16 1995 (21 O.S. Supp. 1998, Section 1290.24), is amended to read as
17 follows:

18 Section 1290.24

19 IMMUNITY

20 The state, its officers, agents and employees shall be immune
21 from liability resulting or arising from:

22 1. Failure to prevent the licensing of an individual for whom
23 the receipt of the license is unlawful pursuant to the provisions of

1 the Oklahoma Self-Defense Act, ~~Sections 1 through 25 of this act~~ or
2 any other provision of law of this state; ~~or~~

3 2. Any action or misconduct with a pistol committed by a person
4 to whom a license to carry a concealed handgun has been issued or by
5 any person who obtains a pistol from a licensee; and

6 3. Any action or finding pursuant to a hearing conducted in
7 accordance with the Administrative Procedures Act as required in
8 this act.

9 SECTION 6. This act shall become effective July 1, 1999.

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

14 COMMITTEE REPORT BY: COMMITTEE ON APPROPRIATIONS, dated 2-17-99 - DO
15 PASS, As Amended and Coauthored.