

SB 1037

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THE STATE SENATE
Monday, February 20, 2006

Senate Bill No. 1037

SENATE BILL NO. 1037 - By: PADDACK and COATES of the Senate and HILLIARD of the House.

An Act relating to criminal procedure; providing short title; amending 21 O.S. 2001, Section 1283, as last amended by Section 2, Chapter 190, O.S.L. 2005 (21 O.S. Supp. 2005, Section 1283), which relates to convicted felons; prohibiting certain persons from possessing firearm; amending 22 O.S. 2001, Sections 60.11, as amended by Section 5, Chapter 407, O.S.L. 2003, and 1101, as last amended by Section 1, Chapter 58, O.S.L. 2004 (22 O.S. Supp. 2005, Sections 60.11 and 1101), which relate to protective orders and bailable offenses; modifying information required to be printed on certain orders; allowing denial of bail under certain circumstances; specifying certain burden of proof; creating certain rebuttable presumption; authorizing Attorney General to establish crime victim and witness notification and victim protective order system; directing participation in specified system; construing section; providing for codification; providing for noncodification; and declaring an emergency.

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

SECTION 1. NEW LAW A new section of law not to be codified in the Oklahoma Statutes reads as follows:

This act shall be known and may be cited as the "Caitlin Wooten Act".

SECTION 2. AMENDATORY 21 O.S. 2001, Section 1283, as last amended by Section 2, Chapter 190, O.S.L. 2005 (21 O.S. Supp. 2005, Section 1283), is amended to read as follows:

Section 1283.

1 CONVICTED FELONS AND DELINQUENTS

2 A. Except as provided in subsection B of this section, it shall
3 be unlawful for any person convicted of any felony in any court of
4 this state or of another state or of the United States to have in
5 his or her possession or under his or her immediate control, or in
6 any vehicle which the person is operating, or in which the person is
7 riding as a passenger, or at the residence where the convicted
8 person resides, any pistol, imitation or homemade pistol, machine
9 gun, sawed-off shotgun or rifle, or any other dangerous or deadly
10 firearm.

11 B. Any person who has previously been convicted of a nonviolent
12 felony in any court of this state or of another state or of the
13 United States, and who has received a full and complete pardon from
14 the proper authority and has not been convicted of any other felony
15 offense which has not been pardoned, shall have restored the right
16 to possess any firearm or other weapon prohibited by subsection A of
17 this section, the right to apply for and carry a concealed handgun
18 pursuant to the Oklahoma Self-Defense Act, Section 1290.1 et seq. of
19 this title, and the right to perform the duties of a peace officer,
20 gunsmith, or for firearms repair.

21 C. It shall be unlawful for any person supervised by the
22 Department of Corrections or any division thereof to have in his or
23 her possession or under his or her immediate control, or at his or

1 her residence, or in any passenger vehicle which the supervised
2 person is operating or is riding as a passenger, any pistol, shotgun
3 or rifle, including any imitation or homemade pistol, shotgun or
4 rifle, while such person is subject to supervision, probation,
5 parole or inmate status.

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

17 E. It shall be unlawful for any person convicted of a
18 misdemeanor crime of domestic violence in any court of this state or
19 of another state, or any person subject to a protective order
20 pursuant to Section 60.1 et seq. of Title 22 of the Oklahoma
21 Statutes, to have in his or her possession or under his or her
22 immediate control, or in any vehicle which the person is operating,
23 or in which the person is riding as a passenger, or at the residence

1 where the convicted person resides, any pistol, imitation or
2 homemade pistol, machine gun, sawed-off shotgun or rifle, any other
3 dangerous or deadly firearm or ammunition for any such firearm.

4 F. Any person having been issued a concealed handgun license
5 pursuant to the provisions of the Oklahoma Self-Defense Act, Section
6 1290.1 et seq. of this title, and who thereafter knowingly or
7 intentionally allows a convicted felon or adjudicated delinquent or
8 a youthful offender as prohibited by the provisions of subsections
9 A, C, or D of this section to possess or have control of any pistol
10 authorized by the Oklahoma Self-Defense Act shall, upon conviction,
11 be guilty of a felony punishable by a fine not to exceed Five
12 Thousand Dollars (\$5,000.00). In addition, the person shall have
13 the handgun license revoked by the Oklahoma State Bureau of
14 Investigation after a hearing and determination that the person has
15 violated the provisions of this section.

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

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

1 SECTION 3. AMENDATORY 22 O.S. 2001, Section 60.11, as
2 amended by Section 5, Chapter 407, O.S.L. 2003 (22 O.S. Supp. 2005,
3 Section 60.11), is amended to read as follows:

4 Section 60.11 In addition to any other provisions required by
5 the Protection from Domestic Abuse Act, or otherwise required by
6 law, each ex parte or final protective order issued pursuant to the
7 Protection from Domestic Abuse Act shall have a statement printed in
8 bold-faced type or in capital letters containing the following
9 information:

10 1. The filing or nonfiling of criminal charges and the
11 prosecution of the case shall not be determined by a person who is
12 protected by the protective order, but shall be determined by the
13 prosecutor;

14 2. No person, including a person who is protected by the order,
15 may give permission to anyone to ignore or violate any provision of
16 the order. During the time in which the order is valid, every
17 provision of the order shall be in full force and effect unless a
18 court changes the order;

19 3. The order will be in effect for three (3) years unless
20 extended, modified, vacated or rescinded by the court;

21 4. A violation of the order is punishable by a fine of up to
22 One Thousand Dollars (\$1,000.00) or imprisonment for up to one (1)
23 year in the county jail, or by both such fine and imprisonment. A

1 violation of the order which causes injury is punishable by
2 imprisonment for twenty (20) days to one (1) year in the county jail
3 or a fine of up to Five Thousand Dollars (\$5,000.00), or by both
4 such fine and imprisonment; and

5 5. Possession of a firearm or ammunition by a defendant while
6 an order is in effect ~~may~~ shall subject the defendant to prosecution
7 for a violation of Section 1283 of Title 21 of the Oklahoma Statutes
8 and a violation of federal law even if the order does not
9 specifically prohibit the defendant from possession of a firearm or
10 ammunition.

11 SECTION 4. AMENDATORY 22 O.S. 2001, Section 1101, as
12 last amended by Section 1, Chapter 58, O.S.L. 2004 (22 O.S. Supp.
13 2005, Section 1101), is amended to read as follows:

14 Section 1101. A. ~~Bail~~ Except as otherwise provided by law,
15 bail, by sufficient sureties, shall be admitted upon all arrests in
16 criminal cases where the offense is not punishable by death and in
17 such cases it may be taken by any of the persons or courts
18 authorized by law to arrest, to imprison offenders or to perform
19 pretrial services, or by the clerk of the district court or his or
20 her deputy, or by the judge of such courts.

21 B. In criminal cases where the defendant is currently an
22 escaped prisoner from the Department of Corrections, the defendant

1 must be processed back into the Department of Corrections prior to
2 bail being set on new criminal charges.

3 C. All persons shall be bailable by sufficient sureties, except
4 that bail may be denied for:

5 1. Capital offenses when the proof of guilt is evident, or the
6 presumption thereof is great;

7 2. Violent offenses;

8 3. Offenses where the maximum sentence may be life imprisonment
9 or life imprisonment without parole;

10 4. Felony offenses where the person charged with the offense
11 has been convicted of two or more felony offenses arising out of
12 different transactions; and

13 5. Controlled dangerous substances offenses where the maximum
14 sentence may be at least ten (10) years' imprisonment.

15 On all offenses specified in paragraphs 2 through 5 of this
16 subsection, the proof of guilt must be evident, or the presumption
17 must be great, and it must be on the grounds that no condition of
18 release would assure the safety of the community or any person.

19 D. There shall be a rebuttable presumption that no condition of
20 release would assure the safety of the community if the state shows
21 by clear and convincing evidence that the person was arrested for a
22 violation of Section 741 of Title 21 of the Oklahoma Statutes.

1 SECTION 5. NEW LAW A new section of law to be codified
2 in the Oklahoma Statutes as Section 18p-9 of Title 74, unless there
3 is created a duplication in numbering, reads as follows:

4 A. The Attorney General may establish a crime victim and
5 witness notification and victim protective order system to assist
6 public officials in carrying out their duties to notify and inform
7 crime victims and witnesses as the Attorney General specifies by
8 rule. The system shall download necessary information from
9 participating officials into its computers, where it shall be
10 maintained, updated, and automatically transmitted to victims and
11 witnesses by telephone, computer, or written notice.

12 B. The Department of Corrections, the Pardon and Parole Board,
13 each county sheriff office within the state shall cooperate with the
14 Attorney General in the implementation of the Section and shall
15 provide information as necessary to the effective operation of the
16 system.

17 C. District Attorneys and local law enforcement and other
18 authorities may enter into agreements with the Attorney General for
19 participation in the system. The Attorney General may provide those
20 who elect to participate with the equipment, software, or training
21 necessary to bring their offices into the system.

1 D. The Attorney General may provide for telephonic, electronic,
2 or other public access to the database established under this
3 section.

4 E. This section does not limit any rights or responsibilities
5 otherwise enjoyed by or imposed upon victims or witnesses of violent
6 crimes, nor does it grant any person a cause of action for damages
7 or attorney fees. Any act of omission or commission by any law
8 enforcement officer or District Attorney, by the Attorney General,
9 Department of Corrections, Pardon and Parole Board, or other State
10 agency, or private entity under contract with the State, or by any
11 employee of any State agency or private entity under contract with
12 the State acting in good faith in rendering crime victim's
13 assistance or otherwise enforcing this section shall not impose
14 civil liability upon the individual or entity or his or her
15 supervisor or employer. Nothing in this section shall create a
16 basis for vacating a conviction or a ground for appellate relief in
17 any criminal case. Failure of the crime victim to receive notice as
18 required, however, shall not deprive the court of the power to act
19 regarding the proceeding before it; nor shall any such failure grant
20 the defendant the right to seek a continuance.

21 SECTION 6. It being immediately necessary for the preservation
22 of the public peace, health and safety, an emergency is hereby

1 declared to exist, by reason whereof this act shall take effect and
2 be in full force from and after its passage and approval.
3 COMMITTEE REPORT BY: COMMITTEE ON JUDICIARY, dated 2-14-06 - DO
4 PASS, As Coauthored.