

STATE OF OKLAHOMA

2nd Session of the 50th Legislature (2006)

SENATE BILL 1037

By: Paddack

AS INTRODUCED

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.

CONVICTED FELONS AND DELINQUENTS

A. Except as provided in subsection B of this section, it shall be unlawful for any person convicted of any felony in any court of this state or of another state or of the United States to have in

his or her possession or under his or her immediate control, or in any vehicle which the person is operating, or in which the person is riding as a passenger, or at the residence where the convicted person resides, any pistol, imitation or homemade pistol, machine gun, sawed-off shotgun or rifle, or any other dangerous or deadly firearm.

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

C. It shall be unlawful for any person supervised by the Department of Corrections or any division thereof to have in his or her possession or under his or her immediate control, or at his or her residence, or in any passenger vehicle which the supervised person is operating or is riding as a passenger, any pistol, shotgun or rifle, including any imitation or homemade pistol, shotgun or rifle, while such person is subject to supervision, probation, parole or inmate status.

D. It shall be unlawful for any person previously adjudicated as a delinquent child or a youthful offender for the commission of an offense, which would have constituted a felony offense if committed by an adult, to have in said person's possession or under the person's immediate control, or have in any vehicle which he or she is driving or in which said person is riding as a passenger, or at the person's residence, any pistol, imitation or homemade pistol, machine gun, sawed-off shotgun or rifle, or any other dangerous or

deadly firearm which could be easily concealed on the person, in personal effects or in an automobile, within ten (10) years after such adjudication.

E. It shall be unlawful for any person convicted of a misdemeanor crime of domestic violence in any court of this state or of another state, or any person subject to a protective order pursuant to Section 60.1 et seq. of Title 22 of the Oklahoma Statutes, to have in his or her possession or under his or her immediate control, or in any vehicle which the person is operating, or in which the person is riding as a passenger, or at the residence where the convicted person resides, any pistol, imitation or homemade pistol, machine gun, sawed-off shotgun or rifle, any other dangerous or deadly firearm or ammunition for any such firearm.

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

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

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

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

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

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

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

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

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

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

specifically prohibit the defendant from possession of a firearm or ammunition.

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

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

B. In criminal cases where the defendant is currently an escaped prisoner from the Department of Corrections, the defendant must be processed back into the Department of Corrections prior to bail being set on new criminal charges.

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

1. Capital offenses when the proof of guilt is evident, or the presumption thereof is great;
2. Violent offenses;
3. Offenses where the maximum sentence may be life imprisonment or life imprisonment without parole;
4. Felony offenses where the person charged with the offense has been convicted of two or more felony offenses arising out of different transactions; and
5. Controlled dangerous substances offenses where the maximum sentence may be at least ten (10) years' imprisonment.

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

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

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

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

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

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

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

E. This section does not limit any rights or responsibilities otherwise enjoyed by or imposed upon victims or witnesses of violent crimes, nor does it grant any person a cause of action for damages or attorney fees. Any act of omission or commission by any law

enforcement officer or District Attorney, by the Attorney General, Department of Corrections, Pardon and Parole Board, or other State agency, or private entity under contract with the State, or by any employee of any State agency or private entity under contract with the State acting in good faith in rendering crime victim's assistance or otherwise enforcing this section shall not impose civil liability upon the individual or entity or his or her supervisor or employer. Nothing in this section shall create a basis for vacating a conviction or a ground for appellate relief in any criminal case. Failure of the crime victim to receive notice as required, however, shall not deprive the court of the power to act regarding the proceeding before it; nor shall any such failure grant the defendant the right to seek a continuance.

SECTION 6. 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.

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