

1 STATE OF OKLAHOMA

2 2nd Session of the 52nd Legislature (2010)

3 COMMITTEE SUBSTITUTE
4 FOR

5 SENATE BILL 2239

6 By: Russell

7 COMMITTEE SUBSTITUTE

8 An Act relating to crimes and punishments; amending
9 21 O.S. 2001, Section 1290.12, as amended by Section
10 3, Chapter 549, O.S.L. 2004 (21 O.S. Supp. 2009,
11 Section 1290.12), which relates to procedure to apply
12 for a concealed handgun license; directing
13 fingerprints meet certain standards; modifying time
14 frame for application issuance; and providing an
15 effective date.

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

17 SECTION 1. AMENDATORY 21 O.S. 2001, Section 1290.12, as
18 amended by Section 3, Chapter 549, O.S.L. 2004 (21 O.S. Supp. 2009,
19 Section 1290.12), is amended to read as follows:

20 Section 1290.12 A. The procedure for applying for a concealed
21 handgun license and processing the application shall be as follows:

22 1. An eligible person may request an application packet for a
23 concealed handgun license from the Oklahoma State Bureau of
24 Investigation or the county sheriff's office either in person or by
mail. The Bureau may provide application packets to each sheriff

1 not exceeding two hundred packets per request. The Bureau shall
2 provide the following information in the application packet:

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

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

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

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

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

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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
24 purposes of the Oklahoma Self-Defense Act and, if such photographs

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

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

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

1 retained by the sheriff and deposited into the Sheriff's Service Fee
2 Account;

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

23 11. The Oklahoma State Bureau of Investigation shall make a
24 reasonable effort to investigate the information submitted by the

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

9 a. In the course of the Bureau's investigation, it shall
10 present the name of the applicant along with any known
11 aliases, the address of the applicant and the social
12 security number of the applicant to the Department of
13 Mental Health and Substance Abuse Services. The
14 Department of Mental Health and Substance Abuse
15 Services shall respond within ten (10) days of
16 receiving such information to the Bureau as follows:

- 17 (1) with a "Yes" answer, if the Department's records
18 indicate that the person was involuntarily
19 committed to a mental institution in Oklahoma, or
20 (2) with a "No" answer, if there are no records
21 indicating the name of the person as a person
22 involuntarily committed to a mental institution
23 in Oklahoma, or
24

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

10 b. In the course of the Bureau's investigation, it shall
11 check the name of any applicant who is twenty-eight
12 (28) years of age or younger along with any known
13 aliases, the address of the applicant and the social
14 security number of the applicant against the records
15 in the Juvenile Online Tracking System (JOLTS) of the
16 Office of Juvenile Affairs. The Office of Juvenile
17 Affairs shall provide the Bureau direct access to
18 check the applicant against the records available on
19 JOLTS.

20 (1) If the Bureau finds a record on the JOLTS that
21 indicates the person was adjudicated a delinquent
22 for an offense that would constitute a felony
23 offense if committed by an adult within the last
24 ten (10) years the Bureau shall deny the license,

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

18 12. ~~The~~ If the background check set forth in subsection 11 of
19 this section reveals no records pertaining to the applicant, the
20 Oklahoma State Bureau of Investigation shall either issue a
21 concealed handgun license or deny the application within ~~ninety (90)~~
22 sixty (60) days of the date of receipt of the applicant's completed
23 application and the required information from the sheriff. In all
24 other cases, the Oklahoma State Bureau of Investigation shall either

1 issue a concealed handgun license or deny the application within
2 ninety (90) days of the date of the receipt of the applicant's
3 completed application and the required information from the sheriff.

4 The Bureau shall approve an applicant who appears to be in full
5 compliance with the provisions of the Oklahoma Self-Defense Act, if
6 completion of the federal fingerprint search is the only reason for
7 delay of the issuance of the handgun license to that applicant.

8 Upon receipt of the federal fingerprint search information, if the
9 Bureau receives information which precludes the person from having a
10 concealed handgun license, the Bureau shall revoke the concealed
11 handgun license previously issued to the applicant. The Bureau
12 shall deny a license when the applicant fails to properly complete
13 the application form or application process or is determined not to
14 be eligible as specified by the provisions of Section 1290.9,
15 1290.10 or 1290.11 of this title. The Bureau shall approve an
16 application in all other cases. If an application is denied, the
17 Bureau shall notify the applicant in writing of its decision. The
18 notification shall state the grounds for the denial and inform the
19 applicant of the right to an appeal as may be provided by the
20 provisions of the Administrative Procedures Act. All notices of
21 denial shall be mailed by first class mail to the applicant's
22 address listed in the application. Within sixty (60) calendar days
23 from the date of mailing a denial of application to an applicant,
24 the applicant shall notify the Bureau in writing of the intent to

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

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

17 SECTION 2. This act shall become effective November 1, 2010.
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