

1 STATE OF OKLAHOMA

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

3 SENATE BILL 2239

By: Russell

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5  
6 AS INTRODUCED

7 An Act relating to crimes and punishments; amending  
8 21 O.S. 2001, Section 1290.12, as amended by Section  
9 3, Chapter 549, O.S.L. 2004 (21 O.S. Supp. 2009,  
10 Section 1290.12), which relates to procedure to apply  
11 for a concealed handgun license; allowing for  
12 application to be made with any sheriff; directing  
13 license to be issued in the county of residency;  
14 modifying time frame for application issuance;  
15 requiring license be mailed to applicant; prohibiting  
16 use of post office box; directing Oklahoma State  
17 Bureau of Investigation to alert sheriffs of approved  
18 applications; and providing an effective date.

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

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

23 Section 1290.12 A. The procedure for applying for a concealed  
24 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

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~~ any sheriff in the state. The license issued from  
4 the Oklahoma State Bureau of Investigation shall be issued in the  
5 applicant's county of residence;

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

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

1           which nationally recognized credit cards will be  
2           accepted by the Bureau.

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

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

22           6. Two passport size photographs of the applicant shall be  
23 submitted with the completed application. The cost of the  
24 photographs shall be the responsibility of the applicant. The

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

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

17 8. Upon verification of the identity of the applicant, the  
18 sheriff shall take two complete sets of fingerprints of the  
19 applicant. Both sets of fingerprints shall be submitted by the  
20 sheriff with the completed application, certificate of training or  
21 an exemption certificate, photographs and processing fee to the  
22 Oklahoma State Bureau of Investigation within fourteen (14) days of  
23 taking the fingerprints. The cost of the fingerprints shall be paid  
24 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;

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 Oklahoma State Bureau of Investigation shall either  
19 issue a concealed handgun license or deny the application within  
20 ~~ninety (90)~~ forty-five (45) days of the date of receipt of the  
21 required information from the sheriff. The Bureau shall approve an  
22 applicant who appears to be in full compliance with the provisions  
23 of the Oklahoma Self-Defense Act, if completion of the federal  
24 fingerprint search is the only reason for delay of the issuance of

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

1 license and mail it to ~~the sheriff of the county wherein the~~  
2 ~~applicant resides. The applicant may pick up the concealed handgun~~  
3 ~~license from the sheriff's office~~ the applicant at their physical  
4 address. No license shall be mailed to a post office box. Once the  
5 Bureau has approved an application and mailed the license to the  
6 applicant, they shall alert the sheriff of the county wherein the  
7 applicant resides within ten (10) days.

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

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

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