

1 ENGROSSED HOUSE AMENDMENT
TO
2 ENGROSSED SENATE BILL NO. 1055 By: Russell and Simpson of the
Senate
3
4 and
5 Enns of the House
6
7

8 (firearm possession - mandatory preclusions -
9 guidelines for certain inquiries - codification -
10 effective date)
11

12 AUTHOR: Add the following House Coauthor: Bennett
13 AMENDMENT NO. 1. Strike the stricken title, enacting clause and
entire bill and insert
14

15 "(firearm possession - mandatory preclusions -
16 guidelines for certain inquiries - codification -
17 effective date)
18
19

20 BE IT ENACTED BY THE PEOPLE OF THE STATE OF OKLAHOMA:
21 SECTION 1. AMENDATORY 21 O.S. 2011, Section 1290.10, is
22 amended to read as follows:
23 Section 1290.10

24 MANDATORY PRECLUSIONS

1 In addition to the requirements stated in Section 1290.9 of this
2 title, the conditions stated in this section shall preclude a person
3 from eligibility for a handgun license pursuant to the provisions of
4 the Oklahoma Self-Defense Act, ~~Section 1290.1 et seq. of this title.~~
5 The occurrence of any one of the following conditions shall deny the
6 person the right to have a handgun license pursuant to the
7 provisions of the Oklahoma Self-Defense Act. Prohibited conditions
8 are:

9 1. Ineligible to possess a pistol due to any felony conviction
10 or adjudication as a delinquent as provided by Section 1283 of this
11 title, except as provided in subsection B of Section 1283 of this
12 title;

13 2. Any felony conviction pursuant to any law of another state,
14 a felony conviction pursuant to any provision of the United States
15 Code, or any conviction pursuant to the laws of any foreign country,
16 provided such foreign conviction would constitute a felony offense
17 in this state if the offense had been committed in this state,
18 except as provided in subsection B of Section 1283 of this title;

19 ~~3. Adjudication as an incompetent person pursuant to the~~
20 ~~provisions of the Oklahoma Mental Health Law, Section 1-101 et seq.~~
21 ~~of Title 43A of the Oklahoma Statutes or an adjudication of~~
22 ~~incompetency entered in another state pursuant to any provision of~~
23 ~~law of that state;~~

24

1 ~~4.~~ Any false or misleading statement on the application for a
2 handgun license as provided by paragraph 5 of Section 1290.12 of
3 this title;

4 ~~5.~~ 4. Conviction of any one of the following misdemeanor
5 offenses in this state or in any other state:

- 6 a. any assault and battery which caused serious physical
7 injury to the victim, or any second or subsequent
8 assault and battery conviction,
- 9 b. any aggravated assault and battery,
- 10 c. any stalking pursuant to Section 1173 of this title,
11 or a similar law of another state,
- 12 d. a violation relating to the Protection from Domestic
13 Abuse Act, ~~Section 60 et seq. of Title 22 of the~~
14 ~~Oklahoma Statutes,~~ or any violation of a victim
15 protection order of another state,
- 16 e. any conviction relating to illegal drug use or
17 possession; or
- 18 f. an act of domestic abuse as defined by Section 644 of
19 this title or an act of domestic assault and battery
20 or any comparable acts under the laws of another
21 state;

22 ~~6.~~ 5. An attempted suicide or other condition ~~relating to or~~
23 diagnosed by a licensed physician or psychologist indicating ~~mental~~
24 ~~instability or an unsound mind which~~ that the person is a danger to

1 himself or herself or others or is incapable of managing the affairs
2 of the person if the attempt or most recent treatment for the
3 condition occurred within the preceding ten-year period from the
4 date of the application for a license to carry a concealed firearm
5 or that occurs during the period of licensure;

6 ~~7.~~ 6. Currently undergoing treatment for a mental illness,
7 condition, or disorder. For purposes of this paragraph, "currently
8 undergoing treatment for a mental illness, condition, or disorder"
9 means the person has been diagnosed by a licensed physician as being
10 afflicted with a substantial disorder of thought, mood, perception,
11 psychological orientation, or memory that significantly impairs
12 judgment, behavior, capacity to recognize reality, or ability to
13 meet the ordinary demands of life. For purposes of this paragraph,
14 "currently undergoing treatment for a mental illness, condition, or
15 disorder" shall not be construed to mean any person, veteran or
16 nonveteran who has been successfully treated for post-traumatic
17 stress disorder;

18 ~~8.~~ 7. Significant character defects of the applicant as
19 evidenced by a misdemeanor criminal record indicating habitual
20 criminal activity;

21 ~~9.~~ 8. Ineligible to possess a pistol due to any provision of
22 law of this state or the United States Code, except as provided in
23 subsection B of Section 1283 of this title;

24

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 5-410 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 permanent as provided by Title 18 of the~~
8 ~~United States Code Section 922(g)(4);~~

9 ~~4.~~ The person has previously undergone treatment for a mental
10 illness, condition, or disorder which required medication or
11 supervision as defined by paragraph ~~7~~ 6 of Section 1290.10 of this
12 title. The preclusive period shall be three (3) years from the last
13 date of treatment or upon presentation of a certified statement from
14 a licensed physician stating that the person is either no longer
15 disabled by any mental or psychiatric illness, condition, or
16 disorder or that the person has been stabilized on medication for
17 ten (10) years or more. For purposes of this paragraph, "previously
18 undergone treatment for a mental illness, condition, or disorder"
19 shall not be construed to mean any person, veteran or nonveteran who
20 has been successfully treated for post-traumatic stress disorder;

21 ~~5.~~ 4. 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
24 stating that the person has been free from substance use for twelve

1 (12) months or more preceding the filing of an application for a
2 handgun license;

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

7 ~~7.~~ 6. Two or more misdemeanor convictions relating to
8 intoxication or driving under the influence of an intoxicating
9 substance or alcohol. The preclusive period shall be three (3)
10 years from the date of the completion of the last sentence or shall
11 require a certified statement from a licensed physician stating that
12 the person is not in need of substance abuse treatment;

13 ~~8.~~ 7. A court order for a final Victim Protection Order against
14 the applicant, as authorized by Section 60 et seq. of Title 22 of
15 the Oklahoma Statutes, or any court order granting a final victim
16 protection order against the applicant from another state. The
17 preclusive period shall be three (3) years from the date of the
18 entry of the final court order, or sixty (60) days from the date an
19 order was vacated, cancelled or withdrawn;

20 ~~9.~~ 8. An adjudicated delinquent or convicted felon residing in
21 the residence of the applicant which may be a violation of Section
22 1283 of this title. The preclusive period shall be thirty (30) days
23 from the date the person no longer resides in the same residence as
24 the applicant; or

1 ~~10.~~ 9. An arrest for an alleged commission of, a charge pending
2 for, or the person is subject to the provisions of a deferred
3 sentence or a deferred prosecution for any one or more of the
4 following misdemeanor offenses in this state or another state:

- 5 a. any assault and battery which caused serious physical
6 injury to the victim or any second or subsequent
7 assault and battery,
- 8 b. any aggravated assault and battery,
- 9 c. any stalking pursuant to Section 1173 of this title,
10 or a similar law of another state,
- 11 d. any violation of the Protection from Domestic Abuse
12 Act, Section 60 et seq. of Title 22 of the Oklahoma
13 Statutes, or any violation of a victim protection
14 order of another state,
- 15 e. any violation relating to illegal drug use or
16 possession, or
- 17 f. an act of domestic abuse as defined by Section 644 of
18 this title or an act of domestic assault and battery
19 or any comparable acts under the law of another state.

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

22 B. Nothing in this section shall be construed to require a full
23 investigation of the applicant by the Oklahoma State Bureau of
24 Investigation.

1 ENGROSSED SENATE
2 BILL NO. 1055

By: Russell and Simpson of the
Senate

3 and

4 Enns of the House

5
6
7 [firearm possession - mandatory preclusions -
8 guidelines for certain inquiries - codification -
effective date]

9

10

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

12 SECTION 4. AMENDATORY 21 O.S. 2011, Section 1290.10, is
13 amended to read as follows:

14 Section 1290.10

15 MANDATORY PRECLUSIONS

16 In addition to the requirements stated in Section 1290.9 of this
17 title, the conditions stated in this section shall preclude a person
18 from eligibility for a handgun license pursuant to the provisions of
19 the Oklahoma Self-Defense Act, ~~Section 1290.1 et seq. of this title.~~

20 The occurrence of any one of the following conditions shall deny the
21 person the right to have a handgun license pursuant to the
22 provisions of the Oklahoma Self-Defense Act. Prohibited conditions
23 are:

24

1 1. Ineligible to possess a pistol due to any felony conviction
2 or adjudication as a delinquent as provided by Section 1283 of this
3 title, except as provided in subsection B of Section 1283 of this
4 title;

5 2. Any felony conviction pursuant to any law of another state,
6 a felony conviction pursuant to any provision of the United States
7 Code, or any conviction pursuant to the laws of any foreign country,
8 provided such foreign conviction would constitute a felony offense
9 in this state if the offense had been committed in this state,
10 except as provided in subsection B of Section 1283 of this title;

11 3. Adjudication as an incompetent person pursuant to the
12 provisions of the Oklahoma Mental Health Law, ~~Section 1-101 et seq.~~
13 ~~of Title 43A of the Oklahoma Statutes~~ or an adjudication of
14 incompetency entered in another state pursuant to any provision of
15 law of that state or adjudication as an incompetent person in
16 accordance with the following:

17 a. a determination by a court, board, commission, or
18 other lawful authority that a person, as a result of
19 marked subnormal intelligence, or mental illness,
20 incompetency, condition or disease:

21 (1) is a danger to himself or herself or to others,
22 or
23 (2) lacks the mental capacity to contract or manage
24 his or her own affairs,

- 1 b. a finding of insanity by a court in a criminal case,
2 or
3 c. a finding of incompetency to stand trial or a finding
4 of not guilty by reason of lack of mental
5 responsibility pursuant to Articles 50a and 72b of the
6 Uniform Code of Military Justice, 10 U.S.C. 850a and
7 876b.

8 Nothing in this section shall be construed to prohibit licensing
9 of any person, veteran or nonveteran, who has been successfully
10 treated for post-traumatic stress disorder or who does not meet the
11 conditions in this paragraph;

12 4. Any false or misleading statement on the application for a
13 handgun license as provided by paragraph 5 of Section 1290.12 of
14 this title;

15 5. Conviction of any one of the following misdemeanor offenses
16 in this state or in any other state:

- 17 a. any assault and battery which caused serious physical
18 injury to the victim, or any second or subsequent
19 assault and battery conviction,
20 b. any aggravated assault and battery,
21 c. any stalking pursuant to Section 1173 of this title,
22 or a similar law of another state,
23 d. a violation relating to the Protection from Domestic
24 Abuse Act, ~~Section 60 et seq. of Title 22 of the~~

1 ~~Oklahoma Statutes~~, or any violation of a victim
2 protection order of another state,

3 e. any conviction relating to illegal drug use or
4 possession; or

5 f. an act of domestic abuse as defined by Section 644 of
6 this title or an act of domestic assault and battery
7 or any comparable acts under the laws of another
8 state;

9 6. An attempted suicide or other condition relating to or
10 indicating mental instability or an unsound mind which occurred
11 within the preceding ten-year period from the date of the
12 application for a license to carry a concealed firearm or that
13 occurs during the period of licensure;

14 7. Currently undergoing treatment for a mental illness,
15 condition, or disorder. For purposes of this paragraph, "currently
16 undergoing treatment for a mental illness, condition, or disorder"
17 means the person has been diagnosed by a licensed physician as being
18 afflicted with a substantial disorder of thought, mood, perception,
19 psychological orientation, or memory that significantly impairs
20 judgment, behavior, capacity to recognize reality, or ability to
21 meet the ordinary demands of life;

22 8. Significant character defects of the applicant as evidenced
23 by a misdemeanor criminal record indicating habitual criminal
24 activity;

1 9. Ineligible to possess a pistol due to any provision of law
2 of this state or the United States Code, except as provided in
3 subsection B of Section 1283 of this title;

4 10. Failure to pay an assessed fine or surrender the handgun
5 license as required by a decision by the administrative hearing
6 examiner pursuant to authority of the Oklahoma Self-Defense Act;

7 11. Being subject to an outstanding felony warrant issued in
8 this state or another state or the United States; or

9 12. Adjudication as a delinquent as provided by Section 1283 of
10 this title, except as provided in subsection B of Section 1283 of
11 this title.

12 SECTION 5. NEW LAW A new section of law to be codified
13 in the Oklahoma Statutes as Section 1289.30 of Title 21, unless
14 there is created a duplication in numbering, reads as follows:

15 A. For purposes of this section:

16 1. "Health care practitioner" has the same meaning as those
17 practitioners regulated pursuant to Title 59 of the Oklahoma
18 Statutes; and

19 2. "Patient" means a person under the care of or who seeks
20 professional services from a health care practitioner.

21 B. Except as provided in subsection D of this section, a health
22 care practitioner may not refuse to treat or to accept a referral
23 for treatment of a patient based on:

1 1. The lawful ownership, possession, handling, storage,
2 maintenance, or other legal conduct involving firearms or ammunition
3 by the patient or a member of the patient's household; or

4 2. The patient's, and if the patient is a minor, the patient's
5 parents' or guardians', refusal to disclose such information.

6 C. Except as provided in subsection D of this section, a health
7 care practitioner who questions a patient, and if the patient is a
8 minor, who questions the patient's parent or guardian about the
9 ownership, possession, handling, storage, maintenance, or other
10 conduct involving firearms or ammunition by the patient or a member
11 of the patient's household shall first do the following:

12 1. Inform the patient, parent, or guardian that he or she will
13 be asked about firearms and ammunition;

14 2. Inform the patient, parent, or guardian about the purpose of
15 the question;

16 3. Inform the patient, parent, or guardian that he or she is
17 not required to answer the question; and

18 4. Inform the patient, parent, or guardian that failure to
19 answer the question will not result in refusal or termination of the
20 patient's treatment with the health care practitioner.

21 D. The requirements of subsections B and C of this section
22 shall not apply if:

23 1. The health care practitioner reasonably believes the patient
24 is in immediate possession or control of a firearm or ammunition and

1 poses an imminent threat to the patient's self or another with such
2 firearm or ammunition;

3 2. The patient has brought a firearm or ammunition into an area
4 where such firearm or ammunition is prohibited;

5 3. The patient, and if the patient is a minor, the patient's
6 parent or guardian, volunteers information about a firearm or
7 ammunition without being asked about it; or

8 4. The health care practitioner reasonably and in good faith
9 believes that disclosure of the requested information is necessary
10 to diagnose or treat a specific illness or injury, but this
11 exception shall not apply to a generalized belief that firearms are
12 harmful to health or safety.

13 E. 1. The State Department of Health may impose an
14 administrative fine upon a health care practitioner who violates any
15 provision of subsection C or D of this section. The fine shall not
16 exceed Two Hundred Fifty Dollars (\$250.00) for nonwillful violations
17 nor Five Hundred Dollars (\$500.00) for intentional and willful
18 violations. Each intentional and willful violation constitutes a
19 separate violation and is subject to a separate fine.

20 2. An administrative fine may be imposed by the appropriate
21 regulatory board, or the State Department of Health if no such board
22 exists, when a health care practitioner violates any provision of
23 subsection C or D of this section. The fine shall not exceed Two
24 Hundred Fifty Dollars (\$250.00) for nonwillful violations nor Five

1 Hundred Dollars (\$500.00) for willful violations. Each intentional
2 and willful violation constitutes a separate violation and is
3 subject to a separate fine.

4 3. A violation of any provision of subsection C or D of this
5 section shall also subject the health care practitioner to
6 appropriate discipline under the health care practitioner's
7 licensing authority.

8 SECTION 6. This act shall become effective November 1, 2012.

9 Passed the Senate the 13th day of March, 2012.

10
11 _____
12 Presiding Officer of the Senate

13 Passed the House of Representatives the ____ day of _____,
14 2012.

15
16 _____
17 Presiding Officer of the House
18 of Representatives