

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

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

12 SECTION 1. 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 2. 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 3. This act shall become effective November 1, 2012.

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

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Presiding Officer of the Senate

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13 Passed the House of Representatives the \_\_\_\_ day of \_\_\_\_\_,  
14 2012.

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Presiding Officer of the House  
of Representatives

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