

1 **SENATE FLOOR VERSION**

2 March 1, 2011

3 SENATE BILL NO. 799

By: Laster of the Senate

4 and

5 Tibbs of the House

6
7
8 An Act relating to the Oklahoma Self-Defense Act;
9 amending 21 O.S. 2001, Sections 1290.10 and 1290.12,
10 as last amended by Section 1, Chapter 162, O.S.L.
11 2010 (21 O.S. Supp. 2010, Section 1290.12), which
12 relate to mandatory preclusions and application
13 procedures; providing certain exception to certain
14 preclusion; clarifying application of false or
15 misleading information penalty; and providing an
16 effective date.

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

18 SECTION 1. AMENDATORY 21 O.S. 2001, Section 1290.10, is
19 amended to read as follows:

20 Section 1290.10.

21 **MANDATORY PRECLUSIONS**

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

The occurrence of any one of the following conditions shall deny the

1 person the right to have a handgun license pursuant to the
2 provisions of the Oklahoma Self-Defense Act. Prohibited conditions
3 are:

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

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

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

19 4. Any false or misleading statement on the application for a
20 handgun license as provided by paragraph 5 of subsection A of
21 Section 1290.12 of this title, unless the applicant proves to the
22 satisfaction of the Oklahoma State Bureau of Investigation that the
23 applicant made an inadvertent omission of nonmaterial fact on the
24

1 application that, if disclosed, said nonmaterial fact would not have
2 resulted in a denial of the application;

3 5. Conviction of any one of the following misdemeanor offenses
4 in this state or in any other 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 conviction,

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. a violation relating to the Protection from Domestic
12 Abuse Act, ~~Section 60 et seq. of Title 22 of the~~
13 ~~Oklahoma Statutes,~~ or any violation of a victim
14 protection order of another state,

15 e. any conviction 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 laws of another
20 state;

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

3 7. Currently undergoing treatment for a mental illness,
4 condition, or disorder. For purposes of this paragraph, "currently
5 undergoing treatment for a mental illness, condition, or disorder"
6 means the person has been diagnosed by a licensed physician as being
7 afflicted with a substantial disorder of thought, mood, perception,
8 psychological orientation, or memory that significantly impairs
9 judgment, behavior, capacity to recognize reality, or ability to
10 meet the ordinary demands of life;

11 8. Significant character defects of the applicant as evidenced
12 by a misdemeanor criminal record indicating habitual criminal
13 activity;

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

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

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

22 12. Adjudication as a delinquent as provided by Section 1283 of
23 this title, except as provided in subsection B of Section 1283 of
24 this title.

1 SECTION 2. AMENDATORY 21 O.S. 2001, Section 1290.12, as
2 last amended by Section 1, Chapter 162, O.S.L. 2010 (21 O.S. Supp.
3 2010, Section 1290.12), is amended to read as follows:

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

6 1. An eligible person may request an application packet for a
7 concealed handgun license from the Oklahoma State Bureau of
8 Investigation or the county sheriff's office either in person or by
9 mail. The Bureau may provide application packets to each sheriff
10 not exceeding two hundred packets per request. The Bureau shall
11 provide the following information in the application packet:

- 12 a. an application form,
- 13 b. procedures to follow to process the application form,
- 14 and
- 15 c. a copy of the Oklahoma Self-Defense Act with any
16 modifications thereto;

17 2. The person shall be required to successfully complete a
18 firearms safety and training course from a firearms instructor who
19 is approved and registered in this state as provided in Section
20 1290.14 of this title, and the person shall be required to
21 demonstrate competency and qualification with a pistol authorized
22 for concealed carry by the Oklahoma Self-Defense Act. The original
23 certificate of training shall be submitted with the application for
24 a handgun license. No duplicate, copy, facsimile or other

1 reproduction of the certificate of training or exemption from
2 training shall be acceptable as proof of training as required by the
3 provisions of the Oklahoma Self-Defense Act. A person exempt from
4 the training requirements as provided in Section 1290.15 of this
5 title must show the required proof of such exemption to the firearms
6 instructor to receive an exemption certificate. The original
7 exemption certificate must be submitted with the application for a
8 handgun license when the person claims an exemption from training
9 and qualification;

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

13 4. The person shall deliver to the sheriff at the time of
14 delivery of the completed application form a fee of One Hundred
15 Dollars (\$100.00) for processing the application through the
16 Oklahoma State Bureau of Investigation and processing the required
17 fingerprints through the Federal Bureau of Investigation. The
18 processing fee shall be in the form of:

- 19 a. a money order or a cashier's check made payable to the
20 Oklahoma State Bureau of Investigation, or
21 b. by a nationally recognized credit card issued to the
22 applicant. For purposes of this paragraph,
23 "nationally recognized credit card" means any
24 instrument or device, whether known as a credit card,

1 credit plate, charge plate, or by any other name,
2 issued with or without fee by the issuer for the use
3 of the cardholder in obtaining goods, services, or
4 anything else of value on credit which is accepted by
5 over one thousand merchants in the state. The
6 Oklahoma State Bureau of Investigation shall determine
7 which nationally recognized credit cards will be
8 accepted by the Bureau.

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

15 5. The completed application form shall be signed by the
16 applicant in person before the sheriff. The signature shall be
17 given voluntarily upon a sworn oath that the person knows the
18 contents of the application and that the information contained in
19 the application is true and correct. Any person making any false or
20 misleading statement on an application for a handgun license shall,
21 upon conviction, be guilty of perjury as defined by Section 491 of
22 this title. However, if the person proves to the satisfaction of
23 the Oklahoma State Bureau of Investigation that the false or
24 misleading statement was an inadvertent omission of nonmaterial fact

1 which, if disclosed, said nonmaterial fact would not have resulted
2 in a denial of the application, the false or misleading statement
3 shall not be considered perjury for purposes of this section. Any
4 conviction shall be punished as provided in Section 500 of this
5 title. In addition to a criminal conviction, the person shall be
6 denied the right to have a concealed handgun license pursuant to the
7 provisions of Section 1290.10 of this title and the Oklahoma State
8 Bureau of Investigation shall revoke the handgun license, if issued;

9 6. Two passport size photographs of the applicant shall be
10 submitted with the completed application. The cost of the
11 photographs shall be the responsibility of the applicant. The
12 sheriff is authorized to take the applicant's photograph for
13 purposes of the Oklahoma Self-Defense Act and, if such photographs
14 are taken by the sheriff the cost of the photographs shall not
15 exceed Ten Dollars (\$10.00) for the two photos. All money received
16 by the sheriff from photographing applicants pursuant to the
17 provisions of this paragraph shall be retained by the sheriff and
18 deposited into the Sheriff's Service Fee Account;

19 7. The sheriff shall witness the signature of the applicant and
20 review or take the photographs of the applicant and shall verify
21 that the person making application for a handgun license is the same
22 person in the photographs submitted and the same person who signed
23 the application form. Proof of a valid Oklahoma driver license with
24 a photograph of the applicant or an Oklahoma State photo

1 identification for the applicant shall be required to be presented
2 by the applicant to the sheriff for verification of the person's
3 identity;

4 8. Upon verification of the identity of the applicant, the
5 sheriff shall take two complete sets of fingerprints of the
6 applicant. Both sets of fingerprints shall be submitted by the
7 sheriff with the completed application, certificate of training or
8 an exemption certificate, photographs and processing fee to the
9 Oklahoma State Bureau of Investigation within fourteen (14) days of
10 taking the fingerprints. The cost of the fingerprints shall be paid
11 by the applicant and shall not exceed Twenty-five Dollars (\$25.00)
12 for the two sets. All fees collected by the sheriff from taking
13 fingerprints pursuant to the provisions of this paragraph shall be
14 retained by the sheriff and deposited into the Sheriff's Service Fee
15 Account;

16 9. The sheriff shall submit to the Oklahoma State Bureau of
17 Investigation within the fourteen-day period, together with the
18 completed application, including the certificate of training or
19 exemption certificate, photographs, processing fee and legible
20 fingerprints meeting the Oklahoma State Bureau of Investigation's
21 Automated Fingerprint Identification System (AFIS) submission
22 standards, and a report of information deemed pertinent to an
23 investigation of the applicant for a handgun license. The sheriff
24 shall make a preliminary investigation of pertinent information

1 about the applicant and the court clerk shall assist the sheriff in
2 locating pertinent information in court records for this purpose.
3 If no pertinent information is found to exist either for or against
4 the applicant, the sheriff shall so indicate in the report;

5 10. The Oklahoma State Bureau of Investigation, upon receipt of
6 the application and required information from the sheriff, shall
7 forward one full set of fingerprints of the applicant to the Federal
8 Bureau of Investigation for a national criminal history records
9 search. The cost of processing the fingerprints nationally shall be
10 paid from the processing fee collected by the Oklahoma State Bureau
11 of Investigation;

12 11. The Oklahoma State Bureau of Investigation shall make a
13 reasonable effort to investigate the information submitted by the
14 applicant and the sheriff, to ascertain whether or not the issuance
15 of a handgun license would be in violation of the provisions of the
16 Oklahoma Self-Defense Act. The Bureau's investigation of an
17 applicant shall include, but shall not be limited to: a statewide
18 criminal history records search, a national criminal history records
19 search, a Federal Bureau of Investigation fingerprint search, and if
20 applicable, an investigation of medical records or other records or
21 information deemed by the Bureau to be relevant to the application.

22 a. In the course of the Bureau's investigation, it shall
23 present the name of the applicant along with any known
24 aliases, the address of the applicant and the social

1 security number of the applicant to the Department of
2 Mental Health and Substance Abuse Services. The
3 Department of Mental Health and Substance Abuse
4 Services shall respond within ten (10) days of
5 receiving such information to the Bureau as follows:

6 (1) with a "Yes" answer, if the Department's records
7 indicate that the person was involuntarily
8 committed to a mental institution in Oklahoma, or

9 (2) with a "No" answer, if there are no records
10 indicating the name of the person as a person
11 involuntarily committed to a mental institution
12 in Oklahoma, or

13 (3) with an "Inconclusive" answer if the Department's
14 records suggest the applicant may be a formerly
15 committed person. In the case of an inconclusive
16 answer, the Bureau shall ask the applicant
17 whether he or she was involuntarily committed.
18 If the applicant states under penalty of perjury
19 that he or she has not been involuntarily
20 committed, the Bureau shall continue processing
21 the application for a license.

22 b. In the course of the Bureau's investigation, it shall
23 check the name of any applicant who is twenty-eight
24 (28) years of age or younger along with any known

1 aliases, the address of the applicant and the social
2 security number of the applicant against the records
3 in the Juvenile Online Tracking System (JOLTS) of the
4 Office of Juvenile Affairs. The Office of Juvenile
5 Affairs shall provide the Bureau direct access to
6 check the applicant against the records available on
7 JOLTS.

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

13 (2) If the Bureau finds no record on the JOLTS
14 indicating the named person was adjudicated
15 delinquent for an offense that would constitute a
16 felony offense if committed by an adult within
17 the last ten (10) years, or

18 (3) If the records suggest the applicant may have
19 been adjudicated delinquent for an offense that
20 would constitute a felony offense if committed by
21 an adult but such record is inconclusive, the
22 Bureau shall ask the applicant whether he or she
23 was adjudicated a delinquent for an offense that
24 would constitute a felony offense if committed by

1 an adult within the last ten (10) years. If the
2 applicant states under penalty of perjury that he
3 or she was not adjudicated a delinquent within
4 ten (10) years, the Bureau shall continue
5 processing the application for a license;

6 12. If the background check set forth in ~~subsection~~ paragraph
7 11 of this ~~section~~ subsection reveals no records pertaining to the
8 applicant, the Oklahoma State Bureau of Investigation shall either
9 issue a concealed handgun license or deny the application within
10 sixty (60) days of the date of receipt of the applicant's completed
11 application and the required information from the sheriff. In all
12 other cases, the Oklahoma State Bureau of Investigation shall either
13 issue a concealed handgun license or deny the application within
14 ninety (90) days of the date of the receipt of the applicant's
15 completed application and the required information from the sheriff.
16 The Bureau shall approve an applicant who appears to be in full
17 compliance with the provisions of the Oklahoma Self-Defense Act, if
18 completion of the federal fingerprint search is the only reason for
19 delay of the issuance of the handgun license to that applicant.
20 Upon receipt of the federal fingerprint search information, if the
21 Bureau receives information which precludes the person from having a
22 concealed handgun license, the Bureau shall revoke the concealed
23 handgun license previously issued to the applicant. The Bureau
24 shall deny a license when the applicant fails to properly complete

1 the application form or application process or is determined not to
2 be eligible as specified by the provisions of Section 1290.9,
3 1290.10 or 1290.11 of this title. The Bureau shall approve an
4 application in all other cases. If an application is denied, the
5 Bureau shall notify the applicant in writing of its decision. The
6 notification shall state the grounds for the denial and inform the
7 applicant of the right to an appeal as may be provided by the
8 provisions of the Administrative Procedures Act. All notices of
9 denial shall be mailed by first class mail to the applicant's
10 address listed in the application. Within sixty (60) calendar days
11 from the date of mailing a denial of application to an applicant,
12 the applicant shall notify the Bureau in writing of the intent to
13 appeal the decision of denial or the applicant's right to appeal
14 shall be deemed waived. Any administrative hearing on a denial
15 which may be provided shall be conducted by a hearing examiner
16 appointed by the Bureau. The hearing examiner's decision shall be a
17 final decision appealable to a district court in accordance with the
18 Administrative Procedures Act. When an application is approved, the
19 Bureau shall issue the license and mail it to the sheriff of the
20 county wherein the applicant resides. The applicant may pick up the
21 concealed handgun license from the sheriff's office.

22 B. Nothing contained in any provision of the Oklahoma Self-
23 Defense Act shall be construed to require or authorize the
24 registration, documentation or providing of serial numbers with

1 regard to any firearm. For purposes of the Oklahoma Self-Defense
2 Act, the sheriff may designate a person to receive, fingerprint,
3 photograph or otherwise process applications for concealed handgun
4 licenses.

5 SECTION 3. This act shall become effective November 1, 2011.

6 COMMITTEE REPORT BY: COMMITTEE ON JUDICIARY, dated 2-22-11 - DO
7 PASS, As Coauthored.

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