

1 **HOUSE OF REPRESENTATIVES - FLOOR VERSION**

2 STATE OF OKLAHOMA

3 2nd Session of the 54th Legislature (2014)

4 HOUSE BILL 2889

By: Enns and Walker of the
House

5
6 and

7 Shortey of the Senate

8
9 AS INTRODUCED

10 An Act relating to crimes and punishments; amending
11 21 O.S. 2011, Section 1290.12, as last amended by
12 Section 5, Chapter 366, O.S.L. 2013 (21 O.S. Supp.
13 2013, Section 1290.12), which relates to the Oklahoma
14 Self-Defense Act; modifying certain application
15 requirement; and providing an effective date.

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

17 SECTION 1. AMENDATORY 21 O.S. 2011, Section 1290.12, as
18 last amended by Section 5, Chapter 366, O.S.L. 2013 (21 O.S. Supp.
19 2013, Section 1290.12), is amended to read as follows:

20 Section 1290.12

21 PROCEDURE FOR APPLICATION

22 A. Except as provided in paragraph 11 of this subsection, the
23 procedure for applying for a handgun license and processing the
24 application shall be as follows:

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

- 7 a. an application form,
- 8 b. procedures to follow to process the application form,
- 9 and
- 10 c. a copy of the Oklahoma Self-Defense Act with any
- 11 modifications thereto;

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

1 instructor to receive an exemption certificate. The original
2 exemption certificate must be submitted with the application for a
3 handgun license when the person claims an exemption from training
4 and qualification;

5 3. The application form shall be completed and delivered by the
6 applicant, in person, to the sheriff of ~~the~~ any county ~~wherein the~~
7 ~~applicant resides~~ within the State of Oklahoma;

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

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

1 Oklahoma State Bureau of Investigation shall determine
2 which nationally recognized credit cards will be
3 accepted by the Bureau.

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

10 5. The completed application form shall be signed by the
11 applicant in person before the sheriff. The signature shall be
12 given voluntarily upon a sworn oath that the person knows the
13 contents of the application and that the information contained in
14 the application is true and correct. Any person making any false or
15 misleading statement on an application for a handgun license shall,
16 upon conviction, be guilty of perjury as defined by Section 491 of
17 this title. Any conviction shall be punished as provided in Section
18 500 of this title. In addition to a criminal conviction, the person
19 shall be denied the right to have a handgun license pursuant to the
20 provisions of Section 1290.10 of this title and the Oklahoma State
21 Bureau of Investigation shall revoke the handgun 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 photograph of the applicant 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, including the certificate of training or
8 exemption certificate, photographs, processing fee and legible
9 fingerprints meeting the Oklahoma State Bureau of Investigation's
10 Automated Fingerprint Identification System (AFIS) submission
11 standards, and a report of information deemed pertinent to an
12 investigation of the applicant for a handgun license. The sheriff
13 shall make a preliminary investigation of pertinent information
14 about the applicant and the court clerk shall assist the sheriff in
15 locating pertinent information in court records for this purpose.
16 If no pertinent information is found to exist either for or against
17 the applicant, the sheriff shall so indicate in the report;

18 10. The Oklahoma State Bureau of Investigation, upon receipt of
19 the application and required information from the sheriff, shall
20 forward one full set of fingerprints of the applicant to the Federal
21 Bureau of Investigation for a national criminal history records
22 search. The cost of processing the fingerprints nationally shall be
23 paid from the processing fee collected by the Oklahoma State Bureau
24 of Investigation;

1 11. Notwithstanding the provisions of the Oklahoma Self-Defense
2 Act, or any other provisions of law, any person who has been granted
3 a permanent victim's protective order by the court, as provided for
4 in the Protection from Domestic Abuse Act, may be issued a temporary
5 handgun license for a period not to exceed six (6) months. A
6 temporary handgun license may be issued if the person has
7 successfully passed the required weapons course, completed the
8 application process for the handgun license, passed the preliminary
9 investigation of the person by the sheriff and court clerk, and
10 provided the sheriff proof of a certified permanent victim
11 protection order and a valid Oklahoma state photo identification
12 card or driver license. The sheriff shall issue a temporary handgun
13 license on a form approved by the Oklahoma State Bureau of
14 Investigation, at no cost. Any person who has been issued a
15 temporary license shall carry the temporary handgun license and a
16 valid Oklahoma state photo identification on his or her person at
17 all times, and shall be subject to all the requirements of the
18 Oklahoma Self-Defense Act when carrying a handgun. The person may
19 proceed with the handgun licensing process. In the event the
20 victim's protection order is no longer enforceable, the temporary
21 handgun license shall cease to be valid;

22 12. The Oklahoma State Bureau of Investigation shall make a
23 reasonable effort to investigate the information submitted by the
24 applicant and the sheriff, to ascertain whether or not the issuance

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

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

17 (1) with a "Yes" answer, if the records of the
18 Department indicate that the person was
19 involuntarily committed to a mental institution
20 in Oklahoma,

21 (2) with a "No" answer, if there are no records
22 indicating the name of the person as a person
23 involuntarily committed to a mental institution
24 in Oklahoma, or

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

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

21 (1) If the Bureau finds a record on the JOLTS that
22 indicates the person was adjudicated a delinquent
23 for an offense that would constitute a felony
24

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

20 13. If the background check set forth in paragraph 11 of this
21 subsection reveals no records pertaining to the applicant, the
22 Oklahoma State Bureau of Investigation shall either issue a handgun
23 license or deny the application within sixty (60) days of the date
24 of receipt of the applicant's completed application and the required

1 information from the sheriff. In all other cases, the Oklahoma
2 State Bureau of Investigation shall either issue a handgun license
3 or deny the application within ninety (90) days of the date of the
4 receipt of the applicant's completed application and the required
5 information from the sheriff. The Bureau shall approve an applicant
6 who appears to be in full compliance with the provisions of the
7 Oklahoma Self-Defense Act, if completion of the federal fingerprint
8 search is the only reason for delay of the issuance of the handgun
9 license to that applicant. Upon receipt of the federal fingerprint
10 search information, if the Bureau receives information which
11 precludes the person from having a handgun license, the Bureau shall
12 revoke the handgun license previously issued to the applicant. The
13 Bureau shall deny a license when the applicant fails to properly
14 complete the application form or application process or is
15 determined not to be eligible as specified by the provisions of
16 Section 1290.9, 1290.10 or 1290.11 of this title. The Bureau shall
17 approve an application in all other cases. If an application is
18 denied, the Bureau shall notify the applicant in writing of its
19 decision. The notification shall state the grounds for the denial
20 and inform the applicant of the right to an appeal as may be
21 provided by the provisions of the Administrative Procedures Act.
22 All notices of denial shall be mailed by first class mail to the
23 address of the applicant listed in the application. Within sixty
24 (60) calendar days from the date of mailing a denial of application

1 to an applicant, the applicant shall notify the Bureau in writing of
2 the intent to appeal the decision of denial or the right of the
3 applicant to appeal shall be deemed waived. Any administrative
4 hearing on a denial which may be provided shall be conducted by a
5 hearing examiner appointed by the Bureau. The decision of the
6 hearing examiner shall be a final decision appealable to a district
7 court in accordance with the Administrative Procedures Act. When an
8 application is approved, the Bureau shall issue the license and
9 shall mail the license by first-class mail to the address of the
10 applicant listed in the application.

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

17 SECTION 2. This act shall become effective November 1, 2014.
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19 COMMITTEE REPORT BY: COMMITTEE ON PUBLIC SAFETY, dated 02/17/2014 -
20 DO PASS, As Coauthored.
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