

1 STATE OF OKLAHOMA

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

3 HOUSE BILL 2889

By: Enns

6 AS INTRODUCED

7 An Act relating to crimes and punishments; amending
8 21 O.S. 2011, Section 1290.12, as last amended by
9 Section 5, Chapter 366, O.S.L. 2013 (21 O.S. Supp.
10 2013, Section 1290.12), which relates to the Oklahoma
11 Self-Defense Act; modifying certain application
12 requirement; and providing an effective date.

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

13 SECTION 1. AMENDATORY 21 O.S. 2011, Section 1290.12, as
14 last amended by Section 5, Chapter 366, O.S.L. 2013 (21 O.S. Supp.
15 2013, Section 1290.12), is amended to read as follows:

16 Section 1290.12

17 PROCEDURE FOR APPLICATION

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

21 1. An eligible person may request an application packet for a
22 handgun license from the Oklahoma State Bureau of Investigation or
23 the county sheriff's office either in person or by mail. The Bureau
24 may provide application packets to each sheriff not exceeding two

1 hundred packets per request. The Bureau shall provide the following
2 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 or unconcealed carry by the Oklahoma Self-Defense Act.
14 The original certificate of training shall be submitted with the
15 application for a handgun license. No duplicate, copy, facsimile or
16 other 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~~ any county ~~wherein the~~
3 ~~applicant resides~~ within the State of Oklahoma;

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

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

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

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

19 6. Two passport size photographs of the applicant shall be
20 submitted with the completed application. The cost of the
21 photographs shall be the responsibility of the applicant. The
22 sheriff is authorized to take the photograph of the applicant for
23 purposes of the Oklahoma Self-Defense Act and, if such photographs
24 are taken by the sheriff the cost of the photographs shall not

1 exceed Ten Dollars (\$10.00) for the two photos. All money received
2 by the sheriff from photographing applicants pursuant to the
3 provisions of this paragraph shall be retained by the sheriff and
4 deposited into the Sheriff's Service Fee Account;

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

14 8. Upon verification of the identity of the applicant, the
15 sheriff shall take two complete sets of fingerprints of the
16 applicant. Both sets of fingerprints shall be submitted by the
17 sheriff with the completed application, certificate of training or
18 an exemption certificate, photographs and processing fee to the
19 Oklahoma State Bureau of Investigation within fourteen (14) days of
20 taking the fingerprints. The cost of the fingerprints shall be paid
21 by the applicant and shall not exceed Twenty-five Dollars (\$25.00)
22 for the two sets. All fees collected by the sheriff from taking
23 fingerprints pursuant to the provisions of this paragraph shall be
24

1 retained by the sheriff and deposited into the Sheriff's Service Fee
2 Account;

3 9. The sheriff shall submit to the Oklahoma State Bureau of
4 Investigation within the fourteen-day period, together with the
5 completed application, including the certificate of training or
6 exemption certificate, photographs, processing fee and legible
7 fingerprints meeting the Oklahoma State Bureau of Investigation's
8 Automated Fingerprint Identification System (AFIS) submission
9 standards, and a report of information deemed pertinent to an
10 investigation of the applicant for a handgun license. The sheriff
11 shall make a preliminary investigation of pertinent information
12 about the applicant and the court clerk shall assist the sheriff in
13 locating pertinent information in court records for this purpose.
14 If no pertinent information is found to exist either for or against
15 the applicant, 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. Notwithstanding the provisions of the Oklahoma Self-Defense
24 Act, or any other provisions of law, any person who has been granted

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

20 12. The Oklahoma State Bureau of Investigation shall make a
21 reasonable effort to investigate the information submitted by the
22 applicant and the sheriff, to ascertain whether or not the issuance
23 of a handgun license would be in violation of the provisions of the
24 Oklahoma Self-Defense Act. The investigation by the Bureau of an

1 applicant shall include, but shall not be limited to: a statewide
2 criminal history records search, a national criminal history records
3 search, a Federal Bureau of Investigation fingerprint search, and if
4 applicable, an investigation of medical records or other records or
5 information deemed by the Bureau to be relevant to the application.

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

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

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

23 (3) with an "Inconclusive" answer if the records of
24 the Department suggest the applicant may be a

1 formerly committed person. In the case of an
2 inconclusive answer, the Bureau shall ask the
3 applicant whether he or she was involuntarily
4 committed. If the applicant states under penalty
5 of perjury that he or she has not been
6 involuntarily committed, the Bureau shall
7 continue processing the application for a
8 license.

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

19 (1) If the Bureau finds a record on the JOLTS that
20 indicates the person was adjudicated a delinquent
21 for an offense that would constitute a felony
22 offense if committed by an adult within the last
23 ten (10) years the Bureau shall deny the license,
24

- 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; and

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

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

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

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

15 SECTION 2. This act shall become effective November 1, 2014.
16

17 54-2-8293 GRS 12/04/13
18
19
20
21
22
23
24