

1 **HOUSE OF REPRESENTATIVES - FLOOR VERSION**

2 STATE OF OKLAHOMA

3 1st Session of the 55th Legislature (2015)

4 HOUSE BILL 1396

 By: Murphey

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6
7 AS INTRODUCED

8 An Act relating to crimes and punishments; amending
9 21 O.S. 2011, Section 1290.12, as last amended by
10 Section 2, Chapter 11, O.S.L. 2014 (21 O.S. Supp.
11 2014, Section 1290.12), which relates to the Oklahoma
 Self-Defense Act; directing applicants to complete
 and submit application online under certain
 circumstances; and providing an effective date.

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

16 SECTION 1. AMENDATORY 21 O.S. 2011, Section 1290.12, as
17 last amended by Section 2, Chapter 11, O.S.L. 2014 (21 O.S. Supp.
18 2014, Section 1290.12), is amended to read as follows:

19 Section 1290.12

20 PROCEDURE FOR APPLICATION

21 A. Except as provided in paragraph 11 of this subsection, the
22 procedure for applying for a handgun license and processing the
23 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 county wherein the
7 applicant resides;

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,
- 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

Oklahoma State Bureau of Investigation shall determine which nationally recognized credit cards will be accepted by the Bureau, or

c. by electronic funds transfer.

Persons paying application fees to the Oklahoma State Bureau of Investigation by means of a nationally recognized credit card or by means of an electronic funds transfer shall be required to complete and submit his or her application through the online application process of the Bureau.

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

5. The completed application form shall be signed by the applicant in person before the sheriff. The signature shall be given voluntarily upon a sworn oath that the person knows the contents of the application and that the information contained in the application is true and correct. Any person making any false or misleading statement on an application for a handgun license shall, upon conviction, be guilty of perjury as defined by Section 491 of this title. Any conviction shall be punished as provided in Section 500 of this title. In addition to a criminal conviction, the person

1 shall be denied the right to have a handgun license pursuant to the
2 provisions of Section 1290.10 of this title and the Oklahoma State
3 Bureau of Investigation shall revoke the handgun license, if issued;

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

14 7. The sheriff shall witness the signature of the applicant and
15 review or take the photographs of the applicant and shall verify
16 that the person making application for a handgun license is the same
17 person in the photographs submitted and the same person who signed
18 the application form. Proof of a valid Oklahoma driver license with
19 a photograph of the applicant or an Oklahoma State photo
20 identification for the applicant shall be required to be presented
21 by the applicant to the sheriff for verification of the person's
22 identity;

23 8. Upon verification of the identity of the applicant, the
24 sheriff shall take two complete sets of fingerprints of the

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

11 9. The sheriff shall submit to the Oklahoma State Bureau of
12 Investigation within the fourteen-day period, together with the
13 completed application, including the certificate of training or
14 exemption certificate, photographs, processing fee and legible
15 fingerprints meeting the Oklahoma State Bureau of Investigation's
16 Automated Fingerprint Identification System (AFIS) submission
17 standards, and a report of information deemed pertinent to an
18 investigation of the applicant for a handgun license. The sheriff
19 shall make a preliminary investigation of pertinent information
20 about the applicant and the court clerk shall assist the sheriff in
21 locating pertinent information in court records for this purpose.
22 If no pertinent information is found to exist either for or against
23 the applicant, the sheriff shall so indicate in the report;

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

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

1 Oklahoma Self-Defense Act when carrying a handgun. The person may
2 proceed with the handgun licensing process. In the event the
3 victim's protection order is no longer enforceable, the temporary
4 handgun license shall cease to be valid;

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

15 a. In the course of the investigation by the Bureau, it
16 shall present the name of the applicant along with any
17 known aliases, the address of the applicant and the
18 social security number of the applicant to the
19 Department of Mental Health and Substance Abuse
20 Services. The Department of Mental Health and
21 Substance Abuse Services shall respond within ten (10)
22 days of receiving such information to the Bureau as
23 follows:
24

1 (1) with a "Yes" answer, if the records of the
2 Department indicate that the person was
3 involuntarily committed to a mental institution
4 in Oklahoma,
5 (2) with a "No" answer, if there are no records
6 indicating the name of the person as a person
7 involuntarily committed to a mental institution
8 in Oklahoma, or
9 (3) with an "Inconclusive" answer if the records of
10 the Department suggest the applicant may be a
11 formerly committed person. In the case of an
12 inconclusive answer, the Bureau shall ask the
13 applicant whether he or she was involuntarily
14 committed. If the applicant states under penalty
15 of perjury that he or she has not been
16 involuntarily committed, the Bureau shall
17 continue processing the application for a
18 license.

19 b. In the course of the investigation by the Bureau, it
20 shall check the name of any applicant who is twenty-
21 eight (28) years of age or younger along with any
22 known aliases, the address of the applicant and the
23 social security number of the applicant against the
24 records in the Juvenile Online Tracking System (JOLTS)

1 of the Office of Juvenile Affairs. The Office of
2 Juvenile Affairs shall provide the Bureau direct
3 access to check the applicant against the records
4 available on JOLTS.

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

1 ten (10) years, the Bureau shall continue
2 processing the application for a license; and

3 13. If the background check set forth in paragraph 11 of this
4 subsection reveals no records pertaining to the applicant, the
5 Oklahoma State Bureau of Investigation shall either issue a handgun
6 license or deny the application within sixty (60) days of the date
7 of receipt of the applicant's completed application and the required
8 information from the sheriff. In all other cases, the Oklahoma
9 State Bureau of Investigation shall either issue a handgun license
10 or deny the application within ninety (90) days of the date of the
11 receipt of the applicant's completed application and the required
12 information from the sheriff. The Bureau shall approve an applicant
13 who appears to be in full compliance with the provisions of the
14 Oklahoma Self-Defense Act, if completion of the federal fingerprint
15 search is the only reason for delay of the issuance of the handgun
16 license to that applicant. Upon receipt of the federal fingerprint
17 search information, if the Bureau receives information which
18 precludes the person from having a handgun license, the Bureau shall
19 revoke the handgun license previously issued to the applicant. The
20 Bureau shall deny a license when the applicant fails to properly
21 complete the application form or application process or is
22 determined not to be eligible as specified by the provisions of
23 Section 1290.9, 1290.10 or 1290.11 of this title. The Bureau shall
24 approve an application in all other cases. If an application is

1 denied, the Bureau shall notify the applicant in writing of its
2 decision. The notification shall state the grounds for the denial
3 and inform the applicant of the right to an appeal as may be
4 provided by the provisions of the Administrative Procedures Act.
5 All notices of denial shall be mailed by first-class mail to the
6 address of the applicant listed in the application. Within sixty
7 (60) calendar days from the date of mailing a denial of application
8 to an applicant, the applicant shall notify the Bureau in writing of
9 the intent to appeal the decision of denial or the right of the
10 applicant to appeal shall be deemed waived. Any administrative
11 hearing on a denial which may be provided shall be conducted by a
12 hearing examiner appointed by the Bureau. The decision of the
13 hearing examiner shall be a final decision appealable to a district
14 court in accordance with the Administrative Procedures Act. When an
15 application is approved, the Bureau shall issue the license and
16 shall mail the license by first-class mail to the address of the
17 applicant listed in the application.

18 B. Nothing contained in any provision of the Oklahoma Self-
19 Defense Act shall be construed to require or authorize the
20 registration, documentation or providing of serial numbers with
21 regard to any firearm. For purposes of the Oklahoma Self-Defense
22 Act, the sheriff may designate a person to receive, fingerprint,
23 photograph or otherwise process applications for handgun licenses.
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SECTION 2. This act shall become effective November 1, 2015.

COMMITTEE REPORT BY: COMMITTEE ON PUBLIC SAFETY, dated 02/23/2015 -
DO PASS.