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March 31, 2015

ENGROSSED HOUSE

BILL NO. 1396

By: Murphey of the House

and

Smalley of the Senate

An Act relating to crimes and punishments; amending 21 O.S. 2011, Section 1290.12, as last amended by Section 2, Chapter 11, O.S.L. 2014 (21 O.S. Supp. 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.

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

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

Section 1290.12

PROCEDURE FOR APPLICATION

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

1. An eligible person may request an application packet for a handgun license from the Oklahoma State Bureau of Investigation or

1 the county sheriff's office either in person or by mail. The Bureau
2 may provide application packets to each sheriff not exceeding two
3 hundred packets per request. The Bureau shall provide the following
4 information in the application packet:

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

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

1 handgun license when the person claims an exemption from training
2 and qualification;

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

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

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

1 which nationally recognized credit cards will be
2 accepted by the Bureau, or
3 c. by electronic funds transfer.

4 Any person paying application fees to the Oklahoma State Bureau of
5 Investigation by means of a nationally recognized credit card or by
6 means of an electronic funds transfer shall be required to complete
7 and submit his or her application through the online application
8 process of 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. Any conviction shall be punished as provided in Section
23 500 of this title. In addition to a criminal conviction, the person
24 shall be denied the right to have a handgun license pursuant to the

1 provisions of Section 1290.10 of this title and the Oklahoma State
2 Bureau of Investigation shall revoke the handgun license, if issued;

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

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

22 8. Upon verification of the identity of the applicant, the
23 sheriff shall take two complete sets of fingerprints of the
24 applicant. Both sets of fingerprints shall be submitted by the

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

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

23 10. The Oklahoma State Bureau of Investigation, upon receipt of
24 the application and required information from the sheriff, shall

1 forward one full set of fingerprints of the applicant to the Federal
2 Bureau of Investigation for a national criminal history records
3 search. The cost of processing the fingerprints nationally shall be
4 paid from the processing fee collected by the Oklahoma State Bureau
5 of Investigation;

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

1 victim's protection order is no longer enforceable, the temporary
2 handgun license shall cease to be valid;

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

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

22 (1) with a "Yes" answer, if the records of the
23 Department indicate that the person was
24

1 involuntarily committed to a mental institution
2 in Oklahoma,

3 (2) with a "No" answer, if there are no records
4 indicating the name of the person as a person
5 involuntarily committed to a mental institution
6 in Oklahoma, or

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

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

1 access to check the applicant against the records
2 available on JOLTS.

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

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

13 (3) If the records suggest the applicant may have
14 been adjudicated delinquent for an offense that
15 would constitute a felony offense if committed by
16 an adult but such record is inconclusive, the
17 Bureau shall ask the applicant whether he or she
18 was adjudicated a delinquent for an offense that
19 would constitute a felony offense if committed by
20 an adult within the last ten (10) years. If the
21 applicant states under penalty of perjury that he
22 or she was not adjudicated a delinquent within
23 ten (10) years, the Bureau shall continue
24 processing the application for a license; and

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

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

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

22 SECTION 2. This act shall become effective November 1, 2015.

23 COMMITTEE REPORT BY: COMMITTEE ON PUBLIC SAFETY
24 March 31, 2015 - DO PASS