

STATE OF OKLAHOMA

2nd Session of the 55th Legislature (2016)

SENATE BILL 959

By: Paddack

AS INTRODUCED

An Act relating to firearms; amending 21 O.S. 2011, Section 1289.8, as amended by Section 2, Chapter 144, O.S.L. 2015 (21 O.S. Supp. 2015, Section 1289.8), which relates to carrying a concealed weapon; clarifying definitions; modifying certain requirements; amending 21 O.S. 2011, Section 1290.12, as last amended by Section 1, Chapter 207, O.S.L. 2015 (21 O.S. 2015, Section 1290.12), which relates to the procedure for application; clarifying language; and providing an effective date.

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

SECTION 1. AMENDATORY 21 O.S. 2011, Section 1289.8, as amended by Section 2, Chapter 144, O.S.L. 2015 (21 O.S. Supp. 2015, Section 1289.8), is amended to read as follows:

Section 1289.8.

CARRYING CONCEALED WEAPON

A. Any fire marshal inspector who is retired, state, county or municipal peace officer of this state who is retired, or any state, county or municipal peace officer classified as a reserve who is retired, or any federal law enforcement officer who is retired may retain their status as a peace officer, retired, in the State of

Oklahoma, and as such may carry a concealed pistol pursuant to the provisions of subsection B of this section. A retired state, county or municipal peace officer may in times of great emergency or danger serve to enforce the law, keep the peace or to protect the public in keeping with their availability and ability at the request of the Governor, the sheriff or the mayor of their retirement jurisdiction. If a retired fire marshal is activated for duty, the peace officer powers of the retired fire marshal are limited to the duties granted prior to retirement.

For purposes of this section, a retired federal, state, county or municipal peace officer is one who:

1. Before such separation, served as a peace officer for an aggregate of ten (10) years or more; or

2. Separated from service with such agency, after completing any applicable probationary period of such service, due to a service-connected disability, as determined by the retirement agency.

B. The Council on Law Enforcement Education and Training (CLEET) shall issue an identification card to eligible retired federal, state, county, and municipal peace officers which authorizes the retired peace officer to carry a concealed pistol anywhere in the State of Oklahoma. The identification card shall bear the full name of the retired officer, the signature of the retired officer, the date of issuance, and such other information as

1 may be deemed appropriate by CLEET. The card shall not expire, but
2 may be denied, suspended or revoked as provided by the rules
3 promulgated by CLEET or upon the discovery of any preclusion
4 prescribed in Section 1290.10 or 1290.11 of this title. The Council
5 on Law Enforcement Education and Training shall request the Oklahoma
6 State Bureau of Investigation to conduct a state and national
7 criminal history records search on each retired peace officer
8 authorized to carry a concealed firearm pursuant to the provisions
9 of this section every four (4) years, and unless a preclusion
10 prescribed in Section 1290.10 or 1290.11 of this title is found to
11 exist, no action shall be necessary. When a preclusion is
12 discovered, the Council shall notify the retired peace officer and
13 shall hold a hearing before taking any action to suspend or revoke
14 the authority to carry a concealed pistol.

15 C. The retired peace officer shall be required to submit the
16 following information to the Council on Law Enforcement Education
17 and Training (CLEET) and any other information requested by CLEET:

18 1. A statement from the appropriate retirement system verifying
19 the status of the person as a retired peace officer of the
20 jurisdiction or, if the retired peace officer does not participate
21 in a retirement system, a statement from the appropriate law
22 enforcement agency verifying the status of the person as a retired
23 peace officer of that jurisdiction, and the reason why the retired
24 peace officer does not participate in a retirement system; and

1 2. A notarized statement, signed by the retired peace officer,
2 stating that the officer:

- 3 a. has not been convicted of and is currently not subject
4 to any pending criminal prosecution for any ~~felony~~
5 ~~offense, any drug-related offense, aggravated assault~~
6 ~~and battery or any offense involving impairment by~~
7 ~~drugs or alcohol~~ preclusion prescribed in Section
8 1290.10 or 1290.11 of this title,
- 9 b. has not been forced into retirement due to any mental
10 disorder, and
- 11 c. has not suffered any injury or any physical or mental
12 impairment which would render the person unsafe to
13 carry a concealed pistol.

14 3. Effective July 1, 2016, the retired peace officer shall be
15 required to submit the following information in addition to the
16 information listed in paragraphs 1 and 2 of this subsection:

- 17 a. a document from the Oklahoma State Bureau of
18 Investigation demonstrating no preclusions prescribed
19 in the Oklahoma Self-Defense Act were revealed through
20 a state and federal fingerprint and criminal history
21 checks, and
- 22 b. a document from the local law enforcement agency and
23 courts demonstrating the retired peace officer has no
24 preclusions prescribed in the Oklahoma Self-Defense

1 Act and no pending criminal prosecution for any
2 preclusion prescribed in Section 1290.10 or 1290.11 of
3 this title.

4 D. A retired peace officer, who has made application for the
5 CLEET identification card authorized in subsection B of this
6 section, shall be authorized to carry a concealed firearm as an off-
7 duty peace officer, pursuant to Section 1289.23 of this title, until
8 the authority to carry a concealed firearm as a retired officer is
9 finally approved or denied by CLEET.

10 E. The Council on Law Enforcement Education and Training shall
11 promulgate rules and procedures necessary to implement the
12 provisions of this section.

13 F. Any peace officer, retired, who carries any pistol in
14 violation of the provisions of this section shall be deemed to be in
15 violation of Section 1272 of this title and may be prosecuted as
16 provided by law for a violation of that section.

17 SECTION 2. AMENDATORY 21 O.S. 2011, Section 1290.12, as
18 last amended by Section 1, Chapter 207, O.S.L. 2015 (21 O.S. Supp.
19 2015, 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 or from an interactive online firearms safety
16 and training course available electronically via the Internet which
17 has been approved ~~and certified~~ as to curriculum by the Council on
18 Law Enforcement Education and Training, and the person shall be
19 required to demonstrate competency and qualification with a pistol
20 authorized for concealed or unconcealed carry by the Oklahoma Self-
21 Defense Act. The original certificate of successful completion of a
22 firearms safety and training course and an original certificate of
23 successful demonstration of competency and qualification to carry
24 and handle a pistol shall be submitted with the application for a

1 handgun license. No duplicate, copy, facsimile or other
2 reproduction of the certificate of training, certificate of
3 competency and qualification or exemption from training shall be
4 acceptable as proof of training as required by the provisions of the
5 Oklahoma Self-Defense Act. A person exempt from the training
6 requirements as provided in Section 1290.15 of this title must show
7 the required proof of such exemption to the firearms instructor to
8 receive an exemption certificate. The original exemption
9 certificate must be submitted with the application for a handgun
10 license when the person claims an exemption from training and
11 qualification;

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

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

- 21 a. a money order or a cashier's check made payable to the
22 Oklahoma State Bureau of Investigation,
- 23 b. by a nationally recognized credit card issued to the
24 applicant. For purposes of this paragraph,

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

11 c. by electronic funds transfer.

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

18 5. The completed application form shall be signed by the
19 applicant in person before the sheriff. The signature shall be
20 given voluntarily upon a sworn oath that the person knows the
21 contents of the application and that the information contained in
22 the application is true and correct. Any person making any false or
23 misleading statement on an application for a handgun license shall,
24 upon conviction, be guilty of perjury as defined by Section 491 of

1 this title. Any conviction shall be punished as provided in Section
2 500 of this title. In addition to a criminal conviction, the person
3 shall be denied the right to have a handgun license pursuant to the
4 provisions of Section 1290.10 of this title and the Oklahoma State
5 Bureau of Investigation shall revoke the handgun license, if issued;

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

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

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

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

1 pertinent information is found to exist either for or against the
2 applicant, the sheriff shall so indicate in the report;

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

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

1 valid Oklahoma state photo identification on his or her person at
2 all times, and shall be subject to all the requirements of the
3 Oklahoma Self-Defense Act when carrying a handgun. The person may
4 proceed with the handgun licensing process. In the event the
5 victim's protection order is no longer enforceable, the temporary
6 handgun license shall cease to be valid;

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

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

1 days of receiving such information to the Bureau as
2 follows:

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

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

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

- 7 (1) ~~If~~ if the Bureau finds a record on the JOLTS that
8 indicates the person was adjudicated a delinquent
9 for an offense that would constitute a felony
10 offense if committed by an adult within the last
11 ten (10) years the Bureau shall deny the license,
- 12 (2) ~~If~~ if the Bureau finds no record on the JOLTS
13 indicating the named person was adjudicated
14 delinquent for an offense that would constitute a
15 felony offense if committed by an adult within
16 the last ten (10) years, or
- 17 (3) ~~If~~ if the records suggest the applicant may have
18 been adjudicated delinquent for an offense that
19 would constitute a felony offense if committed by
20 an adult but such record is inconclusive, the
21 Bureau shall ask the applicant whether he or she
22 was adjudicated a delinquent for an offense that
23 would constitute a felony offense if committed by
24 an adult within the last ten (10) years. If the

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

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

1 Section 1290.9, 1290.10 or 1290.11 of this title. The Bureau shall
2 approve an application in all other cases. If an application is
3 denied, the Bureau shall notify the applicant in writing of its
4 decision. The notification shall state the grounds for the denial
5 and inform the applicant of the right to an appeal as may be
6 provided by the provisions of the Administrative Procedures Act.
7 All notices of denial shall be mailed by first-class mail to the
8 address of the applicant listed in the application. Within sixty
9 (60) calendar days from the date of mailing a denial of application
10 to an applicant, the applicant shall notify the Bureau in writing of
11 the intent to appeal the decision of denial or the right of the
12 applicant to appeal shall be deemed waived. Any administrative
13 hearing on a denial which may be provided shall be conducted by a
14 hearing examiner appointed by the Bureau. The decision of the
15 hearing examiner shall be a final decision appealable to a district
16 court in accordance with the Administrative Procedures Act. When an
17 application is approved, the Bureau shall issue the license and
18 shall mail the license by first-class mail to the address of the
19 applicant listed in the application.

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

1 Act, the sheriff may designate a person to receive, fingerprint,
2 photograph or otherwise process applications for handgun licenses.

3 SECTION 3. This act shall become effective November 1, 2016.

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