

COMMITTEE AMENDMENT

HOUSE OF REPRESENTATIVES

State of Oklahoma

SPEAKER:

CHAIR:

I move to amend HB4119 _____
Of the printed Bill
Page _____ Section _____ Lines _____
Of the Engrossed Bill

By striking the Title, the Enacting Clause, the entire bill, and by
inserting in lieu thereof the following language:

AMEND TITLE TO CONFORM TO AMENDMENTS

Amendment submitted by: Cyndi Munson

Adopted: _____

Reading Clerk

STATE OF OKLAHOMA

2nd Session of the 58th Legislature (2022)

PROPOSED COMMITTEE
SUBSTITUTE
FOR
HOUSE BILL NO. 4119

By: Munson

PROPOSED COMMITTEE SUBSTITUTE

An Act relating to domestic violence; amending 21 O.S. 2021, Section 1283, which relates to convicted felons and delinquents; prohibiting persons convicted of certain offenses or subject to a final protective order from possessing firearms; directing the court to include certain information in orders issued by the court; establishing procedures for the transfer of firearms and handgun license under certain circumstances; requiring written proof of transfer; requiring person to file certain declaration and proof of transfer with the court; prohibiting prosecution of certain offense under specified circumstances; requiring return of firearms and handgun license upon expiration or termination of protective order; requiring certain background check prior to return of firearms and handgun license; authorizing contempt proceedings under certain circumstances; authorizing search warrant for removal of firearms under certain circumstances; providing for storage of transferred firearms; authorizing storage fee; authorizing development of rules and procedures for storage and disposal of firearms and handgun licenses by law enforcement agencies; amending 22 O.S. 2021, Section 60.11, which relates to the Protection from Domestic Abuse Act; modifying required statement to be printed on ex parte or final protective order; providing for codification; and providing an effective date.

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

1 SECTION 1. AMENDATORY 21 O.S. 2021, Section 1283, is
2 amended to read as follows:

3 Section 1283.

4 CONVICTED FELONS AND DELINQUENTS

5 A. Except as provided in subsection B of this section, it shall
6 be unlawful for any person convicted of any felony in any court of
7 this state or of another state or of the United States to have in
8 his or her possession or under his or her immediate control, or in
9 any vehicle which the person is operating, or in which the person is
10 riding as a passenger, or at the residence where the convicted
11 person resides, any pistol, imitation or homemade pistol, altered
12 air or toy pistol, machine gun, sawed-off shotgun or rifle, or any
13 other dangerous or deadly firearm.

14 B. Any person who has previously been convicted of a nonviolent
15 felony in any court of this state or of another state or of the
16 United States, and who has received a full and complete pardon from
17 the proper authority and has not been convicted of any other felony
18 offense which has not been pardoned, shall have restored the right
19 to possess any firearm or other weapon prohibited by subsection A of
20 this section, the right to apply for and carry a handgun, concealed
21 or unconcealed, pursuant to the Oklahoma Self-Defense Act or as
22 otherwise permitted by law, and the right to perform the duties of a
23 peace officer, gunsmith, and for firearms repair.

1 C. It shall be unlawful for any person serving a term of
2 probation for any felony in any court of this state or of another
3 state or of the United States or under the jurisdiction of any
4 alternative court program to have in his or her possession or under
5 his or her immediate control, or at his or her residence, or in any
6 passenger vehicle which the person is operating or is riding as a
7 passenger, any pistol, shotgun or rifle, including any imitation or
8 homemade pistol, altered air or toy pistol, shotgun or rifle, while
9 such person is subject to supervision, probation, parole or inmate
10 status.

11 D. It shall be unlawful for any person previously adjudicated
12 as a delinquent child or a youthful offender for the commission of
13 an offense, which would have constituted a felony offense if
14 committed by an adult, to have in the possession of the person or
15 under the immediate control of the person, or have in any vehicle
16 which he or she is driving or in which the person is riding as a
17 passenger, or at the residence of the person, any pistol, imitation
18 or homemade pistol, altered air or toy pistol, machine gun, sawed-
19 off shotgun or rifle, or any other dangerous or deadly firearm
20 within ten (10) years after such adjudication; provided, that
21 nothing in this subsection shall be construed to prohibit the
22 placement of the person in a home with a full-time duly appointed
23 peace officer who is certified by the Council on Law Enforcement
24

1 Education and Training (CLEET) pursuant to the provisions of Section
2 3311 of Title 70 of the Oklahoma Statutes.

3 E. It shall be unlawful for any person who is an alien
4 illegally or unlawfully in the United States to have in the
5 possession of the person or under the immediate control of the
6 person, or in any vehicle the person is operating, or at the
7 residence where the person resides, any pistol, imitation or
8 homemade pistol, altered air or toy pistol, shotgun, rifle or any
9 other dangerous or deadly firearm; provided, that nothing in this
10 subsection applies to prohibit the transport or detention of the
11 person by law enforcement officers or federal immigration
12 authorities. Any person who violates the provisions of this
13 subsection shall, upon conviction, be guilty of a misdemeanor
14 punishable by a fine of Two Hundred Fifty Dollars (\$250.00).

15 F. It shall be unlawful for any person convicted of misdemeanor
16 domestic abuse under subsection C of Section 644 of this title,
17 misdemeanor stalking under paragraph 2 of subsection A of Section
18 1173 of this title, or a misdemeanor crime of domestic violence as
19 defined in 18 U.S.C., Section 921(a)(33)(A) in any court of this
20 state or of another state or of the United States, or subject to a
21 final protective order issued pursuant to subsection C of Section
22 60.4 of Title 22 of the Oklahoma Statutes or a foreign protective
23 order that qualifies as an order described in 18 U.S.C., Section
24 922(d)(8) or (g)(8) to have in his or her possession or under his or

1 her immediate control, or in any vehicle which the person is
2 operating, or in which the person is riding as a passenger, or at
3 the residence where the convicted person resides, any pistol,
4 imitation or homemade pistol, altered air or toy pistol, machine
5 gun, shotgun or rifle, or any other dangerous or deadly firearm.

6 G. Any person having been issued a handgun license pursuant to
7 the provisions of the Oklahoma Self-Defense Act and who thereafter
8 knowingly or intentionally allows a convicted felon or adjudicated
9 delinquent or a youthful offender as prohibited by the provisions of
10 subsection A, C, or D of this section to possess or have control of
11 any pistol authorized by the Oklahoma Self-Defense Act shall, upon
12 conviction, be guilty of a felony punishable by a fine not to exceed
13 Five Thousand Dollars (\$5,000.00). In addition, the person shall
14 have the handgun license revoked by the Oklahoma State Bureau of
15 Investigation after a hearing and determination that the person has
16 violated the provisions of this section.

17 ~~G.~~ H. Any convicted or adjudicated person violating the
18 provisions of this section shall, upon conviction, be guilty of a
19 felony punishable as provided in Section 1284 of this title.

20 ~~H.~~ I. For purposes of this section, "sawed-off shotgun or
21 rifle" shall mean any shotgun or rifle which has been shortened to
22 any length.
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1 ~~F.~~ J. For purposes of this section, "altered toy pistol" shall
2 mean any toy weapon which has been altered from its original
3 manufactured state to resemble a real weapon.

4 ~~F.~~ K. For purposes of this section, "altered air pistol" shall
5 mean any air pistol manufactured to propel projectiles by air
6 pressure which has been altered from its original manufactured
7 state.

8 ~~K.~~ L. For purposes of this section, "alternative court program"
9 shall mean any drug court, Anna McBride or mental health court, DUI
10 court or veterans court.

11 SECTION 2. NEW LAW A new section of law to be codified
12 in the Oklahoma Statutes as Section 60.10 of Title 22, unless there
13 is created a duplication in numbering, reads as follows:

14 A. When a person is convicted of domestic abuse pursuant to
15 Section 644 of Title 21 of the Oklahoma Statutes, stalking pursuant
16 to Section 1173 of Title 21 of the Oklahoma Statutes, or the person
17 becomes subject to a final protective order pursuant to Section 60.4
18 of Title 22 of the Oklahoma Statutes, the court shall, at the time
19 of conviction or issuance of the protective order:

20 1. Indicate in the judgment and sentence or protective order
21 that the person is prohibited from possessing firearms pursuant to
22 subsection F of Section 1283 of Title 21 of the Oklahoma Statutes;

23 2. Order in writing that the person transfer all firearms and
24 any handgun license issued pursuant to the provisions of the

1 Oklahoma Self-Defense Act in the possession of the person in
2 accordance with subsection B of this section; and

3 3. Order that the person file a declaration as described in
4 subsection D of this section.

5 B. Within twenty-four (24) hours, exclusive of legal holidays
6 and weekends, of becoming subject to a court order under paragraph 2
7 of subsection A of this section, a person shall transfer all
8 firearms and any handgun license in the possession of the person to
9 a law enforcement agency within the municipality or county in which
10 the person resides or to a licensed dealer, as defined in paragraph
11 1 of subsection A of Section 1289.28 of Title 21 of the Oklahoma
12 Statutes, and shall obtain a proof of transfer under subsection C of
13 this section. If the person is incarcerated at the time the order
14 is issued, the person shall transfer the firearms and any handgun
15 license no later than twenty-four (24) hours after release from
16 incarceration, exclusive of legal holidays and weekends.

17 C. A law enforcement agency or licensed dealer receiving a
18 firearm or handgun license pursuant to this subsection shall issue
19 to the person a written proof of transfer. The proof of transfer
20 shall include the name of the person, the date of transfer, and the
21 serial number, make, and model of each transferred firearm.

22 D. Within forty-eight (48) hours, exclusive of legal holidays
23 and weekends, of becoming subject to a court order under paragraph 2
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1 of subsection A of this section, a person shall file with the court
2 a declaration under penalty of perjury attesting that:

3 1. All firearms and any handgun license in the possession of
4 the person have been transferred under subsection B of this section
5 to a law enforcement agency or licensed dealer;

6 2. The person was not in possession of any firearms or handgun
7 license at the time of the order of the court and the person
8 continues to not possess any firearms; and

9 3. The person is asserting his or her own constitutional right
10 against self-incrimination.

11 E. The person shall file with the declaration a copy of the
12 proof of transfer, if applicable.

13 F. A person in possession of a firearm in violation of
14 subsection F of Section 1283 of Title 21 of the Oklahoma Statutes
15 may not be prosecuted for that violation if:

16 1. The person is in possession of a court order described in
17 paragraph 2 of subsection A of this section that was issued within
18 the previous twenty-four (24) hours;

19 2. The firearm is unloaded; and

20 3. The person is transporting the firearm or ammunition to a
21 law enforcement agency or federally licensed dealer in accordance
22 with subsection B of this section.

23 G. Upon the expiration or termination of a protective order, at
24 the request of the person, a law enforcement agency or licensed

1 dealer shall return any stored firearms and handgun license to the
2 person after performing a check of the National Instant Criminal
3 Background Check System (NICS) to confirm that the person is not
4 prohibited from possessing a firearm or ammunition under state or
5 federal law.

6 H. If the person does not file a declaration described in
7 subsection D of this section, the court may commence contempt
8 proceedings under Section 567 of Title 21 of the Oklahoma Statutes.

9 I. On application by a law enforcement official based on
10 probable cause to believe that the person has failed to transfer one
11 or more firearms in accordance with this section, the court may
12 authorize the execution of a search warrant for the removal of
13 firearms at any location where the court has probable cause to
14 believe a firearm possessed by the person is located.

15 J. 1. A law enforcement agency may enter into an agreement
16 with another law enforcement agency or storage facility for the
17 storage of transferred firearms and handgun licenses. A law
18 enforcement agency may charge a fee for storage, the amount of which
19 shall not exceed the costs incurred by the law enforcement agency
20 for providing storage.

21 2. Law enforcement agencies may develop rules and procedures
22 pertaining to the storage and disposal of firearms and handgun
23 licenses that are transferred in accordance with this section.

SECTION 3. AMENDATORY 22 O.S. 2021, Section 60.11, is amended to read as follows:

Section 60.11. In addition to any other provisions required by the Protection from Domestic Abuse Act, or otherwise required by law, each ex parte or final protective order issued pursuant to the Protection from Domestic Abuse Act shall have a statement printed in bold-faced type or in capital letters containing the following information:

1. The filing or nonfiling of criminal charges and the prosecution of the case shall not be determined by a person who is protected by the protective order, but shall be determined by the prosecutor;

2. No person, including a person who is protected by the order, may give permission to anyone to ignore or violate any provision of the order. During the time in which the order is valid, every provision of the order shall be in full force and effect unless a court changes the order;

3. The order shall be in effect for a fixed period of five (5) years unless extended, modified, vacated or rescinded by the court or shall be continuous upon a specific finding by the court as provided in subparagraph b of paragraph 1 of subsection G of Section 60.4 of this title unless modified, vacated or rescinded by the court;

1 4. A violation of the order is punishable by a fine of up to
2 One Thousand Dollars (\$1,000.00) or imprisonment for up to one (1)
3 year in the county jail, or by both such fine and imprisonment. A
4 violation of the order which causes injury is punishable by
5 imprisonment for twenty (20) days to one (1) year in the county jail
6 or a fine of up to Five Thousand Dollars (\$5,000.00), or by both
7 such fine and imprisonment; and

8 5. Possession of a firearm ~~or ammunition~~ by a defendant while
9 ~~an a final~~ order is in effect ~~may subject the defendant to~~
10 ~~prosecution for a violation of federal law even if the order does~~
11 ~~not specifically prohibit the defendant from possession of a firearm~~
12 ~~or ammunition~~ is prohibited pursuant to subsection F of Section 1283
13 of Title 21 of the Oklahoma Statutes.

14 SECTION 4. This act shall become effective November 1, 2022.

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16 58-2-10549 GRS 02/16/22
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