

1 STATE OF OKLAHOMA

2 2nd Session of the 55th Legislature (2016)

3 SUBCOMMITTEE RECOMMENDATION
4 FOR ENGROSSED

5 SENATE BILL NO. 959

By: Paddack of the Senate

and

Thomsen of the House

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9 SUBCOMMITTEE RECOMMENDATION

10 An Act relating to firearms; amending 21 O.S. 2011,
11 Section 1289.8, as amended by Section 2, Chapter 144,
12 O.S.L. 2015 (21 O.S. Supp. 2015, Section 1289.8),
13 which relates to carrying a concealed weapon;
14 clarifying definitions; modifying certain
15 requirements; amending 21 O.S. 2011, Section 1290.12,
16 as last amended by Section 1, Chapter 207, O.S.L.
17 2015 (21 O.S. 2015, Section 1290.12), which relates
18 to the procedure for application; clarifying
19 language; and providing an effective date.

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

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

Section 1289.8.

24 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,

1 county or municipal peace officer classified as a reserve who is
2 retired, or any federal law enforcement officer who is retired may
3 retain their status as a peace officer, retired, in the State of
4 Oklahoma, and as such may carry a ~~concealed pistol~~ firearm pursuant
5 to the provisions of subsection B of this section. A retired state,
6 county or municipal peace officer may in times of great emergency or
7 danger serve to enforce the law, keep the peace or to protect the
8 public in keeping with their availability and ability at the request
9 of the Governor, the sheriff or the mayor of their retirement
10 jurisdiction. If a retired fire marshal is activated for duty, the
11 peace officer powers of the retired fire marshal are limited to the
12 duties granted prior to retirement.

13 B. The Council on Law Enforcement Education and Training
14 (CLEET) shall issue an identification card to eligible retired
15 federal, state, county, and municipal peace officers which
16 authorizes the retired peace officer to carry a ~~concealed pistol~~
17 firearm anywhere in the State of Oklahoma. The identification card
18 shall bear the full name of the retired officer, the signature of
19 the retired officer, the date of issuance, and such other
20 information as may be deemed appropriate by CLEET. The card shall
21 ~~not expire, but~~ every ten (10) years and may be denied, suspended or
22 revoked as provided by the rules promulgated by CLEET or upon the
23 discovery of any preclusion prescribed in Section 1290.10 or 1290.11
24 of this title. ~~The~~ In order to renew the permit, the Council on Law

1 Enforcement Education and Training shall request, pursuant to
2 Section 150.9 of Title 74 of the Oklahoma Statutes, the Oklahoma
3 State Bureau of Investigation to conduct a state and national
4 criminal history records search on each retired peace officer
5 authorized to carry a ~~concealed~~ firearm pursuant to the provisions
6 of this section ~~every four (4) years,~~; and unless a preclusion
7 prescribed in Section 1290.10 or 1290.11 of this title is found to
8 exist, no action shall be necessary. A retired peace officer
9 requesting a renewal of his or her permit shall submit to the
10 Council a nonrefundable fee for a national criminal history record
11 with fingerprint analysis, as provided in Section 150.9 of Title 74
12 of the Oklahoma Statutes. When a preclusion is discovered, the
13 Council shall notify the retired peace officer and shall hold a
14 hearing before taking any action to suspend or revoke the authority
15 to carry a ~~concealed pistol~~ firearm.

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

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

1 peace officer of that jurisdiction, ~~and the reason why the retired~~
2 ~~peace officer does not participate in a retirement system; and~~

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

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

16 D. A retired peace officer, who has made application for the
17 CLEET identification card authorized in subsection B of this
18 section, shall be authorized to carry a ~~concealed~~ firearm as an off-
19 duty peace officer, pursuant to Section 1289.23 of this title, until
20 the authority to carry a ~~concealed~~ firearm as a retired officer is
21 finally approved or denied by CLEET.

22 E. The Council on Law Enforcement Education and Training shall
23 promulgate rules and procedures necessary to implement the
24 provisions of this section.

1 F. Any peace officer, retired, who carries any ~~pistol~~ firearm
2 in violation of the provisions of this section shall be deemed to be
3 in violation of Section 1272 of this title and may be prosecuted as
4 provided by law for a violation of that section.

5 SECTION 2. AMENDATORY 21 O.S. 2011, Section 1290.12, as
6 last amended by Section 1, Chapter 207, O.S.L. 2015 (21 O.S. Supp.
7 2015, Section 1290.12), is amended to read as follows:

8 Section 1290.12.

9 PROCEDURE FOR APPLICATION

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

13 1. An eligible person may request an application packet for a
14 handgun license from the Oklahoma State Bureau of Investigation or
15 the county sheriff's office either in person or by mail. The Bureau
16 may provide application packets to each sheriff not exceeding two
17 hundred packets per request. The Bureau shall provide the following
18 information in the application packet:

- 19 a. an application form,
- 20 b. procedures to follow to process the application form,
- 21 and
- 22 c. a copy of the Oklahoma Self-Defense Act with any
23 modifications thereto;

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1 2. The person shall be required to successfully complete a
2 firearms safety and training course from a firearms instructor who
3 is approved and registered in this state as provided in Section
4 1290.14 of this title or from an interactive online firearms safety
5 and training course available electronically via the Internet which
6 has been approved and certified as to curriculum by the Council on
7 Law Enforcement Education and Training, and the person shall be
8 required to demonstrate competency and qualification with a pistol
9 authorized for concealed or unconcealed carry by the Oklahoma Self-
10 Defense Act. The original certificate of successful completion of a
11 firearms safety and training course and an original certificate of
12 successful demonstration of competency and qualification to carry
13 and handle a pistol shall be submitted with the application for a
14 handgun license. No duplicate, copy, facsimile or other
15 reproduction of the certificate of training, certificate of
16 competency and qualification or exemption from training shall be
17 acceptable as proof of training as required by the provisions of the
18 Oklahoma Self-Defense Act. A person exempt from the training
19 requirements as provided in Section 1290.15 of this title must show
20 the required proof of such exemption to the firearms instructor to
21 receive an exemption certificate. The original exemption
22 certificate must be submitted with the application for a handgun
23 license when the person claims an exemption from training and
24 qualification;

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

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,

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, or

24 c. ~~by~~ electronic funds transfer.

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
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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,
6 certificate of competency and qualification or exemption
7 certificate, photographs, processing fee and legible fingerprints
8 meeting the Oklahoma State Bureau of Investigation's Automated
9 Fingerprint Identification System (AFIS) submission standards, and a
10 report of information deemed pertinent to an investigation of the
11 applicant for a handgun license. The sheriff shall make a
12 preliminary investigation of pertinent information about the
13 applicant, and the court clerk shall assist the sheriff in locating
14 pertinent information in court records for this purpose. If no
15 pertinent information is found to exist either for or against the
16 applicant, the sheriff shall so indicate in the report;

17 10. The Oklahoma State Bureau of Investigation, upon receipt of
18 the application and required information from the sheriff, shall
19 forward one full set of fingerprints of the applicant to the Federal
20 Bureau of Investigation for a national criminal history records
21 search. The cost of processing the fingerprints nationally shall be
22 paid from the processing fee collected by the Oklahoma State Bureau
23 of Investigation;

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

22 12. The Oklahoma State Bureau of Investigation shall make a
23 reasonable effort to investigate the information submitted by the
24 applicant and the sheriff, to ascertain whether or not the issuance

1 of a handgun license would be in violation of the provisions of the
2 Oklahoma Self-Defense Act. The investigation by the Bureau of an
3 applicant shall include, but shall not be limited to: a statewide
4 criminal history records search, a national criminal history records
5 search, a Federal Bureau of Investigation fingerprint search, and,
6 if applicable, an investigation of medical records or other records
7 or information deemed by the Bureau to be relevant to the
8 application.

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

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

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

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

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

23 (1) ~~If~~ if the Bureau finds a record on the JOLTS that
24 indicates the person was adjudicated a delinquent

1 for an offense that would constitute a felony
2 offense if committed by an adult within the last
3 ten (10) years, the Bureau shall deny the
4 license,

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

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

22 13. If the background check set forth in paragraph 12 of this
23 subsection reveals no records pertaining to the applicant, the
24 Oklahoma State Bureau of Investigation shall either issue a handgun

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

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

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

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