

1 STATE OF OKLAHOMA

2 1st Session of the 57th Legislature (2019)

3 HOUSE BILL 1161

By: Worthen

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5
6 AS INTRODUCED

7 An Act relating to firearms; amending Section 3,
8 Chapter 259, O.S.L. 2014 (21 O.S. Supp. 2018, Section
9 1290.27), which relates to the Oklahoma Self-Defense
10 Act; authorizing transmission of certain information
11 by using electronic methods or data exchange; and
12 providing an effective date.

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

14 SECTION 1. AMENDATORY Section 3, Chapter 259, O.S.L.
15 2014 (21 O.S. Supp. 2018, Section 1290.27), is amended to read as
16 follows:

17 Section 1290.27 A. When a court adjudicates a person
18 mentally incompetent or orders the involuntary commitment of
19 a person due to a mental illness, condition or disorder under
20 the laws of this state by which a person becomes subject to
21 the provisions of Section 922(d)(4) and (g)(4) of Title 18 of
22 the United States Code, the clerk of the court shall forward
23 a certified copy of the order or adjudication to the Federal
24 Bureau of Investigation or its successor agency for the sole
purpose of inclusion in the National Instant Criminal

1 Background Check System database and to the Oklahoma State
2 Bureau of Investigation. The clerk of the court shall also
3 notify the person of the prohibitions contained within the
4 provisions of Section 922(d)(4) and (g)(4) of Title 18 of the
5 United States Code, paragraph 3 of Section 1290.10 or
6 paragraph 3 of subsection A of Section 1290.11 of Title 21 of
7 the Oklahoma Statutes.

8 B. When a court adjudicates a person mentally incompetent or
9 orders the involuntary commitment of a person due to a mental
10 illness, condition or disorder under the laws of this state by which
11 a person becomes subject to the provisions of Section 922(d)(4) and
12 (g)(4) of Title 18 of the United States Code, paragraph 3 of Section
13 1290.10 or paragraph 3 of subsection A of Section 1290.11 of Title
14 21 of the Oklahoma Statutes, or when a person is otherwise
15 disqualified from eligibility for a handgun license under paragraph
16 6 or 7 of Section 1290.10 of Title 21 of the Oklahoma Statutes or
17 paragraph 4 of subsection A of Section 1290.11 of Title 21 of the
18 Oklahoma Statutes, the person may petition the court in which the
19 adjudication or commitment proceedings occurred or the district
20 court of the county in which the person currently resides to remove
21 the disability.

22 C. On filing of the petition, the court shall set a hearing.
23 Not less than thirty (30) days prior to a hearing on the matter, a
24 copy of the petition for relief shall be served upon the district

1 attorney for that county. The court shall receive and consider
2 evidence in a closed hearing.

3 D. The court shall receive evidence on and consider the
4 following before granting or denying the petition:

5 1. Psychological or psychiatric evidence from the petitioner
6 and in support of the petition;

7 2. The circumstances that resulted in the firearm disabilities;

8 3. The petitioner's criminal history records provided by the
9 state, if any;

10 4. The petitioner's mental health records;

11 5. The reputation of the petitioner based on character witness
12 statements, testimony or other character evidence;

13 6. Whether the petitioner is a danger to self or others;

14 7. Changes in the condition or circumstances of the petitioner
15 since the original adjudication of mental incompetency or
16 involuntary commitment for a mental illness, condition or disorder
17 relevant to the relief sought; and

18 8. Any other evidence deemed admissible by the court.

19 E. The court shall grant the relief requested if the petitioner
20 proves by clear and convincing evidence that:

21 1. The petitioner is not likely to act in a manner that is
22 dangerous to the public safety; and

23 2. Granting the relief requested is not contrary to the public
24 interest.

1 F. At the conclusion of the hearing, the court shall issue
2 findings of fact and conclusions of law. A record shall be kept of
3 the proceedings, but shall remain confidential and be disclosed only
4 to a court or the parties. No records of the proceedings pursuant
5 to this subsection shall be open to public inspection except by
6 order of the court or to a person's attorney of record. The
7 petitioner may appeal a denial of the requested relief, and review
8 on appeal shall be de novo.

9 G. If the court grants the petition for relief, the original
10 adjudication of mental incompetency or order of involuntary
11 commitment due to a mental illness, condition or disorder of the
12 petitioner is deemed not to have occurred for purposes of applying
13 Section 922(d)(4) and (g)(4) of Title 18 of the United States Code,
14 paragraph 3, 6 or 7 of Section 1290.10, or paragraph 3 or 4 of
15 subsection A of Section 1290.11 of Title 21 of the Oklahoma
16 Statutes.

17 H. The clerk of the court shall promptly forward to the Federal
18 Bureau of Investigation or its successor agency for the sole purpose
19 of inclusion in the National Instant Criminal Background Check
20 System database and the Department of Mental Health and Substance
21 Abuse Services and the Oklahoma State Bureau of Investigation, a
22 certified copy of the order granting relief under this section. The
23 Department of Mental Health and Substance Abuse Services and the
24 Oklahoma State Bureau of Investigation shall as soon thereafter as

1 is practicable, but in no case later than ten (10) business days,
2 update, correct, modify, or remove the record of the person in any
3 databases that these agencies use or refer to for the purposes of
4 handgun licensing, or make available to the National Instant
5 Criminal Background Check System and notify the United States
6 Attorney that the basis for such record being made available no
7 longer applies.

8 I. In lieu of sending a certified copy of a court order or
9 document, the court clerk may transmit the information required by
10 this section by using an electronic method or data exchange which is
11 authorized by the Federal Bureau of Investigation, the Department of
12 Mental Health and Substance Abuse Services and the Oklahoma State
13 Bureau of Investigation.

14 SECTION 2. This act shall become effective November 1, 2019.

16 57-1-6983 GRS 01/06/19

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