

1 **SENATE FLOOR VERSION**

2 April 12, 2018

3 ENGROSSED HOUSE
4 BILL NO. 2889

By: Taylor and Bush of the
House

5 and

6 Scott of the Senate

7
8
9 An Act relating to fingerprinting fees; amending 21
10 O.S. 2011, Section 1290.12, as last amended by
11 Section 2, Chapter 298, O.S.L. 2017 (21 O.S. Supp.
12 2017, Section 1290.12), which relates to the Oklahoma
Self-Defense Act; clarifying amount sheriffs may
charge for fingerprinting handgun license applicants;
and providing an effective date.

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

16 SECTION 1. AMENDATORY 21 O.S. 2011, Section 1290.12, as
17 last amended by Section 2, Chapter 298, O.S.L. 2017 (21 O.S. Supp.
18 2017, Section 1290.12), is amended to read as follows:

19 Section 1290.12.

20 PROCEDURE FOR APPLICATION

21 A. Except as provided in paragraph 11 of this subsection, the
22 procedure for applying for a handgun license and processing the
23 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 as to curriculum by the Council on Law Enforcement
18 Education and Training, and the person shall be required to
19 demonstrate competency and qualification with a pistol authorized
20 for concealed or unconcealed carry by the Oklahoma Self-Defense Act.
21 The original certificate of successful completion of a firearms
22 safety and training course and an original certificate of successful
23 demonstration of competency and qualification to carry and handle a
24 pistol shall be submitted with the application for a handgun

1 license. No duplicate, copy, facsimile or other reproduction of the
2 certificate of training, certificate of competency and qualification
3 or exemption from training shall be acceptable as proof of training
4 as required by the provisions of the Oklahoma Self-Defense Act;

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

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

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

1 Oklahoma State Bureau of Investigation shall determine
2 which nationally recognized credit cards will be
3 accepted by the Bureau, or
4 c. electronic funds transfer.

5 Any person paying application fees to the Oklahoma State Bureau of
6 Investigation by means of a nationally recognized credit card or by
7 means of an electronic funds transfer shall be required to complete
8 and submit his or her application through the online application
9 process of the Bureau.

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

16 5. The completed application form shall be signed by the
17 applicant in person before the sheriff. The signature shall be
18 given voluntarily upon a sworn oath that the person knows the
19 contents of the application and that the information contained in
20 the application is true and correct. Any person making any false or
21 misleading statement on an application for a handgun license shall,
22 upon conviction, be guilty of perjury as defined by Section 491 of
23 this title. Any conviction shall be punished as provided in Section
24 500 of this title. In addition to a criminal conviction, the person

1 shall be denied the right to have a handgun license pursuant to the
2 provisions of Section 1290.10 of this title and the Oklahoma State
3 Bureau of Investigation shall revoke the handgun license, if issued;

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

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

23 8. Upon verification of the identity of the applicant, the
24 sheriff shall take two complete sets of fingerprints of the

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

12 9. The sheriff shall submit to the Oklahoma State Bureau of
13 Investigation within the fourteen-day period, together with the
14 completed application, including the certificate of training,
15 certificate of competency and qualification, photographs, processing
16 fee and legible fingerprints meeting the Oklahoma State Bureau of
17 Investigation's Automated Fingerprint Identification System (AFIS)
18 submission standards, and a report of information deemed pertinent
19 to an investigation of the applicant for a handgun license. The
20 sheriff shall make a preliminary investigation of pertinent
21 information about the applicant and the court clerk shall assist the
22 sheriff in locating pertinent information in court records for this
23 purpose. If no pertinent information is found to exist either for
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1 or against the applicant, the sheriff shall so indicate in the
2 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 protective order by the court, as provided for in
13 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 protective 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 victim
5 protective order is no longer enforceable, the temporary handgun
6 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)

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

3 SECTION 2. This act shall become effective November 1, 2018.

4 COMMITTEE REPORT BY: COMMITTEE ON PUBLIC SAFETY
5 April 12, 2018 - DO PASS
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