

1                   **HOUSE OF REPRESENTATIVES - FLOOR VERSION**

2                                   STATE OF OKLAHOMA

3                                   2nd Session of the 55th Legislature (2016)

4 COMMITTEE SUBSTITUTE  
5 FOR ENGROSSED  
6 SENATE BILL NO. 959

By: Paddack of the Senate

and

Thomsen of the House

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10                                   COMMITTEE SUBSTITUTE

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

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

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

Section 1289.8

CARRYING CONCEALED WEAPON

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

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

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

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

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

1 enforcement agency verifying the status of the person as a retired  
2 peace officer of that jurisdiction, ~~and the reason why the retired~~  
3 ~~peace officer does not participate in a retirement system;~~ and

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

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

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

1 E. The Council on Law Enforcement Education and Training shall  
2 promulgate rules and procedures necessary to implement the  
3 provisions of this section.

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

8 SECTION 2. AMENDATORY 21 O.S. 2011, Section 1290.12, as  
9 last amended by Section 1, Chapter 207, O.S.L. 2015 (21 O.S. Supp.  
10 2015, Section 1290.12), is amended to read as follows:

11 Section 1290.12

12 PROCEDURE FOR APPLICATION

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

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

- 22 a. an application form,
- 23 b. procedures to follow to process the application form,
- 24 and

1 c. a copy of the Oklahoma Self-Defense Act with any  
2 modifications thereto;

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

1 license when the person claims an exemption from training and  
2 qualification;

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

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

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

1           which nationally recognized credit cards will be  
2           accepted by the Bureau, or

3           c. ~~by~~ electronic funds transfer.

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

10          5. The completed application form shall be signed by the  
11          applicant in person before the sheriff. The signature shall be  
12          given voluntarily upon a sworn oath that the person knows the  
13          contents of the application and that the information contained in  
14          the application is true and correct. Any person making any false or  
15          misleading statement on an application for a handgun license shall,  
16          upon conviction, be guilty of perjury as defined by Section 491 of  
17          this title. Any conviction shall be punished as provided in Section  
18          500 of this title. In addition to a criminal conviction, the person  
19          shall be denied the right to have a handgun license pursuant to the  
20          provisions of Section 1290.10 of this title and the Oklahoma State  
21          Bureau of Investigation shall revoke the handgun license, if issued;

22          6. Two passport-size photographs of the applicant shall be  
23          submitted with the completed application. The cost of the  
24          photographs shall be the responsibility of the applicant. The



1 sheriff is authorized to take the photograph of the applicant for  
2 purposes of the Oklahoma Self-Defense Act and, if such photographs  
3 are taken by the sheriff, the cost of the photographs shall not  
4 exceed Ten Dollars (\$10.00) for the two photos. All money received  
5 by the sheriff from photographing applicants pursuant to the  
6 provisions of this paragraph shall be retained by the sheriff and  
7 deposited into the Sheriff's Service Fee Account;

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

17 8. Upon verification of the identity of the applicant, the  
18 sheriff shall take two complete sets of fingerprints of the  
19 applicant. Both sets of fingerprints shall be submitted by the  
20 sheriff with the completed application, certificate of training or  
21 an exemption certificate, photographs and processing fee to the  
22 Oklahoma State Bureau of Investigation within fourteen (14) days of  
23 taking the fingerprints. The cost of the fingerprints shall be paid  
24 by the applicant and shall not exceed Twenty-five Dollars (\$25.00)

1 for the two sets. All fees collected by the sheriff from taking  
2 fingerprints pursuant to the provisions of this paragraph shall be  
3 retained by the sheriff and deposited into the Sheriff's Service Fee  
4 Account;

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

19 10. The Oklahoma State Bureau of Investigation, upon receipt of  
20 the application and required information from the sheriff, shall  
21 forward one full set of fingerprints of the applicant to the Federal  
22 Bureau of Investigation for a national criminal history records  
23 search. The cost of processing the fingerprints nationally shall be  
24

1 paid from the processing fee collected by the Oklahoma State Bureau  
2 of Investigation;

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

24

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

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

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

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

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

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

1 (1) ~~If~~ if the Bureau finds a record on the JOLTS that  
2 indicates the person was adjudicated a delinquent  
3 for an offense that would constitute a felony  
4 offense if committed by an adult within the last  
5 ten (10) years, the Bureau shall deny the  
6 license,

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

12 (3) ~~If~~ if the records suggest the applicant may have  
13 been adjudicated delinquent for an offense that  
14 would constitute a felony offense if committed by  
15 an adult but such record is inconclusive, the  
16 Bureau shall ask the applicant whether he or she  
17 was adjudicated a delinquent for an offense that  
18 would constitute a felony offense if committed by  
19 an adult within the last ten (10) years. If the  
20 applicant states under penalty of perjury that he  
21 or she was not adjudicated a delinquent within  
22 ten (10) years, the Bureau shall continue  
23 processing the application for a license; and  
24

1           13. If the background check set forth in paragraph 12 of this  
2 subsection reveals no records pertaining to the applicant, the  
3 Oklahoma State Bureau of Investigation shall either issue a handgun  
4 license or deny the application within sixty (60) days of the date  
5 of receipt of the applicant's completed application and the required  
6 information from the sheriff. In all other cases, the Oklahoma  
7 State Bureau of Investigation shall either issue a handgun license  
8 or deny the application within ninety (90) days of the date of the  
9 receipt of the applicant's completed application and the required  
10 information from the sheriff. The Bureau shall approve an applicant  
11 who appears to be in full compliance with the provisions of the  
12 Oklahoma Self-Defense Act, if completion of the federal fingerprint  
13 search is the only reason for delay of the issuance of the handgun  
14 license to that applicant. Upon receipt of the federal fingerprint  
15 search information, if the Bureau receives information which  
16 precludes the person from having a handgun license, the Bureau shall  
17 revoke the handgun license previously issued to the applicant. The  
18 Bureau shall deny a license when the applicant fails to properly  
19 complete the application form or application process or is  
20 determined not to be eligible as specified by the provisions of  
21 Section 1290.9, 1290.10 or 1290.11 of this title. The Bureau shall  
22 approve an application in all other cases. If an application is  
23 denied, the Bureau shall notify the applicant in writing of its  
24 decision. The notification shall state the grounds for the denial

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

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

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

23  
24 COMMITTEE REPORT BY: COMMITTEE ON APPROPRIATIONS AND BUDGET, dated  
04/07/2016 - DO PASS, As Amended.