

1                   **HOUSE OF REPRESENTATIVES - FLOOR VERSION**

2                                   STATE OF OKLAHOMA

3                                   1st Session of the 57th Legislature (2019)

4 HOUSE BILL 1161

                                  By: Worthen

7                                   AS INTRODUCED

8                   An Act relating to firearms; amending Section 3,  
9                   Chapter 259, O.S.L. 2014 (21 O.S. Supp. 2018, Section  
10                  1290.27), which relates to the Oklahoma Self-Defense  
11                  Act; authorizing transmission of certain information  
12                  by using electronic methods or data exchange; and  
13                  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

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

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

23 C. On filing of the petition, the court shall set a hearing.  
24 Not less than thirty (30) days prior to a hearing on the matter, a

1 copy of the petition for relief shall be served upon the district  
2 attorney for that county. The court shall receive and consider  
3 evidence in a closed hearing.

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

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

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

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

11 4. The petitioner's mental health records;

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

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

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

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

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

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

24

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

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

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

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

1 Department of Mental Health and Substance Abuse Services and the  
2 Oklahoma State Bureau of Investigation shall as soon thereafter as  
3 is practicable, but in no case later than ten (10) business days,  
4 update, correct, modify, or remove the record of the person in any  
5 databases that these agencies use or refer to for the purposes of  
6 handgun licensing, or make available to the National Instant  
7 Criminal Background Check System and notify the United States  
8 Attorney that the basis for such record being made available no  
9 longer applies.

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

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

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18 COMMITTEE REPORT BY: COMMITTEE ON PUBLIC SAFETY, dated 02/28/2019 -  
19 DO PASS.  
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