

1 **SENATE FLOOR VERSION**

2 February 16, 2023

3 SENATE BILL NO. 1036

By: Dahm

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5
6 An Act relating to firearms; amending 21 O.S. 2021,
7 Section 1289.9, which relates to carrying weapons
8 under the influence of alcohol; modifying inclusions;
9 amending 21 O.S. 2021, Section 1290.11, which relates
10 to eligibility for a handgun license; making certain
11 exception for medical marijuana card holder;
12 prohibiting certain denial; updating statutory
13 language; and providing an effective date.

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

15 SECTION 1. AMENDATORY 21 O.S. 2021, Section 1289.9, is
16 amended to read as follows:

17 Section 1289.9.

18 CARRYING WEAPONS UNDER INFLUENCE OF ALCOHOL

19 It shall be unlawful for any person to carry or use shotguns,
20 rifles or pistols in any circumstances while under the influence of
21 beer, intoxicating liquors or any hallucinogenic, or any unlawful or
22 unprescribed drug, and it shall be unlawful for any person to carry
23 or use shotguns, rifles or pistols when under the influence of any
24 drug prescribed by a licensed physician or medical marijuana
obtained pursuant to a valid medical marijuana patient license if
the current or aftereffects of such consumption affect mental,

1 emotional or physical processes to a degree that would result in
2 abnormal behavior. Any person convicted of a violation of the
3 provisions of this section shall be punished as provided in Section
4 1289.15 of this title.

5 Any person convicted of a violation of the provisions of this
6 section after having been issued a handgun license pursuant to the
7 provisions of the Oklahoma Self-Defense Act shall have the license
8 suspended for a term of six (6) months and shall be subject to an
9 administrative fine of Fifty Dollars (\$50.00), upon a hearing and
10 determination by the Oklahoma State Bureau of Investigation that the
11 person is in violation of the provisions of this section.

12 SECTION 2. AMENDATORY 21 O.S. 2021, Section 1290.11, is
13 amended to read as follows:

14 Section 1290.11.

15 OTHER PRECLUSIONS

16 A. The following conditions shall preclude a person from being
17 eligible for a handgun license pursuant to the provisions of the
18 Oklahoma Self-Defense Act for a period of time as prescribed in each
19 of the following paragraphs:

20 1. An arrest for an alleged commission of a felony offense or a
21 felony charge pending in this state, another state or pursuant to
22 the United States Code. The preclusive period shall be until the
23 final determination of the matter;

24

1 2. The person is subject to the provisions of a deferred
2 sentence or deferred prosecution in this state or another state or
3 pursuant to federal authority for the commission of a felony
4 offense. The preclusive period shall be three (3) years and shall
5 begin upon the final determination of the matter;

6 3. Any involuntary commitment for a mental illness, condition,
7 or disorder pursuant to the provisions of Section 5-410 of Title 43A
8 of the Oklahoma Statutes or any involuntary commitment in another
9 state pursuant to any provisions of law of that state. The
10 preclusive period shall be permanent as provided by Title 18 of the
11 United States Code Section 922(g)(4) unless the person has been
12 granted relief from the disqualifying disability pursuant to Section
13 1290.27 of this title;

14 4. The person has previously undergone treatment for a mental
15 illness, condition, or disorder which required medication or
16 supervision as defined by paragraph 7 of Section 1290.10 of this
17 title. The preclusive period shall be three (3) years from the last
18 date of treatment or upon presentation of a certified statement from
19 a licensed physician stating that the person is either no longer
20 disabled by any mental or psychiatric illness, condition, or
21 disorder or that the person has been stabilized on medication for
22 ten (10) years or more;

23 5. Inpatient treatment for substance abuse. The preclusive
24 period shall be three (3) years from the last date of treatment or

1 upon presentation of a certified statement from a licensed physician
2 stating that the person has been free from substance use for twelve
3 (12) months or more preceding the filing of an application for a
4 handgun license;

5 6. Two or more convictions of public intoxication pursuant to
6 subsection D of Section 6-101 of Title 37A of the Oklahoma Statutes,
7 or a similar law of another state. The preclusive period shall be
8 three (3) years from the date of the completion of the last sentence
9 or shall require a certified statement from a licensed physician
10 stating that the person is not in need of substance abuse treatment;

11 7. Two or more misdemeanor convictions relating to intoxication
12 or driving under the influence of an intoxicating substance or
13 alcohol. The preclusive period shall be three (3) years from the
14 date of the completion of the last sentence or shall require a
15 certified statement from a licensed physician stating that the
16 person is not in need of substance abuse treatment;

17 8. A court order for a final ~~Victim Protection Order~~ victim
18 protection order against the applicant, as authorized by the
19 Protection from Domestic Abuse Act, or any court order granting a
20 final victim protection order against the applicant from another
21 state. The preclusive period shall be sixty (60) days from the date
22 an order was vacated, canceled, withdrawn or is otherwise no longer
23 in effect;

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1 9. An adjudicated delinquent or convicted felon residing in the
2 residence of the applicant which may be a violation of Section 1283
3 of this title. The preclusive period shall be thirty (30) days from
4 the date the person no longer resides in the same residence as the
5 applicant;

6 10. An arrest for an alleged commission of, a charge pending
7 for, or the person is subject to the provisions of a deferred
8 prosecution for any one or more of the following misdemeanor
9 offenses in this state or another state:

- 10 a. any assault and battery which caused serious physical
11 injury to the victim or any second or subsequent
12 assault and battery,
- 13 b. any aggravated assault and battery,
- 14 c. any stalking pursuant to Section 1173 of this title,
15 or a similar law of another state,
- 16 d. any violation of the Protection from Domestic Abuse
17 Act or any violation of a victim protection order of
18 another state,
- 19 e. any violation relating to illegal drug use or
20 possession except for an applicant or licensee in
21 legal possession of a medical marijuana patient
22 license, or

1 f. an act of domestic abuse as defined by Section 644 of
2 this title or an act of domestic assault and battery
3 or any comparable acts under the law of another state.

4 The preclusive period shall be until the final determination of the
5 matter. The preclusive period for a person subject to the
6 provisions of a deferred sentence for the offenses mentioned in this
7 paragraph shall be three (3) years and shall begin upon the final
8 determination of the matter; or

9 11. A previously issued handgun license has been revoked. The
10 preclusive period shall be five (5) years from the date of
11 revocation and shall require the person to submit a new application
12 for a handgun license pursuant to the provisions of Section 1290.12
13 of this title.

14 B. Nothing in this section shall be construed to require a full
15 investigation of the applicant by the Oklahoma State Bureau of
16 Investigation.

17 C. Nothing in this section shall be construed to allow the
18 Oklahoma State Bureau of Investigation to deny an otherwise
19 qualified applicant from obtaining a handgun license pursuant to the
20 Oklahoma Self-Defense Act solely on the basis of the applicant being
21 a lawful holder of a medical marijuana patient license.

22 SECTION 3. This act shall become effective November 1, 2023.

23 COMMITTEE REPORT BY: COMMITTEE ON PUBLIC SAFETY
24 February 16, 2023 - DO PASS