

1 STATE OF OKLAHOMA

2 2nd Session of the 57th Legislature (2020)

3 HOUSE BILL 3015

By: Crosswhite Hader

4  
5  
6 AS INTRODUCED

7 An Act relating to firearms; amending 21 O.S. 2011,  
8 Sections 1279, as amended by Section 1, Chapter 171,  
9 O.S.L. 2013 and 1280 (21 O.S. Supp. 2019, Section  
10 1279), which relate to pointing a firearm and related  
11 penalties; expanding scope of certain prohibited act;  
12 removing administrative penalty provision; updating  
13 language; amending 21 O.S. 2011, Sections 1289.16, as  
14 last amended by Section 1, Chapter 266, O.S.L. 2017  
15 and 1289.25, as last amended by Section 1, Chapter  
16 218, O.S.L. 2018 (21 O.S. Supp. 2019, Sections  
17 1289.16 and 1289.25), which relate to Oklahoma  
18 Firearms Act of 1971; authorizing the pointing of  
19 firearms under certain circumstances; removing  
20 administrative penalty provision; providing for the  
21 defensive display of firearms under certain  
22 circumstances; providing exceptions; providing  
23 examples of certain action; and providing an  
24 effective date.

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

SECTION 1. AMENDATORY 21 O.S. 2011, Section 1279, as  
amended by Section 1, Chapter 171, O.S.L. 2013 (21 O.S. Supp. 2019,  
Section 1279), is amended to read as follows:

Section 1279.

MISDEMEANOR POINTING A FIREARM

1 ~~Except for an act of self-defense, it~~ It shall be unlawful for  
2 any person to point any pistol or any other deadly weapon whether  
3 loaded or not, at any other person or persons. Any person violating  
4 the provisions of this section shall, upon conviction, be guilty of  
5 a misdemeanor punishable as provided in Section 1280 of this title.

6 ~~Any person convicted of violating the~~ The provisions of this  
7 section ~~after having been issued a~~ shall not apply to persons acting  
8 in self-defense or to home or business owners in defense of their  
9 private property whether or not they possess a valid handgun license  
10 pursuant to the provisions of the Oklahoma Self-Defense Act ~~may be~~  
11 ~~subject to an administrative violation as provided in Section 1280~~  
12 ~~of this title.~~

13 SECTION 2. AMENDATORY 21 O.S. 2011, Section 1280, is  
14 amended to read as follows:

15 Section 1280.

16 PENALTY FOR 1279

17 Any person violating the provisions of Section 1279 of this  
18 title, upon conviction, shall be guilty of a misdemeanor. ~~The~~  
19 ~~person offending shall be punished~~ punishable by a fine of not less  
20 than One Hundred Dollars (\$100.00) nor more than One Thousand  
21 Dollars (\$1,000.00) and shall be imprisoned in the county jail for a  
22 period not less than three (3) months nor more than twelve (12)  
23 months. ~~Any person convicted of violating the provisions of Section~~  
24 ~~1279 of this title after having been issued a handgun license~~

1 ~~pursuant to the provisions of the Oklahoma Self-Defense Act,~~  
2 ~~Sections 1 through 25 of this act, shall have the handgun license~~  
3 ~~permanently revoked and shall be liable for an administrative fine~~  
4 ~~of Fifty Dollars (\$50.00) upon a hearing and determination by the~~  
5 ~~Oklahoma State Bureau of Investigation that the person is in~~  
6 ~~violation of the provisions of this section.~~

7 SECTION 3. AMENDATORY 21 O.S. 2011, Section 1289.16, as  
8 last amended by Section 1, Chapter 266, O.S.L. 2017 (21 O.S. Supp.  
9 2019, Section 1289.16), is amended to read as follows:

10 Section 1289.16

11 FELONY POINTING FIREARMS

12 ~~Except for~~ A. It shall be lawful to point shotguns, rifles or  
13 pistols at another person or persons during an act of self-defense,  
14 ~~it shall be unlawful for any person to willfully or without lawful~~  
15 ~~cause point a shotgun, rifle or pistol, or any deadly weapon,~~  
16 ~~whether loaded or not, at any person or persons for the purpose of~~  
17 ~~threatening or with the intention of discharging the firearm or with~~  
18 ~~any malice or for any purpose of injuring, either through physical~~  
19 ~~injury or mental or emotional intimidation or for purposes of~~  
20 ~~whimsy, humor or prank, or in anger or otherwise, but not to include~~  
21 the pointing of shotguns, rifles or pistols or by a home owner or  
22 business owner in defense of private or real property or business  
23 property whether or not the person possesses a valid handgun license  
24 pursuant to the Oklahoma Self-Defense Act, or by law enforcement

1 authorities in the performance of their duties, armed security  
2 guards licensed by the Council on Law Enforcement Education and  
3 Training pursuant to the Oklahoma Security Guard and Private  
4 Investigator Act in the performance of their duties, members of the  
5 state military forces in the performance of their duties, members of  
6 the federal military reserve and active military components in the  
7 performance of their duties, or any federal government law  
8 enforcement officer in the performance of any duty, or in the  
9 performance of a play on stage, rodeo, television or on film, ~~or in~~  
10 ~~defense of any person, one's home or property.~~

11 B. It shall be unlawful for any person to willfully or without  
12 lawful cause point a shotgun, rifle or pistol, or any deadly weapon,  
13 whether loaded or not, at any person or persons for the purpose of  
14 threatening or with the intention of discharging the firearm or with  
15 any malice or for any purpose of injuring, either through physical  
16 injury or mental or emotional intimidation or for purposes of  
17 whimsy, humor or prank, or in anger or otherwise.

18 C. Any person convicted of a violation of the provisions of  
19 this section shall be punished as provided in Section 1289.17 of  
20 this title.

21 ~~Any person convicted of a violation of the provisions of this~~  
22 ~~section after having been issued a handgun license pursuant to the~~  
23 ~~Oklahoma Self-Defense Act shall have the license revoked and shall~~  
24 ~~be subject to an administrative fine of One Thousand Dollars~~

1 ~~(\$1,000.00), upon a hearing and determination by the Oklahoma State~~  
2 ~~Bureau of Investigation that the person is in violation of the~~  
3 ~~provisions of this section.~~

4 SECTION 4. AMENDATORY 21 O.S. 2011, Section 1289.25, as  
5 last amended by Section 1, Chapter 218, O.S.L. 2018 (21 O.S. Supp.  
6 2019, Section 1289.25), is amended to read as follows:

7 Section 1289.25

8 PHYSICAL OR DEADLY FORCE AGAINST INTRUDER

9 A. The Legislature hereby recognizes that the citizens of the  
10 State of Oklahoma have a right to expect absolute safety within  
11 their own homes, places of business or places of worship and have  
12 the right to establish policies regarding the possession of weapons  
13 on property pursuant to the provisions of Section 1290.22 of this  
14 title.

15 B. A person, regardless of official capacity or lack of  
16 official capacity, within a place of worship or a person, an owner,  
17 manager or employee of a business is presumed to have held a  
18 reasonable fear of imminent peril of death or great bodily harm to  
19 himself or herself or another when using defensive force that is  
20 intended or likely to cause death or great bodily harm to another  
21 if:

- 22 1. a. The person against whom the defensive force was used  
23 was in the process of unlawfully and forcefully  
24 entering, or had unlawfully and forcibly entered, a

1 dwelling, residence, occupied vehicle, place of  
2 business or place of worship, or if that person had  
3 removed or was attempting to remove another against  
4 the will of that person from the dwelling, residence,  
5 occupied vehicle, place of business or place of  
6 worship.

7 b. The person who uses defensive force knew or had reason  
8 to believe that an unlawful and forcible entry or  
9 unlawful and forcible act was occurring or had  
10 occurred; or

11 2. The person who uses defensive force knew or had a reasonable  
12 belief that the person against whom the defensive force was used  
13 entered or was attempting to enter into a dwelling, residence,  
14 occupied vehicle, place of business or place of worship for the  
15 purpose of committing a forcible felony, as defined in Section 733  
16 of this title, and that the defensive force was necessary to prevent  
17 the commission of the forcible felony.

18 C. The presumption set forth in subsection B of this section  
19 does not apply if:

20 1. The person against whom the defensive force is used has the  
21 right to be in or is a lawful resident of the dwelling, residence,  
22 or vehicle, such as an owner, lessee, or titleholder, and there is  
23 not a protective order from domestic violence in effect or a written  
24 pretrial supervision order of no contact against that person;

1           2. The person or persons sought to be removed are children or  
2 grandchildren, or are otherwise in the lawful custody or under the  
3 lawful guardianship of, the person against whom the defensive force  
4 is used; or

5           3. The person who uses defensive force is engaged in an  
6 unlawful activity or is using the dwelling, residence, occupied  
7 vehicle, place of business or place of worship to further an  
8 unlawful activity.

9           D. A person who is not engaged in an unlawful activity and who  
10 is attacked in any other place where he or she has a right to be has  
11 no duty to retreat and has the right to stand his or her ground and  
12 meet force with force, including deadly force, if he or she  
13 reasonably believes it is necessary to do so to prevent death or  
14 great bodily harm to himself or herself or another or to prevent the  
15 commission of a forcible felony.

16           E. A person who unlawfully and by force enters or attempts to  
17 enter the dwelling, residence, occupied vehicle of another person,  
18 place of business or place of worship is presumed to be doing so  
19 with the intent to commit an unlawful act involving force or  
20 violence.

21           F. A person who uses defensive force, as permitted pursuant to  
22 the provisions of subsections A, B, D and E of this section, is  
23 justified in using such defensive force and is immune from criminal  
24 prosecution and civil action for the use of such defensive force.

1 As used in this subsection, the term "criminal prosecution" includes  
2 charging or prosecuting the defendant.

3 G. A law enforcement agency may use standard procedures for  
4 investigating the use of defensive force, but the law enforcement  
5 agency may not arrest the person for using defensive force unless it  
6 determines that there is probable cause that the defensive force  
7 that was used was unlawful.

8 H. The court shall award reasonable attorney fees, court costs,  
9 compensation for loss of income, and all expenses incurred by the  
10 defendant in defense of any civil action brought by a plaintiff if  
11 the court finds that the defendant is immune from prosecution as  
12 provided in subsection F of this section.

13 I. The provisions of this section and the provisions of the  
14 Oklahoma Self-Defense Act shall not be construed to require any  
15 person using a weapon pursuant to the provisions of this section to  
16 be licensed in any manner.

17 J. A person pointing a weapon at a perpetrator in self-defense  
18 or in order to thwart, stop or deter a forcible felony or attempted  
19 forcible felony shall not be deemed guilty of committing a criminal  
20 act.

21 K. 1. Defensive display of a firearm by a person against  
22 another is justified when and to the extent a reasonable person  
23 would believe that physical force is immediately necessary to  
24 protect himself, herself or another against the use or attempted use

1 of unlawful physical or deadly force and shall not be deemed a  
2 criminal act.

3 2. The provisions of this subsection shall not apply to a  
4 person who:

5 a. intentionally provokes another person to use or  
6 attempt to use unlawful physical or deadly force, or

7 b. uses a firearm during the commission of an unlawful  
8 act involving force or violence.

9 3. The provisions of this subsection do not require the  
10 defensive display of a firearm before the use of defensive force or  
11 the threat of defensive force by a person who is otherwise justified  
12 in the use or threatened use of defensive force.

13 4. For the purposes of this subsection, "defensive display of a  
14 firearm" includes, but is not limited to:

15 a. verbally informing another person that the person  
16 possesses or has available a firearm,

17 b. exposing or displaying a firearm in a manner that a  
18 reasonable person would understand was meant to  
19 protect the person against the use or attempted use by  
20 another of unlawful physical or deadly force, or

21 c. placing the hand of the person on a firearm while the  
22 firearm is contained in a pocket, purse, holster,  
23 sling, scabbard, case or other means of containment or  
24 transport.

1        L. As used in this section:

2            1. "Defensive force" includes, but shall not be limited to,  
3 pointing a weapon at a perpetrator in self-defense or in order to  
4 thwart, stop or deter a forcible felony or attempted forcible  
5 felony;

6            2. "Dwelling" means a building or conveyance of any kind,  
7 including any attached porch, whether the building or conveyance is  
8 temporary or permanent, mobile or immobile, which has a roof over  
9 it, including a tent, and is designed to be occupied by people;

10          3. "Place of worship" means:

11            a. any permanent building, structure, facility or office  
12 space owned, leased, rented or borrowed, on a full-  
13 time basis, when used for worship services, activities  
14 and business of the congregation, which may include,  
15 but not be limited to, churches, temples, synagogues  
16 and mosques, and

17            b. any permanent building, structure, facility or office  
18 space owned, leased, rented or borrowed for use on a  
19 temporary basis, when used for worship services,  
20 activities and business of the congregation including,  
21 but not limited to, churches, temples, synagogues and  
22 mosques;

1       4. "Residence" means a dwelling in which a person resides  
2 either temporarily or permanently or is visiting as an invited  
3 guest; and

4       5. "Vehicle" means a conveyance of any kind, whether or not  
5 motorized, which is designed to transport people or property.

6       SECTION 5. This act shall become effective November 1, 2020.

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8       57-2-9700       GRS       01/05/20

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