

1 STATE OF OKLAHOMA

2 1st Session of the 58th Legislature (2021)

3 SENATE BILL 451

By: Bergstrom

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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. 2020, 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, Section 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. 2020, 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 declaring an
24 emergency.

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

19 SECTION 1. AMENDATORY 21 O.S. 2011, Section 1279, as
20 amended by Section 1, Chapter 171, O.S.L. 2013 (21 O.S. Supp. 2020,
21 Section 1279), is amended to read as follows:

22 Section 1279. MISDEMEANOR POINTING A FIREARM

23 ~~Except for an act of self-defense, it~~ It shall be unlawful for
24 any person to point any ~~pistol~~ firearm or any other deadly weapon

1 whether loaded or not, at any other person or persons. Any person
2 violating the provisions of this section shall, upon conviction, be
3 guilty of a misdemeanor punishable as provided in Section 1280 of
4 this title.

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

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

14 Section 1280.

15 PENALTY FOR 1279

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

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

6 SECTION 3. AMENDATORY 21 O.S. 2011, Section 1289.16, as
7 last amended by Section 1, Chapter 266, O.S.L. 2017 (21 O.S. Supp.
8 2020, Section 1289.16), is amended to read as follows:

9 Section 1289.16.

10 FELONY POINTING FIREARMS

11 ~~Except for A. It shall be lawful to point shotguns, rifles or~~
12 ~~pistols, knives or any other deadly weapon at another person or~~
13 ~~persons by a person that can legally own or possess a weapon~~
14 ~~pursuant to the provisions of Section 1272 of this title during an~~
15 ~~act of self-defense, it shall be unlawful for any person to~~
16 ~~willfully or without lawful cause point a shotgun, rifle or pistol,~~
17 ~~or any deadly weapon, whether loaded or not, at any person or~~
18 ~~persons for the purpose of threatening or with the intention of~~
19 ~~discharging the firearm or with any malice or for any purpose of~~
20 ~~injuring, either through physical injury or mental or emotional~~
21 ~~intimidation or for purposes of whimsy, humor or prank, or in anger~~
22 ~~or otherwise, but not to include the pointing of shotguns, rifles or~~
23 ~~pistols by a home owner, resident, lessee, tenant, business owner,~~
24 ~~in defense of private or real property or business property, place~~

1 of worship whether or not the person possesses a valid handgun
2 license pursuant to the provisions of the Oklahoma Self-Defense Act,
3 or by law enforcement authorities in the performance of their
4 duties, armed security guards licensed by the Council on Law
5 Enforcement Education and Training pursuant to the Oklahoma Security
6 Guard and Private Investigator Act in the performance of their
7 duties, members of the state military forces in the performance of
8 their duties, a person in possession of a valid handgun license
9 pursuant to the provisions of the Oklahoma Self-Defense Act, members
10 of the federal military reserve and active military components in
11 the performance of their duties, or any federal government law
12 enforcement officer in the performance of any duty, or in the
13 performance of a play on stage, rodeo, television or on film, ~~or in~~
14 ~~defense of any person, one's home or property.~~

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

22 C. Any person convicted of a violation of the provisions of
23 this section shall be punished as provided in Section 1289.17 of
24 this title.

1 ~~Any person convicted of a violation of the provisions of this~~
2 ~~section after having been issued a handgun license pursuant to the~~
3 ~~Oklahoma Self-Defense Act shall have the license revoked and shall~~
4 ~~be subject to an administrative fine of One Thousand Dollars~~
5 ~~(\$1,000.00), upon a hearing and determination by the Oklahoma State~~
6 ~~Bureau of Investigation that the person is in violation of the~~
7 ~~provisions of this section.~~

8 SECTION 4. AMENDATORY 21 O.S. 2011, Section 1289.25, as
9 last amended by Section 1, Chapter 218, O.S.L. 2018 (21 O.S. Supp.
10 2020, Section 1289.25), is amended to read as follows:

11 Section 1289.25.

12 PHYSICAL OR DEADLY FORCE AGAINST INTRUDER

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

19 B. A person, regardless of official capacity or lack of
20 official capacity, within a place of worship or a person, an owner,
21 manager or employee of a business is presumed to have held a
22 reasonable fear of imminent peril of death or great bodily harm to
23 himself or herself or another when using defensive force that is
24

1 intended or likely to cause death or great bodily harm to another
2 if:

3 1. a. The person against whom the defensive force was used
4 was in the process of unlawfully and forcefully
5 entering, or had unlawfully and forcibly entered, a
6 dwelling, residence, occupied vehicle, place of
7 business, occupied premises or place of worship, or if
8 that person had removed or was attempting to remove
9 another against the will of that person from the
10 dwelling, residence, occupied vehicle, place of
11 business, occupied premises or place of worship.

12 b. The person who uses defensive force knew or had reason
13 to believe that an unlawful and forcible entry or
14 unlawful and forcible act on the occupied premises was
15 occurring or had occurred; or

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

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

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

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

10 3. The person who uses defensive force is engaged in an
11 unlawful activity or is using the dwelling, residence, occupied
12 vehicle, place of business, occupied premises or place of worship to
13 further an unlawful activity.

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

21 E. A person or perpetrator who unlawfully and by force enters
22 or attempts to enter the dwelling, residence, occupied vehicle of
23 another person, place of business, occupied premises or place of
24

1 worship is presumed to be doing so with the intent to commit an
2 unlawful act involving force or violence.

3 F. A person who uses defensive force, as permitted pursuant to
4 the provisions of subsections A, B, D and E of this section, is
5 justified in using such defensive force ~~and is immune from~~ shall not
6 be subject to criminal prosecution and civil action for the use of
7 such defensive force. As used in this subsection, the term
8 "criminal prosecution" includes charging or prosecuting the
9 defendant.

10 G. A law enforcement agency may use standard procedures for
11 investigating the use of defensive force, but the law enforcement
12 agency may not arrest the person for using defensive force unless it
13 determines that there is probable cause that the defensive force
14 that was used was unlawful.

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

20 I. The provisions of this section and the provisions of the
21 Oklahoma Self-Defense Act shall not be construed to require any
22 person using a weapon pursuant to the provisions of this section to
23 be licensed in any manner.

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

5 K. 1. Defensive display of a firearm by a person against
6 another is justified when and to the extent a reasonable person who
7 believes that physical force is immediately necessary to protect
8 himself, herself or another against the use or attempted use of
9 unlawful physical or deadly force and shall not be deemed a criminal
10 act.

11 2. The provisions of this subsection shall not apply to a
12 person who:

- 13 a. intentionally provokes another person to use or
14 attempt to use unlawful physical or deadly force, or
15 b. uses a firearm during the commission of an unlawful
16 act involving force or violence.

17 3. The provisions of this subsection do not require the
18 defensive display of a firearm or any other deadly weapon before the
19 use of defensive force or the threat of defensive force by a person
20 who is justified in the use or threatened use of defensive force.

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

- 1 a. verbally informing another person that the person
2 possesses or has available a firearm or any other
3 deadly weapon,
- 4 b. exposing or displaying a firearm or any other deadly
5 weapon in a manner that a reasonable person would
6 understand was meant to protect the person against the
7 use or attempted use by another of unlawful physical
8 or deadly force, or
- 9 c. placing the hand of the person on a firearm or any
10 other deadly weapon while the firearm is contained in
11 a pocket, purse, holster, sling scabbard, case or
12 other means of containment or transport.

13 L. As used in this section:

14 1. "Defensive force" includes, but shall not be limited to,
15 pointing a weapon at a perpetrator in self-defense or in order to
16 thwart, stop or deter a forcible felony or attempted forcible
17 felony;

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

22 3. "Place of worship" means:

- 23 a. any permanent building, structure, facility or office
24 space owned, leased, rented or borrowed, on a full-

1 time basis, when used for worship services, activities
2 and business of the congregation, which may include,
3 but not be limited to, churches, temples, synagogues
4 and mosques, and

5 b. any permanent building, structure, facility or office
6 space owned, leased, rented or borrowed for use on a
7 temporary basis, when used for worship services,
8 activities and business of the congregation including,
9 but not limited to, churches, temples, synagogues and
10 mosques;

11 4. "Residence" or occupied premises means a dwelling or
12 building in which a person ~~resides~~ is occupying either temporarily
13 or permanently or is visiting as an invited guest; ~~and~~

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

16 6. "Occupied premises" means any premises occupied by an owner,
17 tenant, lessee, business, place of worship, liquor store, guest or
18 by an authorized user of the premises including their agents.

19 SECTION 5. It being immediately necessary for the preservation
20 of the public peace, health or safety, an emergency is hereby
21 declared to exist, by reason whereof this act shall take effect and
22 be in full force from and after its passage and approval.