

STATE OF OKLAHOMA

1st Session of the 59th Legislature (2023)

SENATE BILL 273

By: Dahm

AS INTRODUCED

An Act relating to state of emergencies; amending 21 O.S. 2021, Section 1321.3, which relates to notice and termination of proclamations; modifying qualifying events; limiting length of emergency declaration; amending 21 O.S. 2021, Section 1321.4, which relates to prohibited acts; disallowing certain prohibitions; amending 21 O.S. 2021, Sections 1321.5, 1321.8, and 1321.9, which relate to laws governing emergency declarations, provisions applicable during state of emergency and municipal ordinances; disallowing certain restrictions; clarifying certain misdemeanor offense; making language gender neutral; modifying definition; clarifying certain conformity; updating statutory language; updating statutory references; and declaring an emergency.

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

SECTION 1. AMENDATORY 21 O.S. 2021, Section 1321.3, is amended to read as follows:

Section 1321.3. ~~(a)~~ A. The Governor, after finding that a public disorder, natural or man-made disaster or riot exists or is pending within this state or any part thereof which ~~affects~~ threatens life, health, property or the public peace, may proclaim a state of emergency in the area affected.

1 ~~(b)~~ B. The proclamation ~~of a~~ shall specify in writing if the
2 state of emergency ~~and other proclamations issued pursuant to this~~
3 ~~act shall be in writing and shall be signed by the Governor. They~~
4 ~~shall then be filed with the Secretary of State~~ is to address public
5 disorder, a natural or man-made disaster or riots, as well as the
6 immediate steps being taken to address the state of emergency and
7 the projected duration of the state of emergency.

8 ~~(c)~~ C. The Governor shall give as much public notice as
9 practical through the news media of the issuance of proclamations
10 pursuant to ~~this act~~ Section 1321.1 et seq. of this title.

11 ~~(d)~~ D. The state of emergency shall cease to exist upon the
12 issuance of a proclamation of the Governor declaring its
13 termination; provided that the Governor must terminate ~~said~~ the
14 proclamation when order has been restored in the area affected, when
15 the disaster no longer poses a threat or when riots no longer exist.

16 E. No state of emergency declaration shall exist for a period
17 longer than two (2) weeks unless the majority of the governing body
18 of an affected municipality affirmatively votes to request the
19 Governor extend the state of emergency, the majority of the county
20 commissioners of an affected county vote to request the Governor
21 extend the state of emergency, or for any statewide emergency, a
22 majority of the Legislature gathered in normal or special session
23 votes to request the Governor extend the state of emergency.

1 SECTION 2. AMENDATORY 21 O.S. 2021, Section 1321.4, is

2 amended to read as follows:

3 Section 1321.4. A. The Governor during the existence of a
4 state of emergency, by proclamation, may, in the area described by
5 the proclamation, which proclamation shall not cover any part or
6 portion of the state not affected by public disorder, natural or
7 man-made disaster, or riot at the time the proclamation is issued,
8 prohibit:

9 1. Any person being on the public streets, or in the public
10 parks or at any other public place during the hours declared by the
11 Governor to be a period of curfew;

12 2. ~~A designated number of persons, as designated by the~~
13 ~~Governor, from assembling or gathering on the public streets, parks,~~
14 ~~or other open areas of this state, either public or private;~~

15 3. The manufacture, transfer, use, possession or transportation
16 of a ~~molotov~~ Molotov cocktail or any other device, instrument or
17 object designed to explode or produce uncontained combustion;

18 4. 3. The transporting, possessing or using of gasoline,
19 kerosene, or combustible, flammable, or explosive liquids or
20 materials in a glass or uncapped container of any kind except in
21 connection with the normal operation of motor vehicles, normal home
22 use or legitimate commercial use; and

23 5. ~~The sale, purchase or dispensing of alcoholic beverages;~~
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1 ~~6. The sale, purchase or dispensing of other commodities or~~
2 ~~goods, as the Governor reasonably believes should be prohibited to~~
3 ~~help preserve and maintain life, health, property or the public~~
4 ~~peace;~~

5 ~~7.~~ 4. The limited use of certain streets, highways or public
6 ways by the public; ~~and~~

7 ~~8. Such other activities as the Governor reasonably believes~~
8 ~~should be prohibited to help preserve and maintain life, health,~~
9 ~~property or the public peace.~~

10 B. Notwithstanding this section or any other law of this state,
11 neither the Governor nor any official of a municipal or state entity
12 shall prohibit or suspend the sale, ownership, possession,
13 transportation, carrying, transfer and storage of firearms,
14 ammunition and ammunition accessories during a declared state of
15 emergency, that are otherwise legal under state law.

16 C. In imposing the restrictions provided for by the Oklahoma
17 Riot Control and Prevention Act, the Governor may impose them for
18 such times, upon such conditions, with such exceptions and in such
19 areas of this state the Governor from time to time deems necessary
20 within the limited duration of a declared emergency as provided in
21 Section 1321.3 of this title.

22 D. Any individual aggrieved by a violation of subsection B of
23 this section may seek relief in an action at law or in equity for
24 redress against any person who subjects such individual or causes
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1 such individual to be subjected to an action prohibited by
2 subsection B of this section. In addition to any other remedy at
3 law or in equity, an individual aggrieved by the seizure or
4 confiscation of a firearm or ammunition in violation of subsection B
5 of this section may bring an action for the return of such firearm
6 or ammunition in the district court of the county in which that
7 individual resides or in which such firearm or ammunition is
8 located. In any action or proceeding to enforce the provisions of
9 this section, the court shall award the prevailing plaintiff costs
10 and reasonable attorney fees.

11 SECTION 3. AMENDATORY 21 O.S. 2021, Section 1321.5, is
12 amended to read as follows:

13 Section 1321.5. ~~(a)~~ A. Whenever the restrictions imposed
14 pursuant to ~~this act~~ Section 1321.1 et seq. of this title are more
15 restrictive than are required by any other statute, local ordinance
16 or regulations, the provisions of the restrictions imposed pursuant
17 to ~~this act~~ Section 1321.1 et seq. of this title shall govern during
18 the limited duration of the declared state of emergency. Provided,
19 however, only restrictions permitted by this act may be implemented
20 by executive order; no additional restrictions may be enacted.

21 ~~(b)~~ B. Whenever the restrictions of any other statute, local
22 ordinance or regulations are more restrictive than the restrictions
23 imposed pursuant to ~~this act~~ the Governor's restrictions for the
24 declared state of emergency, the provisions of such statute, local

1 ordinance or regulations shall govern, provided that any
2 restrictions shall not be more restrictive than those provided in
3 Section 1321.4 of this title.

4 SECTION 4. AMENDATORY 21 O.S. 2021, Section 1321.8, is
5 amended to read as follows:

6 Section 1321.8. The following provisions shall apply during a
7 state of emergency.

8 A. A person is guilty of riot when ~~he~~ the person participates
9 with two or more persons in a course of disorderly conduct:

10 1. With intent to commit or facilitate the commission of a
11 felony ~~or misdemeanor~~;

12 2. With intent to prevent or coerce official action; or

13 3. When the accused or any other participant to the knowledge
14 of the accused uses or plans to use a firearm or other deadly weapon
15 in the commission of a crime.

16 B. Any person upon any public way within the described area who
17 is directed by the authorities to leave the public way due to
18 blocking the public way or due to an unlawful assembly but refuses
19 to do so shall be guilty of a misdemeanor.

20 C. Any person who violates the provisions of this section,
21 except subsection B of this section, shall be guilty of a felony,
22 and upon conviction thereof shall be imprisoned for not less than
23 two (2) years nor more than ten (10) years.

1 D. Any person sixteen (16) years of age or over who violates
2 the provisions of this section shall be prosecuted as an adult.

3 E. A person is guilty of an offense under this section
4 committed by another person when:

5 1. Acting with the state of mind that is sufficient for
6 commission of the offense, ~~he~~ the person causes an innocent or
7 irresponsible person to engage in conduct constituting the offense;

8 2. Intending to promote or facilitate the commission of the
9 offense ~~he~~ the person:

10 a. solicits, requests, commands, importunes, or otherwise
11 attempts to cause the other person to commit it,

12 b. aids, counsels, or agrees or attempts to aid the other
13 person in planning or committing it, or

14 c. having a legal duty to prevent the commission of the
15 offense, fails to make a proper effort to do so; or

16 3. The person's conduct is expressly declared by a statute of
17 this state to establish the person's complicity.

18 F. In any prosecution for an offense under this section in
19 which the criminal liability of the accused is based upon the
20 conduct of another person pursuant to this section, it is no defense
21 that:

22 1. The other person is not guilty of the offense in question
23 because of irresponsibility or other legal incapacity or exemption,
24 or because of unawareness of the criminal nature of the conduct in
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1 question or of the accused's criminal purpose, or because of other
2 factors precluding the mental state required for the commission of
3 the offense; or

4 2. The other person has not been prosecuted for or convicted of
5 any offense based on the conduct in question, or has previously been
6 acquitted thereof, or has been convicted of a different offense or
7 in a different degree, or has legal immunity from prosecution for
8 the conduct in question.

9 G. "Disorderly conduct" as used in this section means a course
10 of conduct by a person who:

11 1. ~~Causes public inconvenience, annoyance, or alarm, or~~
12 ~~recklessly~~ Recklessly creates a public risk thereof, by:

13 a. ~~engaging in initiating~~ fighting or ~~engaging in~~
14 violent, tumultuous, or threatening behavior; however,
15 self-defense against attacks initiated by others shall
16 not constitute initiating fighting,

17 b. making an unreasonable noise ~~or an offensively coarse~~
18 ~~utterance, gesture, or display, or addressing abusive~~
19 ~~language to any person present~~ after being warned to
20 stop,

21 c. dispersing any lawful procession or meeting of
22 persons, not being a peace officer of this state and
23 without lawful authority, or

1 d. creating a hazardous or physically offensive condition
2 which serves no legitimate purpose; or

3 2. Engages with at least one other person in a course of
4 disorderly conduct as defined in paragraph 1 of this subsection
5 which is likely to cause substantial harm ~~or serious inconvenience,~~
6 ~~annoyance, or alarm,~~ and refuses or knowingly fails to obey an order
7 to disperse, made by a peace officer to the participants.

8 SECTION 5. AMENDATORY 21 O.S. 2021, Section 1321.9, is
9 amended to read as follows:

10 Section 1321.9. Cities and towns are hereby authorized to enact
11 ordinances in general conformity with the provisions of ~~this act~~ the
12 Oklahoma Riot Control and Prevention Act; provided, however, each
13 state of emergency shall follow the duration limitation and purpose
14 for declaring the state of emergency as provided in Section 1321.3
15 of this title.

16 SECTION 6. It being immediately necessary for the preservation
17 of the public peace, health or safety, an emergency is hereby
18 declared to exist, by reason whereof this act shall take effect and
19 be in full force from and after its passage and approval.

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