

STATE OF OKLAHOMA

1st Session of the 59th Legislature (2023)

SENATE BILL 80

By: Bergstrom

AS INTRODUCED

An Act relating to firearms; amending 21 O.S. 2021, Sections 1279 and 1280, which relate to pointing a firearm and related penalties; expanding scope of certain prohibited act; removing administrative penalty provision; updating statutory language; amending 21 O.S. 2021, Sections 1289.16 and 1289.25, which relate to Oklahoma Firearms Act of 1971; authorizing the pointing of firearms under certain circumstances; removing administrative penalty provision; removing certain presumption; providing for the defensive display of firearms under certain circumstances; providing exceptions; providing examples of certain action; providing certain definition; modifying definition; and declaring an emergency.

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

SECTION 1. AMENDATORY 21 O.S. 2021, Section 1279, is amended to read as follows:

Section 1279.

MISDEMEANOR POINTING A FIREARM

~~Except for an act of self-defense, it~~ It shall be unlawful for any person to point any ~~pistol~~ firearm or any other deadly weapon whether loaded or not, at any other person or persons. Any person violating the provisions of this section shall, upon conviction, be

1 guilty of a misdemeanor punishable as provided in Section 1280 of
2 this title.

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

10 SECTION 2. AMENDATORY 21 O.S. 2021, Section 1280, is
11 amended to read as follows:

12 Section 1280.

13 PENALTY FOR 1279

14 Any person violating the provisions of Section 1279 of this
15 title shall, upon conviction, be guilty of a misdemeanor punishable
16 by a fine ~~of~~ not less than One Hundred Dollars (\$100.00) nor more
17 than One Thousand Dollars (\$1,000.00) and shall be imprisoned in the
18 county jail for a period not ~~less than three (3) nor~~ more than
19 twelve (12) months. ~~Any person convicted of violating the~~
20 ~~provisions of Section 1279 of this title after having been issued a~~
21 ~~handgun license pursuant to the provisions of the Oklahoma Self-~~
22 ~~Defense Act shall have the handgun license revoked and shall be~~
23 ~~liable for an administrative fine of Fifty Dollars (\$50.00) upon a~~
24 ~~hearing and determination by the Oklahoma State Bureau of~~

1 ~~Investigation that the person is in violation of the provisions of~~
2 ~~this section.~~

3 SECTION 3. AMENDATORY 21 O.S. 2021, Section 1289.16, is
4 amended to read as follows:

5 Section 1289.16.

6 FELONY POINTING FIREARMS

7 A. ~~Except for an act of self defense, it~~ It shall be unlawful
8 for any person to willfully or without lawful cause point a ~~shotgun,~~
9 ~~rifle or pistol, or any deadly weapon, whether~~ loaded or unloaded
10 firearm ~~or not,~~ at any person or persons for the purpose of
11 threatening ~~or~~ with or without the intention of discharging the
12 firearm; ~~or~~ with any malice; ~~or~~ for any purpose of injuring, either
13 through physical injury or mental or emotional intimidation; ~~or~~ for
14 purposes of whimsy, humor or prank; ~~or~~ in anger or otherwise, but
15 not to include the pointing of ~~shotguns, rifles or pistols~~ firearms
16 by:

17 1. ~~law~~ Law enforcement authorities in the performance of their
18 duties; ~~i~~

19 2. ~~armed~~ Armed security guards licensed by the Council on Law
20 Enforcement Education and Training pursuant to the Oklahoma Security
21 Guard and Private Investigator Act in the performance of their
22 duties; ~~i~~

23 3. ~~members~~ Members of the state military forces in the
24 performance of their duties; ~~i~~

1 ~~4. members~~ Members of the federal military reserve and active
2 military components in the performance of their duties, ~~or;~~

3 ~~5. any~~ Any federal government law enforcement officer in the
4 performance of any duty, ~~or;~~

5 ~~6. in~~ In the performance of a play on stage, rodeo, television
6 or on film, ~~;~~ or

7 ~~7. in~~ In defense of any person, one's home or property.

8 B. It shall be lawful to point a firearm at another person or
9 persons, by a person who can legally own or possess the weapon
10 pursuant to the provisions of Section 1272 of this title by a
11 premises owner or controller, in an act of self-defense, or in
12 defense of real or private property located on any premises, whether
13 owned, rented, leased, or occupied by permission of the premises
14 owner or controller, whether or not a person is in possession of a
15 valid handgun license pursuant to the provisions of the Oklahoma
16 Self-Defense Act.

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

20 ~~Any person convicted of a violation of the provisions of this~~
21 ~~section after having been issued a handgun license pursuant to the~~
22 ~~Oklahoma Self-Defense Act shall have the license revoked and shall~~
23 ~~be subject to an administrative fine of One Thousand Dollars~~
24 ~~(\$1,000.00), upon a hearing and determination by the Oklahoma State~~

1 ~~Bureau of Investigation that the person is in violation of the~~
2 ~~provisions of this section.~~

3 SECTION 4. AMENDATORY 21 O.S. 2021, Section 1289.25, is
4 amended to read as follows:

5 Section 1289.25.

6 PHYSICAL OR DEADLY FORCE ~~AGAINST INTRUDER~~

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

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

- 20 1. a. The person against whom the defensive force was used
21 was in the process of unlawfully and forcefully
22 entering, or had unlawfully and forcibly entered, a
23 dwelling, residence, occupied vehicle, place of
24 business, occupied premises, or place of worship, or

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

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

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

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

18 1. The person against whom the defensive force is used has the
19 right to be in or is a lawful resident of the dwelling, residence,
20 occupied premises, or vehicle, such as an owner, lessee, or
21 titleholder, and there is not a protective order from domestic
22 violence in effect or a written pretrial supervision order of no
23 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 premises, occupied vehicle, place of business, or place of worship
8 to further an 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, occupied premises, or place of worship is
19 presumed to be doing so with the intent to commit an unlawful act
20 involving force or 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~~ shall not
24 be subject to criminal prosecution ~~and~~ or civil action for the use

1 of such defensive force. As used in this subsection, the term
2 "criminal prosecution" includes charging or prosecuting the
3 defendant.

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

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

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

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

22 K. 1. Defensive display of a firearm or other deadly weapon by
23 a person is justified:
24

- 1 a. when a reasonable person would believe that physical
2 force is immediately necessary to protect himself,
3 herself, or another against the use or attempted use
4 of unlawful physical or deadly force by a person, or
5 b. by a premises owner or controller in self-defense, or
6 in defense of real or private property, located on any
7 premises, owned, rented, leased, or occupied by
8 permission of the premise owner or controller.

9 2. For purposes of this subsection, a person need not be in
10 possession of a valid handgun license pursuant to the provisions of
11 the Oklahoma Self-Defense Act, and the defensive display of a weapon
12 shall not be deemed a criminal act.

13 3. The provisions of this subsection shall not apply to a
14 person who:

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

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

23 5. For purposes of this subsection, "defensive display of a
24 firearm" includes but is not limited to:

1 4. "Place of worship" means:

2 a. any permanent building, structure, facility or office
3 space owned, leased, rented or borrowed, on a full-
4 time basis, when used for worship services, activities
5 and business of the congregation, which may include,
6 but not be limited to, churches, temples, synagogues
7 and mosques, and

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

14 ~~4.~~ 5. "Residence" means a dwelling or building ~~in~~ which a
15 person ~~resides~~ is occupying either temporarily or permanently or is
16 visiting as an invited guest; and

17 ~~5.~~ 6. "Vehicle" means a conveyance of any kind, whether or not
18 motorized, which is designed to transport people or property.

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 resolution shall take
22 effect and be in full force from and after its passage and approval.
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