

1 STATE OF OKLAHOMA

2 1st Session of the 59th Legislature (2023)

3 HOUSE BILL 2051

By: Hardin

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5  
6 AS INTRODUCED

7 An Act relating to firearms; amending 21 O.S. 2021,  
8 Sections 1279 and 1280, which relate to the crime and  
9 related penalties for pointing a weapon; clarifying  
10 exception to certain prohibited act; deleting  
11 revocation and administrative penalty provisions;  
12 amending 21 O.S. 2021, Sections 1289.16 and 1289.25,  
13 which relate to the Oklahoma Firearms Act of 1971;  
14 authorizing the pointing of firearms under certain  
15 circumstances; making certain acts unlawful; deleting  
16 administrative penalty provision; expanding  
17 situations that allow for the use of physical or  
18 deadly force; allowing for the defensive display of  
19 firearms under certain circumstances; providing  
20 exceptions; defining terms; and declaring an  
21 emergency.

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

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

Section 1279.

MISDEMEANOR POINTING A FIREARM

21 ~~Except for an act of self-defense, it~~ It shall be unlawful for  
22 any person to point any ~~pistol~~ firearm or any other deadly weapon  
23 whether loaded or not, at any other person or persons. Any person  
24 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 in defense of their  
6 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 of ~~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 ~~Except for an act of self-defense, it~~ A. It shall be unlawful  
8 ~~for any person to willfully or without lawful cause~~ lawful to point  
9 ~~a shotgun, rifle or pistol, firearm, knife, or any other~~ deadly  
10 ~~weapon, whether loaded or not, at any another person or persons for~~  
11 ~~the purpose of threatening or with 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 by law.~~

16 1. A person who can legally own or possess a weapon pursuant to  
17 the provisions of Section 1272 of this title:

- 18 a. during an act of self-defense, or  
19 b. in defense of real or private property, whether owned,  
20 leased, or occupied by permission of the property  
21 owner and whether or not the person possesses a valid  
22 handgun license issued pursuant to the Oklahoma Self-  
23 Defense Act;

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1        2. A person in the defensive display of a firearm or other  
2 deadly weapon, as provided for in Section 1289.25 of this title;

3        3. Law enforcement authorities in the performance of their  
4 duties, ~~armed;~~

5        4. Armed security guards licensed by the Council on Law  
6 Enforcement Education and Training pursuant to the Oklahoma Security  
7 Guard and Private Investigator Act in the performance of their  
8 duties, ~~members;~~

9        5. Members of the state military forces in the performance of  
10 their duties, ~~members;~~

11        6. Members of the federal military reserve and active military  
12 components in the performance of their duties, ~~or any;~~

13        7. Any federal government law enforcement officer in the  
14 performance of any duty, ~~or in~~

15        8. Any person during the performance of a play on stage, while  
16 participating in a rodeo, or when participating in a television  
17 program or on film, ~~or in defense of any person, one's home or~~  
18 property project.

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

3 C. Any person convicted of a violation of the provisions of  
4 this section shall be punished as provided in Section 1289.17 of  
5 this title.

6 ~~Any person convicted of a violation of the provisions of this~~  
7 ~~section after having been issued a handgun license pursuant to the~~  
8 ~~Oklahoma Self-Defense Act shall have the license revoked and shall~~  
9 ~~be subject to an administrative fine of One Thousand Dollars~~  
10 ~~(\$1,000.00), upon a hearing and determination by the Oklahoma State~~  
11 ~~Bureau of Investigation that the person is in violation of the~~  
12 ~~provisions of this section.~~

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

15 Section 1289.25

16 PHYSICAL OR DEADLY FORCE ~~AGAINST INTRUDER~~

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

23 B. A person, regardless of official capacity or lack of  
24 official capacity, within a place of worship or a person, an owner,

1 manager or employee of a business is presumed to have held a  
2 reasonable fear of imminent peril of death or great bodily harm to  
3 himself or herself or another when using defensive force that is  
4 intended or likely to cause death or great bodily harm to another  
5 if:

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

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

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

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

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

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

14 3. The person who uses defensive force is engaged in an  
15 unlawful activity or is using the dwelling, residence, occupied  
16 vehicle, place of business or place of worship to further an  
17 unlawful activity.

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

1 E. A person who unlawfully and by force enters or attempts to  
2 enter the dwelling, residence, occupied vehicle of another person,  
3 place of business, occupied premises, or place of worship is  
4 presumed to be doing so with the intent to commit an unlawful act  
5 involving force or violence.

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

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

18 H. The court shall award reasonable attorney fees, court costs,  
19 compensation for loss of income, and all expenses incurred by the  
20 defendant in defense of any civil action brought by a plaintiff if  
21 the court finds that the defendant is ~~immune from~~ not subject to  
22 prosecution as provided in subsection F of this section.

23 I. The provisions of this section and the provisions of the  
24 Oklahoma Self-Defense Act shall not be construed to require any

1 person using a weapon pursuant to the provisions of this section to  
2 be licensed in any manner.

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

7 K. 1. The defensive display of a firearm or other deadly  
8 weapon by a person is justified when and to the extent a reasonable  
9 person believes that physical force is immediately necessary to  
10 protect himself, herself or another person against the use or  
11 attempted use of unlawful physical or deadly force by a person,  
12 premises owner or controller in self-defense, or in defense of real  
13 or private property, located on any premises, owned, rented, leased  
14 or occupied by permission of the premise owner or controller,  
15 whether or not a person is in possession of a valid handgun license  
16 issued pursuant to the provisions of the Oklahoma Self-Defense Act  
17 and shall not be deemed a criminal act.

18 2. The provisions of this subsection shall not apply to a  
19 person who:

- 20 a. intentionally provokes another person to use or  
21 attempt to use unlawful physical or deadly force, or
- 22 b. uses a firearm during the commission of an unlawful  
23 act involving force or violence.

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

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

7           a. verbally informing another person that the person  
8           possesses or has available a firearm or any other  
9           deadly weapon,

10          b. exposing or displaying a firearm or any other deadly  
11          weapon in a manner that a reasonable person would  
12          understand was meant to protect the person against the  
13          use or attempted use by another of unlawful physical  
14          or deadly force, or

15          c. placing the hand of the person on a firearm or any  
16          other deadly weapon while the firearm is contained in  
17          a pocket, purse, holster, sling scabbard, case or  
18          other means of containment or transport.

19       L. As used in this section:

20           1. "Defensive force" includes, but shall not be limited to,  
21 pointing a weapon at a perpetrator in self-defense or in order to  
22 thwart, stop or deter a forcible felony or attempted forcible  
23 felony;

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

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

8       4. "Place of worship" means:

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

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

21       ~~4.~~ 5. "Residence" means a dwelling in which a person resides  
22 either temporarily or permanently or is visiting as an invited  
23 guest; and

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1        ~~5.~~ 6. "Vehicle" means a conveyance of any kind, whether or not  
2 motorized, which is designed to transport people or property.

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

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8            59-1-5068            GRS            11/10/22

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