

OKLAHOMA STATE SENATE
CONFERENCE
COMMITTEE REPORT

May 11, 2022

Mr. President:

Mr. Speaker:

The Conference Committee, to which was referred

SB925

By: Bergstrom of the Senate and Steagall of the House

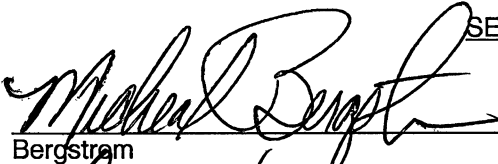
Title: Firearms; providing for the defensive display of firearms under certain circumstances; exceptions; examples. Emergency.

together with Engrossed House Amendments thereto, beg leave to report that we have had the same under consideration and herewith return the same with the following recommendations:

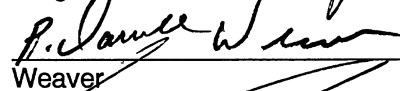
1. That the House recede from all Amendments.
2. That the attached Conference Committee Substitute be adopted.

Respectfully submitted,


SENATE CONFEREES:


Bergstrom

Paxton


Weaver

Jech


Pugh

Brooks


Rader

HOUSE CONFEREES:

Conference Committee on Judiciary - Criminal

Senate Action _____ Date _____ House Action _____ Date _____

1 STATE OF OKLAHOMA

2 2nd Session of the 58th Legislature (2022)

3 CONFERENCE COMMITTEE SUBSTITUTE
4 FOR ENGROSSED

5 SENATE BILL NO. 925

By: Bergstrom, Hamilton,
Stephens, Allen, Jett, and
Bullard of the Senate

6 and

7 Steagall, West (Kevin),
8 McDugle, Manger, Roberts
(Sean), and Hardin (David)
9 of the House

10
11 CONFERENCE COMMITTEE SUBSTITUTE

12 An Act relating to firearms; amending 21 O.S. 2021,
13 Sections 1279 and 1280, which relate to pointing a
14 firearm and related penalties; modifying exception;
15 removing administrative penalty provision; modifying
16 criminal penalty; amending 21 O.S. 2021, Sections
17 1289.16 and 1289.25, which relate to the Oklahoma
18 Firearms Act of 1971; authorizing and prohibiting the
19 pointing of firearms under certain circumstances;
20 removing administrative penalty provision; broadening
21 certain provisions to occupied premises; providing
22 for the defensive display of firearms under certain
23 circumstances; providing exceptions; providing
24 examples of certain action; adding and modifying
definitions; updating statutory language; 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.

1 MISDEMEANOR POINTING A FIREARM

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

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

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

17 Section 1280.

18 PENALTY FOR 1279

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

1 ~~provisions of Section 1279 of this title after having been issued a~~
2 ~~handgun license pursuant to the provisions of the Oklahoma Self-~~
3 ~~Defense Act shall have the handgun license revoked and shall be~~
4 ~~liable for an administrative fine of Fifty Dollars (\$50.00) upon a~~
5 ~~hearing and determination by the Oklahoma State Bureau of~~
6 ~~Investigation that the person is in violation of the provisions of~~
7 ~~this section.~~

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

10 Section 1289.16.

11 FELONY POINTING FIREARMS

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

24

1 B. It shall also be lawful for the following person or persons
2 who legally own or possess a weapon pursuant to the provisions of
3 Section 1272 of this title to point a firearm or knives or any other
4 deadly weapon at another person:

5 1. A premises owner or controller, acting in self-defense, or
6 in defense of real or private property located on any premises, or
7 owned, rented, leased, or occupied by permission of the premises
8 owner or controller, whether or not a person is in possession of a
9 valid handgun license pursuant to the provisions of the Oklahoma
10 Self-Defense Act;

11 2. Any person in the defensive display of a firearm or other
12 deadly weapon as provided for in Section 1289.25 of this title;

13 3. ~~by law~~ Law enforcement authorities in the performance of
14 their duties~~;~~;

15 4. ~~armed~~ Armed security guards licensed by the Council on Law
16 Enforcement Education and Training pursuant to the Oklahoma Security
17 Guard and Private Investigator Act in the performance of their
18 duties~~;~~;

19 5. ~~members~~ Members of the state military forces in the
20 performance of their duties~~;~~;

21 6. ~~members~~ Members of the federal military reserve and active
22 military components in the performance of their duties~~;~~;

23 7. ~~any~~ Any federal government law enforcement officer in the
24 performance of any duty~~;~~; or

1 8. Any person in the performance of a play on stage, rodeo,
2 television or on film, ~~or in defense of any person, one's home or~~
3 ~~property.~~

4 C. It shall be unlawful for any person to willfully and without
5 lawful cause point a firearm, knife, or any other deadly weapon,
6 whether loaded or not, at any person or persons for the purpose of
7 threatening or with the intention of discharging the firearm or with
8 any malice or for any purpose of injuring, either through physical
9 injury or mental or emotional intimidation or for purposes of
10 whimsy, humor or prank, or in anger or otherwise.

11 D. Any person convicted of a violation of the provisions of
12 this section shall be punished as provided in Section 1289.17 of
13 this title.

14 ~~Any person convicted of a violation of the provisions of this~~
15 ~~section after having been issued a handgun license pursuant to the~~
16 ~~Oklahoma Self-Defense Act shall have the license revoked and shall~~
17 ~~be subject to an administrative fine of One Thousand Dollars~~
18 ~~(\$1,000.00), upon a hearing and determination by the Oklahoma State~~
19 ~~Bureau of Investigation that the person is in violation of the~~
20 ~~provisions of this section.~~

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

23 Section 1289.25.

24 PHYSICAL OR DEADLY FORCE ~~AGAINST INTRUDER~~

1 A. The Legislature hereby recognizes that the citizens of ~~the~~
2 ~~State of Oklahoma~~ this state have a right to expect absolute safety
3 within their own homes, places of business, occupied premises or
4 places of worship and have the right to establish policies regarding
5 the possession of weapons on property pursuant to the provisions of
6 Section 1290.22 of this title.

7 B. A person, regardless of official capacity or lack of
8 official capacity, within a place of worship or a person, an owner,
9 manager or employee of a business is presumed to have held a
10 reasonable fear of imminent peril of death or great bodily harm to
11 himself or herself or another when using defensive force that is
12 intended or likely to cause death or great bodily harm to another
13 if:

14 1. a. The person against whom the defensive force was used
15 was in the process of unlawfully and forcefully
16 entering, or had unlawfully and forcibly entered, a
17 dwelling, residence, occupied vehicle, place of
18 business, occupied premises or place of worship, or if
19 that person had removed or was attempting to remove
20 another against the will of that person from the
21 dwelling, residence, occupied vehicle, place of
22 business, occupied premises or place of worship.

23 b. The person who uses defensive force knew or had reason
24 to believe that an unlawful and forcible entry or

1 unlawful and forcible act on the occupied premises was
2 occurring or had occurred; or

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

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

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

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

21 3. The person who uses defensive force is engaged in an
22 unlawful activity or is using the dwelling, residence, occupied
23 vehicle, place of business or place of worship to further an
24 unlawful activity.

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

8 E. A person who unlawfully and by force enters or attempts to
9 enter the dwelling, residence, occupied vehicle of another person,
10 place of business, occupied premises or place of worship is presumed
11 to be doing so with the intent to commit an unlawful act involving
12 force or violence.

13 F. A person who uses defensive force, as permitted pursuant to
14 the provisions of subsections A, B, D and E of this section, is
15 justified in using such defensive force and ~~is immune from~~ shall not
16 be subject to criminal prosecution and civil action for the use of
17 such defensive force. As used in this subsection, the term
18 "criminal prosecution" includes charging or prosecuting the
19 defendant.

20 G. A law enforcement agency may use standard procedures for
21 investigating the use of defensive force, but the law enforcement
22 agency may not arrest the person for using defensive force unless it
23 determines that there is probable cause that the defensive force
24 that was used was unlawful.

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

6 I. The provisions of this section and the provisions of the
7 Oklahoma Self-Defense Act shall not be construed to require any
8 person using a weapon pursuant to the provisions of this section to
9 be licensed in any manner.

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

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

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

- 3 a. intentionally provokes another person to use or
4 attempt to use unlawful physical or deadly force, or
- 5 b. uses a firearm during the commission of an unlawful
6 act involving force or violence.

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

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

- 13 a. verbally informing another person that the person
14 possesses or has available a firearm or any other
15 deadly weapon,
- 16 b. exposing or displaying a firearm or any other deadly
17 weapon in a manner that a reasonable person would
18 understand was meant to protect the person against the
19 use or attempted use by another of unlawful physical
20 or deadly force, or
- 21 c. placing the hand of the person on a firearm or any
22 other deadly weapon while the firearm is contained in
23 a pocket, purse, holster, sling scabbard, case, or
24 other means of containment or 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 or building ~~in~~ which a person
2 ~~resides~~ is occupying either temporarily or permanently or is
3 visiting as an invited guest; ~~and~~

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

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

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

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