

STATE OF OKLAHOMA

1st Session of the 59th Legislature (2023)

HOUSE BILL 2771

By: Munson

AS INTRODUCED

An Act relating to domestic violence; amending 21 O.S. 2021, Section 1283, as amended by Section 1, Chapter 299, O.S.L. 2022 (21 O.S. Supp. 2022, Section 1283), which relates to convicted felons and delinquents; prohibiting persons convicted of certain offenses or subject to protective orders from possessing firearms; prohibiting handgun licensees from certain conduct; directing the court to include certain information in orders issued by the court; establishing procedures for the transfer of firearms and handgun license under certain circumstances; requiring written proof of transfer; requiring person to file declaration and proof of transfer with the court; prohibiting prosecution of certain offense under specified circumstances; requiring return of firearms and handgun license upon expiration or termination of protective order; requiring background check prior to return of firearms and handgun license; authorizing contempt proceedings under certain circumstances; authorizing search warrant for removal of firearms under certain circumstances; providing for storage of transferred firearms; authorizing storage fee; authorizing development of rules and procedures for storage and disposal of firearms and handgun licenses by law enforcement agencies; amending 22 O.S. 2021, Section 60.11, as amended by Section 8, Chapter 318, O.S.L. 2022 (22 O.S. Supp. 2022, Section 60.11), which relates to the Protection from Domestic Abuse Act; providing additional information to be printed on ex parte and final protective orders; providing for codification; and providing an effective date.

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

2 SECTION 1. AMENDATORY 21 O.S. 2021, Section 1283, as
3 amended by Section 1, Chapter 299, O.S.L. 2022 (21 O.S. Supp. 2022,
4 Section 1283), is amended to read as follows:

5 Section 1283. A. Except as provided in subsection B of this
6 section, it shall be unlawful for any person convicted of any felony
7 in any court of this state or of another state or of the United
8 States to have in his or her possession or under his or her
9 immediate control, or in any vehicle which the person is operating,
10 or at the residence where the convicted person resides, any pistol,
11 imitation or homemade pistol, altered air or toy pistol, machine
12 gun, sawed-off shotgun or sawed-off rifle, or any other firearm.

13 B. Any person who has previously been convicted of a nonviolent
14 felony in any court of this state or of another state or of the
15 United States, and who has received a full and complete pardon from
16 the proper authority and has not been convicted of any other felony
17 offense which has not been pardoned, shall have restored the right
18 to possess any firearm or other weapon prohibited by subsection A of
19 this section, the right to apply for and carry a handgun, concealed
20 or unconcealed, pursuant to the provisions of the Oklahoma Self-
21 Defense Act or as otherwise permitted by law, and have the right to
22 perform the duties of a peace officer, gunsmith, and for firearms
23 repair.

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1 C. It shall be unlawful for any person serving a term of
2 probation for any felony in any court of this state or of another
3 state or of the United States or under the jurisdiction of any
4 alternative court program to have in his or her possession or under
5 his or her immediate control, or at his or her residence, or in any
6 passenger vehicle which the person is operating, any pistol, shotgun
7 or rifle including any imitation or homemade pistol, altered air or
8 toy pistol, toy shotgun or toy rifle, while such person is subject
9 to supervision, probation, parole or inmate status.

10 D. It shall be unlawful for any person previously adjudicated
11 as a delinquent child or a youthful offender for the commission of
12 an offense, which would have constituted a felony offense if
13 committed by an adult, to have in the possession of the person or
14 under the immediate control of the person, or have in any vehicle
15 which he or she is driving, or at the residence of the person, any
16 pistol, imitation or homemade pistol, altered air or toy pistol,
17 machine gun, sawed-off shotgun or sawed-off rifle, or any other
18 dangerous or deadly firearm within ten (10) years after such
19 adjudication; provided, that nothing in this subsection shall be
20 construed to prohibit the placement of the person in a home with a
21 full-time duly appointed peace officer who is certified by the
22 Council on Law Enforcement Education and Training (CLEET) pursuant
23 to the provisions of Section 3311 of Title 70 of the Oklahoma
24 Statutes.

1 E. It shall be unlawful for any person who is an alien
2 illegally or unlawfully in the United States to have in the
3 possession of the person or under the immediate control of the
4 person, or in any vehicle the person is operating, or at the
5 residence where the person resides, any pistol, imitation or
6 homemade pistol, altered air or toy pistol, shotgun, rifle or any
7 other dangerous or deadly firearm; provided, that nothing in this
8 subsection applies to prohibit the transport or detention of the
9 person by law enforcement officers or federal immigration
10 authorities. Any person who violates the provisions of this
11 subsection shall, upon conviction, be guilty of a misdemeanor
12 punishable by a fine of Two Hundred Fifty Dollars (\$250.00).

13 F. It shall be unlawful for any person convicted of misdemeanor
14 domestic abuse under subsection C of Section 644 of this title,
15 misdemeanor stalking under paragraph 2 of subsection A of Section
16 1173 of this title, or a misdemeanor crime of domestic violence as
17 defined in 18 U.S.C., Section 921(a)(33)(A) in any court of this
18 state or of another state or of the United States, or subject to an
19 emergency temporary protective order or final protective order
20 issued pursuant to Section 60.4 of Title 22 of the Oklahoma Statutes
21 or a foreign protective order that qualifies as an order described
22 in 18 U.S.C., Section 922(d)(8) or (g)(8) to have in his or her
23 possession or under his or her immediate control, or in any vehicle
24 which the person is operating, or in which the person is riding as a

1 passenger, or at the residence where the convicted person resides,
2 any pistol, imitation or homemade pistol, altered air or toy pistol,
3 machine gun, shotgun or rifle, or any other dangerous or deadly
4 firearm.

5 G. Any person having been issued a handgun license pursuant to
6 the provisions of the Oklahoma Self-Defense Act and who knowingly or
7 intentionally allows a convicted felon ~~or,~~ an adjudicated delinquent
8 ~~or,~~ a youthful offender, a person convicted of a misdemeanor
9 domestic abuse or stalking offense, or a person subject to an
10 emergency temporary or final protective order, as prohibited by the
11 provisions of subsection A, C, ~~or,~~ D or F of this section, to
12 possess or have control of any firearm authorized by the Oklahoma
13 Self-Defense Act shall, upon conviction, be guilty of a felony
14 punishable by a fine not to exceed Five Thousand Dollars
15 (\$5,000.00). In addition, the person shall have the handgun license
16 revoked by the Oklahoma State Bureau of Investigation after a
17 hearing and determination that the person has violated the
18 provisions of this section.

19 ~~G.~~ H. Any convicted or adjudicated person violating the
20 provisions of this section shall, upon conviction, be guilty of a
21 felony punishable as provided in Section 1284 of this title.

22 ~~H.~~ I. For purposes of this section, "sawed-off shotgun" or
23 "sawed-off rifle" shall mean any shotgun or rifle which the barrel
24 or barrels have been illegally shortened in length.

1 ~~I.~~ J. For purposes of this section, "altered toy pistol" shall
2 mean any toy weapon which has been altered from its original
3 manufactured state to resemble a real weapon.

4 ~~J.~~ K. For purposes of this section, "altered air pistol" shall
5 mean any air pistol manufactured to propel projectiles by air
6 pressure which has been altered from its original manufactured
7 state.

8 ~~K.~~ L. For purposes of this section, "alternative court program"
9 shall mean any drug court, Anna McBride or mental health court, DUI
10 court or veterans' court.

11 SECTION 2. NEW LAW A new section of law to be codified
12 in the Oklahoma Statutes as Section 60.10 of Title 22, unless there
13 is created a duplication in numbering, reads as follows:

14 A. When a person is convicted of domestic abuse pursuant to
15 Section 644 of Title 21 of the Oklahoma Statutes, stalking pursuant
16 to Section 1173 of Title 21 of the Oklahoma Statutes, or the person
17 is subject to an emergency temporary protective order or a final
18 protective order pursuant to Section 60.4 of Title 22 of the
19 Oklahoma Statutes, the court shall, at the time of conviction or
20 issuance of the protective order:

21 1. Indicate in the judgment and sentence or protective order
22 that the person is prohibited from possessing firearms pursuant to
23 subsection F of Section 1283 of Title 21 of the Oklahoma Statutes;
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1 2. Order in writing that the person transfer all firearms and
2 any handgun license issued pursuant to the provisions of the
3 Oklahoma Self-Defense Act in the possession of the person in
4 accordance with subsection B of this section; and

5 3. Order that the person file a declaration as described in
6 subsection D of this section.

7 B. Within twenty-four (24) hours, exclusive of legal holidays
8 and weekends, of becoming subject to a court order under paragraph 2
9 of subsection A of this section, a person shall transfer all
10 firearms and any handgun license in the possession of the person to
11 a law enforcement agency within the municipality or county in which
12 the person resides or to a licensed dealer, as defined in paragraph
13 1 of subsection A of Section 1289.28 of Title 21 of the Oklahoma
14 Statutes, and shall obtain a proof of transfer under subsection C of
15 this section. If the person is incarcerated at the time the order
16 is issued, the person shall transfer the firearms and any handgun
17 license no later than twenty-four (24) hours after release from
18 incarceration, exclusive of legal holidays and weekends.

19 C. A law enforcement agency or licensed dealer receiving a
20 firearm or handgun license pursuant to this subsection shall issue
21 to the person a written proof of transfer. The proof of transfer
22 shall include the name of the person, the date of transfer, and the
23 serial number, make, and model of each transferred firearm.

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1 D. Within forty-eight (48) hours, exclusive of legal holidays
2 and weekends, of becoming subject to a court order under paragraph 2
3 of subsection A of this section, a person shall file with the court
4 a declaration under penalty of perjury attesting that:

5 1. All firearms and any handgun license in the possession of
6 the person have been transferred under subsection B of this section
7 to a law enforcement agency or licensed dealer;

8 2. The person was not in possession of any firearms or handgun
9 license at the time of the order of the court and the person
10 continues to not possess any firearms; and

11 3. The person is asserting his or her own constitutional right
12 against self-incrimination.

13 E. The person shall file with the declaration a copy of the
14 proof of transfer, if applicable.

15 F. A person in possession of a firearm in violation of
16 subsection F of Section 1283 of Title 21 of the Oklahoma Statutes
17 may not be prosecuted for that violation if:

18 1. The person is in possession of a court order described in
19 paragraph 2 of subsection A of this section that was issued within
20 the previous twenty-four (24) hours;

21 2. The firearm is unloaded; and

22 3. The person is transporting the firearm or ammunition to a
23 law enforcement agency or federally licensed dealer in accordance
24 with subsection B of this section.

1 G. Upon the expiration or termination of a protective order, at
2 the request of the person, a law enforcement agency or licensed
3 dealer shall return any stored firearms and handgun license to the
4 person after performing a check of the National Instant Criminal
5 Background Check System (NICS) to confirm that the person is not
6 prohibited from possessing a firearm or ammunition under state or
7 federal law.

8 H. If the person does not file a declaration described in
9 subsection D of this section, the court may commence contempt
10 proceedings under Section 567 of Title 21 of the Oklahoma Statutes.

11 I. On application by a law enforcement official based on
12 probable cause to believe that the person has failed to transfer one
13 or more firearms in accordance with this section, the court may
14 authorize the execution of a search warrant for the removal of
15 firearms at any location where the court has probable cause to
16 believe a firearm possessed by the person is located.

17 J. 1. A law enforcement agency may enter into an agreement
18 with another law enforcement agency or storage facility for the
19 storage of transferred firearms and handgun licenses. A law
20 enforcement agency may charge a fee for storage, the amount of which
21 shall not exceed the costs incurred by the law enforcement agency
22 for providing storage.

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1 2. Law enforcement agencies may develop rules and procedures
2 pertaining to the storage and disposal of firearms and handgun
3 licenses that are transferred in accordance with this section.

4 SECTION 3. AMENDATORY 22 O.S. 2021, Section 60.11, as
5 amended by Section 8, Chapter 318, O.S.L. 2022 (22 O.S. Supp. 2022,
6 Section 60.11), is amended to read as follows:

7 Section 60.11 In addition to any other provisions required by
8 the Protection from Domestic Abuse Act, or otherwise required by
9 law, each ex parte or final protective order issued pursuant to the
10 Protection from Domestic Abuse Act shall have a statement printed in
11 bold-faced type or in capital letters containing the following
12 information:

13 1. The filing or nonfiling of criminal charges and the
14 prosecution of the case shall not be determined by a person who is
15 protected by the protective order, but shall be determined by the
16 prosecutor;

17 2. No person, including a person who is protected by the order,
18 may give permission to anyone to ignore or violate any provision of
19 the order. During the time in which the order is valid, every
20 provision of the order shall be in full force and effect unless a
21 court changes the order;

22 3. The order shall be in effect for a fixed period of five (5)
23 years unless extended, modified, vacated or rescinded by the court
24 or shall be continuous upon a specific finding by the court as

1 provided in subparagraph b of paragraph 1 of subsection G of Section
2 60.4 of this title unless modified, vacated or rescinded by the
3 court;

4 4. The order shall be entered into the National Crime
5 Information Center (NCIC) database;

6 5. A violation of the order is punishable by a fine of up to
7 One Thousand Dollars (\$1,000.00) or imprisonment for up to one (1)
8 year in the county jail, or by both such fine and imprisonment. A
9 violation of the order which causes injury is punishable by
10 imprisonment for twenty (20) days to one (1) year in the county jail
11 or a fine of up to Five Thousand Dollars (\$5,000.00), or by both
12 such fine and imprisonment;

13 6. Possession of a firearm ~~or ammunition~~ by a defendant while
14 an emergency temporary protective order or final protective order is
15 in effect ~~may subject the defendant to prosecution for a violation~~
16 ~~of federal law even if the order does not specifically prohibit the~~
17 ~~defendant from possession of a firearm or ammunition~~ is prohibited
18 pursuant to subsection F of Section 1283 of Title 21 of the Oklahoma
19 Statutes;

20 7. The defendant must avoid the residence of the petitioner or
21 any premises temporarily occupied by the petitioner;

22 8. The defendant must avoid contact that harasses or
23 intimidates the petitioner. Contact includes, but is not limited
24 to, contact at the home, work, or school of the petitioner, public

1 places, in person, by phone, in writing, by electronic communication
2 or device, or in any other manner;

3 9. The defendant shall not impersonate or adopt the
4 personification of the petitioner by pretending to be the
5 petitioner, ordering items, posting information or making inquiries,
6 or publishing photographs of the petitioner, by use of social media,
7 or by use of computer, telephone, texting, emailing, or by use of
8 any electronic means;

9 10. The defendant must refrain from removing, hiding, damaging,
10 harming, mistreating, or disposing of a household pet;

11 11. The defendant must allow the petitioner or a family member
12 or household member of the petitioner acting on his or her behalf to
13 retrieve a household pet;

14 12. The defendant must avoid contacting the petitioner or
15 causing any person other than an attorney for the petitioner or law
16 enforcement officer to contact the petitioner unless the petitioner
17 consents in writing; and

18 13. The sheriff will accompany the petitioner and assist in
19 placing the petitioner in physical possession of his or her
20 residence, if requested.

21 SECTION 4. This act shall become effective November 1, 2023.

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