

1 **SENATE FLOOR VERSION**

2 April 1, 2019

3 ENGROSSED HOUSE
4 BILL NO. 1161

By: Worthen of the House

5 and

6 McCortney of the House

7
8 An Act relating to firearms; amending Section 3,
9 Chapter 259, O.S.L. 2014 (21 O.S. Supp. 2018, Section
10 1290.27), which relates to the Oklahoma Self-Defense
11 Act; authorizing transmission of certain information
12 by using electronic methods or data exchange; and
13 providing an effective date.

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

15 SECTION 1. AMENDATORY Section 3, Chapter 259, O.S.L.
16 2014 (21 O.S. Supp. 2018, Section 1290.27), is amended to read as
17 follows:

18 Section 1290.27. A. When a court adjudicates a person
19 mentally incompetent or orders the involuntary commitment of
20 a person due to a mental illness, condition or disorder under
21 the laws of this state by which a person becomes subject to
22 the provisions of Section 922(d)(4) and (g)(4) of Title 18 of
23 the United States Code, the clerk of the court shall forward
24 a certified copy of the order or adjudication to the Federal
Bureau of Investigation or its successor agency for the sole

1 purpose of inclusion in the National Instant Criminal
2 Background Check System database and to the Oklahoma State
3 Bureau of Investigation. The clerk of the court shall also
4 notify the person of the prohibitions contained within the
5 provisions of Section 922(d)(4) and (g)(4) of Title 18 of the
6 United States Code, paragraph 3 of Section 1290.10 or
7 paragraph 3 of subsection A of Section 1290.11 of Title 21 of
8 the Oklahoma Statutes.

9 B. When a court adjudicates a person mentally incompetent or
10 orders the involuntary commitment of a person due to a mental
11 illness, condition or disorder under the laws of this state by which
12 a person becomes subject to the provisions of Section 922(d)(4) and
13 (g)(4) of Title 18 of the United States Code, paragraph 3 of Section
14 1290.10 or paragraph 3 of subsection A of Section 1290.11 of Title
15 21 of the Oklahoma Statutes, or when a person is otherwise
16 disqualified from eligibility for a handgun license under paragraph
17 6 or 7 of Section 1290.10 of Title 21 of the Oklahoma Statutes or
18 paragraph 4 of subsection A of Section 1290.11 of Title 21 of the
19 Oklahoma Statutes, the person may petition the court in which the
20 adjudication or commitment proceedings occurred or the district
21 court of the county in which the person currently resides to remove
22 the disability.

23 C. On filing of the petition, the court shall set a hearing.
24 Not less than thirty (30) days prior to a hearing on the matter, a

1 copy of the petition for relief shall be served upon the district
2 attorney for that county. The court shall receive and consider
3 evidence in a closed hearing.

4 D. The court shall receive evidence on and consider the
5 following before granting or denying the petition:

6 1. Psychological or psychiatric evidence from the petitioner
7 and in support of the petition;

8 2. The circumstances that resulted in the firearm disabilities;

9 3. The petitioner's criminal history records provided by the
10 state, if any;

11 4. The petitioner's mental health records;

12 5. The reputation of the petitioner based on character witness
13 statements, testimony or other character evidence;

14 6. Whether the petitioner is a danger to self or others;

15 7. Changes in the condition or circumstances of the petitioner
16 since the original adjudication of mental incompetency or
17 involuntary commitment for a mental illness, condition or disorder
18 relevant to the relief sought; and

19 8. Any other evidence deemed admissible by the court.

20 E. The court shall grant the relief requested if the petitioner
21 proves by clear and convincing evidence that:

22 1. The petitioner is not likely to act in a manner that is
23 dangerous to the public safety; and

24

1 2. Granting the relief requested is not contrary to the public
2 interest.

3 F. At the conclusion of the hearing, the court shall issue
4 findings of fact and conclusions of law. A record shall be kept of
5 the proceedings, but shall remain confidential and be disclosed only
6 to a court or the parties. No records of the proceedings pursuant
7 to this subsection shall be open to public inspection except by
8 order of the court or to a person's attorney of record. The
9 petitioner may appeal a denial of the requested relief, and review
10 on appeal shall be de novo.

11 G. If the court grants the petition for relief, the original
12 adjudication of mental incompetency or order of involuntary
13 commitment due to a mental illness, condition or disorder of the
14 petitioner is deemed not to have occurred for purposes of applying
15 Section 922(d)(4) and (g)(4) of Title 18 of the United States Code,
16 paragraph 3, 6 or 7 of Section 1290.10, or paragraph 3 or 4 of
17 subsection A of Section 1290.11 of Title 21 of the Oklahoma
18 Statutes.

19 H. The clerk of the court shall promptly forward to the Federal
20 Bureau of Investigation or its successor agency for the sole purpose
21 of inclusion in the National Instant Criminal Background Check
22 System database and the Department of Mental Health and Substance
23 Abuse Services and the Oklahoma State Bureau of Investigation, a
24 certified copy of the order granting relief under this section. The

1 Department of Mental Health and Substance Abuse Services and the
2 Oklahoma State Bureau of Investigation shall as soon thereafter as
3 is practicable, but in no case later than ten (10) business days,
4 update, correct, modify, or remove the record of the person in any
5 databases that these agencies use or refer to for the purposes of
6 handgun licensing, or make available to the National Instant
7 Criminal Background Check System and notify the United States
8 Attorney that the basis for such record being made available no
9 longer applies.

10 I. In lieu of sending a certified copy of a court order or
11 document, the court clerk may transmit the information required by
12 this section by using an electronic method or data exchange which is
13 authorized by the Federal Bureau of Investigation, the Department of
14 Mental Health and Substance Abuse Services and the Oklahoma State
15 Bureau of Investigation.

16 SECTION 2. This act shall become effective November 1, 2019.
17 COMMITTEE REPORT BY: COMMITTEE ON PUBLIC SAFETY
18 April 1, 2019 - DO PASS
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