

1 STATE OF OKLAHOMA

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

3 SENATE BILL 374

By: Kirt

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6 AS INTRODUCED

7 An Act relating to domestic violence; amending 21
8 O.S. 2021, Section 1283, as amended by Section 1,
9 Chapter 299, O.S.L. 2022 (21 O.S. Supp. 2022, Section
10 1283), which relates to convicted felons and
11 delinquents; conforming language; prohibiting persons
12 convicted of certain offenses or subject to a final
13 protective order from possessing firearms and handgun
14 licenses; modifying definitions; requiring court to
15 make certain order upon certain conviction or
16 issuance of protective order; establishing
17 requirements for transfer of firearms and handgun
18 licenses under certain circumstances; requiring
19 written proof of transfer; requiring person to file
20 certain declaration and proof of transfer with court;
21 prohibiting prosecution of certain offense under
22 specified circumstances; requiring return of firearms
23 and handgun license upon expiration or termination of
24 protective order; requiring certain 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 and handgun
licenses; authorizing storage fee; authorizing
development of rules and policies 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 protective orders; modifying required
statement to be printed on ex parte or final
protective order; providing for codification; and
providing an effective date.

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

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

Section 1283. CONVICTED FELONS AND DELINQUENTS

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

B. Any person who has previously been convicted of a nonviolent felony in any court of this state or of another state or of the United States, and who has received a full and complete pardon from the proper authority and has not been convicted of any other felony offense which has not been pardoned, shall have restored the right to possess any firearm or other weapon prohibited by subsection A of this section, ~~the right to apply for and carry a handgun, concealed or unconcealed, pursuant to the provisions of the Oklahoma Self-Defense Act or as otherwise permitted by law,~~ and have the right to

1 perform the duties of a peace officer, gunsmith, and for firearms
2 repair.

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

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

1 to the provisions of Section 3311 of Title 70 of the Oklahoma
2 Statutes.

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

15 F. It shall be unlawful for any person:

16 1. Convicted of misdemeanor domestic abuse under subsection C
17 of Section 644 of this title;

18 2. Convicted of misdemeanor stalking under paragraph 2 of
19 subsection A of Section 1173 of this title;

20 3. Convicted of a misdemeanor crime of domestic violence as
21 defined in 18 U.S.C. Section 921(a)(33)(A) in any court of this
22 state or of another state or of the United States; or

23 4. Subject to a final protective order issued pursuant to
24 subsection C of Section 60.4 of Title 22 of the Oklahoma Statutes or

1 a foreign protective order that qualifies as an order described in
2 18 U.S.C. Section 922(d) (8) or (g) (8),
3 to have in his or her possession, under his or her immediate
4 control, in any vehicle which the person is operating or in which
5 the person is riding as a passenger, or at the residence where the
6 convicted person resides, any pistol, imitation or homemade pistol,
7 altered air or toy pistol, machine gun, shotgun or rifle, or any
8 other dangerous or deadly firearm.

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

20 ~~G.~~ H. Any convicted or adjudicated person violating the
21 provisions of this section shall, upon conviction, be guilty of a
22 felony punishable as provided in Section 1284 of this title.
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1 H. I. For purposes of this section, ~~"sawed-off shotgun" or~~
2 ~~"sawed-off rifle" shall mean any shotgun or rifle which the barrel~~
3 ~~or barrels have been illegally shortened in length.~~

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

7 J. ~~For purposes of this section, "altered:~~

8 1. "Altered air pistol" shall mean any means an air pistol
9 manufactured to propel projectiles by air pressure which has been
10 altered from its original manufactured state;

11 2. "Altered toy pistol" means a toy weapon which has been
12 altered from its original manufactured state to resemble a real
13 weapon;

14 K. ~~For purposes of this section, "alternative 3. "Alternative~~
15 ~~court program" shall mean any means a drug court, Anna McBride or~~
16 ~~mental health court, DUI court or veterans court;~~ and

17 4. "Sawed-off shotgun" or "sawed-off rifle" means a shotgun or
18 rifle on which the barrel or barrels have been illegally shortened.

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

22 A. When a person is convicted of domestic abuse pursuant to
23 Section 644 of Title 21 of the Oklahoma Statutes, stalking pursuant
24 to Section 1173 of Title 21 of the Oklahoma Statutes, or becomes

1 subject to a final protective order pursuant to Section 60.4 of
2 Title 22 of the Oklahoma Statutes, the court shall, at the time of
3 conviction or issuance of the protective order:

4 1. Indicate in the judgment of conviction or protective order
5 that the person is prohibited from possessing a firearm pursuant to
6 subsection F of Section 1283 of Title 21 of the Oklahoma Statutes;

7 2. Order in writing that the person transfer all firearms and
8 any handgun license issued pursuant to the provisions of the
9 Oklahoma Self-Defense Act in the person's possession in accordance
10 with subsection B of this section; and

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

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

1 C. A law enforcement agency or licensed dealer receiving a
2 firearm or handgun license pursuant to this subsection shall issue
3 to the person a written proof of transfer. The proof of transfer
4 shall include the name of the person, the date of transfer and the
5 serial number and make and model of each transferred firearm.

6 D. Exclusive of legal holidays and weekends, within forty-eight
7 (48) hours of becoming subject to a court order under paragraph 2 of
8 subsection A of this section, a person shall file with the court a
9 declaration under penalty of perjury attesting that:

10 1. All firearms and any handgun license in the person's
11 possession have been transferred under subsection B of this section
12 to a law enforcement agency or licensed dealer;

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

16 3. The person is asserting the person's constitutional right
17 against self-incrimination.

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

20 F. A person in possession of a firearm in violation of
21 subsection F of Section 1283 of Title 21 of the Oklahoma Statutes
22 shall not be prosecuted for that violation if:
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1 1. The person is in possession of a court order described in
2 paragraph 2 of subsection A of this section that was issued within
3 the previous twenty-four (24) hours;

4 2. The firearm is unloaded; and

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

8 G. Upon the expiration or termination of a protective order, at
9 the request of the person, a law enforcement agency or licensed
10 dealer shall return any stored firearms and handgun license to the
11 person after performing a check of the National Instant Criminal
12 Background Check System (NICS) to confirm that the person is not
13 prohibited from possessing a firearm or ammunition under state or
14 federal law.

15 H. If the person does not file a declaration described in
16 subsection D of this section, the court may commence contempt
17 proceedings pursuant to Section 567 of Title 21 of the Oklahoma
18 Statutes.

19 I. On application by a law enforcement officer based on
20 probable cause to believe that the person has failed to transfer one
21 or more firearms in accordance with this section, the court may
22 authorize the execution of a search warrant for the removal of
23 firearms from any location where the court has probable cause to
24 believe a firearm possessed by the person is located.

1 J. 1. A law enforcement agency may enter into an agreement
2 with another law enforcement agency or storage facility for the
3 storage of transferred firearms or handgun licenses. A law
4 enforcement agency may charge a fee for storage which shall not
5 exceed the costs incurred by the law enforcement agency for
6 providing storage.

7 2. Law enforcement agencies may promulgate rules and procedures
8 pertaining to the storage and disposal of firearms and handgun
9 licenses that are transferred in accordance with this section.

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

13 Section 60.11. In addition to any other provisions required by
14 the Protection from Domestic Abuse Act, or otherwise required by
15 law, each ex parte or final protective order issued pursuant to the
16 Protection from Domestic Abuse Act shall have a statement printed in
17 bold-faced type or in capital letters containing the following
18 information:

19 1. The filing or nonfiling of criminal charges and the
20 prosecution of the case shall not be determined by a person who is
21 protected by the protective order, but shall be determined by the
22 prosecutor;

23 2. No person, including a person who is protected by the order,
24 may give permission to anyone to ignore or violate any provision of

1 the order. During the time in which the order is valid, every
2 provision of the order shall be in full force and effect unless a
3 court changes the order;

4 3. The order shall be in effect for a fixed period of five (5)
5 years unless extended, modified, vacated or rescinded by the court
6 or shall be continuous upon a specific finding by the court as
7 provided in subparagraph b of paragraph 1 of subsection G of Section
8 60.4 of this title unless modified, vacated or rescinded by the
9 court;

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

12 5. A violation of the order is punishable by a fine of up to
13 One Thousand Dollars (\$1,000.00) or imprisonment for up to one (1)
14 year in the county jail, or by both such fine and imprisonment. A
15 violation of the order which causes injury is punishable by
16 imprisonment for twenty (20) days to one (1) year in the county jail
17 or a fine of up to Five Thousand Dollars (\$5,000.00), or by both
18 such fine and imprisonment;

19 6. Possession of a firearm ~~or ammunition~~ by a defendant while
20 an a final order is in effect ~~may subject the defendant to~~
21 ~~prosecution for a violation of federal law even if the order does~~
22 ~~not specifically prohibit the defendant from possession of a firearm~~
23 ~~or ammunition~~ is prohibited pursuant to subsection F of Section 1283
24 of Title 21 of the Oklahoma Statutes;

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

3 8. The defendant must avoid contact that harasses or
4 intimidates the petitioner. Contact includes, but is not limited
5 to, contact at the home, work, or school of the petitioner, public
6 places, in person, by phone, in writing, by electronic communication
7 or device, or in any other manner;

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

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

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

19 12. The defendant must avoid contacting the petitioner or
20 causing any person other than an attorney for the petitioner or law
21 enforcement officer to contact the petitioner unless the petitioner
22 consents in writing; and
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1 13. The sheriff ~~will~~ shall accompany the petitioner and assist
2 in placing the petitioner in physical possession of his or her
3 residence, if requested.

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

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