

1 **SENATE FLOOR VERSION**

2 February 19, 2021

3 SENATE BILL NO. 925

By: Dahm, Hamilton and  
4 Bergstrom

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6  
7 An Act relating to firearms; amending 21 O.S. 2011,  
8 Sections 1279, as amended by Section 1, Chapter 171,  
9 O.S.L. 2013 and 1280 (21 O.S. Supp. 2020, Section  
10 1279), which relate to pointing a firearm and related  
11 penalties; expanding scope of certain prohibited act;  
12 removing administrative penalty provision; updating  
13 language; amending 21 O.S. 2011, Section 1289.16, as  
14 last amended by Section 1, Chapter 266, O.S.L. 2017  
15 and 1289.25, as last amended by Section 1, Chapter  
16 218, O.S.L. 2018 (21 O.S. Supp. 2020, Sections  
17 1289.16 and 1289.25), which relate to Oklahoma  
18 Firearms Act of 1971; authorizing the pointing of  
19 firearms under certain circumstances; removing  
20 administrative penalty provision; removing certain  
21 presumption; providing for the defensive display of  
22 firearms under certain circumstances; providing  
23 exceptions; providing examples of certain action; and  
24 declaring an emergency.

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

SECTION 1. AMENDATORY 21 O.S. 2011, Section 1279, as  
amended by Section 1, Chapter 171, O.S.L. 2013 (21 O.S. Supp. 2020,  
Section 1279), is amended to read as follows:

Section 1279. MISDEMEANOR POINTING A FIREARM

~~Except for an act of self-defense, it~~ It shall be unlawful for  
any person to point any ~~pistol~~ firearm or any other deadly weapon

1 whether loaded or not, at any other person or persons. Any person  
2 violating the provisions of this section shall, upon conviction, be  
3 guilty of a misdemeanor punishable as provided in Section 1280 of  
4 this title.

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

12 SECTION 2. AMENDATORY 21 O.S. 2011, Section 1280, is  
13 amended to read as follows:

14 Section 1280.

15 PENALTY FOR 1279

16 Any person violating the provisions of Section 1279 of this  
17 title, upon conviction, shall be guilty of a misdemeanor. ~~The~~  
18 ~~person offending shall be punished~~ punishable by a fine of not less  
19 than One Hundred Dollars (\$100.00) nor more than One Thousand  
20 Dollars (\$1,000.00) and shall be imprisoned in the county jail for a  
21 period ~~not less than three (3) nor~~ more than twelve (12) months.  
22 ~~Any person convicted of violating the provisions of Section 1279 of~~  
23 ~~this title after having been issued a handgun license pursuant to~~  
24 ~~the provisions of the Oklahoma Self-Defense Act, Sections 1 through~~

1 ~~25 of this act, shall have the handgun license permanently revoked~~  
2 ~~and shall be liable for an administrative fine of Fifty Dollars~~  
3 ~~(\$50.00) upon a hearing and determination by the Oklahoma State~~  
4 ~~Bureau of Investigation that the person is in violation of the~~  
5 ~~provisions of this section.~~

6 SECTION 3. AMENDATORY 21 O.S. 2011, Section 1289.16, as  
7 last amended by Section 1, Chapter 266, O.S.L. 2017 (21 O.S. Supp.  
8 2020, Section 1289.16), is amended to read as follows:

9 Section 1289.16.

10 FELONY POINTING FIREARMS

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

1 owned, rented, leased or occupied by permission of the premises  
2 owner or controller, whether or not a person is in possession of a  
3 valid handgun license pursuant to the provisions of the Oklahoma  
4 Self-Defense Act, or by law enforcement authorities in the  
5 performance of their duties, armed security guards licensed by the  
6 Council on Law Enforcement Education and Training pursuant to the  
7 Oklahoma Security Guard and Private Investigator Act in the  
8 performance of their duties, members of the state military forces in  
9 the performance of their duties, a person in possession of a valid  
10 handgun license pursuant to the provisions of the Oklahoma Self-  
11 Defense Act, members of the federal military reserve and active  
12 military components in the performance of their duties, or any  
13 federal government law enforcement officer in the performance of any  
14 duty, or in the performance of a play on stage, rodeo, television or  
15 on film, ~~or in defense of any person, one's home or property.~~

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

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1 reasonable fear of imminent peril of death or great bodily harm to  
2 himself or herself or another when using defensive force that is  
3 intended or likely to cause death or great bodily harm to another  
4 if:

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

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

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

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

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

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

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

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

23 E. A person who unlawfully and by force enters or attempts to  
24 enter the dwelling, residence, occupied vehicle of another person,

1 place of business, occupied premises or place of worship is presumed  
2 to be doing so with the intent to commit an unlawful act involving  
3 force or violence.

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

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

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

21 I. The provisions of this section and the provisions of the  
22 Oklahoma Self-Defense Act shall not be construed to require any  
23 person using a weapon pursuant to the provisions of this section to  
24 be licensed in any manner.

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

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

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

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

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

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

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

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

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

17 L. As used in this section:

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

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

3 3. "Place of worship" means:

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

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

16 4. "Residence" or occupied premises means a dwelling or  
17 building in which a person ~~resides~~ is occupying either temporarily  
18 or permanently or is visiting as an invited guest; ~~and~~

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

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

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

5 COMMITTEE REPORT BY: COMMITTEE ON PUBLIC SAFETY  
6 February 19, 2021 - DO PASS  
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