

1 STATE OF OKLAHOMA

2 1st Session of the 57th Legislature (2019)

3 HOUSE BILL 1145

By: Bell

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5  
6 AS INTRODUCED

7 An Act relating to criminal procedure; amending 22  
8 O.S. 2011, Section 18, as last amended by Section 1,  
9 Chapter 127, O.S.L. 2018 (22 O.S. Supp. 2018, Section  
10 18), which relates to criminal arrest record  
expungements; modifying qualifications for certain  
11 categories; updating internal citations; and  
12 providing an effective date.

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

14 SECTION 1. AMENDATORY 22 O.S. 2011, Section 18, as last  
15 amended by Section 1, Chapter 127, O.S.L. 2018 (22 O.S. Supp. 2018,  
16 Section 18), is amended to read as follows:

17 Section 18. A. Persons authorized to file a motion for  
18 expungement, as provided herein, must be within one of the following  
categories:

- 19 1. The person has been acquitted;
  - 20 2. The conviction was reversed with instructions to dismiss by  
21 an appellate court of competent jurisdiction, or an appellate court  
22 of competent jurisdiction reversed the conviction and the  
23 prosecuting agency subsequently dismissed the charge;
- 24

1           3. The factual innocence of the person was established by the  
2 use of deoxyribonucleic acid (DNA) evidence subsequent to  
3 conviction, including a person who has been released from prison at  
4 the time innocence was established;

5           4. The person has received a full pardon on the basis of a  
6 written finding by the Governor of actual innocence for the crime  
7 for which the claimant was sentenced;

8           5. The person was arrested and no charges of any type,  
9 including charges for an offense different than that for which the  
10 person was originally arrested, are filed and the statute of  
11 limitations has expired or the prosecuting agency has declined to  
12 file charges;

13           6. The person was under eighteen (18) years of age at the time  
14 the offense was committed ~~and the person has received a full pardon~~  
15 ~~for the offense;~~

16           7. The person was charged with one or more misdemeanor or  
17 felony crimes, all charges have been dismissed, the person has never  
18 been convicted of a felony, no misdemeanor or felony charges are  
19 pending against the person and the statute of limitations for  
20 refiling the charge or charges has expired or the prosecuting agency  
21 confirms that the charge or charges will not be refiled; provided,  
22 however, this category shall not apply to charges that have been  
23 dismissed following the completion of a deferred judgment or delayed  
24 sentence;

1 8. The person was charged with a misdemeanor, the charge was  
2 dismissed following the successful completion of a deferred judgment  
3 or delayed sentence, the person has never been convicted of a  
4 felony, and no misdemeanor or felony charges are pending against the  
5 person ~~and at least one (1) year has passed since the charge was~~  
6 ~~dismissed;~~

7 9. The person was charged with a nonviolent felony offense not  
8 listed in Section 571 of Title 57 of the Oklahoma Statutes, the  
9 charge was dismissed following the successful completion of a  
10 deferred judgment or delayed sentence, the person has never been  
11 convicted of a felony, no misdemeanor or felony charges are pending  
12 against the person and at least ~~five (5)~~ two (2) years have passed  
13 since the charge was dismissed;

14 10. The person was convicted of a misdemeanor offense, the  
15 person was sentenced to a fine of less than ~~Five Hundred One Dollars~~  
16 ~~(\$501.00)~~ One Thousand One Dollars (\$1,001.00) without a term of  
17 imprisonment or a suspended sentence, the fine has been paid or  
18 satisfied by time served in lieu of the fine, the person has not  
19 been convicted of a felony and no felony or misdemeanor charges are  
20 pending against the person;

21 ~~11. The person was convicted of a misdemeanor offense, the~~  
22 ~~person was sentenced to a term of imprisonment, a suspended sentence~~  
23 ~~or a fine in an amount greater than Five Hundred Dollars (\$500.00),~~  
24 ~~the person has not been convicted of a felony, no felony or~~

1 ~~misdemeanor charges are pending against the person and at least five~~  
2 ~~(5) years have passed since the end of the last misdemeanor~~  
3 ~~sentence;~~

4 ~~12.~~ The person was convicted of a nonviolent felony offense not  
5 listed in Section 571 of Title 57 of the Oklahoma Statutes, the  
6 person has not been convicted of any other felony or separate  
7 misdemeanor in the last ~~seven (7)~~ three (3) years, no felony or  
8 misdemeanor charges are pending against the person and at least ~~five~~  
9 ~~(5)~~ two (2) years have passed since the completion of the sentence  
10 for the felony conviction;

11 ~~13.~~ 12. The person was convicted of not more than two  
12 nonviolent felony offenses, not listed in Section 571 of Title 57 of  
13 the Oklahoma Statutes, the person has received a full pardon for  
14 both of the nonviolent felony offenses, no felony or misdemeanor  
15 charges are pending against the person, and at least ~~twenty (20)~~  
16 seven (7) years have passed since the last misdemeanor or felony  
17 conviction; or

18 ~~14.~~ 13. The person has been charged or arrested or is the  
19 subject of an arrest warrant for a crime that was committed by  
20 another person who has appropriated or used the person's name or  
21 other identification without the person's consent or authorization.

22 B. For purposes of Section 18 et seq. of this title,  
23 "expungement" shall mean the sealing of criminal records, as well as  
24 any public civil record, involving actions brought by and against

1 the State of Oklahoma arising from the same arrest, transaction or  
2 occurrence.

3 C. For purposes of seeking an expungement under the provisions  
4 of paragraph 10, ~~11~~, or 12 ~~or~~ ~~13~~ of subsection A of this section,  
5 offenses arising out of the same transaction or occurrence shall be  
6 treated as one conviction and offense.

7 D. Records expunged pursuant to paragraphs 8, 9, 10, 11, ~~12~~  
8 and 13 ~~and~~ ~~14~~ of subsection A of this section shall be sealed to the  
9 public but not to law enforcement agencies for law enforcement  
10 purposes. Records expunged pursuant to paragraphs 8, 9, 10, ~~11~~, and  
11 12 ~~and~~ ~~13~~ of subsection A of this section shall be admissible in any  
12 subsequent criminal prosecution to prove the existence of a prior  
13 conviction or prior deferred judgment without the necessity of a  
14 court order requesting the unsealing of the records. Records  
15 expunged pursuant to paragraph ~~4~~, ~~6~~, or 12 ~~or~~ ~~13~~ of subsection A of  
16 this section may also include the sealing of Pardon and Parole Board  
17 records related to an application for a pardon. Such records shall  
18 be sealed to the public but not to the Pardon and Parole Board.

19 SECTION 2. This act shall become effective November 1, 2019.  
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