

1 STATE OF OKLAHOMA

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

3 COMMITTEE SUBSTITUTE

4 FOR

5 HOUSE BILL NO. 1145

By: Bell

6
7 COMMITTEE SUBSTITUTE

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

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

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

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

- 22 1. The person has been acquitted;
- 23 2. The conviction was reversed with instructions to dismiss by
24 an appellate court of competent jurisdiction, or an appellate court

1 of competent jurisdiction reversed the conviction and the
2 prosecuting agency subsequently dismissed the charge;

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

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

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

15 6. The person was under eighteen (18) years of age at the time
16 the offense was committed and the person ~~has received a full pardon~~
17 ~~for the offense~~ was convicted of a nonviolent felony offense not
18 listed in Section 571 of Title 57 of the Oklahoma Statutes;

19 7. The person was charged with one or more misdemeanor or
20 felony crimes, all charges have been dismissed, the person has never
21 been convicted of a felony, no misdemeanor or felony charges are
22 pending against the person and the statute of limitations for
23 refiling the charge or charges has expired or the prosecuting agency
24 confirms that the charge or charges will not be refiled; provided,

1 however, this category shall not apply to charges that have been
2 dismissed following the completion of a deferred judgment or delayed
3 sentence;

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

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

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

24

1 11. The person was convicted of a misdemeanor offense, the
2 person was sentenced to a term of imprisonment, a suspended sentence
3 or a fine in an amount greater than ~~Five Hundred Dollars (\$500.00)~~
4 One Thousand One Dollars (\$1,001.00), the person has not been
5 convicted of a felony, no felony or misdemeanor charges are pending
6 against the person and at least ~~five (5)~~ two (2) years have passed
7 since the end of the last misdemeanor sentence;

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

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

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

1 B. For purposes of Section 18 et seq. of this title,
2 "expungement" shall mean the sealing of criminal records, as well as
3 any public civil record, involving actions brought by and against
4 the State of Oklahoma arising from the same arrest, transaction or
5 occurrence.

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

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

22 SECTION 2. This act shall become effective November 1, 2019.
23

24 57-1-8287 GRS 02/27/19