

1 ENGROSSED HOUSE  
2 BILL NO. 1145

By: Bell of the House

3 and

4 Hicks of the Senate

5  
6  
7 [ criminal procedure - criminal arrest record  
8 expungements - effective date ]  
9

10  
11  
12 BE IT ENACTED BY THE PEOPLE OF THE STATE OF OKLAHOMA:

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

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

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~~ was convicted of a nonviolent felony offense not  
16 listed in Section 571 of Title 57 of the Oklahoma Statutes;

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

1 dismissed following the completion of a deferred judgment or delayed  
2 sentence;

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

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

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

23 11. The person was convicted of a misdemeanor offense, the  
24 person was sentenced to a term of imprisonment, a suspended sentence

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

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

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

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

23 B. For purposes of Section 18 et seq. of this title,  
24 "expungement" shall mean the sealing of criminal records, as well as

1 any public civil record, involving actions brought by and against  
2 the State of Oklahoma arising from the same arrest, transaction or  
3 occurrence.

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

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

20 SECTION 2. This act shall become effective November 1, 2019.  
21  
22  
23  
24

1 Passed the House of Representatives the 7th day of March, 2019.

2  
3 \_\_\_\_\_  
4 Presiding Officer of the House  
5 of Representatives

6 Passed the Senate the \_\_\_\_ day of \_\_\_\_\_, 2019.

7  
8 \_\_\_\_\_  
9 Presiding Officer of the Senate