

1 STATE OF OKLAHOMA

2 1st Session of the 58th Legislature (2021)

3 HOUSE BILL 1952

By: Cruz

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5  
6 AS INTRODUCED

7 An Act relating to children; amending 10A O.S. 2011,  
8 Section 2-6-109, which relates to expungements;  
9 providing a process by which a person or child may  
10 expunge a juvenile court record; providing  
11 requirements; providing definition; providing notice  
12 requirements; providing exceptions; and providing an  
13 effective date.

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

15 SECTION 1. AMENDATORY 10A O.S. 2011, Section 2-6-109, is  
16 amended to read as follows:

17 Section 2-6-109. A. A person or the child, or the parent,  
18 legal guardian or the attorney for the child, who is the subject of  
19 a juvenile court record, ~~that is not confidential as provided by~~  
20 ~~law,~~ may petition the district court in which the juvenile court  
21 record is located for an order to expunge ~~all or any part of the~~  
22 ~~record pertaining to the person~~ or the child, ~~except basic~~  
23 ~~identification information; provided:~~

24 B. The petition for expungement may be filed either as an oral  
or written petition for an order to expunge the record pertaining to

1 the child at the time the case is before the court for a final  
2 review of the ordered disposition pursuant to Section 2-2-503 of  
3 this Title or at any time after an informal adjustment agreement has  
4 been successfully completed pursuant to Section 2-2-104 of this  
5 title; provided:

6 1. The person or child has ~~attained twenty-one (21) years of~~  
7 ~~age or older~~ successfully completed the informal adjustment  
8 agreement, the deferred adjudication, or a period of probation or  
9 custody with a juvenile bureau or the Office of Juvenile Affairs and  
10 the person's or child's case is being, or has been, dismissed by the  
11 court or the court is closing the case due to lack of jurisdiction  
12 upon the person or child reaching the age of eighteen (18) years of  
13 age or nineteen (19) years of age if jurisdiction of the court was  
14 previously extended by the court pursuant to Section 2-7-504 of this  
15 Title;

16 2. The person or child has not been arrested for any adult  
17 criminal offense and no charge, indictment, or information has been  
18 filed or is pending against the person or child at the time of the  
19 petition for an expungement;

20 3. ~~The person has not been subject to any deferred prosecution~~  
21 ~~or deferred sentence, and has not been convicted of any criminal~~  
22 ~~offense; and~~

1       4. All court costs, restitution, fines and other court-ordered  
2 requirements have been completed for ~~all~~ the informal adjustment or  
3 the juvenile proceedings.

4       4. After November 1, 2021, any person who has attained eighteen  
5 (18) years of age or older and has successfully completed an  
6 informal adjustment agreement, a deferred adjudication, or a period  
7 of probation or custody with a juvenile bureau or the Office of  
8 Juvenile Affairs, and whose case has previously been dismissed may  
9 petition the court for an order of expungement. In order to be  
10 eligible for an order of expungement, the person must have satisfied  
11 the requirements of paragraphs 1, 2 and 3 of subsection B of this  
12 statute as set forth above.

13       5.    a.   For the purposes of this section, the term "expunge"  
14           or "expungement" shall mean the sealing of juvenile  
15           court records.

16        b.   If a person's or child's adjudication, deferred  
17           adjudication, or informal adjustment is being or has  
18           been dismissed, then upon the receipt of an oral or  
19           written petition of the person, the child, or other  
20           authorized person, the court may, if the State does  
21           not object, grant the expungement if the court finds  
22           that the harm to privacy of the person or the child in  
23           interest or dangers of unwarranted adverse

1 consequences outweigh the public interest in retaining  
2 the records.

3 c. If the court grants the expungement, it shall issue a  
4 written order to any law enforcement agency over which  
5 the court has jurisdiction to expunge all files and  
6 records pertaining to the arrest or adjudication of  
7 the person or child and shall order the clerk of the  
8 court to expunge the entire file and record of the  
9 case, including docket sheets, index entries, court  
10 records, summonses, warrants or records in the office  
11 of the clerk or which have been produced by a law  
12 enforcement agency in which the name of the person or  
13 the child is mentioned. The court may order probation  
14 officers and counselors of a juvenile bureau or the  
15 Office of Juvenile Affairs to expunge all records,  
16 reports and social and clinical studies relating to  
17 the person or the child that are in the possession of  
18 a Juvenile Bureau or the Office of Juvenile Affairs,  
19 except when the documents are necessary to maintain  
20 state or federal funding.

21 d. Members of the judiciary, district attorneys, the  
22 person or the child, counsel for the person or the  
23 child, employees of juvenile bureaus and the Office of  
24 Juvenile Affairs who are assigned juvenile court

1 intake responsibilities, and the Department of  
2 Corrections may access records that have been expunged  
3 pursuant to this subsection without a court order for  
4 the purpose of determining whether to dismiss an  
5 action, seek a voluntary probation, file a petition or  
6 information, or for purposes of sentencing or  
7 placement in a case where the person who is the  
8 subject of the sealed record is alleged to have  
9 committed a subsequent juvenile delinquent act, a  
10 youthful offender act, or any adult criminal offense.  
11 Provided, any record sealed pursuant to this section  
12 shall be ordered unsealed upon application of the  
13 prosecuting agency when said records are requested for  
14 use in any subsequent juvenile delinquent, youthful  
15 offender or adult prosecution.

16 B. C. If the State objected to oral or written petition for  
17 expungement, the court shall allow the person or the child, or their  
18 counsel, to file a written petition for the expungement of the  
19 juvenile court records. Upon the filing of a petition for  
20 expungement of a juvenile court record, the court shall set a date  
21 for a hearing, which hearing may be closed at the court's  
22 discretion, and shall provide a thirty (30) days' notice of the  
23 hearing to the district attorney, the Office of Juvenile Affairs,  
24 the Oklahoma State Bureau of Investigation, and any other person or

1 agency whom the court has reason to believe may have relevant  
2 information related to the expungement of any record.

3 ~~C. D.~~ Upon a finding that the harm to privacy of the person in  
4 interest or dangers of unwarranted adverse consequences outweigh the  
5 public interest in retaining the records, the court ~~may~~ shall order  
6 the records, ~~or any part thereof except basic identification~~  
7 ~~information,~~ to be expunged. ~~If the court finds that neither~~  
8 ~~expungement of the records nor maintaining of the records unsealed~~  
9 ~~by the agency would serve the ends of justice, the court may enter~~  
10 ~~an appropriate order limiting access to the records.~~ Any order  
11 entered pursuant to the provisions of this subsection shall specify  
12 those agencies to which the court order shall apply.

13 ~~D. E.~~ Upon the entry of an order to expunge any juvenile court  
14 record, or any part thereof, the subject official actions shall be  
15 deemed never to have occurred, and the person or the child in  
16 interest and all juvenile and criminal justice agencies may properly  
17 reply, upon any inquiry in the matter, that no such action ever  
18 occurred and that no such record exists with respect to the person  
19 or the child.

20 ~~E.~~ ~~Inspection of the records included in the order may~~  
21 ~~thereafter be permitted by the court only upon petition by the~~  
22 ~~person in interest who is the subject of the records, the Attorney~~  
23 ~~General, or by the district attorney and only to those persons and~~  
24 ~~for such purposes named in the petition.~~

1        F. When an order of expungement is issued by the court pursuant  
2 to this Section, the court shall require the attorney for the person  
3 or the child to prepare a written order of expungement which shall  
4 be signed by the court and filed in the clerk's office of the  
5 district court in which the juvenile court record is located.  
6 Copies of the order of expungement shall be provided or mailed to  
7 the person or the child, as well as the parent(s), the legal  
8 guardian(s) of the child, the prosecuting attorney, the law  
9 enforcement agency or agencies that investigated the case, the  
10 detention or jail in which the person or the child was incarcerated,  
11 the juvenile bureau, the Office of Juvenile Affairs, and the  
12 Oklahoma State Bureau of Investigation directing the entity to  
13 expunge (seal) the juvenile court records in its custody as directed  
14 in the order.

15        ~~F.~~ G. Employers, educational institutions, landlords, state and  
16 local government agencies, officials, and employees shall not, in  
17 any application or interview or ~~otherwise~~ in any other way, require  
18 an applicant to disclose any information contained in any expunged  
19 juvenile court records. An applicant need not, in answer to any  
20 question concerning arrest, juvenile and criminal records, provide  
21 information that has been expunged, including any reference to or  
22 information concerning expungement and may state that no such action  
23 has ever occurred. Such an application may not be denied solely  
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1 because of the applicant's refusal to disclose information that has  
2 been expunged.

3 ~~G.~~ H. Nothing in this section shall be construed to authorize  
4 the physical destruction of any juvenile records.

5 ~~H.~~ I. For the purposes of this section, expunged materials  
6 which are recorded in the same document as unsealed material may be  
7 recorded in a separate document, and sealed, then obliterated in the  
8 original document.

9 ~~I.~~ J. For the purposes of this act, district court index  
10 reference of sealed material shall be destroyed, removed or  
11 obliterated.

12 ~~J.~~ K. Any record ordered to be expunged pursuant to this  
13 section shall be sealed and, if not unsealed within ten (10) years  
14 of the expungement order, may be obliterated or destroyed at the end  
15 of the ten-year period.

16 ~~K.~~ L. Subsequent to records being sealed as provided herein,  
17 the district attorney, the Office of Juvenile Affairs, the Oklahoma  
18 State Bureau of Investigation, or other interested person or agency  
19 may petition the court for an order unsealing any records. Upon  
20 filing of a petition, the court shall set a date for hearing, which  
21 hearing may be closed at the court's discretion, and shall provide  
22 thirty (30) days' notice to all interested parties. If, upon  
23 hearing, the court determines there has been a change of conditions  
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1 or that there is a compelling reason to unseal the records, the  
2 court may order all or a portion of the records unsealed.

3 ~~H.~~ M. Nothing herein shall prohibit the introduction of  
4 evidence regarding actions sealed pursuant to the provisions of this  
5 section at any hearing or trial for purposes of impeaching the  
6 credibility of a witness or as evidence of character testimony  
7 pursuant to Section 2608 of Title 12 of the Oklahoma Statutes.

8 ~~M.~~ N. A person who has attained eighteen (18) years of age or  
9 older may petition the district or municipal court in which the  
10 juvenile court record is located for an order to expunge ~~all or any~~  
11 ~~part of~~ the record pertaining to matters involving truancy provided  
12 the person has met the criteria set forth in paragraphs ~~2~~ 1 through  
13 ~~4~~ 3 of subsection A of this section. The petition shall be reviewed  
14 by the district or municipal judge with primary responsibility over  
15 the juvenile court docket.

16 SECTION 2. This act shall become effective November 1, 2021.

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18 58-1-7175 CMA 01/14/21  
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