

1 STATE OF OKLAHOMA

2 1st Session of the 55th Legislature (2015)

3 SENATE BILL 442

By: David

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5
6 AS INTRODUCED

7 An Act relating to expungement of records; amending
8 22 O.S. 2011, Section 18, as last amended by Section
9 1, Chapter 374, O.S.L. 2014 (22 O.S. Supp. 2014,
10 Section 18), which relates to persons authorized for
11 expungement of records; authorizing expungement for
12 certain persons; and 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 374, O.S.L. 2014 (22 O.S. Supp. 2014,
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
19 categories:

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

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 misdemeanor or felony, no misdemeanor or felony charges are pending
5 against the person, and at least one (1) year has passed since the
6 charge was dismissed;

7 9. The person was charged with a nonviolent felony offense, as
8 set forth 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 misdemeanor or felony, no misdemeanor or felony
12 charges are pending against the person, and at least ten (10) years
13 have passed since the charge was dismissed;

14 10. The person was convicted of a misdemeanor offense, the
15 person has not been convicted of a felony, no felony or misdemeanor
16 charges are pending against the person, and at least ten (10) years
17 have passed since the end of the last misdemeanor sentence;

18 11. The person was convicted of a nonviolent felony offense, as
19 defined in Section 571 of Title 57 of the Oklahoma Statutes, the
20 person has received a full pardon for the offense, the person has
21 not been convicted of any other felony, the person has not been
22 convicted of a separate misdemeanor in the last fifteen (15) years,
23 no felony or misdemeanor charges are pending against the person, and
24 at least ten (10) years have passed since the felony conviction; ~~or~~

1 12. The person has been charged or arrested or is the subject
2 of an arrest warrant for a crime that was committed by another
3 person who has appropriated or used the person's name or other
4 identification without the person's consent or authorization; or

5 13. The person was convicted of a drug offense other than
6 aggravated drug trafficking or of a nonviolent misdemeanor offense,
7 the person has not been convicted of an additional offense other
8 than a misdemeanor punishable by thirty (30) days or less in jail,
9 the person has not been revoked from probation or parole, and at
10 least five (5) years have passed since the completion of the
11 execution of the sentence.

12 B. For purposes of this act, "expungement" shall mean the
13 sealing of criminal records.

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

18 D. Records expunged pursuant to paragraphs 8, 9, 10, 11, ~~and 12~~
19 and 13 of subsection A of this section shall be sealed to the public
20 but not to law enforcement agencies for law enforcement purposes.
21 Records expunged pursuant to paragraphs 8, 9, 10, ~~and 11~~ and 13 of
22 subsection A of this section shall be admissible in any subsequent
23 criminal prosecution to prove the existence of a prior conviction or
24 prior deferred judgment without the necessity of a court order

1 requesting the unsealing of the records. Records expunged pursuant
2 to paragraph 4, 6, ~~or 11~~ or 13 of subsection A of this section may
3 also include the sealing of Pardon and Parole Board records related
4 to an application for a pardon. Such records shall be sealed to the
5 public but not to the Pardon and Parole Board.

6 SECTION 2. This act shall become effective November 1, 2015.

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