

# An Act

ENROLLED SENATE  
BILL NO. 815

By: David and Bergstrom of the  
Senate

and

Kannady and Bell of the  
House

An Act relating to criminal procedure; amending 22 O.S. 2011, Section 18, as last amended by Section 1, Chapter 127, O.S.L. 2018 (22 O.S. Supp. 2018, Section 18), which relates to expungement of records; modifying eligibility for certain expungement; authorizing motion for expungement under certain circumstances; and providing an effective date.

SUBJECT: Expungement of records

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

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

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

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

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

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

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

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

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

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

9. The person was charged with a nonviolent felony offense not listed in Section 571 of Title 57 of the Oklahoma Statutes, the charge was dismissed following the successful completion of a deferred judgment or delayed sentence, the person has never been convicted of a felony, no misdemeanor or felony charges are pending

against the person and at least five (5) years have passed since the charge was dismissed;

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

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

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

13. The person was convicted of not more than two ~~nonviolent~~ felony offenses, ~~not none of which is a felony offense listed in Section 571 of Title 57 of the Oklahoma Statutes, the person has received a full pardon for both of the nonviolent felony offenses~~ Section 13.1 of Title 21 of the Oklahoma Statutes or any offense that would require the person to register pursuant to the provisions of the Sex Offenders Registration Act, no felony or misdemeanor charges are pending against the person, and at least ~~twenty (20)~~ ten (10) years have passed since the ~~last misdemeanor or~~ completion of the sentence for the felony conviction; or

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

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

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

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

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

Passed the Senate the 7th day of May, 2019.

\_\_\_\_\_  
Presiding Officer of the Senate

Passed the House of Representatives the 23rd day of April, 2019.

\_\_\_\_\_  
Presiding Officer of the House  
of Representatives

OFFICE OF THE GOVERNOR

Received by the Office of the Governor this \_\_\_\_\_

day of \_\_\_\_\_, 20\_\_\_\_\_, at \_\_\_\_\_ o'clock \_\_\_\_\_ M.

By: \_\_\_\_\_

Approved by the Governor of the State of Oklahoma this \_\_\_\_\_

day of \_\_\_\_\_, 20\_\_\_\_\_, at \_\_\_\_\_ o'clock \_\_\_\_\_ M.

\_\_\_\_\_  
Governor of the State of Oklahoma

OFFICE OF THE SECRETARY OF STATE

Received by the Office of the Secretary of State this \_\_\_\_\_

day of \_\_\_\_\_, 20\_\_\_\_\_, at \_\_\_\_\_ o'clock \_\_\_\_\_ M.

By: \_\_\_\_\_