STATE OF OKLAHOMA

1st Session of the 47th Legislature (1999)

COMMITTEE SUBSTITUTE
FOR
HOUSE BILL NO. 1371 By: Paulk

COMMITTEE SUBSTITUTE

An Act relating to criminal procedure; amending 22 O.S. 1991, Section 19, which relates to sealing and unsealing of records; stating procedure for appealing certain orders; and providing an effective date.

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

SECTION 1. AMENDATORY 22 O.S. 1991, Section 19, is amended to read as follows:

Section 19. A. Any person qualified under Section 18 of ~~Title 22 of the Oklahoma Statutes~~ this title may petition the district court of the district in which the arrest information pertaining to ~~him~~ the person is located for the sealing of all or any part of ~~said~~ the record, except basic identification information.

B. Upon the filing of a petition or entering of a court order, the court shall set a date for a hearing~~, which hearing may be closed at the court's discretion,~~ and shall provide thirty (30) days of notice of the hearing to the district attorney, the arresting agency, the Oklahoma State Bureau of Investigation, and any other person or agency whom the court has reason to believe may have relevant information related to the sealing of such record.

C. Upon a finding that the harm to privacy of the person in interest or dangers of unwarranted adverse consequences outweigh the public interest in retaining the records, the court may order such records, or any part thereof except basic identification information, to be sealed. If the court finds that neither sealing of the records nor maintaining of the records unsealed by the agency

would serve the ends of justice, the court may enter an appropriate order limiting access to such records.

Any order entered under this subsection shall specify those agencies to which such order shall apply. Any order entered pursuant to this subsection may be appealed to the Oklahoma Supreme Court in accordance with the rules of the Oklahoma Supreme Court for appeals from final orders.

D. Upon the entry of an order to seal the records, or any part thereof, the subject official actions shall be ~~deemed never to have occurred,~~ sealed and the person in interest and all criminal justice agencies may properly reply, upon any inquiry in the matter, that ~~no such action ever occurred and that no such record exists with respect to such person~~ the records, or parts thereof, except basic identification information, have been sealed by the court.

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

F. Employers, educational institutions, state and local government agencies, officials, and employees shall not, in any application or interview or otherwise, require an applicant to disclose any information contained in sealed records. An applicant need not, in answer to any question concerning arrest and criminal records provide information that has been sealed, including any reference to or information concerning such sealed information and may state that ~~no such action has ever occurred~~ the records have been sealed by the court. Such an application may not be denied solely because of the applicant's refusal to disclose arrest and criminal records information that has been sealed.

G. All arrest and criminal records information existing prior to the effective date of this section, except basic identification

information, is also subject to sealing in accordance with subsection C of this section.

H. Nothing in this section shall be construed to authorize the physical destruction of any criminal justice records.

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

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

K. Any record ordered to be sealed pursuant to this act, if not unsealed within ten (10) years of the expungement order, may be obliterated or destroyed at the end of ~~said~~ the ten-year period.

L. Subsequent to records being sealed as provided herein, the district attorney, the arresting agency, the Oklahoma State Bureau of Investigation, or other interested person or agency may petition the court for an order unsealing said records. Upon filing of a petition the court shall set a date for hearing, which hearing may be closed at the court's discretion, and shall provide thirty (30) days' notice to all interested parties. If, upon hearing, the court determines there has been a change of conditions or that there is a compelling reason to unseal the records, the court may order all or a portion of the records unsealed.

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

SECTION 2. This act shall become effective November 1, 1999.

47-1-6372 LAC 6/11/15