

CS for EHB 1371

1 THE STATE SENATE
2 Monday, March 22, 1999

3 Committee Substitute for
4 ENGROSSED
5 House Bill No. 1371

6 COMMITTEE SUBSTITUTE FOR ENGROSSED HOUSE BILL NO. 1371 - By: PAULK
7 of the House and HENRY of the Senate.

8 An Act relating to criminal procedure; amending 22 O.S.
9 1991, Section 19, which relates to sealing and unsealing of
10 records; clarifying language; updating language; stating
11 procedure for appealing certain orders; and providing an
12 effective date.

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

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

16 Section 19. A. Any person qualified under Section 18 of ~~Title~~
17 ~~22 of the Oklahoma Statutes~~ this title may petition the district
18 court of the district in which the arrest information pertaining to
19 ~~him~~ the person is located for the sealing of all or any part of ~~said~~
20 the record, except basic identification information.

21 B. Upon the filing of a petition or entering of a court order,
22 the court shall set a date for a hearing, which hearing may be
23 closed at the court's discretion, and shall provide thirty (30) days
24 of notice of the hearing to the district attorney, the arresting
25 agency, the Oklahoma State Bureau of Investigation, and any other

1 person or agency whom the court has reason to believe may have
2 relevant information related to the sealing of such record.

3 C. 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 order such
6 records, or any part thereof except basic identification
7 information, to be sealed. If the court finds that neither sealing
8 of the records nor maintaining of the records unsealed by the agency
9 would serve the ends of justice, the court may enter an appropriate
10 order limiting access to such records.

11 Any order entered under this subsection shall specify those
12 agencies to which such order shall apply. Any order entered
13 pursuant to this subsection may be appealed to the Court of Criminal
14 Appeals in accordance with the rules of the Court of Criminal
15 Appeals for appeals from final orders.

16 D. Upon the entry of an order to seal the records, or any part
17 thereof, the subject official actions shall be deemed never to have
18 occurred, and the person in interest and all criminal justice
19 agencies may properly reply, upon any inquiry in the matter, that no
20 such action ever occurred and that no such record exists with
21 respect to such person.

22 E. Inspection of the records included in the order may
23 thereafter be permitted by the court only upon petition by the

1 person in interest who is the subject of such records, the Attorney
2 General, or by the district attorney and only to those persons and
3 for such purposes named in such petition.

4 F. Employers, educational institutions, state and local
5 government agencies, officials, and employees shall not, in any
6 application or interview or otherwise, require an applicant to
7 disclose any information contained in sealed records. An applicant
8 need not, in answer to any question concerning arrest and criminal
9 records provide information that has been sealed, including any
10 reference to or information concerning such sealed information and
11 may state that no such action has ever occurred. Such an
12 application may not be denied solely because of the applicant's
13 refusal to disclose arrest and criminal records information that has
14 been sealed.

15 G. All arrest and criminal records information existing prior
16 to the effective date of this section, except basic identification
17 information, is also subject to sealing in accordance with
18 subsection C of this section.

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

21 I. For the purposes of this section, sealed materials which are
22 recorded in the same document as unsealed material may be recorded

1 in a separate document, and sealed, then obliterated in the original
2 document.

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

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

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

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

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

1 COMMITTEE REPORT BY: COMMITTEE ON JUDICIARY, dated 3-16-99 - DO
2 PASS, As Amended.