

STATE OF OKLAHOMA

1st Session of the 49th Legislature (2003)

HOUSE BILL HB1743

By: Miller (Doug)

AS INTRODUCED

An Act relating to criminal procedure; amending 22 O.S. 2001, Section 18, as amended by Section 1, Chapter 475, O.S.L. 2002 (22 O.S. Supp. 2002, Section 18), which relates to expungement of records; modifying qualifications for expungement of record; amending 47 O.S. 2001, Section 6-205, which relates to mandatory revocation of driving privileges; allowing modification of revocation term under certain circumstances; and providing an effective date.

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

SECTION 1. AMENDATORY 22 O.S. 2001, Section 18, as amended by Section 1, Chapter 475, O.S.L. 2002 (22 O.S. Supp. 2002, Section 18), is amended to read as follows:

Section 18. 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 district attorney subsequently dismissed the charge;
3. The factual innocence of the person was established by the use of deoxyribonucleic acid (DNA) evidence subsequent to conviction;
4. The person was arrested and no charges are filed or charges are dismissed within one (1) year of the arrest;
5. The statute of limitations on the offense had expired and no charges were filed;

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 offense was a misdemeanor, the person has not been convicted of any other misdemeanor or felony, no felony or misdemeanor charges are pending against the person, and at least ten (10) years have passed since the judgment was entered; ~~or~~

8. The offense was a nonviolent felony, as defined in Section 571 of Title 57 of the Oklahoma Statutes, the person has received a full pardon for the offense, the person has not been convicted of any other misdemeanor or felony, no felony or misdemeanor charges are pending against the person, and at least ten (10) years have passed since the conviction; or

9. The defendant plead guilty and successfully completed a drug court program as provided in Section 471.9 of this title.

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

SECTION 2. AMENDATORY 47 O.S. 2001, Section 6-205, is amended to read as follows:

Section 6-205. A. The Department of Public Safety shall immediately revoke the driving privilege of any person, whether adult or juvenile, upon receiving a record of conviction in any municipal, state or federal court within the United States of any of the following offenses, when such conviction has become final:

1. Manslaughter or negligent homicide resulting from the operation of a motor vehicle;

2. Driving or being in actual physical control of a motor vehicle while under the influence of alcohol, any other intoxicating substance, or the combined influence of alcohol and any other intoxicating substance, any violation of paragraph 1, 2, 3 or 4 of subsection A of Section 11-902 of this title or any violation of Section ~~16~~ 11-906.4 of this ~~act~~ title. However, the Department

shall not additionally revoke the driving privileges of the person pursuant to this subsection if the person's driving privilege has been revoked because of a test result or test refusal pursuant to Section 753 or 754 of this title arising from the same circumstances which resulted in the conviction;

3. Any felony during the commission of which a motor vehicle is used;

4. Failure to stop and render aid as required under the laws of this state in the event of a motor vehicle accident resulting in the death or personal injury of another;

5. Perjury or the making of a false affidavit or statement under oath to the Department under the Uniform Vehicle Code, Section 1-101 et seq. of this title, or under any other law relating to the ownership or operation of motor vehicles;

6. A misdemeanor or felony conviction for unlawfully possessing, distributing, dispensing, manufacturing or trafficking in a controlled dangerous substance as defined in the Uniform Controlled Dangerous Substances Act, Section 2-101 et seq. of Title 63 of the Oklahoma Statutes;

7. Failure to pay for gasoline pumped into a vehicle pursuant to Section 1740 of Title 21 of the Oklahoma Statutes; or

8. A conviction for a violation of paragraph 3 of subsection A of Section 1151 of this title.

B. The first license revocation under any provision of this section, except for paragraph 2, 6, 7 or 8 of subsection A of this section, shall be for a period of one (1) year. Such period shall not be modified unless the person has successfully completed a drug court program as provided in Section 471.9 of Title 22 of the Oklahoma Statutes.

C. A license revocation under any provision of this section, except for paragraph 2, 6, 7 or 8 of subsection A of this section, shall be for a period of three (3) years if a prior revocation under

this section, except under paragraph 2 of subsection A of this section, commenced within the preceding five-year period as shown by the Department's record. Such period shall not be modified unless the person has successfully completed a drug court program as provided in Section 471.9 of Title 22 of the Oklahoma Statutes.

D. The period of license revocation under paragraph 2 or 6 of subsection A of this section shall be governed by the provisions of Section 6-205.1 of this title.

E. The first license revocation under paragraph 7 or 8 of subsection A of this section shall be for a period of six (6) months. A second or subsequent license revocation under paragraph 7 or 8 of subsection A of this section shall be for a period of one (1) year. Such periods shall not be modified unless the person has successfully completed a drug court program as provided in Section 471.9 of Title 22 of the Oklahoma Statutes.

SECTION 3. This act shall become effective November 1, 2003.

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