

THE HOUSE OF REPRESENTATIVES
Monday, April 7, 2008

ENGROSSED

Senate Bill No. 1648

ENGROSSED SENATE BILL NO. 1648 - By: LERBLANCE of the Senate and HARRISON AND TIBBS of the House.

An Act relating to criminal procedure; amending 22 O.S. 2001, Section 18, as last amended by Section 1, Chapter 406, O.S.L. 2004 (22 O.S. Supp. 2007, Section 18), which relates to expungement of records; clarifying certain eligibility; and providing an effective date.

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

- 1 SECTION 1. AMENDATORY 22 O.S. 2001, Section 18, as last amended by
2 Section 1, Chapter 406, O.S.L. 2004 (22 O.S. Supp. 2007, Section 18), is amended to read
3 as follows:
- 4 Section 18. Persons authorized to file a motion for expungement, as provided
5 herein, must be within one of the following categories:
- 6 1. The person has been acquitted;
 - 7 2. The conviction was reversed with instructions to dismiss by an appellate court of
8 competent jurisdiction, or an appellate court of competent jurisdiction reversed the
9 conviction and the district attorney subsequently dismissed the charge;

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

4 4. The person was arrested and no charges of any type, including charges for an
5 offense different than that for which the person was originally arrested are filed or
6 charges are dismissed within one (1) year of the arrest, or all charges are dismissed on
7 the merits;

8 5. The statute of limitations on the offense had expired and no charges were filed;

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

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

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

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

1 For purposes of this act, “expungement” shall mean the sealing of criminal records.
2 Records expunged pursuant to paragraph 9 of this section shall be sealed to the public
3 but not to law enforcement agencies for law enforcement purposes.

4 SECTION 2. This act shall become effective November 1, 2008.

5 COMMITTEE REPORT BY: COMMITTEE ON JUDICIARY AND PUBLIC SAFETY,
6 dated 04-03-08 - DO PASS, As Coauthored.