

3 Senate Bill No. 1648

4 SENATE BILL NO. 1648 - By: LERBLANCE of the Senate and HARRISON of
5 the House.

6 An Act relating to criminal procedure; amending 22 O.S.
7 2001, Section 18, as last amended by Section 1, Chapter 406,
8 O.S.L. 2004 (22 O.S. Supp. 2007, Section 18), which relates
9 to expungement of records; clarifying certain eligibility;
10 and providing an effective date.

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

12 SECTION 1. AMENDATORY 22 O.S. 2001, Section 18, as last
13 amended by Section 1, Chapter 406, O.S.L. 2004 (22 O.S. Supp. 2007,
14 Section 18), is amended to read as follows:

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

18 1. The person has been acquitted;

19 2. The conviction was reversed with instructions to dismiss by
20 an appellate court of competent jurisdiction, or an appellate court
21 of competent jurisdiction reversed the conviction and the district
22 attorney subsequently dismissed the charge;

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

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

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

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

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

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

21 9. The person has been charged or arrested or is the subject of
22 an arrest warrant for a crime that was committed by another person

1 who has appropriated or used the person's name or other
2 identification without the person's consent or authorization.

3 For purposes of this act, "expungement" shall mean the sealing
4 of criminal records. Records expunged pursuant to paragraph 9 of
5 this section shall be sealed to the public but not to law
6 enforcement agencies for law enforcement purposes.

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

8 COMMITTEE REPORT BY: COMMITTEE ON JUDICIARY, dated 2-12-08 - DO
9 PASS, As Coauthored.