

1 STATE OF OKLAHOMA

2 2nd Session of the 51st Legislature (2008)

3 HOUSE BILL 3031

By: McMullen

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6 AS INTRODUCED

7 An Act relating to criminal procedure; amending 22
8 O.S. 2001, Section 18, as last amended by Section 1,
9 Chapter 406, O.S.L. 2004 (22 O.S. Supp. 2007, Section
10 18), which relates to expungement of criminal
11 records; expanding list of persons eligible to file
12 for expungement; and providing an effective date.

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

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

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

- 20 1. The person has been acquitted;
- 21 2. The conviction was reversed with instructions to dismiss by
22 an appellate court of competent jurisdiction, or an appellate court
23 of competent jurisdiction reversed the conviction and the district
24 attorney subsequently dismissed the charge;

1 3. The factual innocence of the person was established by the
2 use of deoxyribonucleic acid (DNA) evidence subsequent to
3 conviction;

4 4. The person has received a full pardon on the basis of a
5 written finding by the Governor of actual innocence for the crime
6 for which the claimant was sentenced;

7 5. The person has been granted judicial relief absolving the
8 claimant of guilt on the basis of actual innocence of the crime for
9 which the claimant was sentenced;

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

15 ~~5.~~ 7. The statute of limitations on the offense had expired and
16 no charges were filed;

17 ~~6.~~ 8. The person was under eighteen (18) years of age at the
18 time the offense was committed and the person has received a full
19 pardon for the offense;

20 ~~7.~~ 9. The offense was a misdemeanor, the person has not been
21 convicted of any other misdemeanor or felony, no felony or
22 misdemeanor charges are pending against the person, and at least ten
23 (10) years have passed since the judgment was entered;

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1 ~~8.~~ 10. The offense was a nonviolent felony, as defined in
2 Section 571 of Title 57 of the Oklahoma Statutes, the person has
3 received a full pardon for the offense, the person has not been
4 convicted of any other misdemeanor or felony, no felony or
5 misdemeanor charges are pending against the person, and at least ten
6 (10) years have passed since the conviction; or

7 ~~9.~~ 11. The person has been charged or arrested or is the
8 subject of an arrest warrant for a crime that was committed by
9 another person who has appropriated or used the person's name or
10 other identification without the person's consent or authorization.

11 For purposes of this act, "expungement" shall mean the sealing
12 of criminal records. Records expunged pursuant to paragraph 9 of
13 this section shall be sealed to the public but not to law
14 enforcement agencies for law enforcement purposes.

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

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17 51-2-8547 SD 01/14/08

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