

1 STATE OF OKLAHOMA

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

3 SENATE BILL 1648

By: Lerblance

4
5
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 records;
11 clarifying certain eligibility; 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. 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, including a person who has been released from prison at
4 the time innocence was established;

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

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

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

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

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

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

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

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

10
11
12
13
14
15
16
17
18
19
20
21
22
23
24

51-2-2440 TEK 1/22/2008 8:07:57 PM