

SB 1142

3 Senate Bill No. 1142  
4 As Amended

5 SENATE BILL NO. 1142 - By: Johnson (Constance) of the Senate and  
6 Tibbs of the House.

7 [ criminal procedure - expungement - categories of offenses  
8 - effective date ]

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

10 SECTION 1. AMENDATORY 22 O.S. 2001, Section 18, as last  
11 amended by Section 1, Chapter 46, O.S.L. 2008 (22 O.S. Supp. 2008,  
12 Section 18), is amended to read as follows:

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

16 1. The person has been acquitted;

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

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

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

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

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

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

14          8. The offense was a misdemeanor and the person has completed  
15 all terms and conditions of the sentence, 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          9. 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

1 are pending against the person, and at least ten (10) years have  
2 passed since the ~~conviction~~ judgment was entered; ~~or~~

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

7 For purposes of this act, "expungement" shall mean the sealing  
8 of criminal records. Records expunged pursuant to paragraph 8, 9,  
9 10, 11 or 12 of this section shall be sealed to the public but not  
10 to law enforcement agencies for law enforcement purposes.

11 SECTION 2. This act shall become effective November 1, 2009.

12 COMMITTEE REPORT BY: COMMITTEE ON JUDICIARY, dated 2-17-09 - DO  
13 PASS, As Amended and Coauthored.