

1 STATE OF OKLAHOMA

2 1st Session of the 52nd Legislature (2009)

3 SENATE BILL 1142

By: Johnson (Constance)

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 46, O.S.L. 2008 (22 O.S. Supp. 2008, Section
10 18), which relates to expungement; adding additional
11 categories of offenses authorized for expungement;
12 stating specific conditions for eligibility; and
13 providing an effective date.

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

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

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

- 21 1. The person has been acquitted;
- 22 2. The conviction was reversed with instructions to dismiss by
23 an appellate court of competent jurisdiction, or an appellate court
24 of competent jurisdiction reversed the conviction and the district
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 was arrested and no charges of any type,
8 including charges for an offense different than that for which the
9 person was originally arrested are filed or charges are dismissed
10 within one (1) year of the arrest, or all charges are dismissed on
11 the merits;

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

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

17 8. The offense was a misdemeanor and the person has completed
18 all terms and conditions of the sentence, the person has not been
19 convicted of any other misdemeanor or felony, no felony or
20 misdemeanor charges are pending against the person, and at least ten
21 (10) years have passed since the judgment was entered;

22 9. The offense was a nonviolent felony, as defined in Section
23 571 of Title 57 of the Oklahoma Statutes, the person has received a
24 full pardon for the offense, the person has not been convicted of

1 any other misdemeanor or felony, no felony or misdemeanor charges
2 are pending against the person, and at least ten (10) years have
3 passed since the ~~conviction~~ judgment was entered; ~~or~~

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

8 11. The offense was a felony and the person has completed all
9 terms and conditions of the sentence, no felony or misdemeanor
10 charges are pending against the person, and at least ten (10) years
11 have passed since the completion of the sentence; or

12 12. The offense was a violent felony, as defined in Section 571
13 of Title 57 of the Oklahoma Statutes, the person has received a full
14 pardon for the offense, no felony or misdemeanor charges are pending
15 against the person, and at least ten (10) years have passed since
16 the issuance of the pardon.

17 For purposes of this act, "expungement" shall mean the sealing
18 of criminal records. Records expunged pursuant to paragraph 8, 9,
19 10, 11 or 12 of this section shall be sealed to the public but not
20 to law enforcement agencies for law enforcement purposes.

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

22
23 52-1-204 NP 3/6/2009 1:55:23 AM

24