

1 STATE OF OKLAHOMA

2 2nd Session of the 52nd Legislature (2010)

3 SENATE BILL 2200

By: Sweeden

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5
6 AS INTRODUCED

7 An Act relating to criminal procedure; amending 22
8 O.S. 2001, Section 18, as last amended by Section 7,
9 Chapter 2, O.S.L. 2009 (22 O.S. Supp. 2009, Section
10 18), which relates to expungement of records;
11 requiring district attorney to file certain motion
12 under specified circumstances; and providing an
13 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 7, Chapter 2, O.S.L. 2009 (22 O.S. Supp. 2009,
17 Section 18), is amended to read as follows:

18 Section 18. A. 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, including a person who has been released from prison at
4 the time innocence was established;

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

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

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

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

18 8. The offense was a misdemeanor, 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; or

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, 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 B. The district attorney shall file a motion to expunge a
9 person's arrest and criminal records maintained by the courts, the
10 Oklahoma State Bureau of Investigation, the National Crime
11 Information Center, and all other law enforcement agencies if the
12 offense was a nonviolent felony as defined in Section 571 of Title
13 57 of the Oklahoma Statutes, the person has not been convicted of
14 any other misdemeanor or felony, no felony or misdemeanor charges
15 are pending against the person, and at least ten (10) years have
16 passed since the conviction.

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

21 SECTION 2. This act shall become effective November 1, 2010.

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