

1 STATE OF OKLAHOMA

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

3 SENATE BILL 2217

By: Johnson (Constance)

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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 expungement under certain circumstances;
12 modifying eligibility for certain expungement; 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 7, Chapter 2, O.S.L. 2009 (22 O.S. Supp. 2009,
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 A. The district attorney shall take appropriate steps to
22 initiate and finalize expungement of a person's arrest and criminal
23 records maintained by the courts, the Oklahoma State Bureau of
24 Investigation, the National Crime Information Center, and all other
law enforcement agencies if:

1 1. The person has been acquitted;

2 2. The conviction was reversed with instructions to dismiss by
3 an appellate court of competent jurisdiction, or an appellate court
4 of competent jurisdiction reversed the conviction and the district
5 attorney subsequently dismissed the charge;

6 3. The factual innocence of the person was established by the
7 use of deoxyribonucleic acid (DNA) evidence subsequent to
8 conviction, including a person who has been released from prison at
9 the time innocence was established;

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

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

18 6. The statute of limitations on the offense had expired and no
19 charges were filed; or

20 ~~7. The person was under eighteen (18) years of age at the time~~
21 ~~the offense was committed and the person has received a full pardon~~
22 ~~for the offense;~~

23 ~~8. The offense was a misdemeanor, the person has not been~~
24 ~~convicted of any other misdemeanor or felony, no felony or~~

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

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

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

13 B. Persons authorized to file a motion for expungement, as
14 provided herein, shall be within one of the following categories:

15 1. 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 2. 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
21 seven (7) years have passed since the judgment was entered; or

22 3. 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 seven (7) years have
3 passed since the conviction.

4 C. For purposes of this act, "expungement" shall mean the
5 sealing of criminal records. Records expunged pursuant to paragraph
6 ~~10~~ 7 of subsection A of this section shall be sealed to the public
7 but not to law enforcement agencies for law enforcement purposes.

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

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