

1 **HOUSE OF REPRESENTATIVES - FLOOR VERSION**

2 STATE OF OKLAHOMA

3 1st Session of the 53rd Legislature (2011)

4 COMMITTEE SUBSTITUTE
5 FOR
6 HOUSE BILL NO. 1452

By: Williams of the House

and

Burrage of the Senate

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10 COMMITTEE SUBSTITUTE

11 An Act relating to criminal procedure; amending 22
12 O.S. 2001, Section 18, as last amended by Section 7,
13 Chapter 2, O.S.L. 2009 (22 O.S. Supp. 2010, Section
14 18), which relates to criminal record expungements;
15 increasing time limitation for category; and
16 providing an effective date.

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

18 SECTION 1. AMENDATORY 22 O.S. 2001, Section 18, as last
19 amended by Section 7, Chapter 2, O.S.L. 2009 (22 O.S. Supp. 2010,
20 Section 18), is amended to read as follows:

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

- 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~~ two (2) years of the arrest, or all charges are
17 dismissed on the merits;
- 18 6. The statute of limitations on the offense had expired and no
19 charges were filed;
- 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;

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1 8. The offense was a misdemeanor, the person has not been
2 convicted of any other misdemeanor or felony, no felony or
3 misdemeanor charges are pending against the person, and at least ten
4 (10) years have passed since the judgment was entered;

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

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

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

20 SECTION 2. This act shall become effective November 1, 2011.

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22 COMMITTEE REPORT BY: COMMITTEE ON JUDICIARY, dated 02-22-2011 - DO
23 PASS, As Amended and Coauthored.