STATE OF OKLAHOMA

2nd Session of the 53rd Legislature (2012)

HOUSE BILL 2252 By: Sherrer

AS INTRODUCED

An Act relating to criminal procedure; amending 22 O.S. 2011, Section 18, which relates to arrest record expungements; modifying qualifications for criminal arrest record expungements; and providing an effective date.

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

SECTION 1. AMENDATORY 22 O.S. 2011, Section 18, is amended to read as follows:

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

1. The person has been acquitted;

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

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

conviction, including a person who has been released from prison at the time innocence was established;

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

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

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

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

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

9. The offense was a nonviolent felony, as ~~defined~~ provided in Section 571 of Title 57 of the Oklahoma Statutes, the person has received a full pardon for the offense, ~~the person has not been convicted of any other misdemeanor or felony,~~ no felony or

misdemeanor charges are pending against the person, and at least ten (10) years have passed since the conviction; or

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

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

SECTION 2. This act shall become effective November 1, 2012.

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