

1 STATE OF OKLAHOMA

2 2nd Session of the 53rd Legislature (2012)

3 HOUSE BILL 2631

By: McAffrey

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5
6 AS INTRODUCED

7 An Act relating to criminal procedure; amending 22
8 O.S. 2011, Section 18, which relates to expungement
9 of criminal arrest records; adding category of
10 offenses authorized for expungement; and providing an
11 effective date.

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

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

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

- 18 1. The person has been acquitted;
- 19 2. The conviction was reversed with instructions to dismiss by
20 an appellate court of competent jurisdiction, or an appellate court
21 of competent jurisdiction reversed the conviction and the district
22 attorney subsequently dismissed the charge;
- 23 3. The factual innocence of the person was established by the
24 use of deoxyribonucleic acid (DNA) evidence subsequent to

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

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

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

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

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

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

20 9. The offense was a nonviolent felony, as ~~defined~~ set forth in
21 Section 571 of Title 57 of the Oklahoma Statutes, the person has
22 received a full pardon for the offense, the person has not been
23 convicted of any other misdemeanor or felony, no felony or
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1 misdemeanor charges are pending against the person, and at least ten
2 (10) years have passed since the conviction; ~~or~~

3 10. The offense was a violent felony as listed in Section 571
4 of Title 57 of the Oklahoma Statutes, the person has received a full
5 pardon for the offense, no felony or misdemeanor charges are pending
6 against the person, and at least ten (10) years have passed since
7 the issuance of the pardon;

8 11. The person received a deferred sentence under the
9 provisions of Section 991c of this title, the person has completed
10 all of the conditions of the deferred judgment, the court has made a
11 finding that all conditions have been met, and the case has been
12 dismissed with prejudice; or

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

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

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

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23 53-2-9159 GRS 01/18/12

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