

1 STATE OF OKLAHOMA

2 1st Session of the 54th Legislature (2013)

3 HOUSE BILL 1838

By: Williams

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5
6 AS INTRODUCED

7 An Act relating to criminal procedure; amending 22
8 O.S. 2011, Section 18, as amended by Section 2,
9 Chapter 183, O.S.L. 2012 (22 O.S. Supp. 2012, Section
10 18), which relates to the expungement of records;
11 modifying certain expungement category; and providing
12 an effective date.

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

14 SECTION 1. AMENDATORY 22 O.S. 2011, Section 18, as
15 amended by Section 2, Chapter 183, O.S.L. 2012 (22 O.S. Supp. 2012,
16 Section 18), is amended to read as follows:

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

- 20 1. The person has been acquitted;
- 21 2. The conviction was reversed with instructions to dismiss by
22 an appellate court of competent jurisdiction, or an appellate court
23 of competent jurisdiction reversed the conviction and the district
24 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 and the statute of
11 limitations has expired or the prosecuting agency has declined to
12 file charges;

13 6. 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 7. The person was charged with one or more misdemeanor or
17 felony crimes, all charges have been dismissed, the person has never
18 been convicted of a felony, no misdemeanor or felony charges are
19 pending against the person, and the statute of limitations for
20 refiling the charge or charges has expired or the prosecuting agency
21 confirms that the charge or charges will not be refiled; provided,
22 however, this category shall not apply to charges that have been
23 dismissed following the completion of a deferred judgment or delayed
24 sentence;

1 8. The person was charged with a misdemeanor, the charge was
2 dismissed following the successful completion of a deferred judgment
3 or delayed sentence, the person has never been convicted of a
4 misdemeanor or felony, and no misdemeanor or felony charges are
5 pending against the person, ~~and at least two (2) years have passed~~
6 ~~since the charge was dismissed;~~

7 9. The person was charged with a nonviolent felony offense, as
8 set forth in Section 571 of Title 57 of the Oklahoma Statutes, the
9 charge was dismissed following the successful completion of a
10 deferred judgment or delayed sentence, the person has never been
11 convicted of a misdemeanor or felony, no misdemeanor or felony
12 charges are pending against the person, and at least ten (10) years
13 have passed since the charge was dismissed;

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

18 11. The person was convicted of a nonviolent felony offense, as
19 defined in Section 571 of Title 57 of the Oklahoma Statutes, the
20 person has received a full pardon for the offense, the person has
21 not been convicted of any other misdemeanor or felony, no felony or
22 misdemeanor charges are pending against the person, and at least ten
23 (10) years have passed since the conviction; or
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1 12. The person has been charged or arrested or is the subject
2 of an arrest warrant for a crime that was committed by another
3 person who has appropriated or used the person's name or other
4 identification without the person's consent or authorization.

5 For purposes of this act, "expungement" shall mean the sealing
6 of criminal records. Records expunged pursuant to paragraphs 8, 9,
7 10, 11 and 12 of this section shall be sealed to the public but not
8 to law enforcement agencies for law enforcement purposes. Records
9 expunged pursuant to paragraphs 8, 9, 10 and 11 of this section
10 shall be admissible in any subsequent criminal prosecution to prove
11 the existence of a prior conviction or prior deferred judgment
12 without the necessity of a court order requesting the unsealing of
13 said records.

14 SECTION 2. This act shall become effective November 1, 2013.

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16 54-1-6217 GRS 12/28/12

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