STATE OF OKLAHOMA

2nd Session of the 54th Legislature (2014)

HOUSE BILL 2532 By: Floyd

AS INTRODUCED

An Act relating to criminal procedure; amending 22 O.S. 2011, Section 18, as amended by Section 2, Chapter 183, O.S.L. 2012 (22 O.S. Supp. 2013, Section 18), which relates to arrest record expungements; modifying certain expungement category; 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, as amended by Section 2, Chapter 183, O.S.L. 2012 (22 O.S. Supp. 2013, 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 and the statute of limitations has expired or the prosecuting agency has declined to file charges;

6. 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;

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

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

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

10. The person was convicted of a misdemeanor 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;

11. The person was convicted of a ~~nonviolent~~ felony offense, ~~as defined 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~~ issuance of the pardon; or

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

SECTION 2. This act shall become effective November 1, 2014.

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