

1 STATE OF OKLAHOMA

2 2nd Session of the 55th Legislature (2016)

3 HOUSE BILL 2459

By: Shelton

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6 AS INTRODUCED

7 An Act relating to criminal procedure; amending 22
8 O.S. 2011, Section 19, as amended by Section 1,
9 Chapter 178, O.S.L. 2015 (22 O.S. Supp. 2015, Section
10 19), which relates to criminal arrest record
expungements; requiring certain persons to
acknowledge and disclose expungement order; and
providing an effective date.

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

14 SECTION 1. AMENDATORY 22 O.S. 2011, Section 19, as
15 amended by Section 1, Chapter 178, O.S.L. 2015 (22 O.S. Supp. 2015,
16 Section 19), is amended to read as follows:

17 Section 19. A. Any person qualified under Section 18 of this
18 title may petition the district court of the district in which the
19 arrest information pertaining to the person is located for the
20 sealing of all or any part of the record, except basic
21 identification information.

22 B. Upon the filing of a petition or entering of a court order,
23 the court shall set a date for a hearing and shall provide thirty
24 (30) days of notice of the hearing to the district attorney, the

1 arresting agency, the Oklahoma State Bureau of Investigation, and
2 any other person or agency whom the court has reason to believe may
3 have relevant information related to the sealing of such record.

4 C. Upon a finding that the harm to privacy of the person in
5 interest or dangers of unwarranted adverse consequences outweigh the
6 public interest in retaining the records, the court may order such
7 records, or any part thereof except basic identification
8 information, to be sealed. If the court finds that neither sealing
9 of the records nor maintaining of the records unsealed by the agency
10 would serve the ends of justice, the court may enter an appropriate
11 order limiting access to such records.

12 Any order entered under this subsection shall specify those
13 agencies to which such order shall apply. Any order entered
14 pursuant to this subsection may be appealed by the petitioner, the
15 district attorney, the arresting agency, or the Oklahoma State
16 Bureau of Investigation to the Oklahoma Supreme Court in accordance
17 with the rules of the Oklahoma Supreme Court. In all such appeals,
18 the Oklahoma State Bureau of Investigation is a necessary party and
19 must be given notice of the appellate proceedings.

20 D. Upon the entry of an order to seal the records, or any part
21 thereof, the subject official actions shall be deemed never to have
22 occurred, and the person in interest and all criminal justice
23 agencies may properly reply, upon any inquiry in the matter, that no
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1 such action ever occurred and that no such record exists with
2 respect to such person.

3 E. Inspection of the records included in the order may
4 thereafter be permitted by the court only upon petition by the
5 person in interest who is the subject of such records, the Attorney
6 General, or by the district attorney and only to those persons and
7 for such purposes named in such petition.

8 F. ~~Employers~~ Except as provided in subsection O of this
9 section, employers, educational institutions, state and local
10 government agencies, officials, and employees shall not, in any
11 application or interview or otherwise, require an applicant to
12 disclose any information contained in sealed records. An applicant
13 need not, in answer to any question concerning arrest and criminal
14 records provide information that has been sealed, including any
15 reference to or information concerning such sealed information and
16 may state that no such action has ever occurred. Such an
17 application may not be denied solely because of the refusal of the
18 applicant to disclose arrest and criminal records information that
19 has been sealed.

20 G. All arrest and criminal records information existing prior
21 to the effective date of this section, except basic identification
22 information, is also subject to sealing in accordance with
23 subsection C of this section.
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1 H. Nothing in this section shall be construed to authorize the
2 physical destruction of any criminal justice records.

3 I. For the purposes of this section, sealed materials which are
4 recorded in the same document as unsealed material may be recorded
5 in a separate document, and sealed, then obliterated in the original
6 document.

7 J. For the purposes of this section, district court index
8 reference of sealed material shall be destroyed, removed or
9 obliterated.

10 K. Any record ordered to be sealed pursuant to this section, if
11 not unsealed within ten (10) years of the expungement order, may be
12 obliterated or destroyed at the end of the ten-year period.

13 L. Subsequent to records being sealed as provided herein, the
14 district attorney, the arresting agency, the Oklahoma State Bureau
15 of Investigation, or other interested person or agency may petition
16 the court for an order unsealing said records. Upon filing of a
17 petition the court shall set a date for hearing, which hearing may
18 be closed at the discretion of the court, and shall provide thirty
19 (30) days of notice to all interested parties. If, upon hearing,
20 the court determines there has been a change of conditions or that
21 there is a compelling reason to unseal the records, the court may
22 order all or a portion of the records unsealed.

23 M. Nothing herein shall prohibit the introduction of evidence
24 regarding actions sealed pursuant to the provisions of this section

1 at any hearing or trial for purposes of impeaching the credibility
2 of a witness or as evidence of character testimony pursuant to
3 Section 2608 of Title 12 of the Oklahoma Statutes.

4 N. If a person qualifies for an expungement under the
5 provisions of paragraph 3 of subsection A of Section 18 of this
6 title and said petition for expungement is granted by the court, the
7 court shall order the reimbursement of all filing fees and court
8 costs incurred by the petitioner as a result of filing the
9 expungement request.

10 O. Any person seeking employment as a peace officer or a
11 position that requires certification by the Council on Law
12 Enforcement Education and Training who has previously been granted
13 an order sealing arrest and criminal records information shall be
14 required to acknowledge and disclose to the employing agency the
15 existence of the court order and shall disclose any information
16 contained in the sealed records.

17 SECTION 2. This act shall become effective November 1, 2016.

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