

1 ENGROSSED SENATE
2 BILL NO. 2140

By: Bingman and Burrage of the
Senate

3 and

4 Hickman of the House

5
6 An Act relating to criminal procedure; amending 22
7 O.S. 2011, Section 18, as amended by Section 2,
8 Chapter 183, O.S.L. 2012 (22 O.S. Supp. 2013, Section
9 18), which relates to the expungement of criminal
10 records; modifying certain qualifications; providing
11 for offenses arising out of the same transaction;
12 making certain records kept by the Pardon and Parole
13 Board subject to being sealed; and providing an
14 effective date.

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

16 SECTION 1. AMENDATORY 22 O.S. 2011, Section 18, as
17 amended by Section 2, Chapter 183, O.S.L. 2012 (22 O.S. Supp. 2013,
18 Section 18), is amended to read as follows:

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

- 22 1. The person has been acquitted;
- 23 2. The conviction was reversed with instructions to dismiss by
24 an appellate court of competent jurisdiction, or an appellate court
of competent jurisdiction reversed the conviction and the district
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, no misdemeanor or felony charges are pending
5 against the person, and at least ~~two (2) years~~ have one (1) year has
6 passed 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 a~~ a felony,
16 no felony or misdemeanor charges are pending against the person, and
17 at least ten (10) years have passed since the ~~conviction~~ end of the
18 last misdemeanor sentence;

19 11. The person was convicted of a nonviolent felony offense, as
20 defined in Section 571 of Title 57 of the Oklahoma Statutes, the
21 person has received a full pardon for the offense, the person has
22 not been convicted of any other ~~misdemeanor or~~ felony, the person
23 has not been convicted of a separate misdemeanor in the last fifteen
24 (15) years, no felony or misdemeanor charges are pending against the

1 person, and at least ten (10) years have passed since the felony
2 conviction; or

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

7 B. For purposes of this act, "expungement" shall mean the
8 sealing of criminal records.

9 C. For purposes of seeking an expungement under the provisions
10 of paragraph 10 or 11 of subsection A of this section, offenses
11 arising out of the same transaction or occurrence shall be treated
12 as one conviction and offense.

13 D. Records expunged pursuant to paragraphs 8, 9, 10, 11 and 12
14 of subsection A of this section shall be sealed to the public but
15 not to law enforcement agencies for law enforcement purposes.

16 Records expunged pursuant to paragraphs 8, 9, 10 and 11 of
17 subsection A of this section shall be admissible in any subsequent
18 criminal prosecution to prove the existence of a prior conviction or
19 prior deferred judgment without the necessity of a court order
20 requesting the unsealing of ~~said~~ the records. Records expunged
21 pursuant to paragraph 4, 6 or 11 of subsection A of this section may
22 also include the sealing of Pardon and Parole Board records related
23 to an application for a pardon. Such records shall be sealed to the
24 public but not to the Pardon and Parole Board.

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

Passed the Senate the 21st day of May, 2014.

Presiding Officer of the Senate

Passed the House of Representatives the ____ day of _____,
2014.

Presiding Officer of the House
of Representatives