

STATE OF OKLAHOMA

2nd Session of the 54th Legislature (2014)

SENATE BILL 2140

By: Bingman and Burrage of the  
Senate

and

Hickman of the House

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 the expungement of criminal records; modifying certain qualifications; providing for offenses arising out of the same transaction; making certain records kept by the Pardon and Parole Board subject to being sealed; 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. A. 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

1 of competent jurisdiction reversed the conviction and the district  
2 attorney subsequently dismissed the charge;

3 3. The factual innocence of the person was established by the  
4 use of deoxyribonucleic acid (DNA) evidence subsequent to  
5 conviction, including a person who has been released from prison at  
6 the time innocence was established;

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

10 5. The person was arrested and no charges of any type,  
11 including charges for an offense different than that for which the  
12 person was originally arrested, are filed and the statute of  
13 limitations has expired or the prosecuting agency has declined to  
14 file charges;

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

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

1 dismissed following the completion of a deferred judgment or delayed  
2 sentence;

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

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

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

21 11. The person was convicted of a nonviolent felony offense, as  
22 defined in Section 571 of Title 57 of the Oklahoma Statutes, the  
23 person has received a full pardon for the offense, the person has  
24 not been convicted of any other ~~misdemeanor or~~ felony, the person

1 has not been convicted of a separate misdemeanor in the last fifteen  
2 (15) years, no felony or misdemeanor charges are pending against the  
3 person, and at least ten (10) years have passed since the felony  
4 conviction; or

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

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

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

15 D. Records expunged pursuant to paragraphs 8, 9, 10, 11 and 12  
16 of subsection A of this section shall be sealed to the public but  
17 not to law enforcement agencies for law enforcement purposes.  
18 Records expunged pursuant to paragraphs 8, 9, 10 and 11 of  
19 subsection A of this section shall be admissible in any subsequent  
20 criminal prosecution to prove the existence of a prior conviction or  
21 prior deferred judgment without the necessity of a court order  
22 requesting the unsealing of ~~said~~ the records. Records expunged  
23 pursuant to paragraph 4, 6 or 11 of subsection A of this section may  
24 also include the sealing of Pardon and Parole Board records related

1 to an application for a pardon. Such records shall be sealed to the  
2 public but not to the Pardon and Parole Board.

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