

STATE OF OKLAHOMA

2nd Session of the 57th Legislature (2020)

SENATE BILL 1838

By: Ikley-Freeman

AS INTRODUCED

An Act relating to sealing of records; requiring issuance of order of expungement after pardon; requiring delivery of order to certain entities; requiring filing of certain document with Secretary of State; providing for public access of certain document for specified time period; authorizing use of sealed record for specified purposes; prohibiting requirement for disclosure of certain information; prohibiting denial of application under certain circumstances; authorizing petition for unsealing of certain records; providing for notice and hearing; authorizing order to unseal records under certain circumstances; providing exceptions to applicability; construing provisions; providing for codification; and providing an effective date.

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

SECTION 1. NEW LAW A new section of law to be codified in the Oklahoma Statutes as Section 332a of Title 57, unless there is created a duplication in numbering, reads as follows:

A. For pardons granted on or after the effective date of this act, within thirty (30) days of granting a pardon, the Governor shall issue an order of expungement directing all official records relating to the subject of the pardon including, but not limited to,

1 arrest, information, indictment, trial, plea, sentencing and
2 application for pardon, to be sealed to the public but not to law
3 enforcement for law enforcement purposes only. The Oklahoma Pardon
4 and Parole Board shall deliver a certified copy of the order of
5 expungement to:

6 1. The Oklahoma State Bureau of Investigation;

7 2. The presiding judge or a district judge of the judicial
8 district where the conviction was rendered;

9 3. The prosecuting authority of the conviction; and

10 4. The arresting agency.

11 Such entities shall seal all records within their possession
12 relating to the pardoned offenses within thirty (30) days of receipt
13 of a certified copy of the order for expungement.

14 B. After an order of expungement is issued pursuant to this
15 section, the Pardon and Parole Board shall file with the Oklahoma
16 Secretary of State a document to be made available to the public
17 certifying that the order was issued in compliance with this section
18 and the proper agencies were provided notice of such order. The
19 document shall remain available for public access for three (3)
20 years, after which the document shall be sealed.

21 C. Upon issuance of an order to seal the records or any part
22 thereof, the pardoned offenses shall be deemed never to have
23 occurred, and the person receiving the pardon and all law
24 enforcement agencies may properly state, upon any inquiry in the

1 matter, that no such action ever occurred and that no such record
2 exists with respect to such person. However, the sealed record
3 shall be retained solely for use by law enforcement agencies,
4 prosecuting attorneys and courts for the purpose of sentencing such
5 person for any subsequent criminal offense.

6 D. Employers, educational institutions, state and local
7 government agencies, officials and employees shall not, in any
8 application or interview, require a person to disclose any
9 information contained in sealed records. In response to any inquiry
10 related to a person's arrest or criminal record, the person shall
11 not be required to provide information that has been sealed,
12 including any reference to or information concerning such sealed
13 information, and may state that no such action has ever occurred.
14 An application by such person may not be denied solely because of
15 the refusal of the applicant to disclose arrest and criminal record
16 information that has been sealed.

17 E. Subsequent to records being sealed as provided pursuant to
18 this section, the prosecuting agency, the arresting agency or the
19 Oklahoma State Bureau of Investigation may petition the district
20 court where the conviction was rendered for an order unsealing the
21 records. Upon filing of a petition, the court shall set a date for
22 hearing, which may be closed at the discretion of the court and
23 shall provide notice to all interested parties not less than thirty
24 (30) days prior to the hearing. Upon hearing, if the court

1 determines there has been a change of conditions or that there is a
2 compelling reason to unseal the records, the court may order all or
3 a portion of the records unsealed.

4 F. This section shall not apply to a pardon issued for:

5 1. Any offense in which the victim was under eighteen (18)
6 years of age at the time the offense was committed;

7 2. A sex offense requiring the person to register pursuant to
8 the provisions of the Sex Offenders Registration Act;

9 3. Any offense listed in Section 571 of Title 57 of the
10 Oklahoma Statutes;

11 4. Any offense committed by any executive, legislative, county,
12 municipal, judicial or other public officer, or any employee of this
13 state or any political subdivision thereof, in the course of his or
14 her official capacity; and

15 5. Any offense that resulted in the death of a person.

16 G. Nothing in this section shall be construed to prohibit the
17 introduction of evidence regarding actions sealed pursuant to the
18 provisions of this section at any hearing or trial for purposes of
19 impeaching the credibility of a witness or as evidence of character
20 testimony pursuant to Sections 2608 and 2609 of Title 12 of the
21 Oklahoma Statutes.

22 SECTION 2. This act shall become effective November 1, 2020.
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