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April 5, 2022

ENGROSSED HOUSE
BILL NO. 3024

By: Worthen, Talley, and
Phillips of the House

and

Rader of the Senate

An Act relating to expungements; amending 22 O.S. 2021, Section 18, which relates to expungement of criminal history records; adding an expungement category; and providing an effective date.

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

SECTION 1. AMENDATORY 22 O.S. 2021, 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 of competent jurisdiction reversed the conviction and the prosecuting agency subsequently dismissed the charge;

3. The factual innocence of the person was established by the use of deoxyribonucleic acid (DNA) evidence subsequent to

1 conviction, including a person who has been released from prison at
2 the time innocence was established;

3 4. The person has received a full pardon by the Governor for
4 the crime for which the person was sentenced;

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

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

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

22 8. The person was charged with a misdemeanor, the charge was
23 dismissed following the successful completion of a deferred judgment
24 or delayed sentence, the person has never been convicted of a

1 felony, no misdemeanor or felony charges are pending against the
2 person and at least one (1) year has passed since the charge was
3 dismissed;

4 9. The person was charged with a nonviolent felony offense not
5 listed in Section 571 of Title 57 of the Oklahoma Statutes, the
6 charge was dismissed following the successful completion of a
7 deferred judgment or delayed sentence, the person has never been
8 convicted of a felony, no misdemeanor or felony charges are pending
9 against the person and at least five (5) years have passed since the
10 charge was dismissed;

11 10. The person was convicted of a misdemeanor offense, the
12 person was sentenced to a fine of less than Five Hundred One Dollars
13 (\$501.00) without a term of imprisonment or a suspended sentence,
14 the fine has been paid or satisfied by time served in lieu of the
15 fine, the person has not been convicted of a felony and no felony or
16 misdemeanor charges are pending against the person;

17 11. The person was convicted of a misdemeanor offense, the
18 person was sentenced to a term of imprisonment, a suspended sentence
19 or a fine in an amount greater than Five Hundred Dollars (\$500.00),
20 the person has not been convicted of a felony, no felony or
21 misdemeanor charges are pending against the person and at least five
22 (5) years have passed since the end of the last misdemeanor
23 sentence;

1 12. The person was convicted of a nonviolent felony offense not
2 listed in Section 571 of Title 57 of the Oklahoma Statutes, the
3 person has not been convicted of any other felony, the person has
4 not been convicted of a separate misdemeanor in the last seven (7)
5 years, no felony or misdemeanor charges are pending against the
6 person and at least five (5) years have passed since the completion
7 of the sentence for the felony conviction;

8 13. The person was convicted of not more than two felony
9 offenses, none of which is a felony offense listed in Section 13.1
10 of Title 21 of the Oklahoma Statutes or any offense that would
11 require the person to register pursuant to the provisions of the Sex
12 Offenders Registration Act, no felony or misdemeanor charges are
13 pending against the person, and at least ten (10) years have passed
14 since the completion of the sentence for the felony conviction;

15 14. The person was charged with not more than two felony
16 offenses and the charges were dismissed following the successful
17 completion of a deferred judgment or delayed sentence, none of which
18 were felony offenses listed in Section 13.1 of Title 21 of the
19 Oklahoma Statutes or would require the person to register pursuant
20 to the provisions of the Sex Offenders Registration Act, no felony
21 or misdemeanor charges are pending against the person, and at least
22 ten (10) years have passed since the charges were dismissed;

23 15. The person has been charged or arrested or is the subject
24 of an arrest warrant for a crime that was committed by another

1 person who has appropriated or used the person's name or other
2 identification without the person's consent or authorization; or

3 ~~15.~~ 16. The person was convicted of a nonviolent felony offense
4 not listed in Section 571 of Title 57 of the Oklahoma Statutes which
5 was subsequently reclassified as a misdemeanor under Oklahoma law,
6 the person is not currently serving a sentence for a crime in this
7 state or another state, at least thirty (30) days have passed since
8 the completion or commutation of the sentence for the crime that was
9 reclassified as a misdemeanor, any restitution ordered by the court
10 to be paid by the person has been satisfied in full, and any
11 treatment program ordered by the court has been successfully
12 completed by the person, including any person who failed a treatment
13 program which resulted in an accelerated or revoked sentence that
14 has since been successfully completed by the person or the person
15 can show successful completion of a treatment program at a later
16 date. Persons seeking an expungement of records under the
17 provisions of this paragraph may utilize the expungement forms
18 provided in Section ~~2~~ 18a of this ~~act~~ title.

19 B. For purposes of Section 18 et seq. of this title,
20 "expungement" shall mean the sealing of criminal records, as well as
21 any public civil record, involving actions brought by and against
22 the State of Oklahoma arising from the same arrest, transaction or
23 occurrence.

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

5 D. Records expunged pursuant to paragraphs 4, 8, 9, 10, 11, 12,
6 13, 14 ~~and~~, 15 and 16 of subsection A of this section shall be
7 sealed to the public but not to law enforcement agencies for law
8 enforcement purposes. Records expunged pursuant to paragraphs 8, 9,
9 10, 11, 12 ~~and~~, 13 and 14 of subsection A of this section shall be
10 admissible in any subsequent criminal prosecution to prove the
11 existence of a prior conviction or prior deferred judgment without
12 the necessity of a court order requesting the unsealing of the
13 records. Records expunged pursuant to paragraph 4, or 6, ~~12 or 13~~
14 of subsection A of this section may also include the sealing of
15 Pardon and Parole Board records related to an application for a
16 pardon. Such records shall be sealed to the public but not to the
17 Pardon and Parole Board.

18 SECTION 2. This act shall become effective November 1, 2022.

19 COMMITTEE REPORT BY: COMMITTEE ON JUDICIARY
20 April 5, 2022 - DO PASS
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