

1 **HOUSE OF REPRESENTATIVES - FLOOR VERSION**

2 STATE OF OKLAHOMA

3 2nd Session of the 59th Legislature (2024)

4 HOUSE BILL 3037

 By: Stinson

7 AS INTRODUCED

8 An Act relating to criminal procedure; amending 22
9 O.S. 2021, Section 18, as amended by Section 1,
10 Chapter 143, O.S.L. 2022 (22 O.S. Supp. 2023, Section
11 18), which relates to the expungement of criminal
12 arrest records; modifying qualifications for persons
 requesting criminal arrest record expungements;
 adding category; restoring rights of persons to
 possess firearms or weapons after felony conviction
 expungement; and providing an effective date.

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

17 SECTION 1. AMENDATORY 22 O.S. 2021, Section 18, as
18 amended by Section 1, Chapter 143, O.S.L. 2022 (22 O.S. Supp. 2023,
19 Section 18), is amended to read as follows:

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

23 1. The person has been acquitted;

1 2. The conviction was reversed with instructions to dismiss by
2 an appellate court of competent jurisdiction, or an appellate court
3 of competent jurisdiction reversed the conviction and the
4 prosecuting agency subsequently dismissed the charge;

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

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

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

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

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

1 however, this category shall not apply to charges that have been
2 dismissed following the completion of a deferred judgment or delayed
3 sentence;

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

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

17 10. The person was convicted of a misdemeanor offense, the
18 person was sentenced to a fine of less than ~~Five Hundred One Dollars~~
19 ~~(\$501.00)~~ One Thousand One Dollars (\$1,001.00) without a term of
20 imprisonment or a suspended sentence, the fine has been paid or
21 satisfied by time served in lieu of the fine, the person has not
22 been convicted of a felony and no felony or misdemeanor charges are
23 pending against the person;

1 11. The person was convicted of a misdemeanor offense, the
2 person was sentenced to a term of imprisonment, a suspended sentence
3 or a fine in an amount greater than ~~Five Hundred Dollars (\$500.00)~~
4 One Thousand Dollars (\$1,000.00), the person has not been convicted
5 of a felony, no felony or misdemeanor charges are pending against
6 the person and at least ~~five (5)~~ three (3) years have passed since
7 the end of the last misdemeanor sentence;

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

15 13. The person was convicted of ~~not more than two~~ or received a
16 deferred sentence for one or more felony offenses, none of which is
17 a felony offense listed in Section 13.1 of Title 21 of the Oklahoma
18 Statutes or any offense that would require the person to register
19 pursuant to the provisions of the Sex Offenders Registration Act, no
20 felony or misdemeanor charges are pending against the person, and at
21 least ten (10) years have passed since the completion of the
22 sentence for the last felony conviction;

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

20 16. A person participating in and successfully completing a
21 diversion program for either a misdemeanor or felony offense or
22 offenses shall be immediately eligible to have the offense or
23 offenses expunged after completion of all court-ordered program
24 conditions and payment of all fines, fees, costs, and assessments.

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

6 C. Beginning three (3) years after the effective date of this
7 act and subject to the availability of funds, individuals with clean
8 slate eligible cases shall be eligible to have their criminal
9 records sealed automatically. For purposes of Section 18 et seq. of
10 this title, "clean slate eligible case" shall mean a case where each
11 charge within the case is pursuant to paragraph 1, 2, 3, 5, 6, 7, 8,
12 10, 11, 14 or 15 of subsection A of this section.

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

17 E. Records expunged pursuant to paragraphs 4, 8, 9, 10, 11, 12,
18 13, 14 and 15 of subsection A of this section shall be sealed to the
19 public but not to law enforcement agencies for law enforcement
20 purposes. Records expunged pursuant to paragraphs 8, 9, 10, 11, 12
21 and 13 of subsection A of this section shall be admissible in any
22 subsequent criminal prosecution to prove the existence of a prior
23 conviction or prior deferred judgment without the necessity of a
24 court order requesting the unsealing of the records. Records

1 expunged pursuant to paragraph 4, 6, 12 or 13 of subsection A of
2 this section may also include the sealing of Pardon and Parole Board
3 records related to an application for a pardon. Such records shall
4 be sealed to the public but not to the Pardon and Parole Board.

5 F. Any person who has had a felony conviction expunged pursuant
6 to the provisions of this section, and has not been convicted of any
7 other felony offense which has not been pardoned or expunged, shall
8 have restored the right to possess any firearm or other weapon
9 prohibited by subsection A of Section 1283 of Title 21 of the
10 Oklahoma Statutes, the right to apply for and carry a handgun,
11 concealed or unconcealed, pursuant to the provisions of the Oklahoma
12 Self-Defense Act or as otherwise permitted by law, and have the
13 right to perform the duties of a peace officer or gunsmith, and for
14 purposes of performing firearm repairs.

15 SECTION 2. This act shall become effective November 1, 2024.

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17 COMMITTEE REPORT BY: COMMITTEE ON JUDICIARY - CRIMINAL, dated
18 02/28/2024 - DO PASS.
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