

STATE OF OKLAHOMA

2nd Session of the 59th Legislature (2024)

HOUSE BILL 3037

By: Stinson

AS INTRODUCED

An Act relating to criminal procedure; amending 22 O.S. 2021, Section 18, as amended by Section 1, Chapter 143, O.S.L. 2022 (22 O.S. Supp. 2023, Section 18), which relates to the expungement of criminal 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.

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

SECTION 1. AMENDATORY 22 O.S. 2021, Section 18, as amended by Section 1, Chapter 143, O.S.L. 2022 (22 O.S. Supp. 2023, 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
2 prosecuting agency 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 by the Governor for
8 the crime for which the person was sentenced;

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

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

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

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

9 9. The person was charged with a nonviolent felony offense not
10 listed 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 felony, no misdemeanor or felony charges are pending
14 against the person and at least five (5) years have passed since the
15 charge was dismissed;

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

23 11. The person was convicted of a misdemeanor offense, the
24 person was sentenced to a term of imprisonment, a suspended sentence
--

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

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

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

21 14. The person has been charged or arrested or is the subject
22 of an arrest warrant for a crime that was committed by another
23 person who has appropriated or used the person's name or other
24 identification without the person's consent or authorization; ~~or~~
--

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

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

23 B. For purposes of Section 18 et seq. of this title,
24 "expungement" shall mean the sealing of criminal records, as well as
--

1 any public civil record, involving actions brought by and against
2 the State of Oklahoma arising from the same arrest, transaction or
3 occurrence.

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

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

15 E. Records expunged pursuant to paragraphs 4, 8, 9, 10, 11, 12,
16 13, 14 and 15 of subsection A of this section shall be sealed to the
17 public but not to law enforcement agencies for law enforcement
18 purposes. Records expunged pursuant to paragraphs 8, 9, 10, 11, 12
19 and 13 of subsection A of this section shall be admissible in any
20 subsequent criminal prosecution to prove the existence of a prior
21 conviction or prior deferred judgment without the necessity of a
22 court order requesting the unsealing of the records. Records
23 expunged pursuant to paragraph 4, 6, 12 or 13 of subsection A of
24 this section may also include the sealing of Pardon and Parole Board
--

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

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

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

14
15 59-2-8647 GRS 01/10/24
16
17
18
19
20
21
22
23
24
--