

STATE OF OKLAHOMA

2nd Session of the 59th Legislature (2024)

HOUSE BILL 3729

By: Lowe (Jason)

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; providing automatic expungements for certain misdemeanor convictions; authorizing persons to file a petition for automatic expungement; allowing certain agencies and interested persons to seek an order unsealing records; directing the Administrative Office of the Courts to promulgate rules; 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
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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) without a term of imprisonment or a suspended sentence,
19 the fine has been paid or satisfied by time served in lieu of the
20 fine, the person has not been convicted of a felony and no felony or
21 misdemeanor charges are pending against the person;

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

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

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

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

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

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

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

3 D. 1. Beginning November 1, 2024, any person who was convicted
4 of a nonviolent misdemeanor offense, at least ten (10) years have
5 passed since the date of conviction, the person has not been
6 convicted of a felony, all fines, fees, and restitution if ordered
7 by the court have been paid, and no felony or misdemeanor charges
8 are pending against the person, shall have his or her nonviolent
9 misdemeanor criminal arrest records automatically expunged.

10 2. Nothing in this section precludes a person from filing a
11 petition for expungement of records that is eligible for automatic
12 expungement if an automatic expungement has not occurred pursuant to
13 this subsection.

14 3. An automatic expungement performed under the provisions of
15 this subsection shall not preclude the prosecuting agency, the
16 arresting agency, the Oklahoma State Bureau of Investigation, or
17 other interested person or agency from petitioning the court for an
18 order unsealing said records in accordance with subsection O of
19 Section 19 of this title.

20 4. The Administrative Office of the Courts shall promulgate
21 rules to implement the provisions of this subsection.

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

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

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