

STATE OF OKLAHOMA

2nd Session of the 59th Legislature (2024)

SENATE BILL 1689

By: Gollihare

AS INTRODUCED

An Act relating to criminal records; amending 22 O.S. 2021, Section 18, as last amended by Section 1, Chapter 143, O.S.L. 2022 (22 O.S. Supp. 2023, Section 18), which relates to expungement of records; expanding eligibility for clean slate expungement; requiring unsealing of certain expunged records upon subsequent conviction; updating statutory reference; 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 last 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 of competent jurisdiction reversed the conviction and the prosecuting agency subsequently dismissed the charge;

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

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

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

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

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

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

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

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

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

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

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

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

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

13 16. The person was convicted of not more than one nonviolent  
14 felony offense not listed in Section 571 of Title 57 of the Oklahoma  
15 Statutes; the person has completed the sentence; any restitution  
16 ordered by the court to be paid by the person has been satisfied in  
17 full; and any treatment program ordered by the court has been  
18 successfully completed by the person, including any person who  
19 failed a treatment program which resulted in an accelerated or  
20 revoked sentence that has since been successfully completed by the  
21 person or the person can show successful completion of a treatment  
22 program at a later date.

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~~ on November 1, 2025, and subject to the availability of funds,  
6 individuals with clean slate eligible cases shall be eligible to  
7 have their criminal records sealed automatically. For purposes of  
8 Section 18 et seq. of this title, "clean slate eligible case" shall  
9 mean a case where each charge within the case is pursuant to  
10 paragraph 1, 2, 3, 5, 6, 7, 8, 10, 11, 14, ~~or 15,~~ or 16 of  
11 subsection A of this section.

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

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

1 subsection A of this section may also include the sealing of Pardon  
2 and Parole Board records related to an application for a pardon.  
3 Such records shall be sealed to the public but not to the Pardon and  
4 Parole Board. Records expunged pursuant to paragraph 16 of  
5 subsection A of this section shall be unsealed if the person is  
6 convicted of a subsequent misdemeanor or felony offense.

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

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