

1 STATE OF OKLAHOMA

2 2nd Session of the 56th Legislature (2018)

3 CONFERENCE COMMITTEE SUBSTITUTE

4 FOR ENGROSSED

5 SENATE BILL 650

By: Shaw and Pittman of the
Senate

6 and

7 Loring of the House

8
9 CONFERENCE COMMITTEE SUBSTITUTE

10 An Act relating to criminal procedure; amending 22
11 O.S. 2011, Section 18, as last amended by Section 1,
12 Chapter 348, O.S.L. 2016 (22 O.S. Supp. 2017, Section
13 18), which relates to expungement of criminal
14 records; modifying qualifications for certain
15 categories; and providing an effective date.

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

17 SECTION 1. AMENDATORY 22 O.S. 2011, Section 18, as last
18 amended by Section 1, Chapter 348, O.S.L. 2016 (22 O.S. Supp. 2017,
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;

24 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 on the basis of a
8 written finding by the Governor of actual innocence for the crime
9 for which the claimant was sentenced;

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

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

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

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
15 the 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
21 or 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),

1 the person has not been convicted of a felony, no felony or
2 misdemeanor charges are pending against the person, and at least
3 five (5) years have passed since the end of the last misdemeanor
4 sentence;

5 12. The person was convicted of a nonviolent felony offense,
6 not listed in Section 571 of Title 57 of the Oklahoma Statutes, ~~the~~
7 ~~person has received a full pardon for the offense,~~ the person has
8 not been convicted of any other felony, ~~the person has not been~~
9 ~~convicted of a~~ or separate misdemeanor in the last ~~fifteen (15)~~
10 seven (7) years, no felony or misdemeanor charges are pending
11 against the person, and at least ~~ten (10)~~ five (5) years have passed
12 since the completion of the sentence for the felony conviction;

13 13. The person was convicted of not more than two nonviolent
14 felony offenses, not listed in Section 571 of Title 57 of the
15 Oklahoma Statutes, the person has received a full pardon for both of
16 the nonviolent felony offenses, no felony or misdemeanor charges are
17 pending against the person, and at least twenty (20) years have
18 passed since the last misdemeanor or felony conviction; or

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.

23 B. For purposes of ~~this act~~ 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. For purposes of seeking an expungement under the provisions
5 of paragraph 10, 11, 12 or 13 of subsection A of this section,
6 offenses arising out of the same transaction or occurrence shall be
7 treated as one conviction and offense.

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

20 SECTION 2. This act shall become effective November 1, 2018.

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