

1 STATE OF OKLAHOMA

2 2nd Session of the 57th Legislature (2020)

3 HOUSE BILL 3459

By: Goodwin

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5  
6 AS INTRODUCED

7 An Act relating to expungements; amending 22 O.S.  
8 2011, Section 18, as last amended by Section 1,  
9 Chapter 459, O.S.L. 2019 (22 O.S. Supp. 2019, Section  
10 18), which relates to the expungement of criminal  
11 arrest records; providing procedures for automatic  
12 expungements; directing courts to notify certain  
13 agencies of expungement order; authorizing persons to  
14 file a petition for automatic expungement; providing  
15 automatic expungements at no cost to the qualified  
16 person; directing the Administrative Office of the  
17 Courts to promulgate certain rules; and providing an  
18 effective date.

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

20 SECTION 1. AMENDATORY 22 O.S. 2011, Section 18, as last  
21 amended by Section 1, Chapter 459, O.S.L. 2019 (22 O.S. Supp. 2019,  
22 Section 18), is amended to read as follows:

23 Section 18. A. Persons authorized to file a motion for  
24 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) 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),

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

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 ~~2~~ 18a of this ~~act~~ 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. For purposes of seeking an expungement under the provisions  
21 of paragraph 10, 11, 12 or 13 of subsection A of this section,  
22 offenses arising out of the same transaction or occurrence shall be  
23 treated as one conviction and offense.

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1 D. Records expunged pursuant to paragraphs 4, 8, 9, 10, 11, 12,  
2 13, 14 and 15 of subsection A of this section shall be sealed to the  
3 public but not to law enforcement agencies for law enforcement  
4 purposes. Records expunged pursuant to paragraphs 8, 9, 10, 11, 12  
5 and 13 of subsection A of this section shall be admissible in any  
6 subsequent criminal prosecution to prove the existence of a prior  
7 conviction or prior deferred judgment without the necessity of a  
8 court order requesting the unsealing of the records. Records  
9 expunged pursuant to paragraph 4, 6, 12 or 13 of subsection A of  
10 this section may also include the sealing of Pardon and Parole Board  
11 records related to an application for a pardon. Such records shall  
12 be sealed to the public but not to the Pardon and Parole Board.

13 E. 1. Beginning November 1, 2020, any person who qualifies for  
14 an expungement under paragraph 1, 2, 3 or 5 of subsection A of this  
15 section shall have his or her criminal arrest records automatically  
16 expunged. If a court determines that a person meets the  
17 qualifications provided for in paragraph 1, 2, 3 or 5 of subsection  
18 A of this section, the court shall issue, without a petition, an  
19 expungement order and, based on information available to the court,  
20 notify the prosecuting agency and arresting agency identified in the  
21 criminal case and the Oklahoma State Bureau of Investigation of the  
22 order of expungement.

23 2. Nothing in this section precludes a person from filing a  
24 petition for expungement of records that are eligible for automatic

1 expungement if an automatic expungement has not occurred pursuant to  
2 this subsection.

3 3. A person who qualifies for an automatic expungement under  
4 the provisions of this subsection shall not be charged any type of  
5 fee associated with the filing of a petition or administrative  
6 process of sealing, updating or amending the criminal history  
7 records held by the prosecuting agency, the arresting agency and the  
8 Oklahoma State Bureau of Investigation.

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

11 SECTION 2. This act shall become effective November 1, 2020.

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13 57-2-10103 GRS 01/13/20

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