

1 ENGROSSED HOUSE AMENDMENT  
TO  
2 ENGROSSED SENATE BILL NO. 815 By: David of the Senate  
3 and  
4 Kannady of the House  
5  
6

7 An Act relating to criminal procedure; amending 22  
8 O.S. 2011, Section 18, as last amended by Section 1,  
9 Chapter 127, O.S.L. 2018 (22 O.S. Supp. 2018, Section  
10 18), which relates to expungement of records;  
11 modifying eligibility for certain expungement;  
12 authorizing motion for expungement under certain  
13 circumstances; and providing an effective date.

14 AUTHOR: Add the following House Coauthor: Bell

15 AUTHOR: Add the following Senate Coauthor: Bergstrom

16 AMENDMENT NO. 1. Page 2, Section 1, lines 5-6, strike all language  
17 beginning with the word "on" on line 5 through the  
18 word "finding" on line 6

19 Page 2, Section 1, line 6, strike all language  
20 beginning with the word "of" through the word  
21 "innocence"

22 Page 2, Section 1, line 7, strike the word  
23 "claimant" and insert in lieu thereof, the word  
24 "person"

25 Page 4, Section 1, line 5, strike the word "or"  
26 and insert in lieu thereof, the following  
27 language:  
28 ", the person has not been convicted of a"

29 Page 4, Section 1, line 10, restore the phrase  
30 "not more than two"

1  
2 Page 4, Section 1, line 11, restore the words  
"felony offenses,"

3 Page 4, Section 1, line 11, after the stricken  
4 word "~~not~~" insert the following language: "none of  
which is"

5 Page 4, Section 1, lines 11-12, strike all  
6 language beginning with the word "Section" on line  
11 through the word "Statutes" on line 12

7 Page 4, Section 1, line 12, delete all amendatory  
8 language beginning with the comma "," through the  
word "in"

9 Page 4, Section 1, lines 15-16, strike all  
10 language beginning with the word "the" on line 15  
through the word "for" on line 16

11 Page 4, Section 1, line 16, strike the words "the"  
12 and "felony"

13 Page 4, Section 1, line 16, delete the amendatory  
word "offense" and strike the comma ","

14 Page 4, Section 1, line 20, restore the stricken  
15 word "~~or~~"

16 Page 4, Section 1, line 24, delete the punctuation  
and word "; or"

17 Page 5, Section 1, lines 1-8, delete all  
18 amendatory language beginning with "15." on line 1  
through the word "court" on line 8

19 Page 5, Section 1, line 18, after the word  
20 "paragraphs", insert "4,"

21 and amend title to conform  
22  
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1 ENGROSSED SENATE  
2 BILL NO. 815

By: David of the Senate

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4 Kannady of the House

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6 An Act relating to criminal procedure; amending 22  
7 O.S. 2011, Section 18, as last amended by Section 1,  
8 Chapter 127, O.S.L. 2018 (22 O.S. Supp. 2018, Section  
9 18), which relates to expungement of records;  
10 modifying eligibility for certain expungement;  
11 authorizing motion for expungement under certain  
12 circumstances; and providing an effective date.

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

14 SECTION 1. AMENDATORY 22 O.S. 2011, Section 18, as last  
15 amended by Section 1, Chapter 127, O.S.L. 2018 (22 O.S. Supp. 2018,  
16 Section 18), is amended to read as follows:

17 Section 18. A. Persons authorized to file a motion for  
18 expungement, as provided herein, must be within one of the following  
19 categories:

- 20 1. The person has been acquitted;
- 21 2. The conviction was reversed with instructions to dismiss by  
22 an appellate court of competent jurisdiction, or an appellate court  
23 of competent jurisdiction reversed the conviction and the  
24 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 on the basis of a  
6 written finding by the Governor of actual innocence for the crime  
7 for which the claimant was sentenced;

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

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

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

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 or separate  
6 misdemeanor in the last seven (7) years, no felony or misdemeanor  
7 charges are pending against the person and at least five (5) years  
8 have passed since the completion of the sentence for the felony  
9 conviction;

10 13. The person was convicted of ~~not more than two nonviolent~~  
11 ~~felony offenses, not a felony offense~~ listed in Section 571 of Title  
12 57 of the Oklahoma Statutes, not to include any offense listed in  
13 Section 13.1 of Title 21 of the Oklahoma Statutes or any offense  
14 that would require the person to register pursuant to the provisions  
15 of the Sex Offenders Registration Act, the person has received a  
16 full pardon for ~~both of the nonviolent felony offenses~~ offense, no  
17 felony or misdemeanor charges are pending against the person, and at  
18 least ~~twenty (20)~~ ten (10) years have passed since the ~~last~~  
19 ~~misdemeanor or~~ completion of the sentence for the felony conviction;  
20 ~~or~~

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 is not otherwise eligible to file a motion  
2 pursuant to this subsection, but upon leave of court, may file a  
3 motion for expungement; provided, the Oklahoma State Bureau of  
4 Investigation, the arresting agency and the district attorney shall  
5 each provide a written statement of the facts deemed relevant about  
6 the crime. Such statements shall be attached to the motion. The  
7 determination of whether to allow the filing of such motion or to  
8 grant the expungement remains solely at the discretion of the court.

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

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

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

1 requesting the unsealing of the records. Records expunged pursuant  
2 to paragraph 4, 6, 12 or 13 of subsection A of this section may also  
3 include the sealing of Pardon and Parole Board records related to an  
4 application for a pardon. Such records shall be sealed to the  
5 public but not to the Pardon and Parole Board.

6 SECTION 2. This act shall become effective November 1, 2019.

7 Passed the Senate the 14th day of March, 2019.

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Presiding Officer of the Senate

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11 Passed the House of Representatives the \_\_\_\_ day of \_\_\_\_\_,

12 2019.

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Presiding Officer of the House  
of Representatives

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