

1 **SENATE FLOOR VERSION**  
February 25, 2020  
2 **AS AMENDED**

3 SENATE BILL NO. 1448

By: David of the Senate

4 and

5 Kannady of the House

6  
7  
8 **[ sealing of records - eligibility for expungement -  
effective date ]**  
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11 BE IT ENACTED BY THE PEOPLE OF THE STATE OF OKLAHOMA:

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

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

18 1. The person has been acquitted;

19 2. The conviction was reversed with instructions to dismiss by  
20 an appellate court of competent jurisdiction, or an appellate court  
21 of competent jurisdiction reversed the conviction and the  
22 prosecuting agency subsequently dismissed the charge;

23 3. The factual innocence of the person was established by the  
24 use of deoxyribonucleic acid (DNA) evidence subsequent to

1 conviction, including a person who has been released from prison at  
2 the time innocence was established;

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

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

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

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

22 8. The person was charged with a misdemeanor, the charge was  
23 dismissed following the successful completion of a deferred judgment  
24 or delayed sentence, the person has never been convicted of a

1 felony, no misdemeanor or felony charges are pending against the  
2 person and at least one (1) year has passed since the charge was  
3 dismissed;

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

11 10. The person was convicted of a misdemeanor offense, the  
12 person was sentenced to a fine of less than Five Hundred One Dollars  
13 (\$501.00) without a term of imprisonment or a suspended sentence,  
14 the fine has been paid or satisfied by time served in lieu of the  
15 fine, the person has not been convicted of a felony and no felony or  
16 misdemeanor charges are pending against the person;

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

24

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

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

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

19           15. The person was ~~convicted of~~ charged with a nonviolent  
20 felony offense not listed in Section 571 of Title 57 of the Oklahoma  
21 Statutes which was subsequently reclassified as a misdemeanor under  
22 Oklahoma law, the person is not currently serving a sentence for a  
23 crime in this state or another state, at least thirty (30) days have  
24 passed since the completion or commutation of the sentence for the

1 crime that was reclassified as a misdemeanor, any restitution  
2 ordered by the court to be paid by the person has been satisfied in  
3 full, and any treatment program ordered by the court has been  
4 successfully completed by the person, including any person who  
5 failed a treatment program which resulted in an accelerated or  
6 revoked sentence that has since been successfully completed by the  
7 person or the person can show successful completion of a treatment  
8 program at a later date. Persons seeking an expungement of records  
9 under the provisions of this paragraph may utilize the expungement  
10 forms provided in Section ~~2 of this act~~ 18a of this title.

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

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

20 D. Records expunged pursuant to paragraphs 4, 8, 9, 10, 11, 12,  
21 13, 14 and 15 of subsection A of this section shall be sealed to the  
22 public but not to law enforcement agencies for law enforcement  
23 purposes. Records expunged pursuant to paragraphs 8, 9, 10, 11, 12  
24 and 13 of subsection A of this section shall be admissible in any

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

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

9 COMMITTEE REPORT BY: COMMITTEE ON JUDICIARY  
10 February 25, 2020 - DO PASS AS AMENDED

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