

1 **HOUSE OF REPRESENTATIVES - FLOOR VERSION**

2 STATE OF OKLAHOMA

3 1st Session of the 59th Legislature (2023)

4 HOUSE BILL 2739

 By: Duel

7 AS INTRODUCED

8 An Act relating to criminal procedure; amending 22
9 O.S. 2021, Section 60.18, which relates to the
10 expungement of victim protective orders; expanding
11 eligibility requirements for the expungement of
12 victim protective orders; and providing an effective
13 date.

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

14 SECTION 1. AMENDATORY 22 O.S. 2021, Section 60.18, is
15 amended to read as follows:

16 Section 60.18. A. Persons authorized to file a motion for
17 expungement of victim protective orders (VPOs) issued pursuant to
18 the Protection from Domestic Abuse Act in this state must be within
19 one of the following categories:

20 1. An ex parte order was issued to the plaintiff but later
21 terminated due to dismissal of the petition before the full hearing,
22 or denial of the petition upon full hearing, or failure of the
23 plaintiff to appear for full hearing, and at least ninety (90) days
24 have passed since the date set for full hearing;

1 2. The plaintiff filed an application for a victim protective
2 order and failed to appear for the full hearing and at least ninety
3 (90) days have passed since the date last set by the court for the
4 full hearing, including the last date set for any continuance,
5 postponement or rescheduling of the hearing;

6 3. The plaintiff or defendant has had the order vacated and
7 three (3) years have passed since the order to vacate was entered;
8 ~~or~~

9 4. The victim protective order has expired and the defendant
10 has not had a subsequent victim protective order issued, the
11 defendant has not been convicted of a felony offense, no felony or
12 misdemeanor charges are pending against the defendant, and at least
13 five (5) years have passed since the victim protective order
14 expired; or

15 5. The plaintiff or defendant is deceased.

16 B. For purposes of this section:

17 1. "Expungement" means the sealing of victim protective order
18 (VPO) court records from public inspection, but not from law
19 enforcement agencies, the court or the district attorney;

20 2. "Plaintiff" means the person or persons who sought the
21 original victim protective order (VPO) for cause; and

22 3. "Defendant" means the person or persons to whom the victim
23 protective order (VPO) was directed.

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1 C. 1. Any person qualified under subsection A of this section
2 may petition the district court of the district in which the
3 protective order pertaining to the person is located for the
4 expungement and sealing of the court records from public inspection.
5 The face of the petition shall state whether the defendant in the
6 protective order has been convicted of any violation of the
7 protective order and whether any prosecution or complaint is pending
8 in this state or any other state for a violation or alleged
9 violation of the protective order that is sought to be expunged.
10 The petition shall further state the authority pursuant to
11 subsection A of this section for eligibility for requesting the
12 expungement. The other party to the protective order shall be
13 mailed a copy of the petition by certified mail within ten (10) days
14 of filing the petition. A written answer or objection may be filed
15 within thirty (30) days of receiving the notice and petition.

16 2. Upon the filing of a petition, the court shall set a date
17 for a hearing and shall provide at least a thirty-day notice of the
18 hearing to all parties to the protective order, the district
19 attorney, and any other person or agency whom the court has reason
20 to believe may have relevant information related to the sealing of
21 the victim protective order (VPO) court record.

22 3. Without objection from the other party to the victim
23 protective order (VPO) or upon a finding that the harm to the
24 privacy of the person in interest or dangers of unwarranted adverse

1 consequences outweigh the public and safety interests of the parties
2 to the protective order in retaining the records, the court may
3 order the court record, or any part thereof, to be sealed from
4 public inspection. Any order entered pursuant to this section shall
5 not limit or restrict any law enforcement agency, the district
6 attorney or the court from accessing said records without the
7 necessity of a court order. Any order entered pursuant to this
8 subsection may be appealed by any party to the protective order or
9 by the district attorney to the Oklahoma Supreme Court in accordance
10 with the rules of the Oklahoma Supreme Court.

11 4. Upon the entry of an order to expunge and seal from public
12 inspection a victim protective order (VPO) court record, or any part
13 thereof, the subject official actions shall be deemed never to have
14 occurred, and the persons in interest and the public may properly
15 reply, upon any inquiry in the matter, that no such action ever
16 occurred and that no such record exists with respect to the persons.

17 5. Inspection of the protective order court records included in
18 the expungement order issued pursuant to this section may thereafter
19 be permitted only upon petition by the persons in interest who are
20 the subjects of the records, or without petition by the district
21 attorney or a law enforcement agency in the due course of
22 investigation of a crime.

23 6. Employers, educational institutions, state and local
24 government agencies, officials, and employees shall not require, in

1 any application or interview or otherwise, an applicant to disclose
2 any information contained in sealed protective order court records.
3 An applicant need not, in answer to any question concerning the
4 records, provide information that has been sealed, including any
5 reference to or information concerning the sealed information and
6 may state that no such action has ever occurred. The application
7 may not be denied solely because of the refusal of the applicant to
8 disclose protective order court records information that has been
9 sealed.

10 7. The provisions of this section shall apply to all protective
11 order court records existing in the district courts of this state
12 on, before and after the effective date of this section.

13 8. Nothing in this section shall be construed to authorize the
14 physical destruction of any court records, except as otherwise
15 provided by law for records no longer required to be maintained by
16 the court.

17 9. For the purposes of this section, sealed materials which are
18 recorded in the same document as unsealed material may be recorded
19 in a separate document, and sealed, then obliterated in the original
20 document.

21 10. For the purposes of this act, district court index
22 reference of sealed material shall be destroyed, removed or
23 obliterated.

24

1 11. Any record ordered to be sealed pursuant to this section
2 may be obliterated or destroyed at the end of the ten-year period.

3 12. Nothing herein shall prohibit the introduction of evidence
4 regarding actions sealed pursuant to the provisions of this section
5 at any hearing or trial for purposes of impeaching the credibility
6 of a witness or as evidence of character testimony pursuant to
7 Section 2608 of Title 12 of the Oklahoma Statutes.

8 SECTION 2. This act shall become effective November 1, 2023.

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10 COMMITTEE REPORT BY: COMMITTEE ON JUDICIARY - CRIMINAL, dated
11 02/22/2023 - DO PASS.
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