

STATE OF OKLAHOMA

2nd Session of the 59th Legislature (2024)

HOUSE BILL 4139

By: Turner

AS INTRODUCED

An Act relating to crimes and punishments; repealing 21 O.S. 2021, Sections 1031, as amended by Section 2, Chapter 265, O.S.L. 2023, 1192, 1192.1, and 1199 (21 O.S. Supp. 2023, Section 1031), which relate to the decriminalization of HIV, AIDS, and other infectious diseases; providing for retroactive treatment; providing for noncodification; and providing an effective date.

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

SECTION 1. REPEALER 21 O.S. 2021, Sections 1031, as amended by Section 2, Chapter 265, O.S.L. 2023, 1192, 1192.1, and 1199 (21 O.S. Supp. 2023, Section 1031), are hereby repealed.

SECTION 2. NEW LAW A new section of law not to be codified in the Oklahoma Statutes reads as follows:

A. A person currently serving a sentence for a conviction, whether by trial or by plea of guilty or nolo contendere, who would not have been guilty of an offense or who would have been guilty of a lesser offense pursuant to this act had it been in effect at the time of the offense, may file a petition for resentencing, reversal

1 of conviction and dismissal of case, or modification of judgment and
2 sentence before the trial court that entered the judgment of
3 conviction in the person's case to request resentencing,
4 modification, or reversal in accordance with this act.

5 B. Upon receiving a petition under subsection A of this
6 section, the court shall presume the petitioner satisfies the
7 criteria in subsection A of this section and without delay
8 resentence, reverse the conviction as legally invalid, or modify the
9 judgment and sentence unless the state opposes the petition or
10 alleges that granting the petition would pose an unreasonable risk
11 of danger to an identifiable individual's safety.

12 C. In the event that the state opposes the petition, or alleges
13 that granting the petition would pose an unreasonable risk of danger
14 to an identifiable individual's safety, the petitioner shall be
15 entitled to a hearing on the record, including the opportunity to
16 question witnesses and present evidence supporting the granting of
17 an order for resentencing, reversal and dismissal, or modification
18 of the judgment and sentence. The state shall bear the burden of
19 proving, by clear and convincing evidence, that the petitioner does
20 not satisfy the criteria in subsection A of this section or that
21 granting the petition would pose an unreasonable risk of danger to
22 an identifiable individual if alleged. Unless the state sustains
23 its burden, the court shall resentence, reverse the conviction as
24 legally invalid and dismiss the case, or modify the judgment and
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1 sentence. Any outstanding fines, court costs, and fees imposed in
2 connection with the conviction at issue shall be waived.

3 D. Any persons brought before the court upon an application to
4 revoke a suspended sentence for a conviction that would not have
5 been an offense or would have been a lesser offense had this act
6 been in effect at the time of the offense shall have their sentence
7 vacated or modified in accordance with the provisions of this act.
8 Any persons brought before the court upon an application to
9 accelerate a deferred sentence for charges that would not have been
10 an offense, or would have been a lesser offense had this act been in
11 effect at the time of the offense, shall have their charges vacated
12 or modified in accordance with the provisions of this act. Any
13 outstanding fines, court costs, and fees imposed in connection with
14 the conviction at issue shall be waived.

15 E. Under no circumstances shall resentencing, reversal and
16 dismissal, modification, revocation, or acceleration pursuant to
17 this act result in the imposition of a supervision or imprisonment
18 term longer than the original sentence, or the reinstatement of
19 charges dismissed pursuant to a negotiated plea agreement, or
20 require the payment of any additional fines or fees beyond those
21 authorized by this act.

22 F. A person who has completed their sentence for a conviction,
23 whether by trial or plea of guilty or nolo contendere, who would not
24 have been guilty of an offense or who would have been guilty of a
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1 lesser offense under this act had it been in effect at the time of
2 the offense, may file a petition before the trial court that entered
3 the judgment of conviction in the person's case to have the
4 conviction dismissed, expunged, and vacated as legally invalid or
5 redesignated as a civil infraction in accordance with this act.

6 G. The court shall presume the applicant satisfies the criteria
7 in subsection F of this section unless the state opposes the
8 application and proves by clear and convincing evidence that the
9 petitioner does not satisfy the criteria in subsection F of this
10 section. If the petitioner satisfies the criteria in subsection F
11 of this section, the court shall redesignate the conviction as a
12 civil infraction or dismiss, expunge, and vacate the conviction as
13 legally invalid in accordance with this act. Any outstanding fines,
14 court costs, and fees imposed in connection with the conviction at
15 issue shall be waived.

16 H. Unless requested by the applicant, no hearing is necessary
17 to grant or deny an application filed pursuant to subsection F of
18 this section.

19 I. Any felony conviction or misdemeanor that is modified,
20 resentenced, or redesignated as a civil infraction pursuant to
21 subsection B, D, or F of this section shall be considered a civil
22 infraction for all purposes.

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J. If the court that originally sentenced the petitioner is not available, the presiding judge shall designate another judge to rule on the petition or application.

K. Nothing in this act shall be construed to diminish or abrogate any rights or remedies otherwise available to the petitioner or applicant.

L. The provisions of this act shall apply equally to juvenile cases if the juvenile would have been guilty of a lesser offense under this act.

M. The Administrative Office of the Courts shall promulgate a simple form that may be used to file a petition under this section.

SECTION 3. This act shall become effective November 1, 2024.

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