

# EXPUNGE YOUR OKLAHOMA CRIMINAL RECORD

THE URBANIC LAW FIRM

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*Call Urbanic.*

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## The Two Types of Expungements In Oklahoma

Under an Oklahoma expungement, part of a person's public record is sealed from public view. Neither expungement changes what law enforcement can see.

### Section 18 Expungement

This is Oklahoma's most comprehensive expungement. It is the sealing of criminal records, as well as any civil public record, involving actions brought by and against the State of Oklahoma arising from the same arrest, transaction, or occurrence. The arrest record is included in the records that this expungement seals. Records are sealed to everyone except law enforcement.

### Section 991c Expungement

This expungement only applies to deferred sentences that have been dismissed. It removes some information from the public record but not as much as the § 18 expungement. The § 991c expungement does not affect the arrest record. However, it does remove and change some public information about a case.

When a case is expunged under a § 991c expungement, the court clerk will remove the records of that case from public view. This means that nobody will be able to view the record online. Additionally, when the paperwork is processed through the OSBI, their records will be changed to reflect a not-guilty plea and the dismissal of the case.

**NOTE:** Law enforcement will always be able to see your records regardless of which expungement is done!

## You are eligible for a Section 18 expungement if:

- You have been acquitted;
- Your conviction was reversed with instructions to dismiss by an appellate court of competent jurisdiction or an appellate court of competent jurisdiction reversed the conviction, and the prosecuting agency subsequently dismissed the charge;
- Your factual innocence was established by the use of DNA evidence subsequent to conviction, even if you have been released from prison at the time innocence was established;
- You have received a full pardon, on the basis of a written finding by the governor of actual innocence for the crime for which you were sentenced;
- You were arrested and no charges of any type, including charges for an offense different than that for which you were originally arrested, are filed and the statute of limitations has expired or the prosecuting agency has declined to file the charges;
- You were under 18 years old at the time the offense was committed, and you have received a full pardon for the offense;
- You were charged with one or more misdemeanor or felony crimes, all charges have been dismissed, you have never been convicted of a felony, no misdemeanor or felony charges are pending against you, and the statute of limitations for re-filing the charge or charges has expired or the prosecuting agency confirms that the charge or charges will not be re-filed (this category does NOT apply to charges that have been dismissed following the completion of a deferred judgment or delayed sentence);
- You were charged with a misdemeanor, the charge was dismissed following the successful completion of a deferred judgment or delayed sentence, you have never been convicted of a felony, no misdemeanor or felony charges are pending against you, and at least one year has passed since the charge was dismissed;
- You were charged with a nonviolent felony offense, not listed in 57 O.S. § 571, the charge was dismissed following the successful completion of a deferred judgment or delayed sentence, you have never been convicted of a felony, no misdemeanor or felony charges are pending against you, and at least five years have passed since the charge was dismissed;
- You were convicted of a misdemeanor offense, you were sentenced to a fine of less than \$501 without the term of imprisonment or a suspended sentence, the fine has been paid or satisfied by time served in lieu of the fine, you have not been convicted of a felony, and no felony or misdemeanor charges are pending against you;
- You were convicted of a misdemeanor offense, you were sentenced to a term of imprisonment, a suspended sentence, or a fine in an amount greater than \$500, you have not been convicted of a felony, no felony or misdemeanor charges are pending against you, and at least five years have passed since the end of the last misdemeanor sentence;
- You were convicted of a nonviolent felony offense, not listed in 57 O.S. § 571, you have received a full pardon for the offense, you have not been convicted of any other felony, you have

not been convicted of a separate misdemeanor in the last 15 years, no felony or misdemeanor charges are pending against you, and at least ten years have passed since the felony conviction;

- You were convicted of not more than two nonviolent felony offenses, not listed in 57 O.S. § 571, you have received a full pardon for both nonviolent offenses, no felony or misdemeanor charges are pending against you, and at least 20 years have passed since the last misdemeanor or felony conviction; or
- You have been charged, arrested, or are the subject of an arrest warrant for a crime that was committed by another person who has appropriated or used your name or other identification without your consent or authorization.

## Other Expungements

- 22 O.S. § 19c – prostitution related offenses for victims of human trafficking
- 22 O.S. § 19a – victims of identity theft

## Expunging a Victim Protective Order (VPO)

The eligibility for expungement of a VPO is covered in 22 O.S. § 60.18. You must be in one of these categories to expunge the VPO:

- An ex-parte order was issued to the petitioner but later terminated due to dismissal of the petition before the full hearing or denial of the petition upon full hearing or failure of the petitioner to appear for full hearing and at least 90 days have passed since the date for a full hearing;
- The petitioner filed an application for a VPO and failed to appear for the full hearing and at least 90 days have passed since the date last set by the court for the full hearing including the last date set for any continuance, postponement of rescheduling of the hearing;
- The petitioner or defendant has had the order vacated and three years have passed since the order to vacate was entered; or
- The petitioner or defendant is deceased.

## Effect of a § 18 Expungement

- You can say that you do not have a criminal record, with very few exceptions.
- No one can make you reveal what's in your expunged record.
- No one can deny you a job or housing because you refused to reveal your records.
- You will not have to include an expunged arrest on a Self-Defense Act application.
- The subject official action will be deemed never to have occurred.

- The person in interest and all criminal justice agencies may properly rely, upon any inquiry into the matter, that no such action ever occurred, and that no such record exists with respect to such a person.
- Employers, educational institutions, state and local government agencies, officials and employees cannot, in any application or interview or otherwise, require an applicant to disclose any information contained in the sealed records.
- An applicant need not, in answer to any question concerning an arrest and criminal records, provide information that has been sealed, including any reference to or information concerning such sealed information, and they may state that no such action has ever occurred. Such an application may not be denied solely because of the refusal of the applicant to disclose arrest in criminal record information that has been sealed.

**NOTE:** Your expunged arrest can still be used to discredit your testimony in court because law enforcement can see your expunged records. Talk to an attorney about your arrest record before you appear in court as a witness or for any other reason if your record has been expunged.

**NOTE:** These protections apply only to Oklahoma state agencies and businesses. Different rules may apply in situations involving the federal government. People this could affect include immigrants and individuals undergoing a federal background investigation.

Sources: 22 O.S. § 18, 22 O.S. § 19, 22 O.S. § 60.18, 22 O.S. § 991c, 22 O.S. § 19a, & 22 O.S. § 19c



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