

1 STATE OF OKLAHOMA

2 2nd Session of the 55th Legislature (2016)

3 SENATE BILL 1151

By: Griffin

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5
6 AS INTRODUCED

7 An Act relating to juvenile court records; amending
8 10A O.S. 2011, Section 2-6-109, which relates to
9 expungement of open juvenile court records; modifying
10 conditions for eligibility for expungement of certain
11 records; removing authority to close certain hearing;
12 and providing an effective date.

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

14 SECTION 1. AMENDATORY 10A O.S. 2011, Section 2-6-109, is
15 amended to read as follows:

16 Section 2-6-109. A. A person who is the subject of a juvenile
17 court record, ~~that is not confidential as provided by law,~~ may
18 petition the district court in which the juvenile court record is
19 located for an order to expunge ~~all or any part of~~ the record
20 pertaining to the person, except basic identification information;
21 provided:

22 1. The person has attained ~~twenty-one (21)~~ eighteen (18) years
23 of age or ~~older~~ nineteen (19) years of age if jurisdiction was
24 extended by the court;

1 2. The case or cases in which the person was charged or
2 adjudicated has or have been closed;

3 3. The person has ~~not been arrested for any adult criminal~~
4 ~~offense and no charge, indictment, or information has been filed or~~
5 ~~is~~ pending against the person at the time of the filing of the
6 petition for an expungement;

7 ~~3.~~ 4. The person has not been ~~subject to any deferred~~
8 ~~prosecution or deferred sentence, and has not been~~ convicted of any
9 criminal offense, other than minor traffic offenses; and

10 ~~4.~~ 5. All ~~court costs, restitution, fines~~ assessed by the court
11 for which the person is responsible for payment have been paid and
12 all other court-ordered requirements have been completed for all
13 juvenile proceedings.

14 B. Upon the filing of a petition for expungement of a juvenile
15 court record, the court shall set a date for a hearing, ~~which~~
16 ~~hearing may be closed at the court's discretion,~~ and shall provide a
17 thirty (30) days' notice of the hearing to the district attorney,
18 the Office of Juvenile Affairs, the Oklahoma State Bureau of
19 Investigation, and any other person or agency whom the court has
20 reason to believe may have relevant information related to the
21 expungement of any record.

22 C. Upon a finding that the harm to privacy of the person in
23 interest or dangers of unwarranted adverse consequences outweigh the
24 public interest in retaining the records, the court may order the

1 records, or any part thereof except basic identification
2 information, to be expunged. If the court finds that neither
3 expungement of the records nor maintaining of the records unsealed
4 by the agency would serve the ends of justice, the court may enter
5 an appropriate order limiting access to the records. Any order
6 entered pursuant to the provisions of this subsection shall specify
7 those agencies to which the court order shall apply.

8 D. Upon the entry of an order to expunge any juvenile court
9 record, or any part thereof, the subject official actions shall be
10 deemed never to have occurred, and the person in interest and all
11 juvenile and criminal justice agencies may properly reply, upon any
12 inquiry in the matter, that no such action ever occurred and that no
13 such record exists with respect to the person.

14 E. Inspection of the records included in the order may
15 thereafter be permitted by the court only upon petition by the
16 person in interest who is the subject of the records, the Attorney
17 General, or by the district attorney and only to those persons and
18 for such purposes named in the petition.

19 F. Employers, educational institutions, state and local
20 government agencies, officials, and employees shall not, in any
21 application or interview or otherwise, require an applicant to
22 disclose any information contained in any expunged juvenile records.
23 An applicant need not, in answer to any question concerning arrest,
24 juvenile and criminal records, provide information that has been

1 expunged, including any reference to or information concerning
2 expungement and may state that no such action has ever occurred.
3 Such an application may not be denied solely because of the
4 applicant's refusal to disclose information that has been expunged.

5 G. Nothing in this section shall be construed to authorize the
6 physical destruction of any juvenile records.

7 H. For the purposes of this section, expunged materials which
8 are recorded in the same document as unsealed material may be
9 recorded in a separate document, and sealed, then obliterated in the
10 original document.

11 I. For the purposes of this act, district court index reference
12 of sealed material shall be destroyed, removed or obliterated.

13 J. Any record ordered to be expunged pursuant to this section
14 shall be sealed and, if not unsealed within ten (10) years of the
15 expungement order, may be obliterated or destroyed at the end of the
16 ten-year period.

17 K. Subsequent to records being sealed as provided herein, the
18 district attorney, the Office of Juvenile Affairs, the Oklahoma
19 State Bureau of Investigation, or other interested person or agency
20 may petition the court for an order unsealing any records. Upon
21 filing of a petition, the court shall set a date for hearing, which
22 hearing may be closed at the court's discretion, and shall provide
23 thirty (30) days' notice to all interested parties. If, upon
24 hearing, the court determines there has been a change of conditions

1 or that there is a compelling reason to unseal the records, the
2 court may order all or a portion of the records unsealed.

3 L. 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 M. A person who has attained eighteen (18) years of age or
9 older may petition the district or municipal court in which the
10 juvenile court record is located for an order to expunge all or any
11 part of the record pertaining to matters involving truancy provided
12 the person has met the criteria set forth in paragraphs 2 through 4
13 of subsection A of this section. The petition shall be reviewed by
14 the district or municipal judge with primary responsibility over the
15 juvenile court docket.

16 SECTION 2. This act shall become effective November 1, 2016.

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