

HOT SHEET JUNE 2012

The DUI Diva's Guide
CHANGES TO EXPUNGEMENTS (HB3091)
EFFECTIVE NOV. 1, 2012

22 O.S. §18 PERSONS AUTHORIZED TO FILE FOR EXPUNGEMENT

The following have been amended:

- **Dismissal within 1 year of arrest has been stricken**
 - o *This means that come Nov. 1, cases dismissed within a year of arrest date **will not be immediately eligible** for expungement, but will then **fall under the new category below**, which will require waiting two years. Cases filed prior to Nov. 1 will still qualify.*
- **Person arrested and no charges filed** now must also pass the expiration of the statute of limitations or the prosecutor declines to file charges.
 - o *Not really new but cleaned up language to clarify*
- **Misdemeanor convictions** must now wait until 10 years have passed **since the date of conviction** (instead of "date judgment was entered", but is still the same date)

The following categories have been added:

- Person **charged with one or more misdemeanor or felony charges**:
 - o "all charges" have been dismissed (regardless of when and regardless of reason except for expired deferred)
 - o The statute of limitations for refiling has passed or charges will not be refilled
- **Misdemeanor - Dismissed after a Deferred Sentence.**
 - o Person has never been convicted of a misdemeanor or felony,
 - o No misdemeanor or felony charges are pending against the person, and
 - o At least **2 years have passed since the charge was dismissed.**
**So, all those who got deferred sentences going outside the one year anniversary no longer have to wait 10 years.*
- **Non Violent Felony Offenses – Dismissed after a Deferred Sentence**
 - o Person has never been convicted of a misdemeanor or felony
 - o No misdemeanor or felony charges are pending against the person, and
 - o At least **10 years have passed since the charge was dismissed.**
**FINALLY!! Felony deferred cases now have a chance.*

Also Added:

Deferred cases and Conviction cases which have been expunged shall be admissible in any subsequent criminal prosecution to prove the existence of a prior conviction or prior deferred judgment without the necessity of a court order requesting the unsealing of the records.

10A O.S. §2-5-210 Juvenile Records

- Instead of destroying records after 3 years of dismissal, records shall be *expunged* (sealed) by the law enforcement agency and the court clerk.
- Members of the judiciary, DA's, the youthful offender, his attorney, employees of juvenile bureaus, Office of Juv Affairs, & DOC - - **may have access to the records without court order** to determine whether to dismiss an action, seek voluntary probation, file a petition, for purposes of sentencing where the person is alleged to have committed a subsequent offense, including adult criminal offense.
- **Any record sealed under this section shall be ordered unsealed upon application of the prosecuting attorney** when the records are requested for use in any subsequent juvenile delinquent, youthful offender, or adult prosecution.