

STATE OF OKLAHOMA

2nd Session of the 57th Legislature (2020)

COMMITTEE SUBSTITUTE

FOR

HOUSE BILL NO. 3783

By: Waldron

COMMITTEE SUBSTITUTE

An Act relating to criminal procedure; amending 22 O.S. 2011, Section 60.18, which relates to the Protection from Domestic Abuse Act; adding categories that authorize expungement of expired or dismissed victim protective orders; and providing an effective date.

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

SECTION 1. AMENDATORY 22 O.S. 2011, Section 60.18, is amended to read as follows:

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

1. An ex parte order was issued to the plaintiff 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

1 plaintiff to appear for full hearing, and at least ninety (90) days  
2 have passed since the date set for full hearing;

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

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

10 ~~or~~

11 4. The plaintiff or defendant is deceased;

12 5. The victim protective order has expired as provided in  
13 subsection G of Section 60.4 of this title and at least one (1) year  
14 has passed since the date the victim protective order expired; or

15 6. The victim protective order has been dismissed by the court  
16 pursuant to a court order.

17 B. For purposes of this section:

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

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

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

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.

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, 2020.

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