

STATE OF OKLAHOMA

2nd Session of the 57th Legislature (2020)

HOUSE BILL 3783

By: Waldron

AS INTRODUCED

An Act relating to criminal procedure; amending 22 O.S. 2011, Section 60.18, which relates to the Protection from Domestic Abuse Act; adding category that authorizes expungement of expired 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 plaintiff to appear for full hearing, and at least ninety (90) days have passed since the date set for full hearing;

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

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

8 ~~or~~

9 4. The plaintiff or defendant is deceased; or

10 5. The victim protective order has expired and three (3) years
11 have passed since the expiration of the victim protective order.

12 B. For purposes of this section:

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

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

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

20 C. 1. Any person qualified under subsection A of this section
21 may petition the district court of the district in which the
22 protective order pertaining to the person is located for the
23 expungement and sealing of the court records from public inspection.
24 The face of the petition shall state whether the defendant in the

1 protective order has been convicted of any violation of the
2 protective order and whether any prosecution or complaint is pending
3 in this state or any other state for a violation or alleged
4 violation of the protective order that is sought to be expunged.
5 The petition shall further state the authority pursuant to
6 subsection A of this section for eligibility for requesting the
7 expungement. The other party to the protective order shall be
8 mailed a copy of the petition by certified mail within ten (10) days
9 of filing the petition. A written answer or objection may be filed
10 within thirty (30) days of receiving the notice and petition.

11 2. Upon the filing of a petition, the court shall set a date
12 for a hearing and shall provide at least a thirty-day notice of the
13 hearing to all parties to the protective order, the district
14 attorney, and any other person or agency whom the court has reason
15 to believe may have relevant information related to the sealing of
16 the victim protective order (VPO) court record.

17 3. Without objection from the other party to the victim
18 protective order (VPO) or upon a finding that the harm to the
19 privacy of the person in interest or dangers of unwarranted adverse
20 consequences outweigh the public and safety interests of the parties
21 to the protective order in retaining the records, the court may
22 order the court record, or any part thereof, to be sealed from
23 public inspection. Any order entered pursuant to this section shall
24 not limit or restrict any law enforcement agency, the district

1 attorney or the court from accessing said records without the
2 necessity of a court order. Any order entered pursuant to this
3 subsection may be appealed by any party to the protective order or
4 by the district attorney to the Oklahoma Supreme Court in accordance
5 with the rules of the Oklahoma Supreme Court.

6 4. Upon the entry of an order to expunge and seal from public
7 inspection a victim protective order (VPO) court record, or any part
8 thereof, the subject official actions shall be deemed never to have
9 occurred, and the persons in interest and the public may properly
10 reply, upon any inquiry in the matter, that no such action ever
11 occurred and that no such record exists with respect to the persons.

12 5. Inspection of the protective order court records included in
13 the expungement order issued pursuant to this section may thereafter
14 be permitted only upon petition by the persons in interest who are
15 the subjects of the records, or without petition by the district
16 attorney or a law enforcement agency in the due course of
17 investigation of a crime.

18 6. Employers, educational institutions, state and local
19 government agencies, officials, and employees shall not require, in
20 any application or interview or otherwise, an applicant to disclose
21 any information contained in sealed protective order court records.
22 An applicant need not, in answer to any question concerning the
23 records, provide information that has been sealed, including any
24 reference to or information concerning the sealed information and

1 may state that no such action has ever occurred. The application
2 may not be denied solely because of the refusal of the applicant to
3 disclose protective order court records information that has been
4 sealed.

5 7. The provisions of this section shall apply to all protective
6 order court records existing in the district courts of this state
7 on, before and after the effective date of this section.

8 8. Nothing in this section shall be construed to authorize the
9 physical destruction of any court records, except as otherwise
10 provided by law for records no longer required to be maintained by
11 the court.

12 9. For the purposes of this section, sealed materials which are
13 recorded in the same document as unsealed material may be recorded
14 in a separate document, and sealed, then obliterated in the original
15 document.

16 10. For the purposes of this act, district court index
17 reference of sealed material shall be destroyed, removed or
18 obliterated.

19 11. Any record ordered to be sealed pursuant to this section
20 may be obliterated or destroyed at the end of the ten-year period.

21 12. Nothing herein shall prohibit the introduction of evidence
22 regarding actions sealed pursuant to the provisions of this section
23 at any hearing or trial for purposes of impeaching the credibility
24

1 of a witness or as evidence of character testimony pursuant to
2 Section 2608 of Title 12 of the Oklahoma Statutes.

3 SECTION 2. This act shall become effective November 1, 2020.

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