

GENERAL ASSEMBLY OF NORTH CAROLINA
SESSION 2019

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HOUSE BILL 121
Committee Substitute Favorable 2/27/19
Committee Substitute #2 Favorable 3/25/19

Short Title: Expunction Related to RTA/No Conviction.

(Public)

Sponsors:

Referred to:

February 21, 2019

A BILL TO BE ENTITLED

AN ACT TO PROVIDE FOR THE EXPUNCTION OF CERTAIN OFFENSES COMMITTED BETWEEN THE ENACTMENT DATE AND THE EFFECTIVE DATE OF THE LEGISLATION KNOWN AS RAISE THE AGE AND TO MODIFY THE LAW ON EXPUNCTION OF RECORDS WHEN CHARGES ARE DISMISSED OR THERE ARE FINDINGS OF NOT GUILTY.

The General Assembly of North Carolina enacts:

PART I. JUVENILE EXPUNCTIONS FOR OFFENSES COMMITTED BETWEEN THE ENACTMENT DATE AND THE EFFECTIVE DATE OF THE LEGISLATION KNOWN AS RAISE THE AGE

SECTION 1.(a) Article 5 of Chapter 15A of the General Statutes is amended by adding a new section to read:

"§ 15A-145.8 Expunction of records for offenders under the age of 18 at the time of conviction of certain misdemeanors and felonies upon completion of the sentence.

(a) A person convicted of a misdemeanor or Class H or I felony, other than a traffic offense, committed on or after the person's sixteenth birthday, but before the person's eighteenth birthday, may file a petition for expunction in the trial court upon completion of any sentence or period of probation imposed and payment of any restitution ordered. The court shall hold a hearing and upon finding that (i) the offense was committed on or after the person's sixteenth birthday, but before the person's eighteenth birthday, (ii) any sentence or period of probation was completed, and (iii) the person has no outstanding restitution orders or civil judgments representing amounts ordered for restitution against the person, the court shall order that the person be restored, in the contemplation of the law, to the status the person occupied before such conviction. A person convicted of multiple offenses shall be eligible to have those convictions expunged pursuant to this section.

(b) Nothing in this section shall be interpreted to allow the expunction of (i) any offense involving impaired driving as defined in G.S. 20-4.01(24a) or (ii) any offense requiring registration pursuant to Article 27A of Chapter 14 of the General Statutes, whether or not the person is currently required to register.

(c) Any petition for expungement under this section shall be on a form approved by the Administrative Office of the Courts and shall be filed with the clerk of superior court in the county where the person was convicted. Upon order of expungement, the clerk shall forward the petition to the Administrative Office of the Courts.



1 (d) No person as to whom such order has been entered shall be held thereafter under any
2 provision of any laws to be guilty of perjury or otherwise giving a false statement by reason of
3 that person's failure to recite or acknowledge such arrest, or indictment, information, or trial, or
4 response to any inquiry made of the person for any purpose.

5 (e) The court shall also order that the conviction be expunged from the records of the
6 court. The court shall direct all law enforcement agencies, the Division of Adult Correction and
7 Juvenile Justice of the Department of Public Safety, the Division of Motor Vehicles, and any
8 other State or local government agencies identified by the petitioner as bearing record of the same
9 to expunge their records of the petitioner's conviction. The clerk shall notify State and local
10 agencies of the court's order as provided in G.S. 15A-150.

11 (f) No filing fee shall be required to file a petition under this section, and the costs of
12 expunging the records shall not be taxed against the petitioner."

13 **SECTION 1.(b)** This section is effective December 1, 2019, and applies to offenses
14 committed on or after July 1, 2017, and on or before November 30, 2019.

15 16 **PART II. PROSECUTOR ACCESS TO EXPUNGED FILES**

17 **SECTION 2.(a)** G.S. 15A-151.5(a) reads as rewritten:

18 "(a) Notwithstanding any other provision of this Article, the Administrative Office of the
19 Courts shall make all confidential files maintained under G.S. 15A-151 electronically available
20 to all prosecutors of this State if the criminal record was expunged on or after July 1, 2018, under
21 any of the following:

- 22 (1) G.S. 15A-145. Expunction of records for first offenders under the age of 18 at
23 the time of conviction of misdemeanor; expunction of certain other
24 misdemeanors.
- 25 (2) G.S. 15A-145.1. Expunction of records for first offenders under the age of 18
26 at the time of conviction of certain gang offenses.
- 27 (3) G.S. 15A-145.2. Expunction of records for first offenders not over 21 years of
28 age at the time of the offense of certain drug offenses.
- 29 (4) G.S. 15A-145.3. Expunction of records for first offenders not over 21 years of
30 age at the time of the offense of certain toxic vapors offenses.
- 31 (5) G.S. 15A-145.4. Expunction of records for first offenders who are under 18
32 years of age at the time of the commission of a nonviolent felony.
- 33 (6) G.S. 15A-145.5. Expunction of certain misdemeanors and felonies; no age
34 limitation.
- 35 (7) G.S. 15A-145.6. Expunctions for certain defendants convicted of prostitution.
- 36 (7a) G.S. 15A-145.8. Expunction of records for offenders under the age of 18 at
37 the time of conviction of certain misdemeanors and felonies upon completion
38 of the sentence.
- 39 (8) G.S. 15A-146(a). Expunction of records when charges are dismissed.
- 40 (9) G.S. 15A-146(a1). Expunction of records when charges are dismissed."

41 **SECTION 2.(b)** This section is effective December 1, 2019.

42 43 **PART III. STREAMLINE EXPUNCTIONS FOR CHARGES NOT RESULTING IN** 44 **CONVICTION**

45 **SECTION 3.(a)** G.S. 15A-146 reads as rewritten:

46 "**§ 15A-146. Expunction of records when charges are dismissed or there are findings of not**
47 **guilty.**

48 (a) If any person is charged with a crime, either a misdemeanor or a felony, or was
49 charged with an infraction under G.S. 18B-302(i) prior to December 1, 1999, and the charge is
50 dismissed, that person may petition the court of the county where the charge was brought for an
51 order to expunge from all official records any entries relating to ~~his~~ that person's apprehension

1 or trial. ~~The court shall hold a hearing on the petition and, upon finding that the person had not~~
2 ~~previously been convicted of any felony under the laws of the United States, this State, or any~~
3 ~~other state. Upon finding that the charge was dismissed, and without objection from the district~~
4 ~~attorney, the court shall may order the expunction. expunction without a formal hearing. No~~
5 person as to whom such an order has been entered shall be held thereafter under any provision
6 of any law to be guilty of perjury, or to be guilty of otherwise giving a false statement or response
7 to any inquiry made for any purpose, by reason of ~~his~~ that person's failure to recite or
8 acknowledge any expunged entries concerning apprehension or trial.

9 (a1) Notwithstanding subsection (a) of this section, if a person is charged with multiple
10 offenses and the charges are dismissed, then a person may petition to have each of the dismissed
11 charges expunged. ~~The court shall hold a hearing on the petition. If the court finds that the person~~
12 ~~had not previously been convicted of any felony under the laws of the United States, this State,~~
13 ~~or any other state, charges were dismissed, the court shall may order the expunction.~~

14 (a2) If any person is charged with a crime, either a misdemeanor or a felony, or an
15 infraction under G.S. 18B-302(i) prior to December 1, 1999, and a finding of not guilty or not
16 responsible is entered, that person may petition the court of the county where the charge was
17 brought for an order to expunge from all official records any entries relating to apprehension or
18 trial of that crime. ~~The court shall hold a hearing on the petition and upon finding that the person~~
19 ~~had not previously been convicted of any felony under the laws of the United States, this State,~~
20 ~~or any other state. Upon determining that a finding of not guilty or not responsible was entered,~~
21 ~~and without objection from the district attorney, the court shall may order the expunction. No~~
22 person as to whom such an order has been entered shall be held thereafter under any provision
23 of any law to be guilty of perjury, or to be guilty of otherwise giving a false statement or response
24 to any inquiry made for any purpose, by reason of failure to recite or acknowledge any expunged
25 entries concerning that crime. If a person is charged with multiple offenses and findings of not
26 guilty or not responsible are made on charges, then a person may petition to have each of the
27 charges disposed by a finding of not guilty or not responsible expunged. ~~The court shall hold a~~
28 ~~hearing on the petition. If the court finds that the person had not previously been convicted of~~
29 ~~any felony under the laws of the United States, this State, or any other state. Upon determining~~
30 ~~that findings of not guilty or not responsible were entered, and without objection from the district~~
31 ~~attorney, the court shall may order the expunction. expunction without a formal hearing. The trial~~
32 ~~court may grant a petition for expunction pursuant to this section without a hearing.~~

33"

34 **SECTION 3.(b)** The Administrative Office of the Courts shall provide forms and
35 instructions for expunction petitions that establish a standardized uniform process for all clerks
36 of superior court to follow to have petitions signed by a judge and forwarded to the State Bureau
37 of Investigation.

38 **SECTION 3.(c)** This section becomes effective December 1, 2019, and applies to
39 petitions for expunctions filed on or after that date.

40 **PART IV. EFFECTIVE DATE**

41 **SECTION 4.** Except as otherwise provided, this act is effective when it becomes
42 law.
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