

GENERAL ASSEMBLY OF NORTH CAROLINA
SESSION 2021

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HOUSE BILL 607
Committee Substitute Favorable 4/28/21
Committee Substitute #2 Favorable 5/5/21
Senate Judiciary Committee Substitute Adopted 6/1/22

Short Title: Suspend Automatic Expunction.

(Public)

Sponsors:

Referred to:

April 21, 2021

1 A BILL TO BE ENTITLED
2 AN ACT TO SUSPEND THE AUTOMATIC EXPUNCTION OF DISMISSED CRIMINAL
3 CHARGES, NOT GUILTY VERDICTS, AND FINDINGS OF NOT RESPONSIBLE AND
4 TO MAKE OTHER CHANGES TO THE EXPUNCTION LAWS.

5 The General Assembly of North Carolina enacts:

6 **SECTION 1.(a)** Notwithstanding the provisions of G.S. 15A-146(a4), dismissed
7 charges and not guilty verdicts shall not be expunged by operation of law and the Administrative
8 Office of the Courts shall immediately cease all procedures related to the automatic expunction
9 of dismissed charges, not guilty verdicts, and findings of not responsible. The Administrative
10 Office of the Courts shall maintain a record of any dismissed charges, not guilty verdicts, and
11 findings of not responsible that, except for the provisions of this section, would be automatically
12 expunged pursuant to G.S. 15A-146(a4) in a manner that will allow those cases to be
13 automatically expunged when this section expires.

14 **SECTION 1.(b)** This section becomes effective June 15, 2022, and expires August
15 1, 2023.

16 **SECTION 2.** The Administrative Office of the Courts shall convene a group of
17 stakeholders, including representatives from the Conference of District Attorneys, the NC Justice
18 Center, attorneys who represent clients seeking expunctions, court personnel, sheriffs, and
19 individuals with criminal records who are members of the NC Second Chance Alliance to
20 examine and make recommendations to resolve the issues that have arisen with the
21 implementation of G.S. 15A-146(a4), including issues related to notice to all relevant agencies
22 and file retention. The Administrative Office of the Courts shall report its findings and
23 recommendations to the chairs of the House and Senate Appropriations Committees on Justice
24 and Public Safety no later than March 1, 2023.

25 **SECTION 3.(a)** G.S. 15A-145.5 reads as rewritten:

26 "**§ 15A-145.5. Expunction of certain misdemeanors and felonies; no age limitation.**

27 ...

28 (c2) The court, after hearing a petition for expunction of one or more nonviolent
29 misdemeanors, shall order that the petitioner be restored, in the contemplation of the law, to the
30 status the petitioner occupied before the arrest or indictment or information, except as provided
31 in G.S. 15A-151.5, if the court finds all of the following:

32 (1) One of the following:

33 a. The petitioner has not previously been granted an expunction under
34 this section for one or more nonviolent misdemeanors.



- 1 b. Any previous expunction granted to the petitioner under this section
- 2 for one or more nonviolent misdemeanors was granted pursuant to a
- 3 petition filed prior to December 1, 2021.
- 4 (2) The petitioner is of good moral character.
- 5 (3) The petitioner has no outstanding warrants or pending criminal cases.
- 6 (4) The petitioner has no other felony or misdemeanor convictions, other than a
- 7 traffic violation not listed in the petition for expunction, during the applicable
- 8 five-year or seven-year waiting period set forth in subsection (c) of this
- 9 section.
- 10 (5) The petitioner has no outstanding restitution orders or civil judgments
- 11 representing amounts ordered for restitution entered against the petitioner.
- 12 (6) The petitioner ~~meets one of the following criteria:~~
- 13 a. ~~For a petition for expunction of one nonviolent misdemeanor, the~~
- 14 ~~petitioner has no convictions for any other felony or misdemeanor,~~
- 15 ~~other than a traffic offense.~~
- 16 b. ~~For a petition for expunction of more than one nonviolent~~
- 17 ~~misdemeanor, the petitioner~~ has no convictions for a misdemeanor or
- 18 felony that is listed as an exception to the terms "nonviolent
- 19 misdemeanor" or "nonviolent felony" as provided in subsection (a) of
- 20 this section.
- 21 (7) The petitioner was convicted of an offense or offenses eligible for expunction
- 22 under this section.
- 23 (8) The petitioner has completed the applicable five-year or seven-year waiting
- 24 period set forth in subsection (c) of this section.

25 If the court denies the petition, the order shall include a finding as to the reason for the denial.

26 ...

27 (c4) A person petitioning for expunction of multiple convictions pursuant to

28 sub-subdivision b. of subdivision (1) of subsection (c) of this section or sub-subdivision b. of

29 subdivision (2) of subsection (c) of this section, where the convictions were obtained in more

30 than one county, shall file a petition in each county of conviction. All petitions shall be filed

31 within a ~~30-day~~ 120-day period. The granting of one petition shall not preclude the granting of

32 any other petition filed within the same ~~30-day~~ 120-day period. Notwithstanding the provisions

33 of this subsection, upon good cause shown for the failure to file a petition within the 120-day

34 period, the court may grant a petition for expunction filed outside the 120-day period.

35 "

36 **SECTION 3.(b)** This section becomes effective July 1, 2022, and applies to petitions

37 filed on or after that date.

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

39 law.