

Reduce Wait Time for Expunction of First-time Nonviolent Convictions and Expand Eligibility for Expunction of Charges Not Resulting in Conviction

Reforms that reduce the wait time for expunction of a first-time nonviolent conviction and allow individuals to expunge multiple dismissed charges are supported by the NC Conference of District Attorneys, the NC Second Chance Alliance, and the NC Justice Center. These reforms are intended to enhance community safety and restore opportunities for productive citizenship to North Carolinians with certain criminal records. These proposed reforms would also allow certain expunged convictions to be factored as prior records if persons reoffend. These reforms will bring NC in line with the regimes of several southern states.

Economic Benefits of Expunction Per Individual /Year One	
Increased Income	\$6,190
Increased GDP	\$1,153
Increased Tax Revenues	\$750
Reduction in Government Assistance	\$1,380
Total Year One Benefits	\$9,473

We urge the General Assembly to enhance community safety and restore opportunities for productive citizenship by:

- Reducing the wait time for expunction of a first-time nonviolent felony from 15 years to 10 years
- Reducing the wait time for expunction of a first-time nonviolent misdemeanor from 15 years to 5 years
- Providing for expunction of all dismissed and “not guilty” charges if the person has not been convicted of a felony
- Providing prosecutors electronic access to records expunged on or after 12/1/17
- Treating a conviction expunged on or after 12/1/17 as a prior record if the person reoffends
- Establishing a uniform procedure for filing of expunction petitions

These proposed reforms **WOULD NOT**: (A) change the specific nonviolent offenses eligible for expunction; (B) expand eligibility beyond “first-time” convictions; or (C) limit the discretion of courts to deny relief to eligible petitioners.

Survey of Wait Times for Expunction/Sealing of First-time Nonviolent Convictions			
State	Wait Time for Sealing/Expunction		Expunction v. Sealing/Restricted Access
	Misdemeanor	Felony	
Arkansas	60 days	5 years	Sealing/Restricted Access
Indiana	5 years	8 years	Sealing/Restricted Access
Kansas	3 years	3-5 years	Sealing/Restricted Access
Louisiana	5 years	10 years	Sealing/Restricted Access
Mississippi	Immediate	5 years	Sealing/Restricted Access
North Carolina	15 years	15 years	Complete Expunction
Ohio	1 year	3 years	Sealing/Restricted Access
Tennessee	5 years	5 years	Sealing/Restricted Access
Utah	3-5 years	7 years	Sealing/Restricted Access

NC Second Chance Alliance BULLETIN

■ Ensuring Safe Communities, Restoring Opportunities ■

Summary of North Carolina Expunctions and Proposed Committee Substitute Reforms

Statute	Expungeable Offense	Wait Time	Disqualifying Convictions	Court Discretion	Granted FY 2014-2015	Proposed Reforms
15A-145	First-time Misdemeanor Offense Committed Before Age 18	2 years	Previous M or F; M or F during wait period (other than a traffic violation)	No	147	Allows Access to District Attorneys; factored as prior record if reoffends
15A-145.1	First-time Gang Offense Committed Before Age 18	2 years	Previous M or F; M or F during wait period (other than a traffic violation)	No	0	Allows Access to DAs; factored as prior record if person reoffends
15A-145.2	First-time Controlled Substance Offense Committed Before Age 22	1 year	Any F or drug-related M (other than a traffic violation)	No	37	Allows Access to DAs; factored as prior record if person reoffends
15A-145.3	First-time Toxic Vapors Offense Committed Before Age 22	1 year	Any F or drug-related M (other than a traffic violation)	No	2	Allows Access to DAs; factored as prior record if person reoffends
15A-145.4	First-time Nonviolent Felony Offense Committed Before Age 18	4 years	Previous M or F; M or F during wait period (other than a traffic violation)	Yes	16	Allows Access to DAs; factored as prior record if person reoffends
15A-145.5	First-time Nonviolent Misdemeanor or Felony Offense *see below for definition of "nonviolent" offenses	15 years	Any other Misdemeanor or Felony (other than a traffic violation)	Yes	411	(1) Reduces wait time for misdemeanor to 5 yrs; (2) Reduces wait time for felony to 10 yrs; (3) Allows Access to DAs; (4) factored as prior record
15A-145.6	First-time Prostitution Offense	3 years	Violent F or M (other than a traffic violation)	No	1	Allows Access to DAs; factored as prior record if person reoffends
15A-146	Dismissed Charge or Charge Disposed "Not Guilty" (multiple charges if occurred in same 12-month period)	None	Any Felony conviction	No	9929	(1) All charges not resulting in convictions may be expunged; (2) Allows Access to DAs for dismissed charges (but not charges disposed "not guilty")
15A-147	Identify Theft/Misidentification	None/ Automatic	None	No	412	
15A-149	Pardon of Innocence	None	None	No	0	

* "Nonviolent misdemeanor" and "nonviolent felony" include any misdemeanor or felony EXCEPT (i) a Class A - G felony or a Class A1 misdemeanor; (ii) An offense that includes assault as "an essential element of the offense;" (iii) An offense that requires sex offender registration (Article 27A, Chapter 14); (iv) Specified stalking offenses; (v) Any felony offense in Chapter 90 that involves methamphetamines, heroin, or possession with intent to sell or deliver cocaine; (vi) Specified hate crimes (see 15A-145.5(a)(6) and 15A-145.5(a)(7)); (vii) Any felony offense in which a commercial motor vehicle was used in the commission of the crime; (viii) Various felony breaking and entering offenses; (ix) Driving While Impaired Offenses under GS 20-4.01(24a); (x) "Any offense that is an attempt to commit" any of the offenses identified in (i)-(ix).

The NC Second Chance Alliance is a statewide effort of reentry service providers, directly-impacted individuals, the NC Justice Center, and concerned citizens. For more information, please contact Bill Rowe at (919) 856-2177.