



## Summary of North Carolina **EXPUNCTIONS**

Please use this summary of North Carolina expunctions as an initial guide to understanding the criteria and filing requirements of the various expunctions in North Carolina. This summary is intended to provide accurate, general information. However, this summary does not fully address the provisions of each expunction statute. In addition, laws and legal procedures are subject to frequent change and differing interpretations, and the North Carolina Justice Center cannot ensure the information in this summary is current, particularly beyond 2022.

# 2022

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A CRIMINAL RECORD often gives rise to significant barriers to gainful employment, affordable housing, family unification, and a variety of other benefits and opportunities essential to productive citizenship. For assistance in understanding the statutory barriers to opportunities that may arise due to a specific criminal record, please use the UNC School of Government’s Collateral Consequences Assessment Tool at <http://ccat.sog.unc.edu/>.

In North Carolina, an expunction is the destruction of a criminal record by court order. An expunction (also called an “expungement”) of a criminal record restores the individual, in the view of the law, to the status he or she occupied before the criminal record existed. With a few exceptions, when an individual is granted an expunction, he or she may truthfully and without committing perjury or false statement deny or refuse to acknowledge that the criminal incident occurred. The primary exception to this is for purposes of federal immigration. Please see [North Carolina General Statutes §15A-151](#) for other exceptions.

Prior to 2011, opportunities to expunge a criminal record in North Carolina were extremely limited. However, legislators have significantly expanded expunction opportunities over the last decade. As of December 1, 2021, criminal records eligible for expunction in North Carolina are generally limited to the following categories:

- **Up to three “non-violent”<sup>1</sup> felony convictions\***
- **One or multiple “non-violent” misdemeanor convictions\***
- **A first-time conviction of certain offenses committed before age 18/22**
- **One or multiple convictions of certain offenses committed before age 18 that occurred before December 1, 2019\***
- **All charges that are dismissed or disposed “not guilty”\***
- **A conviction that was the result of being the victim of human trafficking.**

This summary provides details about sixteen expunction statutes. Also included in this summary are answers to frequently asked questions regarding terms, interpretations, and procedures that frequently arise in petitioning for relief under North Carolina’s expunction laws.

The primary goal of this expunction guide is to increase access to expunction relief for North Carolinians with criminal records by providing members of the North Carolina bar with the information necessary to practice in this area of law. Most individuals eligible for expunction relief do not obtain it. The number of expunction orders in FY 2020-2021 is displayed below and startlingly small relative to the estimated 25 percent of adults in our state with a criminal record. If you are an attorney and find this guide helpful, I urge you to consider assisting low-income North Carolinians with pro bono or reduced-fee legal services (<http://www.probono.net/nc/>).

**TABLE 1 NC ADMINISTRATIVE OFFICE OF THE COURTS, 2021 EXPUNCTIONS REPORT**

<b>Expunction Type</b>	<b>North Carolina General Statute</b>	<b>Expunctions Granted 2019-2020</b>	<b>Expunctions Granted FY 2020-2021</b>	<b>Expunctions Granted Since FY 2016-2017</b>
<b>Misdemeanor Under Age 18</b>	15A-145	73	50	646
<b>Gang Offense Under Age 18</b>	15A-145.1	0	0	1
<b>Controlled Substance Dismissal Under Age 22</b>	15A-145.2; 15A-145.2(a,b)	65	56	472
<b>Controlled Substance Conviction Under Age 22</b>	15A-145.2(c)	27	42	215

<sup>1</sup> For purposes of expunctions, “nonviolent” is defined in NCGS 15A-145.5(a), which delineates a list of charges that are not eligible for expunction. Rather than refer to the charges listed in NCGS 15A-145.5(a) as “violent”, the NC Justice Center chooses to refer to them as “disqualified” and “disqualifying”. Not all of the charges in this list are, in fact, “violent”, and we believe that changing the terminology is a first step in changing the narrative of the criminal justice system.

<b>Toxic Vapor Dismissal Under Age 22</b>	15A-145.3; 15A-145.3(a,b)	13	11	137
<b>Toxic Vapor Conviction Under 22</b>	15A-145.3(c)	0	0	7
<b>Nonviolent Felony Under Age 18</b>	15A-145.4	19	9	97
<b>Nonviolent Offense at Any Age</b>	15A-145.5	802	1022	4,010
<b>Prostitution Offense</b>	15A-145.6	3	0	10
<b>Offenses committed Under Age 18 before December 1, 2019</b>	15A-145.8A	0	258	258
<b>Offenses committed by Human Trafficking Survivors</b>	15A-145.9	0	2	2
<b>Charge Not Resulting in Conviction</b>	15A-146(a,a1,b)	11,057	13,830	58,682
<b>Identity Theft/Misidentification</b>	15A-147	1,461	1,104	6,093
<b>Pardon of Innocence</b>	15A-149	0	1	1

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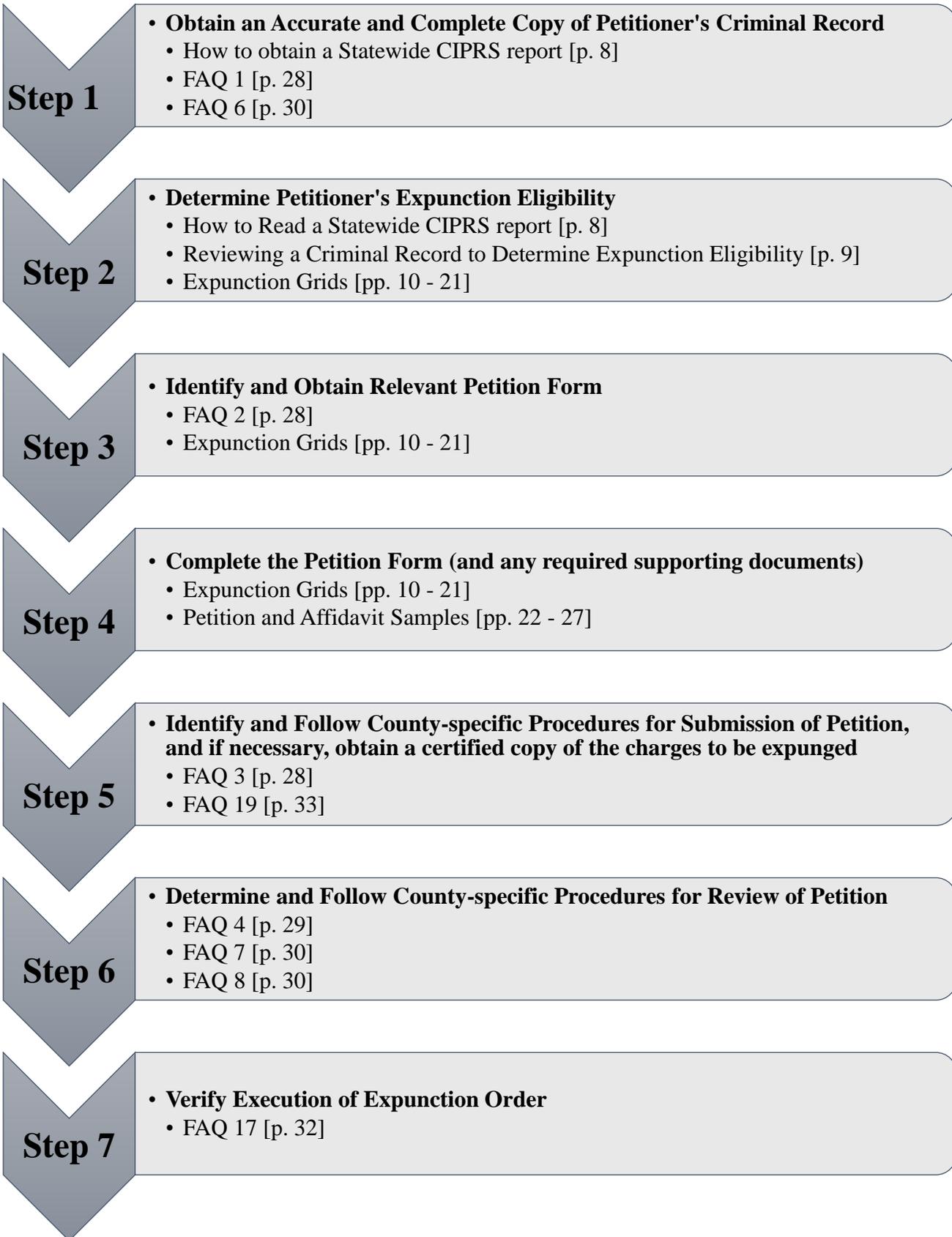
The following expunction statutes are not listed in detailed in this guide, because they are not frequently used and most charges eligible under them are also eligible under NCGS 15A-146 (Dismissal/Not Guilty) or NCGS 15A-145.8A (Raise the Age Parity Relief). For more information about the statutes, please view the comprehensive expunction chart at the end of the expunction guide.

Dismissed Drug Charge Under Age 22 .....	NCGS 15A-145.2(a)-(b)
Dismissed Charge Toxic Vapors / Drug Paraphernalia Under Age 22 .....	NCGS 15A-145.3(a)-(b)
Conditional Discharge for False Report / Threat of Mass Violence .....	NCGS 15A-145.7
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## Process of Petition-Based Expunction of a Criminal Record in North Carolina



## Recent Key Legislative Changes to Expunction Eligibility and Procedure

### Session Law 2021-118/SB 301

#### **EXPAND EXPUNCTION ELIGIBILITY ACT**

On August 26, 2021, Governor Roy Cooper signed the *Expand Expunction Eligibility Act* (S.L. 2021-118/S.B. 301). This law expands the eligibility for “non-violent” convictions. Unless otherwise noted, the changes to expunction and procedure apply to expunction petitions submitted on or after December 1, 2021. Details of the changes are provided in relevant statute summaries and to the right. The School of Government published a good overview of the changes here:

<https://nccriminallaw.sog.unc.edu/2021-changes-to-north-carolinas-expunction-laws/>



### Session Law 2020-35/SB 562

#### **THE SECOND CHANCE ACT**

On June 25, 2020, Governor Roy Cooper signed the *Second Chance Act* (S.L. 2020-35) during a virtual signing ceremony. Senator Phil Berger (R-Rockingham) was a crucial supporter of the Second Chance Act along with the bill’s primary sponsors, Senator Danny Britt (R-Robeson, Columbus), Senator Warren Daniel (R-Avery, Burke, Caldwell), and former Senator Floyd McKissick (D-Durham). As outlined below, S.L. 2020-35 makes significant reforms to several expunction statutes. Unless otherwise noted, these changes to expunction eligibility and procedure apply to expunction petitions submitted on or after December 1, 2020. A good overview is provided by the UNC School of Government here:

<https://www.sog.unc.edu/blogs/nc-criminal-law/second-chance-north-carolina-through-expanded-criminal-record-clearance>

### Expanded Expunction Eligibility Under Session Law 2021-118/SB301

1	A person can expunge up to three nonviolent felony convictions if (1) the felonies occurred within the same 24-month window and (2) at least 20 years have passed with good behavior. The person cannot have a misdemeanor conviction during the 5 years before submitting the expunction petition to the court.
2	A person can expunge felony breaking and entering into a motor vehicle
3	A person can expunge an otherwise eligible nonviolent conviction(s) whether or not they have a DUI conviction. DUI is still not eligible for expunction.

### Expanded Expunction Eligibility Under Session Law 2020-35/SB 562 (Second Chance Act)

1	A person can expunge all misdemeanor and Class H and I felony convictions (except traffic offenses and offenses that require registration on sex offense registry) that occurred when the person was 16 or 17 years old and prior to December 1, 2019. This is often referred to as “Raise the Age Parity Relief.”
2	A person can expunge all dismissed and “not guilty” charges regardless of whether they have a felony conviction.
3	A person can expunge one “non-violent” misdemeanor after 5 years, multiple “non-violent” misdemeanors after 7 years, and one “non-violent” felony after 10 years. <i>See above for expunging 2 or 3 “non-violent” felonies.</i>
4	Automated Expunction: Certain charges dismissed on or after December 1, 2021, including felony, misdemeanor, and infraction charges, will be <b>automatically expunged</b> at disposition “by operation of law.” Charges that were dismissed pursuant to a plea agreement will not be automatically expunged (but an individual will still be eligible to petition to expunge the charges).
5	Prosecutor-Initiated Relief: One of the most immediately impactful provisions of the Second Chance Act is that district attorneys have the ability to petition for expunctions under GS 15A-145.8A (youthful convictions/raise the age parity relief) and 15A-146 (charges dismissed and disposed “not guilty”). For information about jurisdictions that have conducted prosecutor-initiated mass expunction initiatives, review this exciting article: <a href="https://www.ncjustice.org/thanks-to-bipartisan-second-chance-act-400000-convictions-eligible-for-prosecutor-initiated-expunctions/">https://www.ncjustice.org/thanks-to-bipartisan-second-chance-act-400000-convictions-eligible-for-prosecutor-initiated-expunctions/</a>

## How to Read an ACIS Report

Criminal background reports are often difficult to interpret, reflecting the complex nature of criminal proceedings. Particularly hard to interpret are records accessed directly from the North Carolina Court System using the Automated Criminal/Infractions System (ACIS). Since the statewide switch to CIPRS, ACIS is not widely used but is still accessible in certain circumstances (see FAQ 1). ACIS relies on codes and fields that are not intuitive. The picture tutorial below highlights the information and fields relevant to petitioning for an expunction of a criminal charge or conviction. Common ACIS codes are also provided below.

The image shows a screenshot of an ACIS report with several callout boxes pointing to specific fields:

- Disposition:** Points to '910 WAKE DISPOSED WARRANT'.
- Name & Address:** Points to 'DURHAM NC'.
- Offense Description (if conviction):** Points to 'ICA INQUIRY 01'.
- Offense Description (if dismissed charge):** Points to 'F FELONY LARCENY'.
- File Number:** Points to '98CR 046090'.

Other visible fields in the report include: Date of Offense, County of Disposition, Date of Arrest, Offense Description (if dismissed charge), File Number, Date of Disposition, FILM, FILING DATE, TRIAL DATE, AM, TYP, VRA, CPD ISSUED, SERVED, MOTIONS DATE, DISP DATE, RSONCO, GANG REL, DV CV, PLEA VER MOD, FINE, COSTS, WCC, REST, JUDGE, PAID, TO-BE-PAID, CONV OFFN, SENT LEN, SENT TYPE, PROB, AREA CD, ACCD, HWY, V LIC, CDL, CMV, HAZ, TRP/DIST, V ST, V TYP, APPELLATE, ARREST DATE, CHECK DIGIT, SID, LID, NEXT#, and PF2 - NAME INQUIRY.

CR	Criminal District Court	NP	No Probable Cause
CRS	Criminal Superior Court	OF	Offense Date
DC	Dismissed by Court	PJ	Prayer for Judgment Continued
DD	Dismissal – Deferred Prosecution	PO	Process/Probation Other
F	Felony Offense	PROB	Probation
M	Misdemeanor Offense	REST	Amount of Restitution Ordered by the Court
I	Infraction (non-criminal offense)	SENT	Sentence Length Imposed in Months, Days, Years
GL	A Plea or Finding of Guilty to a Lesser Offense	SI	Superseding Indictment
GU	A Plea of Finding of Guilty to the Offense	VD	Voluntarily Dismissed Without Leave (by DA)
JU	Disposed by a Judge	VL	Voluntarily Dismissed With Leave (may be Reinstated)
NG	Not Guilty	VER	Verdict

For additional system Code Definitions, see side two of FORM AOC-CR-314, located here: <http://www.nccourts.org/Forms/Documents/112.pdf>

## How to Read an CIPRS Report

In 2017, there was a statewide switch from the decades old Automatic Criminal/Infraction System (ACIS) to the modernized, more user-friendly Court Information Public Records Search (CIPRS). CIPRS records are accessible at each local courthouse by using the public terminal (see FAQ 1). The picture of the annotated summary CIPRS record below highlights the information and fields relevant to petitioning for an expunction of a criminal charge or conviction.

**THE NORTH CAROLINA COURT SYSTEM** searchNC criminal court records

**Case Summary for Court Case:** WAKE 98CR  
**Defendant:** [REDACTED]

**Case Information**

Case Record Was Last Updated: 12/12/1998  
 Case Status: DISPOSED  
 Jurisdiction: DISTRICT COURT  
 Offense Date: 07/01/1998  
 Case Was Served on: 07/01/1998  
 Fingerprinting Agency: BUREAU OF IDENTIFICATION  
 Citation Number: -

Process Type in District Court: WARRANT  
 Process Type in Superior Court: -  
 Court Session  
 • Date: 11/25/1998  
 • Session: AM  
 • Room: -

**Violation of Court Orders**

Outstanding Order for Arrest Exists: NO  
 Terms of Probation Were Violated: NO  
 Last Called And Failed on: -  
 Failed to Comply with Ordered Payment within Grace Period: NO  
 Order to Show Cause Exists: NO

**Defendant**

Name: [REDACTED]  
 Date of Birth/Estimated Age: [REDACTED]  
 Race: BLACK  
 Sex: FEMALE  
 Address: ANYWHERE  
 DURHAM, NC  
 First Alias: -  
 Second Alias: -  
 Driver's License State: -  
 Commercial Driver's License: -

**Witnesses**

Name	Type	Agency
ROCKER, P.A.	COMPLAINANT	CITY POLICE DEPARTMENT
[REDACTED]	STATE	-

**District Court Offense Information**

Current Jurisdiction: DISTRICT COURT

#	Description	Severity	Law
1	CHARGED: FELONY LARCENY	FELONY	G.S. 14-72(A)
2	CONNECTED: MISDEMEANOR LARCENY	MISDEMEANOR	G.S. 14-72(A)

Verdict: GUILTY  
 Disposition Method: DISPOSED BY JUDGE  
 Disposed on: 11/25/1998

**Superior Court Offense Information**

This case does not have a record in Superior Court.

**Disclaimer**

Printed on 01/17/2022 at 12:01:51 PM WAKE 98CR [REDACTED] 1 of 2

Note: If there is information in the summary CIPRS record in the Fingerprinting Agency section, it is likely that the individual was arrested. The arrest date for the case can be found on the detailed CIPRS record. On the right is an excerpt from a detailed CIPRS record.

### Arrest and Release Information

<b>Date of Arrest:</b> 07/01/1998	<b>Bond Type:</b> -
<b>Fingerprinting Agency:</b> BUREAU OF IDENTIFICATION	<b>Cash Bond Was Forfeited on:</b> -
<b>Arrest Number:</b> -	

## Eligibility Overview

Expunction Statute	Disqualifying Previous Conviction	Disqualifying Subsequent Conviction	Wait Period	Disqualifying Previous Expunction	Judicial Discretion
<b>7B-3200(b)</b>	----	Juvenile adjudication; (M) or (F) as adult	18 months since release from juvenile court jurisdiction (and at least 18 years old)	----	No
<b>15A-145</b>	(M); (F)	(M) or (F) during wait period	2 years	----	No
<b>15A-145.1</b>	(M); (F)	(M) or (F) during wait period	2 years	----	No
<b>15A-145.2(c)</b>	(M); (F)	(M) involving drugs*; (F)	1 year	15A-145.2	Yes*
<b>15A-145.3(c)</b>	(M); (F)	(M) involving drugs*; (F)	1 year	15A-145.3	Yes*
<b>15A-145.4</b>	(M); (F)	(M) or (F) during wait period	4 years	15A-145—15A-146	Yes
<b>15A-145.5</b>	Felony or Violent (M)	Felony or Violent (M)	One M= 5 years; Multiple M= 7 years; One F= 10 years; Up to three F within 24 months= 20 years	15A-145.5 (only disqualifying if prior expunction was granted after December 1, 2021 )	Yes
<b>15A-145.6</b>	Violent (F) or (M)	(M); (F)	3 years	15A-145—15A-145.6	No
<b>15A-145.7</b>	(M); (F)	(M); (F)	Immediate	-----	No
<b>15A-145.8a</b>			Completion of Sentence		No
<b>15A-145.9</b>	----	----	Immediate	-----	Yes
<b>15A-146</b>			Immediate	-----	Depends
<b>15A-147</b>	----	----	Immediate	----	No
<b>15A-149</b>	----	----	Immediate	----	No
<b>Cert of Relief</b>	A-G felony; more than 3 incidents of H or I felony convictions		1 year after completion of sentence	----	Yes

Notes: (1) Convictions of traffic violations do not impact expunction eligibility; (2) Wait periods begin at the date of conviction unless otherwise noted;

\*This reflects a novel but successful interpretation of the law (see pp. 6-7)

### Reviewing a Criminal Conviction to Determine Expunction Eligibility: Decision Tree

<p>A. What age was the person on the date of offense?</p> <ul style="list-style-type: none"> <li>• Birth Date → Offense Date</li> <li>• Under Age 18 or 22 v. Any Age</li> </ul> <p>B. What were the elements of the offense?</p> <ul style="list-style-type: none"> <li>• Disqualifying v. Qualifying</li> <li>• Controlled Substance</li> </ul>	<p>C. How long has it been since the conviction?</p> <ul style="list-style-type: none"> <li>• Conviction Date → Current Date</li> <li>• Is relevant wait period satisfied?</li> <li>• Is sentence fully satisfied?</li> <li>• Is there restitution or civil judgment owed?</li> </ul> <p>D. Does the individual have another disqualifying conviction?</p> <p>E. Does the person have a disqualifying prior expunction?</p>
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## MOST COMMONLY USED EXPUNCTIONS

### Dismissals / Findings of Not Guilty (Any Age) NCGS 15A-146

#### Criteria

Under this statute, a person can petition to expunge the following:

- Any and all felony or misdemeanor charges, disposed of by
  - a dismissal,
  - a finding of not guilty or
  - a finding of not responsible prior to December 1, 1999

General parameters applying to all eligibility under this statute

- Relief is mandatory in cases where all the charges were dismissed or disposed “not guilty”. This is also known as a FULL dismissal. The vast majority of jurisdictions define “case” as an individual case number for these purposes.
- Relief is discretionary in cases where a charge is dismissed or disposed “not guilty” in the same case where a charge resulted in conviction or remains pending. This is also known as a PARTIAL dismissal. The vast majority of jurisdictions define “case” as an individual case number for these purposes.
- An individual or district attorney may petition for relief.
- A felony conviction is NO LONGER disqualifying.
- A previous expunction does not disqualify a person from relief under this statute.
- “No probable cause” and “never to be served” are treated as dismissals for expunction purposes.

#### Filing Requirements

Form: AOC-CR-287 (dismissal) & AOC-CR-288 (not guilty or not responsible)

Cost: None, unless the dismissal occurred as a result of the successful completion of a diversionary program, conditional discharge or prosecutorial deferral, in which case, there is a filing fee of \$175 (may file Petition to Proceed as Indigent for fee waiver (AOC-G-106))

Required Affidavits: None

#### Notes

- Many jurisdictions treat “Guilty to Lesser” as a PARTIAL dismissal and will consider a petition asking to modify the original charge to match that to which the petitioner pled.
- Beginning December 1, 2022, charges that are dismissed or disposed “not guilty” or “not responsible” will be automatically expunged. Felony charges dismissed pursuant to a plea agreement are not eligible for automated expunction (but are still eligible for petition-based relief).
- A record of all dismissed charges expunged after July 1, 2018 (based on the date the petition was filed) is maintained in the statewide confidential file and available to District Attorneys. A record of a charge that is disposed “not guilty” or “not responsible” and expunged is not maintained in the confidential file. Previously expunged convictions can be used by district attorneys for the following:
  - Calculating a prior record level and prior conviction level
  - As a basis for indictment for a habitual offense
  - When a conviction of a prior offense raises the offense level of a subsequent offense
  - To determine eligibility for relief under GS 90-96(a)
  - And when permissible under Rule 404(b) and Rule 609
- Unlike a conviction that is expunged, an arresting agency may maintain investigative records related to a charge that has been expunged.

**Certain Youthful Convictions for Offenses Prior to Dec. 1, 2019**  
**“Raise the Age Parity Relief”**  
**NCGS 15A-145.8A**

**Criteria**

Under this statute, a person can petition to expunge the following:

- Any/all misdemeanor YOUTHFUL conviction(s), EXCEPT for misdemeanor sexual battery and Chapter 20 offenses (traffic)
- any/all Class H or I felony YOUTHFUL conviction(s)

General parameters applying to all YOUTHFUL CONVICTION eligibility under this statute

- This statute is used to expunge YOUTHFUL convictions, which are defined as those where the petitioner was 16 or 17 years old at the time of offense AND the offense date was prior to December 1, 2019.
- The disqualifying conviction rule (see chart for 145.5) does not apply to YOUTHFUL convictions. If a person has any youthful convictions for an A-G felony or misdemeanor sexual battery, the person is not eligible to expunge any ADULT convictions, but it does not impact his eligibility to expunge other YOUTHFUL convictions. In addition, if a person has a YOUTHFUL conviction for one of the charges delineated in NCGS 145.5(a) that is not an A-G felony or misdemeanor sexual battery, it is eligible to be expunged under this statute. If the person has ADULT disqualifying convictions, they do not impact eligibility to expunge YOUTHFUL convictions.
- Petitioner must have completed any active sentence, period of probation, and post-release supervision ordered for the offense. NOTE: There is no wait period beyond sentence completion.
- Petitioner must have no outstanding restitution orders or civil judgments for restitution.
- Relief is mandatory. If the petitioner meets all requirements, the court shall grant the petition.
- An individual or district attorney may petition for relief.

**Filing Requirements**

Form: AOC-CR-293 (individual) & AOC-CR-294 (district attorney)

Cost: \$175 (may file Petition to Proceed as Indigent for fee waiver (AOC-G-106))

There is no filing fee if the petition is filed by the district attorney.

Required Affidavits: None

Required Notice: If petition is filed by individual, the DA must be provided notice. The DA must make his or her best effort to notify the victim, if any, about the impending expunction. Upon request, the victim has the right to be present at any hearing on the expunction petition. Certificate of Service must be completed on the petition prior to filing.

**NOTE**

A record of all expunged dismissed charges and convictions (YOUTHFUL & ADULT) is maintained in the statewide confidential file and available to district attorneys. Previously expunged convictions can be used by district attorneys for the following:

- Calculating a prior record level and prior conviction level
- As a basis for indictment for a habitual offense
- When a conviction of a prior offense raises the offense level of a subsequent offense
- To determine eligibility for relief under GS 90-96(a)
- And when permissible under Rule 404(b) and Rule 609

This file does not include expunged charges that were disposed “not guilty” or “not responsible”.

**“Nonviolent” Misdemeanor or Felony (Any Age)**  
**NCGS 15A-145.5**

**Criteria**

Under this statute, a person can petition to expunge the following:

- Up to three “nonviolent” felonies, beginning December 1, 2021
- One or multiple “nonviolent” misdemeanor convictions

General parameters applying to all ADULT CONVICTION eligibility under this statute

- This statute is generally used to expunge ADULT convictions, which are those where the petitioner was at least 18 years old at the time of offense. YOUTHFUL convictions are those where the petitioner was 16 or 17 years old at the time of offense, and the offense date was prior to December 1, 2019.
- A “nonviolent” felony or misdemeanor is one that is not included in the list of Disqualified Convictions on page 2.
- Multiple convictions may be treated as one conviction ONLY if convictions occurred in the same session of court (Note: it is no longer disqualifying for criminal process to have been initiated in one of the cases prior to the commission of the other offense(s))
- If a person has any disqualifying adult convictions, as defined under 15A-145.5(a) (see next page), a person is not eligible to expunge any adult convictions. If a person has any youthful convictions for an A-G felony or misdemeanor sexual battery, the person is not eligible to expunge any adult convictions. NOTE: DWI convictions are no longer disqualifying but are still ineligible for expunction.
- If filing in multiple counties, all petitions must be filed within 30 days of each other.
- To maximize relief, all adult convictions must be petitioned for expunction at the same time. If a conviction is not listed, the petitioner waives the right to expunge it. Petitioner must acknowledge this in the Petitioner’s Affidavit. A prior expunction is not disqualifying if it was filed prior to December 1, 2021.
- Petitioner must have no outstanding warrants or pending criminal, non-traffic cases.
- Petitioner must have no outstanding restitution orders or civil judgments for restitution.

Expunging felony adult convictions

1. For expunction of a single, first-time “nonviolent” felony, a person must have
  - (a) no other felony convictions or disqualifying misdemeanor convictions,
  - (b) completed their criminal sentence, and (c) at least 10 years of good behavior since the date of sentence completion or after any active sentence, period of probation, or post-release supervision, whichever occurs later.
2. For expunction of two or three “nonviolent” felonies,
  - (a) the offense dates for the felonies must be within the same 24-month period,
  - (b) the petitioner must have completed their criminal sentence, and
  - (c) at least 20 years have passed since the date of sentence completion of the last conviction listed on the petition OR 20 years have passed after any active sentence, period of probation, or post-release supervision, whichever is later.
  - (d) a misdemeanor conviction within the 20 year wait period does not disqualify petitioner from relief, as long as there are no criminal, non-traffic convictions in the last 5 years.
3. Relief is discretionary. If the court chooses not to grant relief, the order must include at least one finding as to the reason for denial.

Expunging misdemeanor adult convictions

1. For expunction of a single, first-time “nonviolent” misdemeanor conviction, a person must have
  - (a) no other convictions (other than traffic violations),
  - (b) completed their criminal sentence, and
  - (c) completed at least five years of good behavior since the date of conviction.
2. For expunction of multiple “nonviolent” misdemeanor convictions, a person must have
  - (a) no disqualifying (see next column) convictions at all,
  - (b) completed their criminal sentence, and
  - (c) at least 7 years have passed since the date of sentence completion of the last conviction or 7 years have passed since the completion of any active sentence, period of probation, or post-release, whichever is later
3. Relief is mandatory. If the petitioner meets all requirements, the court shall grant the petition.

### Disqualified/Disqualifying Convictions\*

- A. A Class A - G felony or a Class A1 misdemeanor
- B. An offense that includes assault as an essential element of the offense
- C. An offense that requires sex offender registration (Article 27A, Chapter 14)
- D. Specified sex-related and stalking offenses (see 15A- 145.5(a)(4))
- E. Any felony offense in Chapter 90 that involves methamphetamines, heroin, or possession with intent to sell or deliver cocaine
- F. Specified hate crimes (see 15A- 145.5(a)(6))
- G. An offense of contaminating food or drink to render one mentally incapacitated or physically helpless (see 15A- 145.5(a)(7))
- H. Various felony breaking and entering offenses (see 15A-145.5(a)(7a)) NOTE: Felony B&E MV is no longer disqualifying and is eligible for expunction.
- I. Any felony offense in which a commercial motor vehicle was used in the commission of the crime
- J. Any offense that is an attempt to commit any of the offenses captured in A-I above.

### Filing Requirements

Form: AOC-CR-297 (felony) & AOC-CR-298 (misdemeanor)

Cost: \$175 (may file Petition to Proceed as Indigent for fee waiver (AOC-G-106))

Required Affidavits:

- 1. Petitioner's Affidavit (see sample)
- 2. Two Character Affidavits: from two individuals who are not related to petitioner or each other, by blood or marriage, and who are familiar with the petitioner's reputation in the community.

Notice: DA must be provided notice. The DA must make his or her best effort to notify the victim, if any, about the impending expunction. Upon request, the victim has the right to be present at any hearing on the expunction petition. Certificate of Service must be completed on the petition prior to filing.

### NOTES

A record of all expunged dismissed charges and convictions (YOUTHFUL & ADULT) is maintained in the statewide confidential file and available to district attorneys. Previously expunged convictions can be used by district attorneys for the following:

- Calculating a prior record level and prior conviction level
- As a basis for indictment for a habitual offense
- When a conviction of a prior offense raises the offense level of a subsequent offense
- To determine eligibility for relief under GS 90-96(a)
- And when permissible under Rule 404(b) and Rule 609

This file does not include expunged charges that were disposed "not guilty" or "not responsible".

## AGE-BASED EXPUNCTION

### Misdemeanor Conviction for Possession of Alcohol Under Age 21 Non-Traffic Misdemeanor Conviction Under Age 18 NCGS 15A-145

#### Criteria

Under this statute, a person can petition to expunge the following:

- A conviction for misdemeanor possession of alcohol under age 21.
- A conviction for a non-traffic misdemeanor committed before age 18 (See NOTE below).

General parameters applying to all misdemeanor convictions eligible under this statute:

- For expunction of a conviction of misdemeanor possession of alcohol under NCGS 18B-302(b)(1), petitioner must have been under age 21 at the time of offense.
- For expunction of other non-traffic misdemeanor convictions, petitioner must have been under age 18 at the time of offense.
- Petitioner must have no previous misdemeanor or felony convictions, other than traffic violations.
- At least 2 years have passed since the date of conviction.
- Petitioner must have no subsequent misdemeanor or felony convictions, other than traffic violations, within the 2-year waiting period.
- The petitioner has fully completed his or her sentence.
- Petitioner must have no outstanding restitution orders or civil judgments for restitution.
- Relief is mandatory. If the petitioner meets all requirements, the court shall grant the petition.

#### Filing Requirements

Form: AOC-CR-286

Cost: \$175 (may file Petition to Proceed as Indigent for fee waiver (AOC-G-106))

Required Affidavits:

3. Petitioner's Affidavit stating the following:

- Petitioner has been on good behavior for the 2-year period following the date of conviction.
- Petitioner has not been convicted of any felony or misdemeanor, other than a traffic violation.
- There are no outstanding restitution orders or civil judgments for restitution in the case.

4. Two Character Affidavits: from two individuals who are not related to petitioner or each other, by blood or marriage, and who are familiar with the petitioner's reputation in the community. (see sample)

Notice: DA must be provided notice. Certificate of Service must be completed on the petition prior to filing.

#### NOTES

- It is likely that convictions that occurred before December 1, 2019, are also eligible for expunction under NCGS 15A-145.8A. There is no wait period, and no affidavits are required under NCGS 15A-145.8A.
- Misdemeanor sexual battery that occurred prior to age 18: Petitioners who were convicted of sexual battery that occurred before age 18, may be eligible to petition for its expunction under this statute if the offense occurred after December 1, 2003 (when the offense was created) and before December 1, 2005 (when the General Assembly made sexual battery an offense requiring registration). Otherwise, a sexual battery conviction is ineligible to be expunged under any statute.

**Drug Conviction Under Age 22**  
**NCGS 15A-145.2(c)**

**Criteria**

Under this statute, a person can petition to expunge the following:

- A conviction for misdemeanor drug possession.
- A conviction for misdemeanor possession of drug paraphernalia under NCGS 90-113.22. (see NOTE 2 below)
- A conviction for felony possession of a controlled substance under NCGS 90-95(a)(3). (see NOTE 3 below)

General parameters applying to all misdemeanor convictions eligible under this statute:

- Petitioner was not over the age of 21 at the time of offense. (see NOTE 1 below)
- At least 12 months have passed since the date of conviction.
- Petitioner has either successfully completed drug program or will ask the court to waive this requirement.
- Petitioner must have no other felony convictions of any kind, no other misdemeanor convictions under Chapter 90 and no other convictions related to controlled substances. (see NOTE 4 below)
- Petitioner must have no prior expunction under this NCGS 15A-145.2(c).

**Filing Requirements**

Form: AOC-CR-266

Cost: \$175 (may file Petition to Proceed as Indigent for fee waiver (AOC-G-106))

Required Affidavits: None

**NOTES**

1. It is likely that convictions that occurred before December 1, 2019, are also eligible for expunction under NCGS 15A-145.8A. There is no wait period, and no affidavits are required under NCGS 15A-145.8A.
2. NCGS 90-113.22 is the statute that defines possession of drug paraphernalia as a Class 1 misdemeanor. Until 2014, this included marijuana drug paraphernalia, but in 2014, the General Assembly split marijuana paraphernalia off into a Class 3 misdemeanor under NCGS 90-113.22A. This expunction statute specifically references convictions for drug paraphernalia under NCGS 90-113.22 and DOES NOT mention NCGS 90-113.22A. This expunction statute was last updated in SL 2017-195, after marijuana paraphernalia was split off. Because of this, it appears that a conviction for possession of marijuana paraphernalia under NCGS 90-113.22A is NOT eligible to be expunged under this statute.
3. According to AOC's interpretation, individuals convicted of felony possession under NCGS 90-95(a)(3) prior to January 1, 2012 are only eligible for expunction under this statute if the offense involved less than 1 gram of cocaine. Convictions on or after January 1, 2012 are eligible for expunction under this statute, regardless of the quantity or type of controlled substance.
4. AOC has interpreted the statute to require that the petitioner have no other misdemeanor or felony convictions. The standardized AOC form requires petitioner to confirm that he or she has "not been convicted of a felony or misdemeanor other than a traffic violation under the laws of this State at any time prior to or since the conviction for the offense in question." However, based on the construction of the statute, there is a reasonable argument that this is an erroneous interpretation and that someone with a subsequent misdemeanor conviction unrelated to controlled substances would still be eligible for expunction. For guidance on "may" vs. "shall" ambiguity, see *In Re Expungement for Spencer*, 140 N.C. App. 776 (2000). It has been successfully argued that the "may" provides court discretion to expunge a first-time drug conviction where an individual has a subsequent non-drug misdemeanor conviction.

**Toxic Vapors Conviction Under Age 22  
NCGS 15A-145.3(c)**

**Criteria**

Under this statute, a person can petition to expunge the following:

- A conviction under NCGS Chapter 90 Article 5A: North Carolina Toxic Vapors Act.

General parameters applying to all convictions eligible under this statute:

- Petitioner was not over the age of 21 at the time of offense. (see NOTE 1 below)
- At least 12 months have passed since the date of conviction.
- Petitioner has either successfully completed drug program or will ask the court to waive this requirement.
- Petitioner has no other conviction under Articles 5 (NC Controlled Substances Act), 5A (NC Toxic Vapors Act) or 5B (Drug Paraphernalia) of Chapter 90, or any other conviction related to controlled substances. (see NOTE 2 below)
- Petitioner must have no prior expunction under this NCGS 15A-145.3(c).

**Filing Requirements**

Form: AOC-CR-268

Cost: \$175 (may file Petition to Proceed as Indigent for fee waiver (AOC-G-106))

Required Affidavits: None

**NOTES**

1. It is likely that convictions that occurred before December 1, 2019, are also eligible for expunction under NCGS 15A-145.8A. There is no wait period, and no affidavits are required under NCGS 15A-145.8A.
2. AOC has interpreted the statute to require that the petitioner have no other misdemeanor or felony convictions. The standardized AOC form requires petitioner to confirm that he or she has “not been convicted of a felony or misdemeanor other than a traffic violation under the laws of this State at any time prior to or since the conviction for the offense in question.” However, based on the construction of the statute, there is a reasonable argument that this is an erroneous interpretation and that someone with a subsequent misdemeanor conviction unrelated to controlled substances would still be eligible for expunction. For guidance on “may” vs. “shall” ambiguity, see *In Re Expungement for Spencer*, 140 N.C. App. 776 (2000). It has been successfully argued that the “may” provides court discretion to expunge a first-time drug conviction where an individual has a subsequent non-drug misdemeanor conviction.

## RARELY USED EXPUNCTIONS

### Prostitution Conviction NCGS 15A-145.6

#### Criteria

Under this statute, a person can petition to expunge the following:

- A conviction for a prostitution offense:
- In violation of NCGS 14-204
- Engaging in prostitution in violation of NCGS 14-204(7) for an offense that occurred prior to October 1, 2013

General parameters applying to all convictions eligible under this statute:

- Petitioner must have no prior convictions for a Class A-G felony or a Class A1 misdemeanor that includes assault as an essential element of the offense.
- Petitioner must have no prior convictions for a prostitution offense and at least three years have passed since the date of conviction or completion of any sentence, whichever is later.
- Petitioner must have no subsequent misdemeanor or felony convictions, other than traffic violations.
- Petitioner must have no outstanding warrants or pending criminal, non-traffic cases.
- Petitioner must have no outstanding restitution orders or civil judgments for restitution.
- A hearing is required for this type of expunction.

#### Filing Requirements

Form: AOC-CR-282

Cost: \$175 (may file Petition to Proceed as Indigent for fee waiver (AOC-G-106))

Required Affidavits:

5. Petitioner's Affidavit stating the following:
  - Petitioner has no prior convictions for a Class A-G felony or a Class A1 misdemeanor that includes assault as an essential element of the offense.
  - Petitioner has been of good moral character since the date of the conviction for the prostitution offense in question.
  - Petitioner has no subsequent felony or misdemeanor convictions.
6. Two Character Affidavits from two individuals who are not related to petitioner or each other, by blood or marriage, and who are familiar with the petitioner's reputation in the community.

Notice: DA must be provided notice. Certificate of Service must be completed on the petition prior to filing. District Attorney shall have 30 days in which to file the objection and shall be notified as to the date of the hearing.

**“Nonviolent” Conviction of Human Trafficking Victim  
NCGS 15A-145.9**

**Criteria**

Under this statute, a person can petition to expunge the following:

- A “nonviolent” misdemeanor or felony conviction, if the court finds that the person was coerced or deceived into committing the offense as a direct result of having been a trafficking victim.

General parameters applying to all convictions eligible under this statute:

- For purposes of this statute, “nonviolent offense” is defined as any misdemeanor or felony except the following:
  1. A Class A-G felony
  2. An offense that includes assault as an essential element of the offense
  3. An offense that requires sex offender registration (Article 17A, Chapter 14)
  4. Specified sex-related and stalking offenses (see 15A-145.9(a)(1)d.)
  5. Specified hate crimes (see 15A-145.9(a)(1)e.)
  6. Any offense of contaminating food or drink to render one mentally incapacitated or physically helpless
  7. A traffic offense
  8. Any offense that is an attempt to commit the offenses described above
    - A human trafficking victim is a person who meets the definition of victim as defined under NCGS 14-43.10 or 22 USC 7102(13).
    - Petitioner must have no outstanding warrants or pending criminal, non-traffic cases.
    - Petitioner must have no outstanding restitution orders or civil judgments for restitution.
    - A hearing is required for this type of expunction.
    - Relief is discretionary, and the Court may consider petitioner’s conduct since date of conviction and review other relevant information such as testimony from law enforcement, District Attorney or Licensed Social Workers.

**Filing Requirements**

Form: AOC-CR-290

Cost: None

Required Affidavits:

A Petitioner’s Affidavit stating the following:

- Petitioner is a victim of human trafficking and was coerced or deceived into committing the offense as a direct result of their status as a trafficking victim
- There are no outstanding restitution orders or civil judgments for restitution.

Notice: DA must be provided notice. Certificate of Service must be completed on the petition prior to filing. District Attorney shall have 30 days in which to file the objection and shall be notified as to the date of the hearing.

**Identity Theft / Misidentification**  
**NCGS 15A-147**

For charges filed before Dec. 1, 2015, an individual may petition for expunction of a charge that resulted from the use of the identity of the petitioner was used without permission, and the charge was dismissed, disposed by a finding of “not guilty” or the conviction was set aside. Hearing is required.

For charges filed on or after Dec. 1, 2015, an individual may petition for expunction of a charge that resulted from the use of the identity of the petitioner without permission OR mistaken identity, and the charge was disposed by a finding of “not guilty” or the conviction was set aside. Hearing is required.

For charges filed on or after Dec. 1, 2015, if a charge that resulted from the use of the identity of the petitioner without permission OR mistaken identity is dismissed based on said identity theft or mistaken identity, the court shall order the expunction of the charge.

Broad definition of mistaken identity: “For purposes of this section, the term ‘mistaken identity’ means the erroneous arrest of a person for a crime as a result of misidentification by a witness or law enforcement, confusion on the part of a witness or law enforcement as to the identity of the person who committed the crime, misinformation provided to law enforcement as to the identity of the person who committed the crime, or some other mistake on the part of a witness or law enforcement as to the identity of the person who committed the crime.”

**Filing Requirements**

Form: AOC-CR-263 (for cases requiring defendant to petition)

Cost: None

Required Affidavits: None

Notice: DA must be provided notice. Certificate of Service must be completed on the petition prior to filing.

**Pardon of Innocence**  
**NCGS 15A-149**

Under this statute, a person can petition to expunge the following:

- A case on which the petitioner has received a Pardon of Innocence.

**Filing Requirements**

Form: AOC-CR-265

Cost: None

Additional Documents: Must attach a copy of the Pardon to the petition.

**DNA Records**  
**NCGS 15A-266.3A**

As of June 1, 2012, an individual is no longer required to petition for expunction of the DNA sample and profile. Now, if an individual is eligible, “no request form shall be required, and the prosecuting district attorney shall initiate the procedure” for expunction.

Eligibility:

- The charge has been dismissed or the person has been acquitted of the charge.
- Defendant is convicted of a lesser-included misdemeanor offense that is not an offense requiring submission of DNA.
- No charge was filed within the statute of limitations, if any.
- No conviction has occurred, at least 3 years has passed since the date of arrest, and no active prosecution is occurring.

## JUVENILE EXPUNCTIONS

### Juvenile Record of Delinquent or Undisciplined – Dismissal NCGS 7B-3200(h)

#### Criteria

Under this statute, a person can petition to expunge the following:

- A juvenile petition to be classified as delinquent or undisciplined where the petition was DISMISSED.

General parameters applying to all juvenile petitions eligible under this statute

- If petitioner was alleged to be delinquent, petitioner must have attained the age of 16 years.
- If petitioner was alleged to be undisciplined, petitioner must have attained the age of 18 years.

#### Filing Requirements

Form: AOC-J-909

Cost: None

Required Affidavits: NONE

### Juvenile Record of Undisciplined - Adjudicated NCGS 7B-3200(a)

#### Criteria

Under this statute, a person can petition to expunge the following:

- A juvenile petition to be adjudicated as undisciplined where the petitioner was adjudicated to be undisciplined.

General parameters applying to all juvenile petitions eligible under this statute

- Petitioner was adjudicated to be undisciplined.
- Petitioner has since attained the age of 18 years.
- Petitioner has had good behavior since the adjudication.

#### Filing Requirements

Forms: AOC-J-903 (Petition) & AOC-J-904 (Character Affidavits)

Cost: None

Required Affidavits: Two affidavits confirming good character from 2 individuals not related to client (or each other), who are familiar with the client's reputation in the community. Use form AOC-J-904.

### Juvenile Record of Delinquent – Adjudicated NCGS 7B-3200(b)

#### Criteria

Under this statute, a person can petition to expunge the following:

- A juvenile petition to be adjudicated as delinquent where the petitioner was adjudicated to be delinquent.

General parameters applying to all juvenile petitions eligible under this statute

- Petitioner was adjudicated to be delinquent.
- Petitioner has since attained the age of 18 years.
- Offense for which the person was adjudicated delinquent would NOT have been a Class A, B1, B2, C, D, or E felony if committed by an adult.
- At least 18 months have elapsed since petitioner was released from juvenile court jurisdiction.
- Petitioner was not subsequently adjudicated delinquent.
- Petitioner has not been convicted as an adult of any felony or misdemeanor, other than a traffic violation.

#### Filing Requirements

Forms: AOC-J-903 (Petition) & AOC-J-904 (Character Affidavits)

Cost: None

Required Affidavits: Two affidavits confirming good character from 2 individuals not related to client (or each other), who are familiar with the client's reputation in the community. Use form AOC-J-904.

## NON-EXPUNCTION RECORD RELIEF

### Certificate of Relief

#### NCGS 15A-173

#### Criteria

Under this statute, a person can obtain a Certificate of Relief.

A certificate of relief is not an expunction but may provide several types of significant relief, including:

1. Improving employment opportunities by offering a potential employer protection from negligent hiring liability.
2. Improving housing opportunities by offering a potential landlord protection from negligent leasing liability.
3. Override automatic exclusions— allow opportunity for discretion
4. Viewed favorably in discretionary decisions.

#### General parameters applying to all eligibility under this statute

- A person must file a petition and obtain an individual Certificate of Relief in each county where he or she has a conviction.
- Petitioner may have any number of misdemeanor convictions and no more than three (3) H or I felony convictions. All H and I convictions disposed in a single session of court count as one conviction.
- At least 12 months have passed since the date of sentence completion of all convictions listed on the petition.
- Petitioner must be engaged in or seeking a lawful occupation or activity or has a lawful source of income.
- Petitioner must attest that he or she is not in violation of the terms of any criminal sentence (including those not listed on the petition) or that failure to comply is justified, excused, involuntary, or insubstantial.
- Petitioner must have no pending criminal cases.
- Petitioner must attest that granting the petition would not pose an unreasonable risk to the safety of welfare of the public or any individual.
- No previous petition for a certificate of relief on the listed convictions has been filed, or at least 12 months have passed since the denial of the previous petition.

#### Filing Requirements

Form: AOC-CR-273

Cost: A one-time \$50 fee (may file Petition to Proceed as Indigent for fee waiver (AOC-G-106)). The fee may be waived on a showing by the petitioner that the one-time fee was previously paid, even if in another county.

Required Affidavits: None, but petitioner may submit additional materials to support the claims made in this petition at the hearing.

Notice: DA must be provided notice. Certificate of Service must be completed on the petition prior to filing.

**Case Summary for Court Case: DURHAM 07CR**

Defendant: **A**

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**Case Information**

Case Record Was Last Updated: 06/13/2008  
 Case Status: DISPOSED  
 Jurisdiction: DISTRICT COURT **G**  
 Offense Date/Time: 09/25/2007 09:04 PM **D**  
 Case Was Served on: 09/25/2007 **B**  
 Fingerprinting Agency: -  
 Citation Number: 5E05670

Process Type in District Court: CITATION  
 Process Type in Superior Court: -  
 Court Session  
 • Date: 06/13/2008  
 • Session: AM  
 • Room: -

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**District Court Offense Information**

Current Jurisdiction: DISTRICT COURT

#	Description	Severity	Law
01	CHARGED MISDEMEANOR LARCENY <b>C</b>	MISDEMEANOR	G.S. 14-72(A)
	CONVICTED		

Plea: - Verdict: - Disposed on: 06/13/2008 **F**  
 Disposition Method: DISMISSAL WITHOUT LEAVE BY DA **E**

- Common CIPRS Disposition Codes**
- VD** Voluntarily Dismissed Without Leave
  - VL** Voluntarily Dismissed With Leave
  - DC** Dismissed by Court
  - DD** Dismissal - Deferred Prosecution
  - NG** Not Guilty
  - SI** Superseding Indictment
  - NP** No Probable Cause
  - GL** Guilty to a Lesser Offense
  - GU** Guilty to the Offense
  - NS** Never to be Served
  - PO** Process Other
  - PJ** Prayer for Judgment Continued

## Completing Petition Form AOC-CR-287 Using a CIPRS

Be sure to list the agency that arrested you (if any) **AND** the County Sheriff's office (if different)

If applying for expunction for multiple offenses and all charges were dismissed, check box 3a. If petitioner has multiple offenses and all charges were not dismissed, check box 3b and write in the relevant information.

If applying for expunction of a charge, check this box **UNLESS** the charge was dismissed based on completion of diversionary program or a conditional discharge.

**STATE OF NORTH CAROLINA**

DURHAM **H** County

File No. 07CR 000000 **A** Box No. (s) (Official Use Only)

**G** In The General Court Of Justice  
 District  Superior Court Division

**PETITION AND ORDER OF EXPUNCTION  
 UNDER G.S. 15A-146(a) OR G.S. 15A-146(a1)  
 (CHARGE(S) DISMISSED) **E****

Name And Address Of Petitioner (Type or print full name):  
 TRACEY BEA ANYBODY  
 123 MAIN STREET  
 DURHAM, NORTH CAROLINA 27703

Name And Address Of Petitioner's Attorney For Expunction Petition:  
 LAURA HOLLAND, 919-861-1462, laura@ncjustice.org  
 NC JUSTICE CENTER  
 224 S. DAWSON STREET  
 RALEIGH NC 27601

Driver's License No. 123456789 State NC Race WHITE Sex FEMALE  
 Date Of Birth 01/01/1982 Full Social Security No. 987-65-4321 Age At Time Of Offense 25

NOTE: TO THE PETITIONER: List the arresting agency and any State or local government agency that has a record of your case. You must provide complete information for each agency. The clerk of superior court will send a copy of this order, if granted, to the agency name(s) and address(es) provided below. The clerk will not provide addresses for you. Do not list the courts, the State Bureau of Investigation, the Department of Public Safety, or the Division of Motor Vehicles. If the order is granted, those agencies will be notified automatically. Do not list any private entity, law a company that provides criminal background checks. The clerk will not send a copy of this order to any entity that is not an agency of the State of North Carolina or one of its local governments. A private entity required to expunge records will be notified directly by the State or local agencies that distribute criminal justice information to that entity.

Name And Address Of Arresting Agency: DURHAM POLICE DEPARTMENT  
 602 E MAIN STREET  
 DURHAM, NC 27701

Name And Address Of Other Agency (If any): DURHAM COUNTY SHERIFF'S OFFICE  
 510 S. DILLARD STREET  
 DURHAM, NC 27701

Check here to indicate that additional agencies and/or additional file nos. and offenses are listed on an AOC-CR-285 form that is attached to this petition. (attach form)

File No.(s)	Date Of Arrest	Offense Description	Date Of Offense	Date Of Dismissal
07CR 000000 <b>A</b>	09/25/2007 <b>B</b>	MISDEMEANOR LARCENY <b>C</b>	09/25/2007 <b>D</b>	06/13/2008 <b>F</b>

**PETITION TO EXPUNGE**

I hereby petition for an expunction pursuant to G.S. 15A-146(a) or (a1) and certify as follows:

- In this court of the county named above I was charged with (a) misdemeanor(s) or felony(ies) (or an infraction under G.S. 15B-302) prior to December 1, 1989, the file number(s) of which is/are set out above.
- The charge(s) listed above was/were disposed of by a dismissal.
- (If you are petitioning to expunge multiple dismissals under G.S. 15A-146(a1), check one of the following)
  - a. I was charged with multiple offenses, and all of the charges were dismissed. I therefore am requesting the expunction of all the charges.
  - b. I was charged with multiple offenses, and while the charges listed above were dismissed, the following charges resulted in a conviction on the day of the dismissal or had not yet reached final disposition: \_\_\_\_\_ (insert file no.(s) and offense description(s) of charges that were not dismissed); therefore am requesting the expunction only of the dismissed charges listed above, and not all of the charges.
4. There is a civil revocation record that resulted from the offense(s) I am seeking to expunge.

I certify that this petition has been filed in this case and that the information set forth above is a complete and accurate statement of the information on file in the office of the clerk of superior court.

No charge listed above was dismissed as the result of compliance with a deferred prosecution agreement or a conditional discharge and dismissal.

**NOTE TO CLERK: If this box is checked, do not assess the \$175.00 fee.**

Date \_\_\_\_\_ Name (Type or print) Laura Holland Signature \_\_\_\_\_  
 Petitioner  
 Petitioner's Attorney

(Over)

AOC-CR-287, Rev. 12/20 (replaced AOC-CR-284 for G.S. 15A-146(a) and (a1) petitions)  
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<b>STATE OF NORTH CAROLINA</b>		File No. 11CR 010541	Scan No.(s) (Official Use Only)
WAKE County		In The General Court Of Justice <input checked="" type="checkbox"/> District <input type="checkbox"/> Superior Court Division	
<small>NOTE: This petition requires the payment of a filing fee unless the petitioner is an indigent. For expunction of nonviolent felonies under G.S. 15A-145.5, use form AOC-CR-297.</small>			
<b>STATE VERSUS</b>		<b>PETITION AND ORDER OF EXPUNCTION UNDER G.S. 15A-145.5 (NONVIOLENT MISDEMEANOR(S))</b>	
Name And Address Of Petitioner (type or print full name) GEORGE THOMAS ANYBODY 123 MAIN STREET APT 5A DURHAM NC 26511		G.S. 15A-145.5, -150	
Drivers License No. 987654321	State NC	Race W	Sex M
Date Of Birth 01/01/1965	Full Social Security No. 123-45-6789		
Name And Address Of Petitioner's Attorney For Expunction Petition LAURA HOLLAND NC JUSTICE CENTER, laura@ncjustice.org 224 S. DAWSON STREET RALEIGH NC 27601			
<small>NOTE TO PETITIONER: List the arresting agency and any State or local government agency that has a record of your case. You must provide complete information for each agency. The clerk of superior court will send a copy of this order, if granted, to the agency name(s) and address(es) provided below. The clerk will not provide addresses for you. Do not list the courts, the State Bureau of Investigation, the Department of Public Safety, or the Division of Motor Vehicles; if the order is granted, those agencies will be notified automatically. Do not list any private entity, like a company that provides criminal background checks. The clerk will not send a copy of this order to any entity that is not an agency of the State of North Carolina or one of its local governments. A private entity required to expunge records will be notified directly by the State or local agencies that distribute criminal justice information to that entity.</small>			
Name And Address Of Arresting Agency RALEIGH POLICE DEPARTMENT 6716 SIX FORKS ROAD RALEIGH NC 27615		Name And Address Of Other Agency (if any) WAKE COUNTY SHERIFFS DEPT 330 S. SALISBURY STREET RALEIGH NC 27601	
<input type="checkbox"/> Check here to indicate that additional agencies and/or additional file nos. and offenses are listed on an AOC-CR-285 form that is attached to this petition. (attach form)			
File No.(s)	Date Of Arrest	Offense Description	Date Of Offense
11CR 010541	07/01/2011	(M) LARCENY	06/01/2011
Disposition	Date Of Disposition/Conviction		12/05/2011
GU			
<b>PETITION/MOTION TO EXPUNGE</b>			
I hereby move for an expunction pursuant to G.S. 15A-145.5 and certify as follows:			
1. In the county named above I pled guilty to or was found guilty of the nonviolent misdemeanor(s) listed above, and further certify that: (i) no offense listed above is a Class A1 misdemeanor, and (ii) no offense listed above is an exception identified in G.S. 15A-145.5 as ineligible for expunction.			
2. This petition is being filed after the applicable waiting period: (check one)			
<input checked="" type="checkbox"/> For expunction of one nonviolent misdemeanor, at least five (5) years after the date of conviction listed above or when any active sentence, period of probation, and post-release supervision has been served, whichever occurred later. I hereby acknowledge that except as provided in G.S. 15A-145.5(c5), the expunction of one nonviolent misdemeanor prior to a 7-year waiting period will preclude me from expunging additional nonviolent misdemeanors that might otherwise be eligible for expunction.			
<input type="checkbox"/> For expunction of more than one nonviolent misdemeanor, either listed above or listed in this and another petition(s) filed in separate counties within 30 days of one another pursuant to G.S. 15A-145.5(c4), at least seven (7) years after my last conviction, other than a traffic offense not listed in any such petition, or seven (7) years after any active sentence, period of probation, and post-release supervision has been served, whichever occurred later.			
3. I have attached to this petition the affidavits required by G.S. 15A-145.5(c1).			
I certify that this petition and the required affidavits have been filed in this case and that the information set forth above is a complete and accurate statement of the information on file in the office of the clerk of superior court. I hereby request and authorize a name-based State and national criminal record check by the NC Department of Public Safety, a search by the Department of Public Safety for any outstanding warrants or pending criminal cases, and a search of the confidential record of expunctions maintained by the NC Administrative Office of the Courts.			
Date 12/13/2021	Name (type or print) Laura Holland	Signature	<input type="checkbox"/> Petitioner <input checked="" type="checkbox"/> Petitioner's Attorney
<b>CERTIFICATE OF SERVICE</b>			
I certify that a copy of this motion was served by:			
<input type="checkbox"/> delivering a copy personally to the prosecutor.			
<input type="checkbox"/> depositing a copy enclosed in a postpaid properly addressed envelope in a post office or official depository under the exclusive care and custody of the U.S. Postal Service, directed to the prosecutor.			
<input type="checkbox"/> leaving a copy at the office of the prosecutor with an associate or employee.			
Date Served	Name Of Person With Whom Copy Left (type or print)	Signature Of Person Serving	
<input type="checkbox"/> Service accepted by the prosecutor.			
Date Service Accepted	Name Of Person Accepting Service (type or print)	Signature Of Person Accepting Service	
<small>NOTE TO CLERK: Regardless of when the reports are returned by the SBI and NCAOC, as provided on the reverse, the hearing may not be scheduled earlier than 30 days after service of the petition on the prosecutor.</small>			
<b>REQUEST BY JUDGE</b>			
To The State Bureau Of Investigation, Attn: CIIS Expungement Unit, PO Box 29500, Raleigh, NC 27626: Please prepare, certify on the reverse side, and attach to this Request any Criminal History Record Information (CHRI) and the results of a search for outstanding warrants or other pending criminal cases for the petitioner, then forward this Request with CHRI attached, confidentially to: Records Officer, Administrative Office of the Courts.			
To The Records Officer, Administrative Office Of The Courts, PO Box 2448, Raleigh, NC 27602: Complete the report on the reverse side and return it, along with the information attached by the SBI, to the clerk of superior court.			
Date	Name Of Presiding Judge (type or print)	Signature Of Presiding Judge	
(Over)			
AOC-CR-298, New 12/21 (replaces AOC-CR-281 for nonviolent misdemeanor petitions), © 2021 Administrative Office of the Courts			

\*\*\*Petitioner Affidavit WORKSHEET—Please use this as a model for satisfying the statutorily required components of the affidavits specific to each type of expunction. It may be in the best interest of the petitioner to include in the affidavit further attestation and/or explanation of rehabilitation and/or good moral character—Please examine the “Filing Requirements” section (above) for the specific expunction for which petitioner is eligible, as well as the relevant statute. A blank affidavit is provided on the next page.\*\*\*

NORTH CAROLINA

**A:** Print here the county where the conviction occurred

IN THE GENERAL COURT OF JUSTICE

IN THE \_\_\_\_\_ COURT DIVISION

\_\_\_\_\_ COUNTY

\_\_\_\_\_

**B:** Print here the file number of the conviction. If petitioning for expunction of multiple convictions occurring in the same session of court, place additional file #s beneath this initial line.  
Ex. 97 CR 014926  
97 CR 014927  
97 CR 014928

STATE OF NORTH CAROLINA,  
Plaintiff,

**N:** Print “District” or “Superior.” Expunction petition must be heard in the same court in which original disposition occurred. Typically, file no. with “CR” means disposition occurred in District, “CRS” means Superior.

**DEFENDANT’S  
AFFIDAVIT**

vs.

\_\_\_\_\_  
Defendant.

**C:** Print here Petitioner’s full name.

NOW COMES the Defendant, \_\_\_\_\_, who, after first being duly sworn, deposes and says:

1. I am the defendant in the above-captioned matter.
2. This sworn statement is made in support of my petition to expunge a charge from my criminal record and this motion is a motion in the case wherein I was convicted.
3. I have not received an expunction for one or more misdemeanor or felony conviction(s) after December 1, 2021.
4. I have submitted or intent to submit conviction expunction petitions in the following other counties:  
\_\_\_\_\_
5. I acknowledge that submitting the expunction applications listed in this affidavit within the 30-day period prevents me from filing to expunge additional nonviolent misdemeanors or nonviolent felonies that might be otherwise eligible for expunction.
6. I have been of good moral character and have not been convicted of [D, E, F, or G- depending on type of expunction—read below]

- D.** If seeking expunction under GS 15A-145.5 for a first-time misdemeanor or felony conviction, write in “any other felony, or any other misdemeanor other than a traffic violation.” If seeking expunction under GS 15A-145.5 for multiple misdemeanors and/or two or three felony convictions, write in “any other non-traffic conviction not listed on the petition.”
- E.** If seeking expunction under GS 15A-145.6, write in “any felony, or any misdemeanor other than a traffic violation, since the date of the prostitution conviction for which I am petitioning for expungement.”
- F.** If seeking an expunction under GS 15A-145 or GS 15A-145.1, write in “any felony, or other misdemeanor other than a traffic violation, during the 2-year waiting period.”
- G.** If seeking an expunction under GS 15A-145.4, write in “any felony, or other misdemeanor other than a traffic violation, during the 4-year waiting period.”

7. No restitution orders or civil judgments representing amounts ordered for restitution entered against me are outstanding.

This the \_\_\_\_\_ day of \_\_\_\_\_, 2021.

**K:** Your signature.

Sworn to and subscribed before me

on this the \_\_\_\_\_ day of \_\_\_\_\_, 2021

\_\_\_\_\_  
Notary Public

My Commission Expires: \_\_\_\_\_

**H:** Day completed affidavit  
**I:** Month completed affidavit.  
**J:** Year completed affidavit.

**M:** A Notary Public will need to complete this portion of the affidavit. For more information on finding a Notary Public, please visit the NC Secretary of State website here: <http://www.secretary.state.nc.us/NotaryPublic/Search>

NORTH CAROLINA

IN THE GENERAL COURT OF JUSTICE

\_\_\_\_\_ COUNTY

\_\_\_\_\_ COURT DIVISION

STATE OF NORTH CAROLINA, )  
Plaintiff, )  
vs. )  
\_\_\_\_\_ )  
Defendant. )

**DEFENDANT'S  
AFFIDAVIT**

NOW COMES the Defendant, \_\_\_\_\_, who, after first being duly sworn, deposes and says:

1. I am the defendant in the above-captioned matter.
2. This sworn statement is made in support of my petition to expunge a charge from my criminal record and this motion is a motion in the case wherein I was convicted.
3. I have not received an expunction for one or more misdemeanor or felony conviction(s) after December 1, 2021.
4. I have submitted or intent to submit conviction expunction petitions in the following other counties:  
\_\_\_\_\_
5. I acknowledge that submitting the expunction applications listed in this affidavit within the 30-day period prevents me from filing to expunge additional nonviolent misdemeanors or nonviolent felonies that might be otherwise eligible for expunction.
6. The attached petition is a motion in the cause in the case wherein I was convicted.
7. I have been of good moral character and have not been convicted of \_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_
8. No restitution orders or civil judgments representing amounts ordered for restitution entered against me are outstanding.

This, the \_\_\_\_\_ day of 202\_\_.

\_\_\_\_\_  
Affiant

Sworn to and subscribed before me  
on this the \_\_\_\_\_ day of \_\_\_\_\_, 202\_\_.

\_\_\_\_\_  
Notary Public  
My Commission Expires: \_\_\_\_\_

\*\*\*Affidavit of Good Character WORKSHEET—Please use this as a guide—a blank affidavit is located on the next page\*\*\*

NORTH CAROLINA

**A:** Print here the county where the conviction occurred

IN THE GENERAL COURT OF JUSTICE

\_\_\_\_\_ [M] \_\_\_\_\_ COURT DIVISION

\_\_\_\_\_ [A] \_\_\_\_\_ COUNTY

\_\_\_\_\_ [B] \_\_\_\_\_

**M:** Write "District" or "Superior." Expunction petition must be heard in the same court in which original disposition occurred. Typically, file no. with "CR" means disposition occurred in District, "CRS" means Superior.

**B:** Print here the file number of the conviction. If petitioning for expunction of multiple the same session of court, place additional file #s beneath this initial line.  
Ex. 97 CR 014926  
97 CR 014927  
97 CR 014928

vs.

) **AFFIDAVIT OF**  
) **GOOD CHARACTER**  
)

\_\_\_\_\_ [C] \_\_\_\_\_

Defendant.

**C:** Print here Defendant's full

**D:** Print here Affiant's full name.

The Affiant, \_\_\_\_\_ [D] \_\_\_\_\_, after first being duly sworn, deposes and says:

- I am a personal acquaintance of the Defendant in the above-captioned matter.
- This statement is in support of the Defendant's petition to expunge a conviction from his/her criminal record.
- I am not related to the Defendant by blood or marriage, nor am I related to other Affiant \_\_\_\_\_ [E] \_\_\_\_\_ by blood or marriage.
- I have known the Defendant for \_\_\_\_\_ [F] \_\_\_\_\_ years.
- I live in the same community as the Defendant.
- I know the character and reputation of the Defendant in the community in which Defendant lives. Defendant's character and reputation in Defendant's community are good.

**E:** Print here the name of the other affiant who is attesting to the good character of defendant.

**F:** Print here the number of years affiant has known defendant.

This the \_\_\_\_\_ [G] \_\_\_\_\_ day of \_\_\_\_\_ [H] \_\_\_\_\_, 202 \_\_\_\_\_ [I] \_\_\_\_\_.

**I:** Year

**G:** Day Affiant completed affidavit

**H:** Month

\_\_\_\_\_ [J] \_\_\_\_\_

**J:** Affiant Signature

**K:** Affiant Printed Name

\_\_\_\_\_ [K] \_\_\_\_\_, Affiant

Sworn to and subscribed before me on this the \_\_\_\_\_ [L] \_\_\_\_\_ day of \_\_\_\_\_ [L] \_\_\_\_\_, 202 \_\_\_\_\_ [L] \_\_\_\_\_.

**L:** A Notary Public will need to complete this portion of the affidavit. For more information on finding a Notary Public, please visit the NC Secretary of State website here:  
<http://www.secretary.state.nc.us/NotaryPublic/Search>

\_\_\_\_\_ [L] \_\_\_\_\_

Notary Public

My Commission Expires: \_\_\_\_\_ [L] \_\_\_\_\_

NORTH CAROLINA  
\_\_\_\_\_ COUNTY

IN THE GENERAL COURT OF JUSTICE  
\_\_\_\_\_ COURT DIVISION

STATE OF NORTH CAROLINA, )  
Plaintiff, )  
)  
vs. )  
)  
\_\_\_\_\_, )  
Defendant. )

**AFFIDAVIT OF  
GOOD CHARACTER**

The Affiant, \_\_\_\_\_, after first being duly sworn, deposes and says:

1. I am a personal acquaintance of the Defendant in the above-captioned matter.
2. This statement is in support of the Defendant’s petition to expunge a conviction from his/her criminal record.
3. I am not related to the Defendant by blood or marriage, nor am I related to other Affiant \_\_\_\_\_ by blood or marriage.
4. I have known the Defendant for \_\_\_\_\_ years.
5. I live in the same community as the Defendant.
6. I know the character and reputation of the Defendant in the community in which Defendant lives. Defendant’s character and reputation in Defendant’s community are good.

This the \_\_\_\_\_ day of \_\_\_\_\_, 202\_\_.

\_\_\_\_\_  
\_\_\_\_\_, Affiant

Sworn to and subscribed before me  
on this the \_\_\_ day of \_\_\_\_\_, 202\_\_.

\_\_\_\_\_  
Notary Public

My Commission Expires: \_\_\_\_\_

In petitioning for relief under North Carolina’s expunction statutes, the following are frequently asked questions regarding terms, interpretations, and procedures:

**1. How do I obtain a complete and accurate account of petitioner’s criminal record?**

- A. Gaining access to a complete and accurate copy of a person’s criminal record is no easy task. There are several avenues to gain access to a criminal record, but each has its pros and cons:
  - i. County Clerk of Court: A copy of an individual’s criminal record may be obtained at the Clerk of Court’s Office in the county in which he or she was charged with a crime. A criminal record provided by a Deputy Clerk of Court will only contain records of charges or convictions that occurred in that county. A certified copy of a criminal record is usually \$25. To access a certified copy of a criminal record, you must submit form AOC-CR-314, located here: <http://www.nccourts.org/Forms/Documents/112.pdf>. However, most clerks make an “uncertified” copy available for a fraction of that fee.
  - ii. Access to CIPRS terminal: Direct access to the CIPRS system is available through computer terminals located at local courthouses. Both attorneys and non-attorneys may conduct local and statewide name- based searches through the terminals.
  - iii. NC State Bureau of Investigation (SBI): An individual may request a copy of his or her statewide criminal record from the NC SBI. The individual must submit a “Right to Review” form, along with a completed fingerprint card. The cost of the request is \$14. Sheriff’s departments typically charge \$25 to complete a fingerprint card. The “Right to Review” form is accessible here: <https://www.ncdps.gov/div/SBI/Forms/SBIRight-to-Review FILLABLE.doc>
  - iv. Adverse Action: When a prospective employer denies employment to a job applicant or otherwise takes “adverse action” based on an applicant’s criminal history, the employer is usually required to provide to the applicant a copy of any criminal background report generated by a commercial provider. For more information, please visit the Fair Credit Reporting Act website here: <http://www.consumer.ftc.gov/sites/default/files/articles/pdf/pdf-0096-fair-credit-reporting-act.pdf>
  - v. Commercial Provider: An individual may obtain a criminal background report from a commercial provider at varying prices. These can provide state and federal criminal record information but are often inaccurate.

**2. How do I identify and obtain the correct petition form?**

- A. A prospective petitioner or petitioner’s attorney must first determine the specific type of expunction for which a petitioner may be eligible because each type of expunction has a specific petition form. If using a digital version of this summary, one may use the hyperlinks contained under the “Filing Requirements” section for each expunction. Otherwise, one may use the form number (also contained in the “Filing Requirements” section) to obtain the specific petition form from the Clerk of Court’s Office or the Administrative Office of the Court’s (AOC) website, <http://www.nccourts.org/forms/formsearch.asp> (enter the form number, ex. AOC-CR-264, into the field labeled, “Form Number,” and click “Search”).

**3. How do I file a completed petition for expunction?**

- A. A petition for expunction must be filed in the county in which the charge or conviction for which the petitioner is seeking expunction occurred. The petition must be filed with the clerk who will then, for certain expunctions, send the petition to the SBI for a state and national background check. It is up to the local practices whether or not the petitioner or clerk procures a judge’s signature to authorize the NCSBI to conduct the state and national

background checks. In order to determine exactly how one should file a petition for expunction in a specific county, petitioner or petitioner's attorney should speak with a deputy clerk of court in the county. For example, some counties allow a petitioner to submit a petition to the Clerk of Court's Office once the petitioner has completed the sections requiring biographical information, arresting agency, offense description, and motion to expunge. In those counties, the Clerk of Court will then provide notice to the District Attorney (having them complete the "certificate of service" section of the petition form), obtain the presiding judge's signature, and mail the completed petition form and any accompanying affidavits to the SBI/AOC. However, in other counties, the petitioner is expected to not only complete the biographical, arresting agency, offense description, and motion to expunge sections, but is also expected to provide notice to the District Attorney (having them complete the certificate of service), and obtain the presiding judge's signature before submitting the petition to the clerk. Similarly, a few counties require a certified copy of petitioner's criminal record to be submitted with the petition for expunction (see FAQ 1). That is all to say, whether a petitioner or a petitioner's attorney, one must learn from the Clerk of Court's Office the specific procedures for filing a petition for expunction.

#### **4. What is the overall process for petitioning for expunction of a criminal record?**

A. Typically, a completed petition form is submitted to the Clerk of Court in the county in which the criminal incident giving rise to the criminal record for which petitioner is seeking expunction occurred. For certain expunctions, the petition is then submitted to the SBI and the AOC. Please note that petitions to expunge dismissed charges are no longer sent to the SBI and the AOC. In the past, some counties have required a petitioner to submit the completed petition form directly to the SBI/AOC. Session Law 2017-195 requires petitions submitted after December 1, 2017, to be filed with the clerk who will then send the petition to the SBI. The SBI conducts a state criminal background check and obtains a federal background check from the Federal Bureau of Investigation. The AOC determines and indicates in an attachment to the petition form if the petitioner has previously received an expunction. The petition form and criminal background check are returned to the Clerk of Court's Office. As of November 2018, this process is taking 2-3 months. Once a petition for expunction is returned to a Clerk of Court's Office, processes vary widely by county and by type of expunction. In some counties, the petition packet is provided directly to the presiding judge for all expunctions, and an order either granting or denying the petition is issued without a hearing. In other counties, notice is provided to the petitioner or petitioner's attorney when the packet is returned from the SBI/AOC and he or she is responsible for scheduling (also called "calendar") a hearing before the presiding judge. And in yet other counties, the process varies by type of expunction—for example, petitions for expunction of dismissed charges are reviewed without a hearing, while petitions for expunction of nonviolent convictions are scheduled for hearing. Again, petitioner or petitioner's attorney will need to speak to the staff at the Clerk of Court's office to learn the processes specific to the county in which the petition for expunction is being filed. If an order for expunction is granted, the clerk of court erases the entry from the criminal database and then delivers a certified copy of the order to the NC Administrative Office of the Courts. Certified copies of the order are also delivered to the identified arresting agencies, the sheriff, the Division of Motor Vehicles, and the Department of Public Safety (both Combined Records and the State Bureau of Investigation's Expungement Unit), which delete the records from their respective databases. The Department of Public Safety also forwards the expunction order to the FBI.

**5. What is a certificate of service?**

A. Certain expunction statutes require notice of the petition for expunction to be provided to the Office of the District Attorney. Accordingly, many of the petition forms have a “certificate of service” section where a representative from the Office of the District Attorney certifies with their signature that the office was properly provided a copy of the petition for expunction. Petitioner should speak to the Clerk of Court’s office to determine the specific procedures for completing the certificate of release. Again, procedures vary by county – some counties, for example allow the petition to be submitted to the Clerk of Court’s office and the Clerk of Court’s office notifies the DA, while other counties require petitioners to notify the DA. If petitioner or petitioner’s attorney is required to provide notice on the Office of the District Attorney, he or she will need to provide the representative a copy of the petition form and accompanying materials, and then have the representative complete the certificate of service section on the original petition form.

**6. How do I obtain a copy of an expunction order?**

A. Based on the changes to the expunction procedure set forth in Session Law 2017-195, copies of expungement orders are easier to obtain. When the expunction is granted, the clerk is required to provide the petitioner with a certified copy of the expunction order, except when the expunction is granted through an automated process. There should not be an additional fee for this certified copy of the expunction order. The law also provides a person the ability to obtain verification of the expunction of a criminal record at any time directly from the North Carolina Administrative Office of the Courts. This is a verification that the expunction occurred, rather than a copy of the expunction order itself. In order to obtain a “certificate of verification of prior expunction” the person whose record was expunged may submit form [AOC-G-260](#).

**7. What if the county of disposition requires there to be a hearing on the petition?**

A. As previously mentioned, procedures for submitting a petition for expunction vary by county and type of expunction. So too vary the practices for reviewing the petitions. In many counties, upon their return from the SBI/AOC, petitions are reviewed by a judge without a formal hearing. In these counties, petitioners are not typically informed when the petition is returned from the SBI/AOC and prior to a judge’s review; instead, petitioners are informed only after a judge has granted or denied the petition for expunction. In other counties, petitioners must appear before the court in a formal hearing. In such circumstances, it is very important that the petitioner ask the Clerk of Court how to schedule the hearing on the petition. Such hearings are typically evidentiary, meaning the petitioner is given the opportunity to present evidence and arguments to demonstrate that he or she is eligible for expunction. Most of the expunction statutes require the court to grant the expunction if the client is eligible. However, certain expunctions, such as NCGS 15A-145.5 *Expunction of Nonviolent Offenses*, preserves the court’s discretion to grant or deny the petition, even where the individual is eligible for expunction. If the Office of the District Attorney opposes the petition, they will typically argue against the petition at this hearing.

**8. What is the procedure for appealing or otherwise challenging an expunction decision?**

A. According to the North Carolina Court of Appeals recent decision in *State v. J.C.*, expunctions are a criminal matter, at least for purposes of appeal. For a thorough and thoughtful discussion of the issue, please see the UNC School of Government’s post by Professor John Rubin here: <https://nccriminallaw.sog.unc.edu/appeals-expunction-decisions/>

**9. Can an individual have an out-of-state or federal criminal record expunged under North Carolina’s expunction statutes?**

A. No. Only charges or convictions occurring under North Carolina law are eligible for expunction under North Carolina’s expunction statutes. Each state has its own statutes related to the expunction and/or sealing of criminal records.

**10. Will a federal or out-of-state criminal record make an individual ineligible for expunction of charges and/or convictions that occurred in North Carolina and would otherwise be eligible for expunction?**

A. Yes, in many circumstances. A conviction under the laws of the United States or other states is treated as an “other felony or misdemeanor conviction” for purposes of expunctions in NC. Accordingly, if a specific expunction statute requires that an individual have “no other convictions,” then a federal or other state conviction will likely make that individual ineligible for relief in North Carolina. In processing each petition for expunction, the SBI obtains a federal background report from the Federal Bureau of Investigation.

**11. How are Prayers for Judgment Continued (PJC) treated for purposes of expunction?**

A. There is no definitive answer to this question. The generally narrow nature of North Carolina’s expunction relief seems to have impacted the willingness of courts to blur the lines when it comes the nature of PJC for purposes of expunction. District and superior courts regularly treat PJC as convictions that are expungeable—meaning a PJC is potentially expungeable under NCGS 15A-145 – 15A-145.6, but is likely not expungeable under NCGS 15A-146 (expunction of dismissed charge). A related question of law is whether a prior or subsequent PJC makes an individual ineligible for expunction of a separate criminal conviction because many expunction statutes require the petitioner to have “no other conviction” or “no previous conviction.” In reviewing petitions in such circumstances, several district and superior courts have been persuaded to treat subsequent or prior PJC as something other than convictions and not disqualifying, and, thereby, found the petitioners to be eligible for expunctions of the traditional convictions. For more information on expunction of PJC, please see this article by the UNC School of Government: <http://nccriminallaw.sog.unc.edu/?p=1453>.

**12. What are “misdemeanor traffic violations”?**

A. Based on the use of the term “traffic violations” in Chapter 20 of the General Statutes, it is likely that a “misdemeanor traffic violation” should be interpreted to mean any misdemeanor offense contained in Chapter 20 of the General Statutes, including DUI. This interpretation has prevailed in several district and superior courts.

**13. When a charge appears in both District and Superior Courts (most commonly by a superseding indictment or appeal), is it necessary to submit petitions for expunction in both District and Superior Courts?**

A. No. In such circumstances, it is only necessary to file the petition for expunction in Superior Court.

**14. Is the relevant misdemeanor or felony classification for purposes of expunction the classification at the time of the conviction or the current classification of the offense?**

A. There is no definitive answer to this question. All misdemeanor and felony offenses are classified for purposes of sentencing. Felonies are classified from A to I, with the most serious offenses being Class A offenses. Misdemeanors are classified A1, 1, 2, and 3, with the most serious offenses being Class A1 offenses and the least serious offenses being Class 3 offenses. Understandably, eligibility for expunction of a criminal conviction is often based on the classification of the offense. However, the expunction statutes are silent as to whether the relevant classification is the classification of the offense at the time of the conviction or

the classification of the offense at the time the petition for expunction is submitted. This issue is important because the classification of an offense can change as reforms are made to the law. Such shifts can occur by targeted changes to specific offenses as occurs in every session of the legislature, or, as last occurred in 1994, as part of wholesale reform of our state's sentencing laws. Accordingly, there will be a handful of circumstances where the classification at the time of conviction and at the time the individual petitions for expunction will be different and the petitioner's eligibility for expunction will depend entirely upon a court's interpretation of which classification is relevant. For example, conspiracy to commit armed robbery was a Class H offense in 1993, while conspiracy to commit armed robbery is now a Class E offense—a Class E felony is not eligible for expunction, while a Class H felony may be eligible for expunction.

**15. At what age are individuals charged as adults in North Carolina?**

A. In North Carolina, the juvenile age for misdemeanors and Class H and I felonies increased from 15 to 17 on December 1, 2020, meaning the vast majority of 16- and 17-year-olds accused of crimes in North Carolina will now be treated as juveniles and records of their juvenile adjudications will be treated as confidential. Prior to December 1, 2019, juvenile jurisdiction ended after age 15, meaning individuals accused of criminal offenses were automatically charged as adults beginning at age 16 (note: individuals under age 16 accused of committing certain felony offenses may be charged as adults with the consent of the juvenile court). Accordingly, records of these past charges and/or convictions are not sealed as juvenile adjudications; instead, these charges and/or convictions remain on individuals' criminal records unless expunged. Section 1 of the Second Chance Act extends broad relief to individuals with these past youthful convictions that would now be treated as juvenile offenses, providing a defendant or the district attorney the ability to petition for relief which the court is required to grant.

**16. What if an individual has dismissed charges eligible for expunction in multiple counties?**

A. The person is eligible to expunge all charges that are dismissed or disposed "not guilty." The law allows an individual to file multiple petitions for expunction of dismissed or "not guilty" charges. A person eligible to expunge dismissed charges in separate counties would simply submit separate petitions for each of the charges in the respective counties.

**17. If an individual receives an order of expunction for a criminal record, what is the likelihood of that criminal record ever showing up again in a criminal background check?**

A. When a criminal record is expunged, the record is erased from the records of the court as well as any other state agencies (including the arresting agency). The Administrative Office of the Courts keeps a single file of all expunction orders that is only accessible in very limited circumstances set forth in NCGS §15A-151. Private companies that have contracted with AOC to purchase the information are also required to destroy any expunged records. Companies not doing so are potentially liable for damages under [GS §15A-152](#) (Civil Liability for Dissemination of Certain Criminal History Information). However, more and more cases are arising where the record is being sold or otherwise transferred so far downstream that the records are not being destroyed. Accordingly, there is a significant chance that despite the record being expunged it will at some point appear on a background report. In a circumstance where the expunged record does appear on a criminal background report, the petitioner may lawfully deny the charge or conviction occurred. However, many individuals in this circumstance have found it useful to explain that the criminal record has been expunged by court order.

**18. Can an employer inquire as to whether an individual has previously received an expunction?**

- A. According to North Carolina General Statutes §15A-153, a private employer or educational institution “shall not, in any application, interview, or otherwise, require an applicant for employment or admission to disclose information concerning any arrest, criminal charge, or criminal conviction of that applicant that has been expunged.” The statute also explains that an applicant need not answer such unlawful expunction inquiries if they do occur. For more information see here: <http://www.ncga.state.nc.us/Sessions/2013/Bills/Senate/PDF/S91v6.pdf>.

**19. Are there considerations that are unique to someone seeking expunction who is undocumented?**

- A. Yes. A North Carolina expunction has no affect in the federal immigration court. Therefore, undocumented people filing for expunction should obtain a certified copy of the charge(s) or conviction(s) that will be expunged for the Clerk of Court’s Office BEFORE filing the expunction petition.

**20. What if an individual is not eligible for an expunction of his or her criminal record?**

- A. Many of the more than 2 million North Carolinians with criminal histories need and are deserving of relief from the collateral consequences of their criminal records. Unfortunately, due to the limited nature of expunction opportunities in NC, everyone will not be eligible for meaningful relief under North Carolina’s expunction statutes. The following are potential alternative sources of legal relief:
- i. Title VII of the Civil Rights Act of 1964: Title VII prohibits employment discrimination based on race, gender, and other protected classes. While individuals with criminal records are not a protected class, Title VII protections have been partially extended to minorities with criminal records based on a disparate impact theory. For guidance on these protections, please visit here: [http://www.eeoc.gov/laws/guidance/arrest\\_conviction.cfm](http://www.eeoc.gov/laws/guidance/arrest_conviction.cfm). To learn more about filing a Title VII charge of discrimination, please visit here: <http://www.eeoc.gov/employees/charge.cfm>
  - ii. Title VIII of the Civil Rights Act of 1964: Title VIII prohibits housing discrimination based on race, gender, and other protected classes. While individuals with criminal records are not a protected class, Title VIII protections have been partially extended to minorities with criminal records based on a disparate impact theory. For information on how to file a complaint with the US Department of Housing and Urban Development, please see here: [http://portal.hud.gov/hudportal/HUD?src=/program\\_offices/fair\\_housing\\_equal\\_opp/complaint-process](http://portal.hud.gov/hudportal/HUD?src=/program_offices/fair_housing_equal_opp/complaint-process)
  - iii. Fair Credit Reporting Act: Employer and landlord use of criminal background checks are often regulated under the Fair Credit Reporting Act. For more information please visit here: <http://www.consumer.ftc.gov/sites/default/files/articles/pdf/pdf-0096-fair-credit-reporting-act.pdf>

Do you have general questions or comments? Please feel free to reach out Laura Holland at [Laura@ncjustice.org](mailto:Laura@ncjustice.org) or Emily Mistr at [EmilyM@ncjustice.org](mailto:EmilyM@ncjustice.org).

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