



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 2024.

2024

Prepared by:

Laura (Holland) Webb, NC Justice Center



north carolina
JUSTICE CENTER

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

In North Carolina, an expunction is the destruction of a criminal record. 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 without committing perjury or false statement deny or refuse to acknowledge that the criminal incident occurred. An 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 eligibility over the last decade. As of July 1, 2023, criminal records eligible for expunction in North Carolina can be summarized to the following categories:

- **Up to three “non-violent”¹ felony convictions***
- **One or multiple “non-violent” misdemeanor convictions***
- **A first-time conviction of certain offenses committed before age 18 or 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 about 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.² The number of expunction orders in FY 2022-2023 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, we urge you to consider assisting low-income North Carolinians with pro bono or reduced-fee legal services

[\(http://www.probono.net/nc/\)](http://www.probono.net/nc/).

¹ For purposes of expunctions, “non-violent” is defined in N.C. Gen. Stat. § 15A-145.5(a), which delineates a list of charges that are not eligible for expunction. Rather than refer to the charges listed as “violent,” the NC Justice Center chooses to refer to the charges as “disqualified” or “disqualifying.” Not all the charges in this list are, in fact, “violent,” and we believe that changing the terminology is a step forwards changing the narrative of the criminal legal system.

² According to 2020 Report authored by Paper Prisons Initiative, more than 90% of people who are eligible for expunction relief never receive it. *See* State Summary: The North Carolina Second Chance Expunction Gap, Paper Prisons Initiative (2020), available at <https://paperprisons.org/states/NC.html>.

TABLE 1 NC ADMINISTRATIVE OFFICE OF THE COURTS, 2023 EXPUNCTIONS REPORT

Expunction Type	Statute	<u>Expunctions Granted FY 22- 23</u>	<u>Expunctions Granted FY 21- 22</u>	<u>Expunctions Granted Since FY 18-19</u>
Misdemeanor Under Age 18	15A-145	22	45	329
Gang Offense Under Age 18	15A-145.1	0	0	1
Controlled Substance Dismissal Under Age 22	15A-145.2 (a, b)	16	29	282
Controlled Substance Conviction Under Age 22	15A- 145.2(c)	22	20	151
Toxic Vapor Dismissal Under Age 22	15A-145.3 (a, b)	0	1	57
Toxic Vapor Conviction Under 22	15A- 145.3(c)	0	2	4
Nonviolent Felony Under Age 18	15A-145.4	10	16	79
Nonviolent Offense at Any Age	15A-145.5	3,752	1,627	8,260
Prostitution Offense	15A-145.6	3	2	12
Offenses Committed Under Age 18 before December 1, 2019	15A-145.8A	1,445	8,636	10,339
Offenses committed by Human Trafficking Survivors	15A-145.9	0	4	6
Charge Not Resulting in Conviction (petitions)	15A-146 (a,a1,a2)	16,833	15,771	70,313
Charge Not Resulting in Conviction (automation)	15A- 146(a4)	55,908	395,055	450,963
Identity Theft/Misidentification	15A-147	456	701	5,030
Pardon of Innocence	15A-149	0	1	2

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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

Step 1

- **Obtain an Accurate and Complete Copy of Petitioner's Criminal Record**
 - How to obtain a Statewide Report [pp. 8-20]
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Step 2

- **Determine Petitioner's Expunction Eligibility**
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Step 3

- **Identify and Obtain Relevant Petition Form**
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Step 4

- **Complete the Petition Form (and any supporting documents)**
 - Expunction Grids [pp. 12-24]
 - Petition and Affidavit Samples [pp. 25-30]

Step 5

- **Identify and Follow County-Specific Procedures for Submission of Petition, and if necessary, obtain a certified copy of the charges to be expunged**
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Step 6

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Step 7

- **Verify Execution of Expunction Order**
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Recent Key Legislative Changes to Expunction Eligibility, Access, and Procedure

Session Law 2024-35/SB 565

REVISE AUTOMATIC EXPUNCTION

This law restarted automatically expunction with changes to improve the notification process and standardize the process retaining the confidential, expunged records.

Session Law 2023-103/HB 193

AOC COURT CHANGES/AMEND EXPUNCTION

This law further expands expunction eligibility for “non-violent” adult convictions. It also extends the temporary pause of automated expunction to July 2024.

Session Law 2022-47/HB 607

VARIOUS COURT CHANGES

In 2022, in a bill that made various changes to the North Carolina court system, the General Assembly amended the expunction laws to temporarily pause the automated expunction of charges that resulted in dismissal, not guilty, and not responsible. Expunction law was also changed to lengthen the filing window for filing conviction expunctions in multiple counties from 30 days to 120 days.



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/SB 301). This law expands expunction eligibility for “non-violent” convictions. Details of the changes are provided in relevant [statute summaries](#). UNC School of Government also published an overview of the changes, <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. As Outlined below, S.L. 2020-35 makes significant reforms to several expunction statutes. An Overview is provided by the UNC School of Government, <https://www.sog.unc.edu/blogs/nc-criminal-law/second-chance-north-carolina-through-expanded-criminal-record-clearance>.

Expanded Expunction Access Under Session Law 2024-35/SB 565

1	Restarted Automated Expunction of Certain Dismissed and Not Guilty Charges.
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Expanded Expunction Eligibility Under Session Law 2023-103/HB 193

1	A person can expunge certain breaking and entering felony convictions after 15 years. This expanded eligibility goes into effect on December 1, 2023.
2	Extends the Temporary Pause of Automated Expunction to July 1, 2024.

Expanded Expunction Access Under Session Law 2022-47/HB 607

1	Paused automated Expunction of dismissed, Not Guilty, and Not Responsible Charges from August 1, 2022 to August 1, 2023. Requires AOC to keep records of all of the charges eligible for expunction.
2	Lengthened filing window of a petitioner with multiple convictions in several counties from 30 days to 120 days. Allows a Court to grant a petition filed after the 120 day period upon showing of good cause.

Expanded Expunction Eligibility Under Session Law 2021-118/SB 301

1	A person can expunge up to three non-violent 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 convictions.
3	A person can expunge an otherwise eligible non-violent conviction(s) whether or not they have a DWI conviction. DWI is still not eligible for expunction.

Expanded Expunction Eligibility and Access 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 the 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 in SL 2021-118/SB 301 about expunging 2 or 3 “non-violent” felonies.</i>
4	Automated Expunction: Certain charges resulting in dismissal, not guilty, or not responsible on or after December 1, 2021, including felony, misdemeanor, and infraction charges, will be automatically expunged “by operation of law.” Charges that were dismissed pursuant to a plea agreement that ended with at least one felony conviction will not be automatically expunged. However, the individual can expunge that category of dismissed charge through the petition-based process. <i>Note: automated expunction has been temporarily paused. See SL 2022-47 and 2023-103.</i>
5	Prosecutor-Initiated Relief: Under the Second Chance Act district attorneys can petition for expunctions under GS 15A-145.8A (youth 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 article https://www.ncjustice.org/thanks-to-bipartisan-second-chance-act-400000-convictions-eligible-for-prosecutor-initiated-expunctions/

How to Read an E-Court Report

In 2023, North Carolina court systems begin its transition from its paper-based and mainframe record keeping system to an integrated case management system called Odyssey. The Odyssey system is hosted in the cloud and allows for e-Filing and remote access for all case types (herein known as E-courts). As of September 2023, E-courts has been launched in Wake, Lee, Johnston, and Harnett Counties. Mecklenburg County is scheduled to launch E-courts in October 2023. The picture of the annotated summary record below highlights the information and fields relevant to petitioning for an expunction of a criminal charge or conviction.

Wake District Court

Case Summary
Case No. 89CR-910

STATE OF NORTH CAROLINA VS [REDACTED] §
§

Location: Wake District Court
Filed on: 12/06/1989

County & District/Superior Court

Case Information

Offense	Statute	Degree	Offense Date	Filed Date	Case Type	Case Status
01. FAIL TO RETURN RENTAL PROPERTY	14-167	MNC	06/11/1989	12/06/1989	Criminal	03/22/2013 Disposed

Offense Date

Assignment Information

Current Case Assignment
Case Number [REDACTED]
Court Wake District Court
Date Assigned [REDACTED]

Party Information

Defendant [REDACTED]

State STATE OF NORTH CAROLINA
Other

Complainant [REDACTED]

Petitioner's Information including name and address

Case Events

01/29/1990 Legacy Process Returned Unserved Date
Created: 01/29/1990 12:00 AM

11/29/1989 Criminal Summons Issued
Created: 11/29/1989 12:00 AM

Dispositions

03/22/2013 **Disposition**
01. FAIL TO RETURN RENTAL PROPERTY
VD-District Dismissals w/o Leave by DA - No Plea Agreement
Created: 03/22/2013 12:00 AM

Disposition Type and Date

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). ACIS records are accessible at each local court house either by request or by using a public terminal (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. On the next page is a petition form completed for the specific criminal record below.

The image shows 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 'CHG/ARRN OFFN: F FELONY LARCENY'.
- Offense Description (if dismissed charge):** Points to 'CONV OFFN: M MISDEMEANOR LARCENY'.
- File Number [NOTE: If "CR" then heard in district court, if "CRS" then superior court]:** Points to '98CR 046090'.

Other visible fields in the report include: Date of Offense, County of Disposition, Date of Arrest, Offense Description, Date of Disposition, FILING DATE: 070298, TRIAL DATE: 112598, CPD ISSUED: 070198, MOTIONS DATE, RSONCO, PLEA VER MOD, FINE, COSTS, WCC, REST, JUDGE, PAID, TO-BE-PAID, SENT LEN, SENT TYPE, PROB, AREA CD, ACCD, HWY, V LIC, CDL, CMV, HAZ, TRP/DIST, V ST, V TYP, APPELLATE, ARREST DATE: 070198, CHECK DIGIT, SID, LID, NEXT#, and PF2 - NAME INQUIRY.

Common ACIS Abbreviations

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>

Eligibility Overview

Expunction Statute	Disqualifying Previous Conviction	Disqualifying Subsequent Conviction	Wait Period	Disqualifying Previous Expunction	Judicial Discretion
7B-3200(b)	None	Juvenile adjudication; (M) or (F) as adult	18 months since release from juvenile court jurisdiction (and at least 18 years old)	None	No
15A-145	(M); (F)	(M) or (F) during wait period	2 years	None	No
15A-145.1	(M); (F)	(M) or (F) during wait period	2 years	None	No
15A-145.2(c)	(M); (F)	(M) involving drugs*; (F)	1 year	15A-145.2	Yes*
15A-145.3(c)	(M); (F)	(M) involving drugs*; (F)	1 year	15A-145.3	Yes*
15A-145.4	(M); (F)	(M) or (F) during wait period	4 years	15A-145—15A-146	Yes
15A-145.5	Felony or Violent (M)	Felony or Violent (M)	One M= 5 years; Multiple M= 7 years; One F= 10 years; Certain Breaking and Entering = 15 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
15A-145.6	Violent (F) or (M)	(M); (F)	3 years	15A-145—15A-145.6	No
15A-145.7	(M); (F)	(M); (F)	Immediate	None	No
15A-145.8a	None	None	Completion of Sentence	None	No
15A-145.9	None	None	Immediate	None	Yes
15A-146	None	None	Immediate	None	Depends
15A-147	None	None	Immediate	None	No
15A-149	None	None	Immediate	None	No
Cert of Relief	A-G felony; more than 3 incidents of H or I felony convictions		1 year after completion of sentence	None	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"> • Birth Date → Offense Date • Under Age 18 or 22 v. Any Age <p>B. What were the elements of the offense?</p> <ul style="list-style-type: none"> • Disqualifying v. Qualifying • Controlled Substance 	<p>C. How long has it been since the conviction?</p> <ul style="list-style-type: none"> • Conviction Date → Current Date • Is relevant wait period satisfied? • Is sentence fully satisfied? • Is there restitution or civil judgment owed? <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 and misdemeanor charges disposed of as dismissed without leave, not guilty, or not responsible (prior to December 1, 1999).

General information about eligibility under this statute

- An individual or district attorney may petition for expunction under NCGS 15A-146.
- Relief is mandatory in cases where all the charges were dismissed or disposed “not guilty.” This is also known as a FULL dismissal. Most jurisdictions define “case” as an individual case number for these purposes.
- Relief is discretionary in cases where a case 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. Most jurisdictions define “case” as an individual case number for these purposes.
- Generally, cases disposed of as “no probable cause” and “never to be served” are treated as dismissals for expunction purposes.
- A felony conviction does not disqualify a person from expunging dismissed or not guilty charges.
- A previous expunction does not disqualify a person from expunging dismissed or not guilty charges.

Filing Requirements

- Form: [AOC-CR-287](#) (Charge(s) Dismissed) & [AOC-CR-288](#) (Not Guilty or Not Responsible)
- Cost: None, unless the charge(s) were dismissed as a result of the successful completion of a diversionary program, conditional discharge, or prosecutorial deferral agreement, in which case, there is a filing fee of \$175. Indigent petitioner(s) may file a Petition to Proceed as Indigent ([AOC-G-106](#)) to petition the court to waive the fee. There is no fee to expunge not guilty charge(s).
- 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 it to the petitioner’s plea.
- Beginning December 1, 2021, charges that are dismissed or disposed “not guilty” or “not responsible” will be automatically expunged. Felony charges that are dismissed pursuant to a plea agreement are not eligible for automated expunction (but are still eligible for petition-based relief).
- An arresting agency may maintain investigative records related to an expunged dismissed or not guilty charge. (*see* 15A-146(a)(5))

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

General information about eligibility under this statute

- An individual or district attorney may petition for relief under NCGS 15A-145.8A.
- YOUTHFUL conviction(s) are defined as those where the petitioner was 16 or 17 years old at the time of the offense AND the offense occurred prior to December 1, 2019.
- The disqualifying conviction rule (see chart for 145.5) does not apply to YOUTHFUL conviction(s). If a person has any youthful convictions for an A-G felony or misdemeanor sexual battery, the person will still be able to expunge his other eligible YOUTHFUL conviction(s). In addition, if a person has an ADULT disqualifying conviction(s), they do not impact eligibility to expunge YOUTHFUL conviction(s).
- Petitioner must have completed any active sentence, period of probation, and post-release supervision ordered for the offense. NOTE: There is no waiting period after completing the 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-293](#) (Petitioner) & [AOC-CR-294](#) (District Attorney)
- Cost (Petitioner): \$175. Indigent petitioner(s) may file a Petition to Proceed as Indigent ([AOC-G-106](#)) to petition the court to waive the fee.
- Cost (District Attorney): None.
- Required Affidavits: None.
- Required Notice: If the petition is filed by a petitioner, the DA’s office must be provided with notice. The DA must make its 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

Records of all expunged convictions are maintained in the statewide confidential file and are 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

“Non-violent” Misdemeanor or Felony (Any Age)
NCGS 15A-145.5

Criteria

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

- One or multiple “non-violent” misdemeanor convictions
- One or up to three “non-violent” felony convictions

General information about eligibility under this statute

- An individual may petition in the county of conviction for relief under NCGS 15A-145.5.
- 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.
- A “nonviolent” felony or misdemeanor is one that is not included as a disqualified adult convictions listed in the statute (also see next page). If a person has any disqualifying conviction, the person cannot expunge the disqualifying conviction OR any other adult conviction on their record. NOTE: DWI convictions are no longer disqualifying but are still ineligible for expunction.
- Multiple convictions may be treated as one conviction ONLY if the 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)).
- To maximize relief, all adult convictions must be filed 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 conviction expunction filed before December 1, 2021, is not disqualifying.
- If filing in multiple counties, all petitions must be filed within 120 days of each other.
- Petitioner must have no outstanding warrants or pending criminal, non-traffic cases, is not under indictment, and no finding of probable cause exists against the defendant for a felony, in any federal or state court in the United States. (see S.L. 2023-103)
- Petitioner cannot be free on bond or personal recognizance pending trial, appeal, or sentencing in any federal or state court in the United States for a crime which would prohibit the person from expunging an adult conviction. (see S.L. 2023-103)
- 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. For expunging convictions under NCGS 14-54(a), at least 15 years after the date of the conviction or 15 years after any active sentence, period of probation, or post-release supervision, related to the conviction listed in the petition, has been served, whichever occurs later.
2. For expunction of two or three “nonviolent” felonies,
 - (a) the offense dates for the felony convictions 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 (bka “violent convictions”)

- A Class A – G felony or a Class A1 misdemeanor
- An offense that includes assault as an essential element of an offense
- An offense that requires sex offender registration (Article 27A, Chapter 14)
- Specified sex-related and stalking offenses (see 15A-145.5(a)(4))
- Any felony offense in Chapter 90 that involves methamphetamines, heroin, or possession with intent to sell or deliver cocaine
- Specified hate crimes (see 15A-145.5(a)(6))
- An offense of contaminating food or drink to render one mentally incapacitated or physically helpless (see 15A-145.5(a)(7))
- An offense of felony breaking and entering with intent to terrorize or injure occupant (see 14-54(a)(1))
- **Any felony offense in which a commercial motor vehicle was used in the commission of the crime**
- **Any offense that is an attempt to commit any of the offenses captured in A-I above.**

Filing Requirements

- Form: [AOC-CR-297](#) (Non-violent Felony(ies)) & [AOC-CR-298](#) (Non-violent Misdemeanors)
- Cost: \$175. Indigent petitioner(s) may file a Petition to Proceed as Indigent ([AOC-G-106](#)) to petition the court to waive the fee.
- Required Affidavits: (1) Petitioner’s Affidavit and (2) Two Character Affidavits (note: the affidavits must be from two individuals who are not related to the petitioner or each other, by blood or marriage, and who are familiar with the petitioner’s reputation in the community.
- Required 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

Records of all expunged convictions are maintained in the statewide confidential file and are 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

Misdemeanor Conviction for Possession of Alcohol Under Age 21
Non-Traffic Misdemeanor Convictions 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 before age 21
- A conviction for a non-traffic misdemeanor committed before age 18

General information about eligibility under this statute

- At least 2 years have passed since the date of conviction.
- Petitioner must have no previous misdemeanor or felony convictions, other than traffic violations, from NC, federal or other state courts 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. Indigent petitioner(s) may file a Petition to Proceed as Indigent ([AOC-G-106](#)) to petition the court to waive the fee.
- Required Affidavits:
 - Petitioner's Affidavit which includes 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.
 - Two Character Affidavits from two individuals who are not related to the petitioner or each other, by blood or marriage, and who are familiar with the petitioner's character and reputation in the community.
- Required Notice: DA must be provided notice. The Certificate of Service must be completed on the petition prior to filing. DA has 10 days to file objections against the expunction.

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 waiting period and no required affidavits under 15A-145.8A.
- DWI convictions and convictions that require registration on sex offense registry are not eligible for expunction under this statute. Note: misdemeanor sexual battery may be eligible for expunction if it occurred between December 1, 2003 (when the offense was created) and December 1, 2005 (when the General Assembly made sexual battery an offense requiring registration).

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. Indigent petitioner(s) may file a Petition to Proceed as Indigent ([AOC-G-106](#)) to petition the court to waive the fee.
- Required Affidavits: None.

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 waiting period or required affidavits.
- 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.
- 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.
- 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 Vapor Convictions 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 information about eligibility under this statute

- Petitioner was under the age of 21 at the time of the offense.
- At least 12 months have passed since the date of conviction.
- Petitioner has either successfully completed a drug program or has asked the court to waive the requirement.
- Petitioner has no other conviction under Article 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.
- Petitioner must have no prior expunction under this statute.

Filing Requirements

- Form: [AOC-CR-268](#)
- Cost (Petitioner): \$175. Indigent petitioner(s) may file a Petition to Proceed as Indigent ([AOC-G-106](#)) to petition the court to waive the fee.
- Required Affidavits: None.

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 waiting period or required affidavits under NCGS 15A-145.8A.
- 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.

Prostitution Conviction

NCGS 15A-145.6

Criteria

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

- A conviction for a prostitution offense, which is defines as follows:
 - Violation of NCGS 14-204, or
 - Violation of NCGS 14-204(7) for an offense that occurred prior to October 1, 2013.

General information about eligibility 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, and
- The petitioner satisfies one of the following:
 - Petitioner must have no prior conviction for a prostitution offense and at least three years have passed since the date of conviction or completion of any sentence, whichever is later, or
 - Petitioner was discharged and the charge was dismissed upon completion of a condition discharge.
- 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.
- Relief is mandatory. If the petitioner meets all requirements, the court shall grant the petition.

Filing Requirements

- Form: [AOC-CR-282](#)
- Cost: \$175. Indigent petitioner(s) may file a Petition to Proceed as Indigent ([AOC-G-106](#)) to petition the court to waive the fee.
- Required Affidavits:
 - Petitioner’s Affidavit which includes 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.
 - Two Character Affidavits from two individuals who are not related to the petitioner or each other, by blood or marriage, and who are familiar with the petitioner’s character and reputation in the community.
- Required Notice: DA must be provided notice. The Certificate of Service must be completed on the petition prior to filing. DA has 30 days to file objections against the expunction.

“Non-violent” Conviction of Human Trafficking Victim
NCGS 15A-145.9

Criteria

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

- A “non-violent” 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 information about eligibility under this statute

- For purpose of this statute, “non-violent offense” is defined as any misdemeanor or felony except the following:
 - A Class A-G felony
 - An offense that includes assault as an essential element of the offense
 - An offense that requires registration on the sex offense registry (Article 17A, Chapter 14)
 - Specified sex-related and stalking offenses (see 15A-145.9(a)(1)(d))
 - Specified hate crimes (see 15A-145.9(a)(1)(e))
 - Any offense of contaminating food or drink to render one mentally incapacitated or physically helpless
 - A traffic offense
 - Any offense that is an attempt to commit the offense described above
- A human trafficking victim is a person who meets the definition of victim as defined under NCGS 14-43.10 or the federal Trafficking Victims Protection Act (22 U.S.C. § 7102(13))
- Petitioner must have no outstanding warrants
- Petitioner must have no outstanding restitution orders or civil judgments for restitution.
- Relief is mandatory. The Court may consider petitioner’s conduct since the date of conviction and review other relevant information such as testimony from law enforcement, District Attorney or License Social Workers.

Filing Requirements

- Form: [AOC-CR-290](#)
- Cost: None
- Required Affidavits:
 - A Petitioner’s Affidavit that includes 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, and
 - There are no outstanding restitution orders or civil judgments for restitution.
- Required Notice: DA must be provided notice. The Certificate of Service must be completed on the petition prior to filing. DA shall have 30 days in which to file an objection.

Identity Theft/Misidentification

NCGS 15A-147

Criteria

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

- For charges filed before Dec. 1, 2015, an individual may petition for expunction of a charge that resulted from identity theft, and the charge was dismissed, disposed of as “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 result from identity theft OR mistaken identity, and disposed of as “not guilty”, or the conviction was set aside. Hearing is required.
- For charges filed on or after Dec. 1, 2015, if a charge that result from identity theft is dismissed based on said identity theft or mistaken identity, the court shall order the expunction of the charge.

General information about eligibility under this statute

- The definition of mistaken identity is broad. According to the statute, mistaken identity is “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 a 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-290](#)
- Cost: None
- Required Affidavits:
 - A Petitioner’s Affidavit that includes 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, and
 - There are no outstanding restitution orders or civil judgments for restitution.
- Required Notice: DA must be provided notice. The Certificate of Service must be completed on the petition prior to filing. DA shall have 30 days in which to file an objection.

Pardon of Innocence
NCGS 15A-149

Criteria

Under this statute, a person can expunge the following:

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

Filing Requirements

- Form: [AOC-CR-265](#)
- Cost: None
- Required Documents: Must attach a copy of the Pardon to the expunction petition.

DNA Records
NCGS 15A-266.3A

Criteria

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 from shall be required, and the prosecuting district attorney shall initiate the procedure” for expunction. Eligibility: (1) the charge was dismissed or disposed as not guilty, or (2) the defendant was convicted of a lesser misdemeanor that does not require DNA, or (3) no charge was filed within the statute of limitation, or (4) no conviction occurred, at least 3 years has passed since arrest, and no active prosecution is occurring.

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 information about eligibility 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 information about eligibility 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 individuals not related to client (or each other)

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 information about eligibility 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 from individuals not related to client (or each other)

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 relief including:

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

General information about eligibility under this statute:

- A person must file a petition and obtain an individual Certificate of Relief in each county where her or she has a conviction.
- Petitioner may have any number of misdemeanor convictions and no more than three (3) H and 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 lawful occupation or activity or have a lawful source of income.
- Petitioner must state 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 state that granting the petition would not pose an unreasonable risk to the safety or welfare of the public or any individual.
- No previous petition for a certificate of relief on the listed convictions have been filed or at least 12 months have passed since the denial of the previous petition.

Filing Requirements

- Form: [AOC-CR-273](#)
- Cost: \$50. Indigent petitioner(s) may file a Petition to Proceed as Indigent ([AOC-G-106](#)) to petition the court to waive the fee.
- Required Affidavits: None, but petitioner may submit additional materials to support the claims made in this petition at the hearing.
- Required Notice: DA must be provided notice. Certificate of Service must be completed on the petition.

Case Summary for Court Case: DURHAM 07CR

Defendant: **A**

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: -

District Court Offense Information

Current Jurisdiction: DISTRICT COURT

#	Description	Severity	Law
01	CHARGED MISDEMEANOR LARCENY C	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** Book No. (X) (Official Use Only)

In The General Court Of Justice
 District Superior Court Division

STATE VERSUS

TRACEY BEA ANYBODY
 123 MAIN STREET
 DURHAM, NORTH CAROLINA 27703

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

G.S. 15A-146, 15A-150

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: (OPTIONAL) 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.

Name And Address Of Arresting Agency
 DURHAM POLICE DEPARTMENT
 802 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.(x)	Date Of Arrest	Offense Description	Date Of Offense	Date Of Dismissal
07CR 000000 A	09/25/2007 B	MISDEMEANOR LARCENY C	09/25/2007 D	06/13/2008 F

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. 18B-302(i) prior to December 1, 1999), 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.(x) and offense description(s) of charges that were not dismissed). I therefore am requesting the expunction only of the dismissed charges listed above, and not all of the charges.
- 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 \$75.00 fee.

Date _____ Name (type or print) Laura Holland Signature _____
 Petitioner
 Petitioner's Attorney

(Over)

AOC-CR-287, Rev. 12/20 (replaced AOC-CR-264 for G.S. 15A-146(a) and (a1) petitions)
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STATE OF NORTH CAROLINA

File No.

11CR 010541

Scan No.(s) (Official Use Only)

WAKE County

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.

In The General Court Of Justice
 District Superior Court Division

STATE VERSUS

Name And Address Of Petitioner (type or print full name)

GEORGE THOMAS ANYBODY
 123 MAIN STREET
 APT 5A
 DURHAM NC 26511

**PETITION AND ORDER OF EXPUNCTION
 UNDER G.S. 15A-145.5
 (NONVIOLENT MISDEMEANOR(S))**

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

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.

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

Name And Address Of Other Agency (if any)

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	Disposition	Date Of Disposition/Conviction
11CR 010541	07/01/2011	(M) LARCENY	06/01/2011	GU	12/05/2011

PETITION/MOTION TO EXPUNGE

I hereby move for an expunction pursuant to G.S. 15A-145.5 and certify as follows:

- 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.
- This petition is being filed after the applicable waiting period: (check one)
 - 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.
 - 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.
- 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 Petitioner Petitioner's Attorney

CERTIFICATE OF SERVICE

I certify that a copy of this motion was served by:

- delivering a copy personally to the prosecutor.
- 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.
- 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

Service accepted by the prosecutor.

Date Service Accepted Name Of Person Accepting Service (type or print) Signature Of Person Accepting Service

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.

REQUEST BY JUDGE

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

****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] _____ COUNTY

A: Insert the county where the conviction occurred

IN THE GENERAL COURT OF JUSTICE
 _____ [M] _____ COURT DIVISION
 Case No. _____ [B] _____

STATE OF NORTH CAROLINA,
 Plaintiff,

vs.

_____ [C] _____,
 Defendant.

M: Insert “District” or “Superior.” Expunction petition must be heard in the same court as the original case. Typically, file nos. with “CR” mean District Court, “CRS” means Superior Court.

DEFENDANT’S AFFIDAVIT

B: Insert the file number of the conviction. If petitioning to expunge multiple convictions, put all the file numbers on this affidavit.

C: Insert Defendant’s Full Name

Ex. 97CR 014926

NOW COMES the Defendant, _____ [C] _____, 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 or conviction from my criminal record and the expunction petition is a motion in the case wherein I was convicted.
3. I have not received an expunction from one or more misdemeanor or felony conviction after December 1, 2021.
4. I have submitted or intent to submit conviction expunction petitions in the following counties:
5. I acknowledge that submitting the expunction applications listed in this affidavit within 120-day period prevents me from filing to expunge additional nonviolent misdemeanors or 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]_____.

D. If seeking expunction under GS 15A-145.5 for one misdemeanor or felony conviction, write in “any other conviction other than traffic.” If seeking expunction under GS 15A-145.5 for multiple misdemeanors or up to three felonies, write in “any other non-traffic conviction not listed on the petition.”

E. If seeking expunction under GS 15A-145.6, write in “any conviction other than traffic 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 conviction other than a traffic violation, during the 2-year waiting period.”

G. If seeking an expunction under GS 15A-145.4, write in “any conviction other than a traffic violation, during the 4-year waiting period.”

7. I have no outstanding restitution orders or civil judgments representing amounts ordered for restitution entered against me. This, the _____ [H] _____ day of _____ [I] _____, 202_ [J] ____.

_____ [K] _____
 Affiant Sworn to and subscribed before me
 on this the ___ [L] ___ day of _____ [L] _____, 202_ [L] ____.
 _____ [L] _____
 Notary Public
 My Commission Expires: _____ [L] _____

H: Day completed affidavit
I: Month completed affidavit
J: Year completed affidavit
K: Affiant signature
L: Section filled out by Notary

NORTH CAROLINA
_____ COUNTY

IN THE GENERAL COURT OF JUSTICE
_____ COURT DIVISION

Case No. _____

STATE OF NORTH CAROLINA,
Plaintiff,

vs.

)
)
)
)

**DEFENDANT'S
AFFIDAVIT**

_____,
Defendant.

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

- 8. I am the defendant in the above-captioned matter.
- 9. This sworn statement is made in support of my petition to expunge a charge or conviction from my criminal record and the expunction petition is a motion in the case wherein I was convicted.
- 10. I have not received an expunction from one or more misdemeanor or felony conviction after December 1, 2021.
- 11. I have submitted or intent to submit conviction expunction petitions in the following counties:
- 12. I acknowledge that submitting the expunction applications listed in this affidavit within 120-day period prevents me from filing to expunge additional nonviolent misdemeanors or felonies that might be otherwise eligible for expunction.
- 13. I have been of good moral character and have not been convicted of _____.
- 14. I have no outstanding restitution orders or civil judgments representing amounts ordered for restitution entered against me.

This, the _____ day of 202____.

Affiant

Sworn to and subscribed before me
on this the ____ day of _____, 202__.

Notary Public
My Commission Expires: _____

NORTH CAROLINA
_____[A]_____ COUNTY

A: Insert the county where
the conviction occurred

IN THE GENERAL COURT OF JUSTICE
_____[M]_____ COURT DIVISION
Case No. _____[B]_____

STATE OF NORTH CAROLINA,
Plaintiff,

M: Insert "District" or
"Superior." Expunction
petition must be hear in
the same court as the
original case. Typically,
file nos. with "CR" mean
District Court, "CRS"
means Superior Court.

AFFIDAVIT OF GOOD CHARACTER

vs.

_____[C]_____,
Defendant.

C: Insert Defendant's full
name

B: Insert the file number of the
conviction. If petitioning to
expunge multiple convictions, put
all the file numbers on this
affidavit.
Ex. 97CR 014926

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

1. I am a personal acquaintance of the Defendant in the above-mentioned 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 the other Affiant _____[E]_____ by blood or marriage.
4. I have known the Defendant for _____[F]_____ 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.

E: Insert the name of the other affiant
who is attesting to the good character of
Defendant.
F: Insert the number of years affiant has
known Defendant.

This the ___[G]___ day of _____[H]_____, 202_[I]__.

_____ [J] _____

_____[K], Affiant
Sworn to and subscribed before me
on this the ___[L]___ day of ___[L]___, 202_[L]_.
_____[L]_____
Notary Public
My Commission Expires: ___[L]_____

G: Insert Day affidavit completed
H: Insert Month affidavit completed
I: Insert Year affidavit completed
J: Place for Affiant's signature
K: Insert Affiant's Printed Name
L: Section filled out by Notary

NORTH CAROLINA
_____ COUNTY

IN THE GENERAL COURT OF JUSTICE
_____ COURT DIVISION

Case No. _____

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-mentioned 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 the 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: _____

FREQUENTLY ASKED QUESTIONS

The following are frequently asked questions about terms, interpretations, and procedures related to North Carolina's criminal record expunction statutes.

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 for [AOC-CR-314](#), <http://www.nccourts.org/Forms/Documents/112.pdf>, to the clerk's office. However, most clerks make the "uncertified" copy available for a fraction of the fee.
 - ii. Online E-Courts Portal: Starting at the end of 2023, select counties have transitioned their public criminal record database from CIPRS to E-Courts. E-courts is a cloud-based database that can be accessed on most computers. The transition from CIPRS to E-Courts is scheduled to occur in phases, and therefore, it will be years until a person can obtain their entire criminal record from the E-court online portal. To find out which counties have transitioned from CIPRS to E-Courts, review [AOC's E-Courts webpage](#). To access the portal and training materials on how to navigate that portal, visit <https://portal-nc.tylertech.cloud/Portal/>
 - iii. Courthouse 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. Starting at the end of 2023, select counties have transitioned the criminal record databases from CIPRS to E-Courts. In these counties, criminal records cannot be obtained through the CIPRS terminal. To find out which counties have transitioned from CIPRS to E-Courts, review AOC's E-Courts webpage.
 - iv. 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, https://www.ncsbi.gov/Services/SBI-Forms/SBIRight-to-Review_FILLABLE-2021.aspx.
 - v. 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 webpage](#), <https://www.ftc.gov/legal-library/browse/statutes/fair-credit-reporting-act>.
 - vi. 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](#), <https://www.nccourts.gov/documents/forms>. For example, enter the form number, such as 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 that 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 the petitioner or clerk procures a judge's signature to authorize the NCSBI to conduct the state and national background checks. To determine exactly how one should file a petition for expunction in a specific county, the 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. Also note, starting in 2023, some counties will require expunction petitions be filed through the online e-courts system. 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

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 the 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 Expunction Unit), which delete the records from their respective databases. The Department of Adult Corrections 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 District Attorney's Office. Accordingly, many of the petition forms have a "certificate of service" section where a

representative from the District Attorney's Office certifies with their signature that the office was properly provided a copy of the expunction petition. Petitioner should speak to the Clerk of Court's Office to determine the specific procedures for completing the certificate of service. Again, the 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 to the District Attorney's Office, 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. 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.

7. 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 with 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](#). The form is available on the AOC forms webpage, <https://www.nccourts.gov/documents/forms/application-for-certificate-of-verification-of-prior-expunction>.

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

- a. According to the North Carolina Court of Appeals 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, <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 North Carolina charges or convictions that are otherwise 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 expungable—meaning a PJC is potentially expungable under NCGS 15A-145 – 15A-145.6, but is likely not expungable 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](https://nccriminallaw.sog.unc.edu/can-you-expunge-a-pjc/) by the UNC School of Government, <https://nccriminallaw.sog.unc.edu/can-you-expunge-a-pjc/>

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 expunction petition 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. Can you expunge information for a charge that ended with a conviction of a lesser included offense (i.e. guilty to lesser)?

- a. No, it is not likely that the charging information for an offense ending in a lesser conviction is not expungable. In *State v. Lebedev*, the court found that amending a charging document to charge a person

with a lesser included offense does not equate to a dismissal. Therefore, there is no authority for a court to expunge the information of the original charge.

16. 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.

17. What if an individual has expunction-eligible dismissed charges in multiple counties?

- a. A 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.

18. What if an individual has expunction-eligible convictions in multiple counties?

- a. Under the current law, a person is eligible to expunge multiple misdemeanors and up to 3 felonies (that occurred within a 24-month period). A person eligible to expunge convictions in multiple counties must submit petitions in each county within a 120-day period. The person must also indicate on an affidavit that accompanies that expunction petition(s) that he or she will submit expunction petition in another county(ies).

19. If an individual receives an order for 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 had occurred. However, many individuals in this circumstance have found it useful to explain that the criminal record has been expunged by court order.

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

- a. No, 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 visit, <https://www.ncleg.gov/Sessions/2013/Bills/Senate/PDF/S91v6.pdf>.

- 21. Are there considerations that are unique to an undocumented person seeking criminal record expunction?**
- a. Yes, a North Carolina expunction has no effect in the 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.
- 22. What if an individual is not eligible for an expunction of his or her criminal record?**
- a. Many of the more than 1.6 million North Carolinians with criminal histories need and are deserving of relief from the collateral consequences of their criminal records. Unfortunately, everyone will not be eligible for meaningful relief under the North Carolina expunction statutes. The following are potential alternative sources of legal relief:
 - i. Certificate of Relief: A Certificate of Relief is a court order that relieves the person of automatic collateral consequences that stem from a criminal record. A Certificate of Relief does not remove charges from a person's criminal record. For more information about the Certificate of Relief visit, <https://nccriminallaw.sog.unc.edu/certificate-of-relief-from-collateral-consequences-of-a-criminal-conviction/>.
 - ii. 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 protected classes, Title VII protections have been partially extended to minorities with criminal records based on a disparate impact theory. For guidance on these protections visit, <https://www.eeoc.gov/laws/guidance/enforcement-guidance-consideration-arrest-and-conviction-records-employment-decisions>. To learn more about filing a Title VII charge of discrimination visit, <https://www.eeoc.gov/filing-charge-discrimination>.
 - iii. 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 visit, https://www.hud.gov/program_offices/fair_housing_equal_opp/online-complaint.
 - iv. Fair Credit Reporting Act: Employer and landlord use of criminal background checks are often regulated under the Fair Credit Reporting Act. For more information visit, <https://www.ftc.gov/legal-library/browse/statutes/fair-credit-reporting-act>.

If you have any questions or concerns, feel free to reach out to Laura Webb, laura@ncjustice.org.

Updated 9/26/2024