

March 20, 2007

S 1081. EXPUNGE NONVIOLENT CRIMES. Filed 3/20/07. *TO PROVIDE FOR THE EXPUNCTION OF CONVICTIONS FOR CERTAIN NONVIOLENT CRIMINAL OFFENSES, TO ALLOW DISCLOSURE OF EXPUNGED INFORMATION TO LAW ENFORCEMENT AGENCIES AND FEDERALLY INSURED DEPOSITORY INSTITUTIONS FOR EMPLOYMENT PURPOSES ONLY AND TO REQUIRE THOSE AGENCIES AND INSTITUTIONS TO MAINTAIN THE CONFIDENTIALITY OF THE EXPUNGED INFORMATION, TO MAKE CONFORMING CHANGES TO EXISTING EXPUNCTION STATUTES, TO INCREASE THE FEES FOR EXPUNCTIONS, AND TO REQUIRE STATE AND NATIONAL CRIMINAL RECORD CHECKS WHEN EXPUNGING RECORD .*

To be summarized in tomorrow's *Daily Bulletin*.

Intro. by Weinstein.

GS 15A, 90

March 21, 2007

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Enacts new GS 15A-150 providing for the expunction of conviction records of certain nonviolent criminal offenses if there are no subsequent criminal convictions for at least 10 years. Covered nonviolent offenses include misdemeanors and Class H and I felonies, except that the following are excluded: offenses involving assaults, requiring sex offender registration, involving possession or use of a firearm as an element or as an aggravating factor, drug trafficking, and involving impaired driving. Petition cannot be filed earlier than 10 years after the date of conviction or completion of active time, post-release supervision, or probation, whichever is later. The Administrative Office of the Courts (AOC) will maintain a confidential file of the names of persons granted expunctions and other information, which may be disclosed only to trial judges to determine if a person charged with an offense has been granted an expunction and to state and local law enforcement agencies and federally insured depository institutions for employment purposes. Unauthorized disclosure or use of the information is a Class 3 misdemeanor. Requires an expunction fee of \$200, with \$100 remitted to the Department of Justice and \$100 remitted to the AOC. Provides that the expunction provision in GS 15A-145 for first offenders under 18 years old and for certain other misdemeanors applies only if the person has not previously obtained an expunction under the statute, modifies the form of the petition, and increases the fee from \$125 to \$200, allocated as stated above. Amends the expunction provision in GS 90-96 for first drug offenses to modify the form of the petition and increase the fee from \$65 to \$200, allocated as stated above. Makes parallel changes to GS 90-113.14 for first offenses under the Toxic Vapors Act, and provides for a similar \$200 fee. Effective December 1, 2007.

Intro. by Weinstein.

GS 15A, 90

July 18, 2007

S 1081. EXPUNGE NONVIOLENT CRIMES. Filed 3/20/07. Senate committee substitute makes the following changes to 1st edition. Modifies proposed new GS 15A-150 to (1) reorganize and clarify the statute, (2) specify a limited list of felony violations that are eligible for possible expunction (was, provided a list of felonies that were ineligible for expunction), (3) require that the petitioner's affidavit and the verified affidavits of two persons regarding the petitioner's character assert that the petitioner has been of good moral character (was, good behavior), (4) extend from 10 days to 30 days the time period for the district attorney of the court where the conviction was obtained to file any objection to the petition, and (5) require the district attorney to make his or her best efforts to notify the victim (if any) of the expunction request before the hearing.

Additionally, expands the list of steps the court may take and issues it may consider in making a decision on a petition for expunction of the records of a felony conviction. Provides that the court may (was, shall) order that the petitioner be restored if the court makes a list of specified findings, including a determination that the petitioner has remained of good moral character for ten years from the date of the conviction of the felony in question and that a search of confidential records of expunctions shows that the petitioner has not been previously granted an expunction. Provides that individuals seeking certification under GS Chapter 17C [NC Criminal Justice Education and Training Commission (CJET Commission)] or GS Chapter 17E [NC Sheriffs' Education and Training Standards Commission (SETS Commission)] must disclose all felony convictions to the certifying commission whether or not the felony convictions were expunged under the statute. Makes conforming changes to GS 17C-13 (CJET Commission) and GS 17CE-12 (SETS Commission).

Provides that a petitioner whose record has been expunged under the statute may notify any state or local government agency of the expunction order and directs those agencies to expunge their records accordingly. Exempts the Department of Justice for DNA records and samples stored in the state DNA Database and Databank from this subsection. Deletes requirement that the confidential file containing the names of persons granted expunctions contain the offenses for which the expunctions were granted. Expands the list of agencies to which information contained in confidential expunction files may be disclosed to include federal law enforcement agencies for employment purposes only and additional specified state agencies for certification and licensing purposes only.

Deletes proposed amendments to GS 15A-145 (regarding expunction of records for first offenders under age 18 at the time of conviction), GS 90-96 (regarding expunction provisions for first time drug offenses), and GS 90-113.14 (regarding expunction provisions for first offenses under the Toxic Vapors Act).

Makes organizational changes and conforms the title.

July 30, 2007

S 1081. EXPUNGE NONVIOLENT CRIMES. Filed 3/20/07. Senate committee substitute makes the following changes to 2nd edition. Modifies proposed new GS 15A-150 to provide that the state or local government must use its discretion in deciding whether or not to reverse any action taken against a person who has requested the reversal of any administrative action that was taken against the person as a result of charges or convictions that have been expunged. Also allows the information contained in the confidential file containing the names of persons granted expunctions to be disclosed for licensing purposes to the North Carolina Medical Board, the North Carolina Real Estate Commission, and the North Carolina Appraisal Board.