

March 12, 2007

S 677. EXPUNGE NONVIOLENT FELONY/YOUTHFUL OFFENDER. Filed 3/12/07. TO PROVIDE THAT A YOUTHFUL OFFENDER'S CRIMINAL RECORD MAY BE EXPUNGED OF NONVIOLENT FELONIES.

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

Intro. by Berger of Franklin.

GS 15A

March 13, 2007

S 677. EXPUNGE NONVIOLENT FELONY/YOUTHFUL OFFENDER. Filed 3/12/07. TO PROVIDE THAT A YOUTHFUL OFFENDER'S CRIMINAL RECORD MAY BE EXPUNGED OF NONVIOLENT FELONIES.

Enacts new GS 15A-150 to create procedures and criteria for the expunction of a nonviolent felony conviction from the record of an offender who was under 18 years of age and had no other felony or misdemeanor convictions (except for traffic violations) at the time of the conviction. Defines nonviolent felony as any felony except (1) a Class A through Class G felony, (2) a felony that includes assault as an essential element of the offense, (3) a felony that is an offense for which the convicted offender must register as a sex offender, and (4) a felony involving methamphetamines charged under GS Chapter 90. Provides that multiple nonviolent felony convictions in the same session of court are treated as one nonviolent felony conviction. Directs that a petition for expunction cannot be filed earlier than two years after the date of conviction or when any active sentence, period of probation, and post-release supervision has been served, whichever occurs later. Requires the offender to perform at least 100 hours of community service before filing a petition. Specifies the content of the petition, requires service upon the district attorney of the court where the conviction was obtained, and permits the district attorney to file objections within 10 days after service. Requires the court to order expunction of the record and restore the offender to his or her pre-conviction status if the offender has been free of a felony or misdemeanor conviction (other than traffic conviction) from the date of the conviction in question and has no outstanding restitution orders or civil judgments for restitution. Requirement for expunction of the record does not apply to DNA records and samples from the State DNA database. Requires the Administrative Office of the Courts to maintain a file of the names of persons granted a discharge under the statute that may be disclosed only to judges of the General Court of Justice for the purpose of ascertaining whether any person charged with an offense has been previously granted a discharge. Directs that any person eligible for expunction of a record receive notice of the person's eligibility. Provides that a person filing a petition for expunction pay a fee of \$100 unless the individual is indigent. Effective December 1, 2007, and expires December 1, 2014.

Intro. by Berger of Franklin.

GS 15A

April 25, 2007

S 677. EXPUNGE NONVIOLENT FELONY/YOUTHFUL OFFENDER. Filed 3/12/07. House committee substitute makes the following changes to 1st edition.

Modifies new GS 15A-150 to clarify that if a person is convicted of more than one nonviolent felony in the same session of court, in order for the multiple convictions to be treated as one conviction under this act, none of the nonviolent felonies may be alleged to have occurred after the person was already charged and arrested for the commission of a nonviolent felony. Makes clarifying changes.

Modifies the required content of the petition for expunction as follows: (1) specifies that the petitioner must provide an affidavit that the petitioner has been of good moral character (was, good behavior); and, (2) requires that the application form approved by the Administrative Office of the Court (AOC) request and authorize a search by the Department of Justice for any outstanding warrants or pending criminal cases. Extends from 10 days to 30 days the period for the district attorney of the court where the conviction was obtained to file any objection to the petition.

Delineates steps that the court in which the petition was filed may take and issues it may consider in rendering its decisions, including reviewing the juvenile petitioner's record and the

amount of restitution made by the petitioner to the victim, and any other evidence that the court considers relevant. Provides that the court may order (was, shall order) the person restored to the status the person occupied before arrest or conviction based on the court's findings at the hearing. Adds additional requirements that the petitioner may not have any outstanding warrants or pending criminal cases and that the petitioner has remained of good moral character (was, good behavior) to the list of findings necessary to support the court's decision to restore the person's status.

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 any and all felony convictions to the certifying commission including nonviolent felony convictions expunged under this act. Provides that persons required by law to conduct a criminal background check on a prospective employee are deemed not to have knowledge of any convictions expunged under the act. Directs that the confidential files maintained by the AOC may be disclosed to a limited list that includes state and local law enforcement agencies for employment purposes only, court judges under specified circumstances, and CJET and SETS commissions defined in GS Chapters 17C and 17E. Makes conforming changes to GS 17C-13 and 17E-12 regarding access to expunction records by CJET and SETS commissions.

Increases the court filing fee for a petition for expunction from \$100.00 to \$125.00.