

March 9, 2009

S 491. EXPUNGE NONVIOLENT CRIMES. Filed 3/9/09. *TO PROVIDE FOR THE EXPUNCTION OF CONVICTIONS FOR CERTAIN NONVIOLENT CRIMINAL OFFENSES UPON APPLICATION AND A FEE, TO ALLOW DISCLOSURE OF EXPUNGED INFORMATION TO LAW ENFORCEMENT AGENCIES AND OTHER SPECIFIED AGENCIES FOR EMPLOYMENT AND LICENSING PURPOSES AND TO REQUIRE THOSE AGENCIES TO MAINTAIN THE CONFIDENTIALITY OF THE EXPUNGED INFORMATION, AND TO MAKE CONFORMING CHANGES TO EXISTING EXPUNCTION STATUTES.*

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: (1) had not previously been convicted of any felony or misdemeanor (except for traffic violations) at the time of the conviction; (2) was convicted of a felony violation of GS 14-54 (Breaking or entering buildings generally), GS 14-56 (Breaking or entering into or breaking out of railroad cars, motor vehicles, trailers, aircraft, boats, or other watercraft), GS 14-71.1 (Possessing stolen goods), GS 14-100 (Obtaining property by false pretenses) where the thing of value is less than \$100,000, or GS 90-95(d)(4) (possession of a Schedule VI substance); and (3) has no convictions other than the conviction to be expunged and traffic violations at the time of the petition. Prohibits a petition from being filed earlier than 10 years after the date of conviction or when any active sentence, period of probation, and post-release supervision has been served, whichever occurs later. 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 30 days after service.

Allows the court to take any of the following steps and consider at least the following issues in rendering a decision upon a petition: (1) call upon a probation officer for additional investigation or verification of the petitioner's conduct during the 10 years since the conviction, (2) review the results of a state and national criminal record check, (3) review the amount of restitution made and give consideration to whether or not restitution was paid in full, and (4) review any other relevant information. Allows the court to order that the petitioner be restored to the status occupied before the arrest, indictment, or information if the court finds all of the following after a hearing: (1) the petitioner remained of good moral character 10 years after conviction of the felony in question or any active sentence, period of probation, or post-release supervision has been served, whichever is later; (2) the petitioner has not been previously convicted of any felony or misdemeanor other than a traffic violation; (3) the petitioner has no outstanding warrants or pending criminal cases; (4) the petitioner has no outstanding restitution orders or civil judgments representing amounts ordered for restitution; and (5) the search of the records of expunction conducted by the Administrative Office of the Courts (AOC) shows that the petitioner has not been previously granted an expunction.

Requires the court to also order that the conviction be expunged from the records of the court and direct all law enforcement agencies to expunge their records of the conviction. Allows the petitioner to whom the petition to expunge has been granted to notify other state and local government agencies of the order; the agencies must then expunge entries made as a result of the conviction. Also allows the person to request that the agency reverse any administrative action taken against the person as a result of the expunged charge or conviction; the agency may use its discretion in deciding whether or not to do so.

Requires AOC to maintain a file of the names of persons granted an expunction under the statute that may be disclosed only to specified entities for specified purposes. Provides that a person filing a petition for expunction pay a fee of \$200; \$100 of the fee is to be remitted to the Department of Justice to pay the costs of the State Bureau of Investigation for purging records and the remaining \$100 goes to the AOC for implementation costs.

Amends GS 17C-13 and GS 17E-12 to provide that the North Carolina Criminal Justice Education and Training Standards Commission and the North Carolina Sheriffs' Education and Training Standards Commission may gain access to a person's felony conviction records, including those maintained by AOC in its confidential files and may deny, suspend, or revoke a person's certification based solely on the person's felony conviction whether or not it was expunged.

Effective December 1, 2009.

Intro. by Kinnaird.

GS 15A

May 13, 2009

S 491. EXPUNGE NONVIOLENT CRIMES. Filed 3/9/09. Senate committee substitute makes the following changes to 1st edition. Provides that crimes eligible to be expunged under the bill include (1) breaking and entering only when the intent is to commit larceny involving \$350 or less, and (2) obtaining property by false pretenses when the value of the property taken is less than \$50,000. Specifies that persons required by law to obtain a criminal background check on applicants for employees are not deemed to have knowledge of crimes expunged pursuant to the bill's provisions.