

March 24, 2009

S 788. EXPUNGE NONVIOLENT FELONIES/YOUNG OFFENDERS. Filed 3/24/09. *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, meets specified conditions, and has no outstanding restitution orders or civil judgments for restitution. Provides that the 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. Requires a person filing a petition for expunction to pay a fee of \$100 unless the individual is indigent.

Effective December 1, 2009, and expires December 1, 2016.

Intro. by Kinnaird.

GS 15A