

GENERAL ASSEMBLY OF NORTH CAROLINA  
SESSION 2009

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SENATE BILL 262  
PROPOSED COMMITTEE SUBSTITUTE S262-PCS55159-RV-3

Short Title: Expunctions/Purge Online Databases.

(Public)

Sponsors:

Referred to:

February 23, 2009

A BILL TO BE ENTITLED

1 AN ACT TO CLARIFY THAT AN ORDER TO EXPUNGE AN INDIVIDUAL'S RECORD  
2 SHALL BE FORWARDED BY THE CLERK OF COURT TO ALL APPLICABLE  
3 STATE AND LOCAL GOVERNMENT AGENCIES, TO REQUIRE A STATE  
4 GOVERNMENT AGENCY TO FORWARD NOTICE OF EXPUNCTION ORDERS  
5 RECEIVED BY THE AGENCY TO ANY PRIVATE ENTITY THAT DISSEMINATES  
6 CRIMINAL HISTORY RECORDS FOR COMPENSATION THAT IS LICENSED BY  
7 THE AGENCY TO ACCESS THE AGENCY'S CRIMINAL HISTORY RECORD  
8 DATABASE, TO PROVIDE THAT A PRIVATE ENTITY THAT DISSEMINATES  
9 CRIMINAL HISTORY RECORDS FOR COMPENSATION HAS A DUTY TO UPDATE  
10 THOSE HISTORIES BEFORE DISSEMINATING THEM AND IS SUBJECT TO BOTH  
11 CIVIL LIABILITY AND TO A CIVIL PENALTY FOR FAILURE TO CARRY OUT ITS  
12 DUTY.  
13

14 The General Assembly of North Carolina enacts:

15 **SECTION 1.** G.S. 14-50.30(b) reads as rewritten:

16 "(b) If the court, after hearing, finds that the petitioner has remained of good behavior  
17 and been free of conviction of any felony or misdemeanor, other than a traffic violation, for two  
18 years from the date of conviction of the offense in question, the petitioner has no outstanding  
19 restitution orders or civil judgments representing amounts ordered for restitution entered  
20 against him, and the petitioner had not attained the age of 18 years at the time of the conviction  
21 in question, it shall order that such person be restored, in the contemplation of the law, to the  
22 status occupied by the petitioner before such arrest or indictment or ~~information.~~ information  
23 and that the conviction be expunged from the records of the court. No person as to whom such  
24 order has been entered shall be held thereafter under any provision of any laws to be guilty of  
25 perjury or otherwise giving a false statement by reason of the person's failure to recite or  
26 acknowledge such arrest, or indictment, information, or trial, or response to any inquiry made  
27 of the person for any purpose. The court shall also ~~order that the said conviction be expunged~~  
28 ~~from the records of the court, and~~ direct all law enforcement ~~agencies~~ agencies, the Department  
29 of Correction, the Division of Motor Vehicles, and any other State or local government  
30 agencies identified by the petitioner as bearing record of the same conviction to expunge their  
31 records of the petitioner's conviction as the result of a criminal charge. The clerk shall forward  
32 a certified copy of the order to the sheriff, chief of police, or other arresting agency ~~agency and,~~  
33 when applicable, to the Division of Motor Vehicles, the Department of Correction, and any  
34 other State or local agency. The sheriff, chief, or head of such other arresting agency shall then



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1 transmit the copy of the order with a form supplied by the State Bureau of Investigation to the  
2 State Bureau of Investigation, and the State Bureau of Investigation shall forward the order to  
3 the Federal Bureau of Investigation."

4 **SECTION 2.(a)** G.S. 15A-145(c) reads as rewritten:

5 "(c) The court shall also order that the ~~said~~ misdemeanor conviction, or a civil  
6 revocation of a drivers license as the result of a criminal charge, be expunged from the records  
7 of the ~~court, and~~ court. The court shall direct all law-enforcement agencies, the Department of  
8 Correction, including the Division of Motor Vehicles, and any other State or local government  
9 agencies identified by the petitioner as bearing record of the same to expunge their records of  
10 the petitioner's conviction or a civil revocation of a drivers license as the result of a criminal  
11 charge. This subsection does not apply to civil or criminal charges based upon the civil  
12 revocation, or to civil revocations under G.S. 20-16.2. The clerk shall forward a certified copy  
13 of the order to the sheriff, chief of police, or other arresting ~~agency.~~ agency and, when  
14 applicable, to the Department of Correction and any other State or local agency. The clerk shall  
15 forward a certified copy of the order to the Division of Motor Vehicles for the expunction of a  
16 civil revocation provided the underlying criminal charge is also expunged. The civil revocation  
17 of a drivers license shall not be expunged prior to a final disposition of any pending civil or  
18 criminal charge based upon the civil revocation. The sheriff, chief or head of such other  
19 arresting agency shall then transmit the copy of the order with a form supplied by the State  
20 Bureau of Investigation to the State Bureau of Investigation, and the State Bureau of  
21 Investigation shall forward the order to the Federal Bureau of Investigation."

22 **SECTION 2.(b)** G.S. 15A-145(d) reads as rewritten:

23 "(d) The clerk of superior court in each county in North Carolina shall, as soon as  
24 practicable after each term of court in his county, file with the Administrative Office of the  
25 Courts, the names of those persons granted a discharge under the provisions of this section, and  
26 the Administrative Office of the Courts shall maintain a confidential file containing the names  
27 of persons granted conditional discharges. The information contained in such file shall be  
28 disclosed only to judges of the General Court of Justice of North Carolina for the purpose of  
29 ascertaining whether any person charged with an offense or any person filing a civil action  
30 under G.S. 15A-150.1 has been previously granted a discharge."

31 **SECTION 3.(a)** G.S. 15A-146(b) reads as rewritten:

32 "(b) The court may also order that the said entries, including civil revocations of drivers  
33 licenses as a result of the underlying charge, shall be expunged from the records of the court,  
34 and direct all law-enforcement agencies, the Department of Correction, including the Division  
35 of Motor Vehicles, and any other State or local government agencies identified by the  
36 petitioner as bearing record of the same to expunge their records of the entries, including civil  
37 revocations of drivers licenses as a result of the underlying charge being expunged. This  
38 subsection does not apply to civil or criminal charges based upon the civil revocation, or to  
39 civil revocations under G.S. 20-16.2. The clerk shall forward a certified copy of the order to the  
40 sheriff, chief of police, or other arresting ~~agency.~~ agency and, when applicable, to the  
41 Department of Correction and any other State or local agency. The clerk shall forward a  
42 certified copy of the order to the Division of Motor Vehicles for the expunction of a civil  
43 revocation provided the underlying criminal charge is also expunged. The civil revocation of a  
44 drivers license shall not be expunged prior to a final disposition of any pending civil or criminal  
45 charge based upon the civil revocation. The sheriff, chief or head of such other arresting agency  
46 shall then transmit the copy of the order with the form supplied by the State Bureau of  
47 Investigation to the State Bureau of Investigation, and the State Bureau of Investigation shall  
48 forward the order to the Federal Bureau of Investigation. The costs of expunging these records  
49 shall not be taxed against the petitioner."

50 **SECTION 3.(b)** G.S. 15A-146(c) reads as rewritten:

1       "(c) The Clerk of Superior Court in each county in North Carolina shall, as soon as  
2 practicable after each term of court in his county, file with the Administrative Office of the  
3 Courts, the names of those persons granted an expungement under the provisions of this section  
4 and the Administrative Office of the Courts shall maintain a confidential file containing the  
5 names of persons granted such expungement. The information contained in such files shall be  
6 disclosed only to judges of the General Court of Justice of North Carolina for the purpose of  
7 ascertaining whether any person charged with an offense or any person filing a civil action  
8 under G.S. 15A-150.1 has been previously granted an expungement."

9           **SECTION 4.** G.S. 15A-147 reads as rewritten:

10       "**§ 15A-147. Expunction of records when charges are dismissed or there are findings of**  
11           **not guilty as a result of identity theft.**

12       (a) If any person is named in a charge for an infraction or a crime, either a  
13 misdemeanor or a felony, as a result of another person using the identifying information of the  
14 named person and the charge against the named person is dismissed, a finding of not guilty is  
15 entered, or the conviction is set aside, the named person may apply by petition or written  
16 motion to the court where the charge was last pending on a form approved by the  
17 Administrative Office of the Courts supplied by the clerk of court for an order to expunge from  
18 all official records any entries relating to the person's apprehension, charge, or trial. The court,  
19 after notice to the district attorney, shall hold a hearing on the motion or petition and, upon  
20 finding that the person's identity was used without permission and the charges were dismissed  
21 or the person was found not guilty, the court shall order the expunction.

22       (b) No person as to whom such an order has been entered under this section shall be  
23 held thereafter under any provision of any law to be guilty of perjury, or to be guilty of  
24 otherwise giving a false statement or response to any inquiry made for any purpose, by reason  
25 of the person's failure to recite or acknowledge any expunged entries concerning apprehension,  
26 charge, or trial.

27       (c) The court shall also order that the said entries shall be expunged from the records of  
28 the court and direct all law enforcement agencies, the Department of Correction, the Division  
29 of Motor Vehicles, or any other State or local government agencies identified by the petitioner  
30 as bearing record of the same to expunge their records of the entries. The clerk shall forward a  
31 certified copy of the order to the sheriff, chief of police, or other charging agency; and, when  
32 applicable, to the Department of Correction, the Division of Motor ~~Vehicles~~ Vehicles, and any  
33 other State or local agency. The sheriff, chief, or head of such other charging agency shall then  
34 transmit the copy of the order with the form supplied by the State Bureau of Investigation to the  
35 State Bureau of Investigation, and the State Bureau of Investigation shall forward the order to  
36 the Federal Bureau of Investigation. Upon receipt of a certified copy of the order, the agency  
37 must purge its records as required by this section. The costs of expunging these records shall  
38 not be taxed against the petitioner.

39       (d) The Division of Motor Vehicles shall expunge from its records entries made as a  
40 result of the charge or conviction ordered expunged under this section. The Division of Motor  
41 Vehicles shall also reverse any administrative actions taken against a person whose record is  
42 expunged under this section as a result of the charges or convictions expunged, including the  
43 assessment of drivers license points and drivers license suspension or revocation.  
44 Notwithstanding any other provision of this Chapter, the Division of Motor Vehicles shall  
45 provide to the person whose motor vehicle record is expunged under this section a certified  
46 corrected driver history at no cost and shall reinstate at no cost any drivers license suspended or  
47 revoked as a result of a charge or conviction expunged under this section.

48       (e) ~~Any~~ The Department of Correction and any other applicable State or local  
49 government agency shall expunge from its records entries made as a result of the charge or  
50 conviction ordered expunged under this section. The agency shall also reverse any  
51 administrative actions taken against a person whose record is expunged under this section as a

1 result of the charges or convictions expunged. Notwithstanding any other provision of law, the  
2 normal fee for any reinstatement of a license or privilege resulting under this section shall be  
3 waived.

4 (f) Any insurance company that charged any additional premium based on insurance  
5 points assessed against a policyholder as a result of a charge or conviction that was expunged  
6 under this section shall refund those additional premiums to the policyholder upon notification  
7 of the expungement."

8 **SECTION 5.** G.S. 15A-149(b) reads as rewritten:

9 "(b) The order of expunction shall include an instruction that any entries relating to the  
10 person's apprehension, charge, or trial shall be expunged from the records of the court and  
11 direct all law enforcement agencies, the Department of Correction, the Division of Motor  
12 Vehicles, or any other State or local government agencies identified by the petitioner as bearing  
13 record of the same to expunge their records of the entries. The clerk shall forward a certified  
14 copy of the order to the sheriff, chief of police, or other charging agency; and, when applicable,  
15 to the Department of Correction, the Division of Motor Vehicles ~~Vehicles~~, and any other State  
16 or local agency. The sheriff, chief, or head of such other charging agency shall then transmit  
17 the copy of the order with the form supplied by the State Bureau of Investigation to the State  
18 Bureau of Investigation, and the State Bureau of Investigation shall forward the order to the  
19 Federal Bureau of Investigation. Upon receipt of a certified copy of the order, the agency must  
20 purge its records as required by this section. The costs of expunging these records shall not be  
21 taxed against the petitioner."

22 **SECTION 6.** G.S. 90-96(b) reads as rewritten:

23 "(b) Upon the dismissal of such person, and discharge of the proceedings against him  
24 under subsection (a) of this section, such person, if he were not over 21 years of age at the time  
25 of the offense, may apply to the court for an order to expunge from all official records (other  
26 than the confidential file to be retained by the Administrative Office of the Courts under  
27 subsection (c)) all recordation relating to his arrest, indictment or information, trial, finding of  
28 guilty, and dismissal and discharge pursuant to this section. The applicant shall attach to the  
29 application the following:

- 30 (1) An affidavit by the applicant that he has been of good behavior during the  
31 period of probation since the decision to defer further proceedings on the  
32 offense in question and has not been convicted of any felony, or  
33 misdemeanor, other than a traffic violation, under the laws of the United  
34 States or the laws of this State or any other state;
- 35 (2) Verified affidavits by two persons who are not related to the applicant or to  
36 each other by blood or marriage, that they know the character and reputation  
37 of the petitioner in the community in which he lives, and that his character  
38 and reputation are good;
- 39 (3) Affidavits of the clerk of superior court, chief of police, where appropriate,  
40 and sheriff of the county in which the petitioner was convicted, and, if  
41 different, the county of which the petitioner is a resident, showing that the  
42 applicant has not been convicted of a felony or misdemeanor other than a  
43 traffic violation under the laws of this State at any time prior to the  
44 conviction for the offense in question or during the period of probation  
45 following the decision to defer further proceedings on the offense in  
46 question.

47 The judge to whom the petition is presented is authorized to call upon a probation officer  
48 for any additional investigation or verification of the petitioner's conduct during the  
49 probationary period deemed desirable.

50 If the court determines, after hearing, that such person was dismissed and the proceedings  
51 against him discharged and that he was not over 21 years of age at the time of the offense, it

1 shall enter such order. The effect of such order shall be to restore such person in the  
2 contemplation of the law to the status he occupied before such arrest or indictment or  
3 information. No person as to whom such order was entered shall be held thereafter under any  
4 provision of any law to be guilty of perjury or otherwise giving a false statement by reason of  
5 his failures to recite or acknowledge such arrest, or indictment or information, or trial in  
6 response to any inquiry made of him for any purpose.

7 The court shall also order that said conviction and the records relating thereto be expunged  
8 from the records of the court, and direct all law-enforcement ~~agencies~~ agencies, the Department  
9 of Correction, the Division of Motor Vehicles, and any other State or local government  
10 agencies identified by the petitioner as bearing records of the same to expunge their records of  
11 the conviction. The clerk shall forward a certified copy of the order to the sheriff, chief of  
12 police or other arresting agency, as ~~appropriate~~ appropriate and when applicable, to the  
13 Department of Correction, Division of Motor Vehicles, and any other State or local government  
14 agency. ~~and the~~ The sheriff, chief of police or other arresting agency, as appropriate, shall  
15 forward such order to the State Bureau of Investigation with a form supplied by the State  
16 Bureau of Investigation. The State Bureau of Investigation shall forward the court order in like  
17 manner to the Federal Bureau of Investigation."

18 **SECTION 7.** G.S. 90-96(e) reads as rewritten:

19 "(e) Whenever any person who has not previously been convicted of an offense under  
20 this Article or under any statute of the United States or any state relating to controlled  
21 substances included in any schedule of this Article or to that paraphernalia included in Article  
22 5B of Chapter 90 pleads guilty to or has been found guilty of (i) a misdemeanor under this  
23 Article by possessing a controlled substance included within Schedules II through VI of this  
24 Article, or by possessing drug paraphernalia as prohibited by G.S. 90-113.21, or (ii) a felony  
25 under G.S. 90-95(a)(3) by possessing less than one gram of cocaine, the court may, upon  
26 application of the person not sooner than 12 months after conviction, order cancellation of the  
27 judgment of conviction and expunction of the records of his arrest, indictment, or information,  
28 trial and conviction. A conviction in which the judgment of conviction has been canceled and  
29 the records expunged pursuant to this section shall not be thereafter deemed a conviction for  
30 purposes of this section or for purposes of disqualifications or liabilities imposed by law upon  
31 conviction of a crime including the additional penalties imposed for second or subsequent  
32 convictions of this Article. Cancellation and expunction under this section may occur only once  
33 with respect to any person. Disposition of a case under this section at the district court division  
34 of the General Court of Justice shall be final for the purpose of appeal.

35 The granting of an application filed under this section shall cause the issue of an order to  
36 expunge from all official records (other than the confidential file to be retained by the  
37 Administrative Office of the Courts under subsection (c)) all recordation relating to the  
38 petitioner's arrest, indictment, or information, trial, finding of guilty, judgment of conviction,  
39 cancellation of the judgment, and expunction of records pursuant to this section.

40 The judge to whom the petition is presented is authorized to call upon a probation officer  
41 for additional investigation or verification of the petitioner's conduct since conviction. If the  
42 court determines that the petitioner was convicted of (i) a misdemeanor under this Article for  
43 possessing a controlled substance included within Schedules II through VI of this Article, or for  
44 possessing drug paraphernalia as prohibited in G.S. 90-113.21, or (ii) a felony under  
45 G.S. 90-95(a)(3) for possession of less than one gram of cocaine, that he was not over 21 years  
46 of age at the time of the offense, that he has been of good behavior since his conviction, that he  
47 has successfully completed a drug education program approved for this purpose by the  
48 Department of Health and Human Services, and that he has not been convicted of a felony or  
49 misdemeanor other than a traffic violation under the laws of this State at any time prior to or  
50 since the conviction for the offense in question, it shall enter an order of expunction of the  
51 petitioner's court record. The effect of such order shall be to restore the petitioner in the

1 contemplation of the law to the status he occupied before arrest or indictment or information or  
2 conviction. No person as to whom such order was entered shall be held thereafter under any  
3 provision of any law to be guilty of perjury or otherwise giving a false statement by reason of  
4 his failures to recite or acknowledge such arrest, or indictment or information, or conviction, or  
5 trial in response to any inquiry made of him for any purpose. The judge may waive the  
6 condition that the petitioner attend the drug education school if the judge makes a specific  
7 finding that there was no drug education school within a reasonable distance of the defendant's  
8 residence or that there were specific extenuating circumstances which made it likely that the  
9 petitioner would not benefit from the program of instruction.

10 The court shall also order that all law-enforcement ~~agencies~~ agencies, the Department of  
11 Correction, the Division of Motor Vehicles, and any other State or local government agency  
12 identified by the petitioner as bearing records of the conviction and records relating thereto to  
13 expunge their records of the conviction. The clerk shall forward a certified copy of the order to  
14 the sheriff, chief of police, or other arresting agency, as ~~appropriate, and the appropriate and,~~  
15 when applicable, to the Department of Correction, Division of Motor Vehicles, and any other  
16 State or local government agency. The arresting agency shall forward the order to the State  
17 Bureau of Investigation with a form supplied by the State Bureau of Investigation. The State  
18 Bureau of Investigation shall forward the court order in like manner to the Federal Bureau of  
19 Investigation.

20 The clerk of superior court in each county in North Carolina shall, as soon as practicable  
21 after each term of court in his county, file with the Administrative Office of the Courts the  
22 names of those persons whose judgments of convictions have been canceled and expunged  
23 under the provisions of this Article, and the Administrative Office of the Courts shall maintain  
24 a confidential file containing the names of persons whose judgments of convictions have been  
25 canceled and expunged. The information contained in the file shall be disclosed only to judges  
26 of the General Court of Justice of North Carolina for the purpose of ascertaining whether any  
27 person charged with an offense under this Article or any person filing a civil action under  
28 G.S. 15A-150.1 has been previously granted cancellation and expunction of a judgment of  
29 conviction pursuant to the terms of this Article."

30 **SECTION 8.** G.S. 90-113.14(b) reads as rewritten:

31 "(b) Upon the dismissal of such person, and discharge of the proceedings against him  
32 under subsection (a) of this section, such person, if he were not over 21 years of age at the time  
33 of the offense, may apply to the court for an order to expunge from all official records (other  
34 than the confidential file to be retained by the Administrative Office of the Courts under  
35 subsection (c)) all recordation relating to his arrest, indictment or information, trial, finding of  
36 guilty, and dismissal and discharge pursuant to this section. The applicant shall attach to the  
37 application the following:

- 38 (1) An affidavit by the applicant that he has been of good behavior during the  
39 period of probation since the decision to defer further proceedings on the  
40 misdemeanor in question and has not been convicted of any felony, or  
41 misdemeanor, other than a traffic violation, under the laws of the United  
42 States or the laws of this State or any other state;
- 43 (2) Verified affidavits by two persons who are not related to the applicant or to  
44 each other by blood or marriage, that they know the character and reputation  
45 of the petitioner in the community in which he lives, and that his character  
46 and reputation are good;
- 47 (3) Affidavits of the clerk of superior court, chief of police, where appropriate,  
48 and sheriff of the county in which the petitioner was convicted, and, if  
49 different, the county of which the petitioner is a resident, showing that the  
50 applicant has not been convicted of a felony or misdemeanor other than a  
51 traffic violation under the laws of this State at any time prior to the

1 conviction for the misdemeanor in question or during the period of probation  
2 following the decision to defer further proceedings on the misdemeanor in  
3 question.

4 The judge to whom the petition is presented is authorized to call upon a probation officer  
5 for any additional investigation or verification of the petitioner's conduct during the  
6 probationary period deemed desirable.

7 If the court determines, after hearing, that such person was dismissed and the proceedings  
8 against him discharged and that he was not over 21 years of age at the time of the offense, it  
9 shall enter such order. The effect of such order shall be to restore such person in the  
10 contemplation of the law to the status he occupied before such arrest or indictment or  
11 information. No person as to whom such order was entered shall be held thereafter under any  
12 provision of any law to be guilty of perjury or otherwise giving a false statement by reason of  
13 his failures to recite or acknowledge such arrest, or indictment or information, or trial in  
14 response to any inquiry made of him for any purpose.

15 The court shall also order that said conviction and the records relating thereto be expunged  
16 from the records of the court, and direct all law-enforcement ~~agencies~~ agencies, the Department  
17 of Correction, the Division of Motor Vehicles, and any other State or local government  
18 agencies identified by the petitioner as bearing records of the same to expunge their records of  
19 the conviction. The clerk shall forward a certified copy of the order to the sheriff, chief of  
20 police or other arresting agency, as appropriate, and the appropriate and, when applicable, to  
21 the Department of Correction, Division of Motor Vehicles, and any other State or local agency.  
22 The sheriff, chief of police or other arresting agency, as appropriate, shall forward such order to  
23 the State Bureau of Investigation with a form supplied by the State Bureau of Investigation.  
24 The State Bureau of Investigation shall forward the court order in like manner to the Federal  
25 Bureau of Investigation."

26 **SECTION 9.** G.S. 90-113.14(e) reads as rewritten:

27 "(e) Whenever any person who has not previously been convicted of an offense under  
28 this Article or under any statute of the United States or any state relating to controlled  
29 substances included in any schedule of this Article or to that paraphernalia included in Article  
30 5B of Chapter 90 pleads guilty to or has been found guilty of a misdemeanor under this Article  
31 by possessing a controlled substance included within Schedules II through VI of this Article,  
32 the court may, upon application of the person not sooner than 12 months after conviction, order  
33 cancellation of the judgment of conviction and expunction of the records of his arrest,  
34 indictment, or information, trial and conviction. A conviction in which the judgment of  
35 conviction has been cancelled and the records expunged pursuant to this section shall not be  
36 thereafter deemed a conviction for purposes of this section or for purposes of disqualifications  
37 or liabilities imposed by law upon conviction of a crime including the additional penalties  
38 imposed for second or subsequent convictions of this Article. Cancellation and expunction  
39 under this section may occur only once with respect to any person. Disposition of a case under  
40 this section at the district court division of the General Court of Justice shall be final for the  
41 purpose of appeal.

42 The granting of an application filed under this section shall cause the issue of an order to  
43 expunge from all official records (other than the confidential file to be retained by the  
44 Administrative Office of the Courts under subsection (c)) all recordation relating to his arrest,  
45 indictment, or information, trial, finding of guilty, judgment of conviction, cancellation of the  
46 judgment, and expunction of records pursuant to this section.

47 The judge to whom the petition is presented is authorized to call upon a probation officer  
48 for additional investigation or verification of the petitioner's conduct since conviction. If the  
49 court determines that the petitioner was convicted of a misdemeanor under this Article for  
50 possessing a controlled substance included within Schedules II through VI of this Article, or for  
51 possessing drug paraphernalia as prohibited by G.S. 90-113.21, that he was not over 21 years of

1 age at the time of the offense, that he has been of good behavior since his conviction, that he  
2 has successfully completed a drug education program approved for this purpose by the  
3 Department of Health and Human Services, and that he has not been convicted of a felony or  
4 misdemeanor other than a traffic violation under the laws of this State at any time prior to or  
5 since the conviction for the misdemeanor in question, it shall enter an order of expunction of  
6 the petitioner's court record. The effect of such order shall be to restore the petitioner in the  
7 contemplation of the law to the status he occupied before such arrest or indictment or  
8 information or conviction. No person as to whom such order was entered shall be held  
9 thereafter under any provision of any law to be guilty of perjury or otherwise giving a false  
10 statement by reason of his failures to recite or acknowledge such arrest, or indictment or  
11 information, or conviction, or trial in response to any inquiry made of him for any purpose. The  
12 judge may waive the condition that the petitioner attend the drug education school if the judge  
13 makes a specific finding that there was no drug education school within a reasonable distance  
14 of the defendant's residence or that there were specific extenuating circumstances which made  
15 it likely that the petitioner would not benefit from the program of instruction.

16 The court shall also order that all law-enforcement ~~agencies~~ agencies, the Department of  
17 Correction, the Department of Motor Vehicles, and any other State or local government  
18 agencies identified by the petitioner as bearing records of the conviction and records relating  
19 thereto to expunge their records of the conviction. The clerk shall forward a certified copy of  
20 the order to the sheriff, chief of police, or other arresting agency, as ~~appropriate, and the~~  
21 appropriate and, when applicable, to the Department of Correction, Division of Motor Vehicles,  
22 and any other State or local agency. The arresting agency shall forward the order to the State  
23 Bureau of Investigation with a form supplied by the State Bureau of Investigation. The State  
24 Bureau of Investigation shall forward the court order in like manner to the Federal Bureau of  
25 Investigation.

26 The clerk of superior court in each county in North Carolina shall, as soon as practicable  
27 after each term of court in his county, file with the Administrative Office of the Courts the  
28 names of those persons whose judgments of convictions have been cancelled and expunged  
29 under the provisions of this Article, and the Administrative Office of the Courts shall maintain  
30 a confidential file containing the names of persons whose judgments of convictions have been  
31 cancelled and expunged. The information contained in the file shall be disclosed only to judges  
32 of the General Court of Justice of North Carolina for the purpose of ascertaining whether any  
33 person charged with an offense under this Article or any person filing a civil action under  
34 G.S. 15A-150.1 has been previously granted cancellation and expunction of a judgment of  
35 conviction pursuant to the terms of this Article."

36 **SECTION 10.** Article 5 of Chapter 15A of the General Statutes is amended by  
37 adding the following new sections to read:

38 **"§ 15A-150. State agency to notify licensed private entities of expunctions.**

39 When a State agency receives a certified copy of an order to expunge a record under  
40 G.S. 14-50.30, 15A-145, 15A-146, 15A-147, 15A-149, 90-96, or 90-113.14, the State agency,  
41 in addition to expunging its own records pursuant to the expunction order, shall also notify any  
42 private entity with which it has a licensing agreement for bulk extracts of data from the  
43 agency's criminal record database to delete the record in question.

44 **"§ 15A-150.1. Duty of private entity to expunge records upon notice of expunction and to**  
45 **update criminal history record information; civil liability.**

46 (a) A private entity that compiles and disseminates for compensation criminal history  
47 record information shall destroy and shall not disseminate any information in the possession of  
48 the entity with respect to which the entity has received notice that an order of expunction has  
49 been issued.

50 (b) Unless the entity is regulated by the federal Fair Credit Reporting Act (15 U.S.C. §  
51 1681, et seq.) or the Gramm-Leach-Bliley Act (15 U.S.C. §§ 6801 to 6809), a private entity



1 described by subsection (a) of this section that is licensed to access a State agency's criminal  
2 history record database:

3 (1) May disseminate that information only if, within the 90-day period  
4 preceding the date of dissemination, the entity: (i) originally obtains that  
5 information; or (ii) receives that information as updated record information  
6 to its database; and

7 (2) Shall notify the State agency if the entity sells any compilation of the  
8 information to another similar entity.

9 (c) A private entity that disseminates information in violation of this section is liable for  
10 any damages that are sustained as a result of the violation by the person who is the subject of  
11 that information. A person who prevails in an action brought under this section is also entitled  
12 to recover court costs and reasonable attorneys' fees.

13 **"§ 15A-150.2. Civil penalty; dissemination of certain criminal history information.**

14 (a) A private entity that compiles and disseminates for compensation criminal history  
15 record information shall not compile or disseminate information with respect to which the  
16 entity has received notice that an order of expunction has been issued under G.S. 14-50.30,  
17 15A-145, 15A-146, 15A-147, 15A-149, 90-96, or 90-113.14.

18 (b) A district court may issue a warning to a private entity for a first violation of  
19 subsection (a) of this section. After receiving a warning for the first violation, the private entity  
20 is liable to the State for a civil penalty not to exceed one thousand dollars (\$1,000) for each  
21 subsequent violation.

22 (c) The attorney general or appropriate district attorney may sue to collect a civil  
23 penalty under this section.

24 (d) A civil penalty collected under this section shall be deposited in the Civil Penalty  
25 and Forfeiture Fund established under G.S. 115C-457.1."

26 **SECTION 11.** This act becomes effective October 1, 2009.