

GENERAL ASSEMBLY OF NORTH CAROLINA  
SESSION 2015

H.B. 856  
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HOUSE PRINCIPAL CLERK

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HOUSE DRH10322-LH-138 (03/16)

Short Title: Expunctions/Boating Violations.

(Public)

Sponsors: Representative Fisher.

Referred to:

1 A BILL TO BE ENTITLED  
2 AN ACT TO PROVIDE THAT A PERSON SHALL NOT BE DENIED AN EXPUNCTION  
3 SOLELY BECAUSE THE PERSON HAS A CONVICTION FOR A BOATING  
4 VIOLATION.

5 The General Assembly of North Carolina enacts:

6 SECTION 1. G.S. 15A-145.5(c) reads as rewritten:

7 "(c) A person may file a petition, in the court where the person was convicted, for  
8 expunction of a nonviolent misdemeanor or nonviolent felony conviction from the person's  
9 criminal record if the person has no other misdemeanor or felony convictions, other than a  
10 traffic or boating violation. The petition shall not be filed earlier than 15 years after the date of  
11 the conviction or when any active sentence, period of probation, and post-release supervision  
12 has been served, whichever occurs later. The petition shall contain, but not be limited to, the  
13 following:

- 14 (1) An affidavit by the petitioner that the petitioner has been of good moral  
15 character since the date of conviction for the nonviolent misdemeanor or  
16 nonviolent felony and has not been convicted of any other felony or  
17 misdemeanor, other than a traffic or boating violation, under the laws of the  
18 United States or the laws of this State or any other state.
- 19 (2) Verified affidavits of two persons who are not related to the petitioner or to  
20 each other by blood or marriage, that they know the character and reputation  
21 of the petitioner in the community in which the petitioner lives and that the  
22 petitioner's character and reputation are good.
- 23 (3) A statement that the petition is a motion in the cause in the case wherein the  
24 petitioner was convicted.
- 25 (4) An application on a form approved by the Administrative Office of the  
26 Courts requesting and authorizing a name-based State and national criminal  
27 history record check by the Department of Public Safety using any  
28 information required by the Administrative Office of the Courts to identify  
29 the individual, a search by the Department of Public Safety for any  
30 outstanding warrants on pending criminal cases, and a search of the  
31 confidential record of expunctions maintained by the Administrative Office  
32 of the Courts. The application shall be forwarded to the Department of  
33 Public Safety and to the Administrative Office of the Courts, which shall  
34 conduct the searches and report their findings to the court.



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- 1 (5) An affidavit by the petitioner that no restitution orders or civil judgments  
2 representing amounts ordered for restitution entered against the petitioner  
3 are outstanding.

4 Upon filing of the petition, the petition shall be served upon the district attorney of the court  
5 wherein the case was tried resulting in conviction. The district attorney shall have 30 days  
6 thereafter in which to file any objection thereto and shall be duly notified as to the date of the  
7 hearing of the petition. Upon good cause shown, the court may grant the district attorney an  
8 additional 30 days to file objection to the petition. The district attorney shall make his or her  
9 best efforts to contact the victim, if any, to notify the victim of the request for expunction prior  
10 to the date of the hearing.

11 The presiding judge is authorized to call upon a probation officer for any additional  
12 investigation or verification of the petitioner's conduct since the conviction. The court shall  
13 review any other information the court deems relevant, including, but not limited to, affidavits  
14 or other testimony provided by law enforcement officers, district attorneys, and victims of  
15 crimes committed by the petitioner.

16 If the court, after hearing, finds that the petitioner has not previously been granted an  
17 expunction under this section, G.S. 15A-145, 15A-145.1, 15A-145.2, 15A-145.3, or  
18 15A-145.4; the petitioner has remained of good moral character; the petitioner has no  
19 outstanding warrants or pending criminal cases; the petitioner has no other felony or  
20 misdemeanor convictions other than a traffic or boating violation; the petitioner has no  
21 outstanding restitution orders or civil judgments representing amounts ordered for restitution  
22 entered against the petitioner; and the petitioner was convicted of an offense eligible for  
23 expunction under this section and was convicted of, and completed any sentence received for,  
24 the nonviolent misdemeanor or nonviolent felony at least 15 years prior to the filing of the  
25 petition, it may order that such person be restored, in the contemplation of the law, to the status  
26 the person occupied before such arrest or indictment or information. If the court denies the  
27 petition, the order shall include a finding as to the reason for the denial."

28 **SECTION 2.** G.S. 15A-145 reads as rewritten:

29 **"§ 15A-145. Expunction of records for first offenders under the age of 18 at the time of**  
30 **conviction of misdemeanor; expunction of certain other misdemeanors.**

31 (a) Whenever any person who has not previously been convicted of any felony, or  
32 misdemeanor other than a traffic or boating violation, under the laws of the United States, the  
33 laws of this State or any other state, (i) pleads guilty to or is guilty of a misdemeanor other than  
34 a traffic or boating violation, and the offense was committed before the person attained the age  
35 of 18 years, or (ii) pleads guilty to or is guilty of a misdemeanor possession of alcohol pursuant  
36 to G.S. 18B-302(b)(1), and the offense was committed before the person attained the age of 21  
37 years, he may file a petition in the court where he was convicted for expunction of the  
38 misdemeanor from his criminal record. The petition cannot be filed earlier than: (i) two years  
39 after the date of the conviction, or (ii) the completion of any period of probation, whichever  
40 occurs later, and the petition shall contain, but not be limited to, the following:

- 41 (1) An affidavit by the petitioner that he has been of good behavior for the  
42 two-year period since the date of conviction of the misdemeanor in question  
43 and has not been convicted of any felony, or misdemeanor other than a  
44 traffic or boating violation, under the laws of the United States or the laws of  
45 this State or any other state.
- 46 (2) Verified affidavits of two persons who are not related to the petitioner or to  
47 each other by blood or marriage, that they know the character and reputation  
48 of the petitioner in the community in which he lives and that his character  
49 and reputation are good.
- 50 (3) A statement that the petition is a motion in the cause in the case wherein the  
51 petitioner was convicted.

- 1 (4) Repealed by Session Laws 2010-174, s. 2, effective October 1, 2010, and  
2 applicable to petitions for expunctions filed on or after that date.
- 3 (4a) An application on a form approved by the Administrative Office of the  
4 Courts requesting and authorizing a name-based State and national criminal  
5 record check by the Department of Public Safety using any information  
6 required by the Administrative Office of the Courts to identify the individual  
7 and a search of the confidential record of expunctions maintained by the  
8 Administrative Office of the Courts. The application shall be forwarded to  
9 the Department of Public Safety and to the Administrative Office of the  
10 Courts, which shall conduct the searches and report their findings to the  
11 court.
- 12 (5) An affidavit by the petitioner that no restitution orders or civil judgments  
13 representing amounts ordered for restitution entered against him are  
14 outstanding.

15 The petition shall be served upon the district attorney of the court wherein the case was  
16 tried resulting in conviction. The district attorney shall have 10 days thereafter in which to file  
17 any objection thereto and shall be duly notified as to the date of the hearing of the petition.

18 The judge to whom the petition is presented is authorized to call upon a probation officer  
19 for any additional investigation or verification of the petitioner's conduct during the two-year  
20 period that he deems desirable.

21 (b) If the court, after hearing, finds that the petitioner had remained of good behavior  
22 and been free of conviction of any felony or misdemeanor, other than a traffic or boating  
23 violation, for two years from the date of conviction of the misdemeanor in question, the  
24 petitioner has no outstanding restitution orders or civil judgments representing amounts ordered  
25 for restitution entered against him, and (i) petitioner was not 18 years old at the time of the  
26 offense in question, or (ii) petitioner was not 21 years old at the time of the offense of  
27 possession of alcohol pursuant to G.S. 18B-302(b)(1), it shall order that such person be  
28 restored, in the contemplation of the law, to the status he occupied before such arrest or  
29 indictment or information. No person as to whom such order has been entered shall be held  
30 thereafter under any provision of any laws to be guilty of perjury or otherwise giving a false  
31 statement by reason of his failure to recite or acknowledge such arrest, or indictment,  
32 information, or trial, or response to any inquiry made of him for any purpose.

33 ...."

34 **SECTION 3.** G.S. 15A-145.1 reads as rewritten:

35 "**§ 15A-145.1. Expunction of records for first offenders under the age of 18 at the time of**  
36 **conviction of certain gang offenses.**

37 (a) Whenever any person who has not previously been convicted of any felony or  
38 misdemeanor other than a traffic or boating violation under the laws of the United States or the  
39 laws of this State or any other state pleads guilty to or is guilty of (i) a Class H felony under  
40 Article 13A of Chapter 14 of the General Statutes or (ii) an enhanced offense under  
41 G.S. 14-50.22, or has been discharged and had the proceedings against the person dismissed  
42 pursuant to G.S. 14-50.29, and the offense was committed before the person attained the age of  
43 18 years, the person may file a petition in the court where the person was convicted for  
44 expunction of the offense from the person's criminal record. Except as provided in  
45 G.S. 14-50.29 upon discharge and dismissal, the petition cannot be filed earlier than (i) two  
46 years after the date of the conviction or (ii) the completion of any period of probation,  
47 whichever occurs later. The petition shall contain, but not be limited to, the following:

- 48 (1) An affidavit by the petitioner that the petitioner has been of good behavior  
49 (i) during the period of probation since the decision to defer further  
50 proceedings on the offense in question pursuant to G.S. 14-50.29 or (ii)  
51 during the two-year period since the date of conviction of the offense in

- 1 question, whichever applies, and has not been convicted of any felony or  
2 misdemeanor other than a traffic or boating violation under the laws of the  
3 United States or the laws of this State or any other state.
- 4 (2) Verified affidavits of two persons who are not related to the petitioner or to  
5 each other by blood or marriage, that they know the character and reputation  
6 of the petitioner in the community in which the petitioner lives, and that the  
7 petitioner's character and reputation are good.
- 8 (3) If the petition is filed subsequent to conviction of the offense in question, a  
9 statement that the petition is a motion in the cause in the case wherein the  
10 petitioner was convicted.
- 11 (4) Repealed by Session Laws 2010-174, s. 4, effective October 1, 2010, and  
12 applicable to petitions for expunctions filed on or after that date.
- 13 (4a) An application on a form approved by the Administrative Office of the  
14 Courts requesting and authorizing a name-based State and national criminal  
15 record check by the Department of Public Safety using any information  
16 required by the Administrative Office of the Courts to identify the individual  
17 and a search of the confidential record of expunctions maintained by the  
18 Administrative Office of the Courts. The application shall be forwarded to  
19 the Department of Public Safety and to the Administrative Office of the  
20 Courts, which shall conduct the searches and report their findings to the  
21 court.
- 22 (5) An affidavit by the petitioner that no restitution orders or civil judgments  
23 representing amounts ordered for restitution entered against the petitioner  
24 are outstanding.

25 The petition shall be served upon the district attorney of the court wherein the case was  
26 tried resulting in conviction. The district attorney shall have 10 days thereafter in which to file  
27 any objection thereto and shall be duly notified as to the date of the hearing of the petition.

28 The judge to whom the petition is presented is authorized to call upon a probation officer  
29 for any additional investigation or verification of the petitioner's conduct during the  
30 probationary period or during the two-year period after conviction.

31 (b) If the court, after hearing, finds that (i) the petitioner was dismissed and the  
32 proceedings against the petitioner discharged pursuant to G.S. 14-50.29 and that the person had  
33 not yet attained 18 years of age at the time of the offense or (ii) the petitioner has remained of  
34 good behavior and been free of conviction of any felony or misdemeanor other than a traffic or  
35 boating violation for two years from the date of conviction of the offense in question, the  
36 petitioner has no outstanding restitution orders or civil judgments representing amounts ordered  
37 for restitution entered against the petitioner, and the petitioner had not attained the age of 18  
38 years at the time of the offense in question, it shall order that such person be restored, in the  
39 contemplation of the law, to the status occupied by the petitioner before such arrest or  
40 indictment or information, and that the record be expunged from the records of the court. No  
41 person as to whom such order has been entered shall be held thereafter under any provision of  
42 any laws to be guilty of perjury or otherwise giving a false statement by reason of the person's  
43 failure to recite or acknowledge such arrest, or indictment or information, or trial, or response  
44 to any inquiry made of the person for any purpose. The court shall also direct all law  
45 enforcement agencies, the Division of Adult Correction of the Department of Public Safety, the  
46 Division of Motor Vehicles, and any other State or local government agencies identified by the  
47 petitioner as bearing record of the same to expunge their records of the petitioner's criminal  
48 charge and any conviction resulting from the charge. The clerk shall notify State and local  
49 agencies of the court's order as provided in G.S. 15A-150.

50 ...."

51 **SECTION 4.** G.S. 15A-145.2 reads as rewritten:

1 **"§ 15A-145.2. Expunction of records for first offenders not over 21 years of age at the**  
2 **time of the offense of certain drug offenses.**

3 (a) Whenever a person is discharged, and the proceedings against the person dismissed,  
4 pursuant to G.S. 90-96(a) or (a1), and the person was not over 21 years of age at the time of the  
5 offense, the person may apply to the court for an order to expunge from all official records,  
6 other than the confidential files retained under G.S. 15A-151, all recordation relating to the  
7 person's arrest, indictment or information, trial, finding of guilty, and dismissal and discharge  
8 pursuant to this section. The applicant shall attach to the application the following:

- 9 (1) An affidavit by the petitioner that he or she has been of good behavior  
10 during the period of probation since the decision to defer further proceedings  
11 on the offense in question and has not been convicted of any felony or  
12 misdemeanor other than a traffic or boating violation under the laws of the  
13 United States or the laws of this State or any other state;
- 14 (2) Verified affidavits by two persons who are not related to the petitioner or to  
15 each other by blood or marriage, that they know the character and reputation  
16 of the petitioner in the community in which he or she lives, and that the  
17 petitioner's character and reputation are good;
- 18 (3) Repealed by Session Laws 2010-174, s. 5, effective October 1, 2010, and  
19 applicable to petitions for expunctions filed on or after that date.
- 20 (3a) An application on a form approved by the Administrative Office of the  
21 Courts requesting and authorizing a name-based State and national criminal  
22 record check by the Department of Public Safety using any information  
23 required by the Administrative Office of the Courts to identify the individual  
24 and a search of the confidential record of expunctions maintained by the  
25 Administrative Office of the Courts. The application shall be forwarded to  
26 the Department of Public Safety and to the Administrative Office of the  
27 Courts, which shall conduct the searches and report their findings to the  
28 court.

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

32 If the court determines, after hearing, that such person was discharged and the proceedings  
33 against him or her dismissed and that the person was not over 21 years of age at the time of the  
34 offense, it shall enter such order. The effect of such order shall be to restore such person in the  
35 contemplation of the law to the status the person occupied before such arrest or indictment or  
36 information. No person as to whom such order was entered shall be held thereafter under any  
37 provision of any law to be guilty of perjury or otherwise giving a false statement by reason of  
38 the person's failures to recite or acknowledge such arrest, or indictment or information, or trial  
39 in response to any inquiry made of him or her for any purpose.

40 The court shall also order that all records of the proceeding be expunged from the records  
41 of the court and direct all law enforcement agencies, the Division of Adult Correction, the  
42 Division of Motor Vehicles, and any other State and local government agencies identified by  
43 the petitioner as bearing records of the same to expunge their records of the proceeding. The  
44 clerk shall notify State and local agencies of the court's order as provided in G.S. 15A-150.

45 ...

46 (c) Whenever any person who has not previously been convicted of (i) any felony  
47 offense under any state or federal laws; (ii) any offense under Chapter 90 of the General  
48 Statutes; or (iii) an offense under any statute of the United States or any state relating to  
49 controlled substances included in any schedule of Chapter 90 of the General Statutes or to that  
50 paraphernalia included in Article 5B of Chapter 90 of the General Statutes, pleads guilty to or  
51 has been found guilty of a misdemeanor under Article 5 of Chapter 90 of the General Statutes

1 by possessing a controlled substance included within Schedules I through VI of Chapter 90, or  
2 by possessing drug paraphernalia as prohibited by G.S. 90-113.22 or pleads guilty to or has  
3 been found guilty of a felony under G.S. 90-95(a)(3), the court may, upon application of the  
4 person not sooner than 12 months after conviction, order cancellation of the judgment of  
5 conviction and expunction of the records of the person's arrest, indictment or information, trial,  
6 and conviction. A conviction in which the judgment of conviction has been canceled and the  
7 records expunged pursuant to this subsection shall not be thereafter deemed a conviction for  
8 purposes of this subsection or for purposes of disqualifications or liabilities imposed by law  
9 upon conviction of a crime, including the additional penalties imposed for second or  
10 subsequent convictions of Article 5 of Chapter 90 of the General Statutes. Cancellation and  
11 expunction under this subsection may occur only once with respect to any person. Disposition  
12 of a case under this subsection at the district court division of the General Court of Justice shall  
13 be final for the purpose of appeal.

14 The granting of an application filed under this subsection shall cause the issue of an order to  
15 expunge from all official records, other than the confidential files retained under G.S. 15A-151,  
16 all recordation relating to the petitioner's arrest, indictment or information, trial, finding of  
17 guilty, judgment of conviction, cancellation of the judgment, and expunction of records  
18 pursuant to this subsection.

19 The judge to whom the petition is presented is authorized to call upon a probation officer  
20 for additional investigation or verification of the petitioner's conduct since conviction. If the  
21 court determines that the petitioner was convicted of (i) a misdemeanor under Article 5 of  
22 Chapter 90 of the General Statutes for possessing a controlled substance included within  
23 Schedules I through VI of Article 5 of Chapter 90 of the General Statutes or for possessing  
24 drug paraphernalia as prohibited in G.S. 90-113.22 or (ii) a felony under G.S. 90-95(a)(3), that  
25 the petitioner has no disqualifying previous convictions as set forth in this subsection, that the  
26 petitioner was not over 21 years of age at the time of the offense, that the petitioner has been of  
27 good behavior since his or her conviction, that the petitioner has successfully completed a drug  
28 education program approved for this purpose by the Department of Health and Human  
29 Services, and that the petitioner has not been convicted of a felony or misdemeanor other than a  
30 traffic or boating violation under the laws of this State at any time prior to or since the  
31 conviction for the offense in question, it shall enter an order of expunction of the petitioner's  
32 court record. The effect of such order shall be to restore the petitioner in the contemplation of  
33 the law to the status the petitioner occupied before arrest or indictment or information or  
34 conviction. No person as to whom such order was entered shall be held thereafter under any  
35 provision of any law to be guilty of perjury or otherwise giving a false statement by reason of  
36 the person's failures to recite or acknowledge such arrest, or indictment or information, or  
37 conviction, or trial in response to any inquiry made of him or her for any purpose. The judge  
38 may waive the condition that the petitioner attend the drug education school if the judge makes  
39 a specific finding that there was no drug education school within a reasonable distance of the  
40 defendant's residence or that there were specific extenuating circumstances which made it  
41 likely that the petitioner would not benefit from the program of instruction.

42 The court shall also order all law enforcement agencies, the Department of Correction, the  
43 Division of Motor Vehicles, and any other State or local agencies identified by the petitioner as  
44 bearing records of the conviction and records relating thereto to expunge their records of the  
45 conviction. The clerk shall notify State and local agencies of the court's order as provided in  
46 G.S. 15A-150.

47 ...."

48 **SECTION 5.** G.S. 15A-145.3 reads as rewritten:

49 **"§ 15A-145.3. Expunction of records for first offenders not over 21 years of age at the**  
50 **time of the offense of certain toxic vapors offenses.**

1 (a) Whenever a person is discharged and the proceedings against the person dismissed  
2 under G.S. 90-113.14(a) or (a1), such person, if he or she was not over 21 years of age at the  
3 time of the offense, may apply to the court for an order to expunge from all official records,  
4 other than the confidential files retained under G.S. 15A-151, all recordation relating to the  
5 person's arrest, indictment or information, trial, finding of guilty, and dismissal and discharge  
6 pursuant to this section. The applicant shall attach to the application the following:

7 (1) An affidavit by the petitioner that the petitioner has been of good behavior  
8 during the period of probation since the decision to defer further proceedings  
9 on the misdemeanor in question and has not been convicted of any felony or  
10 misdemeanor other than a traffic or boating violation under the laws of the  
11 United States or the laws of this State or any other state;

12 (2) Verified affidavits by two persons who are not related to the petitioner or to  
13 each other by blood or marriage, that they know the character and reputation  
14 of the petitioner in the community in which the petitioner lives, and that his  
15 or her character and reputation are good;

16 (3) Repealed by Session Laws 2010-174, s. 6, effective October 1, 2010, and  
17 applicable to petitions for expunctions filed on or after that date.

18 (3a) An application on a form approved by the Administrative Office of the  
19 Courts requesting and authorizing a name-based State and national criminal  
20 record check by the Department of Public Safety using any information  
21 required by the Administrative Office of the Courts to identify the individual  
22 and a search of the confidential record of expunctions maintained by the  
23 Administrative Office of the Courts. The application shall be forwarded to  
24 the Department of Public Safety and to the Administrative Office of the  
25 Courts, which shall conduct the searches and report their findings to the  
26 court.

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

30 If the court determines, after hearing, that such person was discharged and the proceedings  
31 against the person dismissed and that he or she was not over 21 years of age at the time of the  
32 offense, it shall enter such order. The effect of such order shall be to restore such person in the  
33 contemplation of the law to the status the person occupied before such arrest or indictment or  
34 information. No person as to whom such order was entered shall be held thereafter under any  
35 provision of any law to be guilty of perjury or otherwise giving a false statement by reason of  
36 the person's failures to recite or acknowledge such arrest, or indictment or information, or trial  
37 in response to any inquiry made of him or her for any purpose.

38 The court shall also order that all records of the proceeding be expunged from the records  
39 of the court and direct all law enforcement agencies bearing records of the same to expunge  
40 their records of the proceeding. The clerk shall notify State and local agencies of the court's  
41 order as provided in G.S. 15A-15.

42 ...

43 (c) Whenever any person who has not previously been convicted of an offense under  
44 Article 5 or 5A of Chapter 90 of the General Statutes or under any statute of the United States  
45 or any state relating to controlled substances included in any schedule of Article 5 of Chapter  
46 90 of the General Statutes or to that paraphernalia included in Article 5B of Chapter 90 of the  
47 General Statutes pleads guilty to or has been found guilty of a misdemeanor under Article 5A  
48 of Chapter 90 of the General Statutes, the court may, upon application of the person not sooner  
49 than 12 months after conviction, order cancellation of the judgment of conviction and  
50 expunction of the records of the person's arrest, indictment or information, trial, and conviction.  
51 A conviction in which the judgment of conviction has been cancelled and the records expunged

1 pursuant to this subsection shall not be thereafter deemed a conviction for purposes of this  
2 subsection or for purposes of disqualifications or liabilities imposed by law upon conviction of  
3 a crime, including the additional penalties imposed for second or subsequent convictions of  
4 violation of Article 5A of Chapter 90 of the General Statutes. Cancellation and expunction  
5 under this subsection may occur only once with respect to any person. Disposition of a case  
6 under this subsection at the district court division of the General Court of Justice shall be final  
7 for the purpose of appeal.

8 The granting of an application filed under this subsection shall cause the issue of an order to  
9 expunge from all official records, other than the confidential files retained under G.S. 15A-151,  
10 all recordation relating to the person's arrest, indictment or information, trial, finding of guilty,  
11 judgment of conviction, cancellation of the judgment, and expunction of records pursuant to  
12 this subsection.

13 The judge to whom the petition is presented is authorized to call upon a probation officer  
14 for additional investigation or verification of the petitioner's conduct since conviction. If the  
15 court determines that the petitioner was convicted of a misdemeanor under Article 5A of  
16 Chapter 90 of the General Statutes, or for possessing drug paraphernalia as prohibited by  
17 G.S. 90-113.22, that the petitioner was not over 21 years of age at the time of the offense, that  
18 the petitioner has been of good behavior since his or her conviction, that the petitioner has  
19 successfully completed a drug education program approved for this purpose by the Department  
20 of Health and Human Services, and that the petitioner has not been convicted of a felony or  
21 misdemeanor other than a traffic or boating violation under the laws of this State at any time  
22 prior to or since the conviction for the misdemeanor in question, it shall enter an order of  
23 expunction of the petitioner's court record. The effect of such order shall be to restore the  
24 petitioner in the contemplation of the law to the status he occupied before such arrest or  
25 indictment or information or conviction. No person as to whom such order was entered shall be  
26 held thereafter under any provision of any law to be guilty of perjury or otherwise giving a  
27 false statement by reason of the person's failures to recite or acknowledge such arrest, or  
28 indictment or information, or conviction, or trial in response to any inquiry made of him or her  
29 for any purpose. The judge may waive the condition that the petitioner attend the drug  
30 education school if the judge makes a specific finding that there was no drug education school  
31 within a reasonable distance of the defendant's residence or that there were specific extenuating  
32 circumstances which made it likely that the petitioner would not benefit from the program of  
33 instruction.

34 The clerk shall notify State and local agencies of the court's order as provided in  
35 G.S. 15A-150.

36 ...."

37 **SECTION 6.** G.S. 15A-145.4 reads as rewritten:

38 "**§ 15A-145.4. Expunction of records for first offenders who are under 18 years of age at**  
39 **the time of the commission of a nonviolent felony.**

40 ...

41 (c) Whenever any person who had not yet attained the age of 18 years at the time of the  
42 commission of the offense and has not previously been convicted of any felony or  
43 misdemeanor other than a traffic or boating violation under the laws of the United States or the  
44 laws of this State or any other state pleads guilty to or is guilty of a nonviolent felony, the  
45 person may file a petition in the court where the person was convicted for expunction of the  
46 nonviolent felony from the person's criminal record. The petition shall not be filed earlier than  
47 four years after the date of the conviction or when any active sentence, period of probation, and  
48 post-release supervision has been served, whichever occurs later. The person shall also perform  
49 at least 100 hours of community service, preferably related to the conviction, before filing a  
50 petition for expunction under this section. The petition shall contain the following:



- 1 (1) An affidavit by the petitioner that the petitioner has been of good moral  
2 character since the date of conviction of the nonviolent felony in question  
3 and has not been convicted of any other felony or any misdemeanor other  
4 than a traffic or boating violation under the laws of the United States or the  
5 laws of this State or any other state.
- 6 (2) Verified affidavits of two persons who are not related to the petitioner or to  
7 each other by blood or marriage, that they know the character and reputation  
8 of the petitioner in the community in which the petitioner lives and that the  
9 petitioner's character and reputation are good.
- 10 (3) A statement that the petition is a motion in the cause in the case wherein the  
11 petitioner was convicted.
- 12 (4) An application on a form approved by the Administrative Office of the  
13 Courts requesting and authorizing (i) a State and national criminal history  
14 record check by the Department of Public Safety using any information  
15 required by the Administrative Office of the Courts to identify the  
16 individual; (ii) a search by the Department of Public Safety for any  
17 outstanding warrants or pending criminal cases; and (iii) a search of the  
18 confidential record of expunctions maintained by the Administrative Office  
19 of the Courts. The application shall be forwarded to the Department of  
20 Public Safety and to the Administrative Office of the Courts, which shall  
21 conduct the searches and report their findings to the court.
- 22 (5) An affidavit by the petitioner that no restitution orders or civil judgments  
23 representing amounts ordered for restitution entered against the petitioner  
24 are outstanding.
- 25 (6) An affidavit by the petitioner that the petitioner has performed at least 100  
26 hours of community service since the conviction for the nonviolent felony.  
27 The affidavit shall include a list of the community services performed, a list  
28 of the recipients of the services, and a detailed description of those services.
- 29 (7) An affidavit by the petitioner that the petitioner possesses a high school  
30 diploma, a high school graduation equivalency certificate, or a General  
31 Education Development degree.

32 The petition shall be served upon the district attorney of the court wherein the case was  
33 tried resulting in conviction. The district attorney shall have 30 days thereafter in which to file  
34 any objection thereto and shall be duly notified as to the date of the hearing of the petition. The  
35 district attorney shall make his or her best efforts to contact the victim, if any, to notify the  
36 victim of the request for expunction prior to the date of the hearing.

37 ...

38 (e) The court may order that the person be restored, in the contemplation of the law, to  
39 the status the person occupied before the arrest or indictment or information if the court finds  
40 all of the following after a hearing:

- 41 (1) The petitioner has remained of good moral character and has been free of  
42 conviction of any felony or misdemeanor, other than a traffic or boating  
43 violation, for four years from the date of conviction of the nonviolent felony  
44 in question or any active sentence, period of probation, or post-release  
45 supervision has been served, whichever is later.
- 46 (2) The petitioner has not previously been convicted of any felony or  
47 misdemeanor other than a traffic or boating violation under the laws of the  
48 United States or the laws of this State or any other state.
- 49 (3) The petitioner has no outstanding warrants or pending criminal cases.
- 50 (4) The petitioner has no outstanding restitution orders or civil judgments  
51 representing amounts ordered for restitution entered against the petitioner.

- 1           (5)    The petitioner was less than 18 years old at the time of the commission of
- 2                    the offense in question.
- 3           (6)    The petitioner has performed at least 100 hours of community service since
- 4                    the time of the conviction and possesses a high school diploma, a high
- 5                    school graduation equivalency certificate, or a General Education
- 6                    Development degree.
- 7           (7)    The search of the confidential records of expunctions conducted by the
- 8                    Administrative Office of the Courts shows that the petitioner has not been
- 9                    previously granted an expunction.

10       ...."

11       **SECTION 7.** G.S. 15A-145.6(f) reads as rewritten:

12       "(f)    The court shall order that the person be restored, in the contemplation of the law, to

13   the status the person occupied before the arrest or indictment or information if the court finds

14   all of the following after a hearing:

- 15           (1)    The criteria set out in subsection (b) of this section are satisfied.
- 16           (2)    The petitioner has remained of good moral character and has been free of
- 17                    conviction of any felony or misdemeanor, other than a traffic or boating
- 18                    violation, since the date of conviction of the prostitution offense in question.
- 19           (3)    The petitioner has no outstanding warrants or pending criminal cases.
- 20           (4)    The petitioner has no outstanding restitution orders or civil judgments
- 21                    representing amounts ordered for restitution entered against the petitioner.
- 22           (5)    The search of the confidential records of expunctions conducted by the
- 23                    Administrative Office of the Courts shows that the petitioner has not been
- 24                    previously granted an expunction, other than an expunction for a prostitution
- 25                    offense."

26       **SECTION 8.** This act is effective when it becomes law.