

GENERAL ASSEMBLY OF NORTH CAROLINA
SESSION 2015

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SENATE BILL 570
PROPOSED COMMITTEE SUBSTITUTE S570-PCS25238-TJ-19

Short Title: Expunction/Boat Violation.

(Public)

Sponsors:

Referred to:

March 30, 2015

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 MISDEMEANOR
4 BOATING 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 ~~violation~~-violation or a misdemeanor boating violation. The petition shall not be filed
11 earlier than 15 years after the date of the conviction or when any active sentence, period of
12 probation, and post-release supervision has been served, whichever occurs later. The petition
13 shall contain, but not be limited to, the 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 ~~violation~~-violation or a misdemeanor
18 boating violation, under the laws of the United States or the laws of this
19 State or any other state.
20 (2) Verified affidavits of two persons who are not related to the petitioner or to
21 each other by blood or marriage, that they know the character and reputation
22 of the petitioner in the community in which the petitioner lives and that the
23 petitioner's character and reputation are good.
24 (3) A statement that the petition is a motion in the cause in the case wherein the
25 petitioner was convicted.
26 (4) An application on a form approved by the Administrative Office of the
27 Courts requesting and authorizing a name-based State and national criminal
28 history record check by the Department of Public Safety using any
29 information required by the Administrative Office of the Courts to identify
30 the individual, a search by the Department of Public Safety for any
31 outstanding warrants on pending criminal cases, and a search of the
32 confidential record of expunctions maintained by the Administrative Office
33 of the Courts. The application shall be forwarded to the Department of
34 Public Safety and to the Administrative Office of the Courts, which shall
35 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 ~~violation~~; violation or a misdemeanor boating
21 violation; the petitioner has no outstanding restitution orders or civil judgments representing
22 amounts ordered for restitution entered against the petitioner; and the petitioner was convicted
23 of an offense eligible for expunction under this section and was convicted of, and completed
24 any sentence received for, the nonviolent misdemeanor or nonviolent felony at least 15 years
25 prior to the filing of the petition, it may order that such person be restored, in the contemplation
26 of the law, to the status the person occupied before such arrest or indictment or information. If
27 the court denies the 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 ~~violation~~; violation or a misdemeanor boating violation, under
33 the laws of the United States, the laws of this State or any other state, (i) pleads guilty to or is
34 guilty of a misdemeanor other than a traffic ~~violation~~; violation or a misdemeanor boating
35 violation, and the offense was committed before the person attained the age of 18 years, or (ii)
36 pleads guilty to or is guilty of a misdemeanor possession of alcohol pursuant to
37 G.S. 18B-302(b)(1), and the offense was committed before the person attained the age of 21
38 years, he may file a petition in the court where he was convicted for expunction of the
39 misdemeanor from his criminal record. The petition cannot be filed earlier than: (i) two years
40 after the date of the conviction, or (ii) the completion of any period of probation, whichever
41 occurs later, and the petition shall contain, but not be limited to, the following:

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

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

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

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

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

35"

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

37 **"§ 15A-145.1. Expunction of records for first offenders under the age of 18 at the time of**
38 **conviction of certain gang offenses.**

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

- 50 (1) An affidavit by the petitioner that the petitioner has been of good behavior
51 (i) during the period of probation since the decision to defer further

1 proceedings on the offense in question pursuant to G.S. 14-50.29 or (ii)
2 during the two-year period since the date of conviction of the offense in
3 question, whichever applies, and has not been convicted of any felony or
4 misdemeanor other than a traffic violation or a misdemeanor boating
5 violation under the laws of the United States or the laws of this State or any
6 other state.

7 (2) Verified affidavits of two persons who are not related to the petitioner or to
8 each other by blood or marriage, that they know the character and reputation
9 of the petitioner in the community in which the petitioner lives, and that the
10 petitioner's character and reputation are good.

11 (3) If the petition is filed subsequent to conviction of the offense in question, a
12 statement that the petition is a motion in the cause in the case wherein the
13 petitioner was convicted.

14 (4) Repealed by Session Laws 2010-174, s. 4, effective October 1, 2010, and
15 applicable to petitions for expunctions filed on or after that date.

16 (4a) An application on a form approved by the Administrative Office of the
17 Courts requesting and authorizing a name-based State and national criminal
18 record check by the Department of Public Safety using any information
19 required by the Administrative Office of the Courts to identify the individual
20 and a search of the confidential record of expunctions maintained by the
21 Administrative Office of the Courts. The application shall be forwarded to
22 the Department of Public Safety and to the Administrative Office of the
23 Courts, which shall conduct the searches and report their findings to the
24 court.

25 (5) An affidavit by the petitioner that no restitution orders or civil judgments
26 representing amounts ordered for restitution entered against the petitioner
27 are outstanding.

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

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

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

1 the petitioner's criminal charge and any conviction resulting from the charge. The clerk shall
2 notify State and local agencies of the court's order as provided in G.S. 15A-150.

3"

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

5 "**§ 15A-145.2. Expunction of records for first offenders not over 21 years of age at the**
6 **time of the offense of certain drug offenses.**

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

13 (1) An affidavit by the petitioner that he or she has been of good behavior
14 during the period of probation since the decision to defer further proceedings
15 on the offense in question and has not been convicted of any felony or
16 misdemeanor other than a traffic violation or a misdemeanor boating
17 violation under the laws of the United States or the laws of this State or any
18 other state;

19 (2) Verified affidavits by 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 he or she lives, and that the
22 petitioner's character and reputation are good;

23 (3) Repealed by Session Laws 2010-174, s. 5, effective October 1, 2010, and
24 applicable to petitions for expunctions filed on or after that date.

25 (3a) 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 record check by the Department of Public Safety using any information
28 required by the Administrative Office of the Courts to identify the individual
29 and a search of the confidential record of expunctions maintained by the
30 Administrative Office of the Courts. The application shall be forwarded to
31 the Department of Public Safety and to the Administrative Office of the
32 Courts, which shall conduct the searches and report their findings to the
33 court.

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

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

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

50 ...

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

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

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

49 The court shall also order all law enforcement agencies, the Department of Correction, the
50 Division of Motor Vehicles, and any other State or local agencies identified by the petitioner as
51 bearing records of the conviction and records relating thereto to expunge their records of the

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

3"

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

5 **"§ 15A-145.3. Expunction of records for first offenders not over 21 years of age at the**
6 **time of the offense of certain toxic vapors offenses.**

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

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

19 (2) Verified affidavits by 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 his
22 or her character and reputation are good;

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

25 (3a) 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 record check by the Department of Public Safety using any information
28 required by the Administrative Office of the Courts to identify the individual
29 and a search of the confidential record of expunctions maintained by the
30 Administrative Office of the Courts. The application shall be forwarded to
31 the Department of Public Safety and to the Administrative Office of the
32 Courts, which shall conduct the searches and report their findings to the
33 court.

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

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

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

49 ...

50 (c) Whenever any person who has not previously been convicted of an offense under
51 Article 5 or 5A of Chapter 90 of the General Statutes or under any statute of the United States

1 or any state relating to controlled substances included in any schedule of Article 5 of Chapter
2 90 of the General Statutes or to that paraphernalia included in Article 5B of Chapter 90 of the
3 General Statutes pleads guilty to or has been found guilty of a misdemeanor under Article 5A
4 of Chapter 90 of the General Statutes, the court may, upon application of the person not sooner
5 than 12 months after conviction, order cancellation of the judgment of conviction and
6 expunction of the records of the person's arrest, indictment or information, trial, and conviction.
7 A conviction in which the judgment of conviction has been cancelled and the records expunged
8 pursuant to this subsection shall not be thereafter deemed a conviction for purposes of this
9 subsection or for purposes of disqualifications or liabilities imposed by law upon conviction of
10 a crime, including the additional penalties imposed for second or subsequent convictions of
11 violation of Article 5A of Chapter 90 of the General Statutes. Cancellation and expunction
12 under this subsection may occur only once with respect to any person. Disposition of a case
13 under this subsection at the district court division of the General Court of Justice shall be final
14 for the purpose of appeal.

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

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

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

43"

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

45 "**§ 15A-145.4. Expunction of records for first offenders who are under 18 years of age at**
46 **the time of the commission of a nonviolent felony.**

47 ...

48 (c) Whenever any person who had not yet attained the age of 18 years at the time of the
49 commission of the offense and has not previously been convicted of any felony or
50 misdemeanor other than a traffic violation or a misdemeanor boating violation under the laws
51 of the United States or the laws of this State or any other state pleads guilty to or is guilty of a

1 nonviolent felony, the person may file a petition in the court where the person was convicted
2 for expunction of the nonviolent felony from the person's criminal record. The petition shall not
3 be filed earlier than four years after the date of the conviction or when any active sentence,
4 period of probation, and post-release supervision has been served, whichever occurs later. The
5 person shall also perform at least 100 hours of community service, preferably related to the
6 conviction, before filing a petition for expunction under this section. The petition shall contain
7 the following:

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

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

44 ...

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

- 48 (1) The petitioner has remained of good moral character and has been free of
49 conviction of any felony or misdemeanor, other than a traffic or boating
50 violation, for four years from the date of conviction of the nonviolent felony

1 in question or any active sentence, period of probation, or post-release
2 supervision has been served, whichever is later.

3 (2) The petitioner has not previously been convicted of any felony or
4 misdemeanor other than a traffic violation or a misdemeanor boating
5 violation under the laws of the United States or the laws of this State or any
6 other state.

7 (3) The petitioner has no outstanding warrants or pending criminal cases.

8 (4) The petitioner has no outstanding restitution orders or civil judgments
9 representing amounts ordered for restitution entered against the petitioner.

10 (5) The petitioner was less than 18 years old at the time of the commission of
11 the offense in question.

12 (6) The petitioner has performed at least 100 hours of community service since
13 the time of the conviction and possesses a high school diploma, a high
14 school graduation equivalency certificate, or a General Education
15 Development degree.

16 (7) The search of the confidential records of expunctions conducted by the
17 Administrative Office of the Courts shows that the petitioner has not been
18 previously granted an expunction.

19"

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

21 "(f) The court shall order that the person be restored, in the contemplation of the law, to
22 the status the person occupied before the arrest or indictment or information if the court finds
23 all of the following after a hearing:

24 (1) The criteria set out in subsection (b) of this section are satisfied.

25 (2) The petitioner has remained of good moral character and has been free of
26 conviction of any felony or misdemeanor, other than a traffic violation or a
27 misdemeanor boating violation, since the date of conviction of the
28 prostitution offense in question.

29 (3) The petitioner has no outstanding warrants or pending criminal cases.

30 (4) The petitioner has no outstanding restitution orders or civil judgments
31 representing amounts ordered for restitution entered against the petitioner.

32 (5) The search of the confidential records of expunctions conducted by the
33 Administrative Office of the Courts shows that the petitioner has not been
34 previously granted an expunction, other than an expunction for a prostitution
35 offense.

36"

37 **SECTION 8.** G.S. 14-50.30 reads as rewritten:

38 "**§ 14-50.30. Expunction of records.**

39 Any person who has not previously been convicted of any felony or misdemeanor other
40 than a traffic violation or a misdemeanor boating violation under the laws of the United States
41 or the laws of this State or any other state, may, if the offense was committed before the person
42 attained the age of 18 years, be eligible to apply for expunction of certain offenses under this
43 Article pursuant to G.S. 15A-145.1."

44 **SECTION 9.** This act is effective when it becomes law.