

GENERAL ASSEMBLY OF NORTH CAROLINA  
SESSION 2017

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SENATE BILL DRS45303-LH-97 (03/15)

Short Title: Expungement Process Modifications. (Public)

Sponsors: Senators Tucker, Bryant, and McKissick (Primary Sponsors).

Referred to:

1 A BILL TO BE ENTITLED  
2 AN ACT TO STANDARDIZE THE FILING PROCEDURES FOR EXPUNGEMENTS, TO  
3 AUTHORIZE PROSECUTORS ACCESS TO CERTAIN RECORDS OF  
4 EXPUNGEMENT, TO ALLOW CERTAIN EXPUNGED CRIMINAL ACTS TO BE  
5 CONSIDERED IN CALCULATING PRIOR RECORD LEVELS DURING  
6 SENTENCING FOR SUBSEQUENT OFFENSES, AND TO MAKE OTHER  
7 MODIFICATIONS TO THE EXPUNGEMENT PROCESS.

8 The General Assembly of North Carolina enacts:

9 SECTION 1. Article 5 of Chapter 15A of the General Statutes reads as rewritten:

10 "Article 5.

11 "Expunction of Records.

12 "§ 15A-145. Expunction of records for first offenders under the age of 18 at the time of  
13 conviction of misdemeanor; expunction of certain other misdemeanors.

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

- 24 (1) An affidavit by the petitioner that he has been of good behavior for the  
25 two-year period since the date of conviction of the misdemeanor in question  
26 and has not been convicted of any felony, or misdemeanor other than a  
27 traffic violation, under the laws of the United States or the laws of this State  
28 or any other state.
- 29 (2) Verified affidavits of two persons who are not related to the petitioner or to  
30 each other by blood or marriage, that they know the character and reputation  
31 of the petitioner in the community in which he lives and that his character  
32 and reputation are good.
- 33 (3) A statement that the petition is a motion in the cause in the case wherein the  
34 petitioner was convicted.
- 35 (4) Repealed by Session Laws 2010-174, s. 2, effective October 1, 2010, and  
36 applicable to petitions for expunctions filed on or after that date.



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1 (4a) An application on a form approved by the Administrative Office of the  
2 Courts requesting and authorizing a name-based State and national criminal  
3 record check by the Department of Public Safety using any information  
4 required by the Administrative Office of the Courts to identify the individual  
5 and a search of the confidential record of expunctions maintained by the  
6 Administrative Office of the Courts. The application shall be ~~forwarded~~ filed  
7 with the clerk of superior court. The clerk of superior court shall obtain the  
8 authorizing signature of the judge then presiding in that county and forward  
9 the signed application to the Department of Public Safety and to the  
10 Administrative Office of the Courts, which shall conduct the searches and  
11 report their findings to the 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 (a1) Nothing in this section shall be interpreted to allow the expunction of any offense  
22 involving impaired driving as defined in G.S. 20-4.01(24a).

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, for two  
25 years from the date of conviction of the misdemeanor in question, the petitioner has no  
26 outstanding restitution orders or civil judgments representing amounts ordered for restitution  
27 entered against him, and (i) petitioner was not 18 years old at the time of the offense in  
28 question, or (ii) petitioner was not 21 years old at the time of the offense of possession of  
29 alcohol pursuant to G.S. 18B-302(b)(1), it shall order that such person be restored, in the  
30 contemplation of the law, to the status he occupied before such arrest or indictment or  
31 information.

32 (b1) No person as to whom such order has been entered shall be held thereafter under  
33 any provision of any laws to be guilty of perjury or otherwise giving a false statement by  
34 reason of his failure to recite or acknowledge such arrest, or indictment, information, or trial, or  
35 response to any inquiry made of him for any purpose. This subsection shall not apply to a  
36 sentencing hearing when the person has been convicted of a subsequent criminal offense.

37 (c) The court shall also order that the misdemeanor conviction, or a civil revocation of a  
38 drivers license as the result of a criminal charge, be expunged from the records of the court.  
39 The court shall direct all law-enforcement agencies, the Division of Adult Correction of the  
40 Department of Public Safety, the Division of Motor Vehicles, and any other State or local  
41 government agencies identified by the petitioner as bearing record of the same to expunge their  
42 records of the petitioner's conviction or a civil revocation of a drivers license as the result of a  
43 criminal charge. This subsection does not apply to civil or criminal charges based upon the civil  
44 revocation, or to civil revocations under G.S. 20-16.2. The clerk shall notify State and local  
45 agencies of the court's order as provided in G.S. 15A-150. The clerk shall forward a certified  
46 copy of the order to the Division of Motor Vehicles for the expunction of a civil revocation  
47 provided the underlying criminal charge is also expunged. The civil revocation of a drivers  
48 license shall not be expunged prior to a final disposition of any pending civil or criminal charge  
49 based upon the civil revocation.

50 (d) The clerk shall notify State and local agencies of the court's order as provided in  
51 G.S. 15A-150.

1 (d1) Repealed by Session Laws 2012-191, s. 3, effective December 1, 2012.

2 (e) A person who files a petition for expunction of a criminal record under this section  
3 must pay the clerk of superior court a fee of one hundred seventy-five dollars (\$175.00) at the  
4 time the petition is filed. Fees collected under this subsection are payable to the Administrative  
5 Office of the Courts. The clerk of superior court shall remit one hundred twenty-two dollars  
6 and fifty cents (\$122.50) of each fee to the North Carolina Department of Public Safety for the  
7 costs of criminal record checks performed in connection with processing petitions for  
8 expunctions under this section. The remaining fifty-two dollars and fifty cents (\$52.50) of each  
9 fee shall be retained by the Administrative Office of the Courts and used to pay the costs of  
10 processing petitions for expunctions under this section. This subsection does not apply to  
11 petitions filed by an indigent.

12 **"§ 15A-145.1. Expunction of records for first offenders under the age of 18 at the time of**  
13 **conviction of certain gang offenses.**

14 (a) Whenever any person who has not previously been convicted of any felony or  
15 misdemeanor other than a traffic violation under the laws of the United States or the laws of  
16 this State or any other state pleads guilty to or is guilty of (i) a Class H felony under Article  
17 13A of Chapter 14 of the General Statutes or (ii) an enhanced offense under G.S. 14-50.22, or  
18 has been discharged and had the proceedings against the person dismissed pursuant to  
19 G.S. 14-50.29, and the offense was committed before the person attained the age of 18 years,  
20 the person may file a petition in the court of the county where the person was convicted for  
21 expunction of the offense from the person's criminal record. Except as provided in  
22 G.S. 14-50.29 upon discharge and dismissal, the petition cannot be filed earlier than (i) two  
23 years after the date of the conviction or (ii) the completion of any period of probation,  
24 whichever occurs later. The petition shall contain, but not be limited to, the following:

25 (1) An affidavit by the petitioner that the petitioner has been of good behavior  
26 (i) during the period of probation since the decision to defer further  
27 proceedings on the offense in question pursuant to G.S. 14-50.29 or (ii)  
28 during the two-year period since the date of conviction of the offense in  
29 question, whichever applies, and has not been convicted of any felony or  
30 misdemeanor other than a traffic violation under the laws of the United  
31 States or the laws of this State or any other state.

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

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

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

41 (4a) An application on a form approved by the Administrative Office of the  
42 Courts requesting and authorizing a name-based State and national criminal  
43 record check by the Department of Public Safety using any information  
44 required by the Administrative Office of the Courts to identify the individual  
45 and a search of the confidential record of expunctions maintained by the  
46 Administrative Office of the Courts. The application shall be ~~forwarded~~ filed  
47 with the clerk of superior court. The clerk of superior court shall obtain the  
48 authorizing signature of the judge then presiding in that county and forward  
49 the signed application to the Department of Public Safety and to the  
50 Administrative Office of the Courts, which shall conduct the searches and  
51 report their findings to the court.

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

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

10 (b) If the court, after hearing, finds that (i) the petitioner was dismissed and the  
11 proceedings against the petitioner discharged pursuant to G.S. 14-50.29 and that the person had  
12 not yet attained 18 years of age at the time of the offense or (ii) the petitioner has remained of  
13 good behavior and been free of conviction of any felony or misdemeanor other than a traffic  
14 violation for two years from the date of conviction of the offense in question, the petitioner has  
15 no outstanding restitution orders or civil judgments representing amounts ordered for restitution  
16 entered against the petitioner, and the petitioner had not attained the age of 18 years at the time  
17 of the offense in question, it shall order that such person be restored, in the contemplation of  
18 the law, to the status occupied by the petitioner before such arrest or indictment or information,  
19 and that the record be expunged from the records of the court.

20 (b1) No person as to whom such order has been entered shall be held thereafter under  
21 any provision of any laws to be guilty of perjury or otherwise giving a false statement by  
22 reason of the person's failure to recite or acknowledge such arrest, or indictment or information,  
23 or trial, or response to any inquiry made of the person for any purpose. This subsection shall  
24 not apply to a sentencing hearing when the person has been convicted of a subsequent criminal  
25 offense.

26 (b2) The court shall also direct all law enforcement agencies, the Division of Adult  
27 Correction of the Department of Public Safety, the Division of Motor Vehicles, and any other  
28 State or local government agencies identified by the petitioner as bearing record of the same to  
29 expunge their records of the petitioner's criminal charge and any conviction resulting from the  
30 charge. The clerk shall notify State and local agencies of the court's order as provided in  
31 G.S. 15A-150.

32 (c) This section is supplemental and in addition to existing law and shall not be  
33 construed so as to repeal any existing provision contained in the General Statutes of North  
34 Carolina.

35 (d) A person who files a petition for expunction of a criminal record under this section  
36 must pay the clerk of superior court a fee of one hundred seventy-five dollars (\$175.00) at the  
37 time the petition is filed. Fees collected under this subsection are payable to the Administrative  
38 Office of the Courts. The clerk of superior court shall remit one hundred twenty-two dollars  
39 and fifty cents (\$122.50) of each fee to the North Carolina Department of Public Safety for the  
40 costs of criminal record checks performed in connection with processing petitions for  
41 expunctions under this section. The remaining fifty-two dollars and fifty cents (\$52.50) of each  
42 fee shall be retained by the Administrative Office of the Courts and used to pay the costs of  
43 processing petitions for expunctions under this section. This subsection does not apply to  
44 petitions filed by an indigent.

45 **"§ 15A-145.2. Expunction of records for first offenders not over 21 years of age at the**  
46 **time of the offense of certain drug offenses.**

47 (a) Whenever a person is discharged, and the proceedings against the person dismissed,  
48 pursuant to G.S. 90-96(a) or (a1), and the person was not over 21 years of age at the time of the  
49 offense, the person may apply to the court of the county where charged for an order to expunge  
50 from all official records, other than the confidential files retained under G.S. 15A-151, all  
51 recordation relating to the person's arrest, indictment or information, trial, finding of guilty, and

1 dismissal and discharge pursuant to this section. The applicant shall attach to the application  
2 petition the following:

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

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

28 If the court determines, after hearing, that such person was discharged and the proceedings  
29 against him or her dismissed and that the person was not over 21 years of age at the time of the  
30 offense, it shall enter such order. The effect of such order shall be to restore such person in the  
31 contemplation of the law to the status the person occupied before such arrest or indictment or  
32 information.

33 (a1) No person as to whom such order was entered shall be held thereafter under any  
34 provision of any law to be guilty of perjury or otherwise giving a false statement by reason of  
35 the person's failures to recite or acknowledge such arrest, or indictment or information, or trial  
36 in response to any inquiry made of him or her for any purpose. This subsection shall not apply  
37 to a sentencing hearing when the person has been convicted of a subsequent criminal offense.

38 (a2) The court shall also order that all records of the proceeding be expunged from the  
39 records of the court and direct all law enforcement agencies, the Division of Adult Correction,  
40 the Division of Motor Vehicles, and any other State and local government agencies identified  
41 by the petitioner as bearing records of the same to expunge their records of the proceeding. The  
42 clerk shall notify State and local agencies of the court's order as provided in G.S. 15A-150.

43 (b) Whenever any person is charged with a misdemeanor under Article 5 of Chapter 90  
44 of the General Statutes by possessing a controlled substance included within Schedules I  
45 through VI of Article 5 of Chapter 90 of the General Statutes or a felony under  
46 G.S. 90-95(a)(3), upon dismissal by the State of the charges against the person, upon entry of a  
47 nolle prosequi, or upon a finding of not guilty or other adjudication of innocence, such person  
48 may apply to the court for an order to expunge from all official records all recordation relating  
49 to his or her arrest, indictment or information, or trial. If the court determines, after hearing,  
50 that such person was not over 21 years of age at the time the offense for which the person was  
51 charged occurred, it shall enter such order. The clerk shall notify State and local agencies of the

1 court's order as provided in G.S. 15A-150. No person as to whom such order has been entered  
2 shall be held thereafter under any provision of any law to be guilty of perjury or otherwise  
3 giving a false statement by reason of the person's failures to recite or acknowledge such arrest,  
4 or indictment or information, or trial in response to any inquiry made of him or her for any  
5 purpose.

6 (c) Whenever any person who has not previously been convicted of (i) any felony  
7 offense under any state or federal laws; (ii) any offense under Chapter 90 of the General  
8 Statutes; or (iii) an offense under any statute of the United States or any state relating to  
9 controlled substances included in any schedule of Chapter 90 of the General Statutes or to that  
10 paraphernalia included in Article 5B of Chapter 90 of the General Statutes, pleads guilty to or  
11 has been found guilty of a misdemeanor under Article 5 of Chapter 90 of the General Statutes  
12 by possessing a controlled substance included within Schedules I through VI of Chapter 90, or  
13 by possessing drug paraphernalia as prohibited by G.S. 90-113.22 or pleads guilty to or has  
14 been found guilty of a felony under G.S. 90-95(a)(3), the court may, upon application of the  
15 person not sooner than 12 months after conviction, order cancellation of the judgment of  
16 conviction and expunction of the records of the person's arrest, indictment or information, trial,  
17 and conviction. A conviction in which the judgment of conviction has been canceled and the  
18 records expunged pursuant to this subsection shall not be thereafter deemed a conviction for  
19 purposes of this subsection or for purposes of disqualifications or liabilities imposed by law  
20 upon conviction of a crime, ~~including the additional penalties imposed for second or~~  
21 ~~subsequent convictions of Article 5 of Chapter 90 of the General Statutes.~~ except as provided in  
22 G.S. 15A-151.5. Cancellation and expunction under this subsection may occur only once with  
23 respect to any person. Disposition of a case under this subsection at the district court division of  
24 the General Court of Justice shall be final for the purpose of appeal.

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

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

1 residence or that there were specific extenuating circumstances which made it likely that the  
2 petitioner would not benefit from the program of instruction.

3 The court shall also order all law enforcement agencies, the Department of ~~Correction,~~  
4 Public Safety, the Division of Motor Vehicles, and any other State or local agencies identified  
5 by the petitioner as bearing records of the conviction and records relating thereto to expunge  
6 their records of the conviction. The clerk shall notify State and local agencies of the court's  
7 order as provided in G.S. 15A-150.

8 (d) A person who files a petition for expunction of a criminal record under this section  
9 must pay the clerk of superior court a fee of one hundred seventy-five dollars (\$175.00) at the  
10 time the petition is filed. Fees collected under this subsection are payable to the Administrative  
11 Office of the Courts. The clerk of superior court shall remit one hundred twenty-two dollars  
12 and fifty cents (\$122.50) of each fee to the North Carolina Department of Public Safety for the  
13 costs of criminal record checks performed in connection with processing petitions for  
14 expunctions under this section. The remaining fifty-two dollars and fifty cents (\$52.50) of each  
15 fee shall be retained by the Administrative Office of the Courts and used to pay the costs of  
16 processing petitions for expunctions under this section. This subsection does not apply to  
17 petitions filed by an indigent.

18 **"§ 15A-145.3. Expunction of records for first offenders not over 21 years of age at the**  
19 **time of the offense of certain toxic vapors offenses.**

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

- 27 (1) An affidavit by the petitioner that the petitioner has been of good behavior  
28 during the period of probation since the decision to defer further proceedings  
29 on the misdemeanor in question and has not been convicted of any felony or  
30 misdemeanor other than a traffic violation under the laws of the United  
31 States or the laws of this State or any other state;
- 32 (2) Verified affidavits by two persons who are not related to the petitioner or to  
33 each other by blood or marriage, that they know the character and reputation  
34 of the petitioner in the community in which the petitioner lives, and that his  
35 or her character and reputation are good;
- 36 (3) Repealed by Session Laws 2010-174, s. 6, effective October 1, 2010, and  
37 applicable to petitions for expunctions filed on or after that date.
- 38 (3a) An application on a form approved by the Administrative Office of the  
39 Courts requesting and authorizing a name-based State and national criminal  
40 record check by the Department of Public Safety using any information  
41 required by the Administrative Office of the Courts to identify the individual  
42 and a search of the confidential record of expunctions maintained by the  
43 Administrative Office of the Courts. The application shall be ~~forwarded~~ filed  
44 with the clerk of superior court. The clerk of superior court shall obtain the  
45 authorizing signature of the judge then presiding in that county and forward  
46 the signed application to the Department of Public Safety and to the  
47 Administrative Office of the Courts, which shall conduct the searches and  
48 report their findings to the court.

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

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

9 The court shall also order that all records of the proceeding be expunged from the records  
10 of the court and direct all law enforcement agencies bearing records of the same to expunge  
11 their records of the proceeding. The clerk shall notify State and local agencies of the court's  
12 order as provided in G.S. 15A-150.

13 (b) Whenever any person is charged with a misdemeanor under Article 5A of Chapter  
14 90 of the General Statutes or possessing drug paraphernalia as prohibited by G.S. 90-113.22,  
15 upon dismissal by the State of the charges against the person or upon entry of a nolle prosequi  
16 or upon a finding of not guilty or other adjudication of innocence, such person may apply to the  
17 court for an order to expunge from all official records all recordation relating to the person's  
18 arrest, indictment or information, and trial. If the court determines, after hearing that such  
19 person was not over 21 years of age at the time the offense for which the person was charged  
20 occurred, it shall enter such order. The clerk shall notify State and local agencies of the court's  
21 order as provided in G.S. 15A-150.

22 (b1) No person as to whom such order has been entered shall be held thereafter under  
23 any provision of any law to be guilty of perjury or otherwise giving a false statement by reason  
24 of the person's failures to recite or acknowledge such arrest, or indictment or information, or  
25 trial in response to any inquiry made of him or her for any purpose. This subsection shall not  
26 apply to a sentencing hearing when the person has been convicted of a subsequent criminal  
27 offense.

28 (c) Whenever any person who has not previously been convicted of an offense under  
29 Article 5 or 5A of Chapter 90 of the General Statutes or under any statute of the United States  
30 or any state relating to controlled substances included in any schedule of Article 5 of Chapter  
31 90 of the General Statutes or to that paraphernalia included in Article 5B of Chapter 90 of the  
32 General Statutes pleads guilty to or has been found guilty of a misdemeanor under Article 5A  
33 of Chapter 90 of the General Statutes, the court may, upon application of the person not sooner  
34 than 12 months after conviction, order cancellation of the judgment of conviction and  
35 expunction of the records of the person's arrest, indictment or information, trial, and conviction.  
36 A conviction in which the judgment of conviction has been cancelled and the records expunged  
37 pursuant to this subsection shall not be thereafter deemed a conviction for purposes of this  
38 subsection or for purposes of disqualifications or liabilities imposed by law upon conviction of  
39 a crime, ~~including the additional penalties imposed for second or subsequent convictions of~~  
40 ~~violation of Article 5A of Chapter 90 of the General Statutes.~~ except as provided in  
41 G.S. 15A-151.5. Cancellation and expunction under this subsection may occur only once with  
42 respect to any person. Disposition of a case under this subsection at the district court division of  
43 the General Court of Justice shall be final for the purpose of appeal.

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

49 The judge to whom the petition is presented is authorized to call upon a probation officer  
50 for additional investigation or verification of the petitioner's conduct since conviction. If the  
51 court determines that the petitioner was convicted of a misdemeanor under Article 5A of



1 Chapter 90 of the General Statutes, or for possessing drug paraphernalia as prohibited by  
2 G.S. 90-113.22, that the petitioner was not over 21 years of age at the time of the offense, that  
3 the petitioner has been of good behavior since his or her conviction, that the petitioner has  
4 successfully completed a drug education program approved for this purpose by the Department  
5 of Health and Human Services, and that the petitioner has not been convicted of a felony or  
6 misdemeanor other than a traffic violation under the laws of this State at any time prior to or  
7 since the conviction for the misdemeanor in question, it shall enter an order of expunction of  
8 the petitioner's court record. The effect of such order shall be to restore the petitioner in the  
9 contemplation of the law to the status he occupied before such arrest or indictment or  
10 information or conviction. No person as to whom such order was entered shall be held  
11 thereafter under any provision of any law to be guilty of perjury or otherwise giving a false  
12 statement by reason of the person's failures to recite or acknowledge such arrest, or indictment  
13 or information, or conviction, or trial in response to any inquiry made of him or her for any  
14 purpose. The judge may waive the condition that the petitioner attend the drug education school  
15 if the judge makes a specific finding that there was no drug education school within a  
16 reasonable distance of the defendant's residence or that there were specific extenuating  
17 circumstances which made it likely that the petitioner would not benefit from the program of  
18 instruction.

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

21 (d) A person who files a petition for expunction of a criminal record under this section  
22 must pay the clerk of superior court a fee of one hundred seventy-five dollars (\$175.00) at the  
23 time the petition is filed. Fees collected under this subsection are payable to the Administrative  
24 Office of the Courts. The clerk of superior court shall remit one hundred twenty-two dollars  
25 and fifty cents (\$122.50) of each fee to the North Carolina Department of Public Safety for the  
26 costs of criminal record checks performed in connection with processing petitions for  
27 expunctions under this section. The remaining fifty-two dollars and fifty cents (\$52.50) of each  
28 fee shall be retained by the Administrative Office of the Courts and used to pay the costs of  
29 processing petitions for expunctions under this section. This subsection does not apply to  
30 petitions filed by an indigent.

31 **"§ 15A-145.4. Expunction of records for first offenders who are under 18 years of age at**  
32 **the time of the commission of a nonviolent felony.**

33 (a) For purposes of this section, the term "nonviolent felony" means any felony except  
34 the following:

- 35 (1) A Class A through G felony.
- 36 (2) A felony that includes assault as an essential element of the offense.
- 37 (3) A felony that is an offense requiring registration pursuant to Article 27A of  
38 Chapter 14 of the General Statutes, whether or not the person is currently  
39 required to register.
- 40 (4) Repealed by Session Laws 2012-191, s. 2, effective December 1, 2012.
- 41 (5) Any felony offense under the following sex-related or stalking offenses:  
42 G.S. 14-27.25(b), 14-27.30(b), 14-190.7, 14-190.8, 14-202, 14-208.11A,  
43 14-208.18, 14-277.3, 14-277.3A, 14-321.1.
- 44 (6) Any felony offense in Chapter 90 of the General Statutes where the offense  
45 involves methamphetamines, heroin, or possession with intent to sell or  
46 deliver or sell and deliver cocaine; except that if a prayer for judgment  
47 continued has been entered for an offense classified as either a Class G, H,  
48 or I felony, the prayer for judgment continued shall be subject to expunction  
49 under the procedures in this section.

- 1 (7) A felony offense under G.S. 14-12.12(b), 14-12.13, or 14-12.14, or any  
2 felony offense for which punishment was determined pursuant to  
3 G.S. 14-3(c).  
4 (8) A felony offense under G.S. 14-401.16.  
5 (9) Any felony offense in which a commercial motor vehicle was used in the  
6 commission of the offense.  
7 (10) Any felony offense involving impaired driving as defined in  
8 G.S. 20-4.01(24a).

9 (b) Notwithstanding any other provision of law, if the person is convicted of more than  
10 one nonviolent felony in the same session of court and none of the nonviolent felonies are  
11 alleged to have occurred after the person had already been served with criminal process for the  
12 commission of a nonviolent felony, then the multiple nonviolent felony convictions shall be  
13 treated as one nonviolent felony conviction under this section, and the expunction order issued  
14 under this section shall provide that the multiple nonviolent felony convictions shall be  
15 expunged from the person's record in accordance with this section.

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

- 26 (1) An affidavit by the petitioner that the petitioner has been of good moral  
27 character since the date of conviction of the nonviolent felony in question  
28 and has not been convicted of any other felony or any misdemeanor other  
29 than a traffic violation under the laws of the United States or the laws of this  
30 State or any other state.  
31 (2) Verified affidavits of two persons who are not related to the petitioner or to  
32 each other by blood or marriage, that they know the character and reputation  
33 of the petitioner in the community in which the petitioner lives and that the  
34 petitioner's character and reputation are good.  
35 (3) A statement that the petition is a motion in the cause in the case wherein the  
36 petitioner was convicted.  
37 (4) An application on a form approved by the Administrative Office of the  
38 Courts requesting and authorizing (i) a State and national criminal history  
39 record check by the Department of Public Safety using any information  
40 required by the Administrative Office of the Courts to identify the  
41 individual; (ii) a search by the Department of Public Safety for any  
42 outstanding warrants or pending criminal cases; and (iii) a search of the  
43 confidential record of expunctions maintained by the Administrative Office  
44 of the Courts. The application shall be ~~forwarded~~ filed with the clerk of  
45 superior court. The clerk of superior court shall obtain the authorizing  
46 signature of the judge then presiding in that county and forward the signed  
47 application to the Department of Public Safety and to the Administrative  
48 Office of the Courts, which shall conduct the searches and report their  
49 findings to the court.

- 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 (6) An affidavit by the petitioner that the petitioner has performed at least 100  
5 hours of community service since the conviction for the nonviolent felony.  
6 The affidavit shall include a list of the community services performed, a list  
7 of the recipients of the services, and a detailed description of those services.
- 8 (7) An affidavit by the petitioner that the petitioner possesses a high school  
9 diploma, a high school graduation equivalency certificate, or a General  
10 Education Development degree.

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

16 (d) The court in which the petition was filed shall take the following steps and shall  
17 consider the following issues in rendering a decision upon a petition for expunction of records  
18 of a nonviolent felony under this section:

- 19 (1) Call upon a probation officer for additional investigation or verification of  
20 the petitioner's conduct during the four-year period since the date of  
21 conviction of the nonviolent felony in question.
- 22 (2) Review the petitioner's juvenile record, ensuring that the petitioner's juvenile  
23 records remain separate from adult records and files and are withheld from  
24 public inspection as provided under Article 30 of Chapter 7B of the General  
25 Statutes.
- 26 (3) Review the amount of restitution made by the petitioner to the victim of the  
27 nonviolent felony to be expunged and give consideration to whether or not  
28 restitution was paid in full.
- 29 (4) Review any other information the court deems relevant, including, but not  
30 limited to, affidavits or other testimony provided by law enforcement  
31 officers, district attorneys, and victims of nonviolent felonies committed by  
32 the petitioner.

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

- 36 (1) The petitioner has remained of good moral character and has been free of  
37 conviction of any felony or misdemeanor, other than a traffic violation, for  
38 four years from the date of conviction of the nonviolent felony in question or  
39 any active sentence, period of probation, or post-release supervision has  
40 been served, whichever is later.
- 41 (2) The petitioner has not previously been convicted of any felony or  
42 misdemeanor other than a traffic violation under the laws of the United  
43 States or the laws of this State or any other state.
- 44 (3) The petitioner has no outstanding warrants or pending criminal cases.
- 45 (4) The petitioner has no outstanding restitution orders or civil judgments  
46 representing amounts ordered for restitution entered against the petitioner.
- 47 (5) The petitioner was less than 18 years old at the time of the commission of  
48 the offense in question.
- 49 (6) The petitioner has performed at least 100 hours of community service since  
50 the time of the conviction and possesses a high school diploma, a high

1 school graduation equivalency certificate, or a General Education  
2 Development degree.

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

6 (f) No person as to whom an order has been entered pursuant to subsection (e) of this  
7 section shall be held thereafter under any provision of any laws to be guilty of perjury or  
8 otherwise giving a false statement by reason of that person's failure to recite or acknowledge  
9 the arrest, indictment, information, trial, or conviction. Persons pursuing certification under the  
10 provisions of Chapter 17C or 17E of the General Statutes, however, shall disclose any and all  
11 felony convictions to the certifying Commission regardless of whether or not the felony  
12 convictions were expunged pursuant to the provisions of this section. This subsection shall not  
13 apply to a sentencing hearing when the person has been convicted of a subsequent criminal  
14 offense.

15 (f1) Persons required by State law to obtain a criminal history record check on a  
16 prospective employee shall not be deemed to have knowledge of any convictions expunged  
17 under this section.

18 (g) The court shall also order that the nonviolent felony conviction be expunged from  
19 the records of the court and direct all law enforcement agencies bearing record of the same to  
20 expunge their records of the conviction. The clerk shall notify State and local agencies of the  
21 court's order as provided in G.S. 15A-150.

22 (h) Any other applicable State or local government agency shall expunge from its  
23 records entries made as a result of the conviction ordered expunged under this section. The  
24 agency shall also vacate any administrative actions taken against a person whose record is  
25 expunged under this section as a result of the charges or convictions expunged. A person whose  
26 administrative action has been vacated by an occupational licensing board pursuant to an  
27 expunction under this section may then reapply for licensure and must satisfy the board's then  
28 current education and preliminary licensing requirements in order to obtain licensure. This  
29 subsection shall not apply to the Department of Justice for DNA records and samples stored in  
30 the State DNA Database and the State DNA Databank.

31 (i) Any person eligible for expunction of a criminal record under this section shall be  
32 notified about the provisions of this section by the probation officer assigned to that person. If  
33 no probation officer is assigned, notification of the provisions of this section shall be provided  
34 by the court at the time of the conviction of the felony which is to be expunged under this  
35 section.

36 (j) A person who files a petition for expunction of a criminal record under this section  
37 must pay the clerk of superior court a fee of one hundred seventy-five dollars (\$175.00) at the  
38 time the petition is filed. Fees collected under this subsection are payable to the Administrative  
39 Office of the Courts. The clerk of superior court shall remit one hundred twenty-two dollars  
40 and fifty cents (\$122.50) of each fee to the North Carolina Department of Public Safety for the  
41 costs of criminal record checks performed in connection with processing petitions for  
42 expunctions under this section. The remaining fifty-two dollars and fifty cents (\$52.50) of each  
43 fee shall be retained by the Administrative Office of the Courts and used to pay the costs of  
44 processing petitions for expunctions under this section. This subsection does not apply to  
45 petitions filed by an indigent.

46 **"§ 15A-145.5. Expunction of certain misdemeanors and felonies; no age limitation.**

47 (a) For purposes of this section, the term "nonviolent misdemeanor" or "nonviolent  
48 felony" means any misdemeanor or felony except the following:

49 (1) A Class A through G felony or a Class A1 misdemeanor.

50 (2) An offense that includes assault as an essential element of the offense.

- 1 (3) An offense requiring registration pursuant to Article 27A of Chapter 14 of  
2 the General Statutes, whether or not the person is currently required to  
3 register.
- 4 (4) Any of the following sex-related or stalking offenses: G.S. 14-27.25(b),  
5 14-27.30(b), 14-190.7, 14-190.8, 14-190.9, 14-202, 14-208.11A, 14-208.18,  
6 14-277.3, 14-277.3A, 14-321.1.
- 7 (5) Any felony offense in Chapter 90 of the General Statutes where the offense  
8 involves methamphetamines, heroin, or possession with intent to sell or  
9 deliver or sell and deliver cocaine.
- 10 (6) An offense under G.S. 14-12.12(b), 14-12.13, or 14-12.14, or any offense for  
11 which punishment was determined pursuant to G.S. 14-3(c).
- 12 (7) An offense under G.S. 14-401.16.
- 13 (7a) An offense under G.S. 14-54(a), 14-54(a1), or 14-56.
- 14 (8) Any felony offense in which a commercial motor vehicle was used in the  
15 commission of the offense.
- 16 (8a) An offense involving impaired driving as defined in G.S. 20-4.01(24a).
- 17 (9) Any offense that is an attempt to commit an offense described in  
18 subdivisions (1) through (8a) of this subsection.
- 19 (b) Notwithstanding any other provision of law, if the person is convicted of more than  
20 one nonviolent felony or nonviolent misdemeanor in the same session of court and none of the  
21 nonviolent felonies or nonviolent misdemeanors are alleged to have occurred after the person  
22 had already been served with criminal process for the commission of a nonviolent felony or  
23 nonviolent misdemeanor, then the multiple nonviolent felony or nonviolent misdemeanor  
24 convictions shall be treated as one nonviolent felony or nonviolent misdemeanor conviction  
25 under this section, and the expunction order issued under this section shall provide that the  
26 multiple nonviolent felony convictions or nonviolent misdemeanor convictions shall be  
27 expunged from the person's record in accordance with this section.
- 28 (c) A person may file a petition, in the court of the county where the person was  
29 convicted, for expunction of a nonviolent misdemeanor or nonviolent felony conviction from  
30 the person's criminal record if the person has no other misdemeanor or felony convictions,  
31 other than a traffic violation. The petition shall not be filed earlier than ~~15~~10 years after the  
32 date of the conviction for a nonviolent felony or five years for a nonviolent misdemeanor  
33 when any active sentence, period of probation, and post-release supervision has been served,  
34 whichever occurs later. The petition shall contain, but not be limited to, the following:
- 35 (1) An affidavit by the petitioner that the petitioner has been of good moral  
36 character since the date of conviction for the nonviolent misdemeanor or  
37 nonviolent felony and has not been convicted of any other felony or  
38 misdemeanor, other than a traffic violation, under the laws of the United  
39 States or the laws of this State or any other state.
- 40 (2) Verified affidavits of two persons who are not related to the petitioner or to  
41 each other by blood or marriage, that they know the character and reputation  
42 of the petitioner in the community in which the petitioner lives and that the  
43 petitioner's character and reputation are good.
- 44 (3) A statement that the petition is a motion in the cause in the case wherein the  
45 petitioner was convicted.
- 46 (4) An application on a form approved by the Administrative Office of the  
47 Courts requesting and authorizing a name-based State and national criminal  
48 history record check by the Department of Public Safety using any  
49 information required by the Administrative Office of the Courts to identify  
50 the individual, a search by the Department of Public Safety for any  
51 outstanding warrants on pending criminal cases, and a search of the

1 confidential record of expunctions maintained by the Administrative Office  
2 of the Courts. The application shall be ~~forwarded~~ filed with the clerk of  
3 superior court. The clerk of superior court shall obtain the authorizing  
4 signature of the judge then presiding in that county and forward the signed  
5 application to the Department of Public Safety and to the Administrative  
6 Office of the Courts, which shall conduct the searches and report their  
7 findings to the court.

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

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

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

23 If the court, after hearing, finds that the petitioner has not previously been granted an  
24 expunction under this section, G.S. 15A-145, 15A-145.1, 15A-145.2, 15A-145.3, or  
25 15A-145.4; the petitioner has remained of good moral character; the petitioner has no  
26 outstanding warrants or pending criminal cases; the petitioner has no other felony or  
27 misdemeanor convictions other than a traffic violation; the petitioner has no outstanding  
28 restitution orders or civil judgments representing amounts ordered for restitution entered  
29 against the petitioner; and the petitioner was convicted of an offense eligible for expunction  
30 under this section and was convicted of, and completed any sentence received for, ~~the~~  
31 ~~nonviolent misdemeanor or a nonviolent felony at least 15-10 years prior to the filing of the~~  
32 ~~petition,~~ petition or a nonviolent misdemeanor at least five years prior to the filing of the  
33 petition, it may order that such person be restored, in the contemplation of the law, to the status  
34 the person occupied before such arrest or indictment or ~~information.~~ information, except as  
35 provided in G.S. 15A-151.5. If the court denies the petition, the order shall include a finding as  
36 to the reason for the denial.

37 (d) No person as to whom an order has been entered pursuant to subsection (c) of this  
38 section shall be held thereafter under any provision of any law to be guilty of perjury or  
39 otherwise giving a false statement by reason of that person's failure to recite or acknowledge  
40 the arrest, indictment, information, trial, or conviction. This subsection shall not apply to a  
41 sentencing hearing when the person has been convicted of a subsequent criminal offense.

42 (d1) Persons pursuing certification under the provisions of Chapter 17C or 17E of the  
43 General Statutes, however, shall disclose any and all convictions to the certifying Commission,  
44 regardless of whether or not the convictions were expunged pursuant to the provisions of this  
45 section.

46 Persons required by State law to obtain a criminal history record check on a prospective  
47 employee shall not be deemed to have knowledge of any convictions expunged under this  
48 section.

49 (e) The court shall also order that the conviction be expunged from the records of the  
50 court and direct all law enforcement agencies bearing record of the same to expunge their

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

3 (f) Any other applicable State or local government agency shall expunge from its  
4 records entries made as a result of the conviction ordered expunged under this section upon  
5 receipt from the petitioner of an order entered pursuant to this section. The agency shall also  
6 vacate any administrative actions taken against a person whose record is expunged under this  
7 section as a result of the charges or convictions expunged. A person whose administrative  
8 action has been vacated by an occupational licensing board pursuant to an expunction under  
9 this section may then reapply for licensure and must satisfy the board's then current education  
10 and preliminary licensing requirements in order to obtain licensure. This subsection shall not  
11 apply to the Department of Justice for DNA records and samples stored in the State DNA  
12 Database and the State DNA Databank.

13 (g) A person who files a petition for expunction of a criminal record under this section  
14 must pay the clerk of superior court a fee of one hundred seventy-five dollars (\$175.00) at the  
15 time the petition is filed. Fees collected under this subsection shall be deposited in the General  
16 Fund. This subsection does not apply to petitions filed by an indigent.

17 **"§ 15A-145.6. Expunctions for certain defendants convicted of prostitution.**

18 (a) The following definitions apply in this section:

- 19 (1) Prostitution offense. – A conviction for (i) violation of G.S. 14-204 or (ii)  
20 engaging in prostitution in violation of G.S. 14-204(7) for an offense that  
21 occurred prior to October 1, 2013.  
22 (2) Violent felony or violent misdemeanor. – A Class A through G felony or a  
23 Class A1 misdemeanor that includes assault as an essential element of the  
24 offense.

25 (b) A person who has been convicted of a prostitution offense may file a petition in the  
26 court of the county where the person was convicted for expunction of the prostitution offense  
27 from the person's criminal record provided that all the following criteria are met:

- 28 (1) The person has not previously been convicted of any violent felony or  
29 violent misdemeanor under the laws of the United States or the laws of this  
30 State or any other state.  
31 (2) The person satisfies any one of the following criteria:  
32 a. The person's participation in the prostitution offense was a result of  
33 having been a trafficking victim under G.S. 14-43.11 (human  
34 trafficking) or G.S. 14-43.13 (sexual servitude) or a victim of a  
35 severe form of trafficking under the federal Trafficking Victims  
36 Protection Act (22 U.S.C. § 7102(13)).  
37 b. The person has no prior convictions for a prostitution offense and at  
38 least three years have passed since the date of conviction or the  
39 completion of any active sentence, period of probation, and  
40 post-release supervision, whichever occurs later.  
41 c. The person received a conditional discharge pursuant to  
42 G.S. 14-204(b).

43 (c) The petition shall contain all of the following:

- 44 (1) An affidavit by the petitioner that the petitioner (i) has no prior conviction of  
45 a violent felony or violent misdemeanor, (ii) has been of good moral  
46 character since the date of conviction of the prostitution offense in question,  
47 and (iii) has not been convicted of any felony or misdemeanor under the  
48 laws of the United States or the laws of this State or any other state since the  
49 date of the conviction of the prostitution offense in question.  
50 (2) Verified affidavits of two persons, who are not related to the petitioner or to  
51 each other by blood or marriage, that they know the character and reputation

- 1 of the petitioner in the community in which the petitioner lives and that the  
2 petitioner's character and reputation are good.
- 3 (3) A statement that the petition is a motion in the cause in the case wherein the  
4 petitioner was convicted.
- 5 (4) An application on a form approved by the Administrative Office of the  
6 Courts requesting and authorizing (i) a State and national criminal history  
7 record check by the Department of Public Safety using any information  
8 required by the Administrative Office of the Courts to identify the  
9 individual; (ii) a search by the Department of Public Safety for any  
10 outstanding warrants or pending criminal cases; and (iii) a search of the  
11 confidential record of expunctions maintained by the Administrative Office  
12 of the Courts. The application shall be ~~forwarded~~ filed with the clerk of  
13 superior court. The clerk of superior court shall obtain the authorizing  
14 signature of the judge then presiding in that county and forward the signed  
15 application to the Department of Public Safety and to the Administrative  
16 Office of the Courts, which shall conduct the searches and report their  
17 findings to the court.
- 18 (5) An affidavit by the petitioner that no restitution orders or civil judgments  
19 representing amounts ordered for restitution entered against the petitioner  
20 are outstanding.
- 21 (d) The petition shall be served upon the district attorney of the court wherein the case  
22 was tried resulting in conviction. The district attorney shall have 30 days thereafter in which to  
23 file any objection thereto and shall be duly notified as to the date of the hearing of the petition.
- 24 (e) The court in which the petition was filed shall take the following steps and shall  
25 consider the following issues in rendering a decision upon a petition for expunction of records  
26 of a prostitution offense under this section:
- 27 (1) Call upon a probation officer for additional investigation or verification of  
28 the petitioner's conduct during the period since the date of conviction of the  
29 prostitution offense in question.
- 30 (2) Review any other information the court deems relevant, including, but not  
31 limited to, affidavits or other testimony provided by law enforcement  
32 officers and district attorneys.
- 33 (f) The court shall order that the person be restored, in the contemplation of the law, to  
34 the status the person occupied before the arrest or indictment or information if the court finds  
35 all of the following after a hearing:
- 36 (1) The criteria set out in subsection (b) of this section are satisfied.
- 37 (2) The petitioner has remained of good moral character and has been free of  
38 conviction of any felony or misdemeanor, other than a traffic violation, since  
39 the date of conviction of the prostitution offense in question.
- 40 (3) The petitioner has no outstanding warrants or pending criminal cases.
- 41 (4) The petitioner has no outstanding restitution orders or civil judgments  
42 representing amounts ordered for restitution entered against the petitioner.
- 43 (5) The search of the confidential records of expunctions conducted by the  
44 Administrative Office of the Courts shows that the petitioner has not been  
45 previously granted an expunction, other than an expunction for a prostitution  
46 offense.
- 47 (g) No person as to whom an order has been entered pursuant to subsection (f) of this  
48 section shall be held thereafter under any provision of any laws to be guilty of perjury or  
49 otherwise giving a false statement by reason of that person's failure to recite or acknowledge  
50 the arrest, indictment, information, trial, or conviction. This subsection shall not apply to a  
51 sentencing hearing when the person has been convicted of a subsequent criminal offense.



1 (g1) Persons pursuing certification under the provisions of Chapter 17C or 17E of the  
2 General Statutes, however, shall disclose any and all prostitution convictions to the certifying  
3 Commission regardless of whether or not the prostitution convictions were expunged pursuant  
4 to the provisions of this section.

5 Persons required by State law to obtain a criminal history record check on a prospective  
6 employee shall not be deemed to have knowledge of any convictions expunged under this  
7 section.

8 (h) The court shall also order that the conviction of the prostitution offense be expunged  
9 from the records of the court and direct all law enforcement agencies bearing record of the  
10 same to expunge their records of the conviction. The clerk shall notify State and local agencies  
11 of the court's order as provided in G.S. 15A-150.

12 (i) Any other applicable State or local government agency shall expunge from its  
13 records entries made as a result of the conviction ordered expunged under this section. The  
14 agency shall also reverse any administrative actions taken against a person whose record is  
15 expunged under this section as a result of the charges or convictions expunged. This subsection  
16 shall not apply to the Department of Justice for DNA records and samples stored in the State  
17 DNA Database and the State DNA Databank.

18 (j) Any person eligible for expunction of a criminal record under this section shall be  
19 notified about the provisions of this section by the probation officer assigned to that person. If  
20 no probation officer is assigned, notification of the provisions of this section shall be provided  
21 by the court at the time of the conviction of the prostitution offense which is to be expunged  
22 under this section.

23 **"§ 15A-146. Expunction of records when charges are dismissed or there are findings of**  
24 **not guilty.**

25 (a) If any person is charged with a crime, either a misdemeanor or a felony, or was  
26 charged with an infraction under G.S. 18B-302(i) prior to December 1, 1999, and the charge is  
27 dismissed, ~~or a finding of not guilty or not responsible is entered,~~ that person may ~~apply to~~  
28 petition the court of the county where the charge was brought for an order to expunge from all  
29 official records any entries relating to his apprehension or trial. The court shall hold a hearing  
30 on the ~~application-petition~~ and, upon finding that the person ~~had not previously received an~~  
31 ~~expungement under this section, G.S. 15A-145, 15A-145.1, 15A-145.2, 15A-145.3, 15A-145.4,~~  
32 ~~or 15A-145.5, and that the person had not previously been convicted of any felony under the~~  
33 ~~laws of the United States, this State, or any other state, the court shall order the expunction. No~~  
34 ~~person as to whom such an order has been entered shall be held thereafter under any provision~~  
35 ~~of any law to be guilty of perjury, or to be guilty of otherwise giving a false statement or~~  
36 ~~response to any inquiry made for any purpose, by reason of his failure to recite or acknowledge~~  
37 ~~any expunged entries concerning apprehension or trial.~~

38 (a1) Notwithstanding subsection (a) of this section, if a person is charged with multiple  
39 offenses and ~~all the charges are dismissed, or findings of not guilty or not responsible are made,~~  
40 then a person may ~~apply-petition~~ to have each of ~~those the dismissed charges expunged if the~~  
41 ~~offenses occurred within the same 12-month period of time or if the charges are dismissed or~~  
42 ~~findings are made at the same term of court. Unless circumstances otherwise clearly provide,~~  
43 ~~the phrase "term of court" shall mean one week for superior court and one day for district court.~~  
44 ~~There is no requirement that the multiple offenses arise out of the same transaction or~~  
45 ~~occurrence or that the multiple offenses were consolidated for judgment. expunged.~~ The court  
46 shall hold a hearing on the ~~application-petition.~~ If the court finds (i) ~~that the person had not~~  
47 ~~previously received an expungement under this subsection, or that any previous expungement~~  
48 ~~received under this subsection occurred prior to October 1, 2005 and was for an offense that~~  
49 ~~occurred within the same 12-month period of time, or was dismissed or findings made at the~~  
50 ~~same term of court, as the offenses that are the subject of the current application, (ii) that the~~  
51 ~~person had not previously received an expungement under G.S. 15A-145, 15A-145.1,~~

1 15A-145.2, 15A-145.3, 15A-145.4, or 15A-145.5, and (iii) that the person had not previously  
2 been convicted of any felony under the laws of the United States, this State, or any other state,  
3 the court shall order the expunction.

4 (a2) If any person is charged with a crime, either a misdemeanor or a felony, or an  
5 infraction under G.S. 18B-302(i) prior to December 1, 1999, and a finding of not guilty or not  
6 responsible is entered, that person may petition the court of the county where the charge was  
7 brought for an order to expunge from all official records any entries relating to apprehension or  
8 trial of that crime. The court shall hold a hearing on the petition and upon finding that the  
9 person had not previously been convicted of any felony under the law of the United States, this  
10 State, or any other state, the court shall order the expunction. No person as to whom such an  
11 order has been entered shall be held thereafter under any provision of any law to be guilty of  
12 perjury, or to be guilty of otherwise giving a false statement or response to any inquiry made  
13 for any purpose, by reason of failure to recite or acknowledge any expunged entries concerning  
14 that crime. If a person is charged with multiple offenses and finding of not guilty or not  
15 responsible are made on charges, then a person may petition to have each of the charges  
16 disposed by a finding of not guilty or not responsible expunged. The court shall hold a hearing  
17 on the petition. If the court finds that the person had not previously been convicted of any  
18 felony under the laws of the United States, this State, or any other state, the court shall order  
19 the expunction.

20 (a3) No person as to whom such an order has been entered under this section shall be  
21 held thereafter under any provision of any law to be guilty of perjury, or to be guilty of  
22 otherwise giving a false statement or response to any inquiry made for any purpose, by reason  
23 of his failure to recite or acknowledge any expunged entries concerning apprehension or trial.

24 (b) The court may also order that the said entries, including civil revocations of drivers  
25 licenses as a result of the underlying charge, shall be expunged from the records of the court,  
26 and direct all law-enforcement agencies, the Division of Adult Correction of the Department of  
27 Public Safety, the Division of Motor Vehicles, and any other State or local government  
28 agencies identified by the petitioner as bearing record of the same to expunge their records of  
29 the entries, including civil revocations of drivers licenses as a result of the underlying charge  
30 being expunged. This subsection does not apply to civil or criminal charges based upon the  
31 civil revocation, or to civil revocations under G.S. 20-16.2. The clerk shall notify State and  
32 local agencies of the court's order as provided in G.S. 15A-150. The clerk shall forward a  
33 certified copy of the order to the Division of Motor Vehicles for the expunction of a civil  
34 revocation provided the underlying criminal charge is also expunged. The civil revocation of a  
35 drivers license shall not be expunged prior to a final disposition of any pending civil or criminal  
36 charge based upon the civil revocation. The costs of expunging the records, as required under  
37 G.S. 15A-150, shall not be taxed against the petitioner.

38 (b1) Any person entitled to expungement under this section may also apply to the court  
39 for an order expunging DNA records when the person's case has been dismissed by the trial  
40 court and the person's DNA record or profile has been included in the State DNA Database and  
41 the person's DNA sample is stored in the State DNA Databank. A copy of the application for  
42 expungement of the DNA record or DNA sample shall be served on the district attorney for the  
43 judicial district in which the felony charges were brought not less than 20 days prior to the date  
44 of the hearing on the application. If the application for expungement is granted, a certified copy  
45 of the trial court's order dismissing the charges shall be attached to an order of expungement.  
46 The order of expungement shall include the name and address of the defendant and the  
47 defendant's attorney and shall direct the North Carolina State Crime Laboratory to send a letter  
48 documenting expungement as required by subsection (b2) of this section.

49 (b2) Upon receiving an order of expungement entered pursuant to subsection (b1) of this  
50 section, the North Carolina State Crime Laboratory shall purge the DNA record and all other  
51 identifying information from the State DNA Database and the DNA sample stored in the State

1 DNA Databank covered by the order, except that the order shall not apply to other offenses  
2 committed by the individual that qualify for inclusion in the State DNA Database and the State  
3 DNA Databank. A letter documenting expungement of the DNA record and destruction of the  
4 DNA sample shall be sent by the North Carolina State Crime Laboratory to the defendant and  
5 the defendant's attorney at the address specified by the court in the order of expungement.

6 (c) The Any petition for expungement under this section shall be on a form approved by  
7 the Administrative Office of the Courts and be filed with the clerk of superior court. Upon  
8 order of expungement, the clerk shall notify State and local agencies of the court's order as  
9 provided in G.S. 15A-150.G.S. 15A-150 and forward the petition to the Administrative Office  
10 of the Courts.

11 (d) A person charged with a crime that is dismissed pursuant to compliance with a  
12 deferred prosecution agreement or the terms of a conditional discharge and who files a petition  
13 for expunction of a criminal record under this section must pay the clerk of superior court a fee  
14 of one hundred seventy-five dollars (\$175.00) at the time the petition is filed. Fees collected  
15 under this subsection are payable to the Administrative Office of the Courts. The clerk of  
16 superior court shall remit one hundred twenty-two dollars and fifty cents (\$122.50) of each fee  
17 to the North Carolina Department of Public Safety for the costs of criminal record checks  
18 performed in connection with processing petitions for expunctions under this section. The  
19 remaining fifty-two dollars and fifty cents (\$52.50) of each fee shall be retained by the  
20 Administrative Office of the Courts and used to pay the costs of processing petitions for  
21 expunctions under this section. This subsection does not apply to petitions filed by an indigent.

22 **"§ 15A-147. Expunction of records when charges are dismissed or there are findings of**  
23 **not guilty as a result of identity theft or mistaken identity.**

24 (a) If any person is named in a charge for an infraction or a crime, either a  
25 misdemeanor or a felony, as a result of another person using the identifying information of the  
26 named person or mistaken identity and a finding of not guilty is entered, or the conviction is set  
27 aside, the named person may ~~apply by petition or written motion~~ to the court where the charge  
28 was last pending on a form approved by the Administrative Office of the Courts supplied by the  
29 clerk of court for an order to expunge from all official records any entries relating to the  
30 person's apprehension, charge, or trial. The court, after notice to the district attorney, shall hold  
31 a hearing on the ~~motion or petition~~ and, upon finding that the person's identity was used  
32 without permission and the charges were dismissed or the person was found not guilty, the  
33 court shall order the expunction.

34 (a1) If any person is named in a charge for an infraction or a crime, either a  
35 misdemeanor or a felony, as a result of another person using the identifying information of the  
36 named person or mistaken identity, and the charge against the named person is dismissed, the  
37 prosecutor or other judicial officer who ordered the dismissal shall provide notice to the court  
38 of the dismissal, and the court shall order the expunction of all official records containing any  
39 entries relating to the person's apprehension, charge, or trial.

40 (a2) Any petition for expungement under this section shall be on a form approved by the  
41 Administrative Office of the Courts and be filed with the clerk of superior court. Upon order of  
42 expungement, the clerk shall forward the petition to the Administrative Office of the Courts.

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

48 (c) The court shall also order that the said entries shall be expunged from the records of  
49 the court and direct all law enforcement agencies, the Division of Adult Correction of the  
50 Department of Public Safety, the Division of Motor Vehicles, or any other State or local  
51 government agencies identified by the petitioner, or the person eligible for automatic

1 expungement under subsection (a1) of this section, as bearing record of the same to expunge  
2 their records of the entries. The clerk shall notify State and local agencies of the court's order as  
3 provided in G.S. 15A-150. The costs of expunging the records, as required under  
4 G.S. 15A-150, shall not be taxed against the petitioner.

5 (d) The Division of Motor Vehicles shall expunge from its records entries made as a  
6 result of the charge or conviction ordered expunged under this section. The Division of Motor  
7 Vehicles shall also reverse any administrative actions taken against a person whose record is  
8 expunged under this section as a result of the charges or convictions expunged, including the  
9 assessment of drivers license points and drivers license suspension or revocation.  
10 Notwithstanding any other provision of this Chapter, the Division of Motor Vehicles shall  
11 provide to the person whose motor vehicle record is expunged under this section a certified  
12 corrected driver history at no cost and shall reinstate at no cost any drivers license suspended or  
13 revoked as a result of a charge or conviction expunged under this section.

14 (e) The Division of Adult Correction of the Department of Public Safety and any other  
15 applicable State or local government agency shall expunge its records as provided in  
16 G.S. 15A-150. The agency shall also reverse any administrative actions taken against a person  
17 whose record is expunged under this section as a result of the charges or convictions expunged.  
18 Notwithstanding any other provision of law, the normal fee for any reinstatement of a license or  
19 privilege resulting under this section shall be waived.

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

24 (g) For purposes of this section, the term "mistaken identity" means the erroneous arrest  
25 of a person for a crime as a result of misidentification by a witness or law enforcement,  
26 confusion on the part of a witness or law enforcement as to the identity of the person who  
27 committed the crime, misinformation provided to law enforcement as to the identity of the  
28 person who committed the crime, or some other mistake on the part of a witness or law  
29 enforcement as to the identity of the person who committed the crime.

30 **"§ 15A-148. Expunction of DNA records when charges are dismissed on appeal or pardon**  
31 **of innocence is granted.**

32 (a) Upon a motion by the defendant following the issuance of a final order by an  
33 appellate court reversing and dismissing a conviction of an offense for which a DNA analysis  
34 was done in accordance with Article 13 of Chapter 15A of the General Statutes, or upon receipt  
35 of a pardon of innocence with respect to any such offense, the court shall issue an order of  
36 expungement of the DNA record and samples in accordance with subsection (b) of this section.  
37 The order of expungement shall include the name and address of the defendant and the  
38 defendant's attorney and shall direct the North Carolina State Crime Laboratory to send a letter  
39 documenting expungement as required by subsection (b) of this section.

40 (b) When an order of expungement has been issued pursuant to subsection (a) of this  
41 section, the order of expungement, together with a certified copy of the final appellate court  
42 order reversing and dismissing the conviction or a certified copy of the instrument granting the  
43 pardon of innocence, shall be provided to the North Carolina State Crime Laboratory by the  
44 clerk of court. Upon receiving an order of expungement for an individual whose DNA record or  
45 profile has been included in the State DNA Database and whose DNA sample is stored in the  
46 State DNA Databank, the DNA profile shall be expunged and the DNA sample destroyed by  
47 the North Carolina State Crime Laboratory, except that the order shall not apply to other  
48 offenses committed by the individual that qualify for inclusion in the State DNA Database and  
49 the State DNA Databank. A letter documenting expungement of the DNA record and  
50 destruction of the DNA sample shall be sent by the North Carolina State Crime Laboratory to  
51 the defendant and the defendant's attorney at the address specified by the court in the order of

1 expungement. The North Carolina State Crime Laboratory shall adopt procedures to comply  
2 with this subsection.

3 (c) Any petition for expungement under this section shall be on a form approved by the  
4 Administrative Office of the Courts and be filed with the clerk of superior court. Upon order of  
5 expungement, the clerk shall forward the petition to the Administrative Office of the Courts.

6 **"§ 15A-149. Expunction of records when pardon of innocence is granted.**

7 (a) If any person is convicted of a crime and receives a pardon of innocence, the person  
8 may ~~apply by petition or written motion to~~ the court in which the person was convicted on a  
9 form approved by the Administrative Office of the Courts supplied by the clerk of court for an  
10 order to expunge from all official records any entries relating to the person's apprehension,  
11 charge, or trial. Upon receipt of the ~~petition or written motion,~~ petition, the clerk of court shall  
12 verify that an attested copy of the warrant and return granting a pardon of innocence has been  
13 filed with the court in accordance with G.S. 147-25. Upon verification by the clerk that the  
14 warrant and return have been filed, the court shall issue an order of expunction.

15 (b) The order of expunction shall include an instruction that any entries relating to the  
16 person's apprehension, charge, or trial shall be expunged from the records of the court and  
17 direct all law enforcement agencies, the Division of Adult Correction of the Department of  
18 Public Safety, the Division of Motor Vehicles, or any other State or local government agencies  
19 identified by the petitioner as bearing record of the same to expunge their records of the entries.  
20 The clerk shall notify State and local agencies of the court's order as provided in ~~G.S. 15A-150.~~  
21 G.S. 15A-150 and shall forward the petition to the Administrative Office of the Courts. The  
22 costs of expunging the records, as required under G.S. 15A-150, shall not be taxed against the  
23 petitioner.

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

29 **"§ 15A-150. Notification requirements.**

30 (a) Notification to AOC. – The clerk of superior court in each county in North Carolina  
31 shall, as soon as practicable after each term of court, file with the Administrative Office of the  
32 Courts the petitions received under this Article, any orders of expunction, and the names of the  
33 following:

- 34 (1) Persons granted an expunction under this Article.
- 35 (2), (3) Repealed by Session Laws 2015-40, s. 3, effective December 1, 2015,  
36 and applicable to conditional discharges granted on or after that date.
- 37 (4) Repealed by Session Laws 2010-174, s. 7, effective October 1, 2010.
- 38 (5) Repealed by Session Laws 2015-40, s. 3, effective December 1, 2015, and  
39 applicable to conditional discharges granted on or after that date.
- 40 (6) Persons granted a dismissal upon completion of a conditional discharge  
41 under G.S. 14-50.29, 14-204, 14-313(f), 15A-1341(a4), 90-96, or 90-113.14.

42 (b) Notification to Other State and Local Agencies. – Unless otherwise instructed by the  
43 Administrative Office of the Courts pursuant to an agreement entered into under subsection (e)  
44 of this section for the electronic or facsimile transmission of information, the clerk of superior  
45 court in each county in North Carolina shall send a certified copy of an order granting an  
46 expunction to a person named in subsection (a) of this section to all of the agencies listed in this  
47 ~~subsection.~~ subsection and the person. An agency receiving an order under this subsection shall  
48 ~~expunge~~ purge from its records all entries made as a result of the charge or conviction ordered  
49 expunged, except as provided in G.S. 15A-151. The list of agencies is as follows:

- 50 (1) The sheriff, chief of police, or other arresting agency.
- 51 (2) When applicable, the Division of Motor Vehicles.

1 (3) Any State or local agency identified by the petition as bearing record of the  
2 offense that has been expunged.

3 (4) ~~The Department of Public Safety~~Safety, Division of Adult Correction and  
4 Juvenile Justice.

5 (5) The Department of Public Safety, North Carolina State Bureau of  
6 Investigation.

7 (c) Notification to FBI. – ~~The Department of Public Safety~~Safety, North Carolina State  
8 Bureau of Investigation, shall forward the order received under this section to the Federal  
9 Bureau of Investigation.

10 (d) Notification to Private Entities. – A State agency that receives a certified copy of an  
11 order under this section shall notify any private entity with which it has a licensing agreement  
12 for bulk extracts of data from the agency criminal record database to delete the record in  
13 question. The private entity shall notify any other entity to which it subsequently provides in a  
14 bulk extract data from the agency criminal database to delete the record in question from its  
15 database.

16 (e) The Director of the Administrative Office of the Courts may enter into an agreement  
17 with any of the State agencies listed in subsection (b) of this section for electronic or facsimile  
18 transmission of any information that must be provided under this section.

19 **"§ 15A-151. Confidential agency files; exceptions to expunction.**

20 (a) The Administrative Office of the Courts shall maintain a confidential file for  
21 expungements containing the petitions granted under this Article and the names of those people  
22 for whom it received a notice under G.S. 15A-150. The information contained in the file may  
23 be disclosed only as follows:

24 (1) ~~To~~Upon request of a judge of the General Court of Justice of North Carolina  
25 for the purpose of ascertaining whether a person charged with an offense has  
26 been previously granted a discharge or an expunction.

27 (2) ~~To~~Upon request of a person requesting confirmation of the person's own  
28 discharge or expunction, as provided in G.S. 15A-152.expunction.

29 (3) To the General Court of Justice of North Carolina in response to a subpoena  
30 or other court order issued pursuant to a civil action under G.S. 15A-152.

31 (4) ~~If~~Upon request of State or local law enforcement, if the criminal record was  
32 expunged pursuant to G.S. 15A-145.4, 15A-145.5, or 15A-145.6, to State  
33 and local law enforcement agencies 15A-145.6 for employment purposes  
34 only.

35 (5) ~~If~~Upon the request of the North Carolina Criminal Justice Education and  
36 Training Standards Commission, if the criminal record was expunged  
37 pursuant to G.S. 15A-145.4, 15A-145.5, or [15A-]145.6, to the North  
38 Carolina Criminal Justice Education and Training Standards Commission  
39 15A-145.6 for certification purposes only.

40 (6) ~~If~~Upon request of the North Carolina Sheriff's Standards Commission, if the  
41 criminal record was expunged pursuant to G.S. 15A-145.4, 15A-145.5, or  
42 15A-145.6, to the North Carolina Sheriffs' Education and Training Standards  
43 Commission 15A-145.6 for certification purposes only.

44 (7) To the district attorney in accordance with G.S. 15A-151.5.

45 (b) All agencies required under G.S. 15A-150 to expunge from records all entries made  
46 as a result of a charge or conviction ordered expunged who maintain a licensing agreement to  
47 provide record information to a private entity shall maintain a confidential file containing  
48 information verifying the expunction and subsequent notification to private entities as required  
49 by G.S. 15A-150(d). The information contained in the file shall be disclosed only to a person  
50 requesting confirmation of expunction of the record of the person's own discharge or  
51 expunction, as provided in G.S. 15A-152.

1 (c) The Division of Motor Vehicles shall not be required to expunge a record if the  
2 expunction of the record is expressly prohibited by the federal Commercial Motor Vehicle  
3 Safety Act of 1986, the federal Motor Carrier Safety Improvement Act of 1999, or regulations  
4 adopted pursuant to either act.

5 **"§ 15A-151.5. Prosecutor access to expunged files.**

6 (a) Notwithstanding any other provision of this Article, the Administrative Office of the  
7 Courts shall make all confidential files maintained under G.S. 15A-151 electronically available  
8 to all prosecutors of this State if the criminal record was expunged on or after December 1,  
9 2017, under any of the following:

- 10 (1) G.S. 15A-145. Expunction of records for first offenders under the age of 18  
11 at the time of conviction of misdemeanor; expunction of certain other  
12 misdemeanors.  
13 (2) G.S. 15A-145.1. Expunction of records for first offenders under the age of  
14 18 at the time of conviction of certain gang offenses.  
15 (3) G.S. 15A-145.2. Expunction of records for first offenders not over 21 years  
16 of age at the time of the offense of certain drug offenses.  
17 (4) G.S. 15A-145.3. Expunction of records for first offenders not over 21 years  
18 of age at the time of the offense of certain toxic vapors offenses.  
19 (5) G.S. 15A-145.4. Expunction of records for first offenders who are under 18  
20 years of age at the time of the commission of a nonviolent felony.  
21 (6) G.S. 15A-145.5. Expunction of certain misdemeanors and felonies; no age  
22 limitation.  
23 (7) G.S. 15A-145.6. Expunctions for certain defendants convicted of  
24 prostitution.  
25 (8) G.S. 15A-146(a). Expunction of records when charges are dismissed or there  
26 are findings of not guilty.  
27 (9) G.S. 15A-146(a1). Expunction of records when charges are dismissed or  
28 there are findings of not guilty.

29 (b) For any expungement granted on or after December 1, 2017, the expunged criminal  
30 records under subdivisions (1) through (7) of subsection (a) of this section may be used to  
31 calculate prior record level if the named person is convicted of a subsequent criminal offense.

32 (c) For any expungement granted on or after December 1, 2017, the information  
33 maintained by the Administrative Office of the Courts, and made available under subsection (a)  
34 of this section, shall be prima facie evidence of the expunged conviction for the purposes of  
35 calculating prior record level of the named person and shall be admissible into evidence at a  
36 subsequent criminal sentencing hearing.

37 ...."

38 **SECTION 2.** This act becomes effective December 1, 2017, and applies to  
39 petitions filed on or after that date.