

GENERAL ASSEMBLY OF NORTH CAROLINA  
SESSION 2017

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SENATE BILL 445  
PROPOSED COMMITTEE SUBSTITUTE S445-PCS35307-SA-24

Short Title: Expungement Process Modifications.

(Public)

Sponsors:

Referred to:

March 29, 2017

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.



\* S 4 4 5 - P C S 3 5 3 0 7 - S A - 2 4 \*

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 forward the  
8 application to the Department of Public Safety and to the Administrative  
9 Office of the Courts, which shall conduct the searches and report their  
10 findings to the court.

11 (5) An affidavit by the petitioner that no restitution orders or civil judgments  
12 representing amounts ordered for restitution entered against him are  
13 outstanding.

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

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

20 (a1) Nothing in this section shall be interpreted to allow the expunction of any offense  
21 involving impaired driving as defined in G.S. 20-4.01(24a).

22 (b) If the court, after hearing, finds that the petitioner had remained of good behavior  
23 and been free of conviction of any felony or misdemeanor, other than a traffic violation, for two  
24 years from the date of conviction of the misdemeanor in question, the petitioner has no  
25 outstanding restitution orders or civil judgments representing amounts ordered for restitution  
26 entered against him, and (i) petitioner was not 18 years old at the time of the offense in  
27 question, or (ii) petitioner was not 21 years old at the time of the offense of possession of  
28 alcohol pursuant to G.S. 18B-302(b)(1), it shall order that such person be restored, in the  
29 contemplation of the law, to the status he occupied before such arrest or indictment or  
30 information.

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

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

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

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

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

11 **"§ 15A-145.1. Expunction of records for first offenders under the age of 18 at the time of**  
12 **conviction of certain gang offenses.**

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

- 24 (1) An affidavit by the petitioner that the petitioner has been of good behavior  
25 (i) during the period of probation since the decision to defer further  
26 proceedings on the offense in question pursuant to G.S. 14-50.29 or (ii)  
27 during the two-year period since the date of conviction of the offense in  
28 question, whichever applies, and has not been convicted of any felony or  
29 misdemeanor other than a traffic violation under the laws of the United  
30 States or the laws of this 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) If the petition is filed subsequent to conviction of the offense in question, a  
36 statement that the petition is a motion in the cause in the case wherein the  
37 petitioner was convicted.
- 38 (4) Repealed by Session Laws 2010-174, s. 4, effective October 1, 2010, and  
39 applicable to petitions for expunctions filed on or after that date.
- 40 (4a) An application on a form approved by the Administrative Office of the  
41 Courts requesting and authorizing a name-based State and national criminal  
42 record check by the Department of Public Safety using any information  
43 required by the Administrative Office of the Courts to identify the individual  
44 and a search of the confidential record of expunctions maintained by the  
45 Administrative Office of the Courts. The application shall be ~~forwarded~~ filed  
46 with the clerk of superior court. The clerk of superior court shall forward the  
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 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 forward the  
21 application to the Department of Public Safety and to the Administrative  
22 Office of the Courts, which shall conduct the searches and report their  
23 findings to the court.

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

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

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

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

42 (b) Whenever any person is charged with a misdemeanor under Article 5 of Chapter 90  
43 of the General Statutes by possessing a controlled substance included within Schedules I  
44 through VI of Article 5 of Chapter 90 of the General Statutes or a felony under  
45 G.S. 90-95(a)(3), upon dismissal by the State of the charges against the person, upon entry of a  
46 nolle prosequi, or upon a finding of not guilty or other adjudication of innocence, such person  
47 may apply to the court for an order to expunge from all official records all recordation relating  
48 to his or her arrest, indictment or information, or trial. If the court determines, after hearing,  
49 that such person was not over 21 years of age at the time the offense for which the person was  
50 charged occurred, it shall enter such order. The clerk shall notify State and local agencies of the  
51 court's order as provided in G.S. 15A-150. No person as to whom such order has been entered

1 shall be held thereafter under any provision of any law to be guilty of perjury or otherwise  
2 giving a false statement by reason of the person's failures to recite or acknowledge such arrest,  
3 or indictment or information, or trial in response to any inquiry made of him or her for any  
4 purpose.

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

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

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

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

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

16 **"§ 15A-145.3. Expunction of records for first offenders not over 21 years of age at the**  
17 **time of the offense of certain toxic vapors offenses.**

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

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

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

49 If the court determines, after hearing, that such person was discharged and the proceedings  
50 against the person dismissed and that he or she was not over 21 years of age at the time of the  
51 offense, it shall enter such order. The effect of such order shall be to restore such person in the

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

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

10 (b) Whenever any person is charged with a misdemeanor under Article 5A of Chapter  
11 90 of the General Statutes or possessing drug paraphernalia as prohibited by G.S. 90-113.22,  
12 upon dismissal by the State of the charges against the person or upon entry of a nolle prosequi  
13 or upon a finding of not guilty or other adjudication of innocence, such person may apply to the  
14 court for an order to expunge from all official records all recordation relating to the person's  
15 arrest, indictment or information, and trial. If the court determines, after hearing that such  
16 person was not over 21 years of age at the time the offense for which the person was charged  
17 occurred, it shall enter such order. The clerk shall notify State and local agencies of the court's  
18 order as provided in G.S. 15A-150.

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

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

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

46 The judge to whom the petition is presented is authorized to call upon a probation officer  
47 for additional investigation or verification of the petitioner's conduct since conviction. If the  
48 court determines that the petitioner was convicted of a misdemeanor under Article 5A of  
49 Chapter 90 of the General Statutes, or for possessing drug paraphernalia as prohibited by  
50 G.S. 90-113.22, that the petitioner was not over 21 years of age at the time of the offense, that  
51 the petitioner has been of good behavior since his or her conviction, that the petitioner has



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

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

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

28 **"§ 15A-145.4. Expunction of records for first offenders who are under 18 years of age at**  
29 **the time of the commission of a nonviolent felony.**

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

- 32 (1) A Class A through G felony.
- 33 (2) A felony that includes assault as an essential element of the offense.
- 34 (3) A felony that is an offense requiring registration pursuant to Article 27A of  
35 Chapter 14 of the General Statutes, whether or not the person is currently  
36 required to register.
- 37 (4) Repealed by Session Laws 2012-191, s. 2, effective December 1, 2012.
- 38 (5) Any felony offense under the following sex-related or stalking offenses:  
39 G.S. 14-27.25(b), 14-27.30(b), 14-190.7, 14-190.8, 14-202, 14-208.11A,  
40 14-208.18, 14-277.3, 14-277.3A, 14-321.1.
- 41 (6) Any felony offense in Chapter 90 of the General Statutes where the offense  
42 involves methamphetamines, heroin, or possession with intent to sell or  
43 deliver or sell and deliver cocaine; except that if a prayer for judgment  
44 continued has been entered for an offense classified as either a Class G, H,  
45 or I felony, the prayer for judgment continued shall be subject to expunction  
46 under the procedures in this section.
- 47 (7) A felony offense under G.S. 14-12.12(b), 14-12.13, or 14-12.14, or any  
48 felony offense for which punishment was determined pursuant to  
49 G.S. 14-3(c).
- 50 (8) A felony offense under G.S. 14-401.16.

1 (9) Any felony offense in which a commercial motor vehicle was used in the  
2 commission of the offense.

3 (10) Any felony offense involving impaired driving as defined in  
4 G.S. 20-4.01(24a).

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

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

22 (1) An affidavit by the petitioner that the petitioner has been of good moral  
23 character since the date of conviction of the nonviolent felony in question  
24 and has not been convicted of any other felony or any misdemeanor other  
25 than a traffic violation under the laws of the United States or the laws of this  
26 State or any other state.

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

31 (3) A statement that the petition is a motion in the cause in the case wherein the  
32 petitioner was convicted.

33 (4) An application on a form approved by the Administrative Office of the  
34 Courts requesting and authorizing (i) a State and national criminal history  
35 record check by the Department of Public Safety using any information  
36 required by the Administrative Office of the Courts to identify the  
37 individual; (ii) a search by the Department of Public Safety for any  
38 outstanding warrants or pending criminal cases; and (iii) a search of the  
39 confidential record of expunctions maintained by the Administrative Office  
40 of the Courts. The application shall be ~~forwarded~~ filed with the clerk of  
41 superior court. The clerk of superior court shall forward the application to  
42 the Department of Public Safety and to the Administrative Office of the  
43 Courts, which shall conduct the searches and report their findings to the  
44 court.

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

48 (6) An affidavit by the petitioner that the petitioner has performed at least 100  
49 hours of community service since the conviction for the nonviolent felony.  
50 The affidavit shall include a list of the community services performed, a list  
51 of the recipients of the services, and a detailed description of those services.

- 1           (7)    An affidavit by the petitioner that the petitioner possesses a high school  
2                diploma, a high school graduation equivalency certificate, or a General  
3                Education Development degree.

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 30 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. The  
7           district attorney shall make his or her best efforts to contact the victim, if any, to notify the  
8           victim of the request for expunction prior to the date of the hearing.

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

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

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

- 29           (1)    The petitioner has remained of good moral character and has been free of  
30                conviction of any felony or misdemeanor, other than a traffic violation, for  
31                four years from the date of conviction of the nonviolent felony in question or  
32                any active sentence, period of probation, or post-release supervision has  
33                been served, whichever is later.  
34           (2)    The petitioner has not previously been convicted of any felony or  
35                misdemeanor other than a traffic violation under the laws of the United  
36                States or the laws of this State or any other state.  
37           (3)    The petitioner has no outstanding warrants or pending criminal cases.  
38           (4)    The petitioner has no outstanding restitution orders or civil judgments  
39                representing amounts ordered for restitution entered against the petitioner.  
40           (5)    The petitioner was less than 18 years old at the time of the commission of  
41                the offense in question.  
42           (6)    The petitioner has performed at least 100 hours of community service since  
43                the time of the conviction and possesses a high school diploma, a high  
44                school graduation equivalency certificate, or a General Education  
45                Development degree.  
46           (7)    The search of the confidential records of expunctions conducted by the  
47                Administrative Office of the Courts shows that the petitioner has not been  
48                previously granted an expunction.

49           (f)    No person as to whom an order has been entered pursuant to subsection (e) of this  
50           section shall be held thereafter under any provision of any laws to be guilty of perjury or  
51           otherwise giving a false statement by reason of that person's failure to recite or acknowledge

1 the arrest, indictment, information, trial, or conviction. Persons pursuing certification under the  
2 provisions of Chapter 17C or 17E of the General Statutes, however, shall disclose any and all  
3 felony convictions to the certifying Commission regardless of whether or not the felony  
4 convictions were expunged pursuant to the provisions of this section. This subsection shall not  
5 apply to a sentencing hearing when the person has been convicted of a subsequent criminal  
6 offense.

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

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

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

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

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

38 **"§ 15A-145.5. Expunction of certain misdemeanors and felonies; no age limitation.**

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

- 41 (1) A Class A through G felony or a Class A1 misdemeanor.
- 42 (2) An offense that includes assault as an essential element of the offense.
- 43 (3) An offense requiring registration pursuant to Article 27A of Chapter 14 of  
44 the General Statutes, whether or not the person is currently required to  
45 register.
- 46 (4) Any of the following sex-related or stalking offenses: G.S. 14-27.25(b),  
47 14-27.30(b), 14-190.7, 14-190.8, 14-190.9, 14-202, 14-208.11A, 14-208.18,  
48 14-277.3, 14-277.3A, 14-321.1.
- 49 (5) Any felony offense in Chapter 90 of the General Statutes where the offense  
50 involves methamphetamines, heroin, or possession with intent to sell or  
51 deliver or sell and deliver cocaine.

- 1 (6) An offense under G.S. 14-12.12(b), 14-12.13, or 14-12.14, or any offense for  
2 which punishment was determined pursuant to G.S. 14-3(c).
- 3 (7) An offense under G.S. 14-401.16.
- 4 (7a) An offense under G.S. 14-54(a), 14-54(a1), or 14-56.
- 5 (8) Any felony offense in which a commercial motor vehicle was used in the  
6 commission of the offense.
- 7 (8a) An offense involving impaired driving as defined in G.S. 20-4.01(24a).
- 8 (9) Any offense that is an attempt to commit an offense described in  
9 subdivisions (1) through (8a) of this subsection.
- 10 (b) Notwithstanding any other provision of law, if the person is convicted of more than  
11 one nonviolent felony or nonviolent misdemeanor in the same session of court and none of the  
12 nonviolent felonies or nonviolent misdemeanors are alleged to have occurred after the person  
13 had already been served with criminal process for the commission of a nonviolent felony or  
14 nonviolent misdemeanor, then the multiple nonviolent felony or nonviolent misdemeanor  
15 convictions shall be treated as one nonviolent felony or nonviolent misdemeanor conviction  
16 under this section, and the expunction order issued under this section shall provide that the  
17 multiple nonviolent felony convictions or nonviolent misdemeanor convictions shall be  
18 expunged from the person's record in accordance with this section.
- 19 (c) A person may file a petition, in the court of the county where the person was  
20 convicted, for expunction of a nonviolent misdemeanor or nonviolent felony conviction from  
21 the person's criminal record if the person has no other misdemeanor or felony convictions,  
22 other than a traffic violation. The petition shall not be filed earlier than ~~15~~10 years after the  
23 date of the conviction for a nonviolent felony or five years for a nonviolent misdemeanor or  
24 when any active sentence, period of probation, and post-release supervision has been served,  
25 whichever occurs later. The petition shall contain, but not be limited to, the following:
- 26 (1) An affidavit by the petitioner that the petitioner has been of good moral  
27 character since the date of conviction for the nonviolent misdemeanor or  
28 nonviolent felony and has not been convicted of any other felony or  
29 misdemeanor, other than a traffic violation, under the laws of the United  
30 States or the laws of this 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 a name-based State and national criminal  
39 history record check by the Department of Public Safety using any  
40 information required by the Administrative Office of the Courts to identify  
41 the individual, a search by the Department of Public Safety for any  
42 outstanding warrants on pending criminal cases, and 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 forward the application to  
46 the Department of Public Safety and to the Administrative Office of the  
47 Courts, which shall conduct the searches and report their findings to the  
48 court.
- 49 (5) An affidavit by the petitioner that no restitution orders or civil judgments  
50 representing amounts ordered for restitution entered against the petitioner  
51 are outstanding.

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

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

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

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

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

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

39 (e) The court shall also order that the conviction be expunged from the records of the  
40 court and direct all law enforcement agencies bearing record of the same to expunge their  
41 records of the conviction. The clerk shall notify State and local agencies of the court's order, as  
42 provided in G.S. 15A-150.

43 (f) Any other applicable State or local government agency shall expunge from its  
44 records entries made as a result of the conviction ordered expunged under this section upon  
45 receipt from the petitioner of an order entered pursuant to this section. The agency shall also  
46 vacate any administrative actions taken against a person whose record is expunged under this  
47 section as a result of the charges or convictions expunged. A person whose administrative  
48 action has been vacated by an occupational licensing board pursuant to an expunction under  
49 this section may then reapply for licensure and must satisfy the board's then current education  
50 and preliminary licensing requirements in order to obtain licensure. This subsection shall not

1 apply to the Department of Justice for DNA records and samples stored in the State DNA  
2 Database and the State DNA Databank.

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

7 **"§ 15A-145.6. Expunctions for certain defendants convicted of prostitution.**

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

9 (1) Prostitution offense. – A conviction for (i) violation of G.S. 14-204 or (ii)  
10 engaging in prostitution in violation of G.S. 14-204(7) for an offense that  
11 occurred prior to October 1, 2013.

12 (2) Violent felony or violent misdemeanor. – A Class A through G felony or a  
13 Class A1 misdemeanor that includes assault as an essential element of the  
14 offense.

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

18 (1) The person has not previously been convicted of any violent felony or  
19 violent misdemeanor under the laws of the United States or the laws of this  
20 State or any other state.

21 (2) The person satisfies any one of the following criteria:

22 a. The person's participation in the prostitution offense was a result of  
23 having been a trafficking victim under G.S. 14-43.11 (human  
24 trafficking) or G.S. 14-43.13 (sexual servitude) or a victim of a  
25 severe form of trafficking under the federal Trafficking Victims  
26 Protection Act (22 U.S.C. § 7102(13)).

27 b. The person has no prior convictions for a prostitution offense and at  
28 least three years have passed since the date of conviction or the  
29 completion of any active sentence, period of probation, and  
30 post-release supervision, whichever occurs later.

31 c. The person received a conditional discharge pursuant to  
32 G.S. 14-204(b).

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

34 (1) An affidavit by the petitioner that the petitioner (i) has no prior conviction of  
35 a violent felony or violent misdemeanor, (ii) has been of good moral  
36 character since the date of conviction of the prostitution offense in question,  
37 and (iii) has not been convicted of any felony or misdemeanor under the  
38 laws of the United States or the laws of this State or any other state since the  
39 date of the conviction of the prostitution offense in question.

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 (i) a State and national criminal history  
48 record check by the Department of Public Safety using any information  
49 required by the Administrative Office of the Courts to identify the  
50 individual; (ii) a search by the Department of Public Safety for any  
51 outstanding warrants or pending criminal cases; and (iii) 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 forward the application to  
4 the Department of Public Safety and to the Administrative Office of the  
5 Courts, which shall conduct the searches and report their findings to the  
6 court.

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

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

13 (e) The court in which the petition was filed shall take the following steps and shall  
14 consider the following issues in rendering a decision upon a petition for expunction of records  
15 of a prostitution offense under this section:

16 (1) Call upon a probation officer for additional investigation or verification of  
17 the petitioner's conduct during the period since the date of conviction of the  
18 prostitution offense in question.

19 (2) Review any other information the court deems relevant, including, but not  
20 limited to, affidavits or other testimony provided by law enforcement  
21 officers and district attorneys.

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

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

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

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

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

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

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

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

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

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



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

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

12 **"§ 15A-146. Expunction of records when charges are dismissed or there are findings of**  
13 **not guilty.**

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

27 (a1) Notwithstanding subsection (a) of this section, if a person is charged with multiple  
28 offenses and ~~all the charges are dismissed, or findings of not guilty or not responsible are made,~~  
29 then a person may apply-petition to have each of ~~those the dismissed~~ charges expunged ~~if the~~  
30 ~~offenses occurred within the same 12 month period of time or if the charges are dismissed or~~  
31 ~~findings are made at the same term of court. Unless circumstances otherwise clearly provide,~~  
32 ~~the phrase "term of court" shall mean one week for superior court and one day for district court.~~  
33 ~~There is no requirement that the multiple offenses arise out of the same transaction or~~  
34 ~~occurrence or that the multiple offenses were consolidated for judgment.~~ expunged. The court  
35 shall hold a hearing on the application-petition. If the court finds (i) ~~that the person had not~~  
36 ~~previously received an expungement under this subsection, or that any previous expungement~~  
37 ~~received under this subsection occurred prior to October 1, 2005 and was for an offense that~~  
38 ~~occurred within the same 12 month period of time, or was dismissed or findings made at the~~  
39 ~~same term of court, as the offenses that are the subject of the current application, (ii) that the~~  
40 ~~person had not previously received an expungement under G.S. 15A-145, 15A-145.1,~~  
41 ~~15A-145.2, 15A-145.3, 15A-145.4, or 15A-145.5, and (iii) that the person had not previously~~  
42 ~~been convicted of any felony under the laws of the United States, this State, or any other state,~~  
43 the court shall order the expunction.

44 (a2) If any person is charged with a crime, either a misdemeanor or a felony, or an  
45 infraction under G.S. 18B-302(i) prior to December 1, 1999, and a finding of not guilty or not  
46 responsible is entered, that person may petition the court of the county where the charge was  
47 brought for an order to expunge from all official records any entries relating to apprehension or  
48 trial of that crime. The court shall hold a hearing on the petition and upon finding that the  
49 person had not previously been convicted of any felony under the laws of the United States,  
50 this State, or any other state, the court shall order the expunction. No person as to whom such  
51 an order has been entered shall be held thereafter under any provision of any law to be guilty of

1 perjury, or to be guilty of otherwise giving a false statement or response to any inquiry made  
2 for any purpose, by reason of failure to recite or acknowledge any expunged entries concerning  
3 that crime. If a person is charged with multiple offenses and finding of not guilty or not  
4 responsible are made on charges, then a person may petition to have each of the charges  
5 disposed by a finding of not guilty or not responsible expunged. The court shall hold a hearing  
6 on the petition. If the court finds that the person had not previously been convicted of any  
7 felony under the laws of the United States, this State, or any other state, the court shall order  
8 the expunction.

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

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

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

38 (b2) Upon receiving an order of expungement entered pursuant to subsection (b1) of this  
39 section, the North Carolina State Crime Laboratory shall purge the DNA record and all other  
40 identifying information from the State DNA Database and the DNA sample stored in the State  
41 DNA Databank covered by the order, except that the order shall not apply to other offenses  
42 committed by the individual that qualify for inclusion in the State DNA Database and the State  
43 DNA Databank. A letter documenting expungement of the DNA record and destruction of the  
44 DNA sample shall be sent by the North Carolina State Crime Laboratory to the defendant and  
45 the defendant's attorney at the address specified by the court in the order of expungement.

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

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

12 **"§ 15A-147. Expunction of records when charges are dismissed or there are findings of**  
13 **not guilty as a result of identity theft or mistaken identity.**

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

24 (a1) 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 the charge against the named person is dismissed, the  
27 prosecutor or other judicial officer who ordered the dismissal shall provide notice to the court  
28 of the dismissal, and the court shall order the expunction of all official records containing any  
29 entries relating to the person's apprehension, charge, or trial.

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

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

38 (c) The court shall also order that the said entries shall be expunged from the records of  
39 the court and direct all law enforcement agencies, the Division of Adult Correction of the  
40 Department of Public Safety, the Division of Motor Vehicles, or any other State or local  
41 government agencies identified by the petitioner, or the person eligible for automatic  
42 expungement under subsection (a1) of this section, as bearing record of the same to expunge  
43 their records of the entries. The clerk shall notify State and local agencies of the court's order as  
44 provided in G.S. 15A-150. The costs of expunging the records, as required under  
45 G.S. 15A-150, shall not be taxed against the petitioner.

46 (d) The Division of Motor Vehicles shall expunge from its records entries made as a  
47 result of the charge or conviction ordered expunged under this section. The Division of Motor  
48 Vehicles shall also reverse any administrative actions taken against a person whose record is  
49 expunged under this section as a result of the charges or convictions expunged, including the  
50 assessment of drivers license points and drivers license suspension or revocation.  
51 Notwithstanding any other provision of this Chapter, the Division of Motor Vehicles shall

1 provide to the person whose motor vehicle record is expunged under this section a certified  
2 corrected driver history at no cost and shall reinstate at no cost any drivers license suspended or  
3 revoked as a result of a charge or conviction expunged under this section.

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

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

14 (g) For purposes of this section, the term "mistaken identity" means the erroneous arrest  
15 of a person for a crime as a result of misidentification by a witness or law enforcement,  
16 confusion on the part of a witness or law enforcement as to the identity of the person who  
17 committed the crime, misinformation provided to law enforcement as to the identity of the  
18 person who committed the crime, or some other mistake on the part of a witness or law  
19 enforcement as to the identity of the person who committed the crime.

20 **"§ 15A-148. Expunction of DNA records when charges are dismissed on appeal or pardon  
21 of innocence is granted.**

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

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

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

47 **"§ 15A-149. Expunction of records when pardon of innocence is granted.**

48 (a) If any person is convicted of a crime and receives a pardon of innocence, the person  
49 may ~~apply by petition or written motion to~~ the court in which the person was convicted on a  
50 form approved by the Administrative Office of the Courts supplied by the clerk of court for an  
51 order to expunge from all official records any entries relating to the person's apprehension,

1 charge, or trial. Upon receipt of the ~~petition or written motion,~~ petition, the clerk of court shall  
2 verify that an attested copy of the warrant and return granting a pardon of innocence has been  
3 filed with the court in accordance with G.S. 147-25. Upon verification by the clerk that the  
4 warrant and return have been filed, the court shall issue an order of expunction.

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

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

19 **"§ 15A-150. Notification requirements.**

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

- 24 (1) Persons granted an expunction under this Article.
- 25 (2), (3) Repealed by Session Laws 2015-40, s. 3, effective December 1, 2015,  
26 and applicable to conditional discharges granted on or after that date.
- 27 (4) Repealed by Session Laws 2010-174, s. 7, effective October 1, 2010.
- 28 (5) Repealed by Session Laws 2015-40, s. 3, effective December 1, 2015, and  
29 applicable to conditional discharges granted on or after that date.
- 30 (6) Persons granted a dismissal upon completion of a conditional discharge  
31 under G.S. 14-50.29, 14-204, 14-313(f), 15A-1341(a4), 90-96, or 90-113.14.

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

- 40 (1) The sheriff, chief of police, or other arresting agency.
- 41 (2) When applicable, the Division of Motor Vehicles.
- 42 (3) Any State or local agency identified by the petition as bearing record of the  
43 offense that has been expunged.
- 44 (4) The Department of Public Safety, Division of Adult Correction and  
45 Juvenile Justice.
- 46 (5) The Department of Public Safety, North Carolina State Bureau of  
47 Investigation.

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

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

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

10 **"§ 15A-151. Confidential agency files; exceptions to expunction.**

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

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

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

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

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

26 (5) ~~If~~ Upon the request of the North Carolina Criminal Justice Education and  
27 Training Standards Commission, if the criminal record was expunged  
28 pursuant to G.S. 15A-145.4, 15A-145.5, or [15A-]145.6, to the North  
29 Carolina Criminal Justice Education and Training Standards Commission  
30 15A-145.6 for certification purposes only.

31 (6) ~~If~~ Upon request of the North Carolina Sheriff's Standards Commission, if the  
32 criminal record was expunged pursuant to G.S. 15A-145.4, 15A-145.5, or  
33 15A-145.6, to the North Carolina Sheriffs' Education and Training Standards  
34 Commission 15A-145.6 for certification purposes only.

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

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

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

47 **"§ 15A-151.5. Prosecutor access to expunged files.**

48 (a) Notwithstanding any other provision of this Article, the Administrative Office of the  
49 Courts shall make all confidential files maintained under G.S. 15A-151 electronically available  
50 to all prosecutors of this State if the criminal record was expunged on or after December 1,  
51 2017, under any of the following:

- 1           (1)    G.S. 15A-145. Expunction of records for first offenders under the age of 18  
2           at the time of conviction of misdemeanor; expunction of certain other  
3           misdemeanors.  
4           (2)    G.S. 15A-145.1. Expunction of records for first offenders under the age of  
5           18 at the time of conviction of certain gang offenses.  
6           (3)    G.S. 15A-145.2. Expunction of records for first offenders not over 21 years  
7           of age at the time of the offense of certain drug offenses.  
8           (4)    G.S. 15A-145.3. Expunction of records for first offenders not over 21 years  
9           of age at the time of the offense of certain toxic vapors offenses.  
10          (5)    G.S. 15A-145.4. Expunction of records for first offenders who are under 18  
11          years of age at the time of the commission of a nonviolent felony.  
12          (6)    G.S. 15A-145.5. Expunction of certain misdemeanors and felonies; no age  
13          limitation.  
14          (7)    G.S. 15A-145.6. Expunctions for certain defendants convicted of  
15          prostitution.  
16          (8)    G.S. 15A-146(a). Expunction of records when charges are dismissed or there  
17          are findings of not guilty.  
18          (9)    G.S. 15A-146(a1). Expunction of records when charges are dismissed or  
19          there are findings of not guilty.  
20          (b)    For any expungement granted on or after December 1, 2017, the expunged criminal  
21          records under subdivisions (1) through (7) of subsection (a) of this section may be used to  
22          calculate prior record level if the named person is convicted of a subsequent criminal offense.  
23          (c)    For any expungement granted on or after December 1, 2017, the information  
24          maintained by the Administrative Office of the Courts, and made available under subsection (a)  
25          of this section, shall be prima facie evidence of the expunged conviction for the purposes of  
26          calculating prior record level of the named person and shall be admissible into evidence at a  
27          subsequent criminal sentencing hearing.  
28          ...."  
29                **SECTION 2.** This act becomes effective December 1, 2017, and applies to  
30          petitions filed on or after that date.