

GENERAL ASSEMBLY OF NORTH CAROLINA
SESSION 2019

H.B. 202
Feb 26, 2019
HOUSE PRINCIPAL CLERK

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HOUSE BILL DRH50032-ML-15B

Short Title: Amend Expunction.

(Public)

Sponsors: Representatives Floyd, Beasley, Hardister, and Lucas (Primary Sponsors).

Referred to:

1 A BILL TO BE ENTITLED
2 AN ACT TO ALLOW A ONE-TIME EXPUNCTION OF MULTIPLE CRIMINAL
3 OFFENSES.

4 The General Assembly of North Carolina enacts:

5 SECTION 1. G.S. 15A-145.5 reads as rewritten:

6 "§ 15A-145.5. Expunction of certain misdemeanors and felonies; no age limitation.

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

17 (c) A person may file a petition, in the court of the county where the person was most
18 recently convicted, for expunction of ~~a~~ and nonviolent felony
19 conviction ~~convictions~~ from the person's criminal record if the person has no other misdemeanor
20 or felony ~~convictions, convictions that are excluded from expunction pursuant to this section,~~
21 other than a traffic violation. The petition shall not be filed earlier than 10 years after the date of
22 the most recent conviction for a nonviolent felony or five years for a nonviolent misdemeanor or
23 when any ~~all~~ active ~~sentence, periods~~ sentences, periods of probation, and post-release supervision
24 ~~has~~ have been served, whichever occurs later. The petition shall contain, but not be limited to, the
25 following:

26 (1) An affidavit by the petitioner that the petitioner has been of good moral
27 character since the most recent date of conviction for ~~the~~ a nonviolent
28 misdemeanor or nonviolent felony and has not been convicted of any other
29 felony or ~~misdemeanor, misdemeanor~~ that is excluded from expunction
30 pursuant to this section, other than a traffic violation, under the laws of the
31 United States or the laws of this State or any other state.

32 ...
33 (3) A statement that the petition is a motion in the cause in the case wherein the
34 petitioner was most recently convicted.
35 ...



1 Upon filing of the petition, the petition shall be served upon the district attorney of the court
2 wherein the most recent case was tried resulting in conviction. The district attorney shall have 30
3 days thereafter in which to file any objection thereto and shall be duly notified as to the date of
4 the 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 best
6 efforts to contact the victim, if any, to notify the victim of the request for expunction prior to the
7 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 most recent conviction. The
10 court shall review any other information the court deems relevant, including, but not limited to,
11 affidavits or other testimony provided by law enforcement officers, district attorneys, and victims
12 of 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; 15A-145.4~~, or that any previous expunction received under any of those sections
16 occurred prior to December 1, 2019; the petitioner has remained of good moral character; the
17 petitioner has no outstanding warrants or pending criminal cases; the petitioner has no other
18 felony or misdemeanor convictions that are excluded from expunction pursuant to this section
19 other than a traffic violation; the petitioner has no outstanding restitution orders or civil
20 judgments representing amounts ordered for restitution entered against the petitioner; and the
21 petitioner was convicted of ~~an offense~~ offenses eligible for expunction under this section and was
22 convicted of, and completed any sentence received for, ~~at the nonviolent felony~~ felonies at least 10
23 years prior to the filing of the petition ~~or and the nonviolent misdemeanor~~ misdemeanors at least
24 five years prior to the filing of the petition, it may order that such person be restored, in the
25 contemplation of the law, to the status the person occupied before ~~such arrest or indictment or~~
26 ~~information, those arrests, indictments, or informations~~, except as provided in G.S. 15A-151.5. If
27 the court denies the petition, the order shall include a finding as to the reason for the denial.

28 ...

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

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

43"

44 **SECTION 2.** This act becomes effective December 1, 2019, and applies to petitions
45 filed on or after that date.