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Short Title: The Second Chance Act.

(Public)

Sponsors:

Referred to:

April 3, 2019

A BILL TO BE ENTITLED

AN ACT TO MAKE VARIOUS REVISIONS TO THE EXPUNCTION LAWS OF THIS STATE.

The General Assembly of North Carolina enacts:

PART I. EXPUNCTIONS FOR OFFENSES COMMITTED PRIOR TO THE EFFECTIVE DATE OF THE LEGISLATION KNOWN AS RAISE THE AGE

SECTION 1.(a) Article 5 of Chapter 15A of the General Statutes is amended by adding a new section to read:

"§ 15A-145.8. Expunction of records for offenders under the age of 18 at the time of commission of certain misdemeanors and felonies upon completion of the sentence.

(a) A person or the district attorney may file, in the court of the county where the person was convicted, a petition for expunction from the person's criminal record of any misdemeanor or Class H or I felony not excluded by subsection (b) of this section if the offense was committed prior to December 1, 2019, and while the person was less than 18 years of age, but at least 16 years of age. The petition shall not be filed until (i) any active sentence, period of probation, and post-release supervision ordered for the offense has been served and (ii) the person has no restitution orders for the offense or outstanding civil judgments representing amounts ordered for restitution for the offense.

(b) An offense is not eligible for expunction under this section if it is (i) a violation of the motor vehicle laws under Chapter 20 of the General Statutes, including any offense involving impaired driving as defined in G.S. 20-4.01(24a) or (ii) an offense requiring registration pursuant to Article 27A of Chapter 14 of the General Statutes, whether or not the person is currently required to register.

(c) If the petition was not filed by the district attorney, the petition shall be served upon the district attorney of the court wherein the case was tried resulting in conviction. The district attorney shall have 30 days thereafter in which to file any objection thereto and shall be duly notified as to the date of the hearing of the petition. The district attorney shall make his or her best efforts to contact the victim, if any, to notify the victim of the request for expunction prior to the date of the hearing. Upon request by the victim, the victim has a right to be present at any hearing on the petition for expunction and the victim's views and concerns shall be considered by the court at such hearing.



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1 (d) If the court, after hearing, finds that (i) the offense was a misdemeanor or Class H or
2 I felony eligible for expunction under this section, (ii) the offense was committed prior to
3 December 1, 2019, and while the person was less than 18 years of age, but at least 16 years of
4 age, (iii) any active sentence, period of probation, and post-release supervision ordered for the
5 offense was completed, and (iv) the person has no restitution orders for the offense or outstanding
6 civil judgments representing amounts ordered for restitution for the offense, the court shall order
7 that the person be restored, in the contemplation of the law, to the status the person occupied
8 before such arrest or indictment or information, and that the record be expunged from the records
9 of the court. A person convicted of multiple offenses shall be eligible to have those convictions
10 expunged pursuant to this section.

11 (e) Any petition for expunction under this section shall be on a form approved by the
12 Administrative Office of the Courts and shall be filed with the clerk of superior court in the
13 county where the person was convicted. Upon order of expunction, the clerk shall forward the
14 order to the Administrative Office of the Courts.

15 (f) No person as to whom such order has been entered shall be held thereafter under any
16 provision of any laws to be guilty of perjury or otherwise giving a false statement by reason of
17 that person's failure to recite or acknowledge such arrest, or indictment, information, or trial, or
18 response to any inquiry made of the person for any purpose.

19 (g) The court shall also order that the conviction be expunged from the records of the
20 court. The court shall direct all law enforcement agencies, the Division of Adult Correction and
21 Juvenile Justice of the Department of Public Safety, the Division of Motor Vehicles, and any
22 other State or local government agencies identified by the petitioner as bearing record of the same
23 to expunge their records of the petitioner's conviction. The clerk shall notify State and local
24 agencies of the court's order as provided in G.S. 15A-150.

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

35 **SECTION 1.(b)** This section becomes effective December 1, 2019, and applies to
36 offenses committed before that date. The Administrative Office of the Courts shall develop and
37 disseminate the forms required by this section no later than September 1, 2020.

38 **PART II. PROSECUTOR AND LAW ENFORCEMENT ACCESS TO EXPUNGED** 39 **FILES**

40 **SECTION 2.(a)** G.S. 15A-151.5 reads as rewritten:
41
42 **"§ 15A-151.5. Prosecutor access to expunged files.**

43 (a) Notwithstanding any other provision of this Article, the Administrative Office of the
44 Courts shall make all confidential files maintained under G.S. 15A-151 electronically available
45 to all prosecutors of this State if the criminal record was expunged on or after July 1, 2018, under
46 any of the following:

- 47 (1) G.S. 15A-145. Expunction of records for first offenders under the age of 18 at
48 the time of conviction of misdemeanor; expunction of certain other
49 misdemeanors.
- 50 (2) G.S. 15A-145.1. Expunction of records for first offenders under the age of 18
51 at the time of conviction of certain gang offenses.

- 1 (3) G.S. 15A-145.2. Expunction of records for first offenders not over 21 years of
2 age at the time of the offense of certain drug offenses.
- 3 (4) G.S. 15A-145.3. Expunction of records for first offenders not over 21 years of
4 age at the time of the offense of certain toxic vapors offenses.
- 5 (5) G.S. 15A-145.4. Expunction of records for first offenders who are under 18
6 years of age at the time of the commission of a nonviolent felony.
- 7 (6) G.S. 15A-145.5. Expunction of certain misdemeanors and felonies; no age
8 limitation.
- 9 (7) G.S. 15A-145.6. Expunctions for certain defendants convicted of prostitution.
- 10 (7a) G.S. 15A-145.7. Expunction of records for first offenders under 20 years of
11 age at the time of the offense of certain offenses.
- 12 (7b) G.S. 15A-145.8. Expunction of records for offenders under the age of 18 at
13 the time of conviction of certain misdemeanors and felonies upon completion
14 of the sentence.
- 15 (8) G.S. 15A-146(a). Expunction of records when charges are dismissed.
- 16 (9) G.S. 15A-146(a1). Expunction of records when charges are dismissed.
- 17 (b) For any expungement granted on or after July 1, 2018, the ~~expunged criminal records~~
18 ~~record of a criminal conviction expunged~~ under subdivisions (1) through ~~(7)-(7b)~~ of subsection
19 (a) of this section may be ~~used~~ considered a prior conviction and used for any of the following
20 purposes:
- 21 (1) ~~to~~ To calculate prior record level and prior conviction level if the named
22 person is convicted of a subsequent criminal offense.
- 23 (2) To serve as a basis for indictment for a habitual offense pursuant to
24 G.S. 14-7.1 or G.S. 14-7.26.
- 25 (3) When a conviction of a prior offense raises the offense level of a subsequent
26 offense.
- 27 (4) To determine eligibility for relief under G.S. 90-96(a).
- 28 (5) When permissible in a criminal case under Rule 404(b) or Rule 609 of the
29 North Carolina Rules of Evidence.
- 30 (c) For any expungement granted on or after July 1, 2018, the information maintained by
31 the Administrative Office of the Courts, and made available under subsection (a) of this section,
32 shall be prima facie evidence of the expunged conviction for the purposes ~~of calculating prior~~
33 ~~record level of the named person provided in subsection (b) of this section~~ and shall be admissible
34 into evidence at a subsequent criminal sentencing hearing. The expungement of a
35 conviction shall not serve as a basis to challenge a conviction or sentence entered before the
36 expungement of that conviction."
- 37 **SECTION 2.(b)** G.S. 15A-151(a) reads as rewritten:
- 38 "(a) The Administrative Office of the Courts shall maintain a confidential file for
39 expungements containing the petitions granted under this Article and the names of those people
40 for whom it received a notice under G.S. 15A-150. The information contained in the file may be
41 disclosed only as follows:
- 42 ...
- 43 (4) Upon request of State or local law enforcement, if the criminal record was
44 expunged pursuant to G.S. 15A-145.4, 15A-145.5, ~~or 15A-145.6~~ 15A-145.6,
45 15A-145.8, or 15A-146 or employment purposes only.
- 46 (5) Upon the request of the North Carolina Criminal Justice Education and
47 Training Standards Commission, if the criminal record was expunged
48 pursuant to G.S. 15A-145.4, 15A-145.5, ~~or 15A-145.6~~ 15A-145.6,
49 15A-145.8, or 15A-146 for certification purposes only.
- 50 (6) Upon request of the North Carolina ~~Sheriffs~~ Sheriffs' Education and Training
51 Standards Commission, if the criminal record was expunged pursuant to

1 G.S. 15A-145.4, 15A-145.5, ~~or 15A-145.6~~ 15A-145.6, 15A-145.8, or
2 15A-146 for certification purposes only.

3"

4 SECTION 2.(c) This section becomes effective December 1, 2020.

5
6 **PART III. STREAMLINE EXPUNCTIONS FOR CHARGES NOT RESULTING IN**
7 **CONVICTION**

8 SECTION 3.(a) G.S. 15A-146 reads as rewritten:

9 "**§ 15A-146. Expunction of records when charges are dismissed or there are findings of not**
10 **guilty.**

11 (a) Dismissal of Single Charge. – If any person is charged with a crime, either a
12 misdemeanor or a felony, or was charged with an infraction under G.S. 18B-302(i) prior to
13 December 1, 1999, and the charge is dismissed, that person or the district attorney may petition
14 the court of the county where the charge was brought for an order to expunge from all official
15 records any entries relating to ~~his~~ that person's apprehension or trial. ~~The court shall hold a~~
16 ~~hearing on the petition and, upon finding that the person had not previously been convicted of~~
17 ~~any felony under the laws of the United States, this State, or any other state, Upon a finding that~~
18 ~~the sole charge was dismissed, the court shall order the expunction. No person as to whom such~~
19 ~~an order has been entered shall be held thereafter under any provision of any law to be guilty of~~
20 ~~perjury, or to be guilty of otherwise giving a false statement or response to any inquiry made for~~
21 ~~any purpose, by reason of his failure to recite or acknowledge any expunged entries concerning~~
22 ~~apprehension or trial.~~

23 (a1) Multiple Dismissals. – ~~Notwithstanding subsection (a) of this section, if~~ If a person is
24 charged with multiple offenses and ~~the any~~ charges are dismissed, then ~~a~~ that person or the district
25 attorney may petition to have each of the dismissed charges expunged. ~~The court shall hold a~~
26 ~~hearing on the petition. If the court finds that all of the person had not previously been convicted~~
27 ~~of any felony under the laws of the United States, this State, or any other state, charges were~~
28 ~~dismissed, the court shall order the expunction. If the court finds that any charge resulted in a~~
29 ~~conviction on the day of the dismissal or had not yet reached final disposition, the court may~~
30 ~~order the expunction of any charge that was dismissed.~~

31 (a2) Finding of Not Guilty. – If any person is charged with ~~a crime, one or more crimes,~~
32 either a misdemeanor or a felony, or an infraction under G.S. 18B-302(i) prior to December 1,
33 1999, and a finding of not guilty or not responsible is ~~entered, entered for any or all of the charges,~~
34 that person or the district attorney may petition the court of the county where the charge was
35 brought for an order to expunge from all official records any entries relating to apprehension or
36 trial of that crime. ~~The court shall hold a hearing on the petition and upon finding that the person~~
37 ~~had not previously been convicted of any felony under the laws of the United States, this State,~~
38 ~~or any other state, the court shall order the expunction. No person as to whom such an order has~~
39 ~~been entered shall be held thereafter under any provision of any law to be guilty of perjury, or to~~
40 ~~be guilty of otherwise giving a false statement or response to any inquiry made for any purpose,~~
41 ~~by reason of failure to recite or acknowledge any expunged entries concerning that crime. If a~~
42 ~~person is charged with multiple offenses and findings of not guilty or not responsible are made~~
43 ~~on charges, then a person may petition to have each of the charges disposed by a finding of not~~
44 ~~guilty or not responsible expunged. The court shall hold a hearing on the petition. If the court~~
45 ~~finds that the person had not previously been convicted of any felony under the laws of the United~~
46 ~~States, this State, or any other state, Upon determining that a finding of not guilty or not~~
47 ~~responsible was entered and all related criminal charges have reached final disposition, the court~~
48 ~~shall order the expunction.~~ expunction of any charges disposed by a finding of not guilty or not
49 responsible.

50 (a3) No Effect of Expunction. – Except as provided in G.S. 15A-151.5(b)(5), no person as
51 to whom ~~such~~ an order has been entered by a court or by operation of law under this section shall

1 be held thereafter under any provision of any law to be guilty of perjury, or to be guilty of
2 otherwise giving a false statement or response to any inquiry made for any purpose, by reason of
3 ~~his~~ the person's failure to recite or acknowledge any expunged entries concerning apprehension
4 or trial.

5 (a4) Dismissal, Not Guilty, or Not Responsible on or After December 1, 2021. – If any
6 person is charged with a crime, either a misdemeanor or a felony, or is charged with an infraction,
7 the charges in the case are expunged by operation of law if all of the following apply:

8 (1) All charges in the case are disposed on or after December 1, 2021.

9 (2) All charges in the case are dismissed without leave, dismissed by the court, or
10 result in a finding of not guilty or not responsible.

11 Notwithstanding the provisions of this subsection, no case with a felony charge that was
12 dismissed pursuant to a plea agreement will be expunged pursuant to this subsection. Prior to
13 December 1, 2021, the Administrative Office of the Courts shall develop and have in place
14 procedures to automate the expunction of records pursuant to this subsection.

15 (a5) Notwithstanding the provisions of subsections (a), (a1), and (a2) of this section, an
16 arresting agency may maintain investigative records related to a charge that has been expunged
17 pursuant to this section.

18 (a6) Hearing. – Except as otherwise specifically provided in this section, a court may grant
19 a petition for expunction under this section without a hearing.

20 ...

21 (c) Any petition required to be filed for expungement under this section shall be on a
22 form approved by the Administrative Office of the Courts and be filed with the clerk of superior
23 court. ~~Upon~~ Excluding any expunction granted by operation of law pursuant to subsection (a4)
24 of this section, upon order of expungement, expungement by a court, the clerk shall notify State
25 and local agencies of the court's order as provided in G.S. 15A-150 and forward the petition to
26 the Administrative Office of the Courts.

27"

28 **SECTION 3.(b)** G.S. 15A-150(b) reads as rewritten:

29 "(b) Notification to Other State and Local Agencies. – Unless otherwise instructed by the
30 Administrative Office of the Courts pursuant to an agreement entered into under subsection (e)
31 of this section for the electronic or facsimile transmission of information, the clerk of superior
32 court in each county in North Carolina shall send a certified copy of an order granting an
33 expunction to a person named in subsection (a) of this section to (i) all of the agencies listed in
34 this subsection and (ii) ~~the person,~~ person granted the expunction. Expunctions granted pursuant
35 to G.S. 15A-146(a4) are excluded from all notice provisions of this subsection. An agency
36 receiving an order under this subsection shall purge from its records all entries made as a result
37 of the charge or conviction ordered expunged, except as provided in G.S. 15A-151. The list of
38 agencies is as follows:

39 (1) The sheriff, chief of police, or other arresting agency.

40 (2) When applicable, the Division of Motor Vehicles.

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

43 (4) The Department of Public Safety, Combined Records Section.

44 (5) The State Bureau of Investigation."

45 **SECTION 3.(c)** By October 1, 2021, the Department of Public Safety, in conjunction
46 with the Department of Justice and the Administrative Office of the Courts, shall jointly develop
47 and submit a report to the Joint Legislative Oversight Committee on Justice and Public Safety on
48 recommendations and the costs involved to automate the expunction process for all State
49 agencies with records subject to expunction orders and ensure the efficacy of the record
50 expunction.

1 **SECTION 3.(d)** Subsections (a) through (a3) and (a5) of G.S. 15A-146, as amended
2 by subsection (a) of this section, become effective December 1, 2020, and apply to petitions filed
3 on or after that date. Subsection (a4) of G.S. 15A-146, as amended by subsection (a) of this
4 section, becomes effective on December 1, 2021, and applies to charges disposed of on or after
5 that date. The remainder of this section is effective when it becomes law.
6

7 **PART IV. MODIFY EXPUNCTION OF NONVIOLENT MISDEMEANOR AND**
8 **FELONY CONVICTIONS**

9 **SECTION 4.(a)** G.S. 15A-145.5 reads as rewritten:

10 **"§ 15A-145.5. Expunction of certain misdemeanors and felonies; no age limitation.**

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

- 13 (1) A Class A through G felony or a Class A1 misdemeanor.
- 14 (2) An offense that includes assault as an essential element of the offense.
- 15 (3) An offense requiring registration pursuant to Article 27A of Chapter 14 of the
16 General Statutes, whether or not the person is currently required to register.
- 17 (4) Any of the following sex-related or stalking offenses: G.S. 14-27.25(b),
18 14-27.30(b), 14-190.7, 14-190.8, 14-190.9, 14-202, 14-208.11A, 14-208.18,
19 14-277.3, 14-277.3A, 14-321.1.
- 20 (5) Any felony offense in Chapter 90 of the General Statutes where the offense
21 involves methamphetamines, heroin, or possession with intent to sell or
22 deliver or sell and deliver cocaine.
- 23 (6) An offense under G.S. 14-12.12(b), 14-12.13, or 14-12.14, or any offense for
24 which punishment was determined pursuant to G.S. 14-3(c).
- 25 (7) An offense under G.S. 14-401.16.
- 26 (7a) An offense under G.S. 14-54(a), 14-54(a1), or 14-56.
- 27 (8) Any felony offense in which a commercial motor vehicle was used in the
28 commission of the offense.
- 29 (8a) An offense involving impaired driving as defined in G.S. 20-4.01(24a).
- 30 (9) Any offense that is an attempt to commit an offense described in subdivisions
31 (1) through (8a) of this subsection.

32 (b) Notwithstanding any other provision of law, if the person is convicted of more than
33 one nonviolent felony or nonviolent misdemeanor in the same session of court ~~and none of the~~
34 ~~nonviolent felonies or nonviolent misdemeanors are alleged to have occurred after the person~~
35 ~~had already been served with criminal process for the commission of a nonviolent felony or~~
36 ~~nonviolent misdemeanor, court,~~ then the multiple nonviolent felony or nonviolent misdemeanor
37 convictions shall be treated as one nonviolent felony or nonviolent misdemeanor conviction
38 under this section, and the expunction order issued under this section shall provide that the
39 multiple nonviolent felony convictions or nonviolent misdemeanor convictions shall be
40 expunged from the person's record in accordance with this section.

41 (c) A person may file a petition, in the court of the county where the person was
42 convicted, for expunction of a one or more nonviolent misdemeanor convictions or one
43 nonviolent felony conviction from the person's criminal record if the person has no other
44 misdemeanor or felony convictions, other than a traffic violation. The petition shall not be filed
45 earlier than 10 years after the date of the conviction for a nonviolent felony or five years for a
46 nonviolent misdemeanor or when any active sentence, period of probation, and post release
47 supervision has been served, whichever occurs later. record. The petition shall not be filed earlier
48 than one of the following:

- 49 (1) For expunction of one nonviolent misdemeanor, five years after the date of
50 the conviction or when any active sentence, period of probation, or
51 post-release supervision has been served, whichever occurs later.

1 (2) For expunction of more than one nonviolent misdemeanor, seven years after
2 the date of the person's last conviction, other than a traffic offense not listed
3 in the petition for expunction, or seven years after any active sentence, period
4 of probation, or post-release supervision has been served, whichever occurs
5 later.

6 (3) For expunction of one nonviolent felony, 10 years after the date of the
7 conviction or 10 years after any active sentence, period of probation, or
8 post-release supervision has been served, whichever occurs later.

9 A person previously granted an expunction under this section is not eligible for relief under
10 this section for any offense committed after the date of the previous order for expunction.

11 (c1) The A petition filed pursuant to this section shall contain, but not be limited to, the
12 following:

13 (1) An affidavit by the petitioner that the petitioner ~~has been~~ is of good moral
14 character ~~since the date of conviction for the nonviolent misdemeanor or~~
15 ~~nonviolent felony~~ and has not been convicted of any other felony or
16 misdemeanor, other than a traffic violation, under the laws of the United States
17 or the laws of this State or any other ~~state~~ state during the applicable five-year,
18 seven-year, or 10-year waiting period set forth in subsection (c) of this section.

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

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

25 (4) An application on a form approved by the Administrative Office of the Courts
26 requesting and authorizing a name-based State and national criminal history
27 record check by the Department of Public Safety using any information
28 required by the Administrative Office of the Courts to identify the individual,
29 a search by the Department of Public Safety for any outstanding warrants on
30 pending criminal cases, and a search of the confidential record of expunctions
31 maintained by the Administrative Office of the Courts. The application shall
32 be filed with the clerk of superior court. The clerk of superior court shall
33 forward the application to the Department of Public Safety and to the
34 Administrative Office of the Courts, which shall conduct the searches and
35 report their findings to the court.

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

39 Upon filing of the petition, the petition shall be served upon the district attorney of the court
40 wherein the case was tried resulting in conviction. The district attorney shall have 30 days
41 thereafter in which to file any objection thereto and shall be duly notified as to the date of the
42 hearing of the petition. Upon good cause shown, the court may grant the district attorney an
43 additional 30 days to file objection to the petition. The district attorney shall make his or her best
44 efforts to contact the victim, if any, to notify the victim of the request for expunction prior to the
45 date of the hearing. Upon request by the victim, the victim has a right to be present at any hearing
46 on the petition for expunction and the victim's views and concerns shall be considered by the
47 court at such hearing.

48 The presiding judge is authorized to call upon a probation officer for any additional
49 investigation or verification of the petitioner's conduct since the conviction. The court shall
50 review any other information the court deems relevant, including, but not limited to, affidavits

1 or other testimony provided by law enforcement officers, district attorneys, and victims of crimes
2 committed by the petitioner.

3 (c2) If the ~~The~~ court, after hearing, ~~hearing a petition for expunction of one or more~~
4 nonviolent misdemeanors, shall order that the petitioner be restored, in the contemplation of the
5 law, to the status the petitioner occupied before the arrest or indictment or information, except as
6 provided in G.S. 15A-151.5, if the court finds all of the following:

7 (1) ~~finds that the~~ The petitioner has not previously been granted an expunction
8 under this section, G.S. 15A-145, 15A-145.1, 15A-145.2, 15A-145.3, or
9 15A-145.4; section prior to the date of any offense the current petition requests
10 be expunged.

11 (2) ~~the~~ The petitioner has remained is of good moral character; ~~character.~~

12 (3) ~~the~~ The petitioner has no outstanding warrants or pending criminal cases;
13 cases.

14 (4) ~~the~~ The petitioner has no other felony or misdemeanor convictions
15 convictions, other than a traffic violation; ~~violation not listed in the petition~~
16 for expunction, during the applicable five-year or seven-year waiting period
17 set forth in subsection (c) of this section.

18 (5) ~~the~~ The petitioner has no outstanding restitution orders or civil judgments
19 representing amounts ordered for restitution entered against the ~~petitioner;~~ and
20 petitioner.

21 (6) The petitioner meets one of the following criteria:

22 a. For a petition for expunction of one nonviolent misdemeanor, the
23 petitioner has no convictions for any other felony or misdemeanor,
24 other than a traffic offense.

25 b. For a petition for expunction of more than one nonviolent
26 misdemeanor, the petitioner has no convictions for a misdemeanor or
27 felony that is listed as an exception to the terms "nonviolent
28 misdemeanor" or "nonviolent felony" as provided in subsection (a) of
29 this section.

30 (7) ~~the~~ The petitioner was convicted of an offense or offenses eligible for
31 expunction under this section and was convicted of, and completed any
32 sentence received for, a nonviolent felony at least 10 years prior to the filing
33 of the petition or a nonviolent misdemeanor at least five years prior to the
34 filing of the petition, it may order that such person be restored, in the
35 contemplation of the law, to the status the person occupied before such arrest
36 or indictment or information, except as provided in G.S. 15A-151.5 section.

37 (8) The petitioner has completed the applicable five-year or seven-year waiting
38 period set forth in subsection (c) of this section.

39 If the court denies the petition, the order shall include a finding as to the reason for the denial.

40 (c3) The court, after hearing a petition for expunction of one nonviolent felony, may order
41 that the petitioner be restored, in the contemplation of the law, to the status the petitioner occupied
42 before the arrest or indictment or information, except as provided in G.S. 15A-151.5, if the court
43 finds all of the following:

44 (1) The petitioner has not been granted an expunction under this section prior to
45 the date of any offense the current petition requests be expunged.

46 (2) The petitioner is of good moral character.

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

48 (4) The petitioner has no other felony or misdemeanor convictions, other than a
49 traffic violation not listed in the petition for expunction, during the applicable
50 10-year waiting period set forth in subsection (c) of this section.

- 1 (5) The petitioner has no outstanding restitution orders or civil judgments
- 2 representing amounts ordered for restitution entered against the petitioner.
- 3 (6) The petitioner has no convictions for a misdemeanor that is listed as an
- 4 exception to the term "nonviolent misdemeanor" as provided in subsection (a)
- 5 of this section or any other felony offense.
- 6 (7) The petitioner was convicted of an offense eligible for expunction under this
- 7 section.
- 8 (8) The petitioner has completed the 10-year waiting period set forth in subsection
- 9 (c) of this section.

10 If the court denies the petition, the order shall include a finding as to the reason for the denial.

11 ...

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

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

26 "

27 **SECTION 4.(b)** This section becomes effective December 1, 2020, and applies to
28 petitions filed on or after that date.

29

30 **PART V. EFFECTIVE DATE**

31 **SECTION 5.** Except as otherwise provided, this act is effective when it becomes
32 law.