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SENATE BILL DRS45140-ML-32A

Short Title: Expand Expunction Eligibility. (Public)

Sponsors: Senators Britt, Daniel, and Lee (Primary Sponsors).

Referred to:

1 A BILL TO BE ENTITLED
2 AN ACT TO ALLOW FOR THE EXPUNCTION OF UP TO TWO NONVIOLENT
3 FELONIES, TO EXPAND THE DEFINITION FOR THE TERM "NONVIOLENT
4 FELONY," AND TO ALLOW THE PUBLIC DEFENDER OR PRIVATE COUNSEL TO
5 FILE A PETITION FOR EXPUNCTION ON BEHALF OF A PERSON ELIGIBLE TO
6 EXPUNGE CERTAIN OFFENSES COMMITTED UNDER THE AGE OF EIGHTEEN.

7 The General Assembly of North Carolina enacts:

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

9 **"§ 15A-145.5. Expunction of certain misdemeanors and felonies; no age limitation.**

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

- 12 (1) A Class A through G felony or a Class A1 misdemeanor.
- 13 (2) An offense that includes assault as an essential element of the offense.
- 14 (3) An offense requiring registration pursuant to Article 27A of Chapter 14 of the
15 General Statutes, whether or not the person is currently required to register.
- 16 (4) Any of the following sex-related or stalking offenses: G.S. 14-27.25(b),
17 14-27.30(b), 14-190.7, 14-190.8, 14-190.9, 14-202, 14-208.11A, 14-208.18,
18 14-277.3, 14-277.3A, 14-321.1.
- 19 (5) Any felony offense in Chapter 90 of the General Statutes where the offense
20 involves methamphetamines, heroin, or possession with intent to sell or
21 deliver or sell and deliver cocaine.
- 22 (6) An offense under G.S. 14-12.12(b), 14-12.13, or 14-12.14, or any offense for
23 which punishment was determined pursuant to G.S. 14-3(c).
- 24 (7) An offense under G.S. 14-401.16.
- 25 (7a) An offense under ~~G.S. 14-54(a), 14-54(a1), or 14-56.~~ any of the following:
 - 26 a. G.S. 14-54(a).
 - 27 b. G.S. 14-54(a1).
 - 28 c. G.S. 14-56, unless 20 years have passed from the later of (i) the date
29 of conviction or (ii) the date when any active sentence, period of
30 probation, or post-release supervision has been served.
- 31 (8) Any felony offense in which a commercial motor vehicle was used in the
32 commission of the offense.
- 33 (8a) An offense involving impaired driving as defined in G.S. 20-4.01(24a).
- 34 (9) Any offense that is an attempt to commit an offense described in subdivisions
35 (1) through (8a) of this subsection.



1 (b) Notwithstanding any other provision of law, if the person is convicted of more than
2 one nonviolent felony or nonviolent misdemeanor in the same session of court, then the multiple
3 nonviolent felony or nonviolent misdemeanor convictions shall be treated as one nonviolent
4 felony or nonviolent misdemeanor conviction under this section, and the expunction order issued
5 under this section shall provide that the multiple nonviolent felony convictions or nonviolent
6 misdemeanor convictions shall be expunged from the person's record in accordance with this
7 section.

8 (c) A person may file a petition, in the court of the county where the person was
9 convicted, for expunction of one or more nonviolent misdemeanor convictions or ~~one up to two~~
10 nonviolent felony ~~conviction-convictions~~ from the person's criminal record. The petition shall
11 not be filed earlier than one of the following:

- 12 (1) For expunction of one nonviolent misdemeanor, five years after the date of
13 the conviction or when any active sentence, period of probation, or
14 post-release supervision has been served, whichever occurs later.
- 15 (2) For expunction of more than one nonviolent misdemeanor, seven years after
16 the date of the person's last conviction, other than a traffic offense not listed
17 in the petition for expunction, or seven years after any active sentence, period
18 of probation, or post-release supervision has been served, whichever occurs
19 later.
- 20 (3) For expunction of one nonviolent felony, 10 years after the date of the
21 conviction or 10 years after any active sentence, period of probation, or
22 post-release supervision has been served, whichever occurs later.
- 23 (4) For expunction of two nonviolent felonies, 20 years after the date of the
24 person's last conviction, other than a traffic offense not listed in the petition
25 for expunction, or 20 years after any active sentence, period of probation, or
26 post-release supervision has been served, whichever occurs later.

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

29 ...

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

- 34 (1) The petitioner has not been granted an expunction under this section prior to
35 the date of any offense the current petition requests be expunged.
- 36 (2) The petitioner is of good moral character.
- 37 (3) The petitioner has no outstanding warrants or pending criminal cases.
- 38 (4) The petitioner has no misdemeanor convictions, other than a traffic violation
39 not listed in the petition for expunction, in the five years preceding the
40 petition, and no other felony or misdemeanor convictions, other than a traffic
41 violation not listed in the petition for expunction, convictions not listed in the
42 petition during the applicable 10-year or 20-year waiting period set forth in
43 subsection (c) of this section.
- 44 (4a) For a petition for expunction of two nonviolent felonies, the two nonviolent
45 felony convictions were obtained within the same 24-month period.
- 46 (5) The petitioner has no outstanding restitution orders or civil judgments
47 representing amounts ordered for restitution entered against the petitioner.
- 48 (6) The petitioner has no convictions for a misdemeanor that is listed as an
49 exception to the term "nonviolent misdemeanor" as provided in subsection (a)
50 of this section or any other felony offense.

- 1 (7) The petitioner was convicted of an offense eligible for expunction under this
- 2 section.
- 3 (8) The petitioner has completed the applicable 10-year or 20-year waiting period
- 4 set forth in subsection (c) of this section.

5 If the court denies the petition, the order shall include a finding as to the reason for the denial.
6 "

7 **SECTION 2.** G.S. 15A-145.8A(a) reads as rewritten:

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

18 **SECTION 3.** This act becomes effective December 1, 2021, and applies to petitions
19 filed on or after that date.