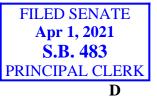
GENERAL ASSEMBLY OF NORTH CAROLINA SESSION 2021



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SENATE BILL DRS35182-MLa-48A

Short Title:	Marijuana/Diversion Court/Class 3 Misd. Study.	(Public)
Sponsors:	Senators Mohammed, Murdock, and Woodard (Primary Sponsors).	
Referred to:		

1	A BILL TO BE ENTITLED		
2	AN ACT TO RECLASSIFY MISDEMEANOR POSSESSION OF MARIJUANA OR		
3	HASHISH OFFENSES AS INFRACTIONS, TO ALLOW THE EXPUNCTION OF CLASS		
4	3 MISDEMEANOR POSSESSION OF MARIJUANA OR HASHISH OFFENSES, TO		
5	STUDY RECLASSIFYING CERTAIN CLASS 3 MISDEMEANOR OFFENSES AS		
6	INFRACTIONS, AND TO PROVIDE FUNDING FOR DRUG TREATMENT COURT		
7	PROGRAMS AND MENTAL HEALTH COURT PROGRAMS.		
8	The General Assembly of North Carolina enacts:		
9			
10	PART I. DECRIMINALIZE MISDEMEANOR POSSESSION OF MARIJUANA OR		
11	HASHISH		
12	SECTION 1.(a) G.S. 90-95(d)(4) reads as rewritten:		
13	"(4) A-Except as otherwise provided in this subdivision, a controlled substance		
14	classified in Schedule VI shall be guilty of a Class 3 misdemeanor, but any		
15	sentence of imprisonment imposed must be suspended and the judge may not		
16	require at the time of sentencing that the defendant serve a period of		
17	imprisonment as a special condition of probation. If the quantity of the		
18	controlled substance exceeds one half of an ounce (avoirdupois) of marijuana		
19	or one-twentieth of an ounce (avoirdupois) of the extracted resin of marijuana,		
20	commonly known as hashish, the violation shall be punishable as a Class 1		
21	misdemeanor. an infraction. If the quantity of the controlled substance		
22	exceeds one and one-half ounces (avoirdupois) of marijuana, or		
23	three-twentieths of an ounce (avoirdupois) of the extracted resin of marijuana,		
24	commonly known as hashish, or if the controlled substance consists of any		
25	quantity of synthetic tetrahydrocannabinols or tetrahydrocannabinols isolated		
26	from the resin of marijuana, the violation shall be punishable as a Class I		
27	felony."		
28	SECTION 1.(b) Article 5 of Chapter 15A of the General Statutes is amended by		
29	adding a new section to read:		
30	" <u>§ 15A-145.8B. Expunction of certain possession of marijuana offenses.</u>		
31	(a) If a person was charged with a misdemeanor violation of G.S. 90-95(a)(3) for		
32	possession of marijuana or hashish, and the person was convicted, the conviction shall be ordered		
33	to be automatically expunged no later than December 1, 2023, in the manner set forth in this		
34	section.		

35 (b) The clerk of each superior court shall determine which cases meet the criteria for 36 expunction set forth in subsection (a) of this section. Upon completing the review required under



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1	this subsection, the clerk of each superior court shall prepare an order of expungement for each
2	case that meets the criteria set forth in subsection (a) of this section and was finalized in his or
3	her court. Upon completion of the order of expungement, the court shall order the expunction.
4	Upon order of expungement, the clerk shall forward the petition to the Administrative Office of
5	the Courts.
6	(c) No person as to whom such an order has been entered under this section shall be held
7	thereafter under any provision of any law to be guilty of perjury, or to be guilty of otherwise
8	giving a false statement or response to any inquiry made for any purpose, by reason of the
9	person's failure to recite or acknowledge any expunged entries concerning apprehension, charge,
10	or trial.
11	(d) The court shall also order that the conviction ordered expunged under this section be
12	expunged from the records of the court and direct all law enforcement agencies bearing record
13	of the same to expunge their records of the conviction. The clerk shall notify State and local
14	agencies of the court's order as provided in G.S. 15A-150.
15	(e) Any other applicable State or local government agency shall expunge from its records
16	entries made as a result of the conviction ordered expunged under this section. The agency shall
17	also reverse any administrative actions taken against a person whose record is expunged under
18	this section as a result of the charges or convictions expunged. This subsection shall not apply to
19	the Department of Justice for DNA records and samples stored in the State DNA Database and
20	the State DNA Databank."
21	SECTION 1.(c) Subsection (a) of this section becomes effective December 1, 2021,
22	and applies to offenses committed on or after that date. The remainder of this section becomes
23	effective December 1, 2021.
24	
25	PART II. STUDY RECLASSIFYING CERTAIN CLASS 3 MISDEMEANOR OFFENSES
26	AS INFRACTIONS
26 27	
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	General Assembly Of North Carolina	Session 2021
1	shall recommend mental health treatment plans for individuals served by the prog	rams and shall
2	monitor the progress of the individuals receiving treatment while the individuals	remain in the
3	program.	
4	SECTION 3.(c) This section becomes effective July 1, 2021.	
5		
6	PART IV. EFFECTIVE DATE	
7	SECTION 4. Except as otherwise provided, this act is effective wh	en it becomes
8	law.	