

GENERAL ASSEMBLY OF NORTH CAROLINA
SESSION 2023

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SENATE BILL 565
Judiciary Committee Substitute Adopted 4/19/23
PROPOSED HOUSE COMMITTEE SUBSTITUTE S565-PCS35373-SA-46

Short Title: Amend Expunction.

(Public)

Sponsors:

Referred to:

April 5, 2023

1 A BILL TO BE ENTITLED
2 AN ACT TO REVISE THE LAWS ON THE AVAILABILITY OF EXPUNGED RECORDS
3 AND TO REPEAL THE AUTOMATIC EXPUNCTION OF DISMISSED CHARGES.
4 The General Assembly of North Carolina enacts:

5
6 **PART I. REVISE EXPUNCTION STATUTES**

7 **SECTION 1.(a)** G.S. 15A-151 is amended by adding two new subsections to read:

8 "(a1) Court records expunged under this Article are confidential and shall be retained by
9 the clerks of superior court as confidential files. Expunged records retained by the clerks under
10 this subsection shall be retained in accordance with the retention schedule for the underlying case
11 type, as prescribed by the Director of the Administrative Office of the Courts in conjunction with
12 the State Archives pursuant to Chapter 121 of the General Statutes. The Administrative Office
13 of the Courts shall maintain on behalf of the clerks of superior court any expunged records
14 retained in electronic form by the clerks under this subsection.

15 (a2) The Administrative Office of the Courts shall make all confidential records
16 maintained under this section electronically available to the clerks of superior court and to
17 personnel of the clerks' offices designated by the respective clerk. A clerk shall not disclose to
18 any person or for any reason the existence or content of any expunged record from a county other
19 than the clerk's own county. A clerk shall disclose the existence or content of an expunged record
20 from the clerk's own county only as follows:

- 21 (1) Upon request of a person, or the attorney representing the person on the
22 expunction matter, requesting disclosure or copies of the person's record.
23 (2) To the office of the district attorney.
24 (3) To the Office of the Appellate Defender upon appointment of that office as
25 counsel for the person who was the subject of the expunged record."

26 **SECTION 1.(b)** G.S. 15A-151.5 reads as rewritten:

27 **"§ 15A-151.5. Prosecutor access to expunged files.**

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

- 32 (1) ~~G.S. 15A-145. Expunction of records for first offenders under the age of 18 at~~
33 ~~the time of conviction of misdemeanor; expunction of certain other~~
34 ~~misdemeanors.~~



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- 1 (2) G.S. 15A-145.1. Expunction of records for first offenders under the age of 18
2 at the time of conviction of certain gang offenses.
3 (3) G.S. 15A-145.2. Expunction of records for first offenders not over 21 years of
4 age at the time of the offense of certain drug offenses.
5 (4) G.S. 15A-145.3. Expunction of records for first offenders not over 21 years of
6 age at the time of the offense of certain toxic vapors offenses.
7 (5) G.S. 15A-145.4. Expunction of records for first offenders who are under 18
8 years of age at the time of the commission of a nonviolent felony.
9 (6) G.S. 15A-145.5. Expunction of certain misdemeanors and felonies; no age
10 limitation.
11 (7) G.S. 15A-145.6. Expunctions for certain defendants convicted of prostitution.
12 (7a) G.S. 15A-145.7. Expunction of records for first offenders under 20 years of
13 age at the time of the offense of certain offenses.
14 (7b) G.S. 15A-145.8A. Expunction of records for offenders under the age of 18 at
15 the time of commission of certain misdemeanors and felonies upon
16 completion of the sentence.
17 (7e) G.S. 15A-145.9. Expunction of records of certain offenses committed by
18 human trafficking victims.
19 (8) G.S. 15A-146(a). Expunction of records when charges are dismissed.
20 (9) G.S. 15A-146(a1). Expunction of records when charges are dismissed.
- 21 (b) For any expungement granted on or after July 1, 2018, the record of a criminal
22 conviction expunged under subdivisions (1) through (7b) of subsection (a) of this section this
23 Article, other than a criminal conviction expunged under G.S. 15A-145.9, may be considered a
24 prior conviction and used for any of the following purposes:
- 25 (1) To calculate prior record level and prior conviction level if the named person
26 is convicted of a subsequent criminal offense.
27 (2) To serve as a basis for indictment for a habitual offense pursuant to
28 G.S. 14-7.1 or G.S. 14-7.26.
29 (3) When a conviction of a prior offense raises the offense level of a subsequent
30 offense.
31 (4) To determine eligibility for relief under G.S. 90-96(a).
32 (5) When permissible in a criminal case under Rule 404(b) or Rule 609 of the
33 North Carolina Rules of Evidence.

34 "

36 **PART II. REPEAL AUTOMATIC EXPUNCTION**

37 **SECTION 2.(a)** G.S. 15A-146(a4) is repealed.

38 **SECTION 2.(b)** Section 1 of S.L. 2022-47, as amended by Section 14.5 of S.L.
39 2023-103, and Section 2 of S.L. 2022-47 are repealed.

40 **SECTION 2.(c)** G.S. 15A-146(c) reads as rewritten:

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

47 **SECTION 2.(d)** G.S. 15A-150 reads as rewritten:

48 "**§ 15A-150. Notification requirements.**

49 ...

50 (b) Notification to Other State and Local Agencies. – Unless otherwise instructed by the
51 Administrative Office of the Courts pursuant to an agreement entered into under subsection (e)

1 of this section for the electronic or facsimile transmission of information, the clerk of superior
2 court in each county in North Carolina shall send a certified copy of an order granting an
3 expunction to a person named in subsection (a) of this section to (i) all of the agencies listed in
4 this subsection and (ii) the person granted the expunction. ~~Expunctions granted pursuant to~~
5 ~~G.S. 15A-146(a4) are excluded from all clerk of superior court notice provisions of this~~
6 ~~subsection.~~ An agency receiving an order under this subsection shall purge from its records all
7 entries made as a result of the charge or conviction ordered expunged, except as provided in
8 G.S. 15A-151. The list of agencies is as follows:

- 9 (1) The sheriff, chief of police, or other arresting agency.
- 10 (2) When applicable, the Division of Motor Vehicles.
- 11 (3) Any State or local agency identified by the petition as bearing record of the
12 offense that has been expunged.
- 13 (4) The Department of Adult Correction, Combined Records Section.
- 14 (5) The State Bureau of Investigation.

15 ...
16 (e) The Director of the Administrative Office of the Courts may enter into an agreement
17 with any of the State agencies listed in subsection (b) of this section for electronic or facsimile
18 transmission of any information that must be provided under this section. ~~The Administrative~~
19 ~~Office of the Courts also may provide notice to State and local agencies, in a manner and format~~
20 ~~determined by the Administrative Office of the Courts, of expunctions granted pursuant to~~
21 ~~G.S. 15A-146(a4)."~~

22 **SECTION 2.(e)** Any expunctions granted pursuant to G.S. 15A-146(a4) prior to the
23 effective date of Sections 1 and 2 of S.L. 2022-47 shall remain valid.

24 **SECTION 2.(f)** Any records of dismissed charges, not guilty verdicts, or findings of
25 not responsible maintained pursuant to Section 1 of S.L. 2022-47 shall not be expunged by
26 operation of law and shall be retained by the clerk of superior court unless otherwise expunged
27 pursuant to G.S. 15A-146 or other applicable provisions of law.

28 **PART III. EFFECTIVE DATE**

29 **SECTION 3.** This act is effective when it becomes law.
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