

GENERAL ASSEMBLY OF NORTH CAROLINA
SESSION 2001

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HOUSE BILL 1768

Short Title: Expunge Records/Misidentification of Person.

(Public)

Sponsors: Representatives Jarrell; and Shubert.

Referred to: Rules, Calendar, and Operations of the House.

June 17, 2002

1 A BILL TO BE ENTITLED
2 AN ACT TO PROVIDE FOR THE EXPUNCTION OF RECORDS WHEN CHARGES
3 ARE VOLUNTARILY DISMISSED AS A RESULT OF MISIDENTIFICATION
4 AND TO APPROPRIATE FUNDS FOR THE ADMINISTRATIVE COSTS TO
5 IMPLEMENT THIS PROCEDURE.

6 The General Assembly of North Carolina enacts:

7 SECTION 1. G.S. 15A-147 reads as rewritten:

8 "§ 15A-147. **Expunction of records when charges are dismissed or there are**
9 **findings of not guilty as a result of identity ~~fraud~~fraud or**
10 **misidentification.**

11 (a) If any person is named in a charge for an infraction or a crime, either a
12 misdemeanor or a felony, as a result of another person using the identifying information
13 of the named person to commit an infraction or crime and the charge against the named
14 person is dismissed, a finding of not guilty is entered, or the conviction is set aside, the
15 named person may apply by petition or written motion to the court where the charge
16 was last pending on a form approved by the Administrative Office of the Courts
17 supplied by the clerk of court for an order to expunge from all official records any
18 entries relating to the person's apprehension, charge, or trial. The court, after notice to
19 the district attorney, shall hold a hearing on the motion or petition and, upon finding that
20 the person's identity was used without permission and the charges were dismissed or the
21 person was found not guilty, the court shall order the expunction.

22 (a1) If any person is named in a charge for an infraction or a crime, either a
23 misdemeanor or a felony, as a result of misidentification and the charge against the
24 named person is voluntarily dismissed, the named person may apply by petition or
25 written motion to the court where the charge was last pending on a form approved by
26 the Administrative Office of the Courts supplied by the clerk of court for an order to
27 expunge from all official records any entries relating to the person's apprehension, or
28 charge. The court, after notice to the district attorney, shall hold a hearing on the motion

1 or petition and, upon finding that the person was mistakenly identified and the charges
2 were voluntarily dismissed, the court shall order the expunction.

3 (b) No person as to whom such an order has been entered under this section shall
4 be held thereafter under any provision of any law to be guilty of perjury, or to be guilty
5 of otherwise giving a false statement or response to any inquiry made for any purpose,
6 by reason of the person's failure to recite or acknowledge any expunged entries
7 concerning apprehension, charge, or trial.

8 (c) The court shall also order that the said entries shall be expunged from the
9 records of the court and direct all law enforcement agencies, the Division of Motor
10 Vehicles, or any other State or local government agencies bearing record of the same to
11 expunge their records of the entries. The clerk shall forward a certified copy of the order
12 to the sheriff, chief of police, or other charging agency; and, when applicable, to the
13 Division of Motor Vehicles and any other State or local agency. The sheriff, chief, or
14 head of such other charging agency shall then transmit the copy of the order with the
15 form supplied by the State Bureau of Investigation to the State Bureau of Investigation,
16 and the State Bureau of Investigation shall forward the order to the Federal Bureau of
17 Investigation. Upon receipt of a certified copy of the order, the agency must purge its
18 records as required by this section. The costs of expunging these records shall not be
19 taxed against the petitioner.

20 (d) The Division of Motor Vehicles shall expunge from its records entries made
21 as a result of the charge or conviction ordered expunged under this section. The
22 Division of Motor Vehicles shall also reverse any administrative actions taken against a
23 person whose record is expunged under this section as a result of the charges or
24 convictions expunged, including the assessment of drivers license points and drivers
25 license suspension or revocation. Notwithstanding any other provision of this Chapter,
26 the Division of Motor Vehicles shall provide to the person whose motor vehicle record
27 is expunged under this section a certified corrected driver history at no cost and shall
28 reinstate at no cost any drivers license suspended or revoked as a result of a charge or
29 conviction expunged under this section.

30 (e) Any other applicable State or local government agency shall expunge from its
31 records entries made as a result of the charge or conviction ordered expunged under this
32 section. The agency shall also reverse any administrative actions taken against a person
33 whose record is expunged under this section as a result of the charges or convictions
34 expunged. Notwithstanding any other provision of law, the normal fee for any
35 reinstatement of a license or privilege resulting under this section shall be waived.

36 (f) Any insurance company that charged any additional premium based on
37 insurance points assessed against a policyholder as a result of a charge or conviction
38 that was expunged under this section shall refund those additional premiums to the
39 policyholder upon notification of the expungement."

40 **SECTION 2.** There is appropriated from the General Fund to the
41 Administrative Office of the Courts the sum of ten thousand dollars (\$10,000) for the
42 2002-2003 fiscal year for the administrative cost required to implement this act.

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