

GENERAL ASSEMBLY OF NORTH CAROLINA
SESSION 2017

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HOUSE BILL 621
Committee Substitute Favorable 4/25/17

Short Title: Expungement Process Modifications.

(Public)

Sponsors:

Referred to:

April 10, 2017

1 A BILL TO BE ENTITLED
2 AN ACT TO STANDARDIZE THE FILING PROCEDURES FOR EXPUNGEMENTS, TO
3 AUTHORIZE PROSECUTORS ACCESS TO CERTAIN RECORDS OF
4 EXPUNGEMENT, TO ALLOW CERTAIN EXPUNGED CRIMINAL ACTS TO BE
5 CONSIDERED IN CALCULATING PRIOR RECORD LEVELS DURING
6 SENTENCING FOR SUBSEQUENT OFFENSES, AND TO MAKE OTHER
7 MODIFICATIONS TO THE EXPUNGEMENT PROCESS.

8 The General Assembly of North Carolina enacts:

9 SECTION 1. Article 5 of Chapter 15A of the General Statutes reads as rewritten:

10 "Article 5.

11 "Expunction of Records.

12 "§ 15A-145. Expunction of records for first offenders under the age of 18 at the time of
13 conviction of misdemeanor; expunction of certain other misdemeanors.

14 (a) Whenever any person who has not previously been convicted of any felony, or
15 misdemeanor other than a traffic violation, under the laws of the United States, the laws of this
16 State or any other state, (i) pleads guilty to or is guilty of a misdemeanor other than a traffic
17 violation, and the offense was committed before the person attained the age of 18 years, or (ii)
18 pleads guilty to or is guilty of a misdemeanor possession of alcohol pursuant to
19 G.S. 18B-302(b)(1), and the offense was committed before the person attained the age of 21
20 years, he may file a petition in the court of the county where he was convicted for expunction
21 of the misdemeanor from his criminal record. The petition cannot be filed earlier than: (i) two
22 years after the date of the conviction, or (ii) the completion of any period of probation,
23 whichever occurs later, and the petition shall contain, but not be limited to, the following:

- 24 (1) An affidavit by the petitioner that he has been of good behavior for the
25 two-year period since the date of conviction of the misdemeanor in question
26 and has not been convicted of any felony, or misdemeanor other than a
27 traffic violation, under the laws of the United States or the laws of this State
28 or any other state.
- 29 (2) Verified affidavits of two persons who are not related to the petitioner or to
30 each other by blood or marriage, that they know the character and reputation
31 of the petitioner in the community in which he lives and that his character
32 and reputation are good.
- 33 (3) A statement that the petition is a motion in the cause in the case wherein the
34 petitioner was convicted.
- 35 (4) Repealed by Session Laws 2010-174, s. 2, effective October 1, 2010, and
36 applicable to petitions for expunctions filed on or after that date.



1 (4a) An application on a form approved by the Administrative Office of the
2 Courts requesting and authorizing a name-based State and national criminal
3 record check by the Department of Public Safety using any information
4 required by the Administrative Office of the Courts to identify the individual
5 and a search of the confidential record of expunctions maintained by the
6 Administrative Office of the Courts. The application shall be ~~forwarded~~ filed
7 with the clerk of superior court. The clerk of superior court shall obtain the
8 authorizing signature of the judge then presiding in that county and forward
9 the signed application to the Department of Public Safety and to the
10 Administrative Office of the Courts, which shall conduct the searches and
11 report their findings to the court.

12 (5) An affidavit by the petitioner that no restitution orders or civil judgments
13 representing amounts ordered for restitution entered against him are
14 outstanding.

15 The petition shall be served upon the district attorney of the court wherein the case was
16 tried resulting in conviction. The district attorney shall have 10 days thereafter in which to file
17 any objection thereto and shall be duly notified as to the date of the hearing of the petition.

18 The judge to whom the petition is presented is authorized to call upon a probation officer
19 for any additional investigation or verification of the petitioner's conduct during the two-year
20 period that he deems desirable.

21 (a1) Nothing in this section shall be interpreted to allow the expunction of any offense
22 involving impaired driving as defined in G.S. 20-4.01(24a).

23 (b) If the court, after hearing, finds that the petitioner had remained of good behavior
24 and been free of conviction of any felony or misdemeanor, other than a traffic violation, for two
25 years from the date of conviction of the misdemeanor in question, the petitioner has no
26 outstanding restitution orders or civil judgments representing amounts ordered for restitution
27 entered against him, and (i) petitioner was not 18 years old at the time of the offense in
28 question, or (ii) petitioner was not 21 years old at the time of the offense of possession of
29 alcohol pursuant to G.S. 18B-302(b)(1), it shall order that such person be restored, in the
30 contemplation of the law, to the status he occupied before such arrest or indictment or
31 information.

32 (b1) No person as to whom such order has been entered shall be held thereafter under
33 any provision of any laws to be guilty of perjury or otherwise giving a false statement by
34 reason of his failure to recite or acknowledge such arrest, or indictment, information, or trial, or
35 response to any inquiry made of him for any purpose. This subsection shall not apply to a
36 sentencing hearing when the person has been convicted of a subsequent criminal offense.

37 (c) The court shall also order that the misdemeanor conviction, or a civil revocation of a
38 drivers license as the result of a criminal charge, be expunged from the records of the court.
39 The court shall direct all law-enforcement agencies, the Division of Adult Correction of the
40 Department of Public Safety, the Division of Motor Vehicles, and any other State or local
41 government agencies identified by the petitioner as bearing record of the same to expunge their
42 records of the petitioner's conviction or a civil revocation of a drivers license as the result of a
43 criminal charge. This subsection does not apply to civil or criminal charges based upon the civil
44 revocation, or to civil revocations under G.S. 20-16.2. The clerk shall notify State and local
45 agencies of the court's order as provided in G.S. 15A-150. The clerk shall forward a certified
46 copy of the order to the Division of Motor Vehicles for the expunction of a civil revocation
47 provided the underlying criminal charge is also expunged. The civil revocation of a drivers
48 license shall not be expunged prior to a final disposition of any pending civil or criminal charge
49 based upon the civil revocation.

50 (d) The clerk shall notify State and local agencies of the court's order as provided in
51 G.S. 15A-150.

1 (d1) Repealed by Session Laws 2012-191, s. 3, effective December 1, 2012.

2 (e) A person who files a petition for expunction of a criminal record under this section
3 must pay the clerk of superior court a fee of one hundred seventy-five dollars (\$175.00) at the
4 time the petition is filed. Fees collected under this subsection are payable to the Administrative
5 Office of the Courts. The clerk of superior court shall remit one hundred twenty-two dollars
6 and fifty cents (\$122.50) of each fee to the North Carolina Department of Public Safety for the
7 costs of criminal record checks performed in connection with processing petitions for
8 expunctions under this section. The remaining fifty-two dollars and fifty cents (\$52.50) of each
9 fee shall be retained by the Administrative Office of the Courts and used to pay the costs of
10 processing petitions for expunctions under this section. This subsection does not apply to
11 petitions filed by an indigent.

12 **"§ 15A-145.1. Expunction of records for first offenders under the age of 18 at the time of**
13 **conviction of certain gang offenses.**

14 (a) Whenever any person who has not previously been convicted of any felony or
15 misdemeanor other than a traffic violation under the laws of the United States or the laws of
16 this State or any other state pleads guilty to or is guilty of (i) a Class H felony under Article
17 13A of Chapter 14 of the General Statutes or (ii) an enhanced offense under G.S. 14-50.22, or
18 has been discharged and had the proceedings against the person dismissed pursuant to
19 G.S. 14-50.29, and the offense was committed before the person attained the age of 18 years,
20 the person may file a petition in the court of the county where the person was convicted for
21 expunction of the offense from the person's criminal record. Except as provided in
22 G.S. 14-50.29 upon discharge and dismissal, the petition cannot be filed earlier than (i) two
23 years after the date of the conviction or (ii) the completion of any period of probation,
24 whichever occurs later. The petition shall contain, but not be limited to, the following:

- 25 (1) An affidavit by the petitioner that the petitioner has been of good behavior
26 (i) during the period of probation since the decision to defer further
27 proceedings on the offense in question pursuant to G.S. 14-50.29 or (ii)
28 during the two-year period since the date of conviction of the offense in
29 question, whichever applies, and has not been convicted of any felony or
30 misdemeanor other than a traffic violation under the laws of the United
31 States or the laws of this State or any other state.
- 32 (2) Verified affidavits of two persons who are not related to the petitioner or to
33 each other by blood or marriage, that they know the character and reputation
34 of the petitioner in the community in which the petitioner lives, and that the
35 petitioner's character and reputation are good.
- 36 (3) If the petition is filed subsequent to conviction of the offense in question, a
37 statement that the petition is a motion in the cause in the case wherein the
38 petitioner was convicted.
- 39 (4) Repealed by Session Laws 2010-174, s. 4, effective October 1, 2010, and
40 applicable to petitions for expunctions filed on or after that date.
- 41 (4a) An application on a form approved by the Administrative Office of the
42 Courts requesting and authorizing a name-based State and national criminal
43 record check by the Department of Public Safety using any information
44 required by the Administrative Office of the Courts to identify the individual
45 and a search of the confidential record of expunctions maintained by the
46 Administrative Office of the Courts. The application shall be ~~forwarded~~ filed
47 with the clerk of superior court. The clerk of superior court shall obtain the
48 authorizing signature of the judge then presiding in that county and forward
49 the signed application to the Department of Public Safety and to the
50 Administrative Office of the Courts, which shall conduct the searches and
51 report their findings to the court.

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

4 The petition shall be served upon the district attorney of the court wherein the case was
5 tried resulting in conviction. The district attorney shall have 10 days thereafter in which to file
6 any objection thereto and shall be duly notified as to the date of the hearing of the petition.

7 The judge to whom the petition is presented is authorized to call upon a probation officer
8 for any additional investigation or verification of the petitioner's conduct during the
9 probationary period or during the two-year period after conviction.

10 (b) If the court, after hearing, finds that (i) the petitioner was dismissed and the
11 proceedings against the petitioner discharged pursuant to G.S. 14-50.29 and that the person had
12 not yet attained 18 years of age at the time of the offense or (ii) the petitioner has remained of
13 good behavior and been free of conviction of any felony or misdemeanor other than a traffic
14 violation for two years from the date of conviction of the offense in question, the petitioner has
15 no outstanding restitution orders or civil judgments representing amounts ordered for restitution
16 entered against the petitioner, and the petitioner had not attained the age of 18 years at the time
17 of the offense in question, it shall order that such person be restored, in the contemplation of
18 the law, to the status occupied by the petitioner before such arrest or indictment or information,
19 and that the record be expunged from the records of the court.

20 (b1) No person as to whom such order has been entered shall be held thereafter under
21 any provision of any laws to be guilty of perjury or otherwise giving a false statement by
22 reason of the person's failure to recite or acknowledge such arrest, or indictment or information,
23 or trial, or response to any inquiry made of the person for any purpose. This subsection shall
24 not apply to a sentencing hearing when the person has been convicted of a subsequent criminal
25 offense.

26 (b2) The court shall also direct all law enforcement agencies, the Division of Adult
27 Correction of the Department of Public Safety, the Division of Motor Vehicles, and any other
28 State or local government agencies identified by the petitioner as bearing record of the same to
29 expunge their records of the petitioner's criminal charge and any conviction resulting from the
30 charge. The clerk shall notify State and local agencies of the court's order as provided in
31 G.S. 15A-150.

32 (c) This section is supplemental and in addition to existing law and shall not be
33 construed so as to repeal any existing provision contained in the General Statutes of North
34 Carolina.

35 (d) A person who files a petition for expunction of a criminal record under this section
36 must pay the clerk of superior court a fee of one hundred seventy-five dollars (\$175.00) at the
37 time the petition is filed. Fees collected under this subsection are payable to the Administrative
38 Office of the Courts. The clerk of superior court shall remit one hundred twenty-two dollars
39 and fifty cents (\$122.50) of each fee to the North Carolina Department of Public Safety for the
40 costs of criminal record checks performed in connection with processing petitions for
41 expunctions under this section. The remaining fifty-two dollars and fifty cents (\$52.50) of each
42 fee shall be retained by the Administrative Office of the Courts and used to pay the costs of
43 processing petitions for expunctions under this section. This subsection does not apply to
44 petitions filed by an indigent.

45 **"§ 15A-145.2. Expunction of records for first offenders not over 21 years of age at the**
46 **time of the offense of certain drug offenses.**

47 (a) Whenever a person is discharged, and the proceedings against the person dismissed,
48 pursuant to G.S. 90-96(a) or (a1), and the person was not over 21 years of age at the time of the
49 offense, the person may apply to the court of the county where charged for an order to expunge
50 from all official records, other than the confidential files retained under G.S. 15A-151, all
51 recordation relating to the person's arrest, indictment or information, trial, finding of guilty, and

1 dismissal and discharge pursuant to this section. The applicant shall attach to the application
2 petition the following:

- 3 (1) An affidavit by the petitioner that he or she has been of good behavior
4 during the period of probation since the decision to defer further proceedings
5 on the offense in question and has not been convicted of any felony or
6 misdemeanor other than a traffic violation under the laws of the United
7 States or the laws of this State or any other state;
- 8 (2) Verified affidavits by two persons who are not related to the petitioner or to
9 each other by blood or marriage, that they know the character and reputation
10 of the petitioner in the community in which he or she lives, and that the
11 petitioner's character and reputation are good;
- 12 (3) Repealed by Session Laws 2010-174, s. 5, effective October 1, 2010, and
13 applicable to petitions for expunctions filed on or after that date.
- 14 (3a) An application on a form approved by the Administrative Office of the
15 Courts requesting and authorizing a name-based State and national criminal
16 record check by the Department of Public Safety using any information
17 required by the Administrative Office of the Courts to identify the individual
18 and a search of the confidential record of expunctions maintained by the
19 Administrative Office of the Courts. The application shall be ~~forwarded~~ filed
20 with the clerk of superior court. The clerk of superior court shall obtain the
21 authorizing signature of the judge then presiding in that county and forward
22 the signed application to the Department of Public Safety and to the
23 Administrative Office of the Courts, which shall conduct the searches and
24 report their findings to the court.

25 The judge to whom the petition is presented is authorized to call upon a probation officer
26 for any additional investigation or verification of the petitioner's conduct during the
27 probationary period deemed desirable.

28 If the court determines, after hearing, that such person was discharged and the proceedings
29 against him or her dismissed and that the person was not over 21 years of age at the time of the
30 offense, it shall enter such order. The effect of such order shall be to restore such person in the
31 contemplation of the law to the status the person occupied before such arrest or indictment or
32 information.

33 (a1) No person as to whom such order was entered shall be held thereafter under any
34 provision of any law to be guilty of perjury or otherwise giving a false statement by reason of
35 the person's failures to recite or acknowledge such arrest, or indictment or information, or trial
36 in response to any inquiry made of him or her for any purpose. This subsection shall not apply
37 to a sentencing hearing when the person has been convicted of a subsequent criminal offense.

38 (a2) The court shall also order that all records of the proceeding be expunged from the
39 records of the court and direct all law enforcement agencies, the Division of Adult Correction,
40 the Division of Motor Vehicles, and any other State and local government agencies identified
41 by the petitioner as bearing records of the same to expunge their records of the proceeding. The
42 clerk shall notify State and local agencies of the court's order as provided in G.S. 15A-150.

43 (b) Whenever any person is charged with a misdemeanor under Article 5 of Chapter 90
44 of the General Statutes by possessing a controlled substance included within Schedules I
45 through VI of Article 5 of Chapter 90 of the General Statutes or a felony under
46 G.S. 90-95(a)(3), upon dismissal by the State of the charges against the person, upon entry of a
47 nolle prosequi, or upon a finding of not guilty or other adjudication of innocence, such person
48 may apply to the court for an order to expunge from all official records all recordation relating
49 to his or her arrest, indictment or information, or trial. If the court determines, after hearing,
50 that such person was not over 21 years of age at the time the offense for which the person was
51 charged occurred, it shall enter such order. The clerk shall notify State and local agencies of the

1 court's order as provided in G.S. 15A-150. No person as to whom such order has been entered
2 shall be held thereafter under any provision of any law to be guilty of perjury or otherwise
3 giving a false statement by reason of the person's failures to recite or acknowledge such arrest,
4 or indictment or information, or trial in response to any inquiry made of him or her for any
5 purpose.

6 (c) Whenever any person who has not previously been convicted of (i) any felony
7 offense under any state or federal laws; (ii) any offense under Chapter 90 of the General
8 Statutes; or (iii) an offense under any statute of the United States or any state relating to
9 controlled substances included in any schedule of Chapter 90 of the General Statutes or to that
10 paraphernalia included in Article 5B of Chapter 90 of the General Statutes, pleads guilty to or
11 has been found guilty of a misdemeanor under Article 5 of Chapter 90 of the General Statutes
12 by possessing a controlled substance included within Schedules I through VI of Chapter 90, or
13 by possessing drug paraphernalia as prohibited by G.S. 90-113.22 or pleads guilty to or has
14 been found guilty of a felony under G.S. 90-95(a)(3), the court may, upon application of the
15 person not sooner than 12 months after conviction, order cancellation of the judgment of
16 conviction and expunction of the records of the person's arrest, indictment or information, trial,
17 and conviction. A conviction in which the judgment of conviction has been canceled and the
18 records expunged pursuant to this subsection shall not be thereafter deemed a conviction for
19 purposes of this subsection or for purposes of disqualifications or liabilities imposed by law
20 upon conviction of a crime, ~~including the additional penalties imposed for second or~~
21 ~~subsequent convictions of Article 5 of Chapter 90 of the General Statutes.~~ except as provided in
22 G.S. 15A-151.5. Cancellation and expunction under this subsection may occur only once with
23 respect to any person. Disposition of a case under this subsection at the district court division of
24 the General Court of Justice shall be final for the purpose of appeal.

25 The granting of an application filed under this subsection shall cause the issue of an order to
26 expunge from all official records, other than the confidential files retained under G.S. 15A-151,
27 all recordation relating to the petitioner's arrest, indictment or information, trial, finding of
28 guilty, judgment of conviction, cancellation of the judgment, and expunction of records
29 pursuant to this subsection.

30 The judge to whom the petition is presented is authorized to call upon a probation officer
31 for additional investigation or verification of the petitioner's conduct since conviction. If the
32 court determines that the petitioner was convicted of (i) a misdemeanor under Article 5 of
33 Chapter 90 of the General Statutes for possessing a controlled substance included within
34 Schedules I through VI of Article 5 of Chapter 90 of the General Statutes or for possessing
35 drug paraphernalia as prohibited in G.S. 90-113.22 or (ii) a felony under G.S. 90-95(a)(3), that
36 the petitioner has no disqualifying previous convictions as set forth in this subsection, that the
37 petitioner was not over 21 years of age at the time of the offense, that the petitioner has been of
38 good behavior since his or her conviction, that the petitioner has successfully completed a drug
39 education program approved for this purpose by the Department of Health and Human
40 Services, and that the petitioner has not been convicted of a felony or misdemeanor other than a
41 traffic violation under the laws of this State at any time prior to or since the conviction for the
42 offense in question, it shall enter an order of expunction of the petitioner's court record. The
43 effect of such order shall be to restore the petitioner in the contemplation of the law to the
44 status the petitioner occupied before arrest or indictment or information or conviction. No
45 person as to whom such order was entered shall be held thereafter under any provision of any
46 law to be guilty of perjury or otherwise giving a false statement by reason of the person's
47 failures to recite or acknowledge such arrest, or indictment or information, or conviction, or
48 trial in response to any inquiry made of him or her for any purpose. The judge may waive the
49 condition that the petitioner attend the drug education school if the judge makes a specific
50 finding that there was no drug education school within a reasonable distance of the defendant's

1 residence or that there were specific extenuating circumstances which made it likely that the
2 petitioner would not benefit from the program of instruction.

3 The court shall also order all law enforcement agencies, the Department of ~~Correction,~~
4 Public Safety, the Division of Motor Vehicles, and any other State or local agencies identified
5 by the petitioner as bearing records of the conviction and records relating thereto to expunge
6 their records of the conviction. The clerk shall notify State and local agencies of the court's
7 order as provided in G.S. 15A-150.

8 (d) A person who files a petition for expunction of a criminal record under this section
9 must pay the clerk of superior court a fee of one hundred seventy-five dollars (\$175.00) at the
10 time the petition is filed. Fees collected under this subsection are payable to the Administrative
11 Office of the Courts. The clerk of superior court shall remit one hundred twenty-two dollars
12 and fifty cents (\$122.50) of each fee to the North Carolina Department of Public Safety for the
13 costs of criminal record checks performed in connection with processing petitions for
14 expunctions under this section. The remaining fifty-two dollars and fifty cents (\$52.50) of each
15 fee shall be retained by the Administrative Office of the Courts and used to pay the costs of
16 processing petitions for expunctions under this section. This subsection does not apply to
17 petitions filed by an indigent.

18 **"§ 15A-145.3. Expunction of records for first offenders not over 21 years of age at the**
19 **time of the offense of certain toxic vapors offenses.**

20 (a) Whenever a person is discharged and the proceedings against the person dismissed
21 under G.S. 90-113.14(a) or (a1), such person, if he or she was not over 21 years of age at the
22 time of the offense, may apply to the court of the county where charged for an order to expunge
23 from all official records, other than the confidential files retained under G.S. 15A-151, all
24 recordation relating to the person's arrest, indictment or information, trial, finding of guilty, and
25 dismissal and discharge pursuant to this section. The applicant shall attach to the ~~application~~
26 petition the following:

- 27 (1) An affidavit by the petitioner that the petitioner has been of good behavior
28 during the period of probation since the decision to defer further proceedings
29 on the misdemeanor in question and has not been convicted of any felony or
30 misdemeanor other than a traffic violation under the laws of the United
31 States or the laws of this State or any other state;
- 32 (2) Verified affidavits by two persons who are not related to the petitioner or to
33 each other by blood or marriage, that they know the character and reputation
34 of the petitioner in the community in which the petitioner lives, and that his
35 or her character and reputation are good;
- 36 (3) Repealed by Session Laws 2010-174, s. 6, effective October 1, 2010, and
37 applicable to petitions for expunctions filed on or after that date.
- 38 (3a) An application on a form approved by the Administrative Office of the
39 Courts requesting and authorizing a name-based State and national criminal
40 record check by the Department of Public Safety using any information
41 required by the Administrative Office of the Courts to identify the individual
42 and a search of the confidential record of expunctions maintained by the
43 Administrative Office of the Courts. The application shall be ~~forwarded~~ filed
44 with the clerk of superior court. The clerk of superior court shall obtain the
45 authorizing signature of the judge then presiding in that county and forward
46 the signed application to the Department of Public Safety and to the
47 Administrative Office of the Courts, which shall conduct the searches and
48 report their findings to the court.

49 The judge to whom the petition is presented is authorized to call upon a probation officer
50 for any additional investigation or verification of the petitioner's conduct during the
51 probationary period deemed desirable.

1 If the court determines, after hearing, that such person was discharged and the proceedings
2 against the person dismissed and that he or she was not over 21 years of age at the time of the
3 offense, it shall enter such order. The effect of such order shall be to restore such person in the
4 contemplation of the law to the status the person occupied before such arrest or indictment or
5 information. No person as to whom such order was entered shall be held thereafter under any
6 provision of any law to be guilty of perjury or otherwise giving a false statement by reason of
7 the person's failures to recite or acknowledge such arrest, or indictment or information, or trial
8 in response to any inquiry made of him or her for any purpose.

9 The court shall also order that all records of the proceeding be expunged from the records
10 of the court and direct all law enforcement agencies bearing records of the same to expunge
11 their records of the proceeding. The clerk shall notify State and local agencies of the court's
12 order as provided in G.S. 15A-150.

13 (b) Whenever any person is charged with a misdemeanor under Article 5A of Chapter
14 90 of the General Statutes or possessing drug paraphernalia as prohibited by G.S. 90-113.22,
15 upon dismissal by the State of the charges against the person or upon entry of a nolle prosequi
16 or upon a finding of not guilty or other adjudication of innocence, such person may apply to the
17 court for an order to expunge from all official records all recordation relating to the person's
18 arrest, indictment or information, and trial. If the court determines, after hearing that such
19 person was not over 21 years of age at the time the offense for which the person was charged
20 occurred, it shall enter such order. The clerk shall notify State and local agencies of the court's
21 order as provided in G.S. 15A-150.

22 (b1) No person as to whom such order has been entered shall be held thereafter under
23 any provision of any law to be guilty of perjury or otherwise giving a false statement by reason
24 of the person's failures to recite or acknowledge such arrest, or indictment or information, or
25 trial in response to any inquiry made of him or her for any purpose. This subsection shall not
26 apply to a sentencing hearing when the person has been convicted of a subsequent criminal
27 offense.

28 (c) Whenever any person who has not previously been convicted of an offense under
29 Article 5 or 5A of Chapter 90 of the General Statutes or under any statute of the United States
30 or any state relating to controlled substances included in any schedule of Article 5 of Chapter
31 90 of the General Statutes or to that paraphernalia included in Article 5B of Chapter 90 of the
32 General Statutes pleads guilty to or has been found guilty of a misdemeanor under Article 5A
33 of Chapter 90 of the General Statutes, the court may, upon application of the person not sooner
34 than 12 months after conviction, order cancellation of the judgment of conviction and
35 expunction of the records of the person's arrest, indictment or information, trial, and conviction.
36 A conviction in which the judgment of conviction has been cancelled and the records expunged
37 pursuant to this subsection shall not be thereafter deemed a conviction for purposes of this
38 subsection or for purposes of disqualifications or liabilities imposed by law upon conviction of
39 a crime, ~~including the additional penalties imposed for second or subsequent convictions of~~
40 ~~violation of Article 5A of Chapter 90 of the General Statutes.~~ except as provided in
41 G.S. 15A-151.5. Cancellation and expunction under this subsection may occur only once with
42 respect to any person. Disposition of a case under this subsection at the district court division of
43 the General Court of Justice shall be final for the purpose of appeal.

44 The granting of an application filed under this subsection shall cause the issue of an order to
45 expunge from all official records, other than the confidential files retained under G.S. 15A-151,
46 all recordation relating to the person's arrest, indictment or information, trial, finding of guilty,
47 judgment of conviction, cancellation of the judgment, and expunction of records pursuant to
48 this subsection.

49 The judge to whom the petition is presented is authorized to call upon a probation officer
50 for additional investigation or verification of the petitioner's conduct since conviction. If the
51 court determines that the petitioner was convicted of a misdemeanor under Article 5A of

1 Chapter 90 of the General Statutes, or for possessing drug paraphernalia as prohibited by
2 G.S. 90-113.22, that the petitioner was not over 21 years of age at the time of the offense, that
3 the petitioner has been of good behavior since his or her conviction, that the petitioner has
4 successfully completed a drug education program approved for this purpose by the Department
5 of Health and Human Services, and that the petitioner has not been convicted of a felony or
6 misdemeanor other than a traffic violation under the laws of this State at any time prior to or
7 since the conviction for the misdemeanor in question, it shall enter an order of expunction of
8 the petitioner's court record. The effect of such order shall be to restore the petitioner in the
9 contemplation of the law to the status he occupied before such arrest or indictment or
10 information or conviction. No person as to whom such order was entered shall be held
11 thereafter under any provision of any law to be guilty of perjury or otherwise giving a false
12 statement by reason of the person's failures to recite or acknowledge such arrest, or indictment
13 or information, or conviction, or trial in response to any inquiry made of him or her for any
14 purpose. The judge may waive the condition that the petitioner attend the drug education school
15 if the judge makes a specific finding that there was no drug education school within a
16 reasonable distance of the defendant's residence or that there were specific extenuating
17 circumstances which made it likely that the petitioner would not benefit from the program of
18 instruction.

19 The clerk shall notify State and local agencies of the court's order as provided in
20 G.S. 15A-150.

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

31 **"§ 15A-145.4. Expunction of records for first offenders who are under 18 years of age at**
32 **the time of the commission of a nonviolent felony.**

33 (a) For purposes of this section, the term "nonviolent felony" means any felony except
34 the following:

- 35 (1) A Class A through G felony.
- 36 (2) A felony that includes assault as an essential element of the offense.
- 37 (3) A felony that is an offense requiring registration pursuant to Article 27A of
38 Chapter 14 of the General Statutes, whether or not the person is currently
39 required to register.
- 40 (4) Repealed by Session Laws 2012-191, s. 2, effective December 1, 2012.
- 41 (5) Any felony offense under the following sex-related or stalking offenses:
42 G.S. 14-27.25(b), 14-27.30(b), 14-190.7, 14-190.8, 14-202, 14-208.11A,
43 14-208.18, 14-277.3, 14-277.3A, 14-321.1.
- 44 (6) Any felony offense in Chapter 90 of the General Statutes where the offense
45 involves methamphetamines, heroin, or possession with intent to sell or
46 deliver or sell and deliver cocaine; except that if a prayer for judgment
47 continued has been entered for an offense classified as either a Class G, H,
48 or I felony, the prayer for judgment continued shall be subject to expunction
49 under the procedures in this section.

- 1 (7) A felony offense under G.S. 14-12.12(b), 14-12.13, or 14-12.14, or any
2 felony offense for which punishment was determined pursuant to
3 G.S. 14-3(c).
4 (8) A felony offense under G.S. 14-401.16.
5 (9) Any felony offense in which a commercial motor vehicle was used in the
6 commission of the offense.
7 (10) Any felony offense involving impaired driving as defined in
8 G.S. 20-4.01(24a).

9 (b) Notwithstanding any other provision of law, if the person is convicted of more than
10 one nonviolent felony in the same session of court and none of the nonviolent felonies are
11 alleged to have occurred after the person had already been served with criminal process for the
12 commission of a nonviolent felony, then the multiple nonviolent felony convictions shall be
13 treated as one nonviolent felony conviction under this section, and the expunction order issued
14 under this section shall provide that the multiple nonviolent felony convictions shall be
15 expunged from the person's record in accordance with this section.

16 (c) Whenever any person who had not yet attained the age of 18 years at the time of the
17 commission of the offense and has not previously been convicted of any felony or
18 misdemeanor other than a traffic violation under the laws of the United States or the laws of
19 this State or any other state pleads guilty to or is guilty of a nonviolent felony, the person may
20 file a petition in the court of the county where the person was convicted for expunction of the
21 nonviolent felony from the person's criminal record. The petition shall not be filed earlier than
22 four years after the date of the conviction or when any active sentence, period of probation, and
23 post-release supervision has been served, whichever occurs later. The person shall also perform
24 at least 100 hours of community service, preferably related to the conviction, before filing a
25 petition for expunction under this section. The petition shall contain the following:

- 26 (1) An affidavit by the petitioner that the petitioner has been of good moral
27 character since the date of conviction of the nonviolent felony in question
28 and has not been convicted of any other felony or any misdemeanor other
29 than a traffic violation under the laws of the United States or the laws of this
30 State or any other state.
31 (2) Verified affidavits of two persons who are not related to the petitioner or to
32 each other by blood or marriage, that they know the character and reputation
33 of the petitioner in the community in which the petitioner lives and that the
34 petitioner's character and reputation are good.
35 (3) A statement that the petition is a motion in the cause in the case wherein the
36 petitioner was convicted.
37 (4) An application on a form approved by the Administrative Office of the
38 Courts requesting and authorizing (i) a State and national criminal history
39 record check by the Department of Public Safety using any information
40 required by the Administrative Office of the Courts to identify the
41 individual; (ii) a search by the Department of Public Safety for any
42 outstanding warrants or pending criminal cases; and (iii) a search of the
43 confidential record of expunctions maintained by the Administrative Office
44 of the Courts. The application shall be ~~forwarded~~ filed with the clerk of
45 superior court. The clerk of superior court shall obtain the authorizing
46 signature of the judge then presiding in that county and forward the signed
47 application to the Department of Public Safety and to the Administrative
48 Office of the Courts, which shall conduct the searches and report their
49 findings to the court.

- 1 (5) An affidavit by the petitioner that no restitution orders or civil judgments
2 representing amounts ordered for restitution entered against the petitioner
3 are outstanding.
- 4 (6) An affidavit by the petitioner that the petitioner has performed at least 100
5 hours of community service since the conviction for the nonviolent felony.
6 The affidavit shall include a list of the community services performed, a list
7 of the recipients of the services, and a detailed description of those services.
- 8 (7) An affidavit by the petitioner that the petitioner possesses a high school
9 diploma, a high school graduation equivalency certificate, or a General
10 Education Development degree.

11 The petition shall be served upon the district attorney of the court wherein the case was
12 tried resulting in conviction. The district attorney shall have 30 days thereafter in which to file
13 any objection thereto and shall be duly notified as to the date of the hearing of the petition. The
14 district attorney shall make his or her best efforts to contact the victim, if any, to notify the
15 victim of the request for expunction prior to the date of the hearing.

16 (d) The court in which the petition was filed shall take the following steps and shall
17 consider the following issues in rendering a decision upon a petition for expunction of records
18 of a nonviolent felony under this section:

- 19 (1) Call upon a probation officer for additional investigation or verification of
20 the petitioner's conduct during the four-year period since the date of
21 conviction of the nonviolent felony in question.
- 22 (2) Review the petitioner's juvenile record, ensuring that the petitioner's juvenile
23 records remain separate from adult records and files and are withheld from
24 public inspection as provided under Article 30 of Chapter 7B of the General
25 Statutes.
- 26 (3) Review the amount of restitution made by the petitioner to the victim of the
27 nonviolent felony to be expunged and give consideration to whether or not
28 restitution was paid in full.
- 29 (4) Review any other information the court deems relevant, including, but not
30 limited to, affidavits or other testimony provided by law enforcement
31 officers, district attorneys, and victims of nonviolent felonies committed by
32 the petitioner.

33 (e) The court may order that the person be restored, in the contemplation of the law, to
34 the status the person occupied before the arrest or indictment or information if the court finds
35 all of the following after a hearing:

- 36 (1) The petitioner has remained of good moral character and has been free of
37 conviction of any felony or misdemeanor, other than a traffic violation, for
38 four years from the date of conviction of the nonviolent felony in question or
39 any active sentence, period of probation, or post-release supervision has
40 been served, whichever is later.
- 41 (2) The petitioner has not previously been convicted of any felony or
42 misdemeanor other than a traffic violation under the laws of the United
43 States or the laws of this State or any other state.
- 44 (3) The petitioner has no outstanding warrants or pending criminal cases.
- 45 (4) The petitioner has no outstanding restitution orders or civil judgments
46 representing amounts ordered for restitution entered against the petitioner.
- 47 (5) The petitioner was less than 18 years old at the time of the commission of
48 the offense in question.
- 49 (6) The petitioner has performed at least 100 hours of community service since
50 the time of the conviction and possesses a high school diploma, a high

1 school graduation equivalency certificate, or a General Education
2 Development degree.

3 (7) The search of the confidential records of expunctions conducted by the
4 Administrative Office of the Courts shows that the petitioner has not been
5 previously granted an expunction.

6 (f) No person as to whom an order has been entered pursuant to subsection (e) of this
7 section shall be held thereafter under any provision of any laws to be guilty of perjury or
8 otherwise giving a false statement by reason of that person's failure to recite or acknowledge
9 the arrest, indictment, information, trial, or conviction. Persons pursuing certification under the
10 provisions of Chapter 17C or 17E of the General Statutes, however, shall disclose any and all
11 felony convictions to the certifying Commission regardless of whether or not the felony
12 convictions were expunged pursuant to the provisions of this section. This subsection shall not
13 apply to a sentencing hearing when the person has been convicted of a subsequent criminal
14 offense.

15 (f1) Persons required by State law to obtain a criminal history record check on a
16 prospective employee shall not be deemed to have knowledge of any convictions expunged
17 under this section.

18 (g) The court shall also order that the nonviolent felony conviction be expunged from
19 the records of the court and direct all law enforcement agencies bearing record of the same to
20 expunge their records of the conviction. The clerk shall notify State and local agencies of the
21 court's order as provided in G.S. 15A-150.

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

31 (i) Any person eligible for expunction of a criminal record under this section shall be
32 notified about the provisions of this section by the probation officer assigned to that person. If
33 no probation officer is assigned, notification of the provisions of this section shall be provided
34 by the court at the time of the conviction of the felony which is to be expunged under this
35 section.

36 (j) A person who files a petition for expunction of a criminal record under this section
37 must pay the clerk of superior court a fee of one hundred seventy-five dollars (\$175.00) at the
38 time the petition is filed. Fees collected under this subsection are payable to the Administrative
39 Office of the Courts. The clerk of superior court shall remit one hundred twenty-two dollars
40 and fifty cents (\$122.50) of each fee to the North Carolina Department of Public Safety for the
41 costs of criminal record checks performed in connection with processing petitions for
42 expunctions under this section. The remaining fifty-two dollars and fifty cents (\$52.50) of each
43 fee shall be retained by the Administrative Office of the Courts and used to pay the costs of
44 processing petitions for expunctions under this section. This subsection does not apply to
45 petitions filed by an indigent.

46 **"§ 15A-145.5. Expunction of certain misdemeanors and felonies; no age limitation.**

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

49 (1) A Class A through G felony or a Class A1 misdemeanor.

50 (2) An offense that includes assault as an essential element of the offense.

- 1 (3) An offense requiring registration pursuant to Article 27A of Chapter 14 of
2 the General Statutes, whether or not the person is currently required to
3 register.
- 4 (4) Any of the following sex-related or stalking offenses: G.S. 14-27.25(b),
5 14-27.30(b), 14-190.7, 14-190.8, 14-190.9, 14-202, 14-208.11A, 14-208.18,
6 14-277.3, 14-277.3A, 14-321.1.
- 7 (5) Any felony offense in Chapter 90 of the General Statutes where the offense
8 involves methamphetamines, heroin, or possession with intent to sell or
9 deliver or sell and deliver cocaine.
- 10 (6) An offense under G.S. 14-12.12(b), 14-12.13, or 14-12.14, or any offense for
11 which punishment was determined pursuant to G.S. 14-3(c).
- 12 (7) An offense under G.S. 14-401.16.
- 13 (7a) An offense under G.S. 14-54(a), 14-54(a1), or 14-56.
- 14 (8) Any felony offense in which a commercial motor vehicle was used in the
15 commission of the offense.
- 16 (8a) An offense involving impaired driving as defined in G.S. 20-4.01(24a).
- 17 (9) Any offense that is an attempt to commit an offense described in
18 subdivisions (1) through (8a) of this subsection.
- 19 (b) Notwithstanding any other provision of law, if the person is convicted of more than
20 one nonviolent felony or nonviolent misdemeanor in the same session of court and none of the
21 nonviolent felonies or nonviolent misdemeanors are alleged to have occurred after the person
22 had already been served with criminal process for the commission of a nonviolent felony or
23 nonviolent misdemeanor, then the multiple nonviolent felony or nonviolent misdemeanor
24 convictions shall be treated as one nonviolent felony or nonviolent misdemeanor conviction
25 under this section, and the expunction order issued under this section shall provide that the
26 multiple nonviolent felony convictions or nonviolent misdemeanor convictions shall be
27 expunged from the person's record in accordance with this section.
- 28 (c) A person may file a petition, in the court of the county where the person was
29 convicted, for expunction of a nonviolent misdemeanor or nonviolent felony conviction from
30 the person's criminal record if the person has no other misdemeanor or felony convictions,
31 other than a traffic violation. The petition shall not be filed earlier than ~~45~~10 years after the date
32 of the conviction for a nonviolent felony or five years for a nonviolent misdemeanor or when
33 any active sentence, period of probation, and post-release supervision has been served,
34 whichever occurs later. The petition shall contain, but not be limited to, the following:
- 35 (1) An affidavit by the petitioner that the petitioner has been of good moral
36 character since the date of conviction for the nonviolent misdemeanor or
37 nonviolent felony and has not been convicted of any other felony or
38 misdemeanor, other than a traffic violation, under the laws of the United
39 States or the laws of this State or any other state.
- 40 (2) Verified affidavits of two persons who are not related to the petitioner or to
41 each other by blood or marriage, that they know the character and reputation
42 of the petitioner in the community in which the petitioner lives and that the
43 petitioner's character and reputation are good.
- 44 (3) A statement that the petition is a motion in the cause in the case wherein the
45 petitioner was convicted.
- 46 (4) An application on a form approved by the Administrative Office of the
47 Courts requesting and authorizing a name-based State and national criminal
48 history record check by the Department of Public Safety using any
49 information required by the Administrative Office of the Courts to identify
50 the individual, a search by the Department of Public Safety for any
51 outstanding warrants on pending criminal cases, and a search of the

1 confidential record of expunctions maintained by the Administrative Office
2 of the Courts. The application shall be ~~forwarded~~ filed with the clerk of
3 superior court. The clerk of superior court shall obtain the authorizing
4 signature of the judge then presiding in that county and forward the signed
5 application to the Department of Public Safety and to the Administrative
6 Office of the Courts, which shall conduct the searches and report their
7 findings to the court.

- 8 (5) An affidavit by the petitioner that no restitution orders or civil judgments
9 representing amounts ordered for restitution entered against the petitioner
10 are outstanding.

11 Upon filing of the petition, the petition shall be served upon the district attorney of the court
12 wherein the case was tried resulting in conviction. The district attorney shall have 30 days
13 thereafter in which to file any objection thereto and shall be duly notified as to the date of the
14 hearing of the petition. Upon good cause shown, the court may grant the district attorney an
15 additional 30 days to file objection to the petition. The district attorney shall make his or her
16 best efforts to contact the victim, if any, to notify the victim of the request for expunction prior
17 to the date of the hearing.

18 The presiding judge is authorized to call upon a probation officer for any additional
19 investigation or verification of the petitioner's conduct since the conviction. The court shall
20 review any other information the court deems relevant, including, but not limited to, affidavits
21 or other testimony provided by law enforcement officers, district attorneys, and victims of
22 crimes committed by the petitioner.

23 If the court, after hearing, finds that the petitioner has not previously been granted an
24 expunction under this section, G.S. 15A-145, 15A-145.1, 15A-145.2, 15A-145.3, or
25 15A-145.4; the petitioner has remained of good moral character; the petitioner has no
26 outstanding warrants or pending criminal cases; the petitioner has no other felony or
27 misdemeanor convictions other than a traffic violation; the petitioner has no outstanding
28 restitution orders or civil judgments representing amounts ordered for restitution entered
29 against the petitioner; and the petitioner was convicted of an offense eligible for expunction
30 under this section and was convicted of, and completed any sentence received ~~for, the~~
31 ~~nonviolent misdemeanor or for, a nonviolent felony at least 15~~ 10 years prior to the filing of the
32 petition, petition or a nonviolent misdemeanor at least five years prior to the filing of the
33 petition, it may order that such person be restored, in the contemplation of the law, to the status
34 the person occupied before such arrest or indictment or ~~information.~~ information, except as
35 provided in G.S. 15A-151.5. If the court denies the petition, the order shall include a finding as
36 to the reason for the denial.

37 (d) No person as to whom an order has been entered pursuant to subsection (c) of this
38 section shall be held thereafter under any provision of any law to be guilty of perjury or
39 otherwise giving a false statement by reason of that person's failure to recite or acknowledge
40 the arrest, indictment, information, trial, or conviction. This subsection shall not apply to a
41 sentencing hearing when the person has been convicted of a subsequent criminal offense.

42 (d1) Persons pursuing certification under the provisions of Chapter 17C or 17E of the
43 General Statutes, however, shall disclose any and all convictions to the certifying Commission,
44 regardless of whether or not the convictions were expunged pursuant to the provisions of this
45 section.

46 Persons required by State law to obtain a criminal history record check on a prospective
47 employee shall not be deemed to have knowledge of any convictions expunged under this
48 section.

49 (e) The court shall also order that the conviction be expunged from the records of the
50 court and direct all law enforcement agencies bearing record of the same to expunge their

1 records of the conviction. The clerk shall notify State and local agencies of the court's order, as
2 provided in G.S. 15A-150.

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

13 (g) A person who files a petition for expunction of a criminal record under this section
14 must pay the clerk of superior court a fee of one hundred seventy-five dollars (\$175.00) at the
15 time the petition is filed. Fees collected under this subsection shall be deposited in the General
16 Fund. This subsection does not apply to petitions filed by an indigent.

17 **"§ 15A-145.6. Expunctions for certain defendants convicted of prostitution.**

18 (a) The following definitions apply in this section:

- 19 (1) Prostitution offense. – A conviction for (i) violation of G.S. 14-204 or (ii)
20 engaging in prostitution in violation of G.S. 14-204(7) for an offense that
21 occurred prior to October 1, 2013.
22 (2) Violent felony or violent misdemeanor. – A Class A through G felony or a
23 Class A1 misdemeanor that includes assault as an essential element of the
24 offense.

25 (b) A person who has been convicted of a prostitution offense may file a petition in the
26 court of the county where the person was convicted for expunction of the prostitution offense
27 from the person's criminal record provided that all the following criteria are met:

- 28 (1) The person has not previously been convicted of any violent felony or
29 violent misdemeanor under the laws of the United States or the laws of this
30 State or any other state.
31 (2) The person satisfies any one of the following criteria:
32 a. The person's participation in the prostitution offense was a result of
33 having been a trafficking victim under G.S. 14-43.11 (human
34 trafficking) or G.S. 14-43.13 (sexual servitude) or a victim of a
35 severe form of trafficking under the federal Trafficking Victims
36 Protection Act (22 U.S.C. § 7102(13)).
37 b. The person has no prior convictions for a prostitution offense and at
38 least three years have passed since the date of conviction or the
39 completion of any active sentence, period of probation, and
40 post-release supervision, whichever occurs later.
41 c. The person received a conditional discharge pursuant to
42 G.S. 14-204(b).

43 (c) The petition shall contain all of the following:

- 44 (1) An affidavit by the petitioner that the petitioner (i) has no prior conviction of
45 a violent felony or violent misdemeanor, (ii) has been of good moral
46 character since the date of conviction of the prostitution offense in question,
47 and (iii) has not been convicted of any felony or misdemeanor under the
48 laws of the United States or the laws of this State or any other state since the
49 date of the conviction of the prostitution offense in question.
50 (2) Verified affidavits of two persons, who are not related to the petitioner or to
51 each other by blood or marriage, that they know the character and reputation

- 1 of the petitioner in the community in which the petitioner lives and that the
2 petitioner's character and reputation are good.
- 3 (3) A statement that the petition is a motion in the cause in the case wherein the
4 petitioner was convicted.
- 5 (4) An application on a form approved by the Administrative Office of the
6 Courts requesting and authorizing (i) a State and national criminal history
7 record check by the Department of Public Safety using any information
8 required by the Administrative Office of the Courts to identify the
9 individual; (ii) a search by the Department of Public Safety for any
10 outstanding warrants or pending criminal cases; and (iii) a search of the
11 confidential record of expunctions maintained by the Administrative Office
12 of the Courts. The application shall be ~~forwarded~~ filed with the clerk of
13 superior court. The clerk of superior court shall obtain the authorizing
14 signature of the judge then presiding in that county and forward the signed
15 application to the Department of Public Safety and to the Administrative
16 Office of the Courts, which shall conduct the searches and report their
17 findings to the court.
- 18 (5) An affidavit by the petitioner that no restitution orders or civil judgments
19 representing amounts ordered for restitution entered against the petitioner
20 are outstanding.
- 21 (d) The petition shall be served upon the district attorney of the court wherein the case
22 was tried resulting in conviction. The district attorney shall have 30 days thereafter in which to
23 file any objection thereto and shall be duly notified as to the date of the hearing of the petition.
- 24 (e) The court in which the petition was filed shall take the following steps and shall
25 consider the following issues in rendering a decision upon a petition for expunction of records
26 of a prostitution offense under this section:
- 27 (1) Call upon a probation officer for additional investigation or verification of
28 the petitioner's conduct during the period since the date of conviction of the
29 prostitution offense in question.
- 30 (2) Review any other information the court deems relevant, including, but not
31 limited to, affidavits or other testimony provided by law enforcement
32 officers and district attorneys.
- 33 (f) The court shall order that the person be restored, in the contemplation of the law, to
34 the status the person occupied before the arrest or indictment or information if the court finds
35 all of the following after a hearing:
- 36 (1) The criteria set out in subsection (b) of this section are satisfied.
- 37 (2) The petitioner has remained of good moral character and has been free of
38 conviction of any felony or misdemeanor, other than a traffic violation, since
39 the date of conviction of the prostitution offense in question.
- 40 (3) The petitioner has no outstanding warrants or pending criminal cases.
- 41 (4) The petitioner has no outstanding restitution orders or civil judgments
42 representing amounts ordered for restitution entered against the petitioner.
- 43 (5) The search of the confidential records of expunctions conducted by the
44 Administrative Office of the Courts shows that the petitioner has not been
45 previously granted an expunction, other than an expunction for a prostitution
46 offense.
- 47 (g) No person as to whom an order has been entered pursuant to subsection (f) of this
48 section shall be held thereafter under any provision of any laws to be guilty of perjury or
49 otherwise giving a false statement by reason of that person's failure to recite or acknowledge
50 the arrest, indictment, information, trial, or conviction. This subsection shall not apply to a
51 sentencing hearing when the person has been convicted of a subsequent criminal offense.

1 (g1) Persons pursuing certification under the provisions of Chapter 17C or 17E of the
2 General Statutes, however, shall disclose any and all prostitution convictions to the certifying
3 Commission regardless of whether or not the prostitution convictions were expunged pursuant
4 to the provisions of this section.

5 Persons required by State law to obtain a criminal history record check on a prospective
6 employee shall not be deemed to have knowledge of any convictions expunged under this
7 section.

8 (h) The court shall also order that the conviction of the prostitution offense be expunged
9 from the records of the court and direct all law enforcement agencies bearing record of the
10 same to expunge their records of the conviction. The clerk shall notify State and local agencies
11 of the court's order as provided in G.S. 15A-150.

12 (i) Any other applicable State or local government agency shall expunge from its
13 records entries made as a result of the conviction ordered expunged under this section. The
14 agency shall also reverse any administrative actions taken against a person whose record is
15 expunged under this section as a result of the charges or convictions expunged. This subsection
16 shall not apply to the Department of Justice for DNA records and samples stored in the State
17 DNA Database and the State DNA Databank.

18 (j) Any person eligible for expunction of a criminal record under this section shall be
19 notified about the provisions of this section by the probation officer assigned to that person. If
20 no probation officer is assigned, notification of the provisions of this section shall be provided
21 by the court at the time of the conviction of the prostitution offense which is to be expunged
22 under this section.

23 **"§ 15A-146. Expunction of records when charges are dismissed or there are findings of**
24 **not guilty.**

25 (a) If any person is charged with a crime, either a misdemeanor or a felony, or was
26 charged with an infraction under G.S. 18B-302(i) prior to December 1, 1999, and the charge is
27 dismissed, ~~or a finding of not guilty or not responsible is entered,~~ that person may ~~apply to~~
28 petition the court of the county where the charge was brought for an order to expunge from all
29 official records any entries relating to his apprehension or trial. The court shall hold a hearing
30 on the ~~application-petition~~ and, upon finding that the person ~~had not previously received an~~
31 ~~expungement under this section, G.S. 15A 145, 15A 145.1, 15A 145.2, 15A 145.3, 15A 145.4,~~
32 ~~or 15A 145.5, and that the person had not previously been convicted of any felony under the~~
33 laws of the United States, this State, or any other state, the court shall order the expunction. No
34 person as to whom such an order has been entered shall be held thereafter under any provision
35 of any law to be guilty of perjury, or to be guilty of otherwise giving a false statement or
36 response to any inquiry made for any purpose, by reason of his failure to recite or acknowledge
37 any expunged entries concerning apprehension or trial.

38 (a1) Notwithstanding subsection (a) of this section, if a person is charged with multiple
39 offenses and ~~all the charges are dismissed, or findings of not guilty or not responsible are made,~~
40 then a person may ~~apply-petition~~ to have each of ~~those the dismissed charges expunged if the~~
41 ~~offenses occurred within the same 12-month period of time or if the charges are dismissed or~~
42 ~~findings are made at the same term of court. Unless circumstances otherwise clearly provide,~~
43 ~~the phrase "term of court" shall mean one week for superior court and one day for district court.~~
44 ~~There is no requirement that the multiple offenses arise out of the same transaction or~~
45 ~~occurrence or that the multiple offenses were consolidated for judgment.~~expunged. The court
46 shall hold a hearing on the ~~application-petition.~~ If the court finds (i) ~~that the person had not~~
47 ~~previously received an expungement under this subsection, or that any previous expungement~~
48 ~~received under this subsection occurred prior to October 1, 2005 and was for an offense that~~
49 ~~occurred within the same 12-month period of time, or was dismissed or findings made at the~~
50 ~~same term of court, as the offenses that are the subject of the current application, (ii) that the~~
51 ~~person had not previously received an expungement under G.S. 15A 145, 15A 145.1,~~

1 15A-145.2, 15A-145.3, 15A-145.4, or 15A-145.5, and (iii) that the person had not previously
2 been convicted of any felony under the laws of the United States, this State, or any other state,
3 the court shall order the expunction.

4 (a2) If any person is charged with a crime, either a misdemeanor or a felony, or an
5 infraction under G.S. 18B-302(i) prior to December 1, 1999, and a finding of not guilty or not
6 responsible is entered, that person may petition the court of the county where the charge was
7 brought for an order to expunge from all official records any entries relating to apprehension or
8 trial of that crime. The court shall hold a hearing on the petition and upon finding that the
9 person had not previously been convicted of any felony under the law of the United States, this
10 State, or any other state, the court shall order the expunction. No person as to whom such an
11 order has been entered shall be held thereafter under any provision of any law to be guilty of
12 perjury or to be guilty of otherwise giving a false statement or response to any inquiry made for
13 any purpose, by reason of failure to recite or acknowledge any expunged entries concerning
14 that crime. If a person is charged with multiple offenses and finding of not guilty or not
15 responsible are made on charges, then a person may petition to have each of the charges
16 disposed by a finding of not guilty or not responsible expunged. The court shall hold a hearing
17 on the petition. If the court finds that the person had not previously been convicted of any
18 felony under the laws of the United States, this State, or any other state, the court shall order
19 the expunction.

20 (a3) No person as to whom such an order has been entered under this section shall be
21 held thereafter under any provision of any law to be guilty of perjury, or to be guilty of
22 otherwise giving a false statement or response to any inquiry made for any purpose, by reason
23 of his failure to recite or acknowledge any expunged entries concerning apprehension or trial.

24 (b) The court may also order that the said entries, including civil revocations of drivers
25 licenses as a result of the underlying charge, shall be expunged from the records of the court,
26 and direct all law-enforcement agencies, the Division of Adult Correction of the Department of
27 Public Safety, the Division of Motor Vehicles, and any other State or local government
28 agencies identified by the petitioner as bearing record of the same to expunge their records of
29 the entries, including civil revocations of drivers licenses as a result of the underlying charge
30 being expunged. This subsection does not apply to civil or criminal charges based upon the
31 civil revocation, or to civil revocations under G.S. 20-16.2. The clerk shall notify State and
32 local agencies of the court's order as provided in G.S. 15A-150. The clerk shall forward a
33 certified copy of the order to the Division of Motor Vehicles for the expunction of a civil
34 revocation provided the underlying criminal charge is also expunged. The civil revocation of a
35 drivers license shall not be expunged prior to a final disposition of any pending civil or criminal
36 charge based upon the civil revocation. The costs of expunging the records, as required under
37 G.S. 15A-150, shall not be taxed against the petitioner.

38 (b1) Any person entitled to expungement under this section may also apply to the court
39 for an order expunging DNA records when the person's case has been dismissed by the trial
40 court and the person's DNA record or profile has been included in the State DNA Database and
41 the person's DNA sample is stored in the State DNA Databank. A copy of the application for
42 expungement of the DNA record or DNA sample shall be served on the district attorney for the
43 judicial district in which the felony charges were brought not less than 20 days prior to the date
44 of the hearing on the application. If the application for expungement is granted, a certified copy
45 of the trial court's order dismissing the charges shall be attached to an order of expungement.
46 The order of expungement shall include the name and address of the defendant and the
47 defendant's attorney and shall direct the North Carolina State Crime Laboratory to send a letter
48 documenting expungement as required by subsection (b2) of this section.

49 (b2) Upon receiving an order of expungement entered pursuant to subsection (b1) of this
50 section, the North Carolina State Crime Laboratory shall purge the DNA record and all other
51 identifying information from the State DNA Database and the DNA sample stored in the State

1 DNA Databank covered by the order, except that the order shall not apply to other offenses
2 committed by the individual that qualify for inclusion in the State DNA Database and the State
3 DNA Databank. A letter documenting expungement of the DNA record and destruction of the
4 DNA sample shall be sent by the North Carolina State Crime Laboratory to the defendant and
5 the defendant's attorney at the address specified by the court in the order of expungement.

6 (c) The Any petition for expungement under this section shall be on a form approved by
7 the Administrative Office of the Courts and be filed with the clerk of superior court. Upon
8 order of expungement, the clerk shall notify State and local agencies of the court's order as
9 provided in G.S. 15A-150.G.S. 15A-150 and forward the petition to the Administrative Office
10 of the Courts.

11 (d) A person charged with a crime that is dismissed pursuant to compliance with a
12 deferred prosecution agreement or the terms of a conditional discharge and who files a petition
13 for expunction of a criminal record under this section must pay the clerk of superior court a fee
14 of one hundred seventy-five dollars (\$175.00) at the time the petition is filed. Fees collected
15 under this subsection are payable to the Administrative Office of the Courts. The clerk of
16 superior court shall remit one hundred twenty-two dollars and fifty cents (\$122.50) of each fee
17 to the North Carolina Department of Public Safety for the costs of criminal record checks
18 performed in connection with processing petitions for expunctions under this section. The
19 remaining fifty-two dollars and fifty cents (\$52.50) of each fee shall be retained by the
20 Administrative Office of the Courts and used to pay the costs of processing petitions for
21 expunctions under this section. This subsection does not apply to petitions filed by an indigent.

22 **"§ 15A-147. Expunction of records when charges are dismissed or there are findings of**
23 **not guilty as a result of identity theft or mistaken identity.**

24 (a) If any person is named in a charge for an infraction or a crime, either a
25 misdemeanor or a felony, as a result of another person using the identifying information of the
26 named person or mistaken identity and a finding of not guilty is entered, or the conviction is set
27 aside, the named person may ~~apply by petition or written motion~~ to the court where the charge
28 was last pending on a form approved by the Administrative Office of the Courts supplied by the
29 clerk of court for an order to expunge from all official records any entries relating to the
30 person's apprehension, charge, or trial. The court, after notice to the district attorney, shall hold
31 a hearing on the ~~motion or petition~~ and, upon finding that the person's identity was used
32 without permission and the charges were dismissed or the person was found not guilty, the
33 court shall order the expunction.

34 (a1) If any person is named in a charge for an infraction or a crime, either a
35 misdemeanor or a felony, as a result of another person using the identifying information of the
36 named person or mistaken identity, and the charge against the named person is dismissed, the
37 prosecutor or other judicial officer who ordered the dismissal shall provide notice to the court
38 of the dismissal, and the court shall order the expunction of all official records containing any
39 entries relating to the person's apprehension, charge, or trial.

40 (a2) Any petition for expungement under this section shall be on a form approved by the
41 Administrative Office of the Courts and be filed with the clerk of superior court. Upon order of
42 expungement, the clerk shall forward the petition to the Administrative Office of the Courts.

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

48 (c) The court shall also order that the said entries shall be expunged from the records of
49 the court and direct all law enforcement agencies, the Division of Adult Correction of the
50 Department of Public Safety, the Division of Motor Vehicles, or any other State or local
51 government agencies identified by the petitioner, or the person eligible for automatic

1 expungement under subsection (a1) of this section, as bearing record of the same to expunge
2 their records of the entries. The clerk shall notify State and local agencies of the court's order as
3 provided in G.S. 15A-150. The costs of expunging the records, as required under
4 G.S. 15A-150, shall not be taxed against the petitioner.

5 (d) The Division of Motor Vehicles shall expunge from its records entries made as a
6 result of the charge or conviction ordered expunged under this section. The Division of Motor
7 Vehicles shall also reverse any administrative actions taken against a person whose record is
8 expunged under this section as a result of the charges or convictions expunged, including the
9 assessment of drivers license points and drivers license suspension or revocation.
10 Notwithstanding any other provision of this Chapter, the Division of Motor Vehicles shall
11 provide to the person whose motor vehicle record is expunged under this section a certified
12 corrected driver history at no cost and shall reinstate at no cost any drivers license suspended or
13 revoked as a result of a charge or conviction expunged under this section.

14 (e) The Division of Adult Correction of the Department of Public Safety and any other
15 applicable State or local government agency shall expunge its records as provided in
16 G.S. 15A-150. The agency shall also reverse any administrative actions taken against a person
17 whose record is expunged under this section as a result of the charges or convictions expunged.
18 Notwithstanding any other provision of law, the normal fee for any reinstatement of a license or
19 privilege resulting under this section shall be waived.

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

24 (g) For purposes of this section, the term "mistaken identity" means the erroneous arrest
25 of a person for a crime as a result of misidentification by a witness or law enforcement,
26 confusion on the part of a witness or law enforcement as to the identity of the person who
27 committed the crime, misinformation provided to law enforcement as to the identity of the
28 person who committed the crime, or some other mistake on the part of a witness or law
29 enforcement as to the identity of the person who committed the crime.

30 **"§ 15A-148. Expunction of DNA records when charges are dismissed on appeal or pardon**
31 **of innocence is granted.**

32 (a) Upon a motion by the defendant following the issuance of a final order by an
33 appellate court reversing and dismissing a conviction of an offense for which a DNA analysis
34 was done in accordance with Article 13 of Chapter 15A of the General Statutes, or upon receipt
35 of a pardon of innocence with respect to any such offense, the court shall issue an order of
36 expungement of the DNA record and samples in accordance with subsection (b) of this section.
37 The order of expungement shall include the name and address of the defendant and the
38 defendant's attorney and shall direct the North Carolina State Crime Laboratory to send a letter
39 documenting expungement as required by subsection (b) of this section.

40 (b) When an order of expungement has been issued pursuant to subsection (a) of this
41 section, the order of expungement, together with a certified copy of the final appellate court
42 order reversing and dismissing the conviction or a certified copy of the instrument granting the
43 pardon of innocence, shall be provided to the North Carolina State Crime Laboratory by the
44 clerk of court. Upon receiving an order of expungement for an individual whose DNA record or
45 profile has been included in the State DNA Database and whose DNA sample is stored in the
46 State DNA Databank, the DNA profile shall be expunged and the DNA sample destroyed by
47 the North Carolina State Crime Laboratory, except that the order shall not apply to other
48 offenses committed by the individual that qualify for inclusion in the State DNA Database and
49 the State DNA Databank. A letter documenting expungement of the DNA record and
50 destruction of the DNA sample shall be sent by the North Carolina State Crime Laboratory to
51 the defendant and the defendant's attorney at the address specified by the court in the order of

1 expungement. The North Carolina State Crime Laboratory shall adopt procedures to comply
2 with this subsection.

3 Any petition for expungement under this section shall be on a form approved by the
4 Administrative Office of the Courts and be filed with the clerk of superior court. Upon order of
5 expungement, the clerk shall forward the petition to the Administrative Office of the Courts.

6 **"§ 15A-149. Expunction of records when pardon of innocence is granted.**

7 (a) If any person is convicted of a crime and receives a pardon of innocence, the person
8 may ~~apply by petition or written motion to~~ the court in which the person was convicted on a
9 form approved by the Administrative Office of the Courts supplied by the clerk of court for an
10 order to expunge from all official records any entries relating to the person's apprehension,
11 charge, or trial. Upon receipt of the ~~petition or written motion,~~ petition, the clerk of court shall
12 verify that an attested copy of the warrant and return granting a pardon of innocence has been
13 filed with the court in accordance with G.S. 147-25. Upon verification by the clerk that the
14 warrant and return have been filed, the court shall issue an order of expunction.

15 (b) The order of expunction shall include an instruction that any entries relating to the
16 person's apprehension, charge, or trial shall be expunged from the records of the court and
17 direct all law enforcement agencies, the Division of Adult Correction of the Department of
18 Public Safety, the Division of Motor Vehicles, or any other State or local government agencies
19 identified by the petitioner as bearing record of the same to expunge their records of the entries.
20 The clerk shall notify State and local agencies of the court's order as provided in ~~G.S. 15A-150.~~
21 G.S. 15A-150 and shall forward the petition to the Administrative Office of the Courts. The
22 costs of expunging the records, as required under G.S. 15A-150, shall not be taxed against the
23 petitioner.

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

29 **"§ 15A-150. Notification requirements.**

30 (a) Notification to AOC. – The clerk of superior court in each county in North Carolina
31 shall, as soon as practicable after each term of court, file with the Administrative Office of the
32 Courts any orders of expunction, and the names of the following:

- 33 (1) Persons granted an expunction under this Article.
- 34 (2), (3) Repealed by Session Laws 2015-40, s. 3, effective December 1, 2015,
35 and applicable to conditional discharges granted on or after that date.
- 36 (4) Repealed by Session Laws 2010-174, s. 7, effective October 1, 2010.
- 37 (5) Repealed by Session Laws 2015-40, s. 3, effective December 1, 2015, and
38 applicable to conditional discharges granted on or after that date.
- 39 (6) Persons granted a dismissal upon completion of a conditional discharge
40 under G.S. 14-50.29, 14-204, 14-313(f), 15A-1341(a4), 90-96, or 90-113.14.

41 (b) Notification to Other State and Local Agencies. – Unless otherwise instructed by the
42 Administrative Office of the Courts pursuant to an agreement entered into under subsection (e)
43 of this section for the electronic or facsimile transmission of information, the clerk of superior
44 court in each county in North Carolina shall send a certified copy of an order granting an
45 expunction to a person named in subsection (a) of this section to all of the agencies listed in this
46 ~~subsection.~~ subsection and the person. An agency receiving an order under this subsection shall
47 ~~expunge~~ purge from its records all entries made as a result of the charge or conviction ordered
48 expunged, except as provided in G.S. 15A-151. The list of agencies is as follows:

- 49 (1) The sheriff, chief of police, or other arresting agency.
- 50 (2) When applicable, the Division of Motor Vehicles.

- 1 (3) Any State or local agency identified by the petition as bearing record of the
2 offense that has been expunged.
- 3 (4) ~~The Department of Public Safety.~~ The Department of Public Safety,
4 Combined Records Section.
- 5 (5) The State Bureau of Investigation.

6 (c) Notification to FBI. – ~~The Department of Public Safety.~~ Safety, North Carolina State
7 Bureau of Investigation, shall forward the order received under this section to the Federal
8 Bureau of Investigation.

9 (d) Notification to Private Entities. – A State agency that receives a certified copy of an
10 order under this section shall notify any private entity with which it has a licensing agreement
11 for bulk extracts of data from the agency criminal record database to delete the record in
12 question. The private entity shall notify any other entity to which it subsequently provides in a
13 bulk extract data from the agency criminal database to delete the record in question from its
14 database.

15 (e) The Director of the Administrative Office of the Courts may enter into an agreement
16 with any of the State agencies listed in subsection (b) of this section for electronic or facsimile
17 transmission of any information that must be provided under this section.

18 **"§ 15A-151. Confidential agency files; exceptions to expunction.**

19 (a) The Administrative Office of the Courts shall maintain a confidential file for
20 expungements containing the petitions granted under this Article and the names of those people
21 for whom it received a notice under G.S. 15A-150. The information contained in the file may
22 be disclosed only as follows:

- 23 (1) ~~To~~ Upon request of a judge of the General Court of Justice of North Carolina
24 for the purpose of ascertaining whether a person charged with an offense has
25 been previously granted a discharge or an expunction.
- 26 (2) ~~To~~ Upon request of a person requesting confirmation of the person's own
27 discharge or expunction, ~~as provided in G.S. 15A-152.~~ expunction.
- 28 (3) To the General Court of Justice of North Carolina in response to a subpoena
29 or other court order issued pursuant to a civil action under G.S. 15A-152.
- 30 (4) ~~If~~ Upon request of State or local law enforcement, if the criminal record was
31 expunged pursuant to G.S. 15A-145.4, 15A-145.5, or 15A-145.6, to State
32 and local law enforcement agencies 15A-145.6 for employment purposes
33 only.
- 34 (5) ~~If~~ Upon the request of the North Carolina Criminal Justice Education and
35 Training Standards Commission, if the criminal record was expunged
36 pursuant to G.S. 15A-145.4, 15A-145.5, or [15A-]145.6, to the North
37 Carolina Criminal Justice Education and Training Standards Commission
38 15A-145.6 for certification purposes only.
- 39 (6) ~~If~~ Upon request of the North Carolina Sheriff's Standards Commission, if the
40 criminal record was expunged pursuant to G.S. 15A-145.4, 15A-145.5, or
41 15A-145.6, to the North Carolina Sheriffs' Education and Training Standards
42 Commission 15A-145.6 for certification purposes only.
- 43 (7) To the District Attorney in accordance with G.S. 15A-151.5.

44 (b) All agencies required under G.S. 15A-150 to expunge from records all entries made
45 as a result of a charge or conviction ordered expunged who maintain a licensing agreement to
46 provide record information to a private entity shall maintain a confidential file containing
47 information verifying the expunction and subsequent notification to private entities as required
48 by G.S. 15A-150(d). The information contained in the file shall be disclosed only to a person
49 requesting confirmation of expunction of the record of the person's own discharge or
50 expunction, as provided in G.S. 15A-152.

1 (c) The Division of Motor Vehicles shall not be required to expunge a record if the
2 expunction of the record is expressly prohibited by the federal Commercial Motor Vehicle
3 Safety Act of 1986, the federal Motor Carrier Safety Improvement Act of 1999, or regulations
4 adopted pursuant to either act.

5 **"§ 15A-151.5. Prosecutor access to expunged files.**

6 (a) Notwithstanding any other provision of this Article, the Administrative Office of the
7 Courts shall make all confidential files maintained under G.S. 15A-151 electronically available
8 to all prosecutors of this State if the criminal record was expunged on or after December 1,
9 2017, under any of the following:

- 10 (1) G.S. 15A-145. – Expunction of records for first offenders under the age of
11 18 at the time of conviction of misdemeanor; expunction of certain other
12 misdemeanors.
- 13 (2) G.S. 15A-145.1. – Expunction of records for first offenders under the age of
14 18 at the time of conviction of certain gang offenses.
- 15 (3) G.S. 15A-145.2. – Expunction of records for first offenders not over 21
16 years of age at the time of the offense of certain drug offenses.
- 17 (4) G.S. 15A-145.3. – Expunction of records for first offenders not over 21
18 years of age at the time of the offense of certain toxic vapors offenses.
- 19 (5) G.S. 15A-145.4. – Expunction of records for first offenders who are under
20 18 years of age at the time of the commission of a nonviolent felony.
- 21 (6) G.S. 15A-145.5. – Expunction of certain misdemeanors and felonies; no age
22 limitation.
- 23 (7) G.S. 15A-145.6. – Expunctions for certain defendants convicted of
24 prostitution.
- 25 (8) G.S. 15A-146(a). – Expunction of records when charges are dismissed or
26 there are findings of not guilty.
- 27 (9) G.S. 15A-146(a1). – Expunction of records when charges are dismissed or
28 there are findings of not guilty.

29 (b) For any expungement granted on or after December 1, 2017, the expunged criminal
30 records under subdivisions (1) through (7) of subsection (a) of this section may be used to
31 calculate prior record level if the named person is convicted of a subsequent criminal offense.

32 (c) For any expungement granted on or after December 1, 2017, the information
33 maintained by the Administrative Office of the Courts and made available under subsection (a)
34 of this section shall be prima facie evidence of the expunged conviction for the purposes of
35 calculating prior record level of the named person and shall be admissible into evidence at a
36 subsequent criminal sentencing hearing."

37 **SECTION 2.** This act becomes effective December 1, 2017, and applies to
38 petitions filed on or after that date.