

GENERAL ASSEMBLY OF NORTH CAROLINA
SESSION 2019

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HOUSE BILL 121

Short Title: Expunction Related to RTA/No Conviction. (Public)

Sponsors: Representatives Stevens, Hurley, Jarvis, and Carter (Primary Sponsors).
For a complete list of sponsors, refer to the North Carolina General Assembly web site.

Referred to: Judiciary, if favorable, Rules, Calendar, and Operations of the House

February 21, 2019

1 A BILL TO BE ENTITLED
2 AN ACT TO PROVIDE FOR THE EXPUNCTION OF CERTAIN OFFENSES COMMITTED
3 BETWEEN THE ENACTMENT DATE AND THE EFFECTIVE DATE OF THE
4 LEGISLATION KNOWN AS RAISE THE AGE.

5 The General Assembly of North Carolina enacts:

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7 **PART I. JUVENILE EXPUNCTIONS FOR OFFENSES COMMITTED BETWEEN THE**
8 **ENACTMENT DATE AND THE EFFECTIVE DATE OF THE LEGISLATION KNOWN**
9 **AS RAISE THE AGE**

10 **SECTION 1.(a)** Article 5 of Chapter 15A of the General Statutes is amended by
11 adding a new section to read:

12 **"§ 15A-145.8 Expunction of records for offenders under the age of 18 at the time of**
13 **conviction of certain misdemeanors and felonies upon completion of the**
14 **sentence.**

15 (a) A person convicted of a misdemeanor or Class H or I felony, other than a traffic
16 offense, committed on or after the person's sixteenth birthday, but before the person's eighteenth
17 birthday, may file a petition for expunction in the trial court upon completion of any sentence or
18 period of probation imposed and payment of any restitution ordered. The court shall hold a
19 hearing and upon finding that (i) the offense was committed on or after the person's sixteenth
20 birthday, but before the person's eighteenth birthday, (ii) any sentence or period of probation was
21 completed, and (iii) the person has no outstanding restitution orders or civil judgments
22 representing amounts ordered for restitution against the person, the court shall order that the
23 person be restored, in the contemplation of the law, to the status the person occupied before such
24 conviction. A person convicted of multiple offenses shall be eligible to have those convictions
25 expunged pursuant to this section.

26 (b) Nothing in this section shall be interpreted to allow the expunction of (i) any offense
27 involving impaired driving as defined in G.S. 20-4.01(24a) or (ii) any offense requiring
28 registration pursuant to Article 27A of Chapter 14 of the General Statutes, whether or not the
29 person is currently required to register.

30 (c) Any petition for expungement under this section shall be on a form approved by the
31 Administrative Office of the Courts and shall be filed with the clerk of superior court in the
32 county where the person was convicted. Upon order of expungement, the clerk shall forward the
33 petition to the Administrative Office of the Courts.

34 (d) No person as to whom such order has been entered shall be held thereafter under any
35 provision of any laws to be guilty of perjury or otherwise giving a false statement by reason of



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1 that person's failure to recite or acknowledge such arrest, or indictment, information, or trial, or
2 response to any inquiry made of the person for any purpose.

3 (e) The court shall also order that the conviction be expunged from the records of the
4 court. The court shall direct all law enforcement agencies, the Division of Adult Correction and
5 Juvenile Justice of the Department of Public Safety, the Division of Motor Vehicles, and any
6 other State or local government agencies identified by the petitioner as bearing record of the same
7 to expunge their records of the petitioner's conviction. The clerk shall notify State and local
8 agencies of the court's order as provided in G.S. 15A-150.

9 (f) No filing fee shall be required to file a petition under this section, and the costs of
10 expunging the records shall not be taxed against the petitioner."

11 **SECTION 1.(b)** This section is effective December 1, 2019, and applies to offenses
12 committed between July 1, 2017, and November 30, 2019.

13 **PART II. PROSECUTOR ACCESS TO EXPUNGED FILES**

14 **SECTION 2.(a)** G.S. 15A-151.5(a) reads as rewritten:

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

- 19 (1) G.S. 15A-145. Expunction of records for first offenders under the age of 18 at
20 the time of conviction of misdemeanor; expunction of certain other
21 misdemeanors.
- 22 (2) G.S. 15A-145.1. Expunction of records for first offenders under the age of 18
23 at the time of conviction of certain gang offenses.
- 24 (3) G.S. 15A-145.2. Expunction of records for first offenders not over 21 years of
25 age at the time of the offense of certain drug offenses.
- 26 (4) G.S. 15A-145.3. Expunction of records for first offenders not over 21 years of
27 age at the time of the offense of certain toxic vapors offenses.
- 28 (5) G.S. 15A-145.4. Expunction of records for first offenders who are under 18
29 years of age at the time of the commission of a nonviolent felony.
- 30 (6) G.S. 15A-145.5. Expunction of certain misdemeanors and felonies; no age
31 limitation.
- 32 (7) G.S. 15A-145.6. Expunctions for certain defendants convicted of prostitution.
- 33 (7a) G.S. 15A-145.8. Expunction of records for offenders under the age of 18 at
34 the time of conviction of certain misdemeanors and felonies upon completion
35 of the sentence.
- 36 (8) G.S. 15A-146(a). Expunction of records when charges are dismissed.
- 37 (9) G.S. 15A-146(a1). Expunction of records when charges are dismissed."

38 **SECTION 2.(b)** This section is effective December 1, 2019.

39 **PART III. STREAMLINE EXPUNCTIONS FOR CHARGES NOT RESULTING IN** 40 **CONVICTION**

41 **SECTION 3.(a)** G.S. 15A-146 reads as rewritten:

42 **"§ 15A-146. Expunction of records when charges are dismissed or there are findings of not**
43 **guilty.**

44 (a) If any person is charged with a crime, either a misdemeanor or a felony, or was
45 charged with an infraction under G.S. 18B-302(i) prior to December 1, 1999, and the charge is
46 dismissed, that person may petition the court of the county where the charge was brought for an
47 order to expunge from all official records any entries relating to ~~his-that person's~~ apprehension
48 or trial. ~~The court shall hold a hearing on the petition and, upon finding that the person had not~~
49 ~~previously been convicted of any felony under the laws of the United States, this State, or any~~
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1 ~~other state.~~ Upon finding that the charge was dismissed, the court shall order the expunction. No
2 person as to whom such an order has been entered shall be held thereafter under any provision
3 of any law to be guilty of perjury, or to be guilty of otherwise giving a false statement or response
4 to any inquiry made for any purpose, by reason of ~~his~~ that person's failure to recite or
5 acknowledge any expunged entries concerning apprehension or trial.

6 (a1) Notwithstanding subsection (a) of this section, if a person is charged with multiple
7 offenses and the charges are dismissed, then a person may petition to have each of the dismissed
8 charges expunged. ~~The court shall hold a hearing on the petition. If the court finds that the person~~
9 ~~had not previously been convicted of any felony under the laws of the United States, this State,~~
10 ~~or any other state, charges were dismissed,~~ the court shall order the expunction.

11 (a2) If any person is charged with a crime, either a misdemeanor or a felony, or an
12 infraction under G.S. 18B-302(i) prior to December 1, 1999, and a finding of not guilty or not
13 responsible is entered, that person may petition the court of the county where the charge was
14 brought for an order to expunge from all official records any entries relating to apprehension or
15 trial of that crime. ~~The court shall hold a hearing on the petition and upon finding that the person~~
16 ~~had not previously been convicted of any felony under the laws of the United States, this State,~~
17 ~~or any other state, Upon determining that a finding of not guilty or not responsible was entered,~~
18 the court shall order the expunction. No person as to whom such an order has been entered shall
19 be held thereafter under any provision of any law to be guilty of perjury, or to be guilty of
20 otherwise giving a false statement or response to any inquiry made for any purpose, by reason of
21 failure to recite or acknowledge any expunged entries concerning that crime. If a person is
22 charged with multiple offenses and findings of not guilty or not responsible are made on charges,
23 then a person may petition to have each of the charges disposed by a finding of not guilty or not
24 responsible expunged. ~~The court shall hold a hearing on the petition. If the court finds that the~~
25 ~~person had not previously been convicted of any felony under the laws of the United States, this~~
26 ~~State, or any other state, Upon determining that findings of not guilty or not responsible were~~
27 ~~entered,~~ the court shall order the expunction. The trial court may grant a petition for expunction
28 pursuant to this section without a hearing.

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30 **SECTION 3.(b)** This section becomes effective December 1, 2019, and applies to
31 petitions for expunctions filed on or after that date.

32 **PART IV. EFFECTIVE DATE**

33 **SECTION 4.** Except as otherwise provided, this act is effective when it becomes
34 law.
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