

GENERAL ASSEMBLY OF NORTH CAROLINA
SESSION 2021

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HOUSE BILL 607
Committee Substitute Favorable 4/28/21
Committee Substitute #2 Favorable 5/5/21
Senate Judiciary Committee Substitute Adopted 6/1/22
Fifth Edition Engrossed 6/7/22

Short Title: Suspend Automatic Expunction.

(Public)

Sponsors:

Referred to:

April 21, 2021

A BILL TO BE ENTITLED

AN ACT TO SUSPEND THE AUTOMATIC EXPUNCTION OF DISMISSED CRIMINAL CHARGES, NOT GUILTY VERDICTS, AND FINDINGS OF NOT RESPONSIBLE AND TO MAKE OTHER CHANGES TO THE EXPUNCTION LAWS.

The General Assembly of North Carolina enacts:

SECTION 1.(a) Notwithstanding the provisions of G.S. 15A-146(a4), dismissed charges and not guilty verdicts shall not be expunged by operation of law and the Administrative Office of the Courts shall immediately cease all procedures related to the automatic expunction of dismissed charges, not guilty verdicts, and findings of not responsible. The Administrative Office of the Courts shall maintain a record of any dismissed charges, not guilty verdicts, and findings of not responsible that, except for the provisions of this section, would be automatically expunged pursuant to G.S. 15A-146(a4) in a manner that will allow those cases to be automatically expunged when this section expires.

SECTION 1.(b) This section becomes effective August 1, 2022, and expires August 1, 2023.

SECTION 2.(a) The Administrative Office of the Courts shall convene a group of stakeholders, including representatives from the Conference of District Attorneys, the State Bureau of Investigation, the NC Justice Center, attorneys who represent clients seeking expunctions, clerks and other court personnel, sheriffs, the Division of Motor Vehicles, and individuals with criminal records who are members of the NC Second Chance Alliance to examine and make recommendations to resolve the issues that have arisen with the implementation of G.S. 15A-146(a4), including issues related to notice to all relevant agencies and file retention. The stakeholder group may consider and recommend solutions for issues related to the expunction of records that do not require the total destruction of all court files and that would allow access to these particular expunction records by additional parties.

The Administrative Office of the Courts shall report its findings and recommendations and any action it has taken to make files confidential to the chairs of the House and Senate Appropriations Committees on Justice and Public Safety no later than March 1, 2023.

SECTION 2.(b) If the Administrative Office of the Courts and stakeholder group established in subsection (a) of this section determine an appropriate method to make court files for dismissed charges, not guilty verdicts, and findings of not responsible that are eligible for automatic expunction pursuant to G.S. 15A-146(a4), confidential from the public record without destruction of court files, while allowing access to necessary parties, the Administrative Office



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1 of the Courts is authorized to make those files confidential from the public record while Section
2 1 of this act remains law. If the Administrative Office of the Courts makes files confidential
3 from the public record pursuant to this section, it shall do so for all files suspended from
4 expunction by Section 1 of this act. This authorization is not an authorization to expunge any
5 records described by G.S. 15A-146(a4) while Section 1 of this act remains law.

6 **SECTION 2.(c)** When Section 1 of this act expires or is repealed, whichever occurs
7 first, the Administrative Office of the Courts shall, within 60 days, expunge all dismissed charges,
8 not guilty verdicts, and findings of not responsible that occurred during the period of time that
9 Section 1 was in effect and are eligible for automatic expunction pursuant to G.S. 15A-146(a4)."

10 **SECTION 3.(a)** G.S. 15A-145.5 reads as rewritten:

11 **"§ 15A-145.5. Expunction of certain misdemeanors and felonies; no age limitation.**

12 ...

13 (c2) The court, after hearing a petition for expunction of one or more nonviolent
14 misdemeanors, shall order that the petitioner be restored, in the contemplation of the law, to the
15 status the petitioner occupied before the arrest or indictment or information, except as provided
16 in G.S. 15A-151.5, if the court finds all of the following:

17 (1) One of the following:

- 18 a. The petitioner has not previously been granted an expunction under
19 this section for one or more nonviolent misdemeanors.
20 b. Any previous expunction granted to the petitioner under this section
21 for one or more nonviolent misdemeanors was granted pursuant to a
22 petition filed prior to December 1, 2021.

23 (2) The petitioner is of good moral character.

24 (3) The petitioner has no outstanding warrants or pending criminal cases.

25 (4) The petitioner has no other felony or misdemeanor convictions, other than a
26 traffic violation not listed in the petition for expunction, during the applicable
27 five-year or seven-year waiting period set forth in subsection (c) of this
28 section.

29 (5) The petitioner has no outstanding restitution orders or civil judgments
30 representing amounts ordered for restitution entered against the petitioner.

31 (6) The petitioner ~~meets one of the following criteria:~~

- 32 a. ~~For a petition for expunction of one nonviolent misdemeanor, the~~
33 ~~petitioner has no convictions for any other felony or misdemeanor,~~
34 ~~other than a traffic offense.~~
35 b. ~~For a petition for expunction of more than one nonviolent~~
36 ~~misdemeanor, the petitioner has no convictions for a misdemeanor or~~
37 ~~felony that is listed as an exception to the terms "nonviolent~~
38 ~~misdemeanor" or "nonviolent felony" as provided in subsection (a) of~~
39 ~~this section.~~

40 (7) The petitioner was convicted of an offense or offenses eligible for expunction
41 under this section.

42 (8) The petitioner has completed the applicable five-year or seven-year waiting
43 period set forth in subsection (c) of this section.

44 If the court denies the petition, the order shall include a finding as to the reason for the denial.

45 ...

46 (c4) A person petitioning for expunction of multiple convictions pursuant to
47 sub-subdivision b. of subdivision (1) of subsection (c) of this section or sub-subdivision b. of
48 subdivision (2) of subsection (c) of this section, where the convictions were obtained in more
49 than one county, shall file a petition in each county of conviction. All petitions shall be filed
50 within a ~~30-day~~ 120-day period. The granting of one petition shall not preclude the granting of
51 any other petition filed within the same ~~30-day~~ 120-day period. Notwithstanding the provisions

1 of this subsection, upon good cause shown for the failure to file a petition within the 120-day
2 period, the court may grant a petition for expunction filed outside the 120-day period.
3"
4 **SECTION 3.(b)** This section becomes effective July 1, 2022, and applies to petitions
5 filed on or after that date.
6 **SECTION 4.** Except as otherwise provided, this act is effective when it becomes
7 law.