

**GENERAL ASSEMBLY OF NORTH CAROLINA
SESSION 2023**

**SENATE BILL 565
RATIFIED BILL**

AN ACT TO IMPROVE THE SECOND CHANCE ACT BY REVISING THE LAWS GOVERNING THE AUTOMATIC EXPUNCTION OF RECORDS AND THE AVAILABILITY OF EXPUNGED RECORDS.

The General Assembly of North Carolina enacts:

PART I. REVISE EXPUNCTION STATUTES

SECTION 1.(a) G.S. 15A-146(a4) reads as rewritten:

"(a4) Dismissal, Not Guilty, or Not Responsible on or After December 1, 2021. – If any person is charged with a crime, either a misdemeanor or a felony, or is charged with an infraction, the charges in the case are expunged by operation of law not less than 180 days and not more than 210 days after the date of final disposition if all of the following apply:

- (1) All charges in the case are disposed on or after December 1, 2021.
- (2) All charges in the case are dismissed without leave, dismissed by the court, or result in a finding of not guilty or not responsible.

Notwithstanding the provisions of this subsection, no case with a felony charge that was dismissed pursuant to a plea agreement will be expunged pursuant to this subsection. ~~Prior to December 1, 2021, the~~ The Administrative Office of the Courts shall develop and have in place procedures to automate the expunction of records pursuant to this subsection."

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

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

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

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

SECTION 1.(c) G.S. 15A-151.5 reads as rewritten:

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

(a) Notwithstanding any other provision of this Article, the Administrative Office of the Courts shall make all confidential files maintained under G.S. 15A-151 electronically available



to all prosecutors of this State if the criminal record was expunged on or after July 1, 2018, under any of the following: State.

- (1) ~~G.S. 15A-145. Expunction of records for first offenders under the age of 18 at the time of conviction of misdemeanor; expunction of certain other misdemeanors.~~
- (2) ~~G.S. 15A-145.1. Expunction of records for first offenders under the age of 18 at the time of conviction of certain gang offenses.~~
- (3) ~~G.S. 15A-145.2. Expunction of records for first offenders not over 21 years of age at the time of the offense of certain drug offenses.~~
- (4) ~~G.S. 15A-145.3. Expunction of records for first offenders not over 21 years of age at the time of the offense of certain toxic vapors offenses.~~
- (5) ~~G.S. 15A-145.4. Expunction of records for first offenders who are under 18 years of age at the time of the commission of a nonviolent felony.~~
- (6) ~~G.S. 15A-145.5. Expunction of certain misdemeanors and felonies; no age limitation.~~
- (7) ~~G.S. 15A-145.6. Expunctions for certain defendants convicted of prostitution.~~
- (7a) ~~G.S. 15A-145.7. Expunction of records for first offenders under 20 years of age at the time of the offense of certain offenses.~~
- (7b) ~~G.S. 15A-145.8A. Expunction of records for offenders under the age of 18 at the time of commission of certain misdemeanors and felonies upon completion of the sentence.~~
- (7c) ~~G.S. 15A-145.9. Expunction of records of certain offenses committed by human trafficking victims.~~
- (8) ~~G.S. 15A-146(a). Expunction of records when charges are dismissed.~~
- (9) ~~G.S. 15A-146(a1). Expunction of records when charges are dismissed.~~

(b) For any expungement granted on or after July 1, 2018, the record of a criminal conviction expunged under ~~subdivisions (1) through (7b) of subsection (a) of this section~~ this Article may be considered a prior conviction and used for any of the following purposes:

- (1) To calculate prior record level and prior conviction level if the named person is convicted of a subsequent criminal offense.
- (2) To serve as a basis for indictment for a habitual offense pursuant to G.S. 14-7.1 or G.S. 14-7.26.
- (3) When a conviction of a prior offense raises the offense level of a subsequent offense.
- (4) To determine eligibility for relief under G.S. 90-96(a).
- (5) When permissible in a criminal case under Rule 404(b) or Rule 609 of the North Carolina Rules of Evidence.

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PART II. EXTENSION OF TEMPORARY AUTOMATIC EXPUNCTION PAUSE

SECTION 2. Subsection (c) of Section 2 of S.L. 2022-47 reads as rewritten:

"SECTION 2.(c) When Section 1 of this act expires or is repealed, whichever occurs first, the Administrative Office of the Courts shall, within ~~180 days~~, 365 days, expunge all dismissed charges, not guilty verdicts, and findings of not responsible that occurred during the period of time that Section 1 of this act was in effect and are eligible for automatic expunction pursuant to G.S. 15A-146(a4). Any expungement performed in accordance with this subsection shall be deemed to have occurred five business days after the date that the individual expunction was carried out by the Administrative Office of the Courts."

PART III. EFFECTIVE DATE

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

In the General Assembly read three times and ratified this the 27th day of June, 2024.

s/ Phil Berger
President Pro Tempore of the Senate

s/ Tim Moore
Speaker of the House of Representatives

Roy Cooper
Governor

Approved _____m. this _____ day of _____, 2024