

GENERAL ASSEMBLY OF NORTH CAROLINA
SESSION 2019

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HOUSE BILL 121
PROPOSED COMMITTEE SUBSTITUTE H121-PCS10108-TV-3

Short Title: Expunction Related to RTA/No Conviction.

(Public)

Sponsors:

Referred to:

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 AND TO MODIFY THE LAW ON
5 EXPUNCTION OF RECORDS WHEN CHARGES ARE DISMISSED OR THERE ARE
6 FINDINGS OF NOT GUILTY.

7 The General Assembly of North Carolina enacts:

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

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

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

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

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

31 (c) Upon order of expungement, the clerk shall forward the order to the Administrative
32 Office of the Courts.

33 (d) No person as to whom such order has been entered shall be held thereafter under any
34 provision of any laws to be guilty of perjury or otherwise giving a false statement by reason of
35 that person's failure to recite or acknowledge such arrest, or indictment, information, or trial, or
36 response to any inquiry made of the person for any purpose.



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

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

9 **SECTION 1.(b)** This section is effective December 1, 2019, and applies to offenses
10 committed on or after July 1, 2017, and on or before November 30, 2019.

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

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

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

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

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

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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~~
50 ~~other state.~~ Upon finding that the charge was dismissed, the court shall order the expunction. No
51 person as to whom such an order has been entered shall be held thereafter under any provision

1 of any law to be guilty of perjury, or to be guilty of otherwise giving a false statement or response
2 to any inquiry made for any purpose, by reason of ~~his~~that person's failure to recite or
3 acknowledge any expunged entries concerning apprehension or trial.

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

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

27"

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

30 **PART IV. EFFECTIVE DATE**

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