

GENERAL ASSEMBLY OF NORTH CAROLINA
SESSION 2015

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SENATE DRS45262-LH-104A (03/01)

Short Title: Expunction/Boat Violation.

(Public)

Sponsors: Senators Bryant, McKissick, and Daniel (Primary Sponsors).

Referred to:

1 A BILL TO BE ENTITLED
2 AN ACT TO PROVIDE THAT A PERSON SHALL NOT BE DENIED AN EXPUNCTION
3 SOLELY BECAUSE THE PERSON HAS A CONVICTION FOR A BOATING
4 VIOLATION.

5 The General Assembly of North Carolina enacts:

6 SECTION 1. G.S. 15A-145.5(c) reads as rewritten:

7 "(c) A person may file a petition, in the court where the person was convicted, for
8 expunction of a nonviolent misdemeanor or nonviolent felony conviction from the person's
9 criminal record if the person has no other misdemeanor or felony convictions, other than a
10 traffic or boating violation. The petition shall not be filed earlier than 15 years after the date of
11 the conviction or when any active sentence, period of probation, and post-release supervision
12 has been served, whichever occurs later. The petition shall contain, but not be limited to, the
13 following:

- 14 (1) An affidavit by the petitioner that the petitioner has been of good moral
15 character since the date of conviction for the nonviolent misdemeanor or
16 nonviolent felony and has not been convicted of any other felony or
17 misdemeanor, other than a traffic or boating violation, under the laws of the
18 United States or the laws of this State or any other state.
- 19 (2) Verified affidavits of two persons who are not related to the petitioner or to
20 each other by blood or marriage, that they know the character and reputation
21 of the petitioner in the community in which the petitioner lives and that the
22 petitioner's character and reputation are good.
- 23 (3) A statement that the petition is a motion in the cause in the case wherein the
24 petitioner was convicted.
- 25 (4) An application on a form approved by the Administrative Office of the
26 Courts requesting and authorizing a name-based State and national criminal
27 history record check by the Department of Public Safety using any
28 information required by the Administrative Office of the Courts to identify
29 the individual, a search by the Department of Public Safety for any
30 outstanding warrants on pending criminal cases, and a search of the
31 confidential record of expunctions maintained by the Administrative Office
32 of the Courts. The application shall be forwarded to the Department of
33 Public Safety and to the Administrative Office of the Courts, which shall
34 conduct the searches and report their findings to the court.



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

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

16 If the court, after hearing, finds that the petitioner has not previously been granted an
17 expunction under this section, G.S. 15A-145, 15A-145.1, 15A-145.2, 15A-145.3, or
18 15A-145.4; the petitioner has remained of good moral character; the petitioner has no
19 outstanding warrants or pending criminal cases; the petitioner has no other felony or
20 misdemeanor convictions other than a traffic or boating violation; the petitioner has no
21 outstanding restitution orders or civil judgments representing amounts ordered for restitution
22 entered against the petitioner; and the petitioner was convicted of an offense eligible for
23 expunction under this section and was convicted of, and completed any sentence received for,
24 the nonviolent misdemeanor or nonviolent felony at least 15 years prior to the filing of the
25 petition, it may order that such person be restored, in the contemplation of the law, to the status
26 the person occupied before such arrest or indictment or information. If the court denies the
27 petition, the order shall include a finding as to the reason for the denial."

28 **SECTION 2.** G.S. 15A-145 reads as rewritten:

29 **"§ 15A-145. Expunction of records for first offenders under the age of 18 at the time of**
30 **conviction of misdemeanor; expunction of certain other misdemeanors.**

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

- 41 (1) An affidavit by the petitioner that he has been of good behavior for the
42 two-year period since the date of conviction of the misdemeanor in question
43 and has not been convicted of any felony, or misdemeanor other than a
44 traffic or boating violation, under the laws of the United States or the laws of
45 this State or any other state.
- 46 (2) Verified affidavits of two persons who are not related to the petitioner or to
47 each other by blood or marriage, that they know the character and reputation
48 of the petitioner in the community in which he lives and that his character
49 and reputation are good.
- 50 (3) A statement that the petition is a motion in the cause in the case wherein the
51 petitioner was convicted.

- 1 (4) Repealed by Session Laws 2010-174, s. 2, effective October 1, 2010, and
2 applicable to petitions for expunctions filed on or after that date.
- 3 (4a) An application on a form approved by the Administrative Office of the
4 Courts requesting and authorizing a name-based State and national criminal
5 record check by the Department of Public Safety using any information
6 required by the Administrative Office of the Courts to identify the individual
7 and a search of the confidential record of expunctions maintained by the
8 Administrative Office of the Courts. The application shall be forwarded to
9 the Department of Public Safety and to the Administrative Office of the
10 Courts, which shall conduct the searches and report their findings to the
11 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 (b) If the court, after hearing, finds that the petitioner had remained of good behavior
22 and been free of conviction of any felony or misdemeanor, other than a traffic or boating
23 violation, for two years from the date of conviction of the misdemeanor in question, the
24 petitioner has no outstanding restitution orders or civil judgments representing amounts ordered
25 for restitution entered against him, and (i) petitioner was not 18 years old at the time of the
26 offense in question, or (ii) petitioner was not 21 years old at the time of the offense of
27 possession of alcohol pursuant to G.S. 18B-302(b)(1), it shall order that such person be
28 restored, in the contemplation of the law, to the status he occupied before such arrest or
29 indictment or information. No person as to whom such order has been entered shall be held
30 thereafter under any provision of any laws to be guilty of perjury or otherwise giving a false
31 statement by reason of his failure to recite or acknowledge such arrest, or indictment,
32 information, or trial, or response to any inquiry made of him for any purpose.

33"

34 **SECTION 3.** G.S. 15A-145.1 reads as rewritten:

35 "**§ 15A-145.1. Expunction of records for first offenders under the age of 18 at the time of**
36 **conviction of certain gang offenses.**

37 (a) Whenever any person who has not previously been convicted of any felony or
38 misdemeanor other than a traffic or boating violation under the laws of the United States or the
39 laws of this State or any other state pleads guilty to or is guilty of (i) a Class H felony under
40 Article 13A of Chapter 14 of the General Statutes or (ii) an enhanced offense under
41 G.S. 14-50.22, or has been discharged and had the proceedings against the person dismissed
42 pursuant to G.S. 14-50.29, and the offense was committed before the person attained the age of
43 18 years, the person may file a petition in the court where the person was convicted for
44 expunction of the offense from the person's criminal record. Except as provided in
45 G.S. 14-50.29 upon discharge and dismissal, the petition cannot be filed earlier than (i) two
46 years after the date of the conviction or (ii) the completion of any period of probation,
47 whichever occurs later. The petition shall contain, but not be limited to, the following:

- 48 (1) An affidavit by the petitioner that the petitioner has been of good behavior
49 (i) during the period of probation since the decision to defer further
50 proceedings on the offense in question pursuant to G.S. 14-50.29 or (ii)
51 during the two-year period since the date of conviction of the offense in

- 1 question, whichever applies, and has not been convicted of any felony or
2 misdemeanor other than a traffic or boating violation under the laws of the
3 United States or the laws of this State or any other state.
- 4 (2) Verified affidavits of two persons who are not related to the petitioner or to
5 each other by blood or marriage, that they know the character and reputation
6 of the petitioner in the community in which the petitioner lives, and that the
7 petitioner's character and reputation are good.
- 8 (3) If the petition is filed subsequent to conviction of the offense in question, a
9 statement that the petition is a motion in the cause in the case wherein the
10 petitioner was convicted.
- 11 (4) Repealed by Session Laws 2010-174, s. 4, effective October 1, 2010, and
12 applicable to petitions for expunctions filed on or after that date.
- 13 (4a) An application on a form approved by the Administrative Office of the
14 Courts requesting and authorizing a name-based State and national criminal
15 record check by the Department of Public Safety using any information
16 required by the Administrative Office of the Courts to identify the individual
17 and a search of the confidential record of expunctions maintained by the
18 Administrative Office of the Courts. The application shall be forwarded to
19 the Department of Public Safety and to the Administrative Office of the
20 Courts, which shall conduct the searches and report their findings to the
21 court.
- 22 (5) An affidavit by the petitioner that no restitution orders or civil judgments
23 representing amounts ordered for restitution entered against the petitioner
24 are outstanding.

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

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

31 (b) If the court, after hearing, finds that (i) the petitioner was dismissed and the
32 proceedings against the petitioner discharged pursuant to G.S. 14-50.29 and that the person had
33 not yet attained 18 years of age at the time of the offense or (ii) the petitioner has remained of
34 good behavior and been free of conviction of any felony or misdemeanor other than a traffic or
35 boating violation for two years from the date of conviction of the offense in question, the
36 petitioner has no outstanding restitution orders or civil judgments representing amounts ordered
37 for restitution entered against the petitioner, and the petitioner had not attained the age of 18
38 years at the time of the offense in question, it shall order that such person be restored, in the
39 contemplation of the law, to the status occupied by the petitioner before such arrest or
40 indictment or information, and that the record be expunged from the records of the court. No
41 person as to whom such order has been entered shall be held thereafter under any provision of
42 any laws to be guilty of perjury or otherwise giving a false statement by reason of the person's
43 failure to recite or acknowledge such arrest, or indictment or information, or trial, or response
44 to any inquiry made of the person for any purpose. The court shall also direct all law
45 enforcement agencies, the Division of Adult Correction of the Department of Public Safety, the
46 Division of Motor Vehicles, and any other State or local government agencies identified by the
47 petitioner as bearing record of the same to expunge their records of the petitioner's criminal
48 charge and any conviction resulting from the charge. The clerk shall notify State and local
49 agencies of the court's order as provided in G.S. 15A-150.

50"

51 **SECTION 4.** G.S. 15A-145.2 reads as rewritten:

1 **"§ 15A-145.2. Expunction of records for first offenders not over 21 years of age at the**
2 **time of the offense of certain drug offenses.**

3 (a) Whenever a person is discharged, and the proceedings against the person dismissed,
4 pursuant to G.S. 90-96(a) or (a1), and the person was not over 21 years of age at the time of the
5 offense, the person may apply to the court for an order to expunge from all official records,
6 other than the confidential files retained under G.S. 15A-151, all recordation relating to the
7 person's arrest, indictment or information, trial, finding of guilty, and dismissal and discharge
8 pursuant to this section. The applicant shall attach to the application the following:

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

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

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

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

45 ...

46 (c) Whenever any person who has not previously been convicted of (i) any felony
47 offense under any state or federal laws; (ii) any offense under Chapter 90 of the General
48 Statutes; or (iii) an offense under any statute of the United States or any state relating to
49 controlled substances included in any schedule of Chapter 90 of the General Statutes or to that
50 paraphernalia included in Article 5B of Chapter 90 of the General Statutes, pleads guilty to or
51 has been found guilty of a misdemeanor under Article 5 of Chapter 90 of the General Statutes

1 by possessing a controlled substance included within Schedules I through VI of Chapter 90, or
2 by possessing drug paraphernalia as prohibited by G.S. 90-113.22 or pleads guilty to or has
3 been found guilty of a felony under G.S. 90-95(a)(3), the court may, upon application of the
4 person not sooner than 12 months after conviction, order cancellation of the judgment of
5 conviction and expunction of the records of the person's arrest, indictment or information, trial,
6 and conviction. A conviction in which the judgment of conviction has been canceled and the
7 records expunged pursuant to this subsection shall not be thereafter deemed a conviction for
8 purposes of this subsection or for purposes of disqualifications or liabilities imposed by law
9 upon conviction of a crime, including the additional penalties imposed for second or
10 subsequent convictions of Article 5 of Chapter 90 of the General Statutes. Cancellation and
11 expunction under this subsection may occur only once with respect to any person. Disposition
12 of a case under this subsection at the district court division of the General Court of Justice shall
13 be final for the purpose of appeal.

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

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

42 The court shall also order all law enforcement agencies, the Department of Correction, the
43 Division of Motor Vehicles, and any other State or local agencies identified by the petitioner as
44 bearing records of the conviction and records relating thereto to expunge their records of the
45 conviction. The clerk shall notify State and local agencies of the court's order as provided in
46 G.S. 15A-150.

47"

48 **SECTION 5.** G.S. 15A-145.3 reads as rewritten:

49 **"§ 15A-145.3. Expunction of records for first offenders not over 21 years of age at the**
50 **time of the offense of certain toxic vapors offenses.**

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

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

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

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

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

42 ...

43 (c) Whenever any person who has not previously been convicted of an offense under
44 Article 5 or 5A of Chapter 90 of the General Statutes or under any statute of the United States
45 or any state relating to controlled substances included in any schedule of Article 5 of Chapter
46 90 of the General Statutes or to that paraphernalia included in Article 5B of Chapter 90 of the
47 General Statutes pleads guilty to or has been found guilty of a misdemeanor under Article 5A
48 of Chapter 90 of the General Statutes, the court may, upon application of the person not sooner
49 than 12 months after conviction, order cancellation of the judgment of conviction and
50 expunction of the records of the person's arrest, indictment or information, trial, and conviction.
51 A conviction in which the judgment of conviction has been cancelled and the records expunged

1 pursuant to this subsection shall not be thereafter deemed a conviction for purposes of this
2 subsection or for purposes of disqualifications or liabilities imposed by law upon conviction of
3 a crime, including the additional penalties imposed for second or subsequent convictions of
4 violation of Article 5A of Chapter 90 of the General Statutes. Cancellation and expunction
5 under this subsection may occur only once with respect to any person. Disposition of a case
6 under this subsection at the district court division of the General Court of Justice shall be final
7 for the purpose of appeal.

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

13 The judge to whom the petition is presented is authorized to call upon a probation officer
14 for additional investigation or verification of the petitioner's conduct since conviction. If the
15 court determines that the petitioner was convicted of a misdemeanor under Article 5A of
16 Chapter 90 of the General Statutes, or for possessing drug paraphernalia as prohibited by
17 G.S. 90-113.22, that the petitioner was not over 21 years of age at the time of the offense, that
18 the petitioner has been of good behavior since his or her conviction, that the petitioner has
19 successfully completed a drug education program approved for this purpose by the Department
20 of Health and Human Services, and that the petitioner has not been convicted of a felony or
21 misdemeanor other than a traffic or boating violation under the laws of this State at any time
22 prior to or since the conviction for the misdemeanor in question, it shall enter an order of
23 expunction of the petitioner's court record. The effect of such order shall be to restore the
24 petitioner in the contemplation of the law to the status he occupied before such arrest or
25 indictment or information or conviction. No person as to whom such order was entered shall be
26 held thereafter under any provision of any law to be guilty of perjury or otherwise giving a
27 false statement by reason of the person's failures to recite or acknowledge such arrest, or
28 indictment or information, or conviction, or trial in response to any inquiry made of him or her
29 for any purpose. The judge may waive the condition that the petitioner attend the drug
30 education school if the judge makes a specific finding that there was no drug education school
31 within a reasonable distance of the defendant's residence or that there were specific extenuating
32 circumstances which made it likely that the petitioner would not benefit from the program of
33 instruction.

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

36"

37 **SECTION 6.** G.S. 15A-145.4 reads as rewritten:

38 **"§ 15A-145.4. Expunction of records for first offenders who are under 18 years of age at**
39 **the time of the commission of a nonviolent felony.**

40 ...

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

- 1 (1) An affidavit by the petitioner that the petitioner has been of good moral
2 character since the date of conviction of the nonviolent felony in question
3 and has not been convicted of any other felony or any misdemeanor other
4 than a traffic or boating violation under the laws of the United States or the
5 laws of this State or any other state.
- 6 (2) Verified affidavits of two persons who are not related to the petitioner or to
7 each other by blood or marriage, that they know the character and reputation
8 of the petitioner in the community in which the petitioner lives and that the
9 petitioner's character and reputation are good.
- 10 (3) A statement that the petition is a motion in the cause in the case wherein the
11 petitioner was convicted.
- 12 (4) An application on a form approved by the Administrative Office of the
13 Courts requesting and authorizing (i) a State and national criminal history
14 record check by the Department of Public Safety using any information
15 required by the Administrative Office of the Courts to identify the
16 individual; (ii) a search by the Department of Public Safety for any
17 outstanding warrants or pending criminal cases; and (iii) a search of the
18 confidential record of expunctions maintained by the Administrative Office
19 of the Courts. The application shall be forwarded to the Department of
20 Public Safety and to the Administrative Office of the Courts, which shall
21 conduct the searches and report their findings to the court.
- 22 (5) An affidavit by the petitioner that no restitution orders or civil judgments
23 representing amounts ordered for restitution entered against the petitioner
24 are outstanding.
- 25 (6) An affidavit by the petitioner that the petitioner has performed at least 100
26 hours of community service since the conviction for the nonviolent felony.
27 The affidavit shall include a list of the community services performed, a list
28 of the recipients of the services, and a detailed description of those services.
- 29 (7) An affidavit by the petitioner that the petitioner possesses a high school
30 diploma, a high school graduation equivalency certificate, or a General
31 Education Development degree.

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

37 ...

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

- 41 (1) The petitioner has remained of good moral character and has been free of
42 conviction of any felony or misdemeanor, other than a traffic or boating
43 violation, for four years from the date of conviction of the nonviolent felony
44 in question or any active sentence, period of probation, or post-release
45 supervision has been served, whichever is later.
- 46 (2) The petitioner has not previously been convicted of any felony or
47 misdemeanor other than a traffic or boating violation under the laws of the
48 United States or the laws of this State or any other state.
- 49 (3) The petitioner has no outstanding warrants or pending criminal cases.
- 50 (4) The petitioner has no outstanding restitution orders or civil judgments
51 representing amounts ordered for restitution entered against the petitioner.

- 1 (5) The petitioner was less than 18 years old at the time of the commission of
- 2 the offense in question.
- 3 (6) The petitioner has performed at least 100 hours of community service since
- 4 the time of the conviction and possesses a high school diploma, a high
- 5 school graduation equivalency certificate, or a General Education
- 6 Development degree.
- 7 (7) The search of the confidential records of expunctions conducted by the
- 8 Administrative Office of the Courts shows that the petitioner has not been
- 9 previously granted an expunction.

10 "

SECTION 7. G.S. 15A-145.6(f) reads as rewritten:

11 "(f) The court shall order that the person be restored, in the contemplation of the law, to
12 the status the person occupied before the arrest or indictment or information if the court finds
13 all of the following after a hearing:

- 14 (1) The criteria set out in subsection (b) of this section are satisfied.
- 15 (2) The petitioner has remained of good moral character and has been free of
- 16 conviction of any felony or misdemeanor, other than a traffic or boating
- 17 violation, since the date of conviction of the prostitution offense in question.
- 18 (3) The petitioner has no outstanding warrants or pending criminal cases.
- 19 (4) The petitioner has no outstanding restitution orders or civil judgments
- 20 representing amounts ordered for restitution entered against the petitioner.
- 21 (5) The search of the confidential records of expunctions conducted by the
- 22 Administrative Office of the Courts shows that the petitioner has not been
- 23 previously granted an expunction, other than an expunction for a prostitution
- 24 offense.

25 "

SECTION 8. This act is effective when it becomes law.

26
27