

GENERAL ASSEMBLY OF NORTH CAROLINA
SESSION 2009

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HOUSE BILL 1445
Committee Substitute Favorable 7/13/09

Short Title: Reform Bill of 2009.

(Public)

Sponsors:

Referred to:

April 13, 2009

A BILL TO BE ENTITLED

AN ACT TO RESTRUCTURE THE PRIOR RECORD LEVEL POINT RANGES IN STRUCTURED SENTENCING IN ORDER TO EXPAND THE POINTS IN PRIOR RECORD LEVEL I AND TO EVEN OUT THE REMAINING RANGES; TO MAKE THE INCREASE IN SENTENCE LENGTHS BETWEEN PRIOR RECORD LEVELS MORE PROPORTIONATE USING A SET PERCENTAGE INCREMENT; TO INCREASE THE PERIOD OF POST-RELEASE SUPERVISION FROM NINE MONTHS TO TWELVE MONTHS, TO RECLASSIFY STATUTORY RAPE OR SEXUAL OFFENSE OF A PERSON WHO IS FIFTEEN YEARS OLD BY A DEFENDANT WHO IS MORE THAN FOUR YEARS BUT LESS THAN SIX YEARS OLDER AS A CLASS F FELONY; TO PROVIDE FOR THE EXPUNCTION OF CONVICTIONS FOR CERTAIN CRIMINAL OFFENSES; TO MODIFY THE AGE REQUIREMENTS OF CERTAIN EXPUNCTIONS TO BE THE AGE AT THE TIME OF THE OFFENSE RATHER THAN THE AGE AT THE TIME OF CONVICTION; TO MAKE CONFORMING CHANGES TO EXISTING EXPUNCTION STATUTES; AND TO REQUIRE STATE AND NATIONAL CRIMINAL RECORD CHECKS WHEN EXPUNGING RECORDS.

The General Assembly of North Carolina enacts:

PART I. RESTRUCTURE PRIOR CRIMINAL RECORD POINTS AND SENTENCE LENGTHS FOR STRUCTURED SENTENCING

SECTION 1. G.S. 15A-1340.14(c) reads as rewritten:

"(c) Prior Record Levels for Felony Sentencing. – The prior record levels for felony sentencing are:

- (1) Level I – ~~0 points.~~ Not more than 1 point.
- (2) Level II – At least ~~1,2,~~ but not more than ~~4 points.~~ 5 points.
- (3) Level III – At least ~~5,6,~~ but not more than ~~8 points.~~ 9 points.
- (4) Level IV – At least ~~9,10,~~ but not more than ~~14 points.~~ 13 points.
- (5) Level V – At least ~~15,14,~~ but not more than ~~18 points.~~ 17 points.
- (6) Level VI – At least ~~19 points.~~ 18 points.

In determining the prior record level, the classification of a prior offense is the classification assigned to that offense at the time the offense for which the offender is being sentenced is committed."

SECTION 2. G.S. 15A-1340.17 reads as rewritten:

"§ 15A-1340.17. Punishment limits for each class of offense and prior record level.



(a) Offense Classification; Default Classifications. – The offense classification is as specified in the offense for which the sentence is being imposed. If the offense is a felony for which there is no classification, it is a Class I felony.

(b) Fines. – Any judgment that includes a sentence of imprisonment may also include a fine. If a community punishment is authorized, the judgment may consist of a fine only. Additionally, when the defendant is other than an individual, the judgment may consist of a fine only. Unless otherwise provided, the amount of the fine is in the discretion of the court.

(c) Punishments for Each Class of Offense and Prior Record Level; Punishment Chart Described. – The authorized punishment for each class of offense and prior record level is as specified in the chart below. Prior record levels are indicated by the Roman numerals placed horizontally on the top of the chart. Classes of offense are indicated by the letters placed vertically on the left side of the chart. Each cell on the chart contains the following components:

- (1) A sentence disposition or dispositions: "C" indicates that a community punishment is authorized; "I" indicates that an intermediate punishment is authorized; "A" indicates that an active punishment is authorized; and "Life Imprisonment Without Parole" indicates that the defendant shall be imprisoned for the remainder of the prisoner's natural life.
- (2) A presumptive range of minimum durations, if the sentence of imprisonment is neither aggravated or mitigated; any minimum term of imprisonment in that range is permitted unless the court finds pursuant to G.S. 15A-1340.16 that an aggravated or mitigated sentence is appropriate. The presumptive range is the middle of the three ranges in the cell.
- (3) A mitigated range of minimum durations if the court finds pursuant to G.S. 15A-1340.16 that a mitigated sentence of imprisonment is justified; in such a case, any minimum term of imprisonment in the mitigated range is permitted. The mitigated range is the lower of the three ranges in the cell.
- (4) An aggravated range of minimum durations if the court finds pursuant to G.S. 15A-1340.16 that an aggravated sentence of imprisonment is justified; in such a case, any minimum term of imprisonment in the aggravated range is permitted. The aggravated range is the higher of the three ranges in the cell.

PRIOR RECORD LEVEL

	I	II	III	IV	V	VI	
	0 Pts	1-4 Pts	5-8 Pts	9-14 Pts	15-18 Pts	19+ Pts	
	0-1 Pt	2-5 Pts	6-9 Pts	10-13 Pts	14-17 Pts	18+ Pts	
A	Life Imprisonment Without Parole or Death as Established by Statute						
	A	A	A	A	A	A	DISPOSITION
	240-300	288-360	336-420	384-480	Life Imprisonment Without Parole		Aggravated
B1	192-240	230-288	269-336	307-384	346-433	384-480	PRESUMPTIVE
	144-192	173-230	202-269	230-307	260-346	288-384	Mitigated
	<u>237-297</u>	<u>273-342</u>	<u>314-394</u>	<u>362-453</u>	Life Imprisonment Without Parole		Aggravated
B1	<u>189-237</u>	<u>218-273</u>	<u>251-314</u>	<u>289-362</u>	<u>333-417</u>	<u>383-480</u>	PRESUMPTIVE
	<u>141-189</u>	<u>163-218</u>	<u>187-251</u>	<u>216-289</u>	<u>249-333</u>	<u>287-383</u>	Mitigated
	A	A	A	A	A	A	DISPOSITION
	157-196	189-237	220-276	251-313	282-353	313-392	Aggravated
B2	125-157	151-189	176-220	201-251	225-282	251-313	PRESUMPTIVE

1		<u>94-125</u>	<u>114-151</u>	<u>132-176</u>	<u>151-201</u>	<u>169-225</u>	<u>188-251</u>	Mitigated
2		<u>154-193</u>	<u>177-222</u>	<u>204-255</u>	<u>235-294</u>	<u>270-339</u>	<u>311-390</u>	Aggravated
3	<u>B2</u>	<u>122-154</u>	<u>141-177</u>	<u>162-204</u>	<u>187-235</u>	<u>216-270</u>	<u>248-311</u>	PRESUMPTIVE
4		<u>91-122</u>	<u>105-141</u>	<u>121-162</u>	<u>140-187</u>	<u>161-216</u>	<u>186-248</u>	Mitigated
5		A	A	A	A	A	A	DISPOSITION
6		<u>73-92</u>	<u>100-125</u>	<u>116-145</u>	<u>133-167</u>	<u>151-188</u>	<u>168-210</u>	Aggravated
7	<u>C</u>	<u>58-73</u>	<u>80-100</u>	<u>93-116</u>	<u>107-133</u>	<u>121-151</u>	<u>135-168</u>	PRESUMPTIVE
8		<u>44-58</u>	<u>60-80</u>	<u>70-93</u>	<u>80-107</u>	<u>90-121</u>	<u>101-135</u>	Mitigated
9		<u>70-89</u>	<u>80-101</u>	<u>93-117</u>	<u>107-135</u>	<u>124-156</u>	<u>143-179</u>	Aggravated
10	<u>C</u>	<u>55-70</u>	<u>64-80</u>	<u>74-93</u>	<u>85-107</u>	<u>98-124</u>	<u>114-143</u>	PRESUMPTIVE
11		<u>41-55</u>	<u>47-64</u>	<u>55-74</u>	<u>63-85</u>	<u>73-98</u>	<u>84-114</u>	Mitigated
12		A	A	A	A	A	A	DISPOSITION
13		<u>64-80</u>	<u>77-95</u>	<u>103-129</u>	<u>117-146</u>	<u>133-167</u>	<u>146-183</u>	Aggravated
14	<u>D</u>	<u>51-64</u>	<u>61-77</u>	<u>82-103</u>	<u>94-117</u>	<u>107-133</u>	<u>117-146</u>	PRESUMPTIVE
15		<u>38-51</u>	<u>46-61</u>	<u>61-82</u>	<u>71-94</u>	<u>80-107</u>	<u>88-117</u>	Mitigated
16		<u>61-77</u>	<u>70-89</u>	<u>81-102</u>	<u>94-118</u>	<u>108-136</u>	<u>125-157</u>	Aggravated
17	<u>D</u>	<u>48-61</u>	<u>56-70</u>	<u>64-81</u>	<u>75-94</u>	<u>86-108</u>	<u>100-125</u>	PRESUMPTIVE
18		<u>35-48</u>	<u>41-56</u>	<u>48-64</u>	<u>55-75</u>	<u>64-86</u>	<u>74-100</u>	Mitigated
19		I/A	I/A	A	A	A	A	DISPOSITION
20		<u>25-31</u>	<u>29-36</u>	<u>34-42</u>	<u>46-58</u>	<u>53-66</u>	<u>59-74</u>	Aggravated
21	<u>E</u>	<u>20-25</u>	<u>23-29</u>	<u>27-34</u>	<u>37-46</u>	<u>42-53</u>	<u>47-59</u>	PRESUMPTIVE
22		<u>15-20</u>	<u>17-23</u>	<u>20-27</u>	<u>28-37</u>	<u>32-42</u>	<u>35-47</u>	Mitigated
23		<u>22-28</u>	<u>26-33</u>	<u>30-38</u>	<u>35-45</u>	<u>41-52</u>	<u>47-60</u>	Aggravated
24	<u>E</u>	<u>17-22</u>	<u>20-26</u>	<u>23-30</u>	<u>27-35</u>	<u>32-41</u>	<u>37-47</u>	PRESUMPTIVE
25		<u>12-17</u>	<u>14-20</u>	<u>17-23</u>	<u>20-27</u>	<u>23-32</u>	<u>27-37</u>	Mitigated
26		I/A	I/A	I/A	A	A	A	DISPOSITION
27		<u>16-20</u>	<u>19-24</u>	<u>21-26</u>	<u>25-31</u>	<u>34-42</u>	<u>39-49</u>	Aggravated
28	<u>F</u>	<u>13-16</u>	<u>15-19</u>	<u>17-21</u>	<u>20-25</u>	<u>27-34</u>	<u>31-39</u>	PRESUMPTIVE
29		<u>10-13</u>	<u>11-15</u>	<u>13-17</u>	<u>15-20</u>	<u>20-27</u>	<u>23-31</u>	Mitigated
30		<u>16-20</u>	<u>19-23</u>	<u>21-27</u>	<u>25-31</u>	<u>28-36</u>	<u>33-41</u>	Aggravated
31	<u>F</u>	<u>13-16</u>	<u>15-19</u>	<u>17-21</u>	<u>20-25</u>	<u>23-28</u>	<u>26-33</u>	PRESUMPTIVE
32		<u>10-13</u>	<u>11-15</u>	<u>13-17</u>	<u>15-20</u>	<u>17-23</u>	<u>20-26</u>	Mitigated
33		I/A	I/A	I/A	I/A	A	A	DISPOSITION
34		<u>13-16</u>	<u>15-19</u>	<u>16-20</u>	<u>20-25</u>	<u>21-26</u>	<u>29-36</u>	Aggravated
35	<u>G</u>	<u>10-13</u>	<u>12-15</u>	<u>13-16</u>	<u>16-20</u>	<u>17-21</u>	<u>23-29</u>	PRESUMPTIVE
36		<u>8-10</u>	<u>9-12</u>	<u>10-13</u>	<u>12-16</u>	<u>13-17</u>	<u>17-23</u>	Mitigated
37		<u>13-16</u>	<u>14-18</u>	<u>17-21</u>	<u>19-24</u>	<u>22-27</u>	<u>25-31</u>	Aggravated
38	<u>G</u>	<u>10-13</u>	<u>12-14</u>	<u>13-17</u>	<u>15-19</u>	<u>17-22</u>	<u>20-25</u>	PRESUMPTIVE
39		<u>8-10</u>	<u>9-12</u>	<u>10-13</u>	<u>11-15</u>	<u>13-17</u>	<u>15-20</u>	Mitigated
40		C/I/A	I/A	I/A	I/A	I/A	A	DISPOSITION
41		<u>6-8</u>	<u>8-10</u>	<u>10-12</u>	<u>11-14</u>	<u>15-19</u>	<u>20-25</u>	Aggravated
42	<u>H</u>	<u>5-6</u>	<u>6-8</u>	<u>8-10</u>	<u>9-11</u>	<u>12-15</u>	<u>16-20</u>	PRESUMPTIVE
43		<u>4-5</u>	<u>4-6</u>	<u>6-8</u>	<u>7-9</u>	<u>9-12</u>	<u>12-16</u>	Mitigated
44		C	C/I	I	I/A	I/A	I/A	DISPOSITION
45		<u>6-8</u>	<u>6-8</u>	<u>6-8</u>	<u>8-10</u>	<u>9-11</u>	<u>10-12</u>	Aggravated
46	<u>I</u>	<u>4-6</u>	<u>4-6</u>	<u>5-6</u>	<u>6-8</u>	<u>7-9</u>	<u>8-10</u>	PRESUMPTIVE
47		<u>3-4</u>	<u>3-4</u>	<u>4-5</u>	<u>4-6</u>	<u>5-7</u>	<u>6-8</u>	Mitigated

48 (d) Maximum Sentences Specified for Class F through Class I Felonies. – Unless
 49 provided otherwise in a statute establishing a punishment for a specific crime, for each
 50 minimum term of imprisonment in the chart in subsection (c) of this section, expressed in

1 months, the corresponding maximum term of imprisonment, also expressed in months, is
 2 specified in the table below for Class F through Class I felonies. The first figure in each cell in
 3 the table is the minimum term and the second is the maximum term.

4								
5	3-4	4-5	5-6	6-8	7-9	8-10	9-11	10-12
6	11-14	12-15	13-16	14-17	15-18	16-20	17-21	18-22
7	19-23	20-24	21-26	22-27	23-28	24-29	25-30	26-32
8	27-33	28-34	29-35	30-36	31-38	32-39	33-40	34-41
9	35-42	36-44	37-45	38-46	39-47	40-48	41-50	42-51
10	43-52	44-53	45-54	46-56	47-57	48-58	49-59	

11
 12 (e) Maximum Sentences Specified for Class B1 through Class E Felonies for Minimum
 13 Terms up to 339 Months. – Unless provided otherwise in a statute establishing a punishment
 14 for a specific crime, for each minimum term of imprisonment in the chart in subsection (c) of
 15 this section, expressed in months, the corresponding maximum term of imprisonment, also
 16 expressed in months, is as specified in the table below for Class B1 through Class E felonies.
 17 The first figure in each cell of the table is the minimum term and the second is the maximum
 18 term.

19								
20	15-27	16-29	17-30	18-31	19-32	20-33	21-35	22-36
21	23-37	24-38	25-39	26-41	27-42	28-43	29-44	30-45
22	31-47	32-48	33-49	34-50	35-51	36-53	37-54	38-55
23	39-56	40-57	41-59	42-60	43-61	44-62	45-63	46-65
24	47-66	48-67	49-68	50-69	51-71	52-72	53-73	54-74
25	55-75	56-77	57-78	58-79	59-80	60-81	61-83	62-84
26	63-85	64-86	65-87	66-89	67-90	68-91	69-92	70-93
27	71-95	72-96	73-97	74-98	75-99	76-101	77-102	78-103
28	79-104	80-105	81-107	82-108	83-109	84-110	85-111	86-113
29	87-114	88-115	89-116	90-117	91-119	92-120	93-121	94-122
30	95-123	96-125	97-126	98-127	99-128	100-129	101-131	102-132
31	103-133	104-134	105-135	106-137	107-138	108-139	109-140	110-141
32	111-143	112-144	113-145	114-146	115-147	116-149	117-150	118-151
33	119-152	120-153	121-155	122-156	123-157	124-158	125-159	126-161
34	127-162	128-163	129-164	130-165	131-167	132-168	133-169	134-170
35	135-171	136-173	137-174	138-175	139-176	140-177	141-179	142-180
36	143-181	144-182	145-183	146-185	147-186	148-187	149-188	150-189
37	151-191	152-192	153-193	154-194	155-195	156-197	157-198	158-199
38	159-200	160-201	161-203	162-204	163-205	164-206	165-207	166-209
39	167-210	168-211	169-212	170-213	171-215	172-216	173-217	174-218
40	175-219	176-221	177-222	178-223	179-224	180-225	181-227	182-228
41	183-229	184-230	185-231	186-233	187-234	188-235	189-236	190-237
42	191-239	192-240	193-241	194-242	195-243	196-245	197-246	198-247
43	199-248	200-249	201-251	202-252	203-253	204-254	205-255	206-257
44	207-258	208-259	209-260	210-261	211-263	212-264	213-265	214-266
45	215-267	216-269	217-270	218-271	219-272	220-273	221-275	222-276
46	223-277	224-278	225-279	226-281	227-282	228-283	229-284	230-285
47	231-287	232-288	233-289	234-290	235-291	236-293	237-294	238-295
48	239-296	240-297	241-299	242-300	243-301	244-302	245-303	246-305
49	247-306	248-307	249-308	250-309	251-311	252-312	253-313	254-314
50	255-315	256-317	257-318	258-319	259-320	260-321	261-323	262-324
51	263-325	264-326	265-327	266-329	267-330	268-331	269-332	270-333

1	271-335	272-336	273-337	274-338	275-339	276-341	277-342	278-343
2	279-344	280-345	281-347	282-348	283-349	284-350	285-351	286-353
3	287-354	288-355	289-356	290-357	291-359	292-360	293-361	294-362
4	295-363	296-365	297-366	298-367	299-368	300-369	301-371	302-372
5	303-373	304-374	305-375	306-377	307-378	308-379	309-380	310-381
6	311-383	312-384	313-385	314-386	315-387	316-389	317-390	318-391
7	319-392	320-393	321-395	322-396	323-397	324-398	325-399	326-401
8	327-402	328-403	329-404	330-405	331-407	332-408	333-409	334-410
9	335-411	336-413	337-414	338-415	339-416			
10	<u>20-36</u>	<u>21-38</u>	<u>22-39</u>	<u>23-40</u>	<u>24-41</u>	<u>25-42</u>	<u>26-44</u>	<u>27-45</u>
11	<u>28-46</u>	<u>29-47</u>	<u>30-48</u>	<u>31-50</u>	<u>32-51</u>	<u>33-52</u>	<u>34-53</u>	<u>35-54</u>
12	<u>36-56</u>	<u>37-57</u>	<u>38-58</u>	<u>39-59</u>	<u>40-60</u>	<u>41-62</u>	<u>42-63</u>	<u>43-64</u>
13	<u>44-65</u>	<u>45-66</u>	<u>46-68</u>	<u>47-69</u>	<u>48-70</u>	<u>49-71</u>	<u>50-72</u>	<u>51-74</u>
14	<u>52-75</u>	<u>53-76</u>	<u>54-77</u>	<u>55-78</u>	<u>56-80</u>	<u>57-81</u>	<u>58-82</u>	<u>59-83</u>
15	<u>60-84</u>	<u>61-86</u>	<u>62-87</u>	<u>63-88</u>	<u>64-89</u>	<u>65-90</u>	<u>66-92</u>	<u>67-93</u>
16	<u>68-94</u>	<u>69-95</u>	<u>70-96</u>	<u>71-98</u>	<u>72-99</u>	<u>73-100</u>	<u>74-101</u>	<u>75-102</u>
17	<u>76-104</u>	<u>77-105</u>	<u>78-106</u>	<u>79-107</u>	<u>80-108</u>	<u>81-110</u>	<u>82-111</u>	<u>83-112</u>
18	<u>84-113</u>	<u>85-114</u>	<u>86-116</u>	<u>87-117</u>	<u>88-118</u>	<u>89-119</u>	<u>90-120</u>	<u>91-122</u>
19	<u>92-123</u>	<u>93-124</u>	<u>94-125</u>	<u>95-126</u>	<u>96-128</u>	<u>97-129</u>	<u>98-130</u>	<u>99-131</u>
20	<u>100-132</u>	<u>101-134</u>	<u>102-135</u>	<u>103-136</u>	<u>104-137</u>	<u>105-138</u>	<u>106-140</u>	<u>107-141</u>
21	<u>108-142</u>	<u>109-143</u>	<u>110-144</u>	<u>111-146</u>	<u>112-147</u>	<u>113-148</u>	<u>114-149</u>	<u>115-150</u>
22	<u>116-152</u>	<u>117-153</u>	<u>118-154</u>	<u>119-155</u>	<u>120-156</u>	<u>121-158</u>	<u>122-159</u>	<u>123-160</u>
23	<u>124-161</u>	<u>125-162</u>	<u>126-164</u>	<u>127-165</u>	<u>128-166</u>	<u>129-167</u>	<u>130-168</u>	<u>131-170</u>
24	<u>132-171</u>	<u>133-172</u>	<u>134-173</u>	<u>135-174</u>	<u>136-176</u>	<u>137-177</u>	<u>138-178</u>	<u>139-179</u>
25	<u>140-180</u>	<u>141-182</u>	<u>142-183</u>	<u>143-184</u>	<u>144-185</u>	<u>145-186</u>	<u>146-188</u>	<u>147-189</u>
26	<u>148-190</u>	<u>149-191</u>	<u>150-192</u>	<u>151-194</u>	<u>152-195</u>	<u>153-196</u>	<u>154-197</u>	<u>155-198</u>
27	<u>156-200</u>	<u>157-201</u>	<u>158-202</u>	<u>159-203</u>	<u>160-204</u>	<u>161-206</u>	<u>162-207</u>	<u>163-208</u>
28	<u>164-209</u>	<u>165-210</u>	<u>166-212</u>	<u>167-213</u>	<u>168-214</u>	<u>169-215</u>	<u>170-216</u>	<u>171-218</u>
29	<u>172-219</u>	<u>173-220</u>	<u>174-221</u>	<u>175-222</u>	<u>176-224</u>	<u>177-225</u>	<u>178-226</u>	<u>179-227</u>
30	<u>180-228</u>	<u>181-230</u>	<u>182-231</u>	<u>183-232</u>	<u>184-233</u>	<u>185-234</u>	<u>186-236</u>	<u>187-237</u>
31	<u>188-238</u>	<u>189-239</u>	<u>190-240</u>	<u>191-242</u>	<u>192-243</u>	<u>193-244</u>	<u>194-245</u>	<u>195-246</u>
32	<u>196-248</u>	<u>197-249</u>	<u>198-250</u>	<u>199-251</u>	<u>200-252</u>	<u>201-254</u>	<u>202-255</u>	<u>203-256</u>
33	<u>204-257</u>	<u>205-258</u>	<u>206-260</u>	<u>207-261</u>	<u>208-262</u>	<u>209-263</u>	<u>210-264</u>	<u>211-266</u>
34	<u>212-267</u>	<u>213-268</u>	<u>214-269</u>	<u>215-270</u>	<u>216-272</u>	<u>217-273</u>	<u>218-274</u>	<u>219-275</u>
35	<u>220-276</u>	<u>221-278</u>	<u>222-279</u>	<u>223-280</u>	<u>224-281</u>	<u>225-282</u>	<u>226-284</u>	<u>227-285</u>
36	<u>228-286</u>	<u>229-287</u>	<u>230-288</u>	<u>231-290</u>	<u>232-291</u>	<u>233-292</u>	<u>234-293</u>	<u>235-294</u>
37	<u>236-296</u>	<u>237-297</u>	<u>238-298</u>	<u>239-299</u>	<u>240-300</u>	<u>241-302</u>	<u>242-303</u>	<u>243-304</u>
38	<u>244-305</u>	<u>245-306</u>	<u>246-308</u>	<u>247-309</u>	<u>248-310</u>	<u>249-311</u>	<u>250-312</u>	<u>251-314</u>
39	<u>252-315</u>	<u>253-316</u>	<u>254-317</u>	<u>255-318</u>	<u>256-320</u>	<u>257-321</u>	<u>258-322</u>	<u>259-323</u>
40	<u>260-324</u>	<u>261-326</u>	<u>262-327</u>	<u>263-328</u>	<u>264-329</u>	<u>265-330</u>	<u>266-332</u>	<u>267-333</u>
41	<u>268-334</u>	<u>269-335</u>	<u>270-336</u>	<u>271-338</u>	<u>272-339</u>	<u>273-340</u>	<u>274-341</u>	<u>275-342</u>
42	<u>276-344</u>	<u>277-345</u>	<u>278-346</u>	<u>279-347</u>	<u>280-348</u>	<u>281-350</u>	<u>282-351</u>	<u>283-352</u>
43	<u>284-353</u>	<u>285-354</u>	<u>286-356</u>	<u>287-357</u>	<u>288-358</u>	<u>289-359</u>	<u>290-360</u>	<u>291-362</u>
44	<u>292-363</u>	<u>293-364</u>	<u>294-365</u>	<u>295-366</u>	<u>296-368</u>	<u>297-369</u>	<u>298-370</u>	<u>299-371</u>
45	<u>300-372</u>	<u>301-374</u>	<u>302-375</u>	<u>303-376</u>	<u>304-377</u>	<u>305-378</u>	<u>306-380</u>	<u>307-381</u>
46	<u>308-382</u>	<u>309-383</u>	<u>310-384</u>	<u>311-386</u>	<u>312-387</u>	<u>313-388</u>	<u>314-389</u>	<u>315-390</u>
47	<u>316-392</u>	<u>317-393</u>	<u>318-394</u>	<u>319-395</u>	<u>320-396</u>	<u>321-398</u>	<u>322-399</u>	<u>323-400</u>
48	<u>324-401</u>	<u>325-402</u>	<u>326-404</u>	<u>327-405</u>	<u>328-406</u>	<u>329-407</u>	<u>330-408</u>	<u>331-410</u>
49	<u>332-411</u>	<u>333-412</u>	<u>334-413</u>	<u>335-414</u>	<u>336-416</u>	<u>337-417</u>	<u>338-418</u>	<u>339-419</u>
50								

1 (e1) Maximum Sentences Specified for Class B1 through Class E Felonies for Minimum
2 Terms of 340 Months or More. – Unless provided otherwise in a statute establishing a
3 punishment for a specific crime, when the minimum sentence is 340 months or more, the
4 corresponding maximum term of imprisonment shall be equal to the sum of the minimum term
5 of imprisonment and twenty percent (20%) of the minimum term of imprisonment, rounded to
6 the next highest month, plus ~~nine~~twelve additional months."
7

8 **PART II. INCREASE POST-RELEASE SUPERVISION PERIOD TO TWELVE** 9 **MONTHS**

10 **SECTION 3.** G.S. 15A-1368(a)(5) reads as rewritten:

11 "(5) Maximum imposed term. – The maximum term of imprisonment imposed on
12 an individual prisoner by a court judgment, as described in
13 G.S. 15A-1340.13(c). When a prisoner is serving consecutive prison terms,
14 the maximum imposed term, for purposes of this Article, is the sum of all
15 maximum terms imposed in the court judgment or judgments, less ~~nine~~12
16 months for each of the second and subsequent sentences imposed for Class B
17 through Class E felonies."

18 **SECTION 4.** G.S. 15A-1368.2 reads as rewritten:

19 **"§ 15A-1368.2. Post-release supervision eligibility and procedure.**

20 (a) A prisoner to whom this Article applies shall be released from prison for
21 post-release supervision on the date equivalent to his maximum imposed prison term less ~~nine~~
22 12 months, less any earned time awarded by the Department of Correction or the custodian of a
23 local confinement facility under G.S. 15A-1340.13(d). If a prisoner has not been awarded any
24 earned time, the prisoner shall be released for post-release supervision on the date equivalent to
25 his maximum prison term less ~~nine~~12 months.

26 (b) A prisoner shall not refuse post-release supervision.

27 (c) A supervisee's period of post-release supervision shall be for a period of ~~nine~~12
28 months, unless the offense is an offense for which registration is required pursuant to Article
29 27A of Chapter 14 of the General Statutes. For offenses subject to the registration requirement
30 of Article 27A of Chapter 14 of the General Statutes, the period of post-release supervision is
31 five years. The conditions of post-release supervision are as authorized in G.S. 15A-1368.5.

32 (c1) Notwithstanding subsection (c) of this section, a person required to submit to
33 satellite-based monitoring pursuant to G.S. 15A-1368.4(b1)(6) shall continue to participate in
34 satellite-based monitoring beyond the period of post-release supervision until the Commission
35 releases the person from that requirement pursuant to G.S. 14-208.43.

36 (d) A supervisee's period of post-release supervision may be reduced while the
37 supervisee is under supervision by earned time awarded by the Department of Correction,
38 pursuant to rules adopted in accordance with law. A supervisee is eligible to receive earned
39 time credit toward the period of supervision for compliance with reintegrative conditions
40 described in G.S. 15A-1368.5.

41 (e) Repealed by Session Laws 1997-237, s. 7.

42 (f) When a supervisee completes the period of post-release supervision, the sentence or
43 sentences from which the supervisee was placed on post-release supervision are terminated."
44

45 **PART III. RECLASSIFY STATUTORY RAPE OR SEXUAL OFFENSE OF A PERSON** 46 **WHO IS 15 YEARS OLD**

47 **SECTION 5.** G.S. 14-27.7A reads as rewritten:

48 **"§ 14-27.7A. Statutory rape or sexual offense of person who is 13, 14, or 15 years old.**

49 (a) A defendant is guilty of a Class B1 felony if the defendant engages in vaginal
50 intercourse or a sexual act with another person who is 13, 14, or 15 years old and the defendant

1 is at least six years older than the person, except when the defendant is lawfully married to the
2 person.

3 (b) A defendant is guilty of a Class C felony if the defendant engages in vaginal
4 intercourse or a sexual act with another person who is ~~13, 14, or 15~~ 13 or 14 years old and the
5 defendant is more than four but less than six years older than the person, except when the
6 defendant is lawfully married to the person.

7 (c) A defendant is guilty of a Class F felony if the defendant engages in vaginal
8 intercourse or a sexual act with another person who is 15 years old and the defendant is more
9 than four but less than six years older than the person, except when the defendant is lawfully
10 married to the person."

11 12 **PART IV. EXPUNGE CERTAIN CRIMES**

13 **SECTION 6.** Article 5 of Chapter 15A of the General Statutes is amended by
14 adding a new section to read:

15 **"§ 15A-150. Expunction of records for convictions of certain criminal offenses if**
16 **petitioner's citizenship rights have been restored and there are no subsequent**
17 **criminal convictions for at least 10 years.**

18 (a) The following definitions apply in this section:

19 (1) Criminal offense. – A misdemeanor, Class H felony, or Class I felony;
20 however, the term does not include any of the following:

21 a. An offense that includes assault as an essential element of the
22 offense, other than a violation of G.S. 14-33(a) or (b).

23 b. An offense for which the offender must register under Article 27A of
24 Chapter 14 of the General Statutes.

25 c. An offense that includes the possession or use of a firearm as an
26 essential element of the offense.

27 d. An offense for which the offender was armed with or used a firearm.

28 e. An offense that is trafficking under G.S. 90-95(h).

29 f. An offense that is a breaking or entering offense that involves a
30 residence or dwelling.

31 (2) Traffic violation. – The term does not include felony speeding to elude arrest
32 nor does it include misdemeanor or felony vehicular homicide.

33 (b) A person who was convicted of a criminal offense may petition the court in which
34 the person was convicted to expunge the criminal offense from the person's criminal record if
35 all of the following criteria are met:

36 (1) With the exception of the criminal offense for which the petition has been
37 filed, the person has never been convicted of any felony or misdemeanor
38 other than a traffic violation under the laws of the United States, the laws of
39 this State, or the laws of any other state.

40 (2) The person has no pending felony or misdemeanor charges other than a
41 traffic violation in federal court, a court of this State, or any other state court.

42 (3) The person has no outstanding restitution orders or civil judgments
43 representing amounts ordered for restitution entered against him or her.

44 (4) The person has no previous expunction under this section.

45 (5) The person's citizenship rights have been restored pursuant to Chapter 13 of
46 the General Statutes for a period of at least 10 years.

47 (c) A petition to expunge a criminal offense under this section shall not be filed earlier
48 than 10 years after the date that the person's citizenship rights have been restored pursuant to
49 Chapter 13 of the General Statutes. The petition shall contain the following:

50 (1) An affidavit by the petitioner that the petitioner's citizenship rights have
51 been restored pursuant to Chapter 13 of the General Statutes and that the

1 petitioner has been of good behavior for the 10-year period since the
2 restoration of the petitioner's citizenship rights and has not been convicted of
3 any felony or misdemeanor other than a traffic violation under the laws of
4 the United States or the laws of this State or any other state.

5 (2) Verified affidavits of two persons who are not related to the petitioner or to
6 each other by blood or marriage, that they know the character and reputation
7 of the petitioner in the community in which the petitioner lives, and that the
8 person's character and reputation are good.

9 (3) A statement that the petition is a motion in the cause in the case wherein the
10 petitioner was convicted.

11 (4) An application on a form approved by the Administrative Office of the
12 Courts requesting and authorizing a State and national criminal history
13 record check by the Department of Justice using any information required by
14 the Administrative Office of the Courts to identify the individual and a
15 search of the confidential record of expunctions maintained by the
16 Administrative Office of the Courts. The application shall be forwarded to
17 the Department of Justice and to the Administrative Office of the Courts,
18 which shall conduct the searches and report their findings to the court.

19 (5) An affidavit by the petitioner that no restitution orders or civil judgments
20 representing amounts ordered for restitution entered against the petitioner
21 are outstanding.

22 (6) A list of the occupational licensing boards to be notified of the expunction
23 on behalf of the petitioner, if the expunction is ordered by the court. The list
24 shall be limited to those occupational licensing boards that have denied the
25 petitioner an occupational license based on the petitioner's conviction of the
26 criminal offense.

27 The petition shall be served upon the district attorney of the court where the case was tried
28 resulting in conviction. The district attorney shall have 30 days to file any objection to the
29 petition and shall be notified as to the date of the hearing of the petition.

30 The judge to whom the petition is presented may call upon a probation officer for any
31 additional investigation or verification of the petitioner's conduct during the 10-year period that
32 the judge deems desirable.

33 (d) The court shall conduct a hearing to determine whether the petition for expunction
34 should be granted. At the hearing, the court may consider any information the court deems
35 relevant that is provided by the petitioner, law enforcement officers, the district attorney, and
36 victims of the criminal offense committed by the petitioner. Except as provided otherwise by
37 this subsection, if the court finds that the criteria set forth in subsection (b) of this section have
38 been met, then the court shall order that the petitioner be restored, in the contemplation of the
39 law, to the status the petitioner occupied before the arrest, indictment, conviction, or
40 information for the criminal offense. The court shall not order an expunction under this section
41 if the court determines that sufficient cause exists to deny the petition.

42 (e) No person whose record is ordered expunged pursuant to this section shall be held
43 thereafter under any provision of any laws to be guilty of perjury or otherwise giving a false
44 statement by reason of his or her failure to recite or acknowledge such arrest, indictment,
45 conviction, information, trial, or response to any inquiry made of the person for any purpose.
46 However, persons pursuing certification under the provisions of Chapter 17C or Chapter 17E of
47 the General Statutes shall disclose any and all felony convictions to the certifying commission
48 regardless of whether or not the felony convictions were expunged under this section.

49 (f) The court shall also order that the conviction for the criminal offense be expunged
50 from the records of the court and direct all law enforcement agencies bearing record of the
51 same to expunge their records of the conviction. The clerk shall forward a certified copy of the

1 order to the sheriff, chief of police, or other arresting agency. The sheriff, chief, or head of any
2 other arresting agency shall then transmit the copy of the order with a form supplied by the
3 State Bureau of Investigation to the State Bureau of Investigation, and the State Bureau of
4 Investigation shall forward the order to the Federal Bureau of Investigation. Expunction of
5 records may occur only once under this section with respect to any person.

6 (g) Any other applicable State or local government agency shall expunge from its
7 records entries made as a result of the charge or conviction ordered expunged under this
8 section. The agency also shall reverse any administrative actions taken against a person whose
9 record is expunged under this section as a result of the charges or convictions expunged.
10 Notwithstanding any other provision of law, the normal fee for any reinstatement of a license or
11 privilege resulting under this section shall be waived.

12 (h) The clerk of superior court in each county shall, as soon as practicable after each
13 term of court in his or her county, file with the Administrative Office of the Courts the names
14 of those persons granted expunctions under the provisions of this section, and the
15 Administrative Office of the Courts shall maintain a confidential file containing the names of
16 persons granted expunctions. The information contained in the file shall be disclosed only as
17 follows:

- 18 (1) To judges of the General Court of Justice for the purpose of ascertaining
19 whether any person charged with an offense has been previously granted an
20 expunction.
- 21 (2) To federal, State, and local law enforcement agencies for employment
22 purposes only.
- 23 (3) To the North Carolina Criminal Justice Education and Training Standards
24 Commission for certification purposes only.
- 25 (4) To the North Carolina Sheriffs' Education and Training Standards
26 Commission for certification purposes only.

27 (i) A person who files a petition for expunction of a criminal record under this section
28 must pay the clerk of superior court a fee of one hundred fifty dollars (\$150.00) at the time the
29 petition is filed. Seventy-five dollars (\$75.00) of the fee collected under this subsection shall be
30 remitted to the North Carolina Department of Justice to pay the costs of the State Bureau of
31 Investigation purging records pursuant to receipt of an order of expunction. The remaining
32 seventy-five dollars (\$75.00) of the fee shall be remitted to the Administrative Office of the
33 Courts to pay the costs associated with implementation of the provisions of this section. This
34 subsection does not apply to petitions filed by an indigent.

35 (j) If a person's record is expunged pursuant to this section and the person is convicted
36 of a subsequent felony or misdemeanor after the expunction, other than a traffic violation, then
37 the court shall include the expunged offense in the calculation of prior record points when
38 imposing the sentence for the subsequent felony or misdemeanor."

39 **SECTION 7.** G.S. 15A-145 reads as rewritten:

40 **"§ 15A-145. Expunction of records for first offenders under the age of 18 at the time of**
41 **conviction of misdemeanor; expunction of certain other misdemeanors.**

42 (a) ~~Whenever any person who has (i) not yet attained the age of 18 years and has not~~
43 ~~previously been convicted of any felony, or misdemeanor other than a traffic violation, under~~
44 ~~the laws of the United States, the laws of this State or any other state, (i) pleads guilty to or is~~
45 ~~guilty of a misdemeanor other than a traffic violation, and the offense was committed before~~
46 ~~the person attained the age of 18 years, or (ii) not yet attained the age of 21 years and has not~~
47 ~~previously been convicted of any felony, or misdemeanor other than a traffic violation, under~~
48 ~~the laws of the United States, the laws of this State or any other state, (ii) pleads guilty to or is~~
49 ~~guilty of a misdemeanor possession of alcohol pursuant to G.S. 18B-302(b)(1), and the offense~~
50 ~~was committed before the person attained the age of 21 years, he the person may file a petition~~
51 ~~in the court where he the person was convicted for expunction of the misdemeanor from his or~~

1 her criminal record. The petition cannot be filed earlier than: (i) two years after the date of the
2 conviction, or (ii) the completion of any period of probation, whichever occurs later, and the
3 petition shall contain, but not be limited to, the following:

- 4 (1) An affidavit by the petitioner that he or she has been of good behavior for
5 the two-year period since the date of conviction of the misdemeanor in
6 question and has not been convicted of any felony, or misdemeanor other
7 than a traffic violation, under the laws of the United States or the laws of this
8 State or any other state.
- 9 (2) Verified affidavits of two persons who are not related to the petitioner or to
10 each other by blood or marriage, that they know the character and reputation
11 of the petitioner in the community in which ~~he~~ the petitioner lives and that
12 ~~his~~ the petitioner's character and reputation are good.
- 13 (3) A statement that the petition is a motion in the cause in the case wherein the
14 petitioner was convicted.
- 15 ~~(4) Affidavits of the clerk of superior court, chief of police, where appropriate,
16 and sheriff of the county in which the petitioner was convicted and, if
17 different, the county of which the petitioner is a resident, showing that the
18 petitioner has not been convicted of a felony or misdemeanor other than a
19 traffic violation under the laws of this State at any time prior to the
20 conviction for the misdemeanor in question or during the two-year period
21 following that conviction.~~
- 22 (4) An application on a form approved by the Administrative Office of the
23 Courts requesting and authorizing a State and national criminal record check
24 by the Department of Justice using any information required by the
25 Administrative Office of the Courts to identify the individual, and a search
26 of the confidential record of expungements maintained by the
27 Administrative Office of the Courts. The application shall be forwarded to
28 the Department of Justice and to the Administrative Office of the Courts,
29 which shall conduct the searches and report their findings to the court.
- 30 (5) An affidavit by the petitioner that no restitution orders or civil judgments
31 representing amounts ordered for restitution entered against him or her are
32 outstanding.

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

36 The judge to whom the petition is presented is authorized to call upon a probation officer
37 for any additional investigation or verification of the petitioner's conduct during the two-year
38 period that he deems desirable.

39 (b) If the court, after hearing, finds that the petitioner had remained of good behavior
40 and been free of conviction of any felony or misdemeanor, other than a traffic violation, for two
41 years from the date of conviction of the misdemeanor in question, the petitioner has no
42 outstanding restitution orders or civil judgments representing amounts ordered for restitution
43 entered against ~~him,~~ him or her, and (i) petitioner was not 18 years old at the time of the
44 ~~conviction~~ offense in question, or (ii) petitioner was not 21 years old at the time of the
45 ~~conviction~~ offense of possession of alcohol pursuant to G.S. 18B-302(b)(1), it shall order that
46 such person be restored, in the contemplation of the law, to the status he or she occupied before
47 such arrest or indictment or information. No person as to whom such order has been entered
48 shall be held thereafter under any provision of any laws to be guilty of perjury or otherwise
49 giving a false statement by reason of his failure to recite or acknowledge such arrest, or
50 indictment, information, or trial, or response to any inquiry made of him for any purpose.

1 (c) The court shall also order that the said misdemeanor conviction, or a civil
2 revocation of a drivers license as the result of a criminal charge, be expunged from the records
3 of the court, and direct all law-enforcement agencies, including the Division of Motor Vehicles,
4 bearing record of the same to expunge their records of the conviction or a civil revocation of a
5 drivers license as the result of a criminal charge. This subsection does not apply to civil or
6 criminal charges based upon the civil revocation, or to civil revocations under G.S. 20-16.2.
7 The clerk shall forward a certified copy of the order to the sheriff, chief of police, or other
8 arresting agency. The clerk shall forward a certified copy of the order to the Division of Motor
9 Vehicles for the expunction of a civil revocation provided the underlying criminal charge is
10 also expunged. The civil revocation of a drivers license shall not be expunged prior to a final
11 disposition of any pending civil or criminal charge based upon the civil revocation. The sheriff,
12 chief or head of such other arresting agency shall then transmit the copy of the order with a
13 form supplied by the State Bureau of Investigation to the State Bureau of Investigation, and the
14 State Bureau of Investigation shall forward the order to the Federal Bureau of Investigation.

15 (c1) Any other applicable State or local government agency shall expunge from its
16 records entries made as a result of the charge or conviction ordered expunged under this
17 section. The agency also shall reverse any administrative actions taken against a person whose
18 record is expunged under this section as a result of the charges or convictions expunged.
19 Notwithstanding any other provision of law, the normal fee for any reinstatement of a license or
20 privilege resulting under this section shall be waived.

21 (d) The clerk of superior court in each county ~~in North Carolina~~ shall, as soon as
22 practicable after each term of court in ~~his~~ the clerk's county, file with the Administrative Office
23 of the Courts, the names of those persons granted a discharge under the provisions of this
24 section, and the Administrative Office of the Courts shall maintain a confidential file
25 containing the names of persons granted conditional discharges. The information contained in
26 such file shall be disclosed only to judges of the General Court of Justice ~~of North Carolina~~ for
27 the purpose of ascertaining whether any person charged with an offense has been previously
28 granted a discharge.

29 (e) A person who files a petition for expunction of a criminal record under this section
30 must pay the clerk of superior court a fee of one hundred twenty-five dollars (\$125.00) at the
31 time the petition is filed. Fees collected under this subsection shall be deposited in the General
32 Fund. This subsection does not apply to petitions filed by an indigent."

33 **SECTION 8.** G.S. 15A-146 is amended by adding a new subsection to read:

34 "(b3) Any other applicable State or local government agency shall expunge from its
35 records entries made as a result of the charge or conviction ordered expunged under this
36 section. The agency also shall reverse any administrative actions taken against a person whose
37 record is expunged under this section as a result of the charges or convictions expunged.
38 Notwithstanding any other provision of law, the normal fee for any reinstatement of a license or
39 privilege resulting under this section shall be waived."

40 **SECTION 9.** G.S. 90-96(b) reads as rewritten:

41 "(b) Upon the dismissal of such person, and discharge of the proceedings against him
42 under subsection (a) of this section, such person, if he were not over 21 years of age at the time
43 of the offense, may apply to the court for an order to expunge from all official records (other
44 than the confidential file to be retained by the Administrative Office of the Courts under
45 subsection (c)) all recordation relating to his arrest, indictment or information, trial, finding of
46 guilty, and dismissal and discharge pursuant to this section. The applicant shall attach to the
47 application the following:

48 (1) An affidavit by the applicant that he has been of good behavior during the
49 period of probation since the decision to defer further proceedings on the
50 offense in question and has not been convicted of any felony, or

- 1 misdemeanor, other than a traffic violation, under the laws of the United
2 States or the laws of this State or any other state;
- 3 (2) Verified affidavits by two persons who are not related to the applicant or to
4 each other by blood or marriage, that they know the character and reputation
5 of the petitioner in the community in which he lives, and that his character
6 and reputation are good; and
- 7 ~~(3) Affidavits of the clerk of superior court, chief of police, where appropriate,
8 and sheriff of the county in which the petitioner was convicted, and, if
9 different, the county of which the petitioner is a resident, showing that the
10 applicant has not been convicted of a felony or misdemeanor other than a
11 traffic violation under the laws of this State at any time prior to the
12 conviction for the offense in question or during the period of probation
13 following the decision to defer further proceedings on the offense in
14 question.~~
- 15 (3) An application on a form approved by the Administrative Office of the
16 Courts requesting and authorizing a State and national criminal history
17 record check by the Department of Justice using any information required by
18 the Administrative Office of the Courts to identify the individual and a
19 search of the confidential record of expungements maintained by the
20 Administrative Office of the Courts. The application shall be forwarded to
21 the Department of Justice and to the Administrative Office of the Courts,
22 which shall conduct the searches and report their findings to the court.

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

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

34 The court shall also order that said conviction and the records relating thereto be expunged
35 from the records of the court, and direct all law-enforcement agencies bearing records of the
36 same to expunge their records of the conviction. The clerk shall forward a certified copy of the
37 order to the sheriff, chief of police or other arresting agency, as appropriate, and the sheriff,
38 chief of police or other arresting agency, as appropriate, shall forward such order to the State
39 Bureau of Investigation with a form supplied by the State Bureau of Investigation. The State
40 Bureau of Investigation shall forward the court order in like manner to the Federal Bureau of
41 Investigation."

42 **SECTION 10.** G.S. 90-113.14(b) reads as rewritten:

43 "(b) Upon the dismissal of such person, and discharge of the proceedings against him
44 under subsection (a) of this section, such person, if he were not over 21 years of age at the time
45 of the offense, may apply to the court for an order to expunge from all official records (other
46 than the confidential file to be retained by the Administrative Office of the Courts under
47 subsection (c)) all recordation relating to his arrest, indictment or information, trial, finding of
48 guilty, and dismissal and discharge pursuant to this section. The applicant shall attach to the
49 application the following:

- 50 (1) An affidavit by the applicant that he has been of good behavior during the
51 period of probation since the decision to defer further proceedings on the

- 1 misdemeanor in question and has not been convicted of any felony, or
2 misdemeanor, other than a traffic violation, under the laws of the United
3 States or the laws of this State or any other state;
- 4 (2) Verified affidavits by two persons who are not related to the applicant 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 he lives, and that his character
7 and reputation are good; and
- 8 (3) ~~Affidavits of the clerk of superior court, chief of police, where appropriate,
9 and sheriff of the county in which the petitioner was convicted, and, if
10 different, the county of which the petitioner is a resident, showing that the
11 applicant has not been convicted of a felony or misdemeanor other than a
12 traffic violation under the laws of this State at any time prior to the
13 conviction for the misdemeanor in question or during the period of probation
14 following the decision to defer further proceedings on the misdemeanor in
15 question.~~
- 16 (3) An application on a form approved by the Administrative Office of the
17 Courts requesting and authorizing a State and national criminal history
18 record check by the Department of Justice using any information required by
19 the Administrative Office of the Courts to identify the individual and a
20 search of the confidential record of expungements maintained by the
21 Administrative Office of the Courts. The application shall be forwarded to
22 the Department of Justice and to the Administrative Office of the Courts,
23 which shall conduct the searches and report their findings to the court.

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

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

35 The court shall also order that said conviction and the records relating thereto be expunged
36 from the records of the court, and direct all law-enforcement agencies bearing records of the
37 same to expunge their records of the conviction. The clerk shall forward a certified copy of the
38 order to the sheriff, chief of police or other arresting agency, as appropriate, and the sheriff,
39 chief of police or other arresting agency, as appropriate, shall forward such order to the State
40 Bureau of Investigation with a form supplied by the State Bureau of Investigation. The State
41 Bureau of Investigation shall forward the court order in like manner to the Federal Bureau of
42 Investigation."

43 **SECTION 11.** G.S. 17C-13 reads as rewritten:

44 "**§ 17C-13. ~~Pardons.~~Pardons and expunctions.**

45 (a) When a person presents competent evidence that he has been granted an
46 unconditional pardon for a crime in this State, any other state, or the United States, the
47 Commission may not deny, suspend, or revoke that person's certification based solely on the
48 commission of that crime or for an alleged lack of good moral character due to the commission
49 of that crime.

50 (b) Notwithstanding G.S. 15A-150, the Commission may gain access to a person's
51 felony conviction records, including those maintained by the Administrative Office of the

1 Courts in its confidential files containing the names of persons granted expunctions.
2 Confidential records to which the Commission gains access under this subsection shall remain
3 confidential and shall not be a public record under Chapter 132 of the General Statutes. The
4 Commission may deny, suspend, or revoke a person's certification based solely on that person's
5 felony conviction, whether or not the felony conviction was expunged."

6 **SECTION 12.** G.S. 17E-12 reads as rewritten:

7 "**§ 17E-12. ~~Pardons.~~Pardons and expunctions.**

8 (a) When a person presents competent evidence that the person has been granted an
9 unconditional pardon of innocence for a crime in this State, any other state, or the United
10 States, the Commission may not deny, suspend, or revoke that person's certification based
11 solely on the commission of that crime or for alleged lack of good moral character due to the
12 commission of that crime.

13 (b) Notwithstanding G.S. 15A-150, the Commission may gain access to a person's
14 felony conviction records, including those maintained by the Administrative Office of the
15 Courts in its confidential files containing the names of persons granted expunctions.
16 Confidential records to which the Commission gains access under this subsection shall remain
17 confidential and shall not be a public record under Chapter 132 of the General Statutes. The
18 Commission may deny, suspend, or revoke a person's certification based solely on that person's
19 felony conviction, whether or not the felony conviction was expunged."

20 **SECTION 13.** The headings to the parts and sections of this act are a convenience
21 to the reader and are for reference only.

22 **SECTION 14.** This act becomes effective December 1, 2009. Sections 1 through 5
23 of the act apply to offenses committed on or after that date. Sections 6 through 12 of the act
24 apply to applications for expunction of records made on or after that date.