

GENERAL ASSEMBLY OF NORTH CAROLINA  
SESSION 2015

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SENATE BILL 570  
Judiciary II Committee Substitute Adopted 4/21/15

Short Title: Expunction/Boat Violation.

(Public)

Sponsors:

Referred to:

March 30, 2015

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 MISDEMEANOR  
4 BOATING 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 ~~violation~~-violation or a misdemeanor boating violation. The petition shall not be filed  
11 earlier than 15 years after the date of the conviction or when any active sentence, period of  
12 probation, and post-release supervision has been served, whichever occurs later. The petition  
13 shall contain, but not be limited to, the 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 ~~violation~~-violation or a misdemeanor  
18 boating violation, under the laws of the United States or the laws of this  
19 State or any other state.  
20 (2) Verified affidavits of two persons who are not related to the petitioner or to  
21 each other by blood or marriage, that they know the character and reputation  
22 of the petitioner in the community in which the petitioner lives and that the  
23 petitioner's character and reputation are good.  
24 (3) A statement that the petition is a motion in the cause in the case wherein the  
25 petitioner was convicted.  
26 (4) An application on a form approved by the Administrative Office of the  
27 Courts requesting and authorizing a name-based State and national criminal  
28 history record check by the Department of Public Safety using any  
29 information required by the Administrative Office of the Courts to identify  
30 the individual, a search by the Department of Public Safety for any  
31 outstanding warrants on pending criminal cases, and a search of the  
32 confidential record of expunctions maintained by the Administrative Office  
33 of the Courts. The application shall be forwarded to the Department of  
34 Public Safety and to the Administrative Office of the Courts, which shall  
35 conduct the searches and report their findings to the court.



- 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 ~~violation~~; violation or a misdemeanor boating  
21 violation; the petitioner has no outstanding restitution orders or civil judgments representing  
22 amounts ordered for restitution entered against the petitioner; and the petitioner was convicted  
23 of an offense eligible for expunction under this section and was convicted of, and completed  
24 any sentence received for, the nonviolent misdemeanor or nonviolent felony at least 15 years  
25 prior to the filing of the petition, it may order that such person be restored, in the contemplation  
26 of the law, to the status the person occupied before such arrest or indictment or information. If  
27 the court denies the 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 ~~violation~~; violation or a misdemeanor boating violation, under  
33 the laws of the United States, the laws of this State or any other state, (i) pleads guilty to or is  
34 guilty of a misdemeanor other than a traffic ~~violation~~; violation or a misdemeanor boating  
35 violation, and the offense was committed before the person attained the age of 18 years, or (ii)  
36 pleads guilty to or is guilty of a misdemeanor possession of alcohol pursuant to  
37 G.S. 18B-302(b)(1), and the offense was committed before the person attained the age of 21  
38 years, he may file a petition in the court where he was convicted for expunction of the  
39 misdemeanor from his criminal record. The petition cannot be filed earlier than: (i) two years  
40 after the date of the conviction, or (ii) the completion of any period of probation, whichever  
41 occurs later, and the petition shall contain, but not be limited to, the following:

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

- 1 (3) A statement that the petition is a motion in the cause in the case wherein the  
2 petitioner was convicted.
- 3 (4) Repealed by Session Laws 2010-174, s. 2, effective October 1, 2010, and  
4 applicable to petitions for expunctions filed on or after that date.
- 5 (4a) An application on a form approved by the Administrative Office of the  
6 Courts requesting and authorizing a name-based State and national criminal  
7 record check by the Department of Public Safety using any information  
8 required by the Administrative Office of the Courts to identify the individual  
9 and a search of the confidential record of expunctions maintained by the  
10 Administrative Office of the Courts. The application shall be forwarded to  
11 the Department of Public Safety and to the Administrative Office of the  
12 Courts, which shall conduct the searches and report their findings to the  
13 court.
- 14 (5) An affidavit by the petitioner that no restitution orders or civil judgments  
15 representing amounts ordered for restitution entered against him are  
16 outstanding.

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

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

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

35 ...."

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

37 **"§ 15A-145.1. Expunction of records for first offenders under the age of 18 at the time of**  
38 **conviction of certain gang offenses.**

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

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

1 proceedings on the offense in question pursuant to G.S. 14-50.29 or (ii)  
2 during the two-year period since the date of conviction of the offense in  
3 question, whichever applies, and has not been convicted of any felony or  
4 misdemeanor other than a traffic violation or a misdemeanor boating  
5 violation under the laws of the United States or the laws of this State or any  
6 other state.

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

11 (3) If the petition is filed subsequent to conviction of the offense in question, a  
12 statement that the petition is a motion in the cause in the case wherein the  
13 petitioner was convicted.

14 (4) Repealed by Session Laws 2010-174, s. 4, effective October 1, 2010, and  
15 applicable to petitions for expunctions filed on or after that date.

16 (4a) An application on a form approved by the Administrative Office of the  
17 Courts requesting and authorizing a name-based State and national criminal  
18 record check by the Department of Public Safety using any information  
19 required by the Administrative Office of the Courts to identify the individual  
20 and a search of the confidential record of expunctions maintained by the  
21 Administrative Office of the Courts. The application shall be forwarded to  
22 the Department of Public Safety and to the Administrative Office of the  
23 Courts, which shall conduct the searches and report their findings to the  
24 court.

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

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

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

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

1 the petitioner's criminal charge and any conviction resulting from the charge. The clerk shall  
2 notify State and local agencies of the court's order as provided in G.S. 15A-150.

3 ...."

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

5 **"§ 15A-145.2. Expunction of records for first offenders not over 21 years of age at the**  
6 **time of the offense of certain drug offenses.**

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

13 (1) An affidavit by the petitioner that he or she has been of good behavior  
14 during the period of probation since the decision to defer further proceedings  
15 on the offense in question and has not been convicted of any felony or  
16 misdemeanor other than a traffic violation or a misdemeanor boating  
17 violation under the laws of the United States or the laws of this State or any  
18 other state;

19 (2) Verified affidavits by 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 he or she lives, and that the  
22 petitioner's character and reputation are good;

23 (3) Repealed by Session Laws 2010-174, s. 5, effective October 1, 2010, and  
24 applicable to petitions for expunctions filed on or after that date.

25 (3a) 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 record check by the Department of Public Safety using any information  
28 required by the Administrative Office of the Courts to identify the individual  
29 and a search of the confidential record of expunctions maintained by the  
30 Administrative Office of the Courts. The application shall be forwarded to  
31 the Department of Public Safety and to the Administrative Office of the  
32 Courts, which shall conduct the searches and report their findings to the  
33 court.

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

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

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

50 ...

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

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

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

49 The court shall also order all law enforcement agencies, the Department of Correction, the  
50 Division of Motor Vehicles, and any other State or local agencies identified by the petitioner as  
51 bearing records of the conviction and records relating thereto to expunge their records of the

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

3 ...."

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

5 **"§ 15A-145.3. Expunction of records for first offenders not over 21 years of age at the**  
6 **time of the offense of certain toxic vapors offenses.**

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

13 (1) An affidavit by the petitioner that the petitioner has been of good behavior  
14 during the period of probation since the decision to defer further proceedings  
15 on the misdemeanor in question and has not been convicted of any felony or  
16 misdemeanor other than a traffic violation or a misdemeanor boating  
17 violation under the laws of the United States or the laws of this State or any  
18 other state;

19 (2) Verified affidavits by 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 his  
22 or her character and reputation are good;

23 (3) Repealed by Session Laws 2010-174, s. 6, effective October 1, 2010, and  
24 applicable to petitions for expunctions filed on or after that date.

25 (3a) 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 record check by the Department of Public Safety using any information  
28 required by the Administrative Office of the Courts to identify the individual  
29 and a search of the confidential record of expunctions maintained by the  
30 Administrative Office of the Courts. The application shall be forwarded to  
31 the Department of Public Safety and to the Administrative Office of the  
32 Courts, which shall conduct the searches and report their findings to the  
33 court.

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

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

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

49 ...

50 (c) Whenever any person who has not previously been convicted of an offense under  
51 Article 5 or 5A of Chapter 90 of the General Statutes or under any statute of the United States

1 or any state relating to controlled substances included in any schedule of Article 5 of Chapter  
2 90 of the General Statutes or to that paraphernalia included in Article 5B of Chapter 90 of the  
3 General Statutes pleads guilty to or has been found guilty of a misdemeanor under Article 5A  
4 of Chapter 90 of the General Statutes, the court may, upon application of the person not sooner  
5 than 12 months after conviction, order cancellation of the judgment of conviction and  
6 expunction of the records of the person's arrest, indictment or information, trial, and conviction.  
7 A conviction in which the judgment of conviction has been cancelled and the records expunged  
8 pursuant to this subsection shall not be thereafter deemed a conviction for purposes of this  
9 subsection or for purposes of disqualifications or liabilities imposed by law upon conviction of  
10 a crime, including the additional penalties imposed for second or subsequent convictions of  
11 violation of Article 5A of Chapter 90 of the General Statutes. Cancellation and expunction  
12 under this subsection may occur only once with respect to any person. Disposition of a case  
13 under this subsection at the district court division of the General Court of Justice shall be final  
14 for the purpose of appeal.

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

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

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

43 ...."

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

45 "**§ 15A-145.4. Expunction of records for first offenders who are under 18 years of age at**  
46 **the time of the commission of a nonviolent felony.**

47 ...

48 (c) Whenever any person who had not yet attained the age of 18 years at the time of the  
49 commission of the offense and has not previously been convicted of any felony or  
50 misdemeanor other than a traffic violation or a misdemeanor boating violation under the laws  
51 of the United States or the laws of this State or any other state pleads guilty to or is guilty of a



1 nonviolent felony, the person may file a petition in the court where the person was convicted  
2 for expunction of the nonviolent felony from the person's criminal record. The petition shall not  
3 be filed earlier than four years after the date of the conviction or when any active sentence,  
4 period of probation, and post-release supervision has been served, whichever occurs later. The  
5 person shall also perform at least 100 hours of community service, preferably related to the  
6 conviction, before filing a petition for expunction under this section. The petition shall contain  
7 the following:

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

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

44 ...

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

- 48 (1) The petitioner has remained of good moral character and has been free of  
49 conviction of any felony or misdemeanor, other than a traffic or boating  
50 violation, for four years from the date of conviction of the nonviolent felony

1 in question or any active sentence, period of probation, or post-release  
2 supervision has been served, whichever is later.

- 3 (2) The petitioner has not previously been convicted of any felony or  
4 misdemeanor other than a traffic violation or a misdemeanor boating  
5 violation under the laws of the United States or the laws of this State or any  
6 other state.
- 7 (3) The petitioner has no outstanding warrants or pending criminal cases.
- 8 (4) The petitioner has no outstanding restitution orders or civil judgments  
9 representing amounts ordered for restitution entered against the petitioner.
- 10 (5) The petitioner was less than 18 years old at the time of the commission of  
11 the offense in question.
- 12 (6) The petitioner has performed at least 100 hours of community service since  
13 the time of the conviction and possesses a high school diploma, a high  
14 school graduation equivalency certificate, or a General Education  
15 Development degree.
- 16 (7) The search of the confidential records of expunctions conducted by the  
17 Administrative Office of the Courts shows that the petitioner has not been  
18 previously granted an expunction.

19 ...."

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

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

- 24 (1) The criteria set out in subsection (b) of this section are satisfied.
- 25 (2) The petitioner has remained of good moral character and has been free of  
26 conviction of any felony or misdemeanor, other than a traffic violation or a  
27 misdemeanor boating violation, since the date of conviction of the  
28 prostitution offense in question.
- 29 (3) The petitioner has no outstanding warrants or pending criminal cases.
- 30 (4) The petitioner has no outstanding restitution orders or civil judgments  
31 representing amounts ordered for restitution entered against the petitioner.
- 32 (5) The search of the confidential records of expunctions conducted by the  
33 Administrative Office of the Courts shows that the petitioner has not been  
34 previously granted an expunction, other than an expunction for a prostitution  
35 offense.

36 ...."

37 **SECTION 8.** G.S. 14-50.30 reads as rewritten:

38 "**§ 14-50.30. Expunction of records.**

39 Any person who has not previously been convicted of any felony or misdemeanor other  
40 than a traffic violation or a misdemeanor boating violation under the laws of the United States  
41 or the laws of this State or any other state, may, if the offense was committed before the person  
42 attained the age of 18 years, be eligible to apply for expunction of certain offenses under this  
43 Article pursuant to G.S. 15A-145.1."

44 **SECTION 9.** This act is effective when it becomes law.