

NORTH CAROLINA GENERAL ASSEMBLY  
1973 SESSION

CHAPTER 748  
SENATE BILL 640

AN ACT TO PROTECT YOUTHFUL OFFENDERS.

The General Assembly of North Carolina enacts:

**Section 1.** Purpose of Act. The purpose of this act is to protect the future of youthful offenders of the law. Once a criminal record is created by conviction of a person, said criminal record remains a part of his past for so long as he may live. Many youths have only one small encounter with the law. They go on to be excellent citizens, raise good families, but are always hindered by having a criminal conviction on their record. This bill is not intended to excuse those who repeat their wrongdoing, but to somehow pardon a youthful oversight in an isolated occurrence.

**Sec. 2.** Chapter 90 of the General Statutes is hereby amended by adding a new section immediately following G.S. 90-113.14, to be designated G.S. 90-113.15, and to read as follows:

**"§ 90-1 13.15. Expunction of records for first offenders under the age of 18 at the time of conviction of misdemeanor.** — (a) Whenever any person who has not yet attained the age of 18 years and has not previously been convicted of any felony, or misdemeanor other than a traffic violation, under the laws of the United States, the laws of this State or any other state, pleads guilty to, or is guilty of a misdemeanor, he may file a petition in the court where he was convicted for expunction of the misdemeanor from his criminal record. The petition cannot be filed earlier than two years after the date of the conviction or any period of probation, whichever occurs later and the petition shall contain, but not be limited to, the following:

- (1) An affidavit by the petitioner that he has been of good behavior for the two-year period since the date of conviction of the misdemeanor in question and has not been convicted of any felony, or misdemeanor other than a traffic violation, under the laws of the United States or the laws of this State or any other state.
- (2) Verified affidavits of two persons who are not related to the petitioner or to each other by blood or marriage, that they know the character and reputation of the petitioner in the community in which he lives and that his character and reputation are good.
- (3) A statement that the petition is a motion in the cause in the case wherein the petitioner was convicted.
- (4) Affidavits of the clerk of superior court, Chief of Police, where appropriate, Sheriff of the county wherein the petitioner was convicted, and official records of the Federal Bureau of Investigation and the State Bureau of Investigation, all showing that the petitioner has not been convicted of a felony or misdemeanor under the laws of the United States or the laws of this State or any other state at any time prior to the conviction for the misdemeanor in question or during the two-year period following the conviction for the misdemeanor in question.

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

(b) If the court, after hearing, finds that the petitioner had remained of good behavior and been free of conviction of any felony or misdemeanor, other than a traffic violation, for two years from the date of conviction of the misdemeanor in question, and petitioner was not 18 years old at the time of the conviction in question, it shall order that such person be restored, in the contemplation of the law, to the status he occupied before such arrest or indictment or information. No person as to whom such order has been entered shall be held thereafter under any provision of any laws to be guilty of perjury or otherwise giving a false statement by reason of his failure to recite or acknowledge such arrest, or indictment, information, or trial, or response to any inquiry made of him for any purpose.

(c) The court shall also order that said misdemeanor conviction be expunged from the records of the court, and direct all law enforcement agencies bearing record of the same to expunge their records of the conviction and the clerk shall forward a certified copy of the order to all law enforcement agencies concerned and to the FBI and SBI with the cost thereof to be taxed against the petitioner.

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

**Sec. 2.** This act shall become effective upon its ratification.

In the General Assembly read three times and ratified, this the 23rd day of May, 1973.