

§ 15A-146. (Effective until January 1, 2023) Expunction of records when charges are dismissed or there are findings of not guilty.

(a) Dismissal of Single Charge. – If any person is charged with a crime, either a misdemeanor or a felony, or was charged with an infraction under G.S. 18B-302(i) prior to December 1, 1999, and the charge is dismissed, that person or the district attorney may petition the court of the county where the charge was brought for an order to expunge from all official records any entries relating to that person's apprehension or trial. Upon a finding that the sole charge was dismissed, the court shall order the expunction.

(a1) Multiple Dismissals. – If a person is charged with multiple offenses and any charges are dismissed, then that person or the district attorney may petition to have each of the dismissed charges expunged. If the court finds that all of the charges were dismissed, the court shall order the expunction. If the court finds that any charge resulted in a conviction on the day of the dismissal or had not yet reached final disposition, the court may order the expunction of any charge that was dismissed.

(a2) Finding of Not Guilty. – If any person is charged with one or more crimes, either a misdemeanor or a felony, or an infraction under G.S. 18B-302(i) prior to December 1, 1999, and a finding of not guilty or not responsible is entered for any or all of the charges, that person or the district attorney may petition the court of the county where the charge was brought for an order to expunge from all official records any entries relating to apprehension or trial of that crime. Upon determining that a finding of not guilty or not responsible was entered and all related criminal charges have reached final disposition, the court shall order the expunction of any charges disposed by a finding of not guilty or not responsible.

(a3) Effect of Expunction. – Except as provided in G.S. 15A-151.5(b)(5), no person as to whom an order has been entered by a court or by operation of law under this section shall be held thereafter under any provision of any law to be guilty of perjury, or to be guilty of otherwise giving a false statement or response to any inquiry made for any purpose, by reason of the person's failure to recite or acknowledge any expunged entries concerning apprehension or trial.

(a4) Dismissal, Not Guilty, or Not Responsible on or After December 1, 2021. If any person is charged with a crime, either a misdemeanor or a felony, or is charged with an infraction, the charges in the case are expunged by operation of law if all of the following apply:

- (1) All charges in the case are disposed on or after December 1, 2021.
- (2) All charges in the case are dismissed without leave, dismissed by the court, or result in a finding of not guilty or not responsible.

Notwithstanding the provisions of this subsection, no case with a felony charge that was dismissed pursuant to a plea agreement will be expunged pursuant to this subsection. Prior to December 1, 2021, the Administrative Office of the Courts shall develop and have in place procedures to automate the expunction of records pursuant to this subsection.

(a5) Notwithstanding the provisions of subsections (a), (a1), and (a2) of this section, an arresting agency may maintain investigative records related to a charge that has been expunged pursuant to this section.

(a6) Hearing. – Except as otherwise specifically provided in this section, a court may grant a petition for expunction under this section without a hearing.

(b) The court may also order that the said entries, including civil revocations of drivers licenses as a result of the underlying charge, shall be expunged from the records of the court, and direct all law-enforcement agencies, the Division of Adult Correction and Juvenile Justice of the Department of Public Safety, the Division of Motor Vehicles, and any other State or local government agencies identified by the petitioner as bearing record of the same to expunge their records of the entries, including civil revocations of drivers licenses as a result of the underlying charge being expunged. This subsection does not apply to civil or criminal charges based upon the civil revocation, or to civil revocations under G.S. 20-16.2. The clerk shall notify State and

local agencies of the court's order as provided in G.S. 15A-150. The clerk shall forward a certified copy of the order to the Division of Motor Vehicles for the expunction of a civil revocation provided the underlying criminal charge is also expunged. The civil revocation of a drivers license shall not be expunged prior to a final disposition of any pending civil or criminal charge based upon the civil revocation. The costs of expunging the records, as required under G.S. 15A-150, shall not be taxed against the petitioner.

(b1) Any person entitled to expungement under this section may also apply to the court for an order expunging DNA records when the person's case has been dismissed by the trial court and the person's DNA record or profile has been included in the State DNA Database and the person's DNA sample is stored in the State DNA Databank. A copy of the application for expungement of the DNA record or DNA sample shall be served on the district attorney for the judicial district in which the felony charges were brought not less than 20 days prior to the date of the hearing on the application. If the application for expungement is granted, a certified copy of the trial court's order dismissing the charges shall be attached to an order of expungement. The order of expungement shall include the name and address of the defendant and the defendant's attorney and shall direct the North Carolina State Crime Laboratory to send a letter documenting expungement as required by subsection (b2) of this section.

(b2) Upon receiving an order of expungement entered pursuant to subsection (b1) of this section, the North Carolina State Crime Laboratory shall purge the DNA record and all other identifying information from the State DNA Database and the DNA sample stored in the State DNA Databank covered by the order, except that the order shall not apply to other offenses committed by the individual that qualify for inclusion in the State DNA Database and the State DNA Databank. A letter documenting expungement of the DNA record and destruction of the DNA sample shall be sent by the North Carolina State Crime Laboratory to the defendant and the defendant's attorney at the address specified by the court in the order of expungement.

(c) Any petition required to be filed for expungement under this section shall be on a form approved by the Administrative Office of the Courts and be filed with the clerk of superior court. Excluding any expunction granted by operation of law pursuant to subsection (a4) of this section, upon order of expungement by a court, the clerk shall notify State and local agencies of the court's order as provided in G.S. 15A-150 and forward the petition to the Administrative Office of the Courts.

(d) A person charged with a crime that is dismissed pursuant to compliance with a deferred prosecution agreement or the terms of a conditional discharge and who files a petition for expunction of a criminal record under this section must pay the clerk of superior court a fee of one hundred seventy-five dollars (\$175.00) at the time the petition is filed. Fees collected under this subsection are payable to the Administrative Office of the Courts. The clerk of superior court shall remit one hundred twenty-two dollars and fifty cents (\$122.50) of each fee to the North Carolina Department of Public Safety for the costs of criminal record checks performed in connection with processing petitions for expunctions under this section. The remaining fifty-two dollars and fifty cents (\$52.50) of each fee shall be retained by the Administrative Office of the Courts and used to pay the costs of processing petitions for expunctions under this section. This subsection does not apply to petitions filed by an indigent. (1979, c. 61; 1985, c. 636, ss. 1-7; 1991, c. 326, s. 1; 1997-138, s. 1; 1999-406, s. 9; 2001-108, s. 2; 2001-282, s. 1; 2002-126, s. 29A.5(c); 2005-452, s. 1; 2007-509, s. 2; 2009-510, s. 5(a), (b); 2009-577, ss. 3.1, 8, 9; 2011-145, s. 19.1(h); 2012-191, s. 4; 2013-360, ss. 17.6(e), 18B.16(f); 2014-100, s. 17.1(o); 2014-119, s. 2(d); 2017-186, s. 2(tt); 2017-195, s. 1; 2020-35, s. 3(a).)

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