

GENERAL ASSEMBLY OF NORTH CAROLINA

SESSION 1989

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HOUSE BILL 1207

Short Title: Expunction of Records.

(Public)

Sponsors: Representative Dawkins.

Referred to: Judiciary.

April 12, 1989

A BILL TO BE ENTITLED

AN ACT TO PROVIDE FOR THE EXPUNCTION OF CRIMINAL RECORDS BY THE CLERK OF SUPERIOR COURT WITHOUT REQUIRING A HEARING IN THE MATTER WHEN A DEFENDANT IS FOUND NOT GUILTY OF A CRIMINAL CHARGE OR THE CHARGES ARE DISMISSED.

The General Assembly of North Carolina enacts:

Section 1. G.S. 15A-146 reads as rewritten:

**"§ 5A-146. Expunction of records when charges are dismissed or there are findings of not guilty.**

(a) If any person is charged with a crime, either a misdemeanor or a felony, and the charge is dismissed, or a finding of not guilty is entered, that person may apply to the Clerk of Superior Court for the court of the county where the charge was brought ~~brought. for an order to expunge from all official records any entries relating to his apprehension or trial.~~ The Clerk of Superior Court court shall review ~~hold a hearing on the~~ application and, upon finding that the person had not previously received an expungement and that the person had not previously been convicted of any felony or misdemeanor other than a traffic violation under the laws of the United States, this State, or any other state, the ~~court~~ Clerk of Superior Court shall order the expunction. No person as to whom such an order has been entered 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 his failure to recite or acknowledge any expunged entries concerning apprehension or trial.

(b) The ~~court~~ Clerk of Superior Court may also order that the said entries shall be expunged from the records of the court, and direct all law-enforcement agencies bearing

1 record of the same to expunge their records of the entries. The clerk shall forward a  
2 certified copy of the order to the sheriff, chief of police, or other arresting agency. The  
3 sheriff, chief or head of such other arresting agency shall then transmit the copy of the  
4 order with the form supplied by the State Bureau of Investigation to the State Bureau of  
5 Investigation, and the State Bureau of Investigation shall forward the order to the  
6 Federal Bureau of Investigation. The costs of expunging such records shall be taxed  
7 against the petitioner.

8 (c) The Clerk of Superior Court in each county in North Carolina shall, as soon  
9 as practicable after each term of court in his county, file with the Administrative Office  
10 of the Courts, the names of those persons granted an expungement under the provisions  
11 of this section and the Administrative Office of the Courts shall maintain a confidential  
12 file containing the names of persons granted such expungement. The information  
13 contained in such files shall be disclosed only to judges of the General Court of Justice  
14 of North Carolina for the purpose of ascertaining whether any person charged with an  
15 offense has been previously granted an expungement."

16 Sec. 2. This act is effective upon ratification.