

April 9, 2009

**H 1329. CONSOLIDATE EXPUNCTION STATUTES.** Filed 4/8/09. *TO CONSOLIDATE ALL STATUTES RELATED TO EXPUNCTION OF RECORDS IN ONE ARTICLE OF THE GENERAL STATUTES.*

Amends GS 14-50.30, GS 90-96, GS 90-113.14, and Article 5 of GS Chapter 15A as title indicates with respect to expunction of records for first offenders under the age of 18 at the time of conviction of certain gang offenses, first offenders under the age of 21 at the time of offense of certain drug offenses, and first offenders under the age of 21 at the time of offense of certain toxic vapors offenses. These offenses are now consolidated under new GS 15A-145.1, GS 15A-145.2, and GS 15A-145.3. Effective December 1, 2009, and applies to offenses committed on or after that date.

**Intro. by Bryant.**

GS 14, 15A, 90

April 29, 2009

**H 1329. CONSOLIDATE EXPUNCTION STATUTES.** Filed 4/8/09. House committee substitute makes the following changes to 1st edition.

Current law pursuant to GS 90-96 provides for the imposition of probation by the court, without entering a judgment of guilt, but with the person's consent, on a person who has not previously been convicted of any offense and pleads guilty to or is found guilty of (1) a misdemeanor possession of a controlled substance or drug paraphernalia or (2) felony drug possession of less than one gram of cocaine under GS 90-95(a)(3). Current law also provides under GS 90-113.14 for the court to place on probation a first offender who pleads guilty to or is found guilty of inhaling or possessing any substance that releases toxic vapors or fumes in violation of GS Chapter 90, Article 5A. Under both statutes, upon fulfillment of the terms and conditions set by the court for the probation period, a minimum of one year, the court is directed to discharge the person and dismiss the proceedings against that person.

The committee substitute amends GS 90-96 and GS 90-113.14 to provide that upon the discharge of the first offender and the dismissal of the proceedings against the first offender, if that person was not over 21 years of age at the time of the offense, that person may be eligible to apply for expunction of certain records relating to the offense pursuant to proposed provisions for expunction of records under specified circumstances.

Also provides that *any* person may be eligible to apply for the expunction of certain records relating to the offense if the state dismisses the charges against that person, upon entry of a *nolle prosequi* (an entry on the record that the prosecutor will not pursue the case) or upon a finding of not guilty or other adjudication of innocence. Additionally provides that *any* person who has not been previously convicted of an offense involving a controlled substance included in any schedule of Article 5 of GS Chapter 90 or paraphernalia included in Article 5B of GS Chapter 90 may be eligible to apply for expunction of certain records relating to the offense pursuant to proposed provisions for expunction of records under specified circumstances.

Makes technical corrections.

May 11, 2009

**H 1329. CONSOLIDATE EXPUNCTION STATUTES.** Filed 4/8/09. House committee substitute makes the following changes to 2nd edition. Provides that this act applies to petitions filed on or after the effective date of December 1, 2009 (was, applies to offenses committed on or after the effective date).

June 30, 2009

**H 1329. CONSOLIDATE EXPUNCTION STATUTES.** Filed 4/8/09. Senate committee substitute makes the following changes to 3rd edition. Rewrites new GS 15A-145.1 to make the age at time of the offense and not the age at the time of conviction determinative for the expunction of certain gang offenses committed by persons under the age of 18. Makes similar change to the new GS 15A-145.2 and GS 15A-145.3 for the expunction of certain drug and toxic vapors offenses for first-time offenders not over the age of 21. Adds similar changes to existing GS 15A-145 for the expunction of misdemeanors and alcohol offenses. Also makes technical corrections to the above

sections. Amends existing discharge and expunction provisions, GS 14-50.29 and GS 14-50.30, to conform to and reference the new expunction provisions. Amends existing GS 90-96 and GS 90-113.14, both of which deal with the conditional discharge of drug and toxic vapors offenses, to reference the new expunction provisions and to make technical corrections. Makes conforming changes to GS 15A-146. Changes title to *AN ACT TO CONSOLIDATE ALL STATUTES RELATED TO EXPUNCTION OF RECORDS IN ONE ARTICLE OF THE GENERAL STATUTES, 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 THE CONVICTION, AND TO MAKE CLARIFYING AND CONFORMING CHANGES TO THE EXPUNCTION STATUTES.*

August 4, 2009

**H 1329. CONSOLIDATE EXPUNCTION STATUTES.** Filed 4/8/09. Senate committee substitute makes the following changes to 4th edition. Adds to GS 15A-145 requirements for a petition to expunge misdemeanor larceny conviction pursuant to GS 14-72(a) more than ten years prior to the filing of the petition. Requires petition to contain affidavit that petitioner has been of good behavior and has not been convicted of any criminal offense other than a traffic offense in the past 10 years, two affidavits of good character from non-relatives, a statement that the petition is a motion in the cause in the case wherein the petitioner was convicted, affidavits of clerk of court, sheriff and/or chief of police regarding petitioner's lack of recent criminal record, and affidavit that no restitution orders or equivalent civil judgments are outstanding against petitioner. Provides procedural details regarding such petitions and states that persons granted expunctions may not be found guilty of perjury or otherwise giving a false statement if they refuse to acknowledge or disclose the expunged convictions, arrests or proceedings.

August 7, 2009

**H 1329. CONSOLIDATE EXPUNCTION STATUTES.** Filed 4/8/09. Conference report recommends the following changes to 5th edition to reconcile matters in controversy. Amends GS 15A-146(a1) to provide that, if the court finds at a hearing on an application for expungement of criminal charges under certain circumstances that the person had not previously received an expungement under this subsection *or that any previous expungement received occurred prior to October 1, 2005, and was for an offense that occurred within the same 12-month period of time, or was dismissed or findings made, at the same term of court, as the offenses that are the subject of the current application,* and other specified findings are also made, then the court must order the expunction. Amends proposed GS 15A-145(d1) to allow a person to file a petition in the court where a person was convicted for expunction of a misdemeanor conviction if the person *has no prior felony convictions and* was convicted for misdemeanor larceny under GS 14-72(a) more than 15 (was, 10) years prior to the filing of the petition. Makes conforming changes.

September 24, 2009

**SL 2009-577 (H 1329). CONSOLIDATE EXPUNCTION STATUTES.** *AN ACT TO CONSOLIDATE ALL STATUTES RELATED TO EXPUNCTION OF RECORDS IN ONE ARTICLE OF THE GENERAL STATUTES, 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 ALLOW THE EXPUNCTION OF MISDEMEANOR LARCENY, AND TO MAKE CLARIFYING AND CONFORMING CHANGES TO THE EXPUNCTION STATUTES.* Summarized in *Daily Bulletin* 4/9/09, 4/29/09, 5/11/09, 6/30/09, 8/4/09, and 8/7/09. Enacted September 10, 2009. Effective December 1, 2009.