



SENATE BILL 301: Expand Expunction Eligibility.

2021-2022 General Assembly

Committee:	House Rules, Calendar, and Operations of the House	Date:	August 5, 2021
Introduced by:	Sens. Britt, Daniel, Lee	Prepared by:	Susan Sitze
Analysis of:	Fourth Edition		Staff Attorney

OVERVIEW: *Senate Bill 301 would:*

- *Expand the criminal offenses eligible for expunction.*
- *Allow the expunction of an eligible offense despite an impaired driving conviction, if the impaired driving conviction occurred more than five years prior to the petition.*
- *Allow the expunction of up to three nonviolent felonies.*
- *Allow an attorney to file a petition for expunction on behalf of a person who committed certain crimes under the age of 18.*
- *Allow district attorney access to expunction records for determining conditional discharge eligibility.*

CURRENT LAW AND BILL ANALYSIS:

Section 1

G.S. 15A-145.5 currently allows a person to petition the court for the expunction of *one or more* nonviolent misdemeanors or *one* nonviolent felony. For the purposes of this law, the definition of a *nonviolent crime* excludes the following:

- All class A through G felonies, and class A1 misdemeanors.
- Sex offenses.
- Assault offenses.
- Certain drug offenses.
- Hate crimes.
- Certain breaking and entering offenses.
- Offenses using a commercial motor vehicle.
- Offenses involving impaired driving.

Section 1 would:

- Make breaking or entering into or out of railroad cars, motor vehicles, trailers, aircraft, boats, or other watercraft in violation of G.S. 14-56, an offense eligible for expunction.

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- Allow a person to seek expunction for *two or three* nonviolent felonies if they were all committed within a 24 month period, and 20 years have passed from either the date of the conviction or from the completion of the sentence, whichever occurs later.
- Maintain that an impaired driving offense is not eligible for expunction.
- Allow an expunction of an eligible offense despite an impaired driving conviction, if the impaired driving conviction occurred more than five years preceding the petition.
- Clarify that offenses can be expunged in more than one county if the petitions are filed within a 30-day period.

Section 2

G.S. 15A-145.8A was enacted in S.L. 2020-35, and only applies to the expunction of certain crimes committed when a person was *under the age of 18*. Currently, only the person or the district attorney may file a petition to expunge these crimes.

Section 2 would amend G.S. 15A-145.8A to allow not only the person or a district attorney, but also a private or court-appointed attorney, to file a petition for expunction for certain crimes committed when the person was under the age of 18.

Sections 3 and 4

Section 3 would amend G.S. 15A-151 to allow disclosure of records of previous dismissals pursuant to conditional discharge upon joint request by the district attorney and the defendant in a pending proceeding for the purpose of determining eligibility for a conditional discharge.

Section 4 would amend G.S. 15A-151.5 to require the Administrative Office of the Courts to provide prosecutors with electronic access to records of dismissals pursuant to conditional discharge.

EFFECTIVE DATE: This act becomes effective December 1, 2021. Sections 1 and 2 apply to petitions filed on or after that date.

**Jennifer Bedford, Staff Attorney, contributed substantially to this summary.*