



# SENATE BILL 570: Expand Certificate of Relief.

**This Bill Analysis  
reflects the  
contents of the bill  
as it was presented  
in committee.**

2016-2017 General Assembly

<b>Committee:</b>	House Judiciary I	<b>Date:</b>	June 22, 2016
<b>Introduced by:</b>	Sens. Bryant, McKissick, Daniel	<b>Prepared by:</b>	Erika Churchill and Amy Darden
<b>Analysis of:</b>	PCS to Fourth Edition S570-CSSTf-123		Committee Co-Counsel

**SUMMARY:** *The Proposed Committed Substitute for Senate Bill 570 remove the contents of the 4th edition and would:*

- *Change the eligibility for a Certificate of Relief and require a fee to file the petition with the clerk of superior court.*
- *Allow a person to expunge more than one finding of not guilty or not responsible in a lifetime.*

[As introduced, this bill was identical to H650, as introduced by Reps. Hardister, Brockman, Faircloth, Fisher, which is currently in House Judiciary I.]

### CURRENT LAW & BILL ANALYSIS:

**Certificate of Relief.** A Certificate of Relief is a court order that allows those convicted of certain crimes to lessen the collateral sanctions and disqualifications resulting from those convictions. For the purpose of certificates of relief, collateral sanctions are defined as "a penalty, disability, or disadvantage, however denominated, imposed on an individual as a result of the individual's conviction of an offense which applies by operation of law, whether or not the penalty, disability, or disadvantage is included in the judgment or sentence. The term does not include imprisonment, probation, parole, post-release supervision, forfeiture, restitution, fine, assessment, or costs of prosecution." G.S. 15A-173.1.

The individual must petition the court, after notice to the prosecutor and victim, who will determine if all the statutory requirements are met to issue the Certificate.

Currently, an individual applying for a Certificate of Relief can only be convicted of no more than two Class G, H, or I felonies or misdemeanors in one court session and must wait until 12 months have passed and his or her sentence is completed to apply.

The PCS for Senate Bill 570 would do the following:

- Allow those convicted of criminal offense no higher than a Class G felony to petition for a Certificate of Relief in the court where the individual was convicted of the most serious crime.
- Require 12 months to pass from the completion of the sentence if the individual was convicted of five or fewer eligible offenses or require 36 months to pass and completion of the sentence if the individual was convicted of more than five eligible offenses.
- Require the applicant to pay a \$50.00 fee to the clerk of superior court at the time the petition is filed. This fee requirement would not apply to a petition filed by an indigent.

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# Senate PCS 570

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**Expunctions for Findings of Not Guilty.** In limited circumstances, North Carolina law permits the expunction of certain offenses from a person's criminal record. Expunction is the process by which a record of criminal conviction is removed by order of the court, and a person is restored to the status the person occupied before the arrest or indictment. The terms "expunction" and "expungement" are often used interchangeably, and both appear in the statutes. There are several requirements that must be met for expunction, and a person may generally be granted only one expunction in his or her lifetime.

Currently, a person may apply to have only one dismissal or finding of not guilty or not responsible resulting from a charge of either a misdemeanor or a felony, or an infraction under G.S. 18B 302(i) prior to December 1, 1999, expunged in a lifetime, unless those charges were multiple charges in the same term of court or within the same 12 month period. G.S. 15A-146.

The PCS for Senate Bill 570 would do the following:

- Allow a person to have subsequent findings of not guilty or not responsible expunged, provided the person has not previously been convicted of any felony under the laws of the United States, this State, or any other state, and has not received an expungement under any of the following statutes:
  - G.S. 15A 145. – Expunction of records for first offenders under the age of 18 at the time of conviction of misdemeanor; expunction of certain other misdemeanors.
  - G.S. 15A 145.1. – Expunction of records for first offenders under the age of 18 at the time of conviction of certain gang offenses.
  - G.S. 15A 145.2. – Expunction of records for first offenders not over 21 years of age at the time of the offense of certain drug offenses.
  - G.S. 15A 145.3. – Expunction of records for first offenders not over 21 years of age at the time of the offense of certain toxic vapors offenses.
  - G.S. 15A 145.4. – Expunction of records for first offenders who are under 18 years of age at the time of the commission of a nonviolent felony.
  - G.S. 15A 145.5. – Expunction of certain misdemeanors and felonies; no age limitation.
- The applicant would pay a \$175.00 fee to the clerk of superior court at the time the petition is filed. This fee requirement would not apply to a petition filed by an indigent.

**EFFECTIVE DATE:** Effective October 1, 2016, and applies to petitions for expunction filed on or after that date.