



HOUSE BILL 121: Expunction Related to RTA/No Conviction.

2019-2020 General Assembly

Committee:	House Rules, Calendar, and Operations of the House	Date:	April 8, 2019
Introduced by:	Reps. Stevens, Hurley, Jarvis, Carter	Prepared by:	Jeremy Ray* Staff Attorney
Analysis of:	PCS to Third Edition H121-CSBH-5		

OVERVIEW: *House Bill 121 provides a process for the expunction of certain offenses committed by juveniles between the ages of 16-18 on or before November 30, 2019, and modifies the current law on expunctions when charges are dismissed or there are findings of not guilty.*

[The PCS to Third Edition House Bill 121 would require the clerk of superior court to forward a filed petition to the district attorney and chief resident superior court judge; require a court to either grant an expunction, or conduct a hearing for dismissed charges, and if not granted, state a reason; provide the district attorney with a 10 day period of notice for objection; and make Section (1) apply to offenses committed on or before November, 1, 2019.]

CURRENT LAW:

Section 16D.4 (Juvenile Justice Reinvestment Act) of Session Law 2017-57 is known as the "Raise the Age" legislation. This law raises the age of juvenile jurisdiction to include 16 or 17 year olds, except in the case of A-G felonies and traffic offenses. The legislation was enacted in 2017, but some of the substantive provisions are not effective until December 1, 2019. Juveniles under the age of 18 charged and convicted between the date of enactment and the effective date are treated as adults.

G.S. 15A-146 provides the process for expunctions of records when charges are dismissed or there are findings of not guilty.

BILL ANALYSIS:

Section 1.(a) provides a process for expunctions for misdemeanor and Class H and I felony offenses for which juveniles between the ages of 16-18 are convicted, committed on or before November 30, 2019. This includes juveniles under the age of 18 charged and convicted between the date of enactment and the effective date of the Raise the Age legislation treated as adults. This section bars impaired driving offenses and sex offenses that require registration with the sex offender registry from the offenses for which an expunction can be sought under this section. The juvenile must have completed their sentence to request this expunction and there is no fee to file a petition for an expunction under this section.

Section 1.(b) makes the preceding section effective December 1, 2019 and applicable to offenses committed on or before November 30, 2019.

Section 2.(a) adds the expunction created by Section 1.(a) to the list of expunctions for which the Administrative Office of the Courts (AOC) must make all confidential files electronically available to all prosecutors.

Section 2.(b) makes Section 2.(a) effective December 1, 2019.

Karen Cochrane-Brown
Director



Legislative Analysis
Division
919-733-2578

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Section 3.(a) Provides that notwithstanding an objection from the district attorney, that a trial court *may* order an expunction pertaining to a dismissed charge, or a finding of not guilty or not responsible, without a formal hearing. The court may only act after a 10 day period of notice to the district attorney, and if an expunction is not granted, the court must state the reason.

Section 3.(b) Requires AOC to provide forms to establish a uniform standardized process for all clerks of superior court to follow to have petitions signed by judges and forwarded to the State Bureau of Investigation.

Section 3.(c) makes the immediately preceding sections effective December 1, 2019, and applicable to petitions for expunctions filed on or after that date.

EFFECTIVE DATE: Except as otherwise provided, this act is effective when it becomes law.

**Tawanda N. Foster, Staff Attorney for the Legislative Analysis Division, contributed to this summary.*