



# SENATE BILL 301: Expand Expunction Eligibility.

2021-2022 General Assembly

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<b>Committee:</b>		<b>Date:</b>	February 25, 2022
<b>Introduced by:</b>		<b>Prepared by:</b>	Susan Sitze
<b>Analysis of:</b>	S.L. 2021-118		Staff Attorney

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**OVERVIEW:** *S.L. 2021-118 makes the following changes to statutes related to expunction of criminal offenses:*

- *Expands the criminal offenses eligible for expunction.*
- *Allows 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.*
- *Allows the expunction of up to three nonviolent felonies.*
- *Allows an attorney to file a petition for expunction on behalf of a person who committed certain crimes under the age of 18.*
- *Allows district attorney access to expunction records for determining conditional discharge eligibility.*

*This act became effective December 1, 2021. The provisions allowing additional offenses to be expunged and authorizing petitions to be filed on behalf persons that committed crimes under the age of 18 apply to petitions filed on or after that date.*

## CURRENT LAW AND BILL ANALYSIS:

### Section 1

Prior to this act, **G.S. 15A-145.5** allowed 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** of this act makes the following changes to that statute:

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Director



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- Makes 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.
- Allows 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.
- Maintains that an impaired driving offense is not eligible for expunction.
- Allows an expunction of an eligible offense despite an impaired driving conviction, if the impaired driving conviction occurred more than five years preceding the petition.
- Clarifies 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*. Prior to this act, only the person or the district attorney could file a petition to expunge these crimes.

**Section 2** of this act amends 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** of this act amends 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** of this act amends 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 became 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.*