



SENATE BILL 301: Expand Expunction Eligibility.

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

2021-2022 General Assembly

Committee:	Senate Rules and Operations of the Senate	Date:	March 25, 2021
Introduced by:	Sens. Britt, Daniel, Lee	Prepared by:	Robert Ryan
Analysis of:	Second Edition		Jennifer H. Bedford 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 two 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.

CURRENT LAW AND BILL ANALYSIS:

G.S. 15A-145.5 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.
- Breaking into a building with the intent to steal or commit a felony – a class H felony (G.S. 14-54).
- Breaking into a building with the intent to terrorize or injury the occupants – a class H felony (G.S. 14-54(a1)).
- Breaking into or out of a railroad car, motor vehicle, trailers, aircraft, boats, or other watercraft with the intent to steal or commit a felony – a class I felony (G.S. 14-56).

Section 1 would:

- Make the burglary of transport vehicles (G.S. 14-56) eligible for expunction.
- Allow a person to seek expunction for *up to two* nonviolent felonies if 20 years have passed from either the date of the conviction or from the completion of the sentence, whichever occurs later.
- Removes impaired driving offenses from exceptions to "nonviolent misdemeanor" and "nonviolent felony".
- 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.

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G.S. 15A-145.8A 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.

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

BACKGROUND: G.S. 15A-145.8A was created last session by Session Law 2020-35 (Senate Bill 562).