



SENATE BILL 565: Amend Expunction.

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

2023-2024 General Assembly

Committee:	House Rules, Calendar, and Operations of the House	Date:	June 5, 2024
Introduced by:	Sens. Britt, Lazzara, Sawrey	Prepared by:	Susan Sitze
Analysis of:	PCS to Third Edition S565-CSSA-48		Staff Attorney

OVERVIEW: *The Proposed Committee Substitute (PCS) for Senate Bill 565 would revise the laws on the availability of expunged records and repeal the automatic expunction of dismissed charges.*

CURRENT LAW AND BILL ANALYSIS:

Part I

G.S. 15A-151 provides generally that records of expungements are confidential and may only be disclosed in specifically stated circumstances. G.S. 15A-151.5 governs when a prosecutor may have access to confidential files of expunction.

Section 1.(a) would amend G.S. 15A-151 by adding two new subsections to provide as follows:

- That expunged court records be confidential and retained by the clerks of superior court as confidential files.
- That expunged court records be retained electronically and made available to the clerks.
- That expunged court records not be released by the clerk except as follows:
 - Upon request of the person, or their attorney, of the person's own records.
 - To the office of the district attorney
 - To the Office of the Appellate Defender upon their appointment as counsel for the person who was the subject of the expunged record.

Section 1.(b) would amend G.S. 15A-151.5 to provide that prosecutors have access to all confidential files of expunged records.

Part II

Subsection (a4) of G.S. 15A-146 provides for the automatic expunction of charges that are dismissed or result in a finding of not guilty or not responsible if certain conditions are met.

The application of this provision is currently suspended until July 1, 2024. Please see **Background** for additional information.

Section 2 would repeal G.S. 15A-146(a4) and make conforming changes to related statutes. Any automatic expunctions granted prior to the suspension of automatic expunctions would remain valid. Any records that have been retained during the period of suspension would not be expunged and would remain in the court record unless otherwise expunged pursuant to G.S. 15A-146 or other applicable provision of law.

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Director



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Additionally, **Section 2.(c)** would amend G.S. 15A-146 to require that a court make a final determination on any petition to expunge charges that are dismissed or result in a finding of not guilty or not responsible within 90 days after the petition is filed.

EFFECTIVE DATE: This act would be effective when it becomes law.

BACKGROUND:

Subsection (a4) of G.S. 15A-146 was enacted in S.L. 2020-35 and became effective December 1, 2021. After the provision took effect, issues arose with implementation of the provision, and the General Assembly suspended the application of the provision effective August 1, 2022 in Section 1 of S.L. 2022-47 and directed AOC to convene a group of stakeholders to make recommendations to address the issues. The suspension was initially due to expire on August 1, 2023, but was extended to July 1, 2024, by Section 14.5 of S.L. 2023-103.