



# SENATE BILL 565: Revise Automatic Expunction.

2023-2024 General Assembly

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<b>Committee:</b>		<b>Date:</b>	August 26, 2024
<b>Introduced by:</b>		<b>Prepared by:</b>	Susan Sitze
<b>Analysis of:</b>	S.L. 2024-35		Staff Attorney

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**OVERVIEW:** *S.L. 2024-35 revises the laws governing the automatic expunction of records and the availability of expunged records as follows:*

- *Provides that automatic expunctions will occur not less than 180 days and not more than 210 days after the final disposition of the charge eligible for automatic expunction.*
- *Requires that expunged court records be confidential and retained by the clerks of superior court, retained electronically and made available to the clerks, and that they not be released by the clerk except to certain persons.*
- *Authorizes prosecutors to have access to all confidential files of expunction.*
- *Extends the period of time the Administrative Office of the Courts (AOC) has to complete suspended automatic expunctions to 365 days, and provides those expunctions are deemed to have occurred five business days after the expunction is carried out.*

*This act became effective July 8, 2024.*

## CURRENT LAW AND BILL ANALYSIS:

### Part I: Revise Expunction Statutes

**Section 1.(a)** amends G.S. 15A-146(a4), which provides for the automatic expunction of charges that are dismissed or result in a finding of not guilty or not responsible, to provide that the automatic expunction must occur not less than 180 days and not more than 210 days after the date of the final disposition of the charge.

**Section 1.(b)** amends G.S. 15A-151, which provides generally that records of expungements are confidential and may only be disclosed in specifically stated circumstances, by adding two new subsections to provide the following:

- 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 below:
  - Upon request of the person, or their attorney, copies 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.

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**Section 1.(c)** amends G.S. 15A-151.5, which governs when a prosecutor may have access to confidential files of expunction, to provide that prosecutors have access to all confidential files of expunged records.

## **Part II**

Subsection (a4) of G.S. 15A-146 was originally enacted in S.L. 2020-35, but its application was suspended effective August 1, 2022, by Section 1 of S.L. 2022-47. 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.

The suspension did expire on July 1, 2024, and G.S. 15A-146(a4), as amended by subsection (a) of Section 1 of this act, is currently applicable.

**Section 2** amends Section 1 of S.L. 2022-47 to increase to 365 days, the time that AOC has to expunge the dismissed charges, not guilty verdicts, and findings of not responsible that occurred during the period of suspension. This section also provides that any of the expunctions performed under this procedure must be deemed to have occurred five business days after the date that the individual expunction was carried out.

**EFFECTIVE DATE:** This act became effective July 8, 2024.