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Relief from a Criminal Conviction: A Digital Guide to Expunctions, Certificates of Relief, and Other Procedures in North Carolina

John Rubin

Welcome to the School of Government's web-based guide on relief from a criminal conviction. The guide explains in one place the various mechanisms available in North Carolina for obtaining relief from a criminal conviction, including expunctions, certificates of relief, and other procedures. The guide supplements the School's Collateral Consequences Assessment Tool, [C-CAT \(http://ccat.sog.unc.edu\)](http://ccat.sog.unc.edu), an online tool enabling users to identify the potential consequences of a criminal conviction in North Carolina.

Features of this guide include:

- Keyword searching
- Links to internal and external cross-references
- Printable pages throughout the site
- Accessibility from anywhere your electronic device can connect to the Internet
- Periodic updates (a notation will appear at the top of affected pages)

The author, John Rubin, is a School of Government faculty member who specializes in criminal law and procedure. He thanks Whitney Fairbanks and Jamie Markham at the School of Government, Troy Page at the Administrative Office of the Courts, John Aldridge at the Attorney General's Office, and Keith Williams in private practice for reviewing drafts of this guide. He also thanks Nancy Dooly and Stefanie Panke at the School of Government for editing the guide and converting it into digital form. The conclusions expressed in this guide and any errors are those of the author.

This guide does not purport to provide legal advice in individual cases. Users should refer to relevant parts of the North Carolina General Statutes and other laws and seek advice as necessary from a qualified attorney.

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Conviction of Controlled Substance, Drug Paraphernalia, and Toxic Vapor Offenses

This last type of drug-related expunction applies to convictions (see [Table 14](#) [1] and [Table 15](#) [2]). The expunction procedures for offenses in G.S. 90-96(e) and G.S. 15A-145.2(c), which cover controlled substances and drug paraphernalia, and G.S. 90-113.14(e) and G.S. 15A-145.3(c), which cover toxic vapor offenses, are discussed together because the requirements are similar. Differences are reflected in the accompanying tables.

The 2009 Consolidation Act, [S.L. 2009-577](#) [3], did not make any new matters in this category subject to expunction; instead, it moved the key expunction provisions from G.S. Chapter 90 to new G.S. 15A-145.2(c) and G.S. 15A-145.3(c). In transferring the language, however, the legislation made one potentially important change. The change is the same in both of the new statutes; for ease of discussion, G.S. 15A-145.2(c) is used to explain the impact of the change. Former G.S. 90-96(e) stated that a person could obtain one expunction under “this section.” The term “section” is generally construed to refer to the statute number, in this instance G.S. 90-96. New G.S. 15A-145.2(c) states that a person may obtain one expunction under “this subsection.” The term “subsection” is generally construed to refer to the lettered provision of a statute, in this instance G.S. 15A-145.2(c). The change potentially has two effects. One, an expunction under other subsections of G.S. 15A-145.2 may not preclude an expunction under G.S. 15A-145.2(c).^[1] Two, a prior expunction under G.S. 90-96(e) is not listed as a bar to an expunction under G.S. 15A-145.2(c).

The 2011 JRA, [S.L. 2011-192](#) [4], modified the criteria for expunction of controlled substance and drug paraphernalia convictions. (It did not modify the toxic vapor expunction provisions.) On the one hand, it broadened eligibility by expanding the offenses subject to expunction. Under the revised statutes, a person may obtain an expunction of any felony controlled substance possession conviction, not just a conviction of felony possession of less than one gram of cocaine, as well as an expunction of misdemeanor possession of controlled substance and misdemeanor drug paraphernalia convictions. On the other hand, the 2011 JRA narrowed eligibility by expanding the prior offenses that bar an expunction, shown in [Table 14](#). The changes apply to pleas and findings of guilt on or after January 1, 2012. If a person was convicted of an offense before that date, he or she is subject to the previous criteria for an expunction, also shown in Table 14.

In revising the list of disqualifying convictions for expunctions of controlled substance and drug paraphernalia convictions, the 2011 JRA did not fully address inconsistent language about the significance of prior convictions. G.S. 15A-145.2(c) states, toward the end of that subsection, that the petitioner must not have been convicted of *any* felony or misdemeanor other than a traffic violation. The applicable AOC form, AOC-CR-266, includes this language as a condition for expunction. The language is difficult to reconcile, however, with the opening language of G.S. 15A-145.2(c), which lists the specific prior offenses that bar an expunction. The corresponding provisions of G.S. 90-96(e) include the same list of disqualifying convictions

and contain no language requiring that the person be entirely conviction-free. Other changes made by the 2011 JRA suggest that the General Assembly may not have intended to require that the petitioner be entirely conviction-free. In addition to modifying the list of disqualifying convictions at the beginning of G.S. 15A-145.2(c), the 2011 JRA inserted language later in the subsection stating that if the court determines, among other things, “that the petitioner has no disqualifying previous convictions as set forth in this subsection . . .,” it must enter an order of expunction. The ambiguity arises from the General Assembly’s failure to delete the language, several lines later, stating that the court must find that the person has no prior felony or misdemeanor convictions other than for a traffic violation. This guide takes the view that the specific provisions on disqualifying convictions better reflect the General Assembly’s intent. *See supra* [Types of Expunctions and Their Requirements, note 1](#) [5] (discussing how courts may interpret conflicting language in statutes). The dangling general language about prior convictions remains a part of G.S. 15A-145.2(c), however, and could be viewed by the courts as binding unless explicitly repealed.[2]

G.S. 15A-145.3(c) on expunction of toxic vapor convictions, although not modified by the 2011 JRA, contains a similar inconsistency. It enumerates the disqualifying prior convictions at the beginning of the subsection but also states toward the end that a person may not have any prior convictions. The corresponding provisions of G.S. 90-113.14(e) include the same list of specific disqualifying convictions and no language requiring that the person be entirely conviction-free.

For both types of expunctions, the person must have been 21 years of age or younger when he or she committed the offense in question.[3]

Table 14. Conviction of Controlled Substance and Drug Paraphernalia Offenses

Matters Subject to Expunction	Principal Restrictions on Expunction	Applicable Statutes and Forms
<ul style="list-style-type: none"> • Conviction <i>on or after</i> Jan. 1, 2012, of <ul style="list-style-type: none"> ◦ misdemeanor possession of a controlled substance within Schedules I through VI of Article 5 of G.S. Ch. 90, ◦ felony under G.S. 90-95(a)(3), or ◦ possession of drug paraphernalia under G.S. 	<ul style="list-style-type: none"> • No prior conviction for^a <ul style="list-style-type: none"> ◦ felony, ◦ offense under G.S. Ch. 90, or ◦ offense under any federal or state statute for controlled substance in any schedule in G.S. Ch. 90 or paraphernalia in Art. 5B of G.S. Ch. 90 • No prior expunction under 	<ul style="list-style-type: none"> • G.S. 15A-145.2(c) [6] and G.S. 90-96(e) [7] • AOC-CR-266 [8] (Jan. 2012), AOC-CR-266I [9] (Jan. 2012) (instructions)

90-113.22	<p>G.S. 15A-145.2(c)</p> <ul style="list-style-type: none"> • Petition may not be filed for at least 12 months after conviction • Completion of drug education program unless waived by court • Good behavior since conviction • Commission of offense when age 21 or younger 	
<ul style="list-style-type: none"> • Conviction <i>before</i> Jan. 1, 2012, of <ul style="list-style-type: none"> ◦ misdemeanor ◦ possession of a controlled substance in Schedules II through VI of G.S. Ch. 90, Art. 5, ◦ felony possession of less than one gram of cocaine under G.S. 90-95(a)(3), or ◦ possession of drug paraphernalia under G.S. 90-113.22 	<ul style="list-style-type: none"> • No prior conviction for^b <ul style="list-style-type: none"> ◦ offense under Article 5 of G.S. Ch. 90, or ◦ offense under any federal or state statute for controlled substance in any schedule in Art. 5 or paraphernalia in Art. 5B of G.S. Ch. 90 • No prior expunction under G.S. 15A-145.2(c) • Petition may not be filed for at least 12 months after conviction • Completion of drug education program unless waived by court • Good behavior since conviction • Commission of offense when age 	<ul style="list-style-type: none"> • G.S. 15A-145.2(c) [6] and G.S. 90-96(e) [7] (for prior version of these statutes, see S.L. 2011-192 [4]) • AOC-CR-266 [8] (Jan. 2012), AOC-CR-266I [9] (Jan. 2012) (instructions)

21 or younger
<p>^a See discussion in text about whether the petitioner must be entirely conviction-free.</p> <p>^b See note <i>a</i>.</p>

Table 15. Conviction of Toxic Vapor Offenses

Matters Subject to Expunction	Principal Restrictions on Expunction	Applicable Statutes and Forms
<ul style="list-style-type: none"> • Conviction of misdemeanor under G.S. Ch. 90, Art. 5A (toxic vapors) 	<ul style="list-style-type: none"> • No prior conviction for^a <ul style="list-style-type: none"> ◦ offense under Art. 5 or 5A of G.S. Ch. 90, or ◦ offense under any federal or state statute for substances in Article 5 or paraphernalia in Art. 5B of G.S. Ch. 90 • No prior expunction under G.S. 15A-145.3(c) • Petition may not be filed for at least 12 months after conviction • Completion of drug education program unless waived by court • Good behavior since conviction • Commission of offense when 21 or younger 	<ul style="list-style-type: none"> • G.S. 15A-145.3(c) [10] and G.S. 90-113.14(e) [11] • AOC-CR-268 [12] (Jan. 2012), AOC-CR-268I [13] (Jan. 2012) (instructions)

^a See discussion in text about whether the petitioner must be entirely conviction-free.

[1] However, an expunction under any subsection of G.S. 15A-145.2 would bar an expunction of a dismissal under G.S. 15A-146 because the latter statute explicitly says so. *See supra* Expunction of Dismissals and Similar Dispositions: [Dismissal or Finding of Not Guilty of Misdemeanors, Felonies, and Certain Infractions](#) [14].

[2] The 2011 JRA also created an inconsistency in the list of disqualifying convictions. Revised G.S. 15A-145.2(c) states that a person may not have a conviction under G.S. Chapter 90, while G.S. 90-96(e) continues to state that a person may not have a conviction under “this Article,” meaning Article 5 of G.S. Chapter 90. This guide opts for the former language, which has the effect of making a conviction of any offense under Chapter 90 (such as a toxic vapor offense) a bar to an expunction, because the General Assembly affirmatively added the language.

[3] *See In re Spencer*, 140 N.C. App. 776 (2000) (interpreting language in G.S. 90-96(e) (now a part of G.S. 15A-145.2(c)) as imposing this requirement). Because it is so similar, G.S. 90-113.14(e) (now a part of G.S. 15A-145.3(c)) likely would be interpreted as imposing the same age requirement.

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Links:

- [1] <http://www.sog.unc.edu/node/2687#table14>
- [2] <http://www.sog.unc.edu/node/2687#table15>
- [3] <http://www.ncleg.net/EnactedLegislation/SessionLaws/PDF/2009-2010/SL2009-577.pdf>
- [4] <http://www.ncleg.net/EnactedLegislation/SessionLaws/PDF/2011-2012/SL2011-192.pdf>
- [5] http://www.sog.unc.edu/node/2643#_ftnref1
- [6] <http://www.ncleg.net/gascripts/statutes/statutelookup.pl?statute=15A-145.2>
- [7] <http://www.ncleg.net/gascripts/statutes/statutelookup.pl?statute=90-96>
- [8] <http://www.nccourts.org/Forms/Documents/1209.pdf>
- [9] <http://www.nccourts.org/Forms/Documents/1066.pdf>
- [10] <http://www.ncleg.net/gascripts/statutes/statutelookup.pl?statute=15A-145.3>
- [11] <http://www.ncleg.net/gascripts/statutes/statutelookup.pl?statute=90-113.14>
- [12] <http://www.nccourts.org/Forms/Documents/1173.pdf>
- [13] <http://www.nccourts.org/Forms/Documents/1205.pdf>
- [14] <http://www.sog.unc.edu/./node/2686>



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Nonviolent Felony Convictions for Offenses Committed before Age 18

G.S. 15A-145.4 authorizes expunction of a conviction of a nonviolent felony by a first offender who was under age 18 at the time of the offense (see [Table 2](#)). This type of expunction was added by [S.L. 2011-278](#) [1] (S 397) and was modified in minor respects by [S.L. 2012-191](#) [2] (H 1023). The initial legislation states, without further qualification, that it is effective December 1, 2011; therefore, a person who satisfies the statutory criteria may obtain an expunction whether the offense or conviction occurred before or after that date.

“Nonviolent felony” is defined in G.S. 15A-145.4(a). The offense may not fall into one of several categories. For example, it cannot be a Class A through G felony, which means that only Class H and I felonies are eligible for expunction (except that for expunction petitions filed on or after December 1, 2012, a person may obtain an expunction of a prayer for judgment continued of certain Class G, H, or I drug convictions). G.S. 15A-145.4(b) states that a person may obtain an expunction of multiple nonviolent felonies for which a person is convicted at the same session of court if none of the offenses occurred after the person had already been charged and arrested (or, for expunction petitions filed on or after December 1, 2012, served with criminal process) for the commission of a nonviolent felony.

A waiting period is required before the filing of an expunction petition, but the length of the waiting period is not entirely clear. G.S. 15A-145.4(c) states that a petition may not be filed “earlier than four years after the date of the conviction or when any active sentence, period of probation, and post-release supervision has been served, whichever occurs later.” G.S. 15A-145.4(e), which describes the findings the court must make, contains similar language. One possible interpretation of this language (in the current AOC form expunction petition and order, AOC-CR-279) is that a person must wait four years after (i) the date of conviction or (ii) the date he or she completes the terms of his or her sentence, whichever is later. (The roman numerals are not included in the statute and are added to make the different interpretations easier to understand.) The difficulty with that interpretation is that it makes the language about the date of conviction superfluous because a person always will complete his or her sentence sometime after the date of conviction; therefore, the person always would have to wait four years after completing his or her sentence. Alternatively, the statute could be construed as requiring a person to wait until (i) four years have passed from the date of conviction or (ii) the person completes the terms of his or her sentence, whichever occurs later. This guide favors this alternative interpretation. *See also infra* Expunctions on Basis of Age: [Older Nonviolent Misdemeanor and Felony Convictions](#) [3] (discussing this interpretation for similarly worded expunction statute).

Most expunction statutes provide that the court “shall” or “must” grant an expunction petition if the court finds that all of the statutory requirements have been met. G.S. 15A-145.4(e) states that the court “may” grant an expunction of a nonviolent felony conviction if the statutory requirements are satisfied. Use of the term

“may” could be construed as giving the court discretion to deny an expunction petition even if the petitioner has met all of the statutory requirements. The difficulty with that construction is that the subsection indicates no basis for denying a petition if the petitioner satisfies the statutory criteria.

Most expunction statutes also provide that an expunged record may not be used in future proceedings and that the person may take the position that he or she has no such record without being held to have committed perjury or otherwise giving a false statement. G.S. 15A-145.4(f) creates a limited exception to that general approach, stating that a person seeking law enforcement certification in North Carolina must disclose to the certifying commission any felony convictions expunged pursuant to G.S. 15A-145.4. State and local law enforcement agencies, as well as the law enforcement certifying commissions, also may obtain records expunged pursuant to G.S. 15A-145.4 for employment and certification purposes. *See* G.S. 15A-151(a)(4), (5), and (6); G.S. 17C-13(b); G.S. 17E-12(b); *see also* [AOC-CR-280](#) [4] (Dec. 2011) (law enforcement application for verification of expunction under G.S. 15A-145.4).

Table 2. Nonviolent Felony Convictions for Offenses Committed before Age 18

Matters Subject to Expunction	Principal Restrictions on Expunction	Applicable Statutes and Forms
<ul style="list-style-type: none"> • Conviction of nonviolent felony as defined in G.S. 15A-145.4(a), excluding <ul style="list-style-type: none"> ◦ a Class A through G felony,^a ◦ a felony that includes assault as an element, ◦ a felony requiring sex offender registration,^b ◦ a felony involving certain sex-related or stalking offenses,^c ◦ a felony under G.S. Ch. 90 involving methamphetamine, heroin, or sale, delivery, or possession with intent to sell and deliver cocaine,^d ◦ a felony involving certain racially motivated offenses, ◦ a felony under G.S. 14-401.16 (contaminating food or drink), and ◦ a felony in which a commercial vehicle was used 	<ul style="list-style-type: none"> • Offense occurred before age 18 • No prior felony or misdemeanor conviction other than for traffic violation • Petition may not be filed until the later of (i) four years after conviction or (ii) completion of any active sentence, period of probation, or post-release supervision^e • Good moral character and no felony or misdemeanor conviction other than for traffic violation since conviction • No outstanding warrants or pending criminal cases • Performance of 100 hours of community service after conviction, preferably related to conviction • No outstanding restitution orders or judgments representing restitution • High school diploma or equivalent • No prior expunction as shown 	<ul style="list-style-type: none"> • G.S. 15A-145.4 [5] • AOC-CR-279 [6] (Jan. 2012), AOC-CR-279I [7] (Jan. 2012) (instructions)

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^a For expunction petitions filed on or after Dec. 1, 2012, see note *d*, below.

^b For expunction petitions filed on or after Dec. 1, 2012, this exclusion was clarified to cover felonies requiring sex offender registration, whether or not the person is currently required to register.

^c For expunction petitions filed on or after Dec. 1, 2012, this exclusion was modified to delete a violation of G.S. 14-190.6 and add a violation of repealed G.S. 14-277.

^d For expunction petitions filed on or after Dec. 1, 2012, this exclusion was modified to provide that a person may obtain an expunction of a prayer for judgment continued for an offense in this category classified as a Class G, H, or I felony.

^e For a discussion of the length of the waiting period required before the filing of an expunction petition, see the discussion in the text.

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[2] <http://www.ncleg.net/EnactedLegislation/SessionLaws/PDF/2011-2012/SL2012-191.pdf>

[3] <http://www.sog.unc.edu/node/2658>

[4] <http://www.nccourts.org/Forms/Documents/1280.pdf>

[5] <http://www.ncleg.net/gascripts/statutes/statutelookup.pl?statute=15a-145.4>

[6] <http://www.nccourts.org/Forms/Documents/1278.pdf>

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Older Nonviolent Misdemeanor and Felony Convictions

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G.S. 15A-145.5 authorizes expunction of older nonviolent misdemeanor and felony convictions (see [Table 3](#)). This type of expunction was added by [S.L. 2012-191](#) [1] (H 1023) and is effective for petitions filed on or after December 1, 2012; therefore, a person who satisfies the statutory criteria may obtain an expunction whether the offense or conviction occurred before or after that date.

“Nonviolent felony” and “nonviolent misdemeanor” are defined in G.S. 15A-145.5. The offense may not fall into one of several categories—for example, it cannot be a Class A through G felony or Class A1 misdemeanor, which leaves only Class H and I felonies and Class 1, 2, and 3 misdemeanors eligible for expunction. G.S. 15A-145.5(b) states that a person may obtain an expunction of multiple nonviolent felony and nonviolent misdemeanor convictions if the person was convicted of the offenses at the same session of court and none occurred after the person had already been served with criminal process for the commission of a nonviolent felony or nonviolent misdemeanor.

A waiting period is required before the filing of an expunction petition, but the length of the waiting period is not entirely clear. G.S. 15A-145.5(c) states that a petition may not be filed “earlier than 15 years after the date of the conviction or when any active sentence, period of probation, and post-release supervision has been served, whichever occurs later.” This language appears to require that a person wait until (i) 15 years have passed from the date of conviction or (ii) the person completes the terms of his or her sentence, whichever occurs later. (The roman numerals are not included in the statute and are added for the sake of clarity.) Under this approach, the waiting period would ordinarily be 15 years after conviction because the convictions eligible for expunction rarely carry a sentence of longer than 15 years. *See also supra* Expunctions on Basis of Age: [Nonviolent Felony Convictions for Offenses Committed before Age 18](#) [2] (favoring this interpretation for similarly worded expunction statute). G.S. 15A-145.5(c) states later, however, that the court may grant an expunction petition if the person “was convicted of, and completed any sentence received for, the nonviolent misdemeanor or nonviolent felony at least 15 years prior to the filing of the petition.” This provision appears to require that the person wait 15 years after completing the sentence, which effectively renders the reference to conviction date superfluous.

Most expunction statutes provide that the court “shall” or “must” grant an expunction petition if the court finds that all of the statutory requirements have been met. G.S. 15A-145.5(c) states that the court “may” grant an expunction of a nonviolent felony or nonviolent misdemeanor conviction if the statutory requirements are satisfied. Use of the term “may” could be construed as giving the court discretion to deny an expunction petition even if the petitioner has met all of the statutory requirements. The difficulty with that construction is

that the subsection indicates no basis for denying a petition if the petitioner satisfies the statutory criteria.

Most expunction statutes also provide that an expunged record may not be used in future proceedings and that the person may take the position that he or she has no such record without being held to have committed perjury or otherwise giving a false statement. G.S. 15A-145.5(d) creates a limited exception to that general approach, stating that a person seeking law enforcement certification in North Carolina must disclose to the certifying commission any felony and misdemeanor convictions expunged pursuant to G.S. 15A-145.5. State and local law enforcement agencies, as well as the law enforcement certifying commissions, also may obtain records expunged pursuant to G.S. 15A-145.5 for employment and certification purposes. *See* G.S. 15A-151(a)(4), (5), and (6); G.S. 17C-13(b); G.S. 17E-12(b).

Table 3. Older Nonviolent Misdemeanor and Felony Convictions (for expunction petitions filed on or after Dec. 1, 2012)

Matters Subject to Expunction	Principal Restrictions on Expunction	Applicable Statutes and Forms
<ul style="list-style-type: none"> • Conviction of nonviolent misdemeanor or felony as defined in G.S. 15A-145.5(a), excluding <ul style="list-style-type: none"> ◦ a Class A through G felony or Class A1 misdemeanor, ◦ an offense that includes assault as an element, ◦ an offense requiring sex offender registration, whether or not the person is currently required to register, ◦ an offense involving certain sex-related or stalking offenses, ◦ a felony under G.S. Ch. 90 involving methamphetamine, heroin, or sale, delivery, or possession with intent to sell and deliver cocaine, ◦ an offense involving certain racially motivated offenses, ◦ an offense under G.S. 14-401.16 (contaminating food or drink), and ◦ a felony in which a commercial vehicle was used 	<ul style="list-style-type: none"> • No prior misdemeanor or felony conviction other than for traffic violation • Petition may not be filed earlier than 15 years after date of conviction or when any active sentence, period of probation, and post-release supervision has been served, whichever occurs later^a • Good moral character and no felony or misdemeanor conviction other than for traffic violation since conviction • No outstanding warrants or pending criminal cases • No outstanding restitution orders or judgments representing restitution • No prior expunction under G.S. 15A-145, G.S. 15A-145.1, G.S. 15A-145.2, G.S. 15A-145.3, G.S. 15A-145.4, or G.S. 15A-145.5 	<ul style="list-style-type: none"> • G.S. 15A-145.5 [3] • AOC-CR-281 [4] (Dec. 2012), AOC-CR-281I [5](Dec. 2012) (instructions)

^a For a discussion of the length of the waiting period required before the filing of an expunction petition, see the discussion in the text.

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[3] <http://www.ncleg.net/gascripts/statutes/statutelookup.pl?statute=15A-145.5>

[4] <http://www.nccourts.org/Forms/Documents/1388.pdf>

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Certificates of Relief

This part reviews North Carolina's certificate-of-relief procedure, enacted by the General Assembly in 2011. See [S.L. 2011-265](#) [1] (H 641). The procedure is patterned after the [Uniform Collateral Consequences of Conviction Act](#) [2] (Uniform Act), enacted in 2009 and amended in 2010 by the Uniform Law Commission (also known as the National Conference of Commissioners on Uniform State Laws). Through the Uniform Act, the Uniform Law Commission recommended that states allow people who have been convicted of a crime to apply for relief from collateral consequences that could impede their reintegration into society. North Carolina's procedure, in Article 6 of G.S. Chapter 15A (G.S. 15A-173.1 through 15A-173.6), is effective December 1, 2011, meaning that it is available to people with criminal convictions who meet the requirements for relief whether their offenses or convictions occurred before or after December 1, 2011.

The basic requirements for obtaining relief, contained in G.S. 15A-173.2, appear in [Table 18](#). The petitioner may obtain a certificate if he or she has been convicted of no more than two Class G, H, or I felony convictions or misdemeanor convictions of any class in one session of court. This language allows a certificate to be obtained for up to two convictions for any combination of the permissible conviction classes (for example, one Class H felony and one misdemeanor or two Class I felonies).

If granted, a certificate of relief applies to two types of collateral consequences: "collateral sanctions," defined as penalties, disabilities, or disqualifications imposed by operation of law; and "disqualifications," defined as penalties that an agency, official, or court may impose based on the conviction. In other words, collateral sanctions are those that are mandatory in the absence of a certificate of relief (or other form of relief), while disqualifications are those that a board or commission would have the discretion to impose. See also [Uniform Collateral Consequences of Conviction Act, Section 2 Comment](#) [2] (describing collateral sanctions as mandatory and collateral disqualifications as discretionary). A certificate of relief relieves the person of all mandatory collateral sanctions except those listed in G.S. 15A-173.3 (for example, sex offender registration requirements and firearm disqualifications under G.S. Chapter 14, Article 54A (The Felony Firearms Act) and Article 54B (Concealed Handgun Permit)); those imposed by the North Carolina Constitution or federal law (for example, the state constitutional ban on holding the office of sheriff if previously convicted of a felony and federal bans on federally assisted housing and food stamp benefits for some convictions); and those specifically excluded in the certificate. A certificate of relief does not bar an entity from imposing discretionary disqualifications based on the conviction, but the entity may consider the certificate favorably in deciding whether to impose the disqualification. A certificate of relief does not result in an expunction or pardon of the conviction; a person must use other mechanisms to the extent available to obtain those forms of relief.

A certificate of relief also has the effect of limiting the liability of a person who works with someone who received a certificate of relief. G.S. 15A-173.5 provides that a certificate of relief bars a judicial or administrative action alleging lack of due care by a person who, knowing of the certificate of relief, hired,

retained, licensed, leased to, admitted to a school or program, or otherwise transacted business or engaged in activity with the recipient of the certificate.

Table 18. Certificates of Relief

Matters Subject to Certificate of Relief	Principal Restrictions on Issuance of Certificate of Relief	Applicable Statutes and Forms
<ul style="list-style-type: none"> Any combination of two or fewer Class G, H, or I felony or misdemeanor convictions in one session of court 	<ul style="list-style-type: none"> No other convictions for a felony or misdemeanor other than for a traffic violation Person is not in violation of any criminal sentence or violation is justified, excused, involuntary, or insubstantial No pending criminal charges Person is engaged in or seeking a lawful occupation or activity or otherwise has a lawful source of support Petition may not be filed until 12 months after completion of sentence Granting of petition would not pose unreasonable risk 	<ul style="list-style-type: none"> G.S. 15A-173.2 [3] AOC-CR-273 [4] (June 2012)

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Links:

[1] <http://www.ncleg.net/EnactedLegislation/SessionLaws/PDF/2011-2012/SL2011-265.pdf>

[2] <http://www.uniformlaws.org/Act.aspx?title=Collateral%20Consequences%20of%20Conviction%20Act>

[3] http://www.ncleg.net/EnactedLegislation/Statutes/HTML/BySection/Chapter_15A/GS_15A-173.2.html

[4] <http://www.nccourts.org/Forms/Documents/1273.pdf>