



## Relief from a Criminal Conviction (2020 Edition)

Welcome to *Relief from a Criminal Conviction: A Digital Guide to Expunctions, Certificates of Relief, and Other Procedures in North Carolina*. This web-based guide, recipient of the Margaret Taylor Writing Award from the School of Government, explains in one place the principal mechanisms available in North Carolina for obtaining relief from a criminal conviction. It supplements the School's Collateral Consequences Assessment Tool, C-CAT, an online tool enabling users to identify the potential consequences of a criminal conviction in North Carolina. The guide includes changes made by the General Assembly through the end of its 2020 legislative session.

Features 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

This guide draws on the work of many others, including the Summary of North Carolina Expunctions 2020, by Daniel C. Bowes & Laura Holland (N.C. Justice Center, 2020). School of Government editors and IT professionals have been instrumental in creating and sustaining this guide over the years. Many thanks go to Stefanie Panke and Owen DuBose for their assistance in producing this edition of the guide.

The views expressed in the guide and any errors are those of the author, John Rubin, a School of Government faculty member who specializes in criminal law and procedure. Comments and suggestions are welcome and should be directed to him at [rubin@sog.unc.edu](mailto:rubin@sog.unc.edu).

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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## Dismissal or Finding of Not Guilty of Misdemeanors, Felonies, and Certain Infractions

G.S. 15A-146 allows expunction of dismissals and findings of not guilty of felony or misdemeanor charges and of findings of not responsible for certain infractions (see Table 5). A dismissal, whether by the State or by the court, may be expunged. For a discussion of the types of dispositions that constitute dismissals subject to G.S. 15A-146, see *supra* Expunctions of Dismissals and Similar Dispositions: Types of Dismissals.

For petitions filed on or after December 1, 2020, G.S. 15A-146 has three categories of expunctions of dismissals and findings of not guilty:

- dismissals in cases involving a single charge;
- dismissals in cases involving multiple charges; and
- findings of not guilty in cases involving a single charge or multiple charges.

An individual or district attorney may file for an expunction in all three categories.

For dismissals, findings of not guilty, and findings of not responsible for infractions on or after December 1, 2021, expunctions will become automatic in many cases. See G.S. 15A-146(a4). Automated expunctions will not apply to dispositions before December 1, 2021, so it will remain important to understand the requirements for petitioning for an expunction. This guide will be updated about the automated process once it takes effect.

The basic eligibility criteria to obtain an expunction are the same for the three current categories. For all three categories, G.S. 15A-146 no longer contains a bar to relief based on prior convictions, whether for misdemeanors or felonies.[1] Nor does G.S. 15A-146 contain a bar to relief based on prior expunctions, whether obtained under G.S. 15A-146 or other statutes.[2] An expunction of a dismissal under G.S. 15A-146 also does not affect the availability of expunctions under other statutes except for G.S. 15A-145.4 (nonviolent felony before age 18) and G.S. 15A-145.6 (prostitution offenses). Continuing to bar relief under those statutes because of a prior expunction under G.S. 15A-146 may have been a legislative oversight; it seems inconsistent with the right to unlimited expunctions of dismissals. Until revised, a person may first need to obtain an expunction under G.S. 15A-145.4 or G.S. 15A-145.6, then obtain an expunction under G.S. 15A-146.

The three categories of expunctions differ in some respects. For dismissals in cases involving a single charge, expunction is mandatory. See G.S. 15A-146(a).

For dismissals in cases involving multiple charges, expunction is mandatory if all charges are dismissed. If any charge resulted in a conviction on the day of dismissal or has not reached final

disposition, the court may order expunction of the dismissed charge. *See* G.S. 15A-146(a1). For example, a prosecutor may dismiss one or more charges as part of a plea agreement in which the person pleads guilty to other charges. Or, a prosecutor may bring a felony and the person pleads guilty to a lesser offense, effectively resulting in the dismissal of the greater charge and conviction of the lesser. In those instances, G.S. 15A-146(a1) recognizes that a court may order expunction of the dismissed charge. *See also* G.S. 15A-266.3A(h)(1)c. (mandating expunction of DNA samples taken on arrest for felony if person is convicted of lesser misdemeanor for which DNA samples are not required).

For findings of not guilty in cases involving a single charge or multiple charges, expunction is mandatory for any charge for which a person is found not guilty once all charges have reached final disposition. G.S. 15A-146(a2). For example, if a person is charged with multiple offenses and is convicted of some offenses and found not guilty of other offenses, expunction is mandatory for the offenses for which the person is found not guilty. Or, if a person is charged with one offense and is convicted of a lesser offense, the person has been found not guilty of the greater charge, making expunction of that charge mandatory.

If the court orders expunction of one charge within a case and does not order expunction of the entire case, the clerk should expunge those portions of the case affected by the order.[3] The availability of an expunction of a conviction in a case in which the court has ordered an expunction of dismissed charges depends on the applicability of other expunction statutes.

The record of expunctions under all three categories in G.S. 15A-146 is available to law enforcement agencies and certifying commissions for employment and certification purposes. *See* G.S. 15A-151(a)(4), (5), (6). An arresting agency also may maintain investigative records related to a charge expunged under all three categories. G.S. 15A-146(a5). Expunctions of dismissals, but not of findings of not guilty or not responsible, are available to prosecutors. *See* G.S. 15A-151(a)(8), (9).

**Table 5. Dismissal or Finding of Not Guilty of Misdemeanors, Felonies, and Certain Infractions**

Matters Subject to Expunction	Principal Restrictions on Expunction	Applicable Statutes and Forms
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<ul style="list-style-type: none"><li>• Dismissal or finding of not guilty or not responsible of<ul style="list-style-type: none"><li>◦ infraction under G.S. 18B-302(i) charged before Dec. 1, 1999, or</li><li>◦ misdemeanor or felony</li></ul></li></ul>	<ul style="list-style-type: none"><li>• For cases involving dismissal of single charge,<ul style="list-style-type: none"><li>◦ court shall order expunction of charge</li></ul></li><li>• For cases involving multiple charges,<ul style="list-style-type: none"><li>◦ if all charges dismissed, court shall order expunction of all charges;</li><li>◦ if any charge resulted in conviction or has not reached final disposition, court may order expunction of dismissed charges</li></ul></li><li>• For cases involving finding of not guilty or not responsible,<ul style="list-style-type: none"><li>◦ if all related charges have reached final disposition, court shall order expunction of charges for which person was found not guilty or not responsible</li></ul></li></ul>	<ul style="list-style-type: none"><li>• G.S. 15A-146</li><li>• AOC-CR-287 (Dec. 2020) (expunction of dismissal), AOC-CR-288 (Dec. 2020) (expunction of not guilty or not responsible)</li><li>• AOC-CR-295 (Dec. 2020) (petition by district attorney to expunge dismissal); AOC-CR-296 (Dec. 2020) (petition by district attorney to expunge not guilty or not responsible)</li></ul>
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[1] The statute formerly barred a person from obtaining an expunction of a dismissal if previously convicted of a misdemeanor or felony, but the General Assembly eliminated the felony conviction bar in 2020 and the the misdemeanor conviction bar in 1991. S.L. 2020-35 (S 562); S.L. 1991-326 (S 744); *see also In re Kearney*, 174 N.C. App. 213 (2005) (holding in case in which assault and battery charge was dismissed, and defendant was convicted of misdemeanor assault inflicting serious injury, that defendant was entitled to expunction of dismissal under G.S. 15A-146 then in effect, although not of conviction).

[2] Previously, a person was ineligible for an expunction under G.S. 15A-146 if he or she had received a prior expunction under one of several statutes. *See also In re Robinson*, 172 N.C. App. 272, 274–75 (2005) (stating under previous version of statute that “expungement is only available where the trial court finds that the person has not previously received an expungement”). The previous statute allowed a person to obtain an expunction of multiple dismissals if the alleged offenses occurred during the same 12-month period or were disposed of at the same term of court. *See also* Opinion Letter by North Carolina Attorney General to James J. Coman, SBI Director (Oct. 13, 1995) (stating that a person could obtain an expunction of multiple offenses under the previous version of G.S. 15A-146 if they arose out of the same transaction or occurrence or were consolidated for trial or judgment). Legislation enacted in 2017 eliminated the prior expunction bar from G.S. 15A-146, effective for

petitions filed on or after December 1, 2017. S.L. 2017-195 (S 445).

[3] According to the North Carolina Administrative Office of the Courts (AOC), the clerk of court should obliterate all references to the expunged charge in the physical records of the case. Thus, the clerk would obliterate the felony charge from the original criminal process, the release order, and other records. The AOC also advises that the clerk should delete the entire case from the Automated Criminal Information System (ACIS) and reenter the case under the same case number but limited to the charges that were not expunged. See N.C. Administrative Office of the Courts, Expunction Guide for Clerks at 21–22 (Mar. 2020).

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## Older Nonviolent Misdemeanor and Felony Convictions

*Revised Oct. 7, 2021*

G.S. 15A-145.5 authorizes expunction of older nonviolent misdemeanor and felony convictions (see Table 4). This type of expunction became effective on December 1, 2012, which means it is available for offenses and convictions that occurred before or after that date. See S.L. 2012-191 (H 1023) (amended by S.L. 2014-119 (H 369)). The General Assembly expanded the relief available under this statute, effective for petitions filed on or after December 1, 2020. S.L. 2020-35 (S 562). The revised statute contains several interlocking requirements that determine the availability of relief.

### Covered Offenses

The 2020 legislation did not change the offenses eligible for expunction—namely, convictions of a “nonviolent felony” and “nonviolent misdemeanor” as defined in G.S. 15A-145.5(a). To meet these definitions and therefore be eligible for an expunction, an offense may *not* fall into one of several categories—for example, it cannot be a Class A through G felony or a Class A1 misdemeanor, which leaves only Class H and I felonies and Class 1, 2, and 3 misdemeanors eligible for expunction. See *State v. Neira*, \_\_\_ N.C. App. \_\_\_, 840 S.E.2d 890 (2020) (holding that G.S. 15A-145.5 did not preclude expunction of conviction of felonious speeding to elude arrest even though evidence showed that defendant was impaired and defendant was convicted in same case of impaired driving; offense of felonious speeding to elude arrest is not an offense involving impaired driving under G.S. 20-4.01(24a), which is the category of offenses excluded from expunction) [Note: A DWI conviction may now bar expunction of a felony or more than one misdemeanor under G.S. 15A-145.5, as revised in 2020, for the reasons discussed in Prior Convictions, below]; *Kyprianides v. Martin*, 234 N.C. App. 665 (2014) (unpublished) (finding that because convictions for misdemeanor cruelty to animals did not fall into excluded categories, they could be expunged under G.S. 15A-145.5).

### Number of Eligible Convictions

For petitions filed on or after December 1, 2020, a person may obtain an expunction of:

- one nonviolent misdemeanor conviction after five years;
- multiple nonviolent misdemeanor convictions after seven years; and
- one nonviolent felony conviction after ten years.

For all three categories, multiple convictions of nonviolent felonies or nonviolent misdemeanors count as one nonviolent felony or one nonviolent misdemeanor conviction if the convictions occurred during the same session of court. Eliminated is the previous sequencing provision treating multiple convictions as one conviction only if the offenses occurred before service of process for other

offenses. A person also may be eligible to expunge convictions in more than one category if the person satisfies the prior conviction and prior expunction requirements and the waiting periods, discussed below.

### **Prior Convictions**

For all three categories, the person must be conviction-free, other than for a traffic violation, during the applicable waiting period.

Each category also contains its own conviction disqualifier that is not time limited. To expunge a felony, a person may not have any prior felony conviction or any prior misdemeanor conviction that is an exception to the definition of “nonviolent” misdemeanor. To expunge more than one misdemeanor conviction, the person may not have any prior felony or misdemeanor convictions that are an exception to the definition of “nonviolent” felony or misdemeanor. To expunge one misdemeanor conviction, a person may not have any prior felony or misdemeanor convictions other than for a traffic violation. As a result of the wording of the disqualification for this last category, a person with more than one conviction other than a traffic violation must satisfy the criteria for expunging a felony conviction or more than one misdemeanor conviction.

The disqualifying convictions outside the waiting period are narrower for the most part than the disqualification for convictions during the waiting period. As a result, a person who satisfies the applicable waiting period may be able to obtain an expunction while having some convictions outside the waiting period. In an important respect, however, the disqualifying convictions may be broader outside the waiting period for expunging one felony and more than one misdemeanor. Because those categories disallow an expunction if a person has a misdemeanor conviction that is an exception to the definition of “nonviolent” misdemeanor, a misdemeanor DWI conviction may bar expunction of other convictions. The reason is that any offense involving impaired driving as defined in G.S. 20-4.01(24a) is an exception to the definition of “nonviolent” offense. In light of the legislative goal of expanding relief, it is not clear that this result was intended.

### **Prior Expunctions**

For all three categories, G.S. 15A-145.5 makes a prior expunction a disqualifier only if it was obtained under G.S. 15A-145.5, not under other expunction statutes, *and* only if it was obtained before the date of the offense to be expunged in the current petition. This phrasing potentially allows a person to obtain more than one expunction under G.S. 15A-145.5, including an expunction of a nonviolent felony conviction and nonviolent misdemeanor conviction or convictions from different sessions of court. The findings of fact section of the applicable AOC form, AOC-CR-281, states generally that a person may not have previously received an expunction under G.S. 15A-145.5, but this language does not reflect the statutory requirement.

### **Waiting Periods**

Like many relief statutes, the three categories of expunctions under G.S. 15A-145.5 contain a waiting period with two parts, but they have different starting dates and different lengths.

For expunction of a felony conviction, G.S. 15A-145.5(c)(3) states that a petition may not be filed earlier than “10 years after the date of the conviction or 10 years after any active sentence, period of probation, or post-release supervision has been served, whichever occurs later.” This formulation effectively makes the sentence-completion date the starting date of the waiting period because that



date will always be the same as and usually later than the date of conviction.

For expunction of more than one misdemeanor conviction, G.S. 15A-145.5(c)(2) states that a petition may not be filed earlier than “seven years after the date of the person’s last conviction, other than a traffic offense not listed in the petition for expunction, or seven years after any active sentence, period of probation, or post-release supervision has been served, whichever occurs later.” This formulation likewise makes the sentence-completion date the starting date of the waiting period. The formulation also takes into account that people seeking this type of expunction will have more than one conviction. The starting date of the waiting period is the date of the “person’s last conviction” or, more precisely, the completion of the sentence for the person’s last conviction. The term “last conviction” appears to include any conviction, regardless of whether the person is seeking to expunge it (except for traffic offenses not sought to be expunged in the petition). The petition section of the applicable AOC form, AOC-CR-281, appears to start the waiting period after completion of the sentence of the last conviction to be expunged, but the findings of fact section (finding no. 9) provides that the petitioner must satisfy the applicable waiting period in G.S. 15A-145.5(c).

For expunction of one misdemeanor conviction, G.S. 15A-145.5(c)(1) states that a petition may not be filed earlier than “five 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.” The starting date of the waiting period under this phrasing is subject to two different interpretations. One interpretation is that the person always must wait 5 years after completing his or her sentence, which necessarily will be at least 5 years after the date of conviction and usually longer. An alternative interpretation is that the statute requires that a person wait until (i) 5 years have passed from the date of conviction or (ii) the person completes the terms of his or her sentence, whichever occurs later. Under this interpretation, the person always must wait 5 years from the date of conviction before petitioning for an expunction of one misdemeanor conviction; if the person has not completed his or her sentence within 5 years of conviction, he or she must wait any additional time it takes to complete the sentence. Under this approach, the provision would not require the person to wait an additional 5 years after completing his or her sentence. The latter interpretation is supported by the waiting-period language for the other two categories of expunctions in G.S. 15A-145.5, which specify the number of years a person must wait after both the conviction date and completion of sentence. Finding of fact no. 3 in the applicable AOC form, AOC-CR-281, states that the person must have been convicted of and completed any sentence at least five years before filing of the petition, but this approach seems inconsistent with the statute and finding of fact no. 9 states only that the petitioner must satisfy the applicable waiting period in G.S. 15A-145.5(c). For a further discussion of expunction statutes with two-part waiting periods, see *infra* Appendixes: Frequently Asked Questions (Waiting Periods).

### Notice and Order

Most expunction statutes do not require notice to the victim. G.S. 15A-145.5(c) requires the district attorney’s office to make its best efforts to notify the victim of the expunction petition and gives the victim the right, on request, to be present and be heard at the hearing.

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. For expunction of one misdemeanor conviction or more than one misdemeanor conviction, G.S. 15A-145.5(c2) uses this language. In

contrast, for expunction of a felony conviction, G.S. 15A-145.5(c3) states that the court *may* grant an expunction of a nonviolent felony conviction if the statutory requirements are satisfied. Use of the term “may” gives the court some discretion to deny an expunction petition even if the petitioner meets all of the statutory requirements.[1] An order denying a petition must include a finding “as to the reason for the denial.” Although the statute does not specify the possible grounds for denial beyond noncompliance with the statutory requirements, the Court of Appeals has recognized the court’s discretion to deny an expunction for other reasons. *See State v. Neira*, \_\_\_ N.C. App. \_\_\_, 840 S.E.2d 890 (2020) (recognizing that use of term “may” in G.S. 15A-145.5 gives judge discretion to deny expunction and stating in dicta that circumstances of offense would have supported discretionary denial in this case). Decisions from other jurisdictions and in other contexts suggest the potential scope of discretion. *See generally Cline v. State*, 61 N.E.3d 360 (Ind. Ct. App. 2016) (finding that judge abused discretion in denying expunction in light of evidence presented in favor of expunction and remedial purpose of measures enacted by legislature), *distinguished by W.R. v. State*, 87 N.E.3d 30 (Ind. Ct. App. 2017); *People v. Satterwhite*, 746 N.E.2d 1238 (Ill. Ct. App. 2013) (holding that judge abused discretion in denying expunction where decision was not based on statutory eligibility requirements or on record evidence of factors justifying denial); *see also State v. Thomas*, 225 N.C. App. 631 (2013) (in cases subject to sex offender registration, judge may order satellite-based monitoring where Department of Correction (DOC) risk assessment determines that it is not necessary, but judge’s findings must be supported by competent record evidence and must concern matters not already taken into account in DOC’s risk assessment).

### **Offense Class**

As in some other relief statutes, eligibility for an expunction depends on the class of the offense to be expunged. The question has arisen whether the court should consider the class of offense at the time of offense or the class at the time of the petition for expunction. This guide’s view is that the class of offense at the time of offense controls. *See infra* Appendixes: Frequently Asked Questions (Offense Class).

### **Traffic Violations**

Like many relief statutes, G.S. 15A-145.5 treats traffic violations differently than other criminal convictions. First, a traffic violation is generally not a bar to expunction of a conviction under G.S. 15A-145.5. This guide takes the view that the term “traffic violation,” as used in the expunction statutes, means any misdemeanor conviction under Chapter 20 of the General Statutes unless otherwise specified. A misdemeanor DWI conviction may be a bar to expunging a felony or more than one misdemeanor for the reasons discussed in Prior Convictions, above. Second, G.S. 15A-145.5 does not exclude Chapter 20 violations, whether felonies or misdemeanors, from the types of convictions that may be expunged except for a felony offense involving a commercial vehicle and misdemeanor or felony offenses involving impaired driving as defined in G.S. 20-4.01(24a). The meaning of traffic violation, including impaired driving, is discussed further in Appendixes: Frequently Asked Questions (Traffic Violations and Driving While Impaired (DWI)).

Some parts of G.S. 15A-145.5 use the term “traffic offense.” *See* G.S. 15A-145.5(c)(2) (excluding traffic offenses that are not the subject of the expunction petition from the waiting period for expunction of more than one misdemeanor conviction); G.S. 15A-145.5(c2)(6)a. (providing that person must be conviction-free, other than for traffic offense, to expunge one misdemeanor conviction). The terms

“traffic offense” and “traffic violation” in G.S. 15A-145.5 appear to have been used interchangeably and have the same meaning—that is, as a misdemeanor conviction under Chapter 20. It seems unlikely that the General Assembly intended to exclude a felony conviction under Chapter 20 from the waiting period for expunging more than one misdemeanor conviction.

**Table 4. Older Nonviolent Misdemeanor and Felony Convictions**

Matters Subject to Expunction	Principal Restrictions on Expunction	Applicable Statutes and Forms
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<ul style="list-style-type: none"><li>• Conviction of nonviolent misdemeanor or felony as defined in G.S. 15A-145.5(a), excluding<ul style="list-style-type: none"><li>◦ a Class A through G felony or Class A1 misdemeanor;</li><li>◦ an offense that includes assault as an element;</li><li>◦ an offense requiring sex offender registration, whether or not the person is currently required to register;</li><li>◦ an offense involving certain sex-related or stalking offenses;</li><li>◦ a felony under G.S. Ch. 90 involving methamphetamine, heroin, or sale, delivery, or possession with intent to sell or deliver cocaine;</li><li>◦ an offense involving certain racially motivated offenses;</li><li>◦ an offense under G.S. 14-401.16 (contaminating food or drink);</li><li>◦ an offense under G.S. 14-54(a), 14-54(a1), or 14-56;</li><li>◦ a felony in which a commercial vehicle was used;</li><li>◦ an offense involving impaired driving as defined in G.S. 20-4.01(24a); and</li><li>◦ an attempt to commit any of the above offenses</li></ul></li></ul>	<ul style="list-style-type: none"><li>• For one nonviolent misdemeanor conviction,<ul style="list-style-type: none"><li>◦ No prior felony or misdemeanor conviction other than for traffic offense</li><li>◦ Petition may not be filed earlier than 5 years after date of conviction or when any active sentence, period of probation, and post-release supervision has been served, whichever occurs later</li><li>◦ Good moral character and no felony or misdemeanor conviction other than for traffic violation during 5-year waiting period</li><li>◦ No outstanding warrants or pending criminal cases</li><li>◦ No outstanding restitution orders or judgments representing restitution</li><li>◦ No expunction under G.S. 15A-145.5 before any offense the current petition requests be expunged</li></ul></li><li>• For more than one nonviolent misdemeanor conviction,<ul style="list-style-type: none"><li>◦ No prior felony or misdemeanor conviction that is an exception to the definition of “nonviolent” misdemeanor or “nonviolent” felony in G.S. 15A-145.5</li><li>◦ Petition may not be filed earlier than 7 years after date of last conviction, other than traffic offense not listed in petition, or 7 years after any active sentence, period of probation, and post-release supervision has been served, whichever occurs later</li><li>◦ Good moral character and no felony or misdemeanor</li></ul></li></ul>	<ul style="list-style-type: none"><li>• G.S. 15A-145.5</li><li>• AOC-CR-281 (Dec. 2020)</li></ul>
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- conviction other than for traffic violation during 7-year waiting period
- No outstanding warrants or pending criminal cases
- No outstanding restitution orders or judgments representing restitution
- No expunction under G.S. 15A-145.5 before any offense the current petition requests be expunged
- For one nonviolent felony conviction,
  - No prior felony conviction
  - No prior misdemeanor conviction that is an exception to the definition of “nonviolent” misdemeanor in G.S. 15A-145.5
  - Petition may not be filed earlier than 10 years after date of conviction or 10 years after any active sentence, period of probation, and post-release supervision has been served, whichever occurs later
  - Good moral character and no felony or misdemeanor conviction other than for traffic violation during 10-year waiting period
  - No outstanding warrants or pending criminal cases
  - No outstanding restitution orders or judgments representing restitution
  - No expunction under G.S. 15A-145.5 before any offense the current petition requests be expunged

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[1] The legislative history of the bill leading to the initial version of G.S. 15A-145.5, H 1023, shows that

the General Assembly's use of the term "may" was intentional. The first edition of the bill used the term "shall," but the second and subsequent editions used the term "may" and required the court to make findings if it denied a petition.

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# Relief from a Criminal Conviction (2020 Edition)

## Adult Convictions for Misdemeanors and Class H and I Felonies Committed by Juveniles

G.S. 15A-145.8A authorizes expunction of an adult criminal conviction of misdemeanors and Class H and I felonies by a juvenile. (see Table 3). This type of expunction provides greater parity between juveniles who were convicted as adults before North Carolina’s “Raise the Age” legislation took effect and juveniles whose cases now fall under juvenile jurisdiction and do not result in a criminal conviction. See Jacqueline Greene, *Expunction Relief for “Doughnut Hole” Youth*, N.C. Crim. L., UNC Sch. of Gov’t Blog (Jun. 23, 2020). Enacted in 2020, in S.L. 2020-35 (S 562), the statute applies to offenses committed *before* December 1, 2019, when the Raise the Age legislation took effect.

The statute contains no limitations on the number of convictions that may be expunged, no disqualifiers based on other convictions or other expunctions, and no waiting period other than completion of the sentence. Because the statute applies to offenses committed before December 1, 2019, a person can obtain an expunction whether the conviction occurs before or after that date.

A petition for expunction may be filed by the convicted person or by the district attorney. The authorization for district attorney filing enables interested prosecutors to petition on behalf of all juveniles eligible for relief. The conditions for relief are the same as for petitions filed by individuals, but no filing fee is due for petitions by district attorneys.

Most expunction statutes do not require notice to the victim. G.S. 15A-145.8A(c) requires the district attorney’s office to make its best efforts to notify the victim of the expunction petition and gives the victim the right, on request, to be present and be heard at the hearing. Expunction is mandatory, however, if the petitioner meets the statutory conditions.

**Table 3. Adult Convictions for Misdemeanors and Class H and I Felonies Committed by Juveniles**

Matters Subject to Expunction	Principal Restrictions on Expunction	Applicable Statutes and Forms
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<ul style="list-style-type: none"><li>• Conviction of any misdemeanor and Class H and I felony except:<ul style="list-style-type: none"><li>◦ an offense under G.S. Ch. 20, including any offense involving impaired driving as defined in G.S. 20-4.01(24a); and</li><li>◦ an offense requiring sex offender registration, whether or not the person is currently required to register</li></ul></li></ul>	<ul style="list-style-type: none"><li>• Offense occurred when juvenile was age 16 or 17</li><li>• Offense occurred before Dec. 1, 2019</li><li>• Any active sentence, period of probation, and post-release supervision ordered for the offense has been served</li><li>• No outstanding restitution orders or judgments representing restitution for the offense</li></ul>	<ul style="list-style-type: none"><li>• G.S. 15A-145.8A</li><li>• AOC-CR-293 (Aug. 2020)</li><li>• AOC-CR-294 (Aug. 2020) (district attorney petition)</li></ul>
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